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MINE Update

MINING INDUSTRY NEWS E-COMM UPDATE

Issue 19 | May 18, 2022

Brought to you by the National Mining Association

This Week in the News

Primary election season is in full swing, heightening political positioning leading up to the midterm elections and affecting policymaking at all levels of the federal government as the Russian war in Ukraine grinds on. The National Mining Association (NMA) remains focused on actively engaging to advance mining's interests at both ends of Pennsylvania Avenue. Plus, we have updates on how the mining and energy markets are faring.

Safety Share

Every seven seconds someone is injured in a car crash and every 15 minutes someone is killed in one. The National Safety Council offers a free [Safe Driving Kit](#) packed with resources for educating drivers and influencing safer driving behaviors.

Senate Hearing Highlights Need for Mine Permitting Improvements



Yesterday, the U.S. Senate Energy and Natural Resources Committee invited witnesses from Canada to testify about examples of natural resource extraction and production the U.S. could utilize to improve the U.S. regulatory environment. Witnesses at the hearing included Canadian Minister of Natural Resources Jonathan Wilkinson, Alberta Premier Jason Kenney, Electricity Canada CEO Francis Bradley and Quebec Associate Deputy Minister of Mines Nathalie Camden. You may find a link to the hearing and written testimony of the witnesses [here](#). Premier Kenney explained how Canadian provinces are principally responsible for permitting natural resource production. Minister Camden was able to highlight changes in Canada's Mining Act reducing administrative delay of permitting by over 30 percent in Quebec and the creation of a Permits Coordination Office to provide special support to issue more timely permitting decisions for mining operations. Minister Camden was also able to testify that this new office reduced the average time for

issuing mining authorization by 42 percent compared to the ministry's previous processing standard from only three years ago. The NMA assisted the Energy and Natural Resources Committee with inviting Camden as a witness for the hearing and hosted the delegation from Quebec at the NMA offices to help prepare for the hearing. The NMA will continue to work with allied bipartisan senators on the Energy and Natural Resources Committee on additional efficiencies and streamlining benefiting the production of all mineral commodities.

DOD Webinar for NMA Members on Defense Production Act

On Tuesday, May 24, the U.S. Department of Defense (DOD) Industrial Policy Office will hold a webinar for interested NMA members concerning implementation of the Presidential Determination 2022-11 directing the DOD to use the Defense Production Act for strategic and critical mineral production and processing which supports large scale battery technologies. Please find a [memo](#) with further information on this opportunity here. The U.S. Congress will pass legislation this week appropriating an additional \$500 million to support this new program. Please contact MK Kirlin at mkirlin@nma.org to RSVP and receive a Teams link to participate in this unique funding opportunity.

House EPA Budget Hearing with Administrator Regan



Yesterday, the U.S. House Energy and Commerce Committee, in coordination with the Subcommittee on Environment and Climate Change, held a hearing to evaluate the Environmental Protection Agency's (EPA) FY2023 budget request. EPA Administrator Michael Regan testified before the committee on behalf of the EPA, focusing heavily on what he called "tackling the climate crisis, delivering environmental justice, protecting air quality, upgrading the Nation's aging water infrastructure, and rebuilding core functions at the Agency." Please find a link to view the hearing [here](#) and a link to the administrator's written testimony [here](#).

The hearing was disrupted by lengthy delays due to a Joint Session of Congress with the Greek Prime Minister and another time for a series of roll call votes. Amidst this back and forth, Ranking Member David McKinley (R-W.Va.) criticized the administration's regulatory onslaught and clean energy goals by saying, "our worst fears are now being realized. Pursuing an ideologically driven goal of 100 percent renewables in such a condensed time frame will cause the grid to collapse." He further pressed Administrator Regan, asking "why does this EPA continue to pursue an agenda that will only take more fossil fuel capacity offline?" He took the opportunity of the hearing to question the threats of proposed EPA actions to grid reliability highlighting comments in the regulatory record from electric regional transmission operators in central and eastern U.S. states. Please find a link to the McKinley's opening remarks [here](#).

Another industry ally, Congressman Bill Johnson (R-Ohio), opened his remarks to the administrator by saying, “we’re headed in the wrong direction!” He then listed out annual coal-fired power plant units scheduled for closure over the next several years, citing EPA’s suite of regulations contributing to these closures. Congressman Johnson further detailed specific rules the agency is working on, asking “are you just going to press ahead here even if grid reliability is compromised and the power goes out?” During the resulting back and forth, he further pressed saying, “how do you avoid the conflict then, Mr. Regan, between your agenda to shut down coal and the need to maintain grid reliability...”

Ahead of this hearing, as well as today’s Senate Appropriations Committee [hearing](#) on the EPA’s FY2023 budget, the NMA worked with committee staff and congressional allies to provide questions and contextual backgrounds on key industry priorities to be directed to Administrator Regan. The NMA will continue to work with allied members of Congress eager to conduct a variety of oversight of EPA’s initiatives.

Sen. Cramer Leads 30x30 Letter to CEQ Chair Mallory



Last week, Senator Kevin Cramer (R-N.D.) and 20 senators [asked](#) Council on Environmental Quality (CEQ) Chair Brenda Mallory to provide a clear statement of the legal authority by which the 30x30 initiative is authorized, saying that, “to reach 30 percent by 2030, hundreds of millions of acres of land and water will be impacted. A program of this magnitude requires solid legal authority and a clear plan, yet the administration has articulated neither, leaving our constituents in the dark.” In addition to requesting a clear statement of legal authority, the senators have asked for a written, legally-cited explanation for how the program is exempt from the requirements of NEPA if the agency determines that a Programmatic Environmental Impact Statement is not necessary to implement 30x30. The NMA will continue to work with Senator Cramer’s office and other congressional allies to support aggressive oversight of the administration’s 30x30 America the Beautiful initiative.

NMA Engages Congress Ahead of Water Resources and Development Act (WRDA) of 2022 Markup



Today, the House Committee on Transportation and Infrastructure held a [markup](#) of the Water Resources Development Act of 2022 ([ANS to H.R. 7776](#)) that the committee introduced yesterday. A section-by-section summary can be viewed [here](#) and a press release on the bill can be viewed [here](#). The biennial, bipartisan legislation provides authority for the U.S. Army Corps of Engineers to carry out critical water resources development projects and studies to keep U.S. waterways operating safely, efficiently, and

competitively in the global marketplace. Ahead of the introductions in the House and Senate, the NMA worked with a coalition of maritime industry organizations to develop a [letter](#) and a leave-behind [handout](#) for the Committees on Transportation and Infrastructure and Environment and Public Works to advocate for provisions that support and prioritize inland waterways, key ports, and our ability to meet increased demand for coal, mineral, and other energy exports. The Senate EPW Committee reported its version of the bill. The NMA will continue to work with members of Congress on this key infrastructure bill as it is likely one of the biggest pieces of infrastructure legislation left to pass this Congress.

Sens Manchin and Murkowski Conduct Oversight on Implementation of Minerals and Coal Provisions

On Monday, Senate Energy and Natural Resources Chairman Joe Manchin (D-W.Va.) and Senator Lisa Murkowski (R-Alaska) sent four oversight letters to the secretaries of the Interior, Energy, Defense and the Director of National Intelligence questioning the Biden administration's delayed implementation of the coal and mineral provisions contained in the Energy Act of 2020 and the Infrastructure Investment and Jobs Act. Please find a link to a press release and text of the four letters [here](#) and a summary of each letter in a NMA memo [here](#). The NMA will continue to work with allies in Congress to support congressional oversight of the administration's domestic minerals and coal policies.

ICYMI: Subcommittee Hearing Attempts to Gain Support to Amend the General Mining Law

Last Thursday, the House Natural Resources Subcommittee on Energy and Mineral Resources held a hearing to consider Chairman Raúl Grijalva's (D-Ariz.) *Clean Energy*

Minerals Reform Act ([H.R. 7580](#)). The legislation would enact punitive changes to the General Mining Law, including gross royalties on new and existing mines, a dirt tax, changing the claims system to a leasing system, new tribal consultation, new environmental rules, and new land withdrawal mechanisms. The NMA worked extensively with minority committee staff to encourage member participation and shared background materials and suggested questions to ask witnesses. The NMA wrote the committee explaining the mining industry's opposition to the bill and coordinated with stakeholder groups who submitted similar letters.

Tribes, academia, downstream consumers and the mining industry shared testimony, including minority witness Debra Struhsacker, an environmental permitting consultant and co-founder and director of the Women's Mining Coalition, who provided thorough background on the extensive suite of existing environmental regulations, and underscored the urgency the Biden administration should use to achieve meaningful mineral supply chain security by implementing effective permitting reform. The NMA's summary of the hearing can be found in a memo [here](#). The NMA will continue efforts to ensure key members of Democratic House leadership are aware of opposition to H.R. 7580, including highlighting a [letter](#) from Nevada Democratic Congressman Steven Horsford expressing his deep concern for the legislation. The NMA was quoted in coverage of the hearing from [Politico Pro](#), [E&E Daily](#) and others, and ran a two week [advertising campaign](#) on the importance of domestic mining, linking to a Take Action Page opposing Rep. Grijalva's legislation.

USFWS Must Issue New Listing Decision on Bi-State Greater Sage Grouse



Yesterday, the U.S. District Court for the Northern District of California issued an order finding that the U.S. Fish and Wildlife Service (Service) erred in its withdrawal of a proposed threatened listing under the Endangered Species Act for the Bi-State Greater Sage Grouse (Bi-State GRSG). The court found that the Service's decision was not based on the best scientific and commercial data available and was therefore arbitrary and capricious. The ruling vacated the Service's 2020 decision to withdraw a proposed listing, reinstated the 2013 proposed listing, and remanded to the Service to issue a final listing decision on Bi-State GRSG.

The timing of the Service's review and final listing determination on the Bi-State GRSG is unclear. The review will also coincide with the Bureau of Land Management's review of the 2015 and 2019 Land Use Plans and amendments, and the evaluation of a proposed withdrawal of about 10 million acres of federal lands from mineral location and entry in six states.

EPA Proposes New TSCA Reporting Rule on Asbestos that May Apply to Your Operations

EPA recently published a [proposed rule](#) to require a one-time reporting obligation under the Toxics Substances Control Act (TSCA) for certain information on asbestos. Using TSCA Section 8(a), EPA is proposing to require certain persons that manufactured (including imported) or processed asbestos and asbestos-containing articles (including as an impurity) in the four years prior to the date of publication of the final rule to electronically report certain exposure-related information that is known to or reasonably ascertainable by those entities. Notably for the mining sector, EPA is proposing reporting requirements for asbestos that is being mined or milled as an intentional or non-intentional impurity. EPA anticipates that companies that are mining, milling or importing talc, vermiculite or another bulk material where asbestos can be found as an impurity would report under this new program. Ultimately, EPA and other federal agencies would use the reported information in considering potential actions on asbestos, including EPA's TSCA risk evaluation and risk management activities. The NMA strongly encourages members who are mining in areas with asbestos present in the geology to review this proposed rule with counsel to determine your potential reporting obligations. While EPA clearly has vermiculite and talc in its TSCA reporting and regulatory crosshairs, other mining products may be impacted by this proposed rule if they contain asbestos as an impurity. Additional information is available [here](#).

EPA Extends Comment Period on the Interstate Transport Rule

EPA last week [extended](#) the comment period on its [proposed Interstate Transport Rule](#). This proposal, part of EPA's "comprehensive power sector strategy," would establish Federal Implementation Plan (FIP) requirements to address 26 states' obligations to eliminate significant contribution to nonattainment, or interference with maintenance, of the 2015 ozone National Ambient Air Quality Standard in other states. It would effectively require coal-fired units with a nameplate capacity of 100 megawatts or greater that lack selective catalytic reduction (SCR) to install that technology by 2027, find other means of compliance, or retire. Recognizing the significant regulatory threat of this proposed rule on coal-fired generation, the NMA is developing comments. We are also educating state-level

policymakers on the significance of this proposal with the goal of recruiting their opposition to this onerous rule. For additional information about our comments, contact Tawny Bridgeford at tbridgeford@nma.org. For additional information on our state advocacy, contact Jerry Mullins at jmullins@nma.org.

Western Caucus Podcast Hosts enCore Energy's Goranson



On May 12, House Western Caucus (WC) Chairman Dan Newhouse (R-Wash.) was joined by NMA member enCore Energy Corp.'s CEO Paul Goranson and WC Vice Chair Liz Cheney (R-Wyo.) on the caucus' podcast, [A Voice for Rural America](#). Last week's episode, entitled *Combatting Russia's Uranium Monopoly*, focused on the importance of bolstering our domestic uranium supply and conversion industries as well as the critical role uranium plays in our energy future. The discussion highlighted our nation's unsustainable import reliance on Russia for the nuclear fuel used in many of our nation's commercial reactors as well as the national security implications of this glaring strategic vulnerability. WC members recently heard from Mr. Goranson in early March at a roundtable discussion in Arizona on the importance of domestic mineral supply chains and the need to decrease our nation's import reliance on geopolitical adversaries.

Joe Usibelli 1938-2022



Usibelli Coal Mine sadly announces the passing of Joseph E. Usibelli, chairman of the company's board of directors. Mr. Usibelli passed away after a long-term illness on May 12, 2022, in Tucson, Arizona, with his wife Peggy Shumaker by his side. Mr. Usibelli was 83 years old.

"My dad was a visionary and a pioneer in Alaska's mining industry," said Joe Usibelli Jr., president of Usibelli Coal Mine. He was known for his ingenuity, generosity, and his deep love for his family, employees, and community. Together, we mourn his loss."

Joe Usibelli was born on December 28, 1938, in Suntrana, Alaska to Emil and Rose Usibelli. He became president of Usibelli Coal Mine at the age of twenty-five after his father, Emil Usibelli, passed away unexpectedly in 1964. Joe would serve as the mine's president until 1987. During his tenure, Mr. Usibelli initiated the modernization of the mine's equipment, introduced new mining techniques, and implemented a successful land reclamation program. In 1987, after announcing that his son, Joe Usibelli Jr., would assume the position of president, Mr. Usibelli went on to serve as chairman of the board of directors until his passing.

Mr. Usibelli is survived by his wife, Peggy Shumaker; his sister Rosalie Whyel; six children (Joe Usibelli Jr., Cathy Usibelli, Mitch Usibelli, Anna Tavener, Rob Usibelli, and Sean Usibelli); ten grandchildren, three nieces, and a nephew; and three great-nieces and nephews. Details regarding the funeral and memorial arrangements will be forthcoming.

NMA and Third Party Voices

[The White House](#) released a statement on its IWG on Mining Law that includes a quote from Rich Nolan. [E&E Daily](#)'s coverage of the meeting also mentions Nolan.

[E&E Greenwire](#) and [Mining Weekly](#) quote Rich Nolan on the federal appeals court's decision to block the Rosemont copper mining project, in Arizona, warning that "flawed rulings" will ensure the U.S. watches the global energy race from the sidelines.

The NMA is quoted by [Reuters](#), [U.S. News and World Report](#), the [Regina Leader-Post](#) and others in a report noting that U.S. coal producers are seeking to boost exports to cash in on soaring prices since Russia's invasion of Ukraine but face big headwinds including shipping bottlenecks, labor shortages, and a challenging long-term outlook discouraging investments in new mines.

The NMA is quoted by the [Wall Street Journal](#) in a report on the cost of proposed rules on climate disclosures.

[The Daily Caller](#) quotes the NMA in a report on the Biden administration request to Congress to allow the DOD to fund foreign critical mineral facilities in the annual defense spending bill.

From our third parties, [Salem News](#) (Ohio), [Lisbon Morning Journal](#) (Ohio) and [East Liverpool Review](#) (Ohio) carry an op-ed by Terry Jarrett, an energy attorney and consultant who has served on both the board of the National Association of Regulatory Utility Commissioners and the Missouri Public Service Commission, in which he argues we need to rethink the role existing coal plants can play in getting us to our energy future.

Mining and Energy News

[Bloomberg](#) reported that ERCOT, Texas's grid operator, called on residents to conserve energy last Friday after six generation facilities tripped offline amid hot weather, prompting power prices to spike. Natural-gas fired plants made up all of the generation that failed.

[Argus](#) reported that coal generation in the MISO power region fell in April compared to April 2021 despite cooler weather, as natural gas and renewable dispatch increased. Argus also [reported](#) that coal generation in the ERCOT power region increased 5 percent in April amid a rise in power demand and lower natural gas generation.

[S&P Global](#) reported that U.S. coal miners, eager to sell into a reinvigorated market, are struggling to move their product as train lines tangle with a severe labor shortage.

[Argus](#) reported that U.S. coal receipts climbed by 16 percent in February amid a sharp increase in Powder River Basin (PRB) coal shipments. Argus also reported that PRB [coal production](#) increased 16 percent in the first quarter.

U.S. Energy Information Administration forecasted coal production to [rise 3 percent](#) in 2022 even as coal-fueled generation decreases as domestic utilities seek to replenish depleted stockpiles.

[The Hill](#) and [E&E](#) reported that West Virginia coal miners have launched a campaign urging Sen. Joe Manchin (D-W.Va.) to support a Democratic budget reconciliation bill that would extend funding for black lung patients.

Rocky Mountain Institute promoted "[structured finance](#)" as a method to encourage more U.S. coal-fueled power plants to shut down.

Wall Street Journal published: "America [leans on aging power plants](#) to keep the lights on."

[Utility Dive](#) reported on recent PJM and ISO New England data showing that power prices jumped 51 percent in PJM and 85 percent in New England in the first quarter largely driven by rising liquified natural gas prices.

[Politico Pro](#) reported that soaring natural gas prices are becoming a political nightmare for the Biden administration.

[Mining.com](#) reported that Tesla says it is open to buying a mining company if producing its own supply of electric vehicle (EV) metals would speed up worldwide adoption of clean energy technologies.

[Washington Examiner](#) reported that another automaker, Stellantis, is warning that an inadequate battery supply chain will threaten manufacturers' viability in the coming years as they build more electric vehicles.

[E&E Greenwire](#) published: "9th Circuit keeps massive Ariz. copper mine on ice."

Mining Action Strategy Team

Access the latest snapshot of the NMA's ongoing regulatory efforts. The MAST tracker is updated weekly to the extent new actions have occurred.

Current password: Mining

[Mining Action Strategy Team](#)

The Prospectors & Developers Association of Canada (PDAC) has asked the NMA to remind you that PDAC's annual Convention will be back in Toronto, from June 13-15, as well as an online portion from June 28-29. The PDAC Convention provides a platform for experts to connect and talk, learn and collaborate about the opportunities and challenges faced by the industry. For the latest information on #PDAC2022 head to www.pdac.ca/convention.



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