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MINE Update
MINING INDUSTRY NEWS E-COMM UPDATE

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Brought to you by the National Mining Association

This Week in the News

Party leaders in the House and Senate scrambled to identify final initiatives with a chance of passing into law prior to the August break or within the limited number of additional legislative days prior to the November midterm elections. The House plans to leave town this week, and while the Senate is in session for an additional week, its activities have been complicated by a COVID outbreak affecting several senators and President Biden. With the clock ticking down, the National Mining Association (NMA) remains focused on actively engaging to advance mining's interests at both ends of Pennsylvania Avenue and the regulatory agencies. Plus, we have updates on how the mining and energy markets are faring.

Safety Share

It's staying hot out there. The American Red Cross has tips on [heat wave safety](#).

House Natural Resources Committee Mining Priorities Pile Up



Earlier today, the House Natural Resources Committee held a [markup](#) solely to consider Chairman Raul Grijalva's (D-Ariz.) *Environmental Justice for All Act* ([H.R. 2021](#)), which would expand requirements under the National Environmental Policy Act, including forcing permittees to try to quantify cumulative impacts for federal permitting. The bill would also raise royalty rates for federal coal, oil and gas from 12.5 to 18.75 percent. This bill has been a priority for Grijalva, who planned to move the legislation quickly when it was originally introduced in February 2021. However, it has taken until now for Grijalva to hold a business meeting on the legislation. The potential for further movement in the U.S. House on the bill and Grijalva's other priorities including the *Requirements, Expectations and Standard Procedures for Effective Consultation With Tribes (RESPECT) Act*, [H.R.](#)

[3587](#), which has been removed from committee markup twice and yet to receive further consideration, and importantly Grijalva's *Clean Energy Minerals Reform Act (H.R. 7580)*, which is renamed but perennially introduced legislation to dramatically change the Mining Law, is waning with only three weeks remaining on the House calendar prior to adjournment for the midterms.

Rosemont Files Petition for Rehearing of Unfavorable Ninth Circuit Decision on Interpretation of the Mining Law

Today, Rosemont Copper Company filed a [petition for rehearing](#) asking the United States Court of Appeals for the Ninth Circuit (9th Circuit) to reconsider its [decision](#) to affirm a lower court decision that vacated the U.S. Forest Service's record of decision for the Rosemont Copper Mine's plan of operations. Similar to the lower court decision, the 9th Circuit decision conflicts with more than a century of legal precedent, including numerous U.S. Supreme Court decisions, in misconstruing rights conveyed by the Mining Law to owners of unpatented claims and the use of surface resources to develop those claims. Rosemont's petition argues that, in the 2-1 decision, the majority dodged the central question in this case: whether the Forest Service correctly applied its locatable minerals regulations (36 CFR Part 228A), rather than its special use regulations (36 CFR part 251). Rosemont asserts that the majority's refusal to decide the central legal question "rests on a fundamental error of law and a misreading of the record" that requires the court to grant rehearing. Unfortunately, despite earlier indications that the federal government may also file a petition for rehearing, we learned earlier today that the Department of Justice declined to file. The NMA will be filing an amicus brief within the next 10 days in support of Rosemont's petition. Whether to rehear the case is at the court's discretion. We will keep you apprised of any further developments.

30th Annual NMA Uranium Recovery Workshop

The 30th Annual National Mining Association Uranium Recovery workshop was held last week in Denver. The workshop provided an excellent opportunity for industry and federal and state regulators to communicate directly about regulatory trends, technical challenges and other issues affecting the industry. The diverse program included presentations from the Nuclear Regulatory Commission, the Department of Energy, the State of Wyoming, academia and industry. The presentations are available to [download](#) from the NMA website.

OSMRE Requests NMA-Member Information on Revegetating Mine Sites



The Office of Surface Mining Reclamation and Enforcement (OSMRE) reached out to the NMA requesting information on the feasibility of revegetating reclaimed mine sites. The request for information is partially to fulfill OSMRE's reporting requirement to Congress under the recently enacted Bipartisan Infrastructure Law (BIL). A copy of the letter can be found [here](#). OSMRE requested that the NMA provide this information by Friday, Aug. 5, 2022. In response to NMA-member questions about the request for information, the NMA contacted OSMRE to schedule a call to discuss these questions, and to better understand

what kind of revegetation information would be most helpful to provide. The call with OSMRE is scheduled for Thursday, July 28, 2022 at 3:30pm ET. If you are interested in participating on the call, please contact Katie Mills at kmills@nma.org.

FWS Rescinds ESA 4(b)(2) Critical Habitat Exclusion Regulations

Last week, the U.S. Fish and Wildlife Service (FWS) [published](#) a final rule rescinding the 2020 regulations for excluding critical habitat under the Endangered Species Act (ESA) that were finalized in the previous administration (2020 regulations). The Regulations outlined when the FWS would undergo a discretionary analysis to exclude areas from a critical habitat designation. The NMA commented favorably on the proposed 2020 regulations and supported the additional clarity and consistency that it would provide to stakeholders. In rescinding the rule, the FWS asserted that the 2020 regulations: (1) undermine the FWS's role as the expert agency; (2) constrain the FWS's discretion, thus decreasing the ability to further the conservation of endangered and threatened species through designation of critical habitats; and (3) create confusion rather than furthering the goal of providing clarity and transparency.

FWS publishes Compensatory Mitigation Notice of Proposed Rulemaking

This morning, the U.S. Fish and Wildlife Service (FWS) [published](#) an Advance Notice of Proposed Rulemaking (ANPR) on Compensatory Mitigation Mechanisms. The ANPR is a result of the 2021 National Defense Authorization Act, which required the FWS to issue regulations of general applicability establishing objectives, measurable performance standards, and criteria for use for species conservation banking programs, consistent with

the Endangered Species Act. The publication initiates a 60-day comment period, which ends September 26.

Lithium Americas Opens New R&D Facility



Last week, NMA member Lithium Americas celebrated the grand opening of its Lithium Technical Development Center in Reno, Nev. Lithium Americas' President and CEO Jonathan Evans was joined by Nevada Governor Steve Sisolak, University of Nevada Reno President Brian Sandoval, members of the Fort McDermitt Tribe and other community leaders for the ribbon cutting. The NMA's Ashley Burke, Senior Vice President of Communications, also attended. The center was developed to demonstrate the chemical process designed for the Company's Thacker Pass lithium project in an integrated process testing facility.

NMA and Third Party Voices

The NMA is mentioned in a story from [KFYR](#) noting that several senators including Kevin Cramer, R-N.D.; Steve Daines, R-Mont.; and Jon Tester, D-Mont. are calling for a hearing to improve cleanup efforts of abandoned mines.

The NMA is mentioned by [Mining.com](#) in a story on the various ways fossil fuels are consumed by all in one form or another.

From our third parties, [Boston Herald](#) (Mass.) and [White Mountain Independent](#) (Ariz.) carry an op-ed by Syd Peng, the Charles E Lawall Chair of Mining Engineering emeritus in the Department of Mining Engineering at West Virginia University, in which he argues our coal fleet is the bridge we need to cross to reach energy security.

[Waco Tribune-Herald](#) (Texas) carries an op-ed by Kevin Kearns, president of the U.S. Business and Industry Council, in which he argues Washington must address the bureaucratic hurdles handcuffing America's mining industry — particularly the duplicative and painfully cumbersome mine permitting process that regularly takes a decade or longer.

[Herald-Star](#) (Ohio) and the [Wheeling Intelligencer](#) (W.Va.) carry an op-ed by Robert Chase, professor emeritus from Marietta College, in which he argues the U.S. should be exporting more coal to Europe.

Mining and Energy News

[Bloomberg](#) reported that Elon Musk has called for more investment in global lithium refining to ease shortages in battery materials — and promised those who seize the opportunity it's as lucrative as “basically minting money.”

[Greenwire](#) reported that conservation activists this week urged Elon Musk to steer clear of sourcing nickel for Tesla's electric car batteries in Indonesia, saying mining there causes environmental damage.

The [International Copper Study Group's](#) July analysis with preliminary data for May

shows world copper mine production increased by about 2.7 percent in the first five months of 2022, with concentrate production increasing by around 1.9 percent and solvent extraction-electrowinning (SX-EW) by about 6.4 percent.

[E&MJ](#) reported that Ford has signed multiple agreements with miners for raw materials. [Axios](#) reported that one way Ford intends to meet its EV targets: adding a second type of battery chemistry to its lineup called lithium iron phosphate (LFP), alongside its existing nickel cobalt manganese (NCM) chemistry.

[USGS](#) announced last week a state-federal partnership that includes investment of \$2.75 million to research critical mineral potential across central Arkansas and southern Missouri.

[Washington Post](#) reported that companies are seeking to open old mines and explore in new sensitive regions, amid resistance from Californians who want the Gold Rush to remain part of history.

[Utility Dive](#) reported that growing demand for copper from key parts of the energy transition — electric vehicles, solar and wind equipment, and power lines — will likely outstrip supply later this decade, potentially putting the goal of net zero carbon emissions in 2050 out of reach, according to S&P Global analysts.

[Greenwire](#) reported that the Forest Service appears to be nearing a decision on whether to use an environmental review issued under the Trump administration that would allow a large copper mine to be built on an Arizona site sacred to Apache tribes.

[Grist](#) reported on opposition to gold mining in Alaska on the Kuskokwim River.

[Greenwire](#) reported that BLM has advanced a bid for the first U.S. vanadium mine.

[Argus](#) reported that U.S. utility plant coal receipts fell for the first time year over year in April amid limited supply and rail transportation struggles.

[Argus](#) reported that Powder River Basin (PRB) coal production inched higher in the second quarter compared to the previous year, despite declines from Peabody and NTEC

mines.

[Argus](#) reported on Department of Commerce data showing that U.S. thermal coal imports dipped from a year earlier in the first five months of this year as seaborne prices climbed and a power plant in Hawaii that takes imported coal gets ready for retirement.

The Energy Information Administration's (EIA) recent [Today in Energy](#) release shows that refined coal production in the U.S. dropped to nearly zero during the first quarter of 2022 as refined coal consumers used their remaining small stockpiles. Refined coal is primarily made by mixing proprietary additives to feedstock coal. According to EIA, "at the end of 2021, the refined coal production tax credit (created by the American Jobs Creation Act of 2004) expired, which could be affecting refined coal production and consumption."

[Argus](#) reported on IEA's Electricity Market Report data showing that high natural gas prices will promote coal-fueled thermal power generation in Europe and northeast Asia in the near term.

[Power Magazine](#) reported that "European leaders should minimize gas use in the power sector and temporarily ramp up coal- and oil-fired generation while accelerating low-carbon sources to guard against energy market turmoil that has grown "especially perilous," the head of the International Energy Agency (IEA) said last week."

[E&E News PM](#) reported that "the Biden administration issued final guidance outlining steps that eligible states and the Navajo Nation communities should take to apply for the first \$725 million in grant money authorized by the bipartisan infrastructure law to clean up abandoned coal mines."

[Utility Dive](#) reported that state regulators unanimously approved Georgia Power's 2022 Integrated Resources Plan, or IRP, which includes retiring all its coal plants by 2028, with the exception of two units from Plant Bowen totaling nearly 1,600 MW.

[American Resources Corporation](#) announced last week that it has commenced initial production at its greenfield Carnegie 2 metallurgical carbon mine operation ahead of schedule.

[S&P Global](#) published: “Europe's new trade flows for coal shaping up as import ban on Russia looms.”

Speculation mounted that China may soon [end its two-year ban](#) on coal imports from Australia.

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](#)

Bluefield Coal & Mining Show



THE BLUEFIELD COAL & MINING SHOW

A Show for Mining:
Our Past, Present, Future

September 14, 15, 16, 2022

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