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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

House leadership grappled with dissension in the Republican caucus following completion of the bipartisan debt limit deal. Meanwhile the unprecedented regulatory assault on fossil fuels continues to roll forward. 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

June is National Safety Month. Week two of the National Safety Council's observance focuses on **slips, trips and falls**.

EPA Comment Extension on Power Sector Climate Proposal; NMA Testifies at Public Hearing

The U.S. Environmental Protection Agency (EPA) last night notified the NMA that it has extended the comment period on the proposed power sector greenhouse gas (GHG) rules by **15 days, or until Aug. 8, 2023**. EPA received over 30 requests to extend the 60-day comment period, including from the NMA. Similar to House and Senate letters (**here** and **here**), the NMA asked for 60 additional days (for a total of 120 days) given the novel and consequential ramifications of this proposed rule to the coal generating fleet. The NMA's letter is available **here**.

The NMA also testified at EPA's public hearing this week. Our testimony is available **here** and raises four essential points that we will build upon in detailed written comments, including: (1) EPA's failure to analyze and abate the cumulative impact of its "power sector strategy" on resource adequacy despite clear warnings from federal and regional grid experts; (2) CCS is not adequately demonstrated or cost-effective and will only function as an unlawful generation-shifting, retirement mandate; (3) CCS is not analogous to scrubbers for numerous reasons, including unique factors outside the control of power plant owners; and (4) mandating 40 percent natural gas co-firing is unlawful generation shifting.

It has come to our attention that certain NMA members did not receive a time slot to speak with clear instructions on how to join the waitlist. The NMA raised

this concern with the agency during the hearing. Subsequently, the EPA emailed the NMA directing any member who wishes to be added to the waitlist to email **EGU-GHG-Public-Hearing@rti.org**. According to EPA, speaking slots are not guaranteed. **EPA will be holding its last virtual session tomorrow, Thursday, June 15**. Additional information is available **here**. Based on the public speaker list, there are very few industry stakeholders confirmed to testify this week. The EPA will also accept written testimony **here**.

Mining Related Tax Measures in Congress

Last week was a substantial week for new introductions and tax measures moving in Congress. The following are some highlights:

House Republican Tax Package. House Ways and Means Committee Chairman Jason Smith (R-Mo.) introduced the American Families and Jobs Act, which is actually comprised of three bills: the Tax Cuts for Working Families Act (H.R. 3936), the Small Business Jobs Act (H.R. 3937) and the Build It in America Act (H.R. 3938), all of which were marked up at the House Ways and Means Committee on Tuesday. **The Build It in America Act** (H.R. 3938) extends the timeframe for expensing of research costs for five years, restores broader deductibility of business interest expense that adds back depreciation and amortization to adjusted taxable income (EBTIDA vs EBIT) through 2025, and extends 100 percent bonus depreciation for qualified property placed in service after December 31, 2022, and before January 1, 2026. It repeals the production and investment credits for zero emission electricity generation enacted in the Inflation Reduction Act. It generally replaces the Section 30D clean vehicle credit created in the Inflation Reduction Act with the electric vehicle tax credit as it existed prior to the changes from the Inflation Reduction Act. However, it keeps similar changes from the current Section 30D:

- The new provision accelerates from the December 31, 2026, date in the Inflation Reduction Act the rule that no electric vehicles may receive a tax credit unless 80 percent of critical minerals in batteries are extracted or processed in the U.S. or from a country in which the U.S. has a free trade agreement to enactment.

- The new provision defines free trade agreement as an international agreement approved by Congress. This Congressional approval requirement was not made explicit in the Inflation Reduction Act. There has been bipartisan criticism of the administration's implementation of the current 30D tax credit for avoiding intended domestic sourcing requirements.

- The new provision accelerates from the applying after 2028 timing in the Inflation Reduction Act the rule that no tax credit is allowed for electric vehicles which less than 100 percent of the value of the components contained in the battery were manufactured or assembled in North America to enactment.

- The new provision maintains the rule that no tax credit is allowed for electric vehicles placed in service after December 31, 2024, that contain critical minerals extracted or processed by a foreign entity of concern.

Please find a summary of the bill **here**.

Carbon Adjustment. Senator Bill Cassidy (R-La.) continues to work toward the introduction of a Foreign Pollution Fee otherwise known as a carbon adjustment fee with a handful of bipartisan senators. Senator Cassidy is a member of the tax legislation writing Senate Finance Committee and Senate Energy and Natural Resources Committee. This work builds on legislation introduced last Congress which would impose a new tax or fee on imported

commodities based on carbon emissions, specifically steel, aluminum, cement, iron and the three fossil fuels: coal, oil and gas. Senator Cassidy's bill would impose a fee on foreign imports - like Chinese steel and chemicals - produced with higher carbon dioxide emissions than products produced from other countries and in the U.S. The renewed and bipartisan interest in this type of legislation is due to the start of a new carbon border fee in the European Union which places new fees on imported goods to the EU including iron and steel, cement, fertilizer, aluminum and electricity. The new fee is scheduled to begin implementation in 2026 to being fully implemented by 2034. In the first phase of implementation the EU will require importers to file quarterly reports about the goods they are bringing into the EU with the carbon dioxide emissions released in the creation of the goods. Last Congress, Senator Coons (D-Del.) and Cong. Scott Peters (D-Calif.) floated legislation to implement a carbon adjustment tax or fee on imported steel, aluminum, cement, iron, coal, oil and natural gas.

Chilean Tax Treaty. The Senate Foreign Relations Committee has favorably reported the US Chile Income Tax Treaty by a strong bipartisan vote of 20-1. This allows Senate Majority Leader Schumer to call up the treaty for full Senate consideration as soon as there is time to consider the measure on the Senate floor. The NMA has **helped lead a coalition of business organizations and companies** lobbying for ratification of this treaty which has been pending since 2014. The ratification of the treaty would provide tax certainty to U.S. companies looking to invest in new mining in Chile, a country with which the U.S. has a congressional approved free trade agreement, and avoid the reimposition of a corporate tax rate 10 percent higher than mining competitors from Australia, the UK, Japan and China.

Methane Capture. Last week Rep. Carol Miller (R-W.Va.), Congressional Coal Caucus co-chair, led the introduction of the **Methane Reduction and Economic Growth Act** of 2023, which would add onto the existing Internal Revenue Code section 45Q carbon capture tax credit. The new tax credit for

capturing and repurposing mine methane emissions from active and abandoned mines to be used as an energy resource across the country. The bill creates a tax credit of $12 per metric ton of captured methane. As opposed to 45Q tax credit benefiting utilities and downstream users, this bill would benefit the mine. Reps. Terri Sewell (D-Ala.), Chris Deluzio (D-Penn.) and Guy Reschenthaler (R-Penn.) are cosponsors.

Mining Subcommittee Holds Hearing on NMA Supported Mining Schools Bill and Nevada Mineral Withdrawal Impacts on NMA Member Company

Today, the House Natural Resources Subcommittee on Energy and Mineral Resources held a **legislative hearing** on the bipartisan Mining Schools Act of 2023 (**H.R. 2685**) and **H.R. 3883**, a bill to nullify a mineral withdrawal of over 22,000 acres in Eastern Nevada. H.R. 2685, introduced by Reps. Burgess Owens (R-Utah) and Jim Costa (D-Calif.), would authorize $10 million annually through 2031 and direct the Department of Energy (DOE), in consultation with

the Department of the Interior (DOI), to establish a program to award up to 10 competitive grants annually for mining schools to support recruitment and education opportunities for engineers and other qualified professionals in the field of mining. Dr. Walter Copan, Vice President for Research and Technology Transfer at the Colorado School of Mines will testify in support of the bill. Please find the NMA's testimony for the record in support for the legislation **here**. H.R. 3883 was introduced by Rep. Mark Amodei (R-Nev.) to nullify a recent mineral withdrawal (**88 FR 25682**) of more than 22,000 acres initiated by the Bureau of Land Management in Nye County, Nev. in order to ensure "satellite calibration activities" by National Aeronautics and Space Administration (NASA). Testifying in support of the legislation is Kevin Moore, Chairman and CFO of 3 Proton Lithium, Inc., an NMA member pictured above, whose project is directly impacted by the withdrawal. The NMA will continue to advocate for H.R. 2685 and H.R. 3883 and work with the committee to advance the legislation.

House Hearing on BLM's Proposed Conservation and Landscape Health Rule

Tomorrow, the House Natural Resources Committee will hold a full committee legislative hearing, linked **here**, on **H.R. 3397**, that would withdraw the Bureau of Land Management (BLM) proposed rule entitled "Conservation and Landscape Health" (**88 Fed. Reg. 19583** (April 3, 2023)) and bar the bureau from finalizing, implementing or enforcing the propose rule, or similar rules. The hearing will be split into three panels with the bill's sponsor, Rep. John Curtis (R-Utah) and Governors Kristi Noem (R-S.D.) and Mark Gordon (R-Wyo.) testifying on the first and second panels in support of the legislation. The third panel will include BLM Principal Deputy Director Nada Wolff Culver, Kathleen Sgamma (President of the Western Energy Alliance), and Kathy Chandler-

Henry (Chair of the Eagle County Board of Commissioners, Colo.) as the minority witness. The NMA and 14 other mining associations and groups **expressed support** for the legislation and will work to advance the legislation and its Senate companion, S. 1435.

EPRI Briefs Congressional Coal Caucus on Threats to Electric Grid While Congress Continues Hearings on the Grid Crisis

This morning, the Electric Power Research Institute (EPRI) **presented** to the Congressional Coal Caucus regarding the electricity generation sector, specifically highlighting heightened threats to energy security in the face of the EPA regulations targeting fossil fuel power plants. The presentation came at a time when Congress has been focused on the threats to electricity reliability. This month, there have been four scheduled hearings focused on reliability, with the first being a June 1st Senate Energy and Natural Resources Committee **hearing** to examine the reliability and resiliency of electric services in the U.S. in light of recent reliability assessments and alerts. The NMA's President & CEO, Rich Nolan's statement on the hearing is available **here**. This was followed by a June 6 House Energy and Commerce Committee Subcommittee on Environment, Manufacturing, and Critical Materials **hearing** focused solely on EPA's recently proposed Greenhouse Gas Standards and Guidelines for Fossil-fuel Fired Power Plants where NMA provided Michael Nasi, Partner at Jackson

Walker LLP, as a witness, as well as a June 13th Energy and Commerce Committee Subcommittee on Energy, Climate, and Grid Security **oversight hearing** of the Federal Energy Regulatory Commission (FERC) focused on maintaining affordable and reliable energy. Additionally, the Energy and Commerce Committee Subcommittee on Energy, Climate, and Grid Security is holding a **field hearing** this Friday in North Carolina titled, "Enhancing America's Grid Security and Resilience." The NMA engaged with members of the Committees in preparation for these hearings and continues to educate members on the electricity reliability implications of the threats facing the coal industry.

NMA Outlines Domestic Mining Priorities During Minnesota Chamber of Commerce Fly-In

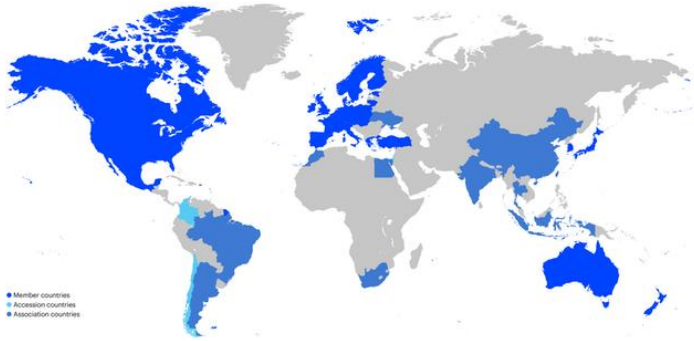
Today, the NMA joined the Minnesota Chamber of Commerce members and Mining Minnesota in Washington, D.C. for a breakfast discussion on federal actions regarding mining and mineral supply chains. NMA's Ryan Jackson and Julie Lucas, Executive Director of **Mining Minnesota**, a NMA member, outlined challenges mining projects face when seeking permits and the lack of regulatory certainty created through recent actions by the administration, specifically the revocation of a Section 404 Clean Water Act permit by the U.S. Army Corps for the NewRange Copper Nickel Mine in Minnesota and the proposed rule from the Bureau of Land Management on Land Conservation and Rangeland Health that would undermine the multiple use and sustained yield mandate under Federal Land Policy and Management Act and implement a new conservation lease. In addition to highlighting several advocacy efforts being taken by the NMA and the mining industry to support strong congressional oversight to increase regulatory certainty and prevent punitive regulatory

actions, Ryan provided positive developments regarding the ongoing permitting reform legislative activities advancing in the Senate.

NMA Annual Uranium Recovery Workshop

The NMA hosted a successful Uranium Recovery Workshop this week in Denver with over 70 attendees. 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.

NMA Addresses New IEA Critical Minerals Working Group



The NMA today presented to the International Energy Agency's (IEA) newly created Critical Minerals Working Group (CMWG) on U.S. regulatory and policy impediments to meeting skyrocketing mineral demand. The NMA, a participant in the IEA's coal industry advisory board, successfully advocated over the last two years for IEA to create a similar board for advising on minerals issues. The first CMWG action was organizing a critical minerals workshop to inform IEA on pressing minerals issues. NMA's presentation highlighted permitting delays, land access and potential changes to foundational mining laws as the major impediments to bringing new production online. Other workshop topics included supply and demand forecasts, environmental, social and governance frameworks and mine case studies.

Invitation: June 20 Expert Briefing on *Sackett v. EPA* and Implications for the Mining Industry

The NMA invites you and your colleagues to participate in an expert briefing on the Supreme Court's recent decision in ***Sackett v. EPA*** on **June 20 from 2:00-3:00 p.m. (Eastern)**. Recall that in *Sackett*, the Court held 9-0 that the Clean Water Act extends only to wetlands that have a continuous surface connection with "waters of the United States" and struck down the "significant nexus" test that the federal agencies have used to expand federal jurisdiction over water features. For the NMA's summary of the case, please review our May 25 **memorandum**. David Chung, partner at Crowell and Moring, and outside counsel to the NMA's regulatory and legislative coalition, the Waters Advocacy Coalition, will unpack the Court's opinion and discuss potential implications for the mining industry. We will also have time for discussion and Q&A. **To RSVP and download an Outlook invitation, please click here.**

U.S. Forest Service Extends Comment Period for Advanced Notice of Proposed Rulemaking on Climate Resilience

Last week, the U.S. Forest Service (USFS) **announced** a 30-day extension of the comment period for its **Advance Notice of Proposed Rulemaking** (ANPR) regarding the management of USFS lands for climate resilience. **Comments are now due July 20, 2023**. The USFS is seeking public input on how it should adapt current policies to protect, conserve, and manage national forests and grasslands for climate resilience. The USFS is interested in public feedback and requests for Tribal consultation on a broad range of potential options to adapt current policies or develop new policies and actions to better anticipate, identify, and respond to rapidly changing conditions associated with climate-amplified impacts. The ANPR is intended to further USFS's commitment to climate adapted approaches by supporting ecologic, social, and economic stability in light of climate change, human induced changes, and other stressors. The NMA will submit comments by the new deadline.

EPA Issues Proposed Rule Establishing Baseline Water Quality Standards for Indian Reservation Waters

EPA recently published a **proposed rule** establishing baseline federal water quality standards (WQS) for Indian reservation waters that do not currently have WQS in effect, with several exceptions. Mining companies that may operate near or upstream from waters that could be considered Indian reservation waters should review this proposal closely to determine its potential impact on your operations**.** A fact sheet is available **here**. The proposed rule appears to make significant changes to EPA's WQS program as applied to Indian reservation waters, including setting designated uses, including cultural and traditional uses; narrative criteria with binding numeric translation procedures; new anti-degradation and implementation provisions; and a new mixing zone policy. Comments are due Aug. 3, 2023. EPA will also hold two public hearings on June 27 and July 12. Additional information is available **here** on how to register for the public hearings.

NMA at Wyoming Mining Association Annual Meeting

Last week, the NMA's Ashley Burke was the opening speaker at the Wyoming Mining Association's 67th Annual Convention in Sheridan, Wyo. Her remarks – "Impactful Messaging for Today's Mining Industry" – covered recent polling by the NMA, perception of the industry, and the importance of personalizing our messaging to move the public to support our policy priorities. For coal, polling shows affordability and reliability continue to lead the way in raising voter concerns about the EPA's power plant rules. And for minerals, wrapping our policy priorities in a "made in America should be mined in America" framework builds consistent support across the board.

NMA and Third Parties In the News

Rich Nolan has a **new president's blog** on mounting reliability challenges to the grid.

Rich Nolan is quoted by **Governing.com** and **Delaware Valley Journal** in coverage of the retirement of fossil fuel electricity production and the lack of reliable renewables to replace it.

The NMA is quoted extensively in a **Cowboy State Daily** story on the Wyoming Mining Association's recent conference and what various pro-industry voices, including the National Mining Association, are doing to defend the coal industry.

From our third parties, **The Messenger** (Fla.) carries an op-ed by Bernard Weinstein, an emeritus professor of applied economics at the University of North Texas, former associate director of the Maguire Energy Institute at Southern Methodist University, and a fellow of Goodenough College, London, in which argues we need to price electricity in a manner that recognizes the value of coal and nuclear facilities in providing grid security and an adequate reserve margin to meet peak demand.

MSN.com (NAT) carries 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 there's a responsible way to navigate America's energy future, but the path being taken by the Biden administration and the EPA simply isn't it.

Eastern New Mexico News (N.M.) has a piece from Jim Constantopoulos on the threat of electricity shortages.

Mining and Energy News

The Economist reported that financiers are saving coal from extinction.

Argus reported that coal exports out of Hampton Roads, Virginia, rose from year-earlier levels for a fourth straight month in April.

World Steel Association has released its 2023 edition of *World Steel in Figures,* a publication providing a comprehensive overview of steel industry activities.

Argus reported that EIA has lowered its 2023-24 coal consumption forecast amid lower natural gas prices and more generation from renewable sources.

E&E News reported that some states and jurisdictions have passed laws to make it harder for state regulators to approve plans to retire coal plants or to conduct climate analyses.

Mining.com reported on Citigroup Inc. analysis predicting that "Investors look set to pile into the copper market on an unprecedented scale in the next few years as usage surges in electric vehicles and renewable energy."

World Gold Council's latest *Gold Demand Trends* report revealed that while first quarter gold demand (excluding OTC) was 13 percent lower year-on-year, a recovery in the OTC market propped up total gold demand to 1,174 metric tons, a slight 1 percent increase compared to the same period in 2022.

Mining.com reported on CostMine Intelligence survey data indicating that wages for some copper and gold mine employees in the southwest U.S. increased by around 10 percent in the last year and a half, helping raise hourly pay by 4 percent at unionized and non-union surface and underground metal and industrial mineral mines across the U.S.

E&E News reported that House Republicans from Western mining states unveiled legislation aimed at designating copper as a "critical" mineral, part of a broader, bipartisan effort that's run into objections from some tribes and environmental groups.

EIA's recent **Today in Energy** predicts increased renewables and natural gas generation this summer will likely reduce coal demand.

Reuters reported on Metals Focus' forecast that gold demand will drop 9 percent to 4,375 metric tons this year with central banks' appetite falling from last year's all-time high.

Wall Street Journal reported that Wall Street is betting a labor shortage across the U.S. mining industry will drive up prices for the array of metals needed for the transition away from fossil fuels.

Argus reported that U.S. thermal coal exports fell in April as European and Asian demand tapered off somewhat.

Mining.com reported on BloombergNEF analysis indicating that lower cost sodium-ion based EV batteries could take market share from lithium-ion based batteries by 2035.

Mining.com reported on S&P Global Market Intelligence analysis showing that despite high copper company earnings, very little investment in capital expenditures is occurring. S&P notes that it takes an estimated average of 16 years to build a mine.

Wall Street Journal carried an op-ed arguing the administration's actions are hurting domestic minerals mining.

Washington Examiner reported that an assessment from the North American Electric Reliability Corp. found that electrical grids powering two-thirds of the U.S. are "at risk of energy shortfalls" during summer heat waves.

Reuters reported that President Biden met with British Prime Minister Rishi Sunak at the White House last week and said the two leaders discussed the

need to strengthen critical mineral supply chains.

Visual Capitalist graphically describes the critical role of copper and nickel in new transportation and energy storage technologies.

Politico Pro reported that bipartisan senators unveiled legislation late last week that would create a task force to combat China's control of critical mineral supply chains.

E&E News reported that for the first time, in the first five months of the year, wind and solar generated more electricity than coal.

Al.com reported that Alabama is allocating $20 million for upgrades to the Port of Mobile's McDuffie Coal Terminal.

Visual Capitalist graphically depicts the top global lithium producing countries in 2022.

Bloomberg and others reported that Glencore has offered to buy Teck's coal business.

Commodity Prices

Commodity Price - Snapshot

Metals Prices	Date	Price
Cobalt Spot Price ($/lb)	6/12/23	$13.39
Copper Spot Price ($/lb)	6/13/23	$3.78
Gold Spot Price ($/ounce)	6/13/23	$1,964.00
Lithium Spot Price ($/kg)	6/13/23	$43.70
Molybdenum Spot Price ($/kg)	6/12/23	$51.88
Nickel Spot Price ($/lb)	6/12/23	$9.37
Silver Spot Price ($/ounce)	6/13/23	$24.19
Steel HRC Price ($/mt)	6/13/23	$853.64
Steel Rebar Price ($/mt)	6/13/23	$521.12
Zinc Spot Price ($/lb)	6/13/23	$1.07
Energy Prices	**Date**	**Price**
Coal Price - Australian Premium Coking Coal Futures ($/mt)	6/13/23	$220.50
Coal Spot Price - Central Appalachian ($/st)	6/9/23	$76.90
Coal Spot Price - Newcastle futures ($/mt)	6/13/23	$132.53
Coal Spot Price - Rotterdam futures ($/mt)	6/13/23	$117.50
Natural Gas Spot Price - Henry Hub ($/mmbtu)	6/7/23	$2.11
Uranium Spot Price ($/lb)	6/5/23	$55.50

Sources: publically available data from eia.gov, dailymetalprice.com, tradingeconomics.com, sgxgroup.com, investing.com

In the June edition of CORESafety TV we explore Module 14, Incident Reporting and Investigation.

NMA
National Mining Association

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