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MINE Update

MINING INDUSTRY NEWS E-COMM UPDATE

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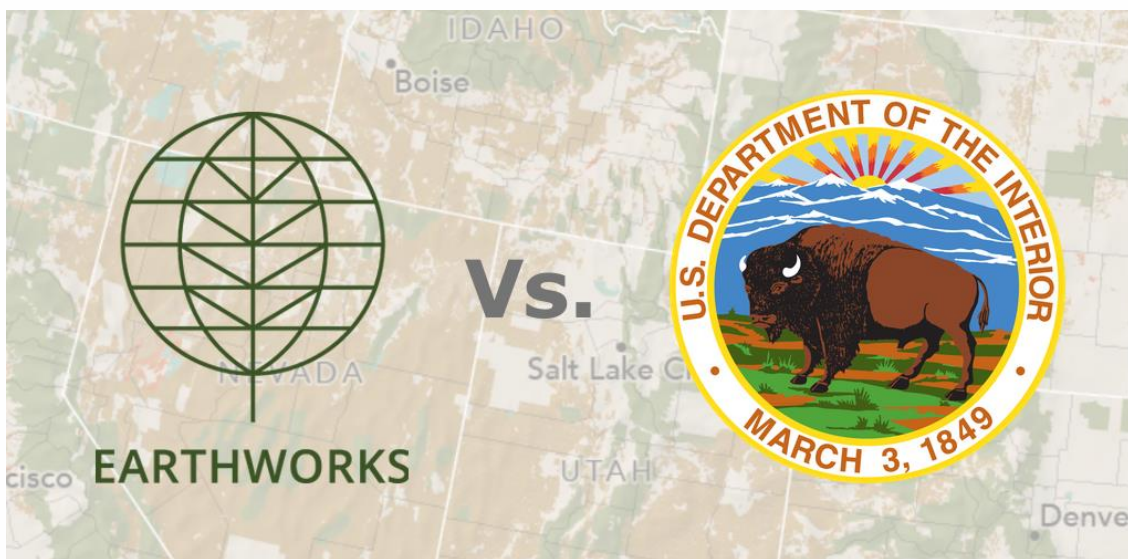
This Week in The News

With less than a week until its August district work period, Congress continued to grind through a packed agenda of appropriations bills. In the executive branch, agencies maintained their own ambitious schedule for new regulations on a multitude of industry sectors. 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 year, an estimated 236,000 people drown, and it is one of the top 10 fatalities of kids aged five to 14. Yesterday was [National Drowning Prevention Day](#).

NMA Files Significant Mining Law Brief in D.C. Circuit



Last week, the NMA filed a [legal brief](#) in *Earthworks vs. Department of the Interior* (DOI) in the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit). Recall, in 2021, Earthworks appealed the Oct. 2020 U.S. District Court for the District of Columbia [decision](#) that reaffirmed important rights of miners to explore and operate on federal lands pursuant to the Mining Law. Upon DOI's request, Earthworks' appeal had been stayed by the D.C. Circuit while the department focused its efforts on the Interagency Working Group (IWG) on the hardrock mining law, regulations and permitting. The NMA and other industry intervenors convinced the court to lift the stay earlier this year as the IWG recommendations failed to materialize and no release date was provided.

The NMA brief rebutted allegations presented in Earthwork's [opening brief](#) that the Mining Law must be interpreted to impose a limit on the number of millsites an operator can use to support mining activities on federal lands. Specifically, Earthworks argued Congress intended to restrict millsite claims to one five-acre parcel per mining claim. In turn, the NMA demonstrated that the Mining Law contains no express limitation and in fact, that Congress provided for the use of millsites in explicit recognition that the economic viability of a mine often depends upon the ability to use surrounding land to support mining activities. The brief also disproved Earthworks claim that DOI had long-interpreted the Mining Law as imposing a millsite ratio as articulated in a 1997 Clinton-era Solicitor Opinion. The NMA provided an extensive history of the millsite provision, the decades long DOI policies that uniformly indicated that claimants could locate any number of millsites as long as the sites were necessary for mining activities, and the fate of the short-lived Solicitor Opinion that Congress promptly prevented from taking effect. Briefing in this litigation should be completed in September and will be followed by yet to be scheduled oral argument.

Senate to pass Bipartisan NDAA with Minerals Related Provisions



This week, the Senate is expected to pass the National Defense Authorization Act (NDAA) ([S. 2226](#)), which includes several provisions important to the

mining industry including strategic material acquisition requirements, creation of research center to support workforce development related to critical minerals national security needs, and prioritization of efforts to address vulnerabilities in the mineral supply chain while reducing our dependence on foreign adversaries. The Senate's consideration comes two weeks after the House passed their chamber's NDAA ([H.R. 2670](#)) by a vote of 219 to 210. Similar to S. 2226, H.R. 2670 included several mineral provisions related to strategic and critical material acquisition authorities and addressing vulnerabilities in the defense mineral supply chains. Please find the NMA's memo detailing both the House and Senate provisions [HERE](#). Expect an updated memo on the House and Senate NDAA bills later in the week.

House Passes Bipartisan CFATS Reauthorization Bill

Last night, the House passed [H.R. 4470](#), the Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2023 by a vote of 409-1. The legislation provides a clean, two-year reauthorization of the Chemical Facility Anti-Terrorism Standards (CFATS) [program](#), which is set to expire on July 27. The bill has been sent to the Senate where it is expected to be taken up as soon as possible ahead of the program's expiration. Citing timing and the difference in reauthorization timeframes, Homeland Security and Governmental Affairs Committee Chairman Gary Peters (D-Mich.) declined to move his own legislation, [S. 2178](#), instead opting to consider the House-passed bill. The NMA is a member of a larger CFATS stakeholder coalition that has continued to advocate in favor of a clean reauthorization of the program.

House to Vote on Two ESA Listing Disapproval Resolutions

This week, the House is expected to take up and pass two joint resolutions under the Congressional Review Act (CRA) disapproving separate species listings under the Endangered Species Act (ESA). Specifically, [S. J. Res. 24](#) would nullify the endangered status of the Northern Long-Eared Bat, and [S. J. Res. 9](#) would nullify the threatened status for the Northern Distinct Population Segment and endangered status for the Southern Distinct Population Segment of the Lesser Prairie-Chicken. While congressional action on the CRAs effecting these species is beneficial to show overall congressional support, the House Interior and Environment (I-E) appropriations bill for fiscal year 2024 ([H.R. 4821](#)) also includes language prohibiting the administration from pursuing or finalizing listing decision for these two species. The Senate has already approved both joint resolutions, and the White House has issued a veto threat for both. Additional information on these provisions and others in the appropriations legislation can be found in the NMA's memo [HERE](#).

Mining Priorities Advance in Appropriations Committee



This week, Congress continues to advance spending proposals in both chambers, including this Thursday when the Senate Appropriations Committee will mark up its final spending bills, which are the Interior and Environment, Defense, LHHS, and Homeland Security appropriations bills. A recording and bill summaries will be made available [here](#). The House has released all 12 of its spending proposals, however two bills have yet to receive a full committee markup – the Commerce-Justice-Science and the Labor, Health, and Human Services spending bills. This has not stopped the House from proceeding to full floor consideration of at least the Military Construction, Veterans Affairs and Related Agencies spending bill ([H.R. 4366](#)) this week to start getting appropriation bills on the House floor.

This follows a productive week when the House Appropriations Committee favorably reported [H.R. 4821](#), the Interior, Environment and Related Agencies Appropriations Act, which funds the Environmental Protection Agency (EPA) and the U.S. Department of the Interior (DOI). The bill includes ancillary use language mirroring bipartisan legislation introduced in the House by Reps. Mark Amodei (R-Nev.) and Mary Peltola (D-Alaska) and Sens. Catherine Cortez Masto (D-Nev.) and Jim Risch (R-Idaho) and reaffirms that the administration’s Water of the U.S. regulation has no force or effect. It also includes several provisions that prevents funding to finalize, enforce, or implement several burdensome regulations related to the Endangered Species Act, the Bureau of Land Management’s Conservation and Landscape proposed rule, EPA’s regulatory agenda including Effluent Limitation Guidelines and the new Clean Power Plan, the Ozone Transport Rule, Mercury and Air Toxics Standards, and

includes report language concerning EPA's implementation of coal ash disposal regulations. A NMA summary of all relevant provisions can be viewed [here](#).

This fiscal year ends on September 30, we expect a stop gap continuing resolution to keep the government funded while these bills are negotiated in the Senate and House.

Washington Coal Club Reconvenes



I had the privilege of addressing the members of the Washington Coal Club today, along with my Congressional Coal Caucus co-chair, Congresswoman Hageman. Our caucus is at forefront of pushing back against the Biden Administration's anti-coal agenda. As a nation, we need to address the rapidly diminishing reliable coal-fired power that is coming off our grid – thanks to President Biden's EPA regulations -- with no replacement. This isn't an ideological debate, this is about keeping America's lights on.



Yesterday, NMA staff attended the first luncheon of the newly re-established Washington Coal Club, of which NMA members serve as both officers and members of the board of directors. Club officers include NMA members Rachel Rogier with Arch Resources, Christian Palich with Taft Advisors, Lorali Simon with Usibelli Coal Mine, and Matthew Adams with Navajo Transitional Energy Company. Board members include NMA members Emily Arthun with American Coal Council, Dan Barron with Alliance Resource Partners, Chris Hamilton with West Virginia Coal Association, Evan Midler with Alliance Resource Partners, Matt Nugen with Peabody Energy, Dennis Watson with American Consolidated

Natural Resources, as well as James Young with the National Mining Association. Congressional Coal Caucus Co-chairs [Congressman Bill Johnson](#) (R-Ohio) and Congresswoman Harriet Hageman (R-Wyo.) provided remarks during the event and spoke to the continued and increasing importance of the coal industry as well as the need to push back against harmful regulations targeting the industry.

Responses Requested for NMA's Quarterly Rail Survey



The NMA continues to hear from several members regarding ongoing freight rail service issues and recovery efforts involving Class I rail carriers. To further assess these rail issues and impacts, the NMA would appreciate your feedback on an anonymous survey. The data from this survey will be used for further engagement with Congress, the Surface Transportation Board, and others to illustrate the rail service concerns of NMA members, and to stress that more

relief is needed. Click [here](#) to fill out the 7-minute survey. We ask that all NMA members please submit responses to the survey by **Friday, Aug. 4, 2023**.

NMA to Revitalize Transportation Committee

The NMA is revitalizing its Transportation Committee to better inform members of issues and updates related to the transport of minerals, coal and other goods shipped by the mining industry. The committee previously served to address a broad array of transportation issues including concerns related to freight rail, waterways, export facilities and international maritime policies. In recent years, many of these issues have been folded into other NMA committees or taskforces. In the interest of broader participation, however, the NMA is revitalizing the committee to assist in prioritization of the association's transportation issues. If you or another member of your organization would like to be added to the Transportation Committee roster, please contact Katie Mills at kmills@nma.org.

NMA Submits Comments on Forest Service's ANPR for Climate Resilience

Last week, the NMA submitted [comments](#) on the U.S. Forest Service's advanced notice of proposed rulemaking (ANPR) regarding adaption of the agency's policies to protect, conserve and manage the national forests and grasslands for climate resilience. As the rulemaking is in the preliminary ANPR phase, the comments are high-level. The NMA's comments serve as a reminder to the Forest Service of the importance of its multiple-use mandate and the

laws governing access and mining on forest lands. Given the similar focus of the ANPR on conservation and nonuse of federal lands, the NMA's comments incorporate by reference our recent comments on the Bureau of Land Management's recent proposed conservation and landscape health rule.

FWS Finalizes Regulations for Experimental Populations under ESA



The U.S. Fish and Wildlife Service (FWS) recently **finalized** its revisions to the Endangered Species Act (ESA) section 10(j) regulations concerning experimental populations of listed species. The final rule is largely a codification of the 2022 **proposed** rule that the NMA opposed in written comments, available **[here](#)**. The FWS removed longstanding language that generally restricted the introduction of experimental populations to the species' "historical range", and thereby allow for the introduction of populations into habitat outside of the traditional range if the species' habitat has undergone, is undergoing, or is anticipated to undergo irreversible decline. The FWS justifies its final decision by asserting that climate change and invasive species cause

many species' suitable habitat to shift outside their historic ranges in a way that it did not anticipate when promulgating its original regulations nearly forty years ago. The FWS disagreed with the NMA that the rule as proposed conflicted with the 2018 U.S. Supreme Court's unanimous [decision](#) in *Weyerhaeuser Co. v. U.S. Fish and Wildlife Service*, which held that an area is eligible for designation as critical habitat only if it is habitat for the species. The rule becomes effective on Aug. 2, 2023.

2023 NIOSH Mine Safety and Health Technology Innovations Awards



The National Institute for Occupational Safety and Health (NIOSH) has requested that the National Mining Association notify our members of the opportunity to nominate projects for the [2023 mine safety and health technology innovations awards](#). The awards recognize new products, processes, or methods that promote safety or health. The nomination deadline has been extended to August 1, 2023. As of July 24, 2023, no nominations had been submitted.

NMA and Third Parties In the News

[**RealClearEnergy**](#) (D.C.) and [**Zero Hedge**](#) (USA) ran an op-ed from Rich Nolan in which he argues in favor of domestic mining with the highest labor and environmental standards to compete with China.

[**Politico Pro**](#) quotes Rich Nolan in a story on the Chamber of Commerce event on critical minerals last week that showed how the interest in securing supplies needed for the clean energy transition cuts across parties and industries.

[**The Washington Post**](#), [**NY1**](#), [**WTAE**](#), and [**Associated Press**](#) all quote the NMA in a story on the new rule proposed by the federal government governing exposure to silica dust.

From our third parties, the [**Las Vegas Sun**](#) (Nev.), [**Sunbury Daily Item**](#) (Pa.), [**Midland Daily News**](#) (Mich.), [**Wheeling Intelligencer**](#) (W.Va.), [**Fayette Tribune**](#) (W.Va.), [**Logan Banner**](#) (W.Va.), [**Williamson Daily News**](#) (W.Va.) and [**Coal Valley News**](#) (W.Va.) all ran an op-ed by Tom Madison, an infrastructure consultant and the former administrator of the U.S. Federal Highway Administration, in which he argues America is stuck in a perpetual permitting crisis.

[**DC Journal**](#) (D.C.) has an op-ed by Jaak Daemen, a professor emeritus of mining engineering at the University of Nevada, Reno, in which he argues in favor of streamlining mine permitting.

[**Townhall**](#) (D.C.) ran an op-ed by Christopher Barnard, the vice president of external affairs with the American Conservation Coalition (ACC), in which he argues in favor of streamlining the mineral permitting process.

The [**Duluth News Tribune**](#) (Minn.) and [**Prescott News**](#) (Ariz.) carry an op-ed by Robby Stephany Saunders, national security adviser for the Coalition for a Prosperous America, in which she argues it's time to boost America's domestic

production and processing of these important minerals for economic and national security resilience.

Mining and Energy News

[Argus](#) reported that coal generation in the PJM Interconnection decreased by 37 percent last month amid additional coal unit retirements and other market factors.

[Time](#) and [The Maine Monitor](#) reported on a lithium deposit in Maine

[Mining.com](#) reported on recent International Nickel Study Group (INSG) analysis estimating that the global nickel market had a 11,900 metric ton surplus in May, down from 13,900 tons in the same month last year. Global nickel mine production was up nearly 9 percent in the same period.

[Utility Dive](#) reported that gas generation accounted for 70 percent of PJM Interconnect's unplanned outages at the peak of Winter Storm Elliott in late December 2022.

[Argus](#) reported that the largest U.S. railroads moved coal at a faster pace during the second quarter, creating additional rail network capacity, but volume rose only slightly compared with a year earlier.

[Innovation News Network](#) carried an interview with NMA's Ashley Burke on mineral supply chains.

[Washington Post](#) reported that the Pentagon dubbed Afghanistan 'the Saudi Arabia of lithium.' Now, it is American rivals that are angling to exploit those coveted reserves.

[Wall Street Journal](#) reported that miners are turning to machine learning, cutting-edge chemistry and other innovative means to increase the [supply of critical materials such as copper](#) and graphite amid the rising demand for green technologies.

[Mining.com](#) reported that the Top 50 mining companies now have a combined market value of \$1.38 trillion – back to levels seen end-June 2021.

[Wall Street Journal](#) reported that “The energy transition will require cobalt. America’s only mine can’t get off the ground: The U.S. is playing catch-up in battery supply chains dominated by China.”

[International Copper Study Group’s](#) (ICSG) preliminary data for May indicates that world copper mine production increased by about 2 percent in the first five months of 2023, with concentrate production increasing by about 1.2 percent and solvent extraction-electrowinning (SX-EW) by about 3.7 percent.

[Visual Capitalist](#) graphically describes and ranks the world’s largest cobalt producing countries.

Commodity Prices

Commodity Price - Snapshot		
Metals Prices	Date	Price
Cobalt Spot Price (\$/lb)	7/24/23	\$15.15
Copper Spot Price (\$/lb)	7/25/23	\$3.91
Gold Spot Price (\$/ounce)	7/19/23	\$1,963.10
Lead Spot Price (\$/lb)	7/24/23	\$0.98
Lithium Spot Price (\$/kg)	7/25/23	\$41.23
Molybdenum Spot Price (\$/kg)	7/24/23	\$52.63
Nickel Spot Price (\$/lb)	7/24/23	\$9.61
Silver Spot Price (\$/ounce)	7/25/23	\$24.55
Steel HRC Price (\$/mt)	7/25/23	\$849.40
Steel Rebar Price (\$/mt)	7/25/23	\$525.03
Zinc Spot Price (\$/lb)	7/25/23	\$1.12
Energy Prices	Date	Price
Coal Price - Australian Premium Coking Coal Futures (\$/mt)	7/25/23	\$237.17
Coal Spot Price - Central Appalachian (\$/st)	7/21/23	\$62.25
Coal Spot Price - Newcastle futures (\$/mt)	7/25/23	\$135.74
Coal Spot Price - Rotterdam futures (\$/mt)	7/25/23	\$111.15
Natural Gas Spot Price - Henry Hub (\$/mmbtu)	7/19/23	\$2.51
Uranium Spot Price (\$/lb)	7/17/23	\$55.75
Sources: publically available data from eia.gov, dailymetalprice.com, tradingeconomics.com, sgxgroup.com, investing.com		

CORESafety



In the July edition of CORESafety TV we go over some top tips for dealing with extreme heat.



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