

CEO Mine Recap

By Rich Nolan • Jul 01, 2024

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In what is generally a time of rest and relaxation across the country, summer in Washington has been anything but. We've already weathered a sweltering heat wave whose intensity was only matched by the consternation among Democrats surrounding President Biden's performance in the first presidential debate.

At the moment, political advisors of both parties are buzzing about who may have the pull to convince the President to step aside before the August convention and, if he does, what candidate will be able to unite the shaken party in time to counter former President Trump's clear debate surge.

For industry, the courts have delivered impactful decisions on a range of issues and shown that reason can prevail in the face of both political overreach and meritless litigation designed to obstruct.

At the NMA, we're just 85 days away from MINExpo INTERNATIONAL® in Las Vegas. Some of our exhibitors are already on the ground preparing to show off the industry's best technologies and solutions. Have you [reserved your spot?](#)

In Major Victory, Supreme Court Stays Ozone Transport Rule



The Supreme Court last week [stayed](#) the EPA's Ozone Transport rule, pausing implementation as we return to the D.C. Circuit Court, where we are challenging the rule. Find our release [here](#).

- In a 5-4 decision, the majority found we are likely to prevail on the merits of our claim that EPA acted arbitrarily and capriciously because the final rule was not “reasonably explained” and “ignored ‘an important aspect of the problem.’”

Who's fighting the rule? Along with the states of Ohio, West Virginia and Indiana, the NMA joined nine association allies and electric cooperatives in its filing requesting the stay.

What's next? Our next brief in the D.C. Circuit is due July 29, and final briefs are due on Aug. 22, 2024.

D.C. Circuit Rules in Favor of Industry on Mill Sites



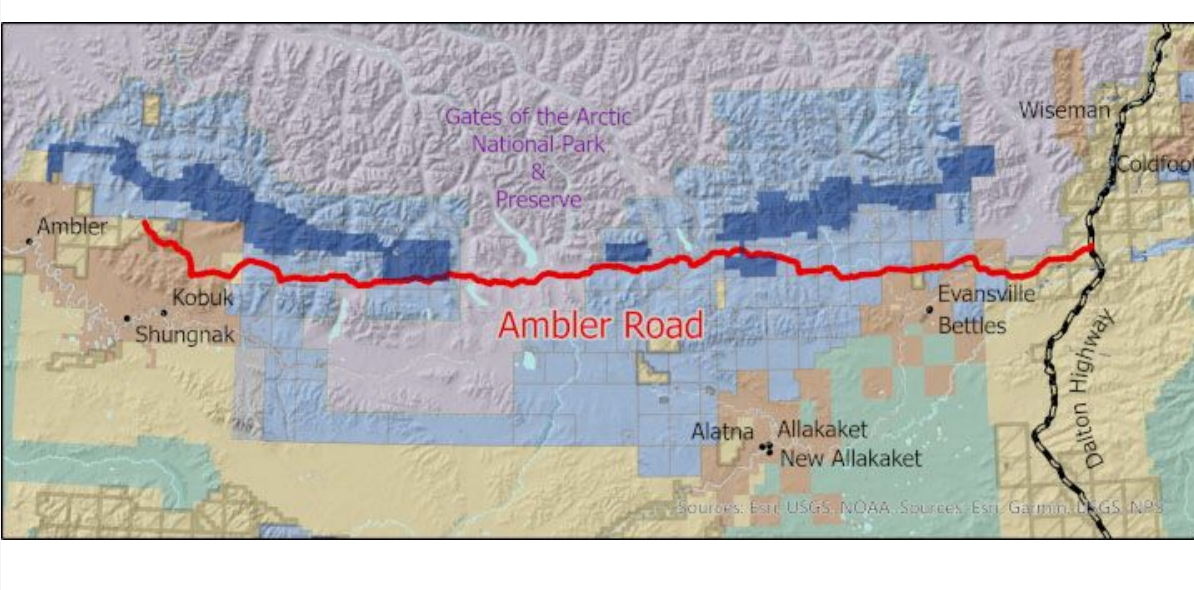
The D.C. Circuit Court last week [issued a major win to the mining industry](#) in *Earthworks vs. Department of the Interior*, reaffirming the rights of miners to explore for and operate on federal lands pursuant to the Mining Law. Specifically, the Court found there is no limit to the number of mill sites permitted at a mining operation. Find our release welcoming the decision [here](#). The NMA intervened in the litigation in defense of the DOI to preserve industry's rights and the longstanding interpretation of the Mining Law.

Why it matters: Earthworks and other mining opponents were working to limit the number of mill sites that could be used at a mine site in a thinly veiled attempt to challenge the General Mining Law and simply make it more difficult to conduct mining on federal lands.

What the Court found: The majority had “no difficulty concluding” that there was no implied limit on the number of facilities that could be used in connection with a mining operation, noting, “[t]he operative words of Section 42 plainly contain no limit on the number of mill sites a claim owner may locate.”

What's next? Earthworks hasn't said if it will appeal - either to the Supreme Court or by asking for a rehearing by the entire D.C. Circuit, but it is unlikely either path would be successful.

Biden Administration Blocks Ambler Road, Issues Land Withdrawal



The Biden administration last week finalized its decision to block the Ambler Mining Project and announced a 28 million acre withdrawal of public lands in Alaska from oil and gas drilling, mining and other industrial activities. The NMA [issued a press release condemning the administration's actions](#).

Why it matters: The Ambler Mining District is home to extensive deposits of minerals and will be a secure, reliable U.S. supply-chain resource. This project will create the transportation infrastructure needed to access those resources.

What's next? The NMA will continue to work with members and the state of Alaska to combat this unwarranted federal overreach.

Supreme Court Overturns Chevron



The Supreme Court on Friday [overturned](#) *Chevron v. Natural Resources Defense Council*, a landmark case in federal administrative law. Under *Chevron*, a court was required to uphold the agency's interpretation of an ambiguous statute it administers, as long as it was reasonable. Now, courts may not defer to an agency interpretation of law in rulemaking simply because a statute is ambiguous. Chief Justice Roberts concluded it “remains the responsibility of the court to decide whether the law means what the agency says.”

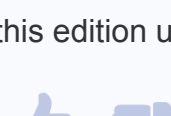
The arguments:

- *Chevron* opponents have long held that agencies should have only the power that Congress has explicitly given them, and that the courts, not political appointees, should determine the meanings of statutes where there is ambiguity.
- *Chevron* supporters say it allows agency experts to use their expertise in rulemakings.

Why it matters: The decision ends 40 years of legal precedent and significantly cuts back the power of federal agencies to interpret the laws they administer. Federal courts have cited *Chevron* more than 18,000 times and is often relied upon in industry-related cases—and has cut both ways, in favor of and against us. While the Court's ruling does not impact cases that were previously decided under the *Chevron* framework, it leaves open lots of questions of what comes next particularly in cases involving environmental regulation. Justice Kagan, writing the dissent, commented that the Court's decision is a “jolt to the legal system” and a judicial power grab.

MINExpo INTERNATIONAL®, the world's largest (and heaviest) mining event, will bring over 10 million pounds of equipment, products and technology to Las Vegas, Sept. 24-26, and [registration and housing are open!](#) Choose our new registration options and make it easy to attend, book your hotel room, then join your peers and 1,500+ suppliers from all over the world at the home of mining innovation.

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