

CEO Mine Recap

By Rich Nolan • Aug 30, 2024

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It's all about the election. That's my big takeaway from August, which had more political twists and turns than an M. Night Shyamalan movie.

New candidate for president 100 days before the election, paired with a high school football coach for VP? Check.

A Kennedy endorsing Trump for president? Check.

Polling graphs—which previously resembled an EKG more than an election—have now settled into what appears to be a very tight race.

But reality reminds us that each day in politics is an opportunity for a game-changing surge or gaffe, and 90 percent of elections are about theater, not policy, so neither ticket is spending much time outlining how they will actually govern once in the White House. With that backdrop, the NMA team is planning for all outcomes.

Debate Set; Rules Murky



On September 10, the debate is on. The campaigns of both former President Donald Trump and Vice President Kamala Harris have said the two will square off in an ABC News moderated debate; what's less clear is what the ground rules will be.

While the two sides squabble over the details, former President Trump picked up the endorsement of Robert F Kennedy Jr, who suspended his own campaign for the nation's top job. With the race so tight, the Kennedy endorsement of former President Trump could be meaningful if he is able to transfer his supporters to Trump.

On the other side, the Harris campaign is enjoying a bump in enthusiasm from last month's Democratic National Convention. But interestingly, that enthusiasm and momentum has not meant shifting the Democratic ticket further to the left. That was one of the key takeaways from the sidelines of last month's convention, which demonstrated a moderate tone intended to appeal to Independents and Republicans, leaving open the opportunity for compromise on issues our industry cares about deeply, including permitting reform, should the Vice President prevail in November.

As of this writing, Harris holds a slight edge in national polls, while Trump has a slim lead in a majority of swing states. But as we all learned from the 2016 election, it's not over until the last vote is counted.

Supreme Court Looms Large in Fate of Power Plant Rules



When it comes to the EPA power plant rules and how that overreach is impacting our ability to keep the lights on in the U.S., the Supreme Court is in the thick of the fight. Here's an update on where we are on a number of key rules:

- **CPP 2.0.** With an [emergency application](#) under consideration with the Supreme Court, we've traded filings with the government (our latest [brief can be found here](#)). While we await the Supreme Court's decision, briefing in the D.C. Circuit has begun. The government forced an aggressive briefing schedule that should guarantee oral arguments in the D.C. Circuit in 2024.
- **MATS.** After the D.C. Circuit denied our stay request, the NMA joined a coalition in filing an [emergency application](#) to the Supreme Court. As we await a ruling, the parties in this litigation have proposed a joint briefing schedule in the D.C. Circuit with opening briefs likely due this October.
- **Ozone Transport Rule.** We've already received a key stay from the Supreme Court here, and the NMA has joined coalition petitioners to oppose EPA's recent request to the D.C. Circuit to partially remand the rule so that it can address "the record deficiency identified by the Supreme Court." In our opposition to the remand, we argued that the Supreme Court could not have been clearer: "[T]he Clean Air Act prevents [the Supreme Court] (and courts that may in the future assess the [Federal Implementation Plan]'s merits) from consulting explanations and information offered after the rule's promulgation." If the D.C. Circuit does anything at this stage, it must vacate the Ozone Transport Rule and require EPA to start over.

We'll keep you posted on this very active litigation space as developments warrant.

Chipping Away at Proper Land Use



It seems each day there is a new announcement from the administration obstructing domestic mining and favoring conservation over all other uses. Two examples from August:

- **North Dakota.** BLM issued a revised Resource Management (RMP) Plan and Environmental Impact Statement (EIS) for the North Dakota Field Office, restricting federal coal leasing within four miles of existing coal mine permit boundaries. The BLM's decision does not affect current coal leases on its lands but would impact any plans for major expansions to operations.
- **Wyoming.** BLM [announced the proposed RMP](#) and final EIS for the Rock Springs, Wyoming planning area, closing nearly 760,000 acres to federal coal leasing and withdrawing more than 900,000 acres from potential mining operations.

The NMA will be protesting both and will continue to highlight our concerns about the administration's aggressive prioritization of land conservation over multiple uses.

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