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Election Day 2006 is now less than two weeks away. Ensure the mining community's voice is effectively heard on Nov. 7 by utilizing NMA's "Mine the Vote 2006" campaign. Go to www.minethevote.org to learn where candidates stand on issues vital to the mining industry and find information regarding voter registration, polling locations, absentee ballots, early voting opportunities and much more.

NMA urges MSHA to focus on implementing MINER Act civil penalty amendments

In comments submitted to the Mine Safety and Health Administration (MSHA) this week, NMA urged the agency to focus solely on implementing changes to existing mine safety civil penalty structures endorsed by the Mine Improvement and New Emergency Response Act (MINER) Act of 2006, rather than imposing changes that go well beyond the act.

NMA's Oct. 23 comments argued that many of the changes called for in a September MSHA proposal are not in line with current industry realities, saying it does not appear that the agency has fully evaluated the MINER Act's civil penalty amendments and their likely impact on operator compliance. Noting that the implementation of the MINER Act, which NMA fully supports, was the last of seven means for improving compliance listed by MSHA, NMA questioned why MSHA did not examine whether the act would address the concerns MSHA cited as justification for the far-reaching changes contained in its September proposal.

The majority of MSHA's proposal is focused on eliminating the Mine Act's "single penalty" violations category. NMA noted that Congress reviewed the Mine Act's penalty structure during its MINER Act deliberations and chose not to alter the category. "The MINER Act increased minimum penalties for certain violations and added new penalties for flagrant violations," NMA wrote. "Everyone, including MSHA, See MSHA, page 2

NMA calls on DOI to improve mineral, energy resource development efforts

NMA this week urged the U.S. Department of the Interior (DOI) to ensure that mineral and energy resources located on public lands can be better accessed and developed, so as to meet increasing demand and reduce America's growing dependency on foreign mineral and energy sources. NMA emphasized the need for an improved focus on resource development in comments submitted to DOI on Oct. 23 regarding a draft strategic plan meant to guide DOI activities for a period covering fiscal years 2007 through 2012.

NMA called on DOI to revise the draft plan so that it places a greater emphasis on the department's responsibility to provide access to mineral and energy resources located on federal lands, contending that doing so would greatly assist efforts to meet a host of burgeoning societal needs. "The importance of minerals to our society cannot be underestimated," wrote NMA. "Not only is the United States the world's largest minerals user, but it also ranks as one of the world's largest producers. Minerals are key components in American homes, offices, cars, communication systems and beyond. ... Our nation depends on these minerals but further development of these resources is significantly hampered by restricted access to mineral deposits on federal lands."

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MSHA *continued from page 1*

would be well served by the agency following the clear and unmistakable direction provided by Congress and limit the final rule to only those civil penalty provisions included in the MINER Act.” NMA called on MSHA to implement the MINER Act civil penalty provisions in time to meet a Dec. 30 deadline contained in the act.

NMA argued that MSHA’s proposal to abolish the “single penalty” violations category would, at a minimum, increase the amount of assessed penalties by 90 percent for violations that, by definition, “have no reasonable likelihood to result in an injury.” As such, NMA urged the agency to conduct a random sampling of citations issued at mines utilizing the proposed new standards in order to fully understand their likely impact.

Between 1990 and 2005, NMA highlighted that both injuries and fatalities steadily declined under the existing civil penalties structures that MSHA is proposing to overhaul, thus negating the need for alterations beyond those embraced in the MINER Act. NMA also took issue with MSHA’s claim that the changes are necessary due to increases in violations that have resulted in penalties between 2003 and 2005. NMA countered that MSHA’s own data for the same time period show an increase not only in the number of mines, from 14,391 to 14,666, but also a jump in employment that saw the industry add in excess of 24,000 new employees for a total of 344,836. NMA said these data show that increases in violations and penalties were commiserate with the increased number of mines and employees.

NMA called on MSHA to convene an advisory committee to analyze those portions of the proposal that extend beyond the MINER Act’s requirements,

as well as analyzing the relationship between the issuance of citations and reductions in fatalities and injuries. NMA criticized MSHA for failing to demonstrate that the proposed civil penalty changes that exceed the MINER Act’s provisions would result in fewer injuries or fatalities as compared with the existing framework. “Our most valued asset is our workforce, and we are well-served by assuring that every worker returns home to their family at the end of each working day. Safe mines are productive mines: safety and productivity are viewed in America’s mining industry as complimentary, not competing objectives,” NMA wrote.

A copy of NMA’s comments is available at: www.nma.org/pdf/policy_briefs/102406_msha_penalties.pdf. ✕

DOI *continued from page 1*

NMA’s comments urged DOI to ensure its mission statement adequately reflects the department’s resource use responsibilities. “Resource use, including development of minerals on public lands, is a critical component of DOI’s mission and should be properly acknowledged in the mission statement,” NMA said.

NMA noted that the federal government currently manages 632 million acres of public land, representing as much as 60 percent of the nation’s hardrock mineral estate, yet less than half of that land is open to mineral exploration and development. Similarly, NMA said existing federal policies limit access to high-quality, low-cost coal located on federal lands that contain over one-third of the nation’s coal resources. NMA’s comments pointed to data from the Energy Information Administration that projects a 40 percent surge in electricity demand by 2020 that will require a 28 percent increase in coal production as a striking example of the need for DOI to in-

corporate consideration of the nation’s future energy needs and the need for a healthy domestic coal industry into its draft strategic plan.

Amending the draft version of the plan to include a reference to the Bureau of Land Management’s (BLM) recently released “Policy for the Management of Energy and Non-energy Mineral Resources on Public Lands” would help strengthen the plan’s focus on DOI’s resource use responsibilities, NMA said. “The BLM policy emphasizes the necessity of the United States to limit the dependence on foreign sources of minerals and utilize the domestic mineral resources in this country.” NMA emphasized the draft plan must improve processes for approving mining projects by reforming the National Environmental Policy Act, eliminating excessive permitting requirements and streamlining the *Federal Register* clearance process.

Elsewhere, NMA urged DOI to make a number of other alterations to the draft plan, including seeing that it recognizes the significant impact federal policies and regulations have in guiding decisions to invest in projects on public lands. NMA also called on DOI to amend the draft plan so that it calls for more funding to support BLM’s obligations to process the notices and operation plans necessary for domestic exploration and mining projects.

A copy of NMA’s comments can be accessed at: www.nma.org/pdf/legal/102306_doi_strategic_comments.pdf. ✕

**Mining Week archives
are available on the
NMA web site.
www.nma.org**

NMA's Naasz addresses Lignite Energy Council

NMA President and CEO Kraig R. Naasz (left) traveled to Bismarck, N.D., this week to deliver the keynote address at the Lignite Energy Council's 2006 annual members meeting. Naasz used his Oct. 25 speech to detail issues likely to impact the forthcoming November congressional elections, spotlight the industry's ongoing safety efforts and highlight the public's increasing awareness and support for efforts to tap America's unmatched coal reserves to meet future energy needs. "The public, in increasing numbers, perceives a need for greater energy security, particularly in a world roiled by strife in the Middle East and increasing global demand from countries such as China and India," Naasz told council members. "So long as we continue our progress in reducing emissions, promote the utilization of technology to capture greenhouse gasses and improve mine safety, coal will have a bright future." Naasz expressed his appreciation to Don Shippar (middle), chairman of the Lignite Energy Council's board of directors and president, CEO and Chairman of ALLETE, and Lignite Energy Council President John Dywer (right) for inviting him to address this year's meeting. *Photo courtesy of the Lignite Energy Council.* ✕



NMA backs NAFTA challenge against DOI, California efforts blocking gold mine

NMA earlier this month filed a brief with a North American Free Trade Agreement (NAFTA) arbitration panel in support of a challenge brought by Glamis Gold Ltd. that alleges the U.S. Department of the Interior (DOI) and the state of California deprived the Canadian company of all economic value of a planned gold mine in Imperial County, Calif.

NMA's Oct. 13 amicus brief warned that if allowed to stand, regulatory determinations and policies taken by DOI and the State of California could cause NAFTA country investors to steer clear of investing in American mining operations, resulting in far-reaching and long-term negative consequences for the mining industry. The case centers on when governments in the U.S., Canada and Mexico must provide compensation for government actions that have effectively devalued private property or investments.

NMA's brief warned that because mining operations, by their very nature, require long-term and substantial commitments of capital, the stability of a host country's regulatory environment plays a crucial role in decisions regarding whether to invest in a mining project, and often represents the

decisive factor for whether a particular project goes forward. NMA said Glamis' experience with the Imperial County project undoubtedly dampens the investment climate for mining projects located in the United States.

At issue is a decision taken by then Secretary of the Interior Bruce Babbitt in January 2001 that denied Glamis the necessary Bureau of Land Management (BLM) permit needed to open the Imperial County mine due to sacred land issues raised by the Quechan Tribe. Babbitt's decision was overturned later in 2001 by former Interior Secretary Gale Norton.

However, despite this reversal, BLM has yet to issue a permit to Glamis in large part because of a reclamation requirement California adopted in 2003 that requires mandatory and complete backfilling of all open pit metallic mines within one mile of any Native American sacred site. In signing the bill, then Governor Gray Davis (D) acknowledged that the sole purpose of the bill was to prevent Glamis from moving ahead with the mine by saddling the company with prohibitively expensive backfilling requirements.

In December 2003, Glamis formally

filed a NAFTA compensation claim, charging that DOI and California had violated the agreement's due process provisions and a provision that bars governments from taking actions that effectively confiscate private property without offering compensation. These provisions are designed to ensure that the agreement promotes foreign investment through a predictable commercial framework for business planning and investment.

NMA's brief also focused on the California reclamation law, arguing that complete back-filling requirements have long been recognized as technically unfeasible, economically unsound and of dubious environmental benefit. NMA directed the arbitration panel's attention to technical reports from the Committee on Surface Mining and Reclamation of the National Academy of Sciences (NAS) and the NAS Committee on Hardrock Mining on Federal Lands, both of which concluded that complete backfilling for most non-coal mines was unjustified. BLM has also continually rejected a mandatory complete backfilling standard, NMA noted. ✕

New study warns nation facing electricity crisis without quick action by Congress, states

A report released last week by the North American Electric Reliability Council (NERC) warned that the reliability of the nation's electricity grid will decrease dramatically without immediate federal and state action targeted at ensuring adequate supplies are available to meet an expected massive surge in electricity demand.

In its first assessment of the electricity grid since being established as the country's independent electric reliability overseer, NERC cautioned that U.S. electricity demand is set to spike 19 percent over the next 10 years, while projecting only a 6 percent increase in supply and a 7 percent increase in transmission lines, raising the specter of widespread power shortages and blackouts.

NERC's 2006 Long Term Reliability Assessment Report analyzes the adequacy of the North American electricity supply and transmission system through 2015 and includes 22 recommendations aimed at rectifying generation, transmission, fuel supply, and delivery and demand response problems identified in the report. Previously, NERC existed as a voluntary industry organization but took on the role of an independent Electric Reliability Organization as mandated by the Energy Policy Act of 2005. NERC's report projected that capacity margins are expected to drop below minimum target levels in the mid-Atlantic region, the Midwest, New England, the Rocky Mountain area and Texas, within the next two to three years. The report warned that other parts of the Northeast, Southwest and Western U.S. will also fall below minimum capacity levels before 2015.

"Our economy and quality of life are more reliant on electricity every day, yet the operation and planning for a reliable and adequate electricity system is becoming increasingly difficult," NERC President and CEO Rick Sergel said in an Oct. 16 statement. These convergent trends require industry and government to work together to adopt a

longer-term, more coordinated planning strategy. This report is intended to provide a factual basis for implementing such a strategy," he said.

The report concluded that coal and gas-fired generating capacity additions will account for all of the electricity resource additions between now and 2015 and emphasized the need to strengthen coal and gas delivery infrastructures. NERC also said firming up gas supply and delivery contracts would help reduce the potential for electricity shortages due to fuel disruptions. Elsewhere, the report called for the addition of power generation facilities; new and upgraded transmission facilities; more "demand-side" measures such as business and consumer energy-efficiency programs; and efforts to address the electric industry's aging workforce.

"A reliable and adequate electricity system depends on a combination of adequate generation and transmission, diversified fuel sources, energy efficiency, demand response, and other industry-customer programs," said Sergel. "This will require a concerted and cooperative effort by industry, government, and customers."

A copy of NERC's report can be accessed at: http://www.nerc.com/pub/sys/all_updl/docs/pubs/LTRA2006.pdf. ❌

Canadian plan to cut greenhouse gas emissions omits Kyoto commitment

The Canadian government last week unveiled legislation designed to reduce greenhouse gas (GHG) emissions that all but sets aside Canada's Kyoto Protocol commitments. The Clean Air Act, presented on Oct. 19, also lacks an emissions trading scheme, and instead will regulate industrial sources of air pollution through short, medium, and long-term emissions intensity targets that will eventually give way to emission caps.

Under Kyoto, Canada was slated to reduce GHG emissions 6 percent below 1990 levels by 2012. Efforts to implement the protocol by the previous Liberal Party government were stalled due to agency jurisdictional disputes and intractable energy supply and economic concerns.

However, the fate of the legislation appears grim, as all three opposition parties immediately vowed to vote against it, arguing it does not do enough to reduce GHG emissions. Without opposition party support, Prime Minister Stephen Harper's Conservative Party minority government will be well short of the votes it needs to move the bill through the House of Commons.

Federal Environment Minister Rona
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Mining Market Snapshot		
Coal Figures	Cumulative year to date	Change over last year
<i>Week ended October 14, 2006</i>		
EIA Coal Production (000 tons)	919,418	3.0%
Edison Electric Institute Electricity Output (GWh)	3,179,983	0.0%
American Iron and Steel Institute Raw Steel Production (000 tons)	84,863	5.3%
Metal Figures		
Copper Prices (\$/mt - week avg. Grade A Cash) 10/13/06		\$7,484.85
Gold Prices (\$/troy ounce - week avg. London Final) 10/13/06		\$575.97
Source: NMA Weekly Statistical Summary/Platts Metals Week		

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Ambrose issued a notice of intent stating that the government will develop GHG emissions intensity targets for industrial sources over the next three years, with the targets taking effect in stages between 2010 and 2015. Ultimately, the legislation aims at cutting absolute GHG emissions by 45-65 percent from 2003 levels by 2050 using caps that will replace the interim intensity targets. However, the caps, as well as options

for meeting them, do not have to be in place before 2025.

Canadian auto manufacturers will be the first industrial sector that will be subject to new emission rules under the bill, as Ambrose plans on developing smog-forming emission rules in the next 12 months that are similar to U.S. automotive and mobile source emission rules. By 2011, the government intends to develop new regulations for vehicle

fuel consumption. In addition, the plan calls for new energy efficiency standards for consumer products.

"We will be the first federal government to introduce mandatory regulations on all industry sectors across Canada to reduce air pollution and greenhouse gases. We will be the first government to establish national air-quality objective," Ambrose told the Canadian Press on Oct. 19. ✕

Newsbits

President Bush last week used a recess appointment to install **Richard Stickler** as the new head of the **Mine Safety and Health Administration (MSHA)**. The president invoked the recess appointment on Oct. 19 after procedural obstacles were twice raised that prevented the Senate from voting on the nomination. Stickler's appointment will last until October or November 2007, unless an agreement can be reached to allow the Senate to hold a confirmation vote. **U.S. Secretary of Labor Elaine Chao** welcomed the recess appointment, saying MSHA now has the "the expert" who best knows how to effectively utilize the safety provisions of the Mine Improvement and New Emergency Response Act of 2006. "Richard has extensive experience in mining and protecting miners' lives that he will use to strengthen enforcement of mine safety laws and help ensure the safety and health of miners nationwide," said Chao in an Oct. 19 release. Previously, Stickler was director of the Pennsylvania Bureau of Deep Mine Safety from 1997 to 2003. Stickler replaces acting **MSHA Administrator David Dye**, who has run the agency since Nov. 2004... **U.S. Energy Secretary Samuel Bodman** on Oct. 23 announced that the **Department of Energy** had approved funding for nine projects, totaling \$24 million, aimed at developing novel and cost-effective technologies to capture the

carbon dioxide produced in coal-fueled power plants so that it can be safely and permanently sequestered. The projects support President Bush's Global Climate Change Initiative, which calls for an 18 percent reduction in U.S. greenhouse gas intensity by 2012. To reduce greenhouse gas emissions and control global climate change, DOE's **Office of Fossil Energy** has established an aggressive **Carbon Sequestration Program** that is developing safe, effective, low-cost carbon sequestration technologies in an effort managed by the **National Energy Technology Laboratory**. "Carbon sequestration promises to significantly reduce America's greenhouse gas emissions even as our economy grows," Bodman said in an Oct. 24 release. "This combination helps protect the global climate, while promoting job creation and a high standard of living." More information is available at: www.fossil.energy.gov/news/techlines/2006/06061-Sequestration_Research_Grants.html... **Anglo American**, the world's third largest mining firm, this week named **Cynthia Carroll** as the company's new chief executive officer. Carroll will join Anglo American's board in mid January 2007 and will succeed current CEO **Tony Trahar** on March 1, 2007, according to an Oct. 24 company release. Carroll is currently the president and CEO of Alcan Primary Metal, a post she has held since January 2002. At Alcan, Carroll's responsibilities cover all of

the company's primary metal facilities, research and development, technology and power generation with 18,000 employees operating in 20 countries around the world. More information on Carroll's appointment is available at: www.angloamerican.co.uk/article/?afw_source_key=B68A8259-2D1E-408F-B5CA-553E37A2AD92&xsl_menu_parent=/...The **Mine Safety and Health Administration (MSHA)** this week kicked off its annual **Winter Alert** campaign, which is designed to promote increased awareness among mine operators and miners of the hazards that lead to fatal accidents in both underground and surface mines due to the onset of colder weather. MSHA's Winter Alert campaign runs annually from October through March. This year's theme of "Don't Let Safety Slip" reminds mine operators and miners to be alert for environmental hazards such as slippery walkways and icy mine access roads, MSHA said in an Oct. 25 press release. MSHA personnel will distribute Winter Alert posters, hard-hat stickers, and decals to mine operators and miners displaying MSHA's safety practices for working in underground and surface mines during wintertime. More information on the campaign is available at: www.msha.gov/Alerts/WinterAlert2006/WinterAlert2006homepage.asp... The **U.S. Environmental Protection Agency's (EPA) Coal Combustion Products Partnership** this week honored 11 organizations for their

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achievements in using the by-products generated by coal-fueled power plants. The voluntary partnership consists of more than 150 private and public partners working to increase the beneficial use of coal ash, EPA noted in an Oct. 24 release announcing the winners. Currently, there is a 40 percent recycling rate for coal combustion products, according to

the agency. EPA also announced that the U.S. Department of Agriculture has joined the partnership as a sponsor. More information on the partnership and the 11 organizations honored this week is available at: <http://yosemite.epa.gov/opa/admpress.nsf/7c02ca8c86062a0f85257018004118a6/312a7d218bc1d26085257211006213c3!OpenDocument>.



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