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About Mining Week...

NMA Mining Week is a weekly publication of the National Mining Association. Mining Week archives are always available online at www.nma.org.

New BLM fair market value rule aimed at ensuring regulatory certainty

The Department of the Interior's Bureau of Land Management (BLM) this week issued a final interim rule that reaffirms the agency's longstanding interpretation that the Federal Land Management and Policy Act's (FLPMA) goal of ensuring the public receives fair market value (FMV) for the use of public lands does not apply to mining activities authorized by the General Mining Law. As such, mining operations cannot be charged new fees for claims of public lands.

The rule is designed to ensure regulatory certainty and provide the security of tenure necessary to attract the capital investment required to promote mineral project development, thus helping create thousands of high paying mining jobs.

While the rule is termed "interim," and is open for additional comment for 60 days, it took effect upon publication in the *Federal Register* on Dec. 4.

According to the rule, mining claimants are not required to pay any other fees to use the surface of public lands for mining purposes other than currently required processing fees, location fees and maintenance fees established by Congress.

The General Mining Law provides an express authorization to search and develop certain difficult to find locatable minerals that are essential to the nation's economic prosperity and security, including copper, gold, zinc, palladium, silver and molybdenum. BLM has never applied FLPMA's FMV provision to minerals located under the General Mining Law, but was required to review its interpretation in response to a 2003 federal court decision.

See BLM, page 2

NMA urges EPA against using Clean Air Act to regulate greenhouse gas emissions

NMA recently urged U.S. Environmental Protection Agency (EPA) Administrator Stephen Johnson to refrain from using the Clean Air Act (CAA) to regulate greenhouse gas (GHG) emissions, warning that such a move threatens to severely impede U.S. economic progress while delivering little or no environmental benefit. NMA also emphasized that any effective climate change policy efforts must embrace the need to develop and deploy new clean coal technologies.

NMA on Nov. 28 submitted comments to EPA in response to an agency issued Advanced Notice of Proposed Rulemaking (ANPR) that examines the possibility of using the CAA to regulate GHG emissions. EPA issued the ANPR to solicit public comment on how the agency should respond to a 2007 U.S. Supreme Court decision that ruled EPA can use the CAA to regulate GHG emissions.

The ANPR analyzes the various CAA programs that EPA believes could be utilized to regulate GHGs. NMA explained that regulating GHG emissions under one section of the CAA will trigger other CAA programs for a very large number of previously unregulated sources of CO2 emissions; a result that will overburden regulators and regulated alike.

See EPA, page 2

Peabody offers \$10 million to support clean coal, mineral mining technology development

Peabody Energy announced this week that it is making \$10 million in grants available to support efforts to aid the development of new clean coal and mineral mining technologies. The grants will be used to support research at academic institutions, including Washington University in St. Louis, the University of Wyoming and the University of Arizona.

"Coal has been the fastest growing fuel in the world for each of the past five years, and the vast majority of Americans support coal for electricity generation and believe that coal is a vital fuel of the future," said Peabody Chairman and Chief Executive officer Gregory H. Boyce in a Dec. 2 release. "We're pleased to engage in multiple university research partnerships that will help unlock the full value of coal."

The funds will be provided through multi-year grants and include \$5 million to Washington University in St. Louis to establish the Consortium for Clean Coal Utilization, which will develop carbon capture and storage technologies, oxyfuel combustion and other approaches to reduce carbon dioxide emissions.

A total of \$2 million will be made available to the University of Wyoming to support the Clean Coal Technology Center through the School of Energy Resources. This grant will focus on economic and energy analysis and will support the center's work in advanced coal utilization research and serve as a catalyst for technology transfer to key stakeholders. This project will also include a multidisciplinary economic and energy analysis of the Powder River Basin's contribution to America's economy.

An additional \$2 million will be made available to the University of Arizona to

create the Institute of Mineral Resources, which will develop best practices in mining, safety and environmental stewardship. Key research efforts include advancing mine safety technology and research on energy-efficient mining.

The grants are in addition to more than \$1 million over a five-year period Peabody has already pledged in support of related educational studies at leading universities across the United States.

More information is available at: [Peabody Clean Coal Grants](#). ☒

EPA *continued from page 1*

NMA's comments urged EPA to defer further action on CAA regulation until Congress has an opportunity to act and provided a comprehensive analysis on why the CAA in its present form is fundamentally the wrong way to regulate GHG emissions.

"If the objective is to achieve sustainable reductions in GHG emissions, we submit that EPA must conclude that the CAA is inadequate to the task," said NMA.

NMA warned that the ANPR does not devote adequate attention to the prospects that GHG regulation under the CAA will impede the nation's energy independence and security goals and damage the reliability of the nation's electric grid. NMA also argued that such a move would create duplicative and wasteful regulations.

"At risk if inappropriate GHG regulations are promulgated, is the mining industry's contribution to the national economy," said NMA. The comments highlighted that in 2005, the mining industry paid approximately \$21 billion in taxes, royalties and fees to federal, state and local governments and paid nearly \$51 billion to mining industry employees in direct and indirect wages and benefits.

BLM *continued from page 1*

The new rule is the culmination of several years of effort by the agency, requiring extensive legal analyses and review and consideration of public comments.

A copy of the rule is available at: [BLM FMV Rule](#). ☒

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

NMA noted that the U.S. coal mining industry directly employs nearly 120,000 people in 23 states, with each coal mining job generating an additional 3.5 jobs elsewhere in the economy. NMA's comments said 50,000 new employees will be needed in coal mining over the next 10 years to meet increasing demand and to replace retiring workers.

NMA also warned that the 300,000 people employed directly in minerals mining throughout the U.S. could face massive job losses as companies are forced to take business to countries with less economically rigid emissions control systems than what could emerge under the CAA.

In addition, NMA stressed that any meaningful effort to achieve long-term, sustainable reductions in GHG emissions will depend on the development and deployment of new energy technologies, including advanced clean coal technologies and carbon capture and storage (CCS). NMA emphasized that the CAA does not provide incentives to promote the rapid commercialization of CCS, and that proposals for GHG reduction targets and timetables in the ANPR fail to coordinate with the availability of CCS technology.

A copy of NMA's comments is available at: [NMA ANPR Comments](#). ☒

Supreme Court refuses to hear Valid Existing Rights case

The U.S. Supreme Court on Dec. 1 denied a petition filed by NMA requesting review of a lower court ruling that upheld a narrow federal agency definition that restricts coal mining in certain areas.

At issue is whether the Office of Surface Mining (OSM) correctly interpreted the term "valid existing rights" (VER). The Surface Mining Control and Reclamation Act (SMCRA) bars surface coal

mining operations in certain designated areas. However, Congress made this prohibition "subject to" valid existing rights.

OSM defined VER very narrowly, so that qualifying for VER required that one must show not only ownership of coal reserves and the right to mine those reserves, but also demonstrate that a good faith effort had been made to obtain all

necessary permits before SMCRA was enacted.

NMA challenged OSM's definition of VER, however it was upheld in lower court rulings.

The Supreme Court's refusal to hear the case means that all legal options for addressing OSM's definition have been exhausted and the existing definition will remain in force. ✕

Washington Coal Club awards 2008 annual, lifetime achievement honors



Carl O. Bauer, director of the Department of Energy's National Energy Technology Laboratory, delivered a keynote address during a Dec. 2 Washington Coal Club awards ceremony focused on "The Role of Coal in the U.S. Energy Mix."

principal deputy assistant secretary for fossil energy at DOE.

Carl O. Bauer, director of DOE's National Energy Technology Laboratory, delivered a keynote address during the awards ceremony focused on "The Role of Coal in the U.S. Energy Mix." Bauer stressed that coal is "well positioned to provide the majority of electricity to the nation and responsibly address environmental concerns."

Emphasizing coal's unique ability to power the nation, Bauer noted that a 1 percent efficiency improvement by America's



Washington Coal Club President Shannon Angielski (left) presented Donald L. Bauer (second from left) with a 2008 Senator Jennings Randolph Lifetime Achievement Award at a Dec. 2 awards dinner.

The Washington Coal Club on Dec. 2 presented the organization's 2008 Annual Achievement Award to U.S. Senator Byron L. Dorgan (D-N.D.) at an awards dinner in Washington, D.C. The group also presented its 2008 Senator Jennings Randolph Lifetime Achievement Awards to C. Lowell Miller, director of the U.S. Department of Energy's (DOE) Office of Sequestration, Hydrogen & Clean Coal Fuels and Donald L. Bauer, founder of D L Bauer Consulting LLC and a former

existing coal-fueled fleet of power plants would provide an amount of energy 12 times the size of current wind-generating capacity. Bauer added that such an efficiency gain would also reduce carbon dioxide emissions by 60 million tons annually.

Sen. Dorgan was honored for his efforts to strengthen U.S. energy security via the development of new technologies that promote increasingly clean coal utilization. Dorgan is the chairman of the Energy and Water Appropriations Subcommittee and chair of the Energy and Natural Resources Committee's Energy Subcommittee.

Miller is responsible for DOE's research, development and demonstration efforts directed toward the capture and containment of coal derived carbon dioxide emissions, and the conversion of coal into hydrogen, transportation fuels, alternative energy products, chemical feedstocks and other uses. During his service with DOE, Dr. Miller has, at times, been responsible for the planning, implementation and management of a joint government-industry cost-shared program to design, build, and operate a new generation of advanced clean coal technologies.

Donald L. Bauer was a principal deputy assistant secretary for fossil energy and acting assistant secretary for fossil energy at DOE from 1982 until 1988 and retired from Science Applications International Corporation (SAIC) in early 2005. Following his retirement from SAIC he founded Bauer Consulting LLC.

The Washington Coal Club (WCC) is a non-profit corporation that provides a forum for the discussion of coal-related matters. In 1982, the club initiated the Annual Achievement Award for an individual who has made the most recent meaningful contribution to the coal community. The Senator Jennings Randolph Lifetime Achievement Award was initiated in 1987 in recognition of a lifetime of achievements and dedication to the utilization of coal. ✕



Washington Coal Club President Shannon Angielski (center) presented C. Lowell Miller (right) with a 2008 Senator Jennings Randolph Lifetime Achievement Award at a Dec. 2 awards dinner.

New 'Mining in the News' feature launched on NMA web site

NMA recently launched a new "Mining in the News" feature on its web site, www.nma.org. The new page is designed to provide mining community supporters with easy access to pro-mining opinion editorials and letters to the editor published across the country. The new feature also includes a compilation of resolutions approved by local governments and town councils that support the need to develop and deploy advanced clean coal technologies.

This new page is updated regularly to reflect publication of supportive mining messages.

To view recent pro-mining opinion editorials, letters to the editor and local resolutions, visit: [Mining in the News](#).

NMA welcomes three new members

NMA recently welcomed 1st National Leasing Inc., L-3 Communications and the Tennessee Mining Association as the newest association members.



1st National Leasing is a small investment and equipment leasing firm working with mid-to-large size companies involved in the mining, construction and aggregate sectors. The company, created four years ago and headquartered in Tampa, Fla., is currently focused on working with natural resource companies occupying the middle market in coal, precious metals and emerging clean coal technologies. The company has financed numerous high wall mining machines, cranes, yellow iron packages and off highway trucks. More information is available at: www.1stnationalleasing.com/about_us.html.

L-3 Communications is a leading government contractor, specializing in defense and homeland security issues,



which has leveraged its expertise and capabilities to develop two new wireless communications and tracking systems for the underground coal mining industry. The company's underground tracking systems are designed to comply with the Mine Improvement and New Emergency Response Act, as well as state mining regulations. More information is available at: www.l-3com.com/.



The Tennessee Mining Association, formed two months ago, is a professional association incorporating members from all sectors of the industry – coal operators, land owners and professional service providers. The association's mission is to educate Tennesseans about the important roles its members play in boosting the state's economy and to serve as a unified voice for Tennessee's miners in the state Capitol and beyond. ✕



Mining Calendar Events and conferences covering important mining issues are routinely held across the nation. The following may be of interest to members of the mining community:

February 22-25, 2009

Denver, Colo. 111th National Western Mining Conference & SME Annual Meeting The Colorado Mining Association and Society for Mining, Metallurgy and Exploration will host the joint conference, which will focus on the theme of "Stewardship & Sustainability - Getting it Done in the 21st Century." More information, including a conference program and exhibit space details is available at: [CMA-SME Conference](#).

February 24-26, 2009

Wilson, N.C. N.C. Mine Safety & Health Law School The North Carolina Department of Labor's Mine and Quarry Bureau will hold a Mine Safety & Health Law School designed to help mine owners, operators, contractors and supervisory personnel fully understand both federal and state mine safety laws. Detailed information and registration will be available Jan. 5, 2008. More information is available by calling William Gerringer at (919) 807-2790.

April 28-30, 2009

Bristol, Va. Geomorphic Reclamation and Natural Stream Design at Coal Mines The federal Office of Surface Mining will host the conference, which will address advances in technical innovations in geomorphic reclamation and natural stream design and region-specific issues for Appalachia, the Midwest and the West. Additionally, there will be a field trip to four different reclamation sites exhibiting stream channel reconstruction, riparian vegetation and natural stream channel design. Registration for the conference can be made online at: [OSM Conference](#).

April 30-May 1, 2009

Sunset Beach, N.C. 32nd Annual North Carolina Mine Safety & Health Conference. More information is available by calling William Gerringer at (919) 807-2790.

June 9-11, 2009

BPI Mining Conference 2009, Toronto, Canada Penn State University's Department of Energy and Mineral Engineering is hosting the conference, which will include presentations from industry leaders in key mining sectors — coal, metals, and nonmetallic minerals — as well as from customers, suppliers and others with a keen interest in mining industry performance. Keynote speakers will include executive management from the world's largest and most successful mining companies and manufacturers. <http://programs.psu.edu/bpi2009>.

Mining Market Snapshot

Coal Figures	Cumulative year to date	Change over last year
<i>Week ended November 22, 2008</i>		
EIA Coal Production (000 tons)	1,045,212	1.9%
Edison Electric Institute Electricity Output (GWh)	3,675,627	0.9%
American Iron and Steel Institute Raw Steel Production (000 tons)	94,750	-2.1%

Metal Figures

Copper Prices (\$/mt - week avg. Grade A Cash) 11/22/08	\$3,511.15
Gold Prices (\$/troy ounce - week avg. London Final) 11/22/08	\$749.30

Source: NMA Weekly Statistical Summary/Platts Metals Week

USGS releases 2008 third quarter mineral commodity production data

The U.S. Geological Survey (USGS) recently issued third quarter production data for selected mineral commodities that show a substantial jump in aluminum production, with most other surveyed commodities experiencing marginal production increases compared to second quarter of 2008 production levels.

According to USGS, third quarter do-

mestic aluminum production stood at 278,000 metric tons, an increase of 20 percent over second quarter production. Zinc production recorded the second largest quarter-to-quarter increase jumping to 212,000 metric tons, an increase of 3 percent.

Complete information is available at: [USGS Production Data](#).

USGS Production of Selected Mineral Commodities	2008 - 3rd Quarter	2008 - 2nd Quarter	Percent Change
Aluminum, secondary (000 Mt.)	278.0	232.0	20%
Cement (Mil. Mt.)	24.5	24.0	2%
Gypsum (Mil. Mt.)	4.7	4.7	0%
Iron Ore (Mil. Mt.)	14.1	13.9	1%
Phosphate rock (Mil. Mt.)	7.7	7.6	1%
Sand & gravel, construction (Mil. Mt.)	290.0	292.0	-1%
Soda ash (Mil. Mt.)	2.8	2.8	0%
Stone, crushed (Mil. Mt.)	385.0	379.0	2%
Zinc (000 Mt.)	212.0	205.0	3%

Source: U.S. Geological Survey, Mineral Industry Surveys, U.S. Production of Selected Mineral Commodities in the Third Quarter 2008, November 2008

DOI releases new climate change reports; creates new climate advisory council, position

Secretary of the Interior Dirk Kempthorne this week announced that three new draft reports from the department's Climate Change Task Force have been posted online for public review. Comments from the public will be accepted for 45 days following publication of the reports.

The reports are the culmination of efforts by a Climate Change Task Force Kempthorne created in 2007 that was charged with examining how climate change could affect disaster management, water resource management, wildlife, habitat and land management and management of resources for which the Department of the Interior (DOI) is responsible for overseeing.

More than 100 DOI employees, primarily career staff, participated on the task force.

"Through our Climate Change Task Force, we are illuminating our biggest

challenges, prioritizing our actions, and coordinating with the U.S. Geological Survey and the broader scientific community to identify prudent response strategies," said Kempthorne in a Dec. 3 statement.

The reports include more than 80 options on how DOI could prepare and respond to climatic changes on the lands it manages. However, the reports do not include budgetary, regulatory, legislative or policy commitments, but rather provide the secretary "with potential ideas to help fulfill the mission of the department across changing landscapes."

Kempthorne also directed that a Climate Change Advisory Council, made up of assistant secretaries and bureau directors, be created and meet monthly to exchange ideas and suggestions for how best to deal with climate issues.

In addition, Kempthorne directed that

the position of Climate Change Coordinator be created within DOI to "serve as the central clearing house within the department for questions and practices relating to Climate Change."

Copies of the reports, and more information, are available at: [Climate Change Report](#).

Newsbits

The U.S. Department of Energy (DOE) announced this week that it has selected six new projects to be conducted under the University Coal Research Program, DOE's longest-running student-teacher research grant initiative. The goal of the program, managed by the **National Energy Technology Laboratory**, is to advance new ideas in coal research and train a new generation of scientists and engineers in the investigation of long-term solutions for clean and efficient use of the nation's abundant coal resources. The projects will be run at the **University of Michigan, Ohio State University, University of Texas at Dallas and the University of Tennessee**. The newly selected projects aim to improve basic understanding of the chemical and physical processes that govern coal conversion and utilization, by-product utilization and technological development for advanced energy systems. More information is available at: [DOE University Research Projects](#).

New BLM rule eliminates regulation allowing congressional emergency land withdrawals

The Bureau of Land Management (BLM) today issued a final rule that eliminates a regulation allowing congressional committees to block resource development projects by authorizing the emergency withdrawal of public lands.

The Federal Land Policy and Management Act (FLPMA) and current BLM regulations grant the secretary of the interior the ability to withdraw lands immediately upon determining that an emergency exists and that extraordinary measures need to be taken to protect natural resources or resource values that otherwise would be lost. The secretary is also mandated to take the same action if a similar emergency determination is made by either the Senate Energy and Natural Resources Committee or the House Natural Resources Committee.

The issue came to a head earlier this year when the House Natural Resources Committee attempted to use its withdrawal authority to prevent uranium mining projects near the Grand Canyon.

The final rule, published in the *Federal Register*, retains the ability of the secretary to make an emergency withdrawal determination, but eliminates a regulation giving congressional committees the ability to make such a determination.

The final rule follows a proposed rule the agency floated in October that backed removing both committee-directed and secretary-initiated emergency withdrawal authority. BLM said the change was needed because "existing regulations for emergency withdrawals are redundant" and "the committee-directed withdrawal presents constitutional issues." In a Dec. 5 press release, BLM said that since "at least 1981, questions have been raised concerning the constitutionality of the congressional committee notification provision."

NMA submitted comments in late October in response to the proposed BLM rule that supported the proposed rule, arguing that the existing withdrawal provisions were redundant and posed serious questions of constitutionality.

BLM defended the decision to retain the secretary's emergency withdrawal ability, saying while the agency continues to believe such authority is redundant given other means to protect public lands, the provision enjoyed support from public comments submitted in response to the proposed rule.

A copy of the rule is available at: [BLM Land Withdrawal Rule](#).

A copy of NMA's comments is available at: [BLM Withdrawal Comments](#). ✕



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