House panel hears of need for policy on strategic and critical minerals: one company finds U.S. politically riskier than third world nations

A range of federal policies are saddling Americans with rising dependence on foreign nations for both commonplace and rare metals that are critical to their standard of living and military defense, the House Subcommittee on Energy and Mineral Resources was told at an oversight hearing conducted this week.

Import dependence is rising even though the U.S. has one of the world’s strongest mineral bases and, by an official estimate, has as much of certain important metals remaining to be discovered, largely on federal or public land in the West, as has already been discovered, witnesses said.

One mining company even cancelled a project in the U.S. because it found the caprices of federal policy have made it “less politically risky” to mine in places such as Africa, one witness explained.

The incident was seen as symbolizing a general and accelerating withdrawal of mining activity from the U.S. – declines in exploration, claims, investment and new mines – under the influence and pressure of federal policies of the last decade. Inconsistent administration of such policies has meant that companies are finding themselves unable to open mines even when all environmental and other requirements have been met; and that no investment is ever secure from protracted delay or litigation.

“The existing mines are being depleted, which increases the nation’s need for foreign supplies in the same way we have a strong foreign dependence on oil,” said Douglas Silver, the president of Balfour Holdings Inc.

Witnesses urged Congress to initiate a strong domestic minerals policy or strategy that encourages both domestic mining and the related, defense-oriented, strategic and critical metals industry.

Cannon addresses importance of grassroots organization

Speaking to the NMA Government Affairs Committee this week, Rep. Chris Cannon (R-UT) talked about the House Western Caucus as a forum for emphasis on the wealth-creating natural resource industries, and how minerals are the undergirding of the new West. He also talked about organizing groups that directly and indirectly depend on those natural resource industries into an effective and coordinated grassroots network to serve as a grassroots communication network.
Court concludes roadless rule violates NEPA and the Wilderness Act

The U.S. District Court for the District of Wyoming this week ruled that the federal government’s 3-year-old Roadless Area Conservation Rule violates the National Environmental Policy Act (NEPA) and the Wilderness Act. In issuing a permanent injunction, the ruling sets aside prohibitions issued in the final days of the Clinton Administration on new roads on 58.5 million acres, one-third of the federal forest lands.

The decision in State of Wyoming v. USDA is the second of nearly a dozen challenges to the roadless rule. In Judge Clarence Brimmer’s 100-page decision, the court agreed with the State of Wyoming, which has 3.5 million acres in the roadless areas, that the government ignored key requirements established under NEPA. In doing so, Judge Brimmer said that “in its rush to give President Clinton lasting notoriety in the annals of environmentalism, the Forest Service’s shortcuts and bypassing of the procedural requirements of NEPA has done lasting damage to our very laws designed to protect the environment.” The court also agreed with Wyoming’s argument that the Forest Service used the roadless rule as a way to create wilderness, a right reserved to Congress.

Earthjustice is coordinating an appeal before the 10th Circuit in Denver, but many observers of the legal history of the various roadless cases predict the issue ultimately will go before the U.S. Supreme Court for final resolution. (Last year, the U.S. Court of Appeals for the 9th Circuit in San Francisco reinstated the roadless rule after it had been enjoined by the U.S. District Court for the District of Idaho.)

The Justice Department, which also defended the Forest Service rule, has not announced its intentions regarding an appeal, but last month did indicate that it would soon propose a rule to allow Western governors to seek exemptions for their states based on a list of concerns including, protection of human health and safety, reduction of hazardous fuels and restoration of essential wildlife habitats.

Brimmer’s decision is available on the NMA website at www.nma.org/pdf/legal/wyoming_decision_071803.pdf.

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One of them, exploration geologist Ann Carpenter, past president of the Women’s Mining Coalition, told the committee the public does not want federal lands closed off and will support a minerals policy initiative. She cited findings from an NMA survey on opinion leaders that found 90 percent think a strategy or policy is needed to ensure our future quality of life; 73 percent believe federal land should be open to mining activity as long as the land is reclaimed as required by law; and only 22 percent favor putting all federal land off limits.

Ms. Carpenter also noted that U.S. mining sets the world standard in reclamation techniques, technology and successes.

Chaired by Barbara Cubin (R-WY), the committee took testimony from five witnesses on the role of strategic and critical minerals in national and economic security, the first in a proposed series of oversight hearings.

It also was Ms. Carpenter who told the committee of U.S.-Africa risk comparison, which was made by one of her clients. It was prompted by the Department of Interior’s 1997 Millsite Opinion, a simple executive finding by the Department of the Interior that overturned 125 years of practice, precedent and prior policy.

“Two million dollars U.S. [was] pulled from a proposed U.S. exploration budget and channeled to Africa because the exploration company perceived it would be less ‘risky’ from a regulatory perspective to work in Africa,” she said.

“Most companies…regard the U.S. as highly prospective for mineral discovery but highly risky regarding regulatory processes and policies with an increasingly cumbersome and negative permitting regime,” Ms. Carpenter explained.

She cited for the committee a minerals economist, who said, “The most serious threat to the mining industry’s long-term sustainability in the U.S. is the regulatory changes made in the final four years of the Clinton administration.”

Ms. Carpenter identified the main causes of the decline as:

• The Clinton era’s attempted prohibitive revision of the Section 3809 Regulations on mining and a lag in implementing their replacement;

• The 1997 Millsite Opinion, an attempt to administratively repeal the mining law by making it impossible to process ore on new claims;

• The recent unavailability of the kinds of surety bonds required to obtain federal permits, partly due to regulatory policy;

• The ease with which frivolous litigation and administrative procedure can be used simply to delay a new mine to the point it becomes uneconomic to persist;

• In consistent interpretation, application and implementation of existing regulations;

• And new, expanded limits on mining activity on more than a million square miles of federal land, roughly one-third of the United States, mostly in the West, which contains most of our nation’s metal and mineral reserves.

“There is less land available and the difficulty to conduct even simple exploration on federal land serves as a strong incentive to work overseas,” Silver, of Balfour, told the committee.

“The reduction…is reaching a point where the industrial ecosystem is seriously threatened,” he said, mentioning laws that prohibit activity near sacred sites, unique habitats and premier vistas.
House passes $19.6 billion Interior appropriations bill

The House approved a $19.6 billion Department of Interior and related agencies appropriations bill for FY ’04 Thursday. H.R. 2691 was approved by a vote of 268-152.

An amendment offered by Rep. Jay Inslee (D-WA) that would have prohibited the U.S. Forest Service from expending any funds to propose, finalize or implement regulations that would amend the roadless rule failed. The rule currently creates over 58 million acres of de facto wilderness areas, and the Inslee amendment would have further inhibited the Forest Service’s ability to manage its land pursuant to its multiple use mandates.

Another amendment, R.S. 2477, offered by Rep. Mark Udall (D-CO) that would prohibit states and counties from using an 1866 rule to claim right-of-way ownership of historic roads. Rep. Charles Taylor offered an amendment to the Udall amendment that would limit right-of-way claims by one-third. The Taylor amendment, which was passed by the House, would exclude national monuments, Wilderness Study Areas, National Parks, National Wildlife Refuges, and lands within the National Wilderness Preservation System. The amended Udall bill passed.

Rep. Tom Udall (D-NM) proposed an amendment that would halt the Forest Service from planning rule revisions. In December 2002, the Forest Service proposed much needed improvements to its forest planning regulations. This amendment would have prohibited the finalization and implementation of the proposed 2002 regulations. Rep. Richard Pombo (R-CA) said in his opposition to the amendment that it was an “effort being made to protect a broken system.” Rep. Udall’s amendment failed.

No amendments were offered to cut funding in fossil energy research and development activities. Funding for the President’s Coal Research Initiative was approved at $398.8 million, an increase over the President’s request of $367.5 million.

Carbon sequestration capabilities to be evaluated in West Virginia

The Department of Energy (DOE) has begun drilling on a 10,000-foot well to evaluate the carbon storage potential of underground rock layers at American Electric Power’s (AEP) Mountaineer Plant in New Haven, West Virginia.

The eighteen month AEP study will determine whether the geology near the Mountaineer Plant is suitable for injection of carbon dioxide deep into the earth, where it would be absorbed and permanently captured. The study is part of a $4.2 million carbon sequestration research project funded primarily by DOE’s Office of Fossil Energy.

Mountaineer was chosen as the test site for the project in part due to its location in the Ohio River Valley area, which is thought to be geographically ideal for carbon capture and sequestration.

“This project marks another step forward in our efforts to improve the environment while still making sensible use of coal, our most abundant energy source in the United States,” Secretary of Energy Spencer Abraham said. “Maximizing our ability to sequester carbon dioxide through environmentally safe and effective methods is a mainstay of our efforts to reduce our reliance on foreign energy sources.”

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Silver and Charles Groat, director of the U.S. Geological Survey, combined to give the committee a working definition of strategic and critical.

“Every one [mineral] used in quantity is strategic in the sense that our economy can’t do with out it,” said Groat, who earlier had noted the U.S. is becoming increasingly dependent on imports for material it once explored, especially materials of defense and technically sophisticated products.

And Silver added, “Any metal or mineral where we require substantial imports should be considered strategic…any metal that provides underpinning value...”

Hugh Hanes, a consultant to the defense contractor Brush Wellman, pointed to the critical nature of precious metals, in advanced technology.

“Between 25 percent and 55 percent of the so-called noble metals...are used in critical, high-reliability applications,” he said, especially in computerized systems and automotive electronics. “Society benefits extensively...because of increased safety, increased fleet mileage and decreased emissions.”

High reliability and high performance also are characteristics of the rare enabling metals such as beryllium that are required for alloy uses in many defense applications, Hanes said.

He and witness Robert Noel, of the Metals Affordability Consortium, pointed to a related decline in the defense-oriented strategic and critical metals industry, both in processing and production. Noel told the committee that the U.S. recently has lost two-thirds of its capacity to produce titanium sponge, the basis for an alloy critical to aero-space and defense applications.

All of the witnesses who touched on U.S. mineral reserves expressed confidence the U.S. holds significant quantities of some important base, precious and rare metals under the definition of strategic and critical they established.
Lauriski presents safety award to Mettiki Coal

Lauriski addressed a group of miners about his 30-plus year career in mining and his start working for his father’s coal delivery business in Utah. Lauriski stressed his vision for the Mine Safety and Health Administration (MSHA), which balances enforcement, education and training, and technical support—a strategy that reflects the Bush administration’s call for federal agencies to become citizen-centered, result-oriented and innovative.

During the presentation Mettiki officials discussed the innovative health and safety advancements in equipment and technologies that have been developed at the mine and stressed the cooperative work that mine operators have done with MSHA in the testing and retrofitting of particulate reduction filtration technology on the underground diesel equipment that is in operation at the mine.

Western coal strong in June says Lake Carriers Association

Great Lakes coal shipments totaled 4.5 million net tons in June, a slight increase compared to last year’s June total according to the Lake Carriers Association (LCA). Strong shipments of western coal sustained trade, and loadings at Superior Midwest Energy Terminal topped 2.1 million net tons, an increase of 13.8 percent compared to last year. Loadings at Lake Erie ports slipped to 1.9 million tons, a decrease of 11 percent over last year’s total. For the year, Great Lakes shipments stand at 13.2 million net tons, a decrease of 14.4 percent compared with last year’s YTD totals for June.

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source: Lake Carriers Association

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Said Groat, of USGS, citing a 1990 finding on reserves of gold, silver, copper, lead and zinc: “There’s every reason to believe that ...about as much is left to be discovered in the United States as has already been discovered.”

To which Ms. Carpenter added under questioning, “Advances in technology are providing us with opportunities [for new discoveries] that are infinite,” adding it is even wrong to rule out new discoveries on already explored land.
The Pennsylvania Department of Environmental Protection has named Joseph A. Sbaffoni as director of the Bureau of Deep Mine Safety (BDMS). Sbaffoni is currently program manager for the Bituminous Mine Safety Division of BDMS . . . . Charles E. “Jim” Compton, founder of the Grafton Coal Company passed away on July 12, 2003 after an extended illness. Services were held this week in Bridgeport, WV . . . . The Mine Safety and Health Administration’s website now features an Interactive Training Products page that includes safety and health simulation exercises and a Hazard Communication (HazCom) Interactive Training Course. The interactive training products are located at www.msha.gov/interactivetraining.htm . . . . The Bureau of Land Management will resume issuing permits for coalbed methane drilling in the Powder River Basin. Lawsuits from environmentalists had brought the permitting process to a halt this spring. “It is a small step forward in recognizing the great potential that the Powder River Basin offers for our national energy supply needs,” Sen. Craig Thomas (R-WY) said of the decision . . . . A new Coal News and Markets feature is available from DOE’s Energy Information Administration (EIA). It is intended to supply up-to-date coal information “often overlooked in mainstream press and petroleum-oriented energy news,” according to EIA. It is available on the web at www.eia.doe.gov/cneaf/coal/page/coalnews/coalmar.html . . . . The Statistical Yearbook of the Electric Utility Industry, a reference source for 2001 electric utility operations and financial performance statistics featuring 2001 data with a preview of 2002 data is now available from the Edison Electric Institute. The cost is $450 and more information is available at www.eei.org/products_and_services/descriptions_and_access/stat_yearbook.htm. 

Register online for NMA/DOE energy efficiency workshops

Pittsburgh, PA July 22-23
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Charleston, WV Sept. 22-23
Macon, GA October 21-22

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