

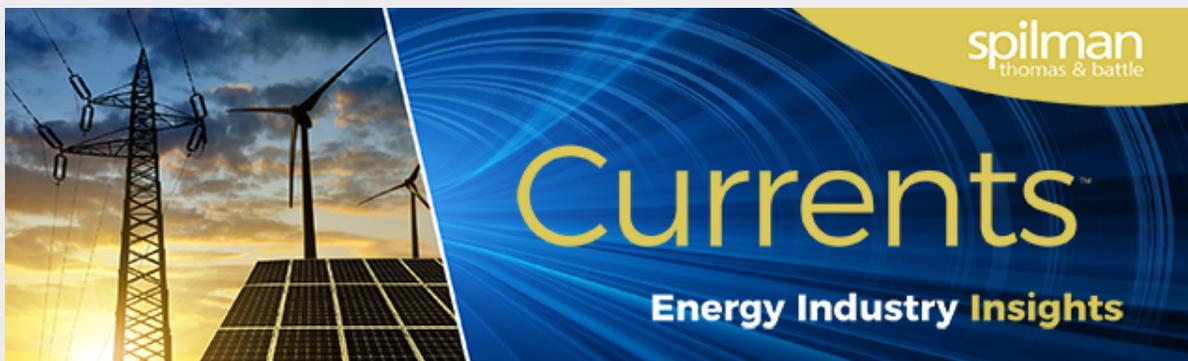
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Volume 6, Issue 4

● Welcome

Welcome to our fourth *Currents* issue of 2022.

We have two announcements to kick off this e-newsletter.

Nick Preservati has been appointed to the West Virginia Public Energy Authority ("PEA") by Governor Jim Justice. Nick has devoted much of his 25 years in practice to serving clients in the energy industry, particularly in complex litigation matters. Governor Justice reactivated the PEA in 2021 with a goal to foster, encourage and promote the mineral development industry in West Virginia. It also will assist in developing the next generation of long-term policies that will utilize all of the state's energy resources. Nick's term runs through June 30, 2024. During this time, he will continue his law practice at Spilman. A huge congratulations to Nick for this distinguished honor!

The WV Manufacturers Association is hosting the WV Manufacturing and Energy Growth Summit May 2-3 at Oglebay Resort in Wheeling, WV. We are a proud sponsor and our own Dave Yaussy is presenting. We would love to see you there. You can find out more and register by clicking [here](#).

As always, thank you for reading.



[Nicholas S. Preservati](#)

Co-Editor, *Currents*

Co-Chair, [Energy Practice Group](#)

[Joseph C. Unger](#)

Co-Editor, *Currents*



● [Shell's Board of Directors Sued for 'Failing to Properly Prepare' for the Energy Transition](#)

"It argues the board's failure to implement a climate strategy that truly aligns with the landmark Paris Agreement is a breach of their duties under English law."

Why this is important: This lawsuit is unique in that it combines multiple strategies for challenging corporate action on climate change in a single legal action. First, it is brought by actual shareholders of the company instead of by third parties. Second, the plaintiffs not only named the corporation as a defendant, but also named the individual members of its board of directors. Third, it was brought pursuant to English law instead of under United States law. Finally, it is attempting to hold private companies liable for violating the Paris Accord, which is arguably a non-binding agreement entered into by nation states. Whether, and to what extent, these legal strategies are successful will have a significant impact on future climate change litigation. --- [Nicholas S. Preservati](#)

● [Nord Stream 2 Cost \\$11 Billion to Build. Now, the Russia-Europe Gas Pipeline is Unused and Abandoned](#)

"The 1,234 km offshore pipeline was designed to double the flow of gas between Russia and Germany."

Why this is important: By the end of 2021, all that stood in the way of Nord Stream 2's completion was a sign off from Germany's energy regulator. Now, as an obvious casualty of Russia's invasion of Ukraine, it appears unlikely that the pipeline will be commissioned, at least for the foreseeable future. A peaceful resolution of the war in Ukraine could result in Nord Stream 2's operation. However, the EU's plan to be independent from Russian energy before 2030 all but seals the pipeline's fate. --- [Joseph C. Unger](#)

● [It's Time to Get Off Russian Oil and Unleash the Potential of Pennsylvania Energy](#)

"In less than a year, America went from energy independence to now importing nearly 600 million barrels of oil from Putin's Russia."

Why this is important: Anticipated sanctions on Russian oil exports and the worldwide economic recovery prompted by the easing of COVID-19 restrictions have caused the prices of crude oil and refined oil products such as gasoline to dramatically increase. OPEC producers are unwilling to increase their oil production and non-OPEC producers are unable to supply sufficient oil to fill this gap in international supplies. Sustained efforts by the federal government, as well as environmental advocates, to limit domestic oil production and distribution have rendered U.S. producers unable to meet the international shortfall of oil. A more rational energy agenda would enable environmentally responsible domestic oil producers to supply the energy needs of foreign markets without subjecting their citizens to the hardship of energy shortages. --- [William M. Herlihy](#)

● [European Union to Propose Ban on Russian Coal Imports, Sources Say](#)

"Imposing sanctions on the Russian energy sector has been a challenge for the European Union given the high level of dependency that some member states have on the country's energy supplies."

Why this is important: With Russian atrocities mounting in Ukraine and an unprovoked invasion of a sovereign nation, the European Union is looking at how to lessen its dependence on Russia for its energy needs. Currently, 19.3 percent of the coal the EU uses comes from Russia. The EU wants to immediately stop those imports to deprive Russia of \$4.39 billion a year in income it would use in its war effort. Next, EU will consider how to limit Russian oil and natural gas imports. EU imports 36.5 percent of its oil from Russia and 41 percent of its natural gas. --- [Mark E. Heath](#)

● [DOE Eyes Hydrogen, Thermal Storage to Shrink Carbon Footprint of Fossil Fuel Plants](#)

"The technologies — including high-temperature thermal energy storage and hydrogen storage — could help bolster grid reliability and affordability, while also potentially supporting the Biden administration's goal to decarbonize the electric grid by 2035, according to DOE."

Why this is important: Energy suppliers benefit from being able to run at a steady state, while consumer demand is variable. Figuring out how to store excess energy cost effectively is a key part of balancing this supply and demand. We often think of using batteries for this purpose, but there are other means of doing so that are being explored with the help of Department of Energy grants. --- [David L. Yaussy](#)

● [Coal, Oil and Gas Stakeholders Discuss West Virginia's Legislature's Focus on Renewables](#)

"Talk about the potential of nuclear power and other strategies for diversifying the state's energy generation portfolio has taken up much of this year's session of the West Virginia Legislature."

Why this is important: At the federal level, West Virginia's congressional leaders have adopted an "all of the above" energy strategy. The West Virginia State Legislature is following suit by removing legal impediments to various sources of energy generation such as renewables and nuclear. This is an important step, as the sources of energy generation in West Virginia should not be artificially constrained, but instead, driven by real world considerations such as availability, economics, reliability, and their impacts on the environment. --- [Nicholas S. Preservati](#)

● [Data Pose Biggest Hurdle to ESG Disclosure](#)

"Four out of five (82%) executives say they need to reinforce company capabilities to provide detailed reports on environmental, social and governance performance for stakeholders such as investors and the Securities and Exchange Commission."

Why this is important: The SEC's ESG proposal, if enacted, would require large companies to report on Form 10-K emissions by their own facilities (Scope 1), the emissions from their energy purchases (Scope 2), and emissions by their suppliers, vendors, and other third parties across their supply chain (Scope 3).

Scope 3 emissions data will be difficult to obtain and report, even for the largest of companies. In a survey conducted by Deloitte, only 31 percent of senior executives are prepared to report Scope 3 emissions and most are unsure whether they have enough staff to meet stakeholder expectations on ESG. For many companies, the proposed rule would require enterprise-wide changes to how the company collects, assesses, and reports climate-related data, as well as changes to their governance structure and systems of controls. The proposal could result in litigation regarding the SEC's ability to regulate GHG emissions, which is a task dealt to the EPA. --- [Joseph C. Unger](#)

● [U.S.-EU Gas Deal Won't be Enough to Replace Russian Supply, Says Former U.S. Energy Secretary](#)

"In 2021, the European Union imported 155 billion cubic meters of natural gas from Russia, according to the International Energy Agency."

Why this is important: Russia currently supplies more than half of the natural gas consumed by members of the European Union. The unfolding situation in Ukraine has confirmed that the continued reliance on Russian gas threatens the economic stability of those European countries and provides a major source of funding for the Russian military. The 15 billion cubic meters of LNG currently promised by the U.S. and its partners will only partially offset any loss of gas imported by Europe from Russia. It will enhance the economic and national security of the U.S. to support increased production of clean and inexpensive shale gas and permit new LNG transloading facilities on our Eastern seaboard to increase LNG exports of that shale gas to Europe. --- [William M. Herlihy](#)

● [Biden Invokes Defense Production Act to Bolster Domestic Battery Manufacturing for EVs, Energy Storage](#)

"The move will support the production and processing of lithium, nickel, cobalt, graphite and manganese, the White House said in a statement."

Why this is important: Making batteries to run the electric vehicles and other electronic equipment in our future will take a lot of metals that are currently mined outside the U.S., leaving them subject to supply disruptions. While mining is not generally favored by progressives, the need for battery components has led President Biden to take steps to encourage American development of strategically important minerals. --- [David L. Yaussy](#)

● [Federal Lawmakers Announce Proposal to Ban Russian Energy Imports](#)

"A bipartisan and bicameral coalition announced the Ban Russian Energy Imports Act, which would block imports of oil, natural gas, petroleum products and coal from Russia amid its invasion of Ukraine."

Why this is important: The fact that this proposal was sponsored by Senator Manchin highlights the fact that energy security is not a local issue, but a global one. The purpose of banning Russian energy imports is to sanction Russia for its invasion and continued military involvement in Ukraine. While that conflict may be a continent away, the ripple effects of the ban will affect energy markets around the world, including in West Virginia. Thus, this ban is not just about "national unity" as articulated in the article, it is also about "national security" which is inextricably tied to energy security. --- [Nicholas S. Preservati](#)

● [Britain Could Build Seven Nuclear Power Stations, Minister Says](#)

"There is a world where we have six or seven sites in the UK' by 2050, Kwarteng told the newspaper."

Why this is important: With Russia's illegal invasion of Ukraine, many European countries are looking at ways to lessen use of Russian oil, natural gas and coal. Britain is now looking to use nuclear power at seven sites. A new initiative, Great British Nuclear, will identify sites and help speed approval of permits for the plants and then private companies will run them. Britain wants two large nuclear power plants operating by 2030 and then smaller modular nuclear reactors would begin operations for electric generation. --- [Mark E. Heath](#)

● [Benefits and Costs of the SEC's Proposed Climate-Related Disclosures for Investors](#)

"The most glaring concern is that the commission is unable to quantify the benefits for society, while conceding that the costs to companies in terms of compliance and more accurately measuring emissions, as well as to the SEC itself, will be in the millions."

Why this is important: The Securities and Exchange Commission is proposing a rule to require companies to report on the climate effects of their greenhouse gas emissions. The benefits of such a rule are difficult to quantify, and there are many who believe that evaluating a company's compliance with climate goals belongs with individual investors, who can refuse to invest in companies that they feel don't disclose sufficient information about climate effects. --- [David L. Yaussy](#)

● [US Senate Confirms West Virginian to MSHA Position](#)

"Williamson currently is the senior counsel to Lauren McFerran, the chairman of the National Labor Relations Board."

Why this is important: West Virginian Chris Williamson has been confirmed by the U.S. Senate as the Assistant Secretary of Labor for Mine Safety and Health. Williamson served in MSHA under the Obama administration and until confirmed, was the Senior Counsel for the Chairman of the National Labor Relations Board. He also previously worked as a legislative assistant to West Virginia Senator Joe Manchin. Assistant Secretary Williamson will oversee regulatory and enforcement in all U.S. mining, both coal and hard rock mining – which covers all mining from rock quarries to gold mining. --- [Mark E. Heath](#)

● [SEC Pushes for Tougher Cybersecurity Disclosure Rules](#)

"The Securities and Exchange Commission proposed tougher, more detailed rules for cybersecurity disclosure, including deeper company reports on cyberattacks and regular filings on cyber risk management, governance and strategy."

Why this is important: In 2021, ransomware attacks and extortion bids more than doubled compared with 2020. Attacks like Colonial Pipeline that resulted in the company paying \$4.4 million in ransom have prompted the SEC to propose rules requiring updates on previously disclosed breaches and reports on management of cybersecurity risks. However, the SEC has not been delegated the authority to regulate

cybersecurity issues faced by the U.S., and the proposal walks a fine line between disclosure and regulation. --- [Joseph C. Unger](#)

● [AEP Sets Course for Rapid Increase in Renewables After Completing Company's Largest Wind Farm](#)

"The project, in Blaine and Custer counties in Oklahoma, is the final addition to the three-part North Central Energy Facilities, which will generate a combined 1,484 MW of clean energy at a total cost of \$2 billion."

Why this is important: While coal has made a resurgence in 2022, utilities continue to plan for more renewables. American Electric Power ("AEP") just completed its Traverse Wind Energy Center in Oklahoma. The 356 wind turbines now produce 998 MW of power, and it was built in 18 months. The new farm, which is AEP's largest, and two other wind farms now produce 1,484 MW of power. AEP wants to add 16 GW of wind and solar by 2030 with the utility's goal to cut carbon emissions by 80 percent by 2030 and to net zero by 2050. --- [Mark E. Heath](#)

● [EIA Energy Statistics](#)

Here is a round-up of the latest statistics concerning the energy industry.

[PETROLEUM](#)

[This Week in Petroleum](#)

[Weekly Petroleum Status Report](#)

[NATURAL GAS](#)

[Short-Term Energy Outlook - Natural Gas](#)

[Natural Gas Weekly Update](#)

[Natural Gas Futures Prices](#)

[COAL](#)

[Short-Term Energy Outlook - Coal](#)

[Coal Markets](#)

[Weekly Coal Production](#)

[RENEWABLES](#)

[Short-Term Energy Outlook](#)

[Monthly Biodiesel Production Report](#)

[Monthly Densified Biomass Fuel Report](#)

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