

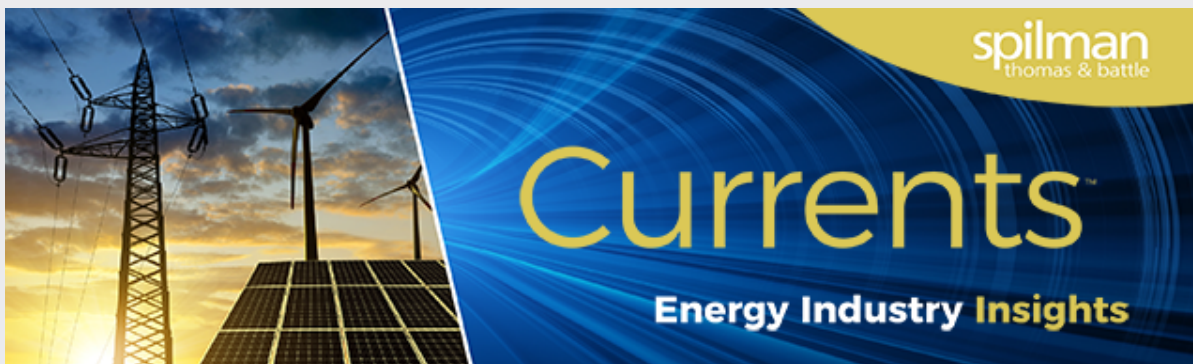
SHARE:



[Join Our Email List](#)



[View as Webpage](#)



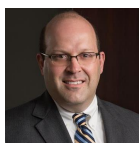
## Volume 5, Issue 28

### ● [Welcome](#)

Welcome to Volume 5, Issue 28 of *Currents*. As we all know, the energy industry is constantly changing. And that is why I felt it was important to bring on a co-editor who may offer a different perspective on the issues that matter most to you.

Joe Unger, a frequent contributor to *Currents*, now will help put this publication together and bring the most value to your inbox. Joe assists clients with Clean Water Act litigation, Clean Air Act litigation, and the gamut of state and federal environmental regulatory issues.

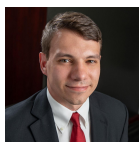
Please help me welcome Joe to the *Currents* editorial team!



[\*\*Nicholas S. Preservati\*\*](#)

**Co-Editor, *Currents***

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



[\*\*Joseph C. Unger\*\*](#)

**Co-Editor, *Currents***

---

### ● [China Risks Winter Energy Crunch](#)

*"China is at risk of the same energy-crunch chaos seen in Europe, with a state-run newspaper warning that coal-fired power plants will struggle to keep the lights on this winter."*

**Why this is important:** China still burns half of the steam coal mined in the world to make electricity. Amid a push to reduce its reliance on steam coal, it finds itself with serious fuel shortages. It is still not buying Australian coal and a number of serious mining accidents in the country have reduced national production. That means coal prices are up 76 percent from last year. And, the increases are occurring as electrical demand is soaring during the Chinese economy's recovery from COVID-19 shutdowns. Experts fear winter power shortages as domestic coal production accounts for 70 percent of the electrical power generated in the world's most populous country. --- [Mark E. Heath](#)

---

## ● [Energy, Utility Sectors Feel 'Most Exposed' to Cybersecurity Threats, Survey Finds](#)

*"More than four in ten (44%) U.K. and U.S. companies 'feel very prepared' to handle technology risks."*

**Why this is important:** A recent survey of 1,000 business leaders across 10 industries found that more than half (55 percent) of U.S. business leaders said they feel prepared to handle cyber risks. Companies in the utility and energy sectors responded that they believe their industries are the most exposed to possible cyberattacks. The ransomware attack earlier this year that forced the shutdown of the Colonial Pipeline may play a part in their responses. However, those companies also reported that they feel the most prepared to respond to those attacks. --- [Nicholas P. Mooney II](#)

---

## ● [There's Safety in Pipelines](#)

*"About 20 pipelines are pending review at the Federal Energy Regulatory Commission."*

**Why this is important:** Multiple natural gas pipeline projects are being delayed based on objections to its use as a power source, with little consideration for market demand, safety or its actual environmental impact. The demand for clean burning natural gas is high, and it will be produced and transported to market by truck or rail regardless of whether adequate pipeline capacity is constructed. Pipelines are by far the least expensive and safest means of transporting gas. Natural gas is also an essential backup fuel at a time when the generating capacity and reliability of renewable sources are not yet sufficient to meet the nation's energy needs. The increased use of natural gas to produce electricity over the past few years actually led to a substantial decrease in the emission of carbon dioxide and other pollutants. Opposition to pipelines as a roundabout attempt to prevent the use of gas fails to promote the transition to renewable energy sources while imposing unnecessary safety risks and financial burdens on the public at large. --- [William M. Herlihy](#)

---

## ● [EPA Scraps Trump-Era Clean Water Act Guidance](#)

*"Critics have blasted the guidance, finalized earlier this year, on the grounds that it could create a 'loophole' for industry and open the agency to legal challenges."*

**Why this is important:** Justice Stephen Breyer, writing for the 6-3 majority in *County of Maui*, outlined seven factors for permitting authorities to consider when determining if pollutants that reach surface waters after traveling through groundwater are a "functional equivalent" to a direct discharge and therefore require a National Pollutant Discharge Elimination System ("NPDES") permit. The Trump-era guidance added an eighth factor described as "the design and performance of the system or facility from which the pollutant is released." Even though the Breyer decision stated that the seven-factor outline was not exhaustive, EPA claims the factor added in the guidance created a loophole for industry and resulted in the decision to rescind the guidance. This rescission, along with the recent reconsideration of the definition of Waters of The U.S., will increase uncertainty in the permitting process for the foreseeable future. --- [Joseph C. Unger](#)

---

## ● [Lessons for W.Va. in West Germany's Transition from Coal](#)

*"Sure enough, three years ago, the last mine in the Ruhr region, and the last 'black mine' in Germany, closed."*

**Why this is important:** As coal jobs in Appalachia have declined, some now are looking at the former West Germany's transition from a steel and coal producer after World War II to an area with no active coal mines, the last of which closed in 2018. With added pressure from oil in the 1960s for energy, the European country began planning for a new economy by combining all coal mines into one company and investing in auto production and universities in areas coal was being mined. It also paid for miners to retire early. A 1980s coal downturn led the country to plan a complete coal phase out by 2018, which it was able to accomplish. Some West Virginia legislators have called for similar planning in the Mountain State. Delegate Ed Evans, D-McDowell, wanted the last legislative session to start the process, noting as mining has decreased, even Wal-Marts closed in his county. Currently, federal programs are looking at employing miners to reclaim coal and oil and gas well sites, and there is a state program to encourage workers to move their jobs to the state. None are currently of scale to address the declines coal has gone through in the past 10 years. --- [Mark E. Heath](#)

---

## ● [Boards Rethink Response Playbook as Ransomware Surges](#)

*"Corporate boards are no longer rubber-stamping assurances from CIOs or CISOs but are bringing in outside experts, asking more questions and preparing for the risk of personal liability."*

**Why this is important:** This article discusses three responses to the rise in ransomware attacks. First, corporate boards now are taking a more active role in determining ransomware preparation, a function that in the past was delegated to companies' executives. Second, companies that previously had a policy of never negotiating or paying a ransom now consider payment a possibility. Third, payouts from ransomware attacks are causing insurance companies to change the way they underwrite cybersecurity policies. None of these responses are surprising, and with the continued rise of these attacks, we should expect to see more companies taking the same actions. --- [Nicholas P. Mooney II](#)

---

## ● [What Range Anxiety? Electric Lucid Air Snags Record 520-Mile Per Charge EPA Rating](#)

*"Led by the former chief engineer for Tesla's breakthrough Model S, Lucid said two versions of its luxury Air sedan are certified as delivering more than 500 miles per charge—the best on the market and over 100 miles more than Tesla's longest-range cars."*

**Why this is important:** 500 miles per charge is impressive, but the new Tesla Roadster will go from 0 to 60 in 1.1 seconds. --- [Joseph C. Unger](#)

---

## ● [Coking Coal Beats Iron Ore to Top Spot for Most Expensive Steelmaking Input](#)

*"Global steel mills from East Asia to India, Europe and Brazil have been scrambling to procure metallurgical coal amid a historic rally caused by tight global supplies and disruption in trade flows due to the COVID-19 pandemic."*

**Why this is important:** World prices for coking coal, used to make steel, continue to surge with heavy demands for steel and China's refusal to buy Australian coal. Currently, the most expensive component in making steel is not iron ore – it's the coking coal need to turn the ore into steel. China currently is buying its coking coal primarily from the U.S. and Canada, and some from Russia. Platts estimates it costs \$150 in ore to make a ton of steel and \$350 in coking coal to complete the process. On September 16, Low Vol HCC coal was quoted at a 10-year high of \$562 a ton on the Australian FOB price. The price increases continue to help many U.S. coal producers who have been shifting away from steam coal, used to produce electricity, to metallurgical coal, used to make coke. --- [Mark E. Heath](#)

---

## ● [BlackRock Losing 'Patience' on Pace of Corporate ESG Disclosure](#)

*"Where we felt that companies were falling short for a variety of ESG issues, we were more inclined to support those [shareholder] proposals this year."*

**Why this is important:** Back in March, we reported that the SEC began developing criteria for required issuer disclosures relating to environmental, social, and governance ("ESG") factors. Some shareholders are growing impatient, and hedge funds are seeking to apply pressure on companies accordingly. Companies are required to disclose "material" information -- an issue is "material" if there is a substantial likelihood that a reasonable person would consider it important. As more and more shareholders voice concern with ESG issues, it is more likely that the spectrum of those issues will be considered material. --- [Joseph C. Unger](#)

## ● [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**

---

**What are your areas of interest? If there are particular industries or issues that you would like to hear about, [email us](#)! We have a large number of attorneys willing to weigh in on the issues that impact you and your business.**

---

**If you would like to subscribe to this weekly e-blast or know someone who would, please [email us](#) with contact information and CURRENTS in the subject line. We will add you or your acquaintance to the email list.**

**If you have any energy questions, please feel free to [contact us](#).**

This is an attorney advertisement. Your receipt and/ or use of this material does not constitute or create an attorney-client relationship between you and Spilman Thomas & Battle, PLLC or any attorney associated with the firm. This e-mail publication is distributed with the understanding that the author, publisher and distributor are not rendering legal or other professional advice on specific facts or matters and, accordingly, assume no liability whatsoever in connection with its use.

Responsible Attorney: Michael J. Basile, 800-967-8251