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Subject: ND Challenges DOI's New Regs On Coal Mining Near Streams

PUBLIC POLICY

Wednesday, December 21, 2016

TOP NEWS

[ND Challenges DOI's New Regs On Coal Mining Near Streams](#)

North Dakota mounted a challenge on Tuesday to the U.S. Department of the Interior's controversial update to regulations aimed at minimizing harm to surface water and groundwater from coal mining operations, claiming that it impinges the state's regulatory authority while improperly expanding the federal government's power.

[SEC, MSRB Fight GOP's Challenge To New Pay-To-Play Rule](#)

The U.S. Securities and Exchange Commission and the Municipal Securities Rulemaking Board told the Sixth Circuit on Monday that it doesn't have jurisdictional standing to consider the Republican Party's challenge to new rules that increase pay-to-play restrictions on municipal advisers, saying the rules were created "by congressional will" and not by a final SEC order that can be appealed.

[ABA Launches DOE Fight Over Loan Forgiveness Denials](#)

The American Bar Association on Tuesday lobbed a lawsuit against the U.S. Department of Education over its decision to retroactively revoke a loan forgiveness program for certain borrowers, including several law school grads, who have worked in public service for nearly 10 years.

[EPA Can't Evade Court Review Of Haze Plan, 5th Circ. Told](#)

Texas asked the Fifth Circuit on Monday to refuse the U.S. Environmental Protection Agency's offer to revise its regional haze plan for Texas and Oklahoma that is before the court, arguing the plan should be thrown out entirely.

[Obama Slams Door On Arctic, Atlantic Drilling](#)

President Barack Obama made wide swaths of the Arctic and Atlantic oceans indefinitely off-limits to oil and gas drilling Tuesday, a major victory for environmentalists that will likely be challenged by President-elect Donald J. Trump after he enters the White House next month.

BANKING & SECURITIES

[SIFMA, ABA Air Worries Over CFTC Cross-Border Swaps Rule](#)

The Securities Industry and Financial Markets Association, the American Bankers Association and other swap market interest groups urged the U.S. Commodity Futures Trading Commission on Monday to hit the brakes on

LAW FIRMS

Akin Gump
Arnold & Porter
Baker Botts
Balch & Bingham
Bancroft PLLC
Barnes & Thornburg
Best Best
Bracewell
Brownstein Hyatt
Carter Ledyard
Choate
Cooper & Kirk
Covington & Burling
Cravath Swaine
Dentons
Earthjustice
Fennemore Craig
Gibson Dunn
Greenberg Traurig
Hunton & Williams
Kaye Scholer
Mayer Brown
Mintz Levin
Norton Rose Fulbright
Perkins Coie
Quinn Emanuel
Ropes & Gray
Sidley Austin
Skadden
Steptoe & Johnson LLP
Susman Godfrey
Wilkinson Walsh
WilmerHale

proposed definitions for U.S. and foreign entities under cross-border swap rules, underscoring potential harm to the U.S economy and potential regulatory overreach.

4th Circ. Says FINRA Challenge Must Go To SEC First

The Fourth Circuit on Tuesday found microcap broker-dealer Scottsdale Capital Advisors Corp. can't challenge the Financial Industry Regulatory Authority's power in federal court, because Congress gave exclusive review of FINRA rules and decisions to the U.S. Securities and Exchange Commission.

Payday Biz Group Tossed From 'Choke Point' Suit

A Washington, D.C., federal judge on Monday kicked a payday industry trade group out of ongoing litigation seeking to halt "Operation Choke Point," stating that the group's member companies would have to prove that federal banking regulators were making it hard for them to operate.

ENERGY & ENVIRONMENTAL

Industry, Enviro Lock Horns Over Cooling Water Rule

The environmental organizations and industry groups involved in the Second Circuit tug-of-war over the U.S. Environmental Protection Agency's long-delayed cooling water intake structure rule blasted the agency's defense of its regulation on Monday, with each side urging the court to side with them.

Power Plant Effluent Data Must Be Public, Enviro Say

Environmental groups told the D.C. Circuit on Monday that a district court judge incorrectly allowed the U.S. Environmental Protection Agency to broadly interpret exemptions to disclosure laws and withhold data on power plant wastewater discharges.

HEALTH & LIFE SCIENCES

Consumers Want In On House ACA Challenge In DC Circ.

Two consumers who are eligible for cost-sharing subsidies under the Affordable Care Act on Tuesday asked the D.C. Circuit to intervene in the U.S. House of Representatives suit challenging those subsidies, arguing the change in administration will leave consumers without an advocate.

TRANSPORTATION & INFRASTRUCTURE

Jurors Improperly Deliberated In GWB Trial, Defendant Says

One of the defendants convicted in the George Washington Bridge lane-closing scandal called on a New Jersey federal court Monday to throw out the guilty verdict because of allegations some jurors deliberated the case when they were not supposed to.

Limits On Remote Car Disabling Devices Pass In NJ

The New Jersey Legislature passed a bill Monday requiring auto lenders to notify borrowers before activating a device that can remotely disable their vehicles when they fail to make a payment, and preventing the companies from charging for installing the technology.

EMPLOYMENT

COMPANIES

AT&T Inc.
Amdocs Ltd
American Bankers Association
American Bar Association
American Petroleum Institute
Center for Biological Diversity
Community Financial Corp.
Entergy Corporation
Financial Industry Regulatory Authority Inc.
Financial Services Roundtable
Google Inc.
International Swaps and Derivatives Association
Los Angeles Times
Microsoft Corporation
Natural Resources Defense Council
New York Times Co.
Occidental Petroleum Corporation
Openet Telecom Ltd.
Public Knowledge
Raytheon Company
Riverkeeper Inc.
Royal Dutch Shell PLC
SIFMA
Sierra Club
T-Mobile USA Inc.
U.S. Chamber of Commerce
Verizon Communications

GOVERNMENT AGENCIES

Alaska Department of Law
Army Corps of Engineers
Bureau of Land Management
Commodity Futures Trading Commission
Confederated Tribes of the Col
Reservation
Confederated Tribes of the Umatilla Indian Reservation
Department of Commerce
Equal Employment Opportunity Commission
Executive Office of the President
Federal Communications

EEOC Sees Dip In Monetary Awards In 2016

The U.S. Equal Employment Opportunity Commission on Tuesday released its annual report for 2016, a year marked by a slight decrease in monetary wins, along with several new or revamped regulations targeting the wage gap, retaliation against whistleblowers and the application of the Americans with Disabilities Act.

GOVERNMENT CONTRACTS

BB&K Nears Win In Ex-Bell City Officials' Malpractice Suit

A California judge on Tuesday said it appears former city of Bell officials convicted of pillaging municipal coffers waited too long to file suit alleging Best Best & Krieger LLP's counsel was to blame for their predicament, but gave the officials one more shot to plead otherwise.

INTERNATIONAL TRADE

Commerce Alters Dumping Margins For Chinese Chlorine Cos.

The U.S. Department of Commerce announced an amended final anti-dumping duty order on chlorine disinfectants from China on Tuesday, following three court challenges over the last two years.

TAX

Obama's Treasury Chief Warns Trump On Tax Cuts

Treasury Secretary Jacob Lew warned the incoming Trump administration on Tuesday that it will have to either cut spending or raise taxes if it makes economic decisions that widen the fiscal deficit.

Colo. Gov. Asks Judge To Toss Challenge To Tax Measure

Colorado Gov. John Hickenlooper has asked a federal judge to toss a challenge to the state's Taxpayer Bill of Rights, arguing that the none groups behind the lawsuit — citizens, educators and political subdivisions — can show concrete injury traced back to the bill.

NATIVE AMERICAN

Tribe Denied Early Win In Casino Fight With Ariz. Gaming Head

A federal judge denied the Tohono O'odham Nation's bid for a quick win in its suit against the head of Arizona's gambling department over its right to offer Las Vegas-style gambling near Phoenix on Monday and instead set the stage for a trial next year.

Ancient Remains To Be Turned Over To Wash. Tribes

A set of ancient remains will be transferred to Native American tribes in Washington state, after President Barack Obama recently signed a piece of legislation requiring a federal agency to do so.

TELECOMMUNICATIONS

FCC's Clyburn Floats Connectivity Plan

Federal Communications Commissioner Mignon Clyburn, the lone Democrat on the commission whose term extends past January, on Monday submitted a draft plan to improve connectivity for disadvantaged Americans.

Commission
Federal Deposit Insurance Corp
Federal Reserve System
Fish and Wildlife Service
Gila River Indian Community
Internal Revenue Service
International Trade Commissior
Municipal Securities Rulemakin
Board
National Labor Relations Board
National Marine Fisheries Servi
National Oceanic and Atmosph
Administration
New Jersey Legislature
Nez Perce Tribe
Office of the Comptroller of the
Currency
Port Authority of New York & N
Jersey
Salt River Pima-Maricopa India
Community
Securities and Exchange
Commission
Social Security Administration
Tohono O'odham Nation
U.S. Army
U.S. Department of Education
U.S. Department of Health and
Human Services
U.S. Department of Justice
U.S. Department of Labor
U.S. Department of the Interior
U.S. Environmental Protection
Agency
U.S. Forest Service
U.S. House of Representatives
U.S. Patent and Trademark Off
U.S. Senate
U.S. Supreme Court

Advocates Urge FCC To Preserve Vacant TV Channel Space

Representatives from Microsoft, the New America Foundation and the Public Knowledge group met with members of the Federal Communications Commission's Office of Engineering Technology Thursday to support preservation of vacant TV channel space for public use.

EXPERT ANALYSIS

EPA Is All In On Mine Bonding

A new proposed rule from the U.S. Environmental Protection Agency would create a program for the hardrock mining industry imposing additional financial responsibility requirements above and beyond the existing bonding regimes. It would likely result in a significant shift in the respective roles of state and federal agencies as well as introduce significantly higher operating costs, say Stephanie Regenold and Cameron Leonard of Perkins Coie LLP.

Reforming Disability Claim Procedures Under ERISA

Despite the Employee Retirement Income Security Act's reputation as an erudite law primarily affecting pension plans, the U.S. Department of Labor found that 64.5 percent of benefits litigation between 2006 and 2010 involved long-term disability claims. Hence, the DOL's recent decision to take aim at the regulations affecting disability plan administration, says Cassie Springer Ayeni of Springer Ayeni.

Assessing USPTO's Memo On Software Claim Patent Eligibility

A recent U.S. Patent and Trademark Office memo to the Patent Examining Corps, in combination with precedential cases from the Federal Circuit, provides guidance to owners of software patents and patent applicants with software claims pending at the USPTO. Attorneys with Bracewell LLP share the positive takeaways.

LEGAL INDUSTRY

Quinn Emanuel, Arnold & Porter Pay Big For Top-Billing Attys

Top-billing associates will be feeling a little extra holiday cheer this year over at Quinn Emanuel Urquhart & Sullivan LLP and Arnold & Porter LLP, which will both match the bonus scale set by Cravath Swaine & Moore LLP but also hand out some additional pay to their overachievers.

Federal Appeals Keep Dropping As Few Succeed, Gov't Finds

The number of federal appeals has continued to "steadily decline," according to statistics released on Tuesday by the U.S. Courts' Judiciary Data and Analysis Office, which also found that less than 9 percent of all appeals filed in circuit courts during 2015 were successful.

Mintz Levin Settles Ex-Labor Atty's Sex Bias Suit

Mintz Levin Cohn Ferris Glovsky & Popeo PC has settled a suit brought by a former employment attorney who alleged that she was demoted due to gender discrimination and later unlawfully fired, the firm confirmed Tuesday.

Texas AG Says ABA Ethics Rule Restricts Speech, Religion

The Texas attorney general said in an advisory opinion Tuesday that if the state were to adopt an American Bar Association ethics rule prohibiting discriminatory or harassing behavior in attorneys' law-related conduct, a court would likely strike it down as unconstitutional for being overbroad.

JOBS

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