



Natural building blocks for quality of life

December 4, 2007

U.S. House of Representatives
Washington, DC 20515

RE: PLANT CLOSING IN YOUR DISTRICT DUE TO S-MINER BILL

Dear Member of Congress:

Congress is expected to consider the S-MINER bill (HR 2768) this week in an attempt to increase mine safety. Unfortunately, a number of provisions in the legislation could result in the closure of underground stone operations in your Congressional District and put those employees out of a job. For this reason, the National Stone, Sand & Gravel Association (NSSGA) urges you to oppose the S-MINER bill.

Specifically, two provisions are problematic and will serve to make underground stone operations infeasible and uneconomic. First, S-MINER requires all underground mines to be served by a primary and alternative mine rescue team and does away with the special variances underground stone operations currently hold. It is important to note that underground stone mines do not have the same safety concerns that coal mines do. Stone does not burn, explosive gases are not present, multiple exits are common, mines are not very deep and our mines are big enough to drive a rescue vehicle into –turn it around-and drive back out. Current regulations allow us to partner with local fire and rescue teams provided we hold so many hour of training on our site to ensure the responders are familiar with the types of situations they may encounter.

The cost of outfitting two rescue teams of six people each is \$350,000 - \$500,000 plus personnel and training costs. It is safe to say that the S-MINER bill will force underground stone operations to spend over \$1 million to employ twelve rescue personnel. Further, of the 109 NSSGA member and non-member companies that operate underground stone mines, 62 have fewer than 12 people, a majority of those with fewer than 10. There are only 32 operations nationwide with more than 20 people per location. Considering the average price for a ton of stone ranges from \$15 – \$20 per ton, you can imagine how many tons would need to be mined and sold to pay for one rescue team, let along two. To require aggregate producers to pay over \$1 million for a service that is already available at minimal cost is likely to lead the owners to simply shut down the operation!

Next, S-MINER requires NIOSH to forward all Recommended Exposure Limits (RELs) for air contaminants to the Secretary of Labor, who *must then require* MSHA to adopt the RELs as Permissible Exposure Limits (PELs) or enforceable health standards thereby circumventing public participation in rulemaking and preventing the development of both scientifically and technologically-sound safety and health standards and policies. The bill thrusts NIOSH into a regulatory and policy-setting role that was never envisioned and for which NIOSH, a research agency, is not prepared. Adoption of the NIOSH REL for nitrogen dioxide will make compliance extremely difficult at underground stone mines. Oxides of nitrogen are by-products of detonated explosives such as ANFO that are used in underground stone mining. The NIOSH

REL for nitrogen dioxide is a five-fold decrease from the current OSHA PEL. In suburban areas where underground stone operations are found, an exposure that exceeds the NIOSH REL is present at the fence-line due to outside environmental factors such as diesel exhaust.

These are just two provisions of the S-MINER bill that could make operating an underground stone operation uneconomic and infeasible. Closing of the operation in your Congressional District also will have a great probability of raising construction material prices as you reduce supply of crushed stone. Crushed stone is the primary ingredient of asphalt and concrete, used as the base for roadways and foundations for industrial buildings and municipal buildings like schools, libraries and hospitals.

Additionally, provisions of S-MINER are unnecessary since they duplicate existing provisions of law. Other S-MINER provisions are financially punitive in that companies are determined guilty and financially penalized before they have the opportunity to prove their innocence. In addition, S-MINER takes a one-size fits all approach that fails to recognize that mines are unique and will result in many mines installing inappropriate or unnecessary technology.

The Miner Health Enhancement Act provisions incorporated into H.R. 2768 circumvent notice and comment rulemaking, thereby preventing the development of scientifically sound as well as technologically and economically feasible safety and health standards and policies. Furthermore, these troubling provisions of the bill subvert due process of law, specifically the Administrative Procedures Act, by not allowing input from the affected parties, a basic tenant of the democratic process.

As the largest mining association by product volume in the world, NSSGA's member companies produce 90 percent of the crushed stone and more than 70 percent of the sand and gravel consumed annually in the U.S. Aggregates are the largest component of asphalt and concrete. More than 3 billion tons of aggregates were produced in 2006 at a value of approximately \$21 billion, contributing nearly \$40 billion annually to the GDP of the United States and each year it increases. Without these important natural products, the nation's infrastructure could not be built or maintained, and commerce and quality of life would be severely reduced. With over 11,000 operations nationwide and a workforce of more than 117,000 men and women, most Congressional Districts are home to multiple aggregate operations.

NSSGA and our members take safety very seriously, but unfortunately, this legislation will not improve safety in aggregate operations but will impose another layer of regulations and fines on an already highly regulated industry that has shown steady progress in improving safety. Unfortunately, some provisions will, as you are now aware, makes some mining operations infeasible and uneconomic. We strongly urge you to oppose the S-MINER bill when it reaches the House floor.

Sincerely,

A handwritten signature in black ink that reads "Jennifer Joy Wilson". The signature is written in a cursive, flowing style with large loops and a long horizontal tail.

Jennifer Joy Wilson
President & CEO