

NATIONAL STONE, SAND & GRAVEL ASSOCIATION



*Natural building blocks for quality of life*

June 9, 2008

The Honorable Barbara Boxer  
Chairman  
Senate Committee on Environment and Public  
Works  
410 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable James Inhofe  
Ranking Member  
Senate Committee on Environment and Public  
Works  
456 Dirksen Senate Office Building  
Washington, D.C. 20510

BY FAX

Dear Chairman Boxer and Ranking Member Inhofe:

I am writing in my capacity as chairman of the National Stone, Sand & Gravel Association's Pulverized Mineral Division (PMD) to express our members' opposition to the Clean Water Restoration Act (H.R. 2421 and S. 1870). PMD's members are manufacturers of finely ground limestone and other industrial minerals used in the production of construction materials, food, pharmaceuticals, paper, plastics, paint, rubber, caulk, and glass. Pulverized calcium carbonate is also used in agricultural applications, and in water treatment and stack-gas scrubbing systems. The combined revenues of PMD members total more than \$1.74 billion annually, and PMD has a geographically diverse membership that employs more than 4,700 workers at more than 61 facilities in at least 27 states.

While the Clean Water Restoration Act's sponsors believe the legislation would simply restore the power of the CWA lost due to two recent Supreme Court cases - *Solid Waste Agency of Northern Cook County* in 2001 and *Rapanos* in 2005 - the legislation in effect would add another layer of regulation on an already highly regulated industry that will increase mining costs and raise new obstacles to permitting new mines without substantial benefit to the environmental health of the nation.

The underlying fact is that the CWA rests on a partnership between states and the federal government, a partnership that would be torn asunder if Congress approves the legislation. By removing the term 'navigable' and expanding the definition of 'waters of the U.S.' to include all state waters and any activities that may affect those waters can only be read as a massive expansion of CWA jurisdiction. By assuming federal jurisdiction over all state waters, the Environmental Protection Agency and the U.S. Army Corps of Engineers (Corps) would have veto power over virtually all local land use decisions. Considering the permits our members seek already go through a rigorous approval process at the state and local levels, forcing mine operators to seek yet another permit will only add to our costs and increase delays.

In addition, because the CWA allows citizens to file lawsuits, those radical groups who oppose our operations would be given an additional venue to restate their opposition – duplicating their efforts at minimal cost to themselves, but at substantial costs to those seeking permits. The administrative costs and delays will almost certainly result in higher mineral costs and possibly in supply shortages.

Our industry is proud of its environmental record and we strive to be good neighbors; however, simply adding more regulations and lengthening the permit process does not add up to improved environmental protection. As a matter of fact, there is already a backlog of between 15,000 and 30,000 Section 404 permits. By vastly expanding the jurisdiction of the CWA, any reasonable person would expect an exponential increase in the number of Section 404 permits sought. The Corps would still have to make determinations of what sort of impacts on wetlands the permit seeker would make and then determine what sort of mitigation would be required if the permit is approved. The increased workload could paralyze the already backlogged agency to the detriment of permit seekers and the environment. The end result would be many more permits requested, longer delays, and likely regulatory paralysis, to the detriment of the environment.

Under the proposed legislation the increase in delays would also be borne by the local governments as they attempt to meet the needs of their citizens. Flood control projects, drainage ditch clearing, permitting new schools, new intersections and other local building projects would all be subject to the federal permitting process. Experience tells us that these new requirements will cost states and local governments dearly.

In conclusion, federalizing the local land use planning process is not in the nation's best interest. The gains made over the past thirty years under the Clean Water Act are directly related to the partnership between the federal and local governments, where both sides have a vested interest in doing what is right. By vastly expanding the jurisdiction of the CWA, Congress would be imperiling the permit process as an exponential number of new permits would be required, further burdening an already backlogged process. The end result would be longer delays and additional costs for all parties involved.

For the reasons noted above, we urge you to oppose the Clean Water Restoration Act. If you have any questions or would like further information, please contact NSSGA Vice President of Government Affairs Pam Whitted at 703-525-8788 or pwhitted@nssga.org.

Sincerely,



Jim Ruddell  
Franklin Industrial Minerals  
2008 PMD Chairman

**NSSGA PMD MEMBERS**

Colorado Lien Company  
Columbia River Carbonates  
Florida Rock Industries, Inc.  
Franklin Industrial Minerals  
Great Lakes Calcium Corp.  
Greystone Materials, B.T.  
Huber Engineered Materials  
Imerys-Performance Minerals NA

Linwood Mining & Minerals Corp.  
Piqua Materials, Inc.  
Mississippi Lime Co.  
Oglebay Norton Company  
Oldcastle Industrial Minerals Group  
Omya Inc.  
Specialty Minerals, Inc.

CC: Members of the Environment and Public Works Committee