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May 20, 2011

The Honorable Denny Rehberg
Chairman
Subcommittee on Labor, Health and Human
Services, Education, and Related Agencies
House Committee on Appropriations
2358-B Rayburn House Office Building
Washington, DC 20515

The Honorable Rosa L. DeLauro
Ranking Member
Subcommittee on Labor, Health and Human
Services, Education, and Related Agencies
House Committee on Appropriations
1016 Longworth House Office Building
Washington, DC 20515

Dear Chairman Rehberg and Ranking Member DeLauro:

Thank you for the opportunity to submit report language for consideration as you and the members of the subcommittee work to enact the fiscal year 2012 appropriations bill. I respectfully request that you include the following report language:

Mining Safety and Health Administration (MSHA) – The Committee has concerns about a lack of consultation between inspectors and operators, and believes that inspectors should work with operators to improve safety. The committee directs MSHA to provide confidential compliance assistance, similar to the Occupational Safety and Health Administration's (OSHA) On-site Consultation Program.

Safety should be a mine operator's highest priority, and MSHA plays an important role in improving worker safety. However, I have consistently heard from surface mine operators throughout Oregon about inconsistent and unpredictable enforcement from MSHA. Greater consultation between MSHA and operators will improve safety and reduce unnecessary costs, allowing job creators and the federal government to more effectively utilize their resources.


As you know, the Mine Act requires that each surface mine be inspected twice each year. An opportunity for a confidential consultation, like at OSHA's On-site Consultation Program, will greatly improve communication between operators and the agency, directly benefitting miner safety and health, and reducing the backlog of contested citations. Operators will have fairer notice of MSHA's interpretation of vague regulations, and will not be afraid to ask questions of inspectors about compliance concerns they have that will help them gain a better understanding of the regulations.

MSHA currently provides a similar compliance assistance program for mines with five or fewer employees within its Small Mine Office (SMO), but the program is not confidential, and it is not without the threat of punitive enforcement. This creates a disincentive to open lines of

communication. MSHA has proposed eliminating that program and integrating its personnel into the Metal and Nonmetal budget, which currently houses the enforcement program. While this proposed closure reflects a savings for the agency, it is my understanding that this would have a substantial negative impact on small mining operations that rely on SMO to help them develop and improve safety and health programs. These small businesses typically do not have the resources to employ full-time safety and health professionals and will benefit from programs that improve safety in the workplace without the fear of punitive enforcement.

Thank you for your consideration of this request. I look forward to working with you on this. Please contact Nathan Rea (6-5234) or Andrew Malcolm (6-7341) on my staff with any questions.

Best regards,



Greg Walden
Member of Congress