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November 5, 2014

TO: Whom It May Concern

RE: Proposed MSHA Rate Increase

Dear Madam / Sir:

Regarding the Mine Safety and Health Administration (MSHA) Approval and Certification Center (A&CC) proposed fee increase (from \$97/hour to \$121/hour), we appreciate the opportunity to provide these comments.

The coal industry is under tremendous pressure already, due to a variety of factors. It has been alleged that a war on coal is being waged. We may disagree, but there is no question that times are difficult for the industry. According to the Wall Street Journal (WSJ, November 2013), eastern Kentucky's coalfields had 161 active mines in the second quarter of 2013, down from an average of 256 active mines for the four quarters of 2011. Layoffs have threatened miners, families, small towns, and businesses, which support the industry, such as ours. While the factors that have caused these hardships are varied, there is no debate that a large price increase for approval review would exacerbate an already challenging situation.

We have reviewed the proposed rule change as described in federal document MSHA-2014-0016-0002 (posted on October 9, 2014). Section IV states, in part, "The proposed rule . . . under E.O. 12866, is not considered economically significant," while Section V says in part, "compliance with the provisions of the proposed rule is economically feasible." These statements might be seen to be accurate if viewed from the standpoint of a regulatory agency, or perhaps from the point of view of an extremely large corporation. However, they absolutely cannot be seen to be accurate from the point of view of a small manufacturing company trying to make ends meet in the coal service industry. The proposed rate increase exceeds 24% and would unquestionably force some small coal-related firms out of business, and would, without debate, force many of those firms which survive such an increase to lay off personnel.

The federal document continues, "The proposed rule would not have a significant economic impact on a substantial number of small entities (sec. VI)." We suggest that a substantial number of small coal-related entities be consulted and polled concerning this contention, and doubt that any of those firms would agree with the federal statement. We do acknowledge that large companies are able to absorb regulatory cost increases more easily than small ones, and that big firms naturally benefit when small competitors are forced out of business. For this reason, large companies in our industry may not object to the proposed fee increase.

If someone's house payment was suddenly and arbitrarily increased 24%, would that increase be seen as economically insignificant?

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The federal document continues that the new policy would be a "transfer payment," which is a payment "from one group to another that does not affect total resources available to society. Under the proposed rule, the applicant or the approval holder pays for services for which they receive a benefit. These services are currently paid for by the taxpayer because the fees MSHA collects are a transfer, there are zero costs and zero benefits" to society (Section IV). The document appears to hint that American taxpayers might receive a cut due to this increase, or that the federal budget deficit might be reduced. This suggestion might be reasonable if meaningful tax cuts or actual deficit reductions had actually been achieved in any recent years. The federal document's contention is actually just a slick way of making the proposed cost increase appear to have societal benefits. The growth of federal spending, without any significant tax reduction, has been a constant for well over a decade, and MSHA cannot posit any convincing argument that America's taxpayers will receive any benefit due to the proposed rate increase.

If the price of automobiles shot up 24% one day, would there be zero costs and zero benefits?

The federal government is larger today than ever before, and consumes a larger percentage of our gross national product than it ever has in the past. The truth is that the proposed fee increase would result in even more power and influence for the government, especially at the expense of small firms which operate at the margins. The only "transfer" which would result from a large MSHA fee increase would be another transfer of economic power from the private sector to the government, with corresponding loss of liberty.

It would be difficult to overstate the hardship which small coal-related firms and miners already face. Again according to the WSJ, in Kentucky's Harlan County, the number of mining jobs had fallen 48% from 2011 through June 2013, while the county's unemployment rate had risen to 16.3%, the 13th highest in the nation. In nearby Letcher County at that time, mining jobs were down 54% compared with 2011. In Knott County, mining jobs were down 68% over the same time frame.

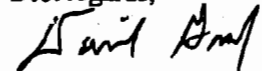
In recent months, MSHA has already achieved higher fee collection through other channels. For instance, for one of our recently approved products, the invoice we received was considerably more than five times the originally quoted estimate. For another one of our recently approved products, the invoice we received was almost three times the originally quoted estimate. For comparison with earlier MSHA reviews, in the latter case, the review fee was more than seven times the cost of a similar product which had been approved approximately four years ago.

For the reasons stated above, we request that the MSHA rate increase NOT be implemented.

If the goal is to put more economic pressure on the coal industry, or to drive small coal-related companies to lay off employees or out of business, then proceeding with the proposed rate increase is a very good idea. If the goal is to prove that a war on coal is being waged, then this increase makes perfect sense.

Thank you for your consideration of this letter.

Best regards,



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