PLAINTIFF'S
EXHIBIT
GF-2338

bc Mr. H. R. Mesler, Jr.

January 28, 1966

Honorable Abraham Ribicoff
United States Senate
Washington 25, D. C.

Dear Senator Ribicoff:

The industry with which I am connected has many mining and quarrying operations throughout the country, and as a result, I am concerned about the possible passage of H.R. 8980 - Federal Metal and Nonmetallic Mine Safety Bill.

I strongly oppose this Bill as, in my opinion, some of the regulations involved in it are highly objectionable and undesirable in their application to the mining and quarrying industries because of the following:

(1) The mining industries can be regulated best by state authorities who are familiar with all of the factors affecting mining operations in their particular states. They know the climate, geological formations, kinds of metals and minerals available, the conditions under which mining must be conducted, the effect on local employment, etc.

(2) Under the guise of an alleged need for Federal safety legislation, this measure would needlessly impose costly and burdensome provisions on mine and quarry operators through the discretionary action permitted the Secretary of the Interior, without any basic restrictions on his authority or providing standards for its exercise.

(3) The amended Bill does not provide adequate educational or practical experience requirements for the individuals who will actually inspect the quarries and mines. As the Bill now stands, it does not protect against the possibility of having

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underground mining operations, for example, inspected and perhaps shut down by someone whose experience deals only with open quarries. These operations differ greatly and what applies in one case may not apply in the other.

(4) The amended Bill fails to provide an affected Company with the opportunity for an independent review of the facts upon which an order shutting down his operation is based. The Secretary's findings of fact supporting withdrawal orders would be binding upon the Courts. Moreover, the producer seeking the limited Court review, which is available, would be required to pay the entire cost of having the record from which he is appealing prepared for the Court.

(5) The present Bill does not prevent the possibility from arising that health and safety standards developed by the Secretary might be relied upon in law suits brought by injured employees or other persons claiming that a producer has been guilty of negligence and should be held liable for his injuries.

(6) The amended Bill does not place any meaningful restrictions upon the release of information which may be developed from the mine inspections or from any reports which operators would be required to submit. As a result, an inspector could, with impunity, furnish information concerning a mine or quarry to anyone who might be seeking information regarding the operator's business. Such information would not necessarily have to be related to health and safety conditions at the mine or quarry.

Statistics developed by the National Safety Council (Accident Facts - 1965 Edition) indicated that only approximately 15% of all the accidents that occur in the industry are caused by unsafe conditions. This legislation, therefore, is aimed at trying to correct a very small percentage of the accidents that occur. This also indicates that approximately 85% of all the accidents that occur in industry are the result of unsafe acts committed by individual employees and to correct these, a continuing program of teaching and training workers is necessary and is being undertaken by most companies in this industry.

The mining and quarrying industries have good reason to be proud of their safety records, accomplished as they have been by individual management and initiative. These industries are continuing to do everything possible to reduce accidents in mines and quarries, and statistics prove that the frequency of accidents is declining year by year.

I respectfully request that you weigh the foregoing comments when you are called upon to consider H.R. 8989. It is my considered opinion that this Bill in its present form should be defeated.

Very truly yours,
The RUBEROID Co.

D. L. Neil
Vice President - Mfg.
Building & Industrial
Products Division

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