

**TESTIMONY OF NORM CLARK
AT HOUSE ENVIRONMENTAL
RESOURCES AND ENERGY COMMITTEE
HEARING ON JUNE 18, 1998 REGARDING
HB 1975 AT TUNKHANNOCK PENNSYLVANIA**

Good afternoon members of the Committee. My name is Norm Clark. I was born and raised in Meshoppen, PA, and I'm somewhat unique as a first generation dairy farmer. I have been involved in bluestone quarrying for 15 or so years in this area. I am currently the President of the Bluestone Association, and I have served in several capacities for the Association including Director of Legislative Affairs.

Bluestone is the bluish colored flagstone which is cut from the Endless Mountains of Pennsylvania and southern New York. This resource is rare and unique to this area and highly prized for its beautiful appearance as indoor flooring, sidewalks, steps and fireplace mantles. Generations of families in the rural areas of Susquehanna, Wyoming, Pike, Potter, Lackawanna, Wayne, Tioga and Sullivan counties have cut bluestone out of their farm properties, in an attempt to make a little extra money in the off seasons. Bluestone is generally located in the more inaccessible areas of farm land or overhanging ledges and therefore only usable for quarrying. The stone is cut from the mountains and ledges with hand tools and saws and every piece must be handled individually. It is an art form and craft handed down from generation to generation and neighbor to neighbor.

I got involved in the Bluestone business as it became necessary to use all the resources on our land to supplement my family's income to support development of our dairy herd. We had a small reserve of stone on our farm so I taught myself and learned from others who were in the business how to

cut stone. From time to time over the years everyone in my family worked the bluestone on our property including our daughters who used the income to buy school books when they went to college. Although I started on my own farm, I quarried Bluestone for other farmers in this vicinity who needed to supplement their income to pay taxes or buy some equipment.

In the 1980s due to an excessively rainy year we lost most of our hay on our farm which would have wiped us out unless we had the supplemental income from stone work. It carried us through the really rough times. We survived but we couldn't have without the income from bluestone.

I quit the business about four years ago and reclaimed my quarry because I couldn't afford to operate under DEP's regulation or jump through all the hoops necessary to get the permit. I want to get back into the business and I think I can, if I have your help.

The Bluestone Quarryman's Association formed a government relations committee in the late 80s when the DEP for the first time began to regulate small bluestone quarries and enforcing regulations designed for coal stripping and large mechanized stone quarries. DEP until recently, has always had a one size fits all approach to regulation and that hit us small bluestone quarrymen with a vengeance.

I ask you to keep in mind that the people who would be benefited by Representative Major's bill for the most part small family farmers working with stone on their own land or on their neighbor's land. This business has always been conducted with trust and a handshake for the deals. We were not accustomed to using supplemental C's or complicated leases or using

consultants to design operational plans, let alone being able to afford hiring consultants.

We are also relatively unsophisticated but highly independent people. Frankly, we get our backs up when people try to push us around and DEP did. They came up here and flat out told us that we either had to get a permit with all the expense and red tape including bonds, licenses and certifications that come with it, or shutdown, get out of the business and cover up the natural resource and asset vital to our economic well-being and that our families have benefited from for generations.

The impact of this type of regulation was graphically demonstrated by DEP's own statistics. In three Northeastern Counties alone the number of bluestone quarries declined from 643 in 1988 to 349 in 1993. I suppose there are some people who would say that those numbers are a sign of success; we look at it as the sign of a failed regulatory program and hardship to a great number of our citizens.

A lot of quarrymen simply quit the business myself included. Others simply ignored the regulations and tried to keep going, hoping that the inspectors would not find them. You have to understand that we were desperate. The government was hell bent on forcing regulations designed for the big guys down our throats and we knew that kind of regulation would put us out of business. Look at the statistics. You have to remember also that we are not scofflaws or environmental criminals. By and large, we lived on the land and are hardworking, tax paying citizens who have lived and worked in this area for generations. How do you think we felt when the DEP came roaring in here to put most of us out of business. This really stuck in your

throat when you looked across the border in New York and saw that all of their small operators had an exemption from regulation.

We really had our backs against the wall and most of us wanted to comply but we knew we couldn't. We had no place to turn except to the courts where we challenged the constitutionality of the regulations being imposed on us by DEP.

Our case was dismissed but Chief Judge Conaboy recognized what was going on very well and he said in his opinion:

“The issues raised by the small owners and operators of the bluestone quarries concerning over regulation is a matter more appropriately addressed by the General Assembly and the political process. The legislature has provided a safety value in which a small owner/operator may take advantage by finding a waiver or variance from the regulations....This, in no way, absolves the DER's bureaucratic machinery which very well may not be addressing the need of the small quarry owner and operator. The plaintiffs' appeal to this court that such regulations adopted by the State of New York, which exempts the small owner/operator of a quarry, would be the more appropriate regulatory scheme in the Commonwealth of Pennsylvania. As this court has indicated, the sounding board for such an argument is not the judiciary, but rather, the Pennsylvania General Assembly....

Judge Conaboy went on in a footnote in his opinion:

...But these days, an oppressive government conduct in overregulation are very topical considerations. Government agencies would do well and serve the best interest of constitutional government, to be circumspect and use restraint in interfering with private conducts. Regulation should not be imposed in a dictatorial or oppressive manner.”

We didn't agree then and we may not agree now with the Judge that there is no constitutional deprivation when state overregulation puts a lot of people out of business, but he did hit the nail on the head about dictatorial, one-size-fits-all regulation.

At the same time we began to talk to our local elected officials. With their help we were granted audiences with the bigshot DEP bureaucrats in Harrisburg and to be sure, lip service was forthcoming. I have to tell you that it seemed backwards to us; we were begging public servants to help us instead of the other way around.

Although we had meetings and promises and promises and meetings and for a while we were getting nowhere fast, we kept after it. Then our local political leaders really got involved. Representatives Sandy Major and Scott Chadwick and Senator Madigan all were helpful. The Commissioners of the Northern Tier Counties, which were also the bluestone counties, called the DEP to task for conducting business as usual. It was clear that we had strong support for the new approach that was necessary to save our industry.

Things looked up with the advent of the Ridge Administration and we began to make some progress. Working with new people in DEP we

negotiated and agreed to Elements of a Workable Bluestone Program. This led to the development of simplified permit for small operations and a small license. With these improvements our people were able to get into compliance and obtain the necessary permits. We had good cooperation with the DEP, we held roundtables and tried to engage cooperatively in problem solving rather than problem creating.

We came to realize, and DEP people agreed, that we could not solve the biggest problems for the small operators who would be covered by House Bill 1975 under the existing statute: where bonding is required, keeping the pits open over the years runs afoul of the statute and regulations under the statute generally.

There were just too many questions and problems dealing with regulatory requirements imposed by the current law that have absolutely no applicability to the small bluestone operations.

That is how we came to House Bill 1975. It was carefully crafted to deal with a very narrow problem. It doesn't eliminate regulation or enforcement. It just eliminates DEP permitting, and all the redtape and expense that goes with it. An exempt site would have to be registered and hydrology cannot be affected. We are not hiding anything. Conservation Districts would be involved. We will have soil erosion and sedimentation control plans and the DEP has ample power under the Clean Streams Law and other statutes to control activity on the sites which might create pollution or environmental harm.

As the Committee knows we have the support of important statewide organizations which have interests and concerns about DEP regulation of the small quarries and of all of our Counties.

I have to tell you that we were stunned and greatly disappointed to learn that DEP has expressed opposition to this bill and if their opposition persists, we ask that the General Assembly send a message that one-size-fits-all doesn't work here.

Surely, DEP has got something better to do than stonewall reform and snarl small family farmers and people struggling to eke out a living redtape. We just don't buy that DEP can't regulate without a permit. Think of DEP's budget and the horde of lawyers who work for the agency. Surely they can figure out some way to get comfortable that they can regulate this tiny segment of an important industry in this region if they think there is a risk of environmental harm or pollution. When you think about it, DEP probably spills more than the 70 million dollars that our little industry contributes to the local economy. It's a drop in the DEP bucket but essential to our economy.

Tomorrow you'll get a chance to see the kinds of operations to be benefited by House Bill 1975. In thinking about this bill, I ask you to keep three things in mind. First, bluestone operations of the kind we are talking about are unique. The little quarries have existed for generations without harm to anyone or anything and have helped the local community. DEP regulation will kill off this activity. ^RSecond, no federal law requires regulation of non-coal mineral extraction so you legislators are free to help us. You don't have to have one-size-fits-all. Finally, as you can tell from the letters that the Committee has received (copies of which are attached to our written

testimony), we have overwhelming local support for the limited deregulation we are seeking.

We ask that you report House Bill 1975 favorably out of your Committee and then join your colleagues from the Northern Tier in advocating its passage by the House as soon as possible.

On behalf of the Bluestone Quarryman's Association we thank you for your interest and for coming up to the area. I'll try to answer any questions you may have and I have asked our Association counsel to be here to help out.

NORTHERN TIER

Regional Planning & Development Commission
507 Main Street • Towanda, PA, USA 18848 • 717-265-9103 • 717-265-7585 - fax

April 22, 1998

Honorable Robert D. Reber, Jr., Chairman
House Environmental Resources and Energy Committee
House Box 202020
Harrisburg, Pennsylvania 17120-202020

Re: HB 1975 (PN 2549)

Dear Representative Reber:

I am writing on behalf of Northern Tier Regional Planning and Development Commission (NTRPDC) consisting of Bradford, Sullivan, Susquehanna, Tioga and Wyoming counties. Our group was formed to foster and encourage economic growth in our region and to promote the well-being of our citizens. Over the past few years, we have joined in the efforts of the Bluestone Quarrymen's Association to save a small but vital industry in our region and to preserve a way of life, the small family farm and a unique local craft, which are important contributors to the cultural history and economic prosperity of the Northern Tier.

Generations of families in the rural areas in the Northern Tier have quarried Bluestone, a flagstone which is rare and highly prized for its beautiful appearance as indoor flooring, formal walkways and courtyards and fireplace mantels, to name but a few applications, from inaccessible areas of their farm properties such as steep mountainsides and remote ledges. Bluestone is cut and shaped with hand tools and saws, in one or two man operations, to earn extra income and is a classic demonstration of the historic ingenuity of our citizens to make multiple use of land resources.

Unfortunately, the Bluestone craft does not fit neatly into the regulatory model which is designed for large mechanized mining operations, with hundreds of thousands or millions of dollars in sales and which can afford engineers and consultants to fill out voluminous permit application modules and undertake scientific studies and surveys of the impacts of mineral extraction on hydrology, wildlife, archeological values and the like.

Small Bluestone quarrymen were being driven out of business because of DEP regulation under Act 219, the Non-Coal Surface Mining Act and what is essentially a "cottage industry" and art form in our part of the world was on the wane.

With our support and encouragement, in cooperation with the Bluestone Association and under the watchful eyes of Senator Madigan and Representative Sandra Major, DEP recently

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Local Development District Serving Bradford, Sullivan, Susquehanna, Tioga and Wyoming Counties

provided some regulatory relief to the Bluestone quarrymen in the form of streamlined permitting and other measures to ease regulatory burdens. However, DEP was limited in the relief it can give because of the express mandates contained in Act 219.

The final piece necessary to restore the health and vitality of the Northern Tier Bluestone industry is HB 1975, which as you know was introduced by Sandy Major. This Bill will relieve operators of registered Bluestone sites which do not affect local hydrology and don't harm the environment, from regulation under Act 219.

This will go a long way in preserving the local Bluestone industry and, I might note, put us on a level playing field with our flagstone competition from across the border in New York.

HB1975 is a carefully crafted solution to a problem which burdens the Northern Tier counties. We join statewide organizations such as the Pennsylvania Farm Bureau and the Pennsylvania Aggregates and Concrete Association in urging you to move this Bill through your Committee and then advocate its passage by the House.

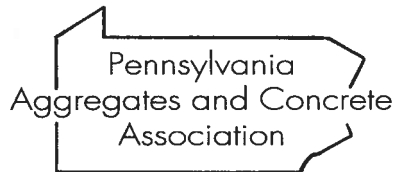
Thanks for your interest and favorable support.

Sincerely,


Kevin D. Abrams
Executive Director

KDA:tc

1600.01



3509 North Front Street ♦ Harrisburg, PA 17110-1438

March 2, 1998

COPY

Honorable Robert D. Reber, Jr., Chairman
House Environmental Resources and Energy Committee
House Box 202020
Harrisburg, PA 17120-2020

Re: HB 1975 (PN.2549)

Dear Representative Reber:

The Pennsylvania Aggregates and Concrete Association (PACA) would like to inform you as to our position on House Bill 1975, as introduced on October 30, 1997. PACA members represent a majority of industrial mineral producers, approximately 70 million tons, in Pennsylvania. Our production operations are conducted pursuant to the NonCoal Surface Mining Act (Act 219) and PACA adheres to the regulatory program under it.

PACA supports the very well crafted exclusion as depicted in HB 1975 which provides regulatory relief for the one or two person "bluestone" quarries. HB-1975 is sound because it relieves what is basically a "cottage industry" from regulations designed for much larger operations. Under the Bill, the operations which would be exempted will be registered and do not affect hydrology and do not have any harmful impact on the environment.

PACA believes that this legislation (HB-1975) does relieve their regulatory burdens and is appropriate. The Bluestone craft is a part of Pennsylvania history which would be preserved and provides a benefit to the regional economy and supplemental incomes to local landowners. PACA supports the enactment of HB 1975 and requests favorable action on it by your Committee.

Thank you for your consideration.

Very truly yours,

James D. Sells
President



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To	Henry Ingram	From	Mel Eckhaus
Co.		Co.	
Dept.		Phone #	
Fax #		Fax #	

April 9, 1998

Honorable Robert Reber
 House Environmental Resources & Energy Cmte.
 House Box 202020
 Harrisburg PA 17120

Dear Representative Reber:

It is our understanding that the House Environmental Resources and Energy Committee will soon consider House Bill 1975. The bill would amend the Noncoal Surface Mining Conservation and Reclamation Act to exclude from requirements to obtain a surface mining permit and other of the Act's more extensive regulatory requirements the extraction and removal of minerals not exceeding 1,000 tons or 750 cubic yards, whichever is less, in a 12-month period.

House Bill 1975 will provide owners of properties with noncoal mineral deposits the opportunity to modestly supplement their incomes without burdensome and expensive regulation.

The exclusion provided in the bill is not absolute. Persons engaged in surface mining activities will still be required to register with the conservation district and to take measures to protect the hydrologic balance in the area where the activities are being performed. These requirements will help ensure that the activities being performed by "exempt" operators will be done in a manner that preserves the environmental integrity of local areas.

We believe House Bill 1975 is a reasonable balance of landowner and environmental needs. We would urge you to vote in favor of reporting House Bill 1975 from committee.

Sincerely,

A handwritten signature in cursive script that reads 'Mel Eckhaus'.

Mel Eckhaus
 Director, State Legislative Programs

s:\jblhb1975-2.wpd

Susquehanna County Commissioners

717-278-4600
Fax 717-278-9268

Jeffrey L. Loomis, *Chairman*
R. Calvin Dean, *Vice Chairman*
Lee Smith, *Commissioner*



SUSQUEHANNA COUNTY COURT HOUSE
MONTROSE, PENNSYLVANIA

Phillip B. O'Malley, *Chief Clerk*
Joan M. Kamansky, *Deputy Clerk*
Michael J. Giangricco, *Solicitor*

PO Box 218 - Courthouse - Montrose, Pennsylvania 18801

4/8/98

Association
Bluestone Quarry Association
Attn: Norman Clark
R.D.# 1, Box 250
Springville, Pa 18844
Tel (717) 965-2519 Fax

Dear Norm:

We are writing you to express our support for the amendments to the Non-coal Surface Mining, conservation and Reclamation Act contained in House Bill 1975. The bill contains provisions that exclude from requirements to obtain a surface mining permit for the extraction & removal of minerals not exceeding 1000 tons or 750 cubic yards, whichever is less, in a 12 month period. This crafted exclusion provides regulatory relief for the one or two person bluestone quarries that are being operated throughout Northeast Pennsylvania.

HB 1975 is a fair, sound bill because it relieves the small bluestone quarry operations from the burdensome regulations designed and intended for much larger quarrying operations. Under the bill, the operations which would be exempted will be registered and do not affect the hydrology or have any harmful impact on the environment.

The Bluestone industry is unique to Northeast Pennsylvania in that it provides economic worth to both the individuals operating the small quarries and the local economy of the regions where the bluestone quarries are located. The Susquehanna County Commissioners support enactment of HB 1975 and requests your support in getting it passed.

Thank you for your help & consideration.

Jeff Loomis - County Commissioner

Lee Smith - County Commissioner

R. Calvin Dean - County Commissioner



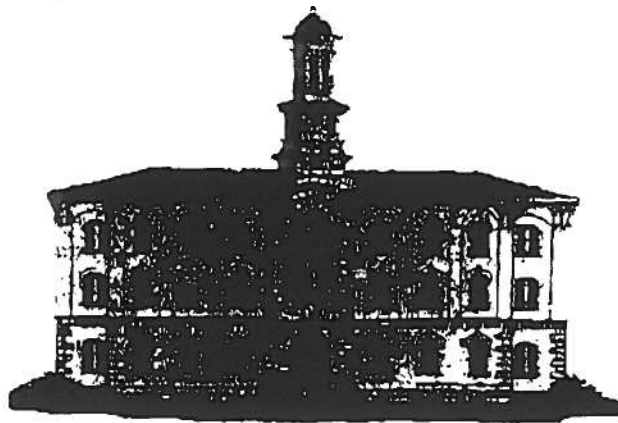
WILLIAM W REID
CHAIRMAN

ANTHONY P. LITWIN

RONALD P. WILLIAMS

WILLIAM F GAYLORD
CHIEF CLERK

DAVID SERCHAK
SOLICITOR



Commissioners of Wyoming County

1 COURT HOUSE SQUARE
TUNKHANNOCK, pa 18657

717-836-3200
FAX 717-836-7244

April 14, 1998

Honorable Robert D. Reber, Jr., Chairman
House Environmental Resources and Energy Committee
House Box 202020
Harrisburg PA 17120-2020

Dear Representative Reber:

We are writing to you to express our support for the amendments to the Noncoal Surface Mining Conservation and Reclamation Act contained in House Bill 1975. The bill would exclude from requirements to obtain a surface mining permit for the extraction and removal of minerals not exceeding 1000 tons or 750 cubic yards, whichever is less, in a 12-month period.

We believe the limited exclusion from regulation and permitting requirements which House Bill 1975 would provide is reasonable. Landowners with deposits of noncoal minerals could supplement needed incomes without onerous and expensive regulations, while requirements in the bill for protection of hydrologic balance and for registration of extraction sites will help ensure environmental integrity of extraction activities which are provided the limited exclusion from formal regulation.

We would urge you and your committee to promptly report House Bill 1975 from committee.

Sincerely,

William Reid, Chairman

Tony Litwin, Commissioner

Ronald Williams, Commissioner

Tioga County Commissioners

WALTER G. BARNES
COMMISSIONER

WILLIAM D. HALL
COMMISSIONER

ERICK J. COOLIDGE
COMMISSIONER



EDITH L. DOWLING
SOLICITOR

DEREK D. WILLIAMS
CHIEF CLERK

TELEPHONE 717-723-8191
FAX 717-723-8206

Court House Annex, 118 Main Street, Wellsboro PA. 16901

April 14, 1998

Honorable Robert D. Reber, Jr., Chairman
House Environmental Resources and Energy Committee
House Box 202020
Harrisburg, PA 17120-2020

RE: House Bill (PN. 2549)

Dear Representative Reber:

Please be advised that the Tioga County Commissioners are in support of the Amendments to the Non-coal Surface Mining Conservation and Reclamation Act, which are contained in House Bill 1975.

This bill makes sense because it relieves the small bluestone quarry operations from regulations, which are intended for large quarry operations. Under this bill, the operations which will be exempted will be registered and will not have any harmful impact on the environment nor will it affect the hydrology.

We would request your support in getting this bill passed.

Sincerely,

TIOGA COUNTY BOARD OF COMMISSIONERS

Walter G. Barnes

Walter G. Barnes, Chairman

Erick J. Coolidge

Erick J. Coolidge

William D. Hall

William D. Hall



Betty Reibson
James C. Rogers
Norman J. Miller
COUNTY COMMISSIONERS

Lynne A. Stabryla
CHIEF CLERK

Kenneth R. Levitzky
SOLICITOR

Commissioner's Office
Laporte, Pennsylvania 18626

April 13, 1998

717-946-5201 FAX 717-946-4421

Honorable Robert D. Reber, Jr., Chairman
House Environmental Resources and Energy Committee
House Box 202020
Harrisburg, PA 17120-2020

Dear Representative Reber:

We are writing to you to express our support for the amendments to the Non-coal surface mining, conservation and Reclamation Act contained in House Bill 1975. The bill contains provisions that exclude from requirements to obtain a surface mining permit for the extraction and removal of minerals not exceeding 1000 tons or 750 cubic yards, whichever is less, in a 12 month period. This crafted exclusion provides regulatory relief for the one or two person bluestone quarries that are being operated throughout Northeast Pennsylvania.

HB 1975 is a fair, sound bill because it relieves the small bluestone quarry operations from the burdensome regulations designed and intended for much larger quarrying operations. The bluestone industry is unique to Northeast Pennsylvania in that it provides economic worth to both the individuals operating the small quarries and the local economy of the regions where the bluestone quarries are located.

The Sullivan County Commissioners support enactment of HB 1975 and request your support in getting it passed.

Sincerely,
SULLIVAN COUNTY COMMISSIONERS

Betty Reibson
Betty Reibson, Chairperson

James C. Rogers
James C. Rogers

Norman J. Miller
Norman J. Miller

cc: Representative Sandra Major

County of Bradford



Commissioners' Office

Bradford County Commissioners:
Gary Goebel, Chairman
Tina Pickett, Vice Chairman
Janet Lewis, Commissioner

Chief Clerk:
Gary L. Wood

Solicitor:
Jonathan Foster

April 14, 1998

Honorable Robert D. Reber, Jr., Chairman
House Environmental Resources and Energy Committee
House Box 202020
Harrisburg, PA 17120-2020

Dear Mr. Reber:

The Bradford County Commissioners are very much in favor of House Bill 1975. This bill would exclude small quarrying operations that extract and remove less than 1000 tons or 750 cubic yards of minerals from being required to obtain a surface mining permit. Under House Bill 1975 these small quarrying operations will be registered and will not affect the hydrologic balance nor create any harmful effect on their environment.

Northeastern Pennsylvania has a unique economic opportunity with Bluestone quarrying. These small quarries provide employment and financial value to our region while providing a product that is very unusual in the marketplace. The Bradford County Commissioners urge the passing of House Bill 1975.

Sincerely yours,

Tina Pickett
Janet F. Lewis

Bradford County Commissioners



**Pennsylvania
Farm Bureau**

FEB - 3 1998

December 23, 1997

Honorable Robert D. Reber, Jr., Chairman
House Environmental Resources and Energy Committee
House Box 202020
Harrisburg, PA 17120-2020

Dear Representative Reber:

We are writing to you to express our support for the amendments to the Noncoal Surface Mining, Conservation and Reclamation Act contained in House Bill 1975. The bill would exclude from requirements to obtain a surface mining permit for the extraction and removal of minerals not exceeding 1,000 tons or 750 cubic yards, whichever is less, in a 12-month period.

We believe the limited exclusion from regulation and permitting requirements which House Bill 1975 would provide is reasonable. Landowners with deposits of noncoal minerals could supplement needed incomes without burdensome and expensive regulation, while requirements in the bill for protection of hydrologic balance and for registration of extraction sites will help ensure environmental integrity of extraction activities which are provided the limited exclusion from formal regulation.

We would urge you and your committee to promptly report House Bill 1975 from committee.

Sincerely,

A handwritten signature in cursive script that reads "Mel Eckhaus".

Mel Eckhaus
Director, State Legislative Programs

cc: Committee Members
S:\jhb\hb1975-1.wpd