

Statement for Committee on Oversight and Government Reform, Subcommittee on Government Operations on May 6, 2014 in Plymouth Michigan

My name is Janet Whitacre Kaboth. I am the President, CEO and Chairman of the Board of Whitacre Greer Company. Whitacre Greer has been manufacturing clay products since 1916 in Northeastern Ohio. The Company has been owned and operated by my father's family, the Whitacre family, since its beginning and currently is a Woman Owned business. We operate a manufacturing facility in Alliance Ohio that employs approximately 80 people. We manufacture firebrick for the inside of masonry fireplaces and paving brick. You have probably walked on our paving brick in places like Pennsylvania Avenue sidewalks in Washington DC from the Capital to the White House, Greenfield Village here in Michigan or at Joe DiMaggio Children's Hospital in Hollywood Florida.

All the jobs at our facility have a steady paycheck with good health insurance (each employee pays 10%), a 401 (k) where all employees receive 4% of their annual wages regardless of any individual contribution and a profit sharing plan where 25% of the plant profit is split equally among all employees. Many of our employees have never graduated from high school and would have difficulty finding other employment without significant training. We are currently offering to pay the cost in full for any employee that desires to obtain more training in any area. We also offer a state recognized apprenticeship program. We value our employees and have spent a great deal of time and effort over the last few years to improve our operations and make our company a good place to work. We try very hard to be a good employer and a good neighbor in our community.

My job as President, CEO and as one of the owners of the business is to ensure to the best of my ability that Whitacre Greer Company is prepared to succeed for the next 100 years. We are a very small company within the industry, with only one plant that has two kilns. We focus our sales on smaller niche markets within the industry. We are beginning the second of several phases in order to modernize our production facility to allow us to continue to exist long term. We have limited financial resources and try to focus these resources on areas that will provide us with the most improved results.

I am here on behalf of my company and my industry. The brick industry has had many peaks and valleys through the years. This is well demonstrated by the clay products industry here in Michigan where in 1911 there were as many as 138 clay product manufacturing facilities in Michigan and currently there are 7, with only one brick plant. What has happened in Michigan has happened all over the country. The companies like mine that continue to operate have been in business for close to 100 years or more. Our industry has changed greatly over these many years due to changes in product lines, economic impacts and market conditions, but also due to regulations that have been passed that can make it difficult to stay in business.

Our industry is committed to doing our share and we are committed to doing the right thing for our employees, our vendors, customers and communities. However, as our industry continues to struggle to come out of the Great Recession, we like all industry have limited resources. It is

imperative that these limited resources be used judiciously and on the most important issues. It is important that there is some benefit to every dollar spent.

There currently are many regulations that affect my plant and my industry and there will be more in the coming years, but I am going to focus on only two upcoming regulations today- the air toxics standard being developed by the US EPA and the proposed revisions to the silica permissible exposure limit, or PEL, being considered by the US OSHA. Compliance with either these proposed regulations threaten the continued existence of many small companies in our industry. Compliance with both of these rules, at the same time, will devastate our already depleted industry. This leads to my constant question concerning the regulatory development process, is anyone looking at the total cost of all these regulations on an industry?

If these regulations would save lives- of our workers or our neighbors- it would be worth it. However, in both cases, the regulating authority has data that show that the benefit of these regulations is minimal or non-existent for the brick industry.

The EPA's air toxics rule, aka the Brick MACT, which will be proposed in August, is the second time the EPA is trying to create a rule for our industry. They promulgated a rule in 2003, our industry complied in 2006, but in 2007 the courts vacated the rule. Our industry was in compliance with that rule when it was thrown out- and had installed approximately 80 of the 100 controls that now exist in our industry.

We estimate that over the past 10 years our industry has spent over 100 million in capital and operating costs as a result of that vacated MACT. Now the EPA is using the performance of those new controls to establish even lower limits for the upcoming rule. For many brick companies this would require them to replace the controls installed in order to comply with the first MACT.

EPA has data provided by our industry that shows that over 99 percent of the emissions from our kilns are pollutants that are called threshold pollutants, meaning that EPA has established concentrations that are not detrimental to human health or the environment. We have used EPA's own air dispersion models, using actual stack parameters, to clearly demonstrate that even if we emitted at our full capacity, the concentrations outside the worst facility on the worst day would be less than 40% of what EPA considers safe, and most would be less than 10%. We have spoken with EPA about this data, but have received no feedback as of yet. We hope EPA is considering this health based approach. However, the EPA has indicated the potential that, even if they consider the health based approach for the threshold pollutants, the control of the remaining 1% of emissions could still cost our industry essentially the same as controlling the threshold pollutants. That makes no sense.

EPA's own estimates put the potential cost of this regulation each and every year at more than \$188 million. That represents 22% percent of our gross industry revenue in 2012. Whitacre Greer's share of that cost is estimated to be \$5 million- 50% of our current net worth.

In September of last year, OSHA proposed revisions to the current PEL for silica. This reduction was proposed as a “one-size fits all” type regulation that is typical for OSHA.

OSHA estimates costs for this rule to average \$38,000 per year annualized over a ten year period for a brick plant. This is 15 to 18 times greater than OSHA’s estimate for the average cost in general industry. Data gathered prior to the Great Recession from the proposed regulation show the profit percentage for the brick industry to be 4.41% and the annualized cost for compliance would be 8.05% of profits. Actual financial results from Whitacre Greer plant operations since 2002 show our average profit for this time frame is 1.06% and the annualized costs from OSHA represent 33% of this average profit. Industry experts estimate that OSHA is underestimating the costs by as much as 20 to 50 times.

OSHA has been provided a significant set of studies conducted over the last 75 or more years demonstrating that the silica found in the brick industry has a different effect on the body compared to silica in other industries. OSHA even acknowledges the reduced incidence rate of our industry. They also acknowledge, but separately, the disproportionate costs. However, they do not put those two pieces of data together and consider our industry separately when demonstrating that this rule is justified.

Compliance with the proposed silica regulation will require the installation of engineering controls and other items in the first year. OSHA estimates the cost of these items to be \$906,530 in the first year for Whitacre Greer, as opposed to the annualized amount that OSHA uses. This is the amount of cash I need to have for compliance, therefore the amount that is important to me as opposed to the annualized amount.

Even using OSHA’s (probably underestimated) numbers, I calculated that given the current bank lending environment, I would be unable to borrow the first year capital costs needed. Practically speaking, compliance with both these regulations would require me to obtain a loan for \$6,000,000 to add equipment that would not reduce our costs, improve our product or increase our sales. Additionally there would be no health benefits for our employees or our neighbors. It would be impossible for us to obtain a loan of this size that would not provide us with any benefits at all. The cost of compliance with both regulations at the same time would put us out of business, and we are probably not the only brick company in the situation.

In both cases, the Acts that direct EPA and OSHA to develop these rules, and the court decisions that have come about since these Acts, have the flexibilities contained within them to allow EPA and OSHA to meet their obligations without destroying our industry. We just don’t know how to make them USE those flexibilities. To take the time to do it right, not just to do it quickly, and avoid a “one size fits all” approach that will destroy an industry.

I would like to think that after almost 100 years of providing good employment, paying taxes and being a responsible corporate entity that someone in our government could look at the cumulative effect of regulatory compliance and help us protect our workers, our neighbors and our environment, but still allow us to exist.

Janet Whitacre Kaboth

Janet is the current President, CEO and Chairman of the Board of Whitacre Greer Company. Whitacre Greer has been manufacturing clay products since 1916 in Northeastern Ohio and currently operates a plant in Alliance Ohio that employs 80 people. Janet, her brother John and her sister Lynn are the fourth generation of the Whitacre family to own and operate the business.

Janet started at Whitacre Greer in 1982 as a file clerk. Since that time, she has had many roles in the company including the design and implementation of new computer systems, marketing new products, cost accounting systems, and a strategic plan for continued family ownership. In 2005 she was elected President and CEO. In 2012 she was elected Chairman of the Board.

Janet received a Bachelor of Science in Education from Miami University and a Masters of Business Administration from Baldwin Wallace College. Her other employment prior to Whitacre Greer Company included being a teacher of high school special education and several positions as a benefit analyst in the insurance industry.

Janet currently serves on the Board of Directors of the Brick Industry Association, the Stark County Development Board and the Alliance Chamber of Commerce. Additionally she is a Trustee of the Stark County Development Finance Corporation. She has been married for 32 years and has two sons and a grandson.

Committee on Oversight and Government Reform
Witness Disclosure Requirement – “Truth in Testimony”
Required by House Rule XI, Clause 2(g)(5)

Name:

Janet Whitacre Kaboth

1. Please list any federal grants or contracts (including subgrants or subcontracts) you have received since October 1, 2011. Include the source and amount of each grant or contract.

None

2. Please list any entity you are testifying on behalf of and briefly describe your relationship with these entities.

Whitacre Greer Company - President, CEO, Chairman
of the Board

Brick Industry Association - member of Board
of Directors

3. Please list any federal grants or contracts (including subgrants or subcontracts) received since October 1, 2010, by the entity(ies) you listed above. Include the source and amount of each grant or contract.

None

I certify that the above information is true and correct.

Signature:

Janet Whitacre Kaboth

Date:

5-1-14