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NATIONAL STONE, SAND
& GRAVEL ASSOCIATION

**Testimony of Dwayne Boyd
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**On behalf of
The National Stone, Sand & Gravel Association (NSSGA)**

**Before the
House Transportation and Infrastructure Subcommittee on Highways and Transit**

**Hearing on
*“Reviewing the Implementation of the Infrastructure Investment and Jobs Act”***

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Chairman Graves, Ranking Member Larsen, Chairman Crawford Ranking Member Holmes Norton, and members of the committee, thank you for inviting me today to testify on the implementation of the Infrastructure Investment and Jobs Act (IIJA).

My name is Dwayne Boyd, and I am the President of the MidSouth Region at CRH, Americas Materials (AMAT). I lead our business in Alabama, Arkansas, Louisiana and Mississippi and have spent 38 years in the construction materials industry. CRH Americas Materials is a leader in construction materials, with a footprint that spans 47 states and 6 Canadian provinces. At AMAT, we focus on asphalt, ready-mix, aggregates and cement.

I am here representing the National Stone, Sand & Gravel Association (NSSGA), the voice of our nation's aggregates industry. Our industry operates over 9,000 locations in the U.S. and employs over 100,000 people in high-paying jobs to source 2.5 billion tons of stone, sand and gravel each year that are used to sustain our modern way of life and build our nation's communities and infrastructure.

First, I would like to echo the comments of my colleagues here today to profoundly thank the members of this committee for their work to craft, debate and advance the bipartisan Infrastructure Investment and Jobs Act (IIJA).

As our country faces economic headwinds and an uncertain future, the infrastructure bill is laying the groundwork to keep the aggregates and materials industry moving forward to build more resilient communities and stronger transportation networks.

Many do not realize this, the products we mine and make in the aggregates industry are the essential components of roads, airports, transit, rail, ports clean water and renewable energy networks funded through the IIJA. These products are quite literally, the building blocks of our nation.

The heart of IIJA, and what lies under this subcommittee's direct purview, is the 5-year, \$350 billion reauthorization of our nation's highway programs. If IIJA was not signed into law in 2021, we would likely be under another short-term extension of our surface transportation programs, facing the current inflationary headwinds with even less resources and certainty.

The passage of the omnibus appropriations bill in late December allowed for the second-year distribution of funding from IIJA to flow to state DOTs. Even though each state DOT must wait until Congress moves the annual appropriations bills to distribute the funds authorized by IIJA, the certainty of knowing how much they are receiving from the Highway Trust Fund over the five-year period has provided needed clarity that is driving planning and execution of new construction.

As IIJA is implemented, my company and the entire construction industry find it critical to ensure the funds authorized and appropriated continue to flow as intended for the life of the bill. The IIJA will provide certainty to state DOTs, and everyone involved in delivering infrastructure projects.

The DOTs in my area appreciate the flexibility of IIJA and the increased funding levels. It has allowed them to insert IIJA funds directly into their budgets. However, they have reported inflation has eroded the buying power of the increased funding levels, resulting in a smaller number of projects being let. Overall, IIJA has ensured they maintain or grow their current programs. For example:

- Mississippi is expected to pass a one-time infusion of funding, \$600M, in part to ensure matching incoming federal funds from IIJA.
- Louisiana has recently seen revenue increases as well. They have added EV fees and sales tax fees to all vehicles to boost their transportation revenue stream, to ensure the state is taking advantage of IIJA opportunities.

The projects underway in each of your states, due to the investments of Congress, are working to relieve congestion, increase movement of commerce and goods and create new energy networks and sources. Our economy is on a stronger path, and these infrastructure investments help relieve pressure points that drive supply shortages and inflation. That is why it is imperative Congress and the administration work to rapidly implement the provisions under IIJA and remove regulatory roadblocks and red tape that hold us back. I will highlight a few areas where we believe greater oversight from this committee and Congress will drive better results that allow us to build:

Buy America Build America and the Aggregates Products Exclusion

One of the key policy changes made under the IIJA was the creation of new federal Buy America Buy America (BABA) sourcing requirements, which include the addition of “construction materials” to Buy America preferences for federal infrastructure programs.

The aggregates, cement, concrete and asphalt paving industries worked with this committee and Congress, as they crafted the new statutory requirements to exclude aggregates, cement, asphalt additives and paving binders as covered construction materials. Further, products that are made by combining these items, like concrete and asphalt, are also excluded from the new BABA requirements and subsequent Buy America sourcing rules.

Keep in mind that certain geographic areas of the country do not have the geologic deposits that allow local sourcing of stone, sand and gravel to make concrete, cement and asphalt to be used in construction. These materials must be imported from nearby countries, and often it is less costly and produces less air emissions than shipping material long distances across U.S. regions. Likewise, a lack of cement capacity in the states means cement must be imported. The lack of asphalt production and refineries, especially on the east coast, requires agencies and contractors to import from Canada to meet demand for creating basic street paving materials.

Unfortunately, even after a year of work to implement the new BABA requirements, just last month OMB issued a confusing and contradicting rule that revised previous guidance issued. This new rule introduces new requirements that were not included in the IIJA and places the congressionally mandated exclusion for aggregates-based products, like asphalt and concrete, at risk.

If OMB proceeds with their rulemaking, it will upend years-long work to get the BABA requirements enacted, likely requiring DOTs and federal agencies to delay projects, further complicating implementation of the IIA's funding. We [encourage](#) OMB to proceed with a full notice and comment rulemaking on its proposed rule that will allow all stakeholders to have their input accounted for to ensure BABA, as intended by Congress, is efficiently implemented to maximize U.S. job creation.

The aggregates industry strongly supports the goals of Congress and the administration to expeditiously improve our outdated infrastructure. It is imperative that federal and state partners responsible for distributing federal investments follow the BABA law and subsequent Buy America requirements, as written by Congress, and not impose any sourcing requirements or paperwork burdens on concrete, asphalt, cement, cementitious material, aggregates, additives and binder. This will ensure maximum project delivery and American job creation.

Permitting Reform Is Needed to Build

Currently it takes years, if not decades, to plan, approve and execute new infrastructure projects. From road construction, to adding new port and rail capacity, to building air and transit networks, if bureaucratic delays continue, it will hamper the execution of IIA. Not only does this harm our businesses, but it significantly diminishes the intended impact of the IIA's investment and leaves projects exposed to more inflationary pressures.

We praise the bipartisan provisions in IIA that seek to expand federal agency cooperation and reduce permitting decisions to two years. Unfortunately, from my experience, we have yet to see this take hold on the ground and planning for new projects still takes years.

That is why our industry is even more concerned with administrative changes to National Environmental Permitting Act (NEPA) that broadens definitions, adds duplicative federal agency reviews, and allows more opportunities for outside activists to sue and stop project development.

Aggregates suppliers across the country crave certainty, as we work to supply the billions of tons of essential materials needed to improve roads; upgrade bridges; advance transportation systems and ports; and advance our modern energy infrastructure that will be funded by the investments provided by the bipartisan IIA. We are encouraged with the bipartisan calls from many in this room, and around the Capitol, to address permitting challenges and urge action on solutions that will address the current challenges we face.

Discretionary Grant Applications

The vast majority of IIA funding is apportioned to states based on mandatory funding formulas dictated by Congress. However, there also exists numerous opportunities for funding through a wide range of competitive grant programs.

While the administration has discretion to shape grant notifications, we have concerns over the complexity and criteria added to the applications. Many times, DOTs and localities will have to devote significant resources, building teams to find the data and answer questions needed to apply to these opportunities. This takes precious resources away from delivering projects to the taxpayers.

Further, certain criteria added to applications that seek to limit new capacity projects or add labor requirements have discouraged states and localities from applying for these opportunities altogether.

We would urge the administration to examine applications and find ways to reduce the application and criteria burdens to ensure the intended benefits of IJA are realized by all communities

Provide Flexibility to State and Local Agencies:

For almost two years, our industry has been pushing Congress to adopt the Cornyn– Padilla state and local covid relief flexibility language. This legislation was championed by Rep. Dusty Johnson last congress and received overwhelming bipartisan support from members of the committee. We are pleased Congress added this language to FY 2023 Omnibus Appropriations bill that was signed into law at the end of 2022.

Now enacted, this simple fix gives states and localities the opportunity to use up to \$104 billion in unused covid relief funds for infrastructure projects. -Under this legislation, a receiving entity can use up to 30 percent of its ARPA relief on infrastructure, or up to \$10 million, whichever is higher. For state governments, and for very high population cities and counties, 30 percent of their take is always going to be well in excess of \$10 million. Adding up the new flexibility funding that each entity could utilize on infrastructure investments equals \$104 billion:

- \$58.5 billion at the state level
- \$28 billion at the county level
- \$17.7 billion at the city level

Recently, for example, the state of Alabama has dedicated \$660 million in ARPA funds for upgrading local water and sewer projects.

This new flexibility will give states and localities the opportunity to use leftover funds to match federal IJA opportunities, allowing faster enactment of the bipartisan bill. We are looking forward to seeing updated guidance from the Treasury Department that clarifies how state and localities can apply the funding to infrastructure investments.

Rail Reform Needed to Move Materials to Market

It is no secret that rail service conditions are failing for the aggregates industry. Deteriorating rail conditions have a direct impact on our ability to supply millions of tons of aggregates and industrial sand, which are used to improve outdated infrastructure, build resilient communities, and drive America's energy production.

In detailed [comments](#) to the Surface Transportation Board (STB) last year, NSSGA shared how service disruptions and unwarranted price increases are severely impacting our industry. Increased wait times and poor service are leading to material price increases and restricting our ability to service key markets. Further, if we are left to truck material to service projects and markets, instead of utilizing existing rail networks, it only increases shipping costs and transportation emissions.

If action is not taken to improve service, the constant delays, and the inability to move product to market will continue to have a direct impact on supplying key infrastructure projects across the country. This will ultimately plague the implementation of the bipartisan Infrastructure Investment and Jobs Act.

NSSGA calls on Congress and the Surface Transportation Board to enact meaningful rail reform that levels the playing field between shippers and carriers. One such proposal is the pending rulemaking at STB related to reciprocal switching. If enacted, this would drive greater competition, especially for facilities captive to one carrier.

Workforce Needed to Build

A skilled and highly trained inclusive and diverse workforce is paramount to safely operating quarries that produce the critical materials found in infrastructure projects. Unfortunately, many aggregate producers are unable to hire and retain an adequate workforce in today's labor market. The aggregates and industrial sand industry takes pride in investing in its employees by providing attractive salaries, competitive benefits, robust training, support, and career development. Our industry's average annual salary is over \$75,000, and most employees spend their entire careers in the industry.

CRH continues to work hard to find, hire and train the best team. At the time of this testimony, CRH has over 3,000 current open jobs. Over 40% of these job openings are looking to fill positions in two categories: drivers or operations.

NSSGA supports policies and funding from the federal government to train workers, increase the diversity of our workforce and ensure aggregate producers can access the skilled employees needed to continue producing the building blocks of America. We support legislation that seeks to expand mine engineering and related fields at colleges and universities and develop vocational education programs supporting the mining industry. We also encourage Congress and the administration to continue its bipartisan support for programs that work with America's veterans, active and reserve service members, and their spouses to find meaningful careers and employment opportunities. Finally, we urge Congress to examine and update our immigration laws and provide new opportunities to increase the legal workforce in the United States.

Industry Leading the Way on Sustainability

Our industry has been leading the way to create more sustainable building materials that help us reach our emission reductions goals. CRH, like many across the construction materials industry, are focused on delivering more sustainable building materials and reducing GHG emissions. As implementation of the IIJA, Inflation Reduction Act (IRA) and work on Buy Clean policies continue, we urge policymakers to continue working closely with industry to identify investments that will help achieve the emissions reduction goals. We urge policymakers to prioritize funding to companies to support adaptation to lower carbon technologies.

The construction materials industry has invested considerable time and resources in developing Environmental Product Declarations (EPDs) to advance the procurement of lower carbon materials based on validated, peer-reviewed methodologies. We encourage Congress to rely on EPDs as the metric for current and future legislation concerning low emission and low carbon

materials. This will ensure rapid integration and recognition of low emission materials to build a more sustainable future.

The construction materials industry has been working for many years to improve efficiencies in our materials production and construction operations. Here at CRH we are actively engaged in the sustainability effort. We recently announced we have raised our global ambition of reducing our gross carbon emissions to 30% by 2030. This is an absolute target, covering all of our activities across CRH globally. In the area where my CRH companies operate, Alabama, Arkansas, Louisiana, Mississippi and Tennessee, we are looking to significantly increase the use of Reclaimed Asphalt Pavement (RAP) in our pavement mix designs. Asphalt pavement is 100% recyclable and processed RAP goes directly back into virgin asphalt mix, both reducing the need for liquid asphalt binder and utilizing a recycled material. We support increasing the allowable RAP percentage in construction projects. We have embraced the use of technologies like warm-mix asphalt, the use of alternative and renewable fuels, and developing more efficient asphalt plants.

Our industry is actively engaged with FHWA's sustainable pavements group and greatly appreciate the industry led cooperative partnership to drive greater adoptability and use of sustainable materials.

As implementation of, IJJA, IRA and work on Buy Clean policies continue, we urge policymakers to continue working closely with industry and recognize the work that has already been done. This will ensure rapid integration and recognition of low emission materials to build a more sustainable future.

Regulatory Certainty Essential to Growth

A sound regulatory environment from federal regulators is critical to our ability to keep aggregates materials supplied to every American community. Like all NSSGA members, we go above and beyond the many local, state and federal regulations to protect our surrounding environments.

Remember, stone, sand and gravel are used in nearly all building construction and public works projects, including roads, highways, bridges, dams, energy projects and airports, as well as environmental purposes –such as treating drinking water, storm water, and stream restoration.

Unlike other businesses, we are limited to where natural forces have deposited the materials we use, so we must engage in careful planning to ensure every community has access to aggregates. And because of high transportation and environmental costs, we normally are unable to move the vast amounts of aggregates we produce over long distances.

NSSGA members are deeply concerned that EPA's new WOTUS rule will further complicate an already lengthy and burdensome process to establish a quarry or access reserves in an existing facility. Today, it takes 10-20 years to plan and develop a quarry.

While the new rule is being portrayed as a familiar regulation, it in fact poses more questions than it answers, making it very difficult for business to plan and hire the workforce needed to

supply materials. This rule could add millions in costs and delays for accessing reserves and supplying new aggregates to markets. We want to do things the right way, but this unclear rule makes it nearly impossible to know what the right way is.

That is why NSSGA strongly supported the actions of this committee to move a CRA resolution that repeals the flawed WOTUS rule.

Further, we are disappointed this rule was finalized at the same time that the Supreme Court is actively deliberating changes to WOTUS. A ruling could come out any day that will likely change how the definition of WOTUS is determined, requiring the agencies to rewrite the rules. This will force more uncertainty and delays on our industry.

We thank the bipartisan members of Congress who have implored the agencies to wait for the SCOTUS ruling to be finalized, so aggregates operators are not forced to comprehend another rule change while we are working in overdrive to supply construction materials to build projects funded through IIA.

Ensure Sustainable Access to Aggregates

NSSGA strongly supported the inclusion of Section 11526 in IIA, which establishes a working group to examine and produce policies that ensure our nation has sustainable access to aggregate resources.

This provision was similar to the bipartisan legislation, Rebuilding Our Communities by Keeping Aggregates Sustainable (ROCKS) Act, which was championed by Rep. Greg Stanton (AZ), Rep. Troy Balderson (OH), and members on this committee. While states like Arizona and Minnesota have acted to institute policies that ensure proper planning to maintain sustainable aggregate supplies, the federal government must also be involved in this planning.

This will reduce construction costs and improve environmental outcomes, as the industry works to source materials needed to build the infrastructure funded under IIA. NSSGA looks forward to working with FHWA, as they form the working group established under Section 11526.

Conclusion

Members of committee, thank you again for the opportunity to testify before you today to provide a progress update on the implementation of the IIA.

CRH and the entire aggregates industry are proud to deliver the resources needed to build our communities and modernize our infrastructure, which is essential to the growth of our nation.

We thank you for your bipartisan efforts to strengthen America's infrastructure and look forward to working with you to achieve our shared goals.