



David W. Carroll
Vice President - Environment, Health & Safety, and Government Affairs

September 9, 2002

Ms. Mai Dinh
Acting Assistant General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: Proposed Amendments to 11 CFR Part 110
Request for Comments Regarding Use of "indirectly" vs.
"any other person" in 2 USC Section 441e

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
SEP 11 10 53 AM '02

Dear Ms. Dinh:

I write on behalf of LaFarge North America Inc. and the U.S. citizens and permanent resident aliens who are its employees in response to a request by the Federal Election Commission set forth in Notice 2002-14 for comments on the significance of the fact that the Bipartisan Campaign Reform Act of 2002 ("BCRA") amended 2 USC § 441e so as to use the word "indirectly" where the phrase "through any other person" had previously been used. In particular, per that Notice the Commission seeks comment on whether the new statutory language prohibits foreign-controlled U.S. corporations, including a U.S. subsidiary of a foreign corporation, from making corporate donations or from making federal contributions from their PACs, or both.

Lafarge North America Inc. is a Maryland corporation headquartered in Herndon, VA. It is a Fortune 500 company engaged in the production and sale in the United States of cement and ready-mixed concrete, aggregates, asphalt, concrete blocks and pipes and recast and pre-stressed concrete components. It has major manufacturing sites in a number of states, including Alabama, Colorado, Florida, Georgia, Kansas, Kentucky, Maryland, Michigan, New York, Ohio, Pennsylvania, and South Carolina. Last year, it had U.S. sales of approximately \$3.5 billion and had more than 9000 U.S. employees. Its stock is listed on the New York Stock Exchange. Lafarge North America Inc. and its employees have an interest in your request in Notice 2002-14 for comments regarding the significance, if any, of the amendment to 2 USC § 441e because, notwithstanding its substantial U.S. presence, Lafarge North America Inc. is more than 50% owned by Lafarge S.A. (the worldwide, Paris-based group).

Lafarge North America Inc. believes that the use of the word "indirectly" in § 441e, as amended by BCRA, should not be construed to prohibit a foreign-controlled corporation,

including a U.S. subsidiary of a foreign corporation, from making non-federal donations of corporate treasury funds or federal contributions through a political action committee.

The legislative history of the BCRA contains no discussion of Congress' purpose in making the subject change to § 441e other than two very brief comments by Senator Feingold. One of these comments is quoted in Notice 2002-14 and found at 148 Cong. Rec. S1994 (daily ed. March 18, 2002). With respect to the amendments to § 441e, Senator Feingold said there that the amendments "prohibit[] foreign nationals from making any contribution to a committee of a political party or any contribution in connection with federal, state or local elections, including any electioneering communications. This clarifies that the ban on contributions [by] foreign nationals applies to soft money donations." The only other comment, which was also very brief, was by Senator Feingold a year earlier, during the debate on S.27, the precursor to BCRA. At that time, he simply said that the amendments to § 441e "[s]trengthen[] the foreign money ban." 148 Cong. Rec. S2444 (daily ed. March 19, 2001).

As is implicitly suggested in Notice 2002-14, it would appear from the comment made by Senator Feingold on March 18, 2002 that the purpose underlying the amendments to § 441e was to assure that the provision applied to donations by foreign nationals to candidates for state and local office, to political party committees and to other expenditures in connection with state and local elections. Further, it would also appear these amendments were intended to be a response to arguments made by various parties after the 1996 elections that § 441e did not apply to such donations because its scope was limited by the definition of "contribution" found in the rest of the Federal Election Campaign Act of 1971, as amended. Significantly, there is no indication that, in amending § 441e, Congress proposed to do more than respond to such arguments. In particular, there is not a shred of evidence that Congress, in adopting such amendments, intended to change the rules regarding political activity by U.S. corporations which are foreign-owned.

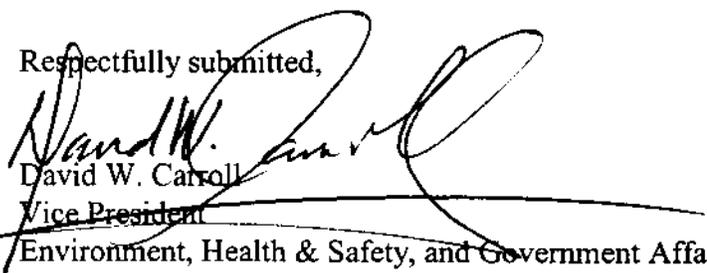
Such a lack of evidence is important in light of the fact that the Commission over the years has issued a long and consistent series of Advisory Opinions establishing what the rules are with regard to political activities by such U.S. corporations. See, e.g., Advisory Opinions 2000-17, 1999-28, 1995-15, 1992-16, 1990-8, 1989-29, 1989-20, 1983-31, 1983-19, 1982-34, 1981-36, 1980-111, 1980-100, and 1978-21. These Advisory Opinions are noteworthy for their abundance, the lengthy period during which they have been issued, and the consistency of the principles they enunciate and apply. Given how well-established and of what long duration these rules are, if Congress had intended to change them by means of its amendment to § 441e, one would expect that it would have stated so expressly and devoted some discussion to the matter. Instead, it was silent. As a result, it would be inappropriate to conclude that the amendments to § 441e were intended to repeal or otherwise alter the long-established principles which the Commission has set forth in its Advisory Opinions and regulations on this issue.

Further, we believe that to do so would cause great injustice to LaFarge North America, its employees and the hundreds of thousands of U.S. citizens and permanent resident aliens working for similar employers. The provisions of existing law which permit U.S. corporations to establish PACs reflect the simple principle that employees of a particular corporate enterprise



have a legitimate interest and right to work together to promote common goals. Indeed, "committees" are a notable American phenomenon; and Americans have organized themselves and conducted their social and political affairs through committees since our Country's beginning. See A. deTocqueville, Democracy in America, Vol. I, Chapter XII ("political associations in the United States") (P. Bradley Rev. Ed. 1945) (Bowen trans. 1862). We do not believe that our right to participate in the American political system through a committee should be limited to any greater extent than that of any other U.S. citizen. Our citizenship is no less legitimate than that of others, and our love of country no less deep. As a result, our voices should not be any less heard. Further, we should be accorded the same privileges as employees at U.S.-owned companies, and have the ability to have our voices heard as a group rather than simply as single individuals. Consequently, we believe that there is no need as a result of BCRA to revisit the rules which the Commission has consistently applied to U.S. subsidiaries of foreign corporations and that the Commission should reject any proposal to do so.

Respectfully submitted,



David W. Carroll

Vice President

Environment, Health & Safety, and Government Affairs





Cement

September 10, 2002

Ms. Mai Dinh
Acting Assistant General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
SEP 16 1 56 PM '02

Dear Ms. Dinh:

I am a US citizen employed by Lafarge North America and am contacting you on behalf of our employees that actively contribute to our Political Action Committee (PAC).

I am writing to respond to the Commission's request in Notice 2002-14 for comments on changes made by the Bipartisan Campaign Reform Act of 2002 to U.S.C. 441e. The proposed change would prohibit companies such as Lafarge North America, which is more than 50% owned by a foreign corporation, to make contributions to state and local candidates and through our PAC to federal candidates.

I believe it would be unfair to my co-workers and me to apply the law in such a fashion. We should have the same rights as employees at other companies to be able to speak with one voice on the issues that affect us. Congress gave no indication in the legislative history of the Act that it intended to change the current rules. Therefore, the Commission should not discriminate against us because our employer is foreign-owned and should leave the rules as they are.

If you have any questions, please do not hesitate to contact me directly at 518/756/5016.

Very truly yours,

Tony Madrazo
Human Resources Manager

Northeast Region

Post Office Box 3, Ravenna, NY 12143

Office: (518) 756-5000 Fax: (518) 756-9333

www.lafargenorthamerica.com



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Ms. Mai Dinh
Acting Assistant General Counsel
Federal Election Commission
999 E Street, NW
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If you have any questions, please do not hesitate to contact me directly.

Sincerely,

Alain Pfaff

RIVER REGION

Davenport Plant

301 E. Front Street, P.O. Box 690, Buffalo, IA 52728

Office: (563) 323-2751 Fax: (563) 323-7001

September 9, 2002

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Acting Assistant General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

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Sincerely,

W. E. Cradom Jr.
WILLIAM E. CRADOM JR.
2048 Cedarcrest Lane
Independence, KS 67301

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Sincerely,

Dave Dziubinski
Plant Manager,
Whitehall Cement Plant