

Reference Document Problems with HB 2248
By Guy Michael, March 4, 2013

In Section 1, (1) and (2) of the Bill, it states it only applies to “surface mines for nonaggregate minerals” This appears to mean that a hardrock mine that does not use chemicals and process less than 5,000 yards per year would still be in this category.

Large mining companies have the ability to spread the costs over a substantially larger volume of material production; however, small mining production is enough less that it takes a higher value in the deposit to cover the costs to mine. Since HB 2248 has increased some of those costs to six times the previous amount, small hardrock mining of less than 5,000 yards a year will now pay an increased costs for permitting to DOGAMI.

The definition Section 2, (2) for nonaggregate minerals includes “metal-bearing ores”. The problem is that even a hardrock mine that does not process more than 5,000 yards a year or with chemical is now subject to the higher costs for operation. Costs which have jumped to six times the normal costs (*renewal fee was \$456, is now \$2,500. Inspection fee was \$200, now is \$1,200, and an “initial fee” not to exceed \$1,260. And the annual tonnage fee of \$635 + \$0.0075 per ton of aggregate or mineral ore extracted based on slop stability, or proximity to waters of the state, environmentally sensitive areas*) (Total fee per year could add up to \$5,675 per year)

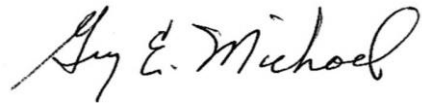
Non chemical mining should be exempted from the new increased costs for application fees and reclamation fees and the year end per ton fee. The year-end per ton fee (\$635 + \$0.0075 per ton processed) really looks more like a royalty fee when you consider a mandatory renewal fee is also included (\$2,500). The \$1,250 for inspection is rather spendy too. The majority of mining takes place on lands **not** owned by the State of Oregon. The purpose of the State’s involvement is for protecting the welfare of neighbors to the project. And this does not consider any other agency fees that may be required.

Another item in HB 2248 is the allowance for public involvement that subjects private property rights to public scrutiny. (Oregon Constitution Article I, Section 18). This Bill also removes an elected body’s advice (the soil and water conservation district) from the statute. These districts would certainly know more about the local areas within their district and if there would be any harm to neighbors next door to a project. In actuality they are a better peer group than the State taking the position to open all private property mining projects to public involvement; instead of protecting the absolute right to acquire the minerals and protecting only against any harm to other private property nearby.

ORS 517.915 (4) requires the Department to consult with “affected public bodies as defined in ORS 174.109” on reclamation and possible impacts on ground and water aquifers. DOGAMI can handpick anyone that is not an “officer or employee of the judicial...or legislative department”. The statute also encourages other agencies with public bodies, including local

governments. These are advisory groups from the public now given more involvement into private business affairs of mine owners; there is not even a requirement of professional status for knowledge or expertise in any field of mining. This is most unacceptable.

This statute also requires a \$10,000 fine for any reckless cause of “harm to...the environment” without a valid permit. (ORS 517.990 (5) & (6)). Although this is not a new item added to the statute, mans environment is not an Oregon constitutionally protected person. It is the general welfare of the people. Mining minerals is necessary and a private right of the private property owner. The State’s function is only to see that the rights of affected property owners nearby are not harmed. Mining does not destroy or harm the world and this is outside of the States jurisdiction under the Constitution. To begin with, in any mining operation it is often necessary to clear the vegetation. It must be considered that mining takes place on private property. It is the owner of the property who can take out any plant he wishes too and the state has no right to say otherwise.

A handwritten signature in black ink that reads "Guy E. Michael". The signature is written in a cursive style with a large, prominent "G" and "M".

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