

Dear Senator: Dingfelder

My wife and I are opposed to SB401 and SB838. Mining in Eastern Oregon is a part of our custom and culture. I mined for many years with my father and now I mine with my wife and children. I understand mining, protection of the resources while mining, and I understand reclamation of mined sites. I am very concerned that the committee on Environment and Natural Resources does not understand much at all about placer mining, and yet proposes bills such as SB401 and SB838 to prohibit this activity.

SB401: Two streams in this area are proposed to be included in the state scenic waterways bill, the North Fork Burnt River, and Eagle Creek. These streams run through highly mineralized areas. It appears that it is not that these streams are particularly scenic in nature that caused them to be included in this bill, but rather that gold and miners are present. Targeting mineralized waterways so that mining would be prohibited, is contrary to the philosophy behind the Oregon Scenic Waterways law. In addition, Oregon does not own the minerals along either the North Fork or Eagle Creek. These are Federal minerals owned by the miners, or private land minerals owned by the private surface owner. Prohibiting miners from mining their private minerals would be a takings. Oregon will be looking at costly litigation if this Senate Bill goes forward.

SB838: This bill puts a moratorium on suction dredge mining and on mining beside the streams until 2016, or longer if the moratorium is extended. Portions of the stream where my family's claims are located have been designated bull trout habitat. My family has mined here for generations without impacting the fish. We also own private property within 300 feet of the stream and have two water rights, one dating back to the 1800s, which would be jeopardized under this bill.

Mining is a statutory right under the 1872 Mining Law, as amended. The miners, such as my family, have a private property right in the mineral estate and a private property right in our water rights. Prohibiting us from mining our privately owned minerals would be a takings.

The Forest Service has conducted countless surveys, both in the stream channel and beside the channel, to assess the effects of mining. Consultation has taken place with US Fish and Wildlife Service and with National Marine Fisheries. Our claims have been studied to death. We mine off-channel leaving a protective, no entry buffer along the waterway. The Forest Service conducts analysis to ensure that there is no risk of discharge from settling/recycling ponds or from mining excavations. Buffer widths are completely site specific and are based on many factors, such as whether there are mounds of old tailings that work as a sediment barrier, if the topography grades away from the water way, if the area between the operation and the waterway is vegetated. The Forest Service uses on the ground surveys and BMPs to establish buffer widths. Never do they advocate a one size fits all buffer of 300 feet, as is found in SB838. There is no reason for a moratorium on mining within 300 feet of the stream while the state does studies; all those studies are already done by the Federal government. When the Forest Service completes analysis, and approves a Plan of Operation, you may be certain that there is no chance that water resources or fisheries will be adversely affected.

As far as the effects of suction dredge mining, these too have been studied by the Forest Service. Our family claims are downstream of the historic French Diggings hydraulic mining operations that discharged thousands of tons of rock tailings down the stream. Our claims have no habitat for bull trout because of the deep cobble that covers the stream bed and extends hundreds of feet on either side of the stream. SB838's blanket prohibition on mining instream and beside the stream should not apply to our claims, since this prohibition is not based on the best available science.

SB838 is completely off the mark. Off-channel placer mining in our area provides jobs and huge economic benefits to our rural communities. Placer mining is just a temporary use of the land, and complete reclamation of the surface is required following the operation. Many times the land is left in a better condition than it was when the miner began his operation. Implementation of SB838, with all placer mining shut down along adadromous and bull trout streams, will adversely affect hundreds of placer operations, and will adversely affect the men and women in this area who derive all or part of their income from mining. Oregon does not own the minerals underlying Federal lands. Individuals and companies will unite in litigation. The mineral estate is a private property right that the state cannot arbitrarily take away.

SB838 should not be allowed to go forward. The bill involves a takings of the private property rights that we, as mine owners and private property owners, have in the mineral estate. This bill will adversely affect me, my family, and countless other miners in this area. I am asking that the members of the Environment and Natural Resources Committee vote no on this bill. I am also asking that you include my letter in the record for this bill, and that you keep me informed about this bill.

Sincerely,

Dave and Linda Scott

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