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Reference:

Public Comments SB 838

Senator Jackie Dingfelder , Chair and

Senator Alan Olsen, Vice-Chair

Environment and Natural Resources Committee

Honorable Senators,

As a “small scale miner”, I respectfully request that you oppose Senate Bill 838 for the following reasons:

- A “moratorium on certain mining using any form of motorized equipment” will put at least four small scale “MOM and POP” mining supply businesses that I am aware of “*out of business*”. The owners are personal friends and claim they will no choice but to leave the state if this bill passes. Senate Bills 115, 370 and 401 will have the same negative effect on their business. **ORS 517.123 states: “prospecting, small scale mining and recreational mining (2) “Provide economic benefits to the state and local communities; and”.** Why are we creating a negative effect on the economy?
- SB838 Directs Governor's office to study certain issues related to mining using motorized equipment. **This study was requested and completed per SB 606 as required and Passed by Senate April 12, 2001 Repassed by Senate May 31, 2001. This study was completed by the Institute for Natural Resources, Oregon State University, as “Recreational Placer Mining In The Oregon Scenic Waterways System”, authors David Bernell, Jeff Behan, and Bo Shelby, January 2003, INR Policy Paper 2003-01.** Where is the funding to pay for this study going to come from? Why spend taxpayers’ dollars again for that has already been completed and ignored??

This study was required in SB606 by Oregon State Parks for Oregon Scenic Waters to determine if placer mining using suction dredges would harm OSW waters. Page one of this report shows stake-holders who participated in the yearlong study requiring one full day out of each month for every stakeholder. The cost of this report represented thousands of tax payer dollars from State Parks budget. Notice at the top of page 6 a list of mineralized streams that would have allowed suction dredging. This was at the request of miners to avoid a possible "Takings" issue for Federal mining claims holders of their mineral property. The League of Women Voters rejected these recommendations after the Oregon Parks and

Recreation Commission approved this concept on April 15, 2004. At the bottom of page 6 showing Oregon Parks Commission approved the stake-holder concept. Governor Ted Koulengoski at the request of the Green League of Women Voters denied the 73 Legislative Session to review this report required in SB606. This is the same attorney general Ted Koulengoski who banned all hand panning in Oregon Scenic Waters when he was Oregon's Attorney General in the 80's. This is why Oregon Independent Miners introduced SB606. SB606 overturned Attorney General's Ted Koulengoski's anti mining ruling, but SB606 had a Sunset Clause requiring Oregon Parks to do a study to see if suction dredges harmed Oregon Scenic Waters. *The Stake-holder study did not find significant harm.* When Governor Ted Koulengoski became governor he was able to nullify all the time and tax payer money spent on this study. The report ended up in the trash can. Ted Koulengoski demonstrated a total disregard for high level state agency personal time and citizen stakeholder time loss. This was a blatant total waste of taxpayers money.

- Currently ORS 517.123 States: “**Legislative findings.** The Legislative Assembly finds that prospecting, small scale mining and recreational mining: (1) Are important parts of the heritage of the State of Oregon; (2) Provide economic benefits to the state and local communities; and (3) Can be conducted in a manner that is not harmful and may be beneficial to fish habitat and fish propagation. [1999 c.354 §2].” **SB 838 deletes item (3).** Miners find that if science agrees with them, it is ignored by governmental agencies. This is but another example of the “bullying” that miners deal with. Why are prior “legislative findings” being ignored? The **moratorium ignores item (2) and creates a hardship on small business.**
- ORS 517.125 states: “**Rules to be adopted in consultation with affected parties.** Any rule pertaining to recreational or small scale mining adopted after June 28, 1999, shall be adopted in consultation with affected parties. [1999 c.354 §3].” Agencies in Oregon by-pass this law by issuing “orders”. Currently DEQ only “consults” with environmental groups and refuse to consider or acknowledge any positive study when adopting “rules/ORDERS”. The new NPDES permit which DEQ is holding meetings on is a good example of the one way conversation. DEQ tells the miner (not consult) what the permit will include and will not engage in a two conversation. The first meeting held in Medford, OR on March 7, 2013 was a perfect example of this one way corporation/conversation. Their attitude is if you (the miner) don’t like it, “then sue us”. DEQ said exactly that at meeting in Portland three years ago.
- 390.835 states: (1) “**It is declared that the highest and best uses of the waters within scenic waterways are recreation, fish and wildlife uses.” This statement is mentioned no less than 15 times in this one section of the ORS, “for purposes other than recreational prospecting not requiring a permit shall be prohibited”, is mentioned no less than 5 times.** Oregon and Federal law defines “prospecting” and Oregon law defines “recreational mining”. Under the Mining Act of 1872 mining is mining. Currently DEQ requires that miners classify themselves as “Waste treatment facilities” to operate under the NPDES

general permit. This fee for this permit is established by federal law. SB 838 will establish an Application Fee of \$300 and a renewal fee \$25, no mention of a fee for the initial permit, if issued. Currently the water resources department requires an application fee knowing that they will not issue a permit and the fee is for the “application”/rejection. Are we to have a federal and state permit for the same activity? DEQ claims there are about 1100 permits. They have wasted tens of thousands of taxpayer dollars on the permit process and lawsuits just to collect \$27,500 in permit fees.

These are the definitions for mining in Oregon:

“517.120 Definitions for ORS 517.120 to 517.133. As used in ORS 517.120 to 517.133:

(1) “Mining” means the removal of gold, silver or other precious minerals from aggregate or a vein of ore.

(2) “Mining claim” means a portion of the public lands claimed for the valuable minerals occurring in those lands and for which the mineral rights are obtained under federal law or a right that is recognized by the United States Bureau of Land Management and given an identification number.

(3) “Prospecting” means to search or explore, using motorized or nonmotorized methods, for samples of gold, silver or other precious minerals from among small quantities of aggregate or ore.

(4) “Recreational mining” means mining in a manner that is consistent with a hobby or casual use, including use on public lands set aside or withdrawn from mineral entry for the purpose of recreational mining, or using pans, sluices, rocker boxes, other nonmotorized equipment and dredges with motors of 16 horsepower or less and a suction nozzle of four inches or less in diameter.

(5) “Small scale mining” means mining on a valid federal mining claim operating under a notice of intent or plan of operations while using whatever equipment is necessary, as approved by the notice of intent or plan of operations, to locate, remove and improve the claim. [1999 c.354 §1].”

If a miner is unable to satisfy the requirements of his legitimate mining claim, federal law allows for legal claims as ‘takings’. Many miners will have no recourse other than to file lawsuits. This could be as one giant class action suit against the State of Oregon.

The real reason all of these “bad bills” is that the California has chased the prospector/miner out of California. Many of these folks have come to Oregon to spend their money. Now, evidently Oregon does not want their money and the tens of thousands of dollars that Oregonians spend annually.

I respectfully request that the Oregon Legislature vote against SB 115, SB 370, SB 401, and SB 838.

Thank you,

s/s

Theo Stanley