

Testimony on SB 838- Senate Committee on Environment and Natural Resources

Madam Chair Dingfelder, Senators Hass, Olsen, Bates, and Hansell,

My name is Ken Alexander, I live in Unity Oregon, and I am president of the Eastern Oregon Mining Association (EOMA).

EOMA opposes SB 838 for its adverse effect on locatable mineral mining. EOMA is concerned, not only with the adverse effect on suction dredge mining within the beds of the streams, but also with the adverse effect on placer mining operations within 300 feet of streams.

My testimony is focused on the effect SB 838 will have on precious mineral mining that is not actually done in-stream. Placer mining is already prohibited in the banks of streams. This bill will have an adverse effect on placer mining within 100 yards of streams. There is already a tremendous amount of oversight by Local, State, and Federal agencies to prevent degradation of water quality by mining activities. Individual stream buffers are designated by regulatory agencies regardless of whether or not there are fish present. This is done to prevent impacts to water quality as is required by the Clean Water Act. Miners also have to spend considerable time and money to ensure their mining activity near a stream is mitigated to prevent any discharges into streams. This includes designing operations with settling ponds, recycling process water, and utilizing berms, silt fences, and other measures to protect water quality from mining impacts.

SB 838 states that the moratorium would apply to the "*placer deposits of the beds of the waters of this state*", and then the bill states "*the moratorium applies to the adjacent 100 yards of stream bank*". There are many placer deposits that have been mined, and are currently being mined, that are within 300 feet of streams. There is no evidence that this kind of off-channel mining is adversely affecting water quality. To arbitrarily require a 100 yard buffer regardless of hydrology or terrain is unreasonable.

The "*waters of this state, as defined in ORS 196.800,*" includes all "*intermittent streams*" and "*all other navigable and non-navigable bodies of water*". SB 838 applies this moratorium "*on the **full length** of any river and tributary thereof in this state, of which **any portion** contains essential indigenous anadromous salmonid **habitat**, as defined in ORS 196.810, or naturally reproducing populations of bull trout*". It makes no sense to stop off-channel mining on an intermittent tributary that may not even have an actual fish, but only has what has been designated **habitat** somewhere in the drainage. And it makes no sense to stop mining when the Forest Service, BLM, or DOGAMI has determined that this mining will cause no adverse effects to the water quality. Worse yet, a broad interpretation of this statement could apply the moratorium to any tributary of the entire John Day, Grande Ronde, or many other watersheds. There is no reason to pass a bill that will have such a far reaching effect throughout the state without any evidence whatsoever that this off-channel mining has any adverse effect on "*anadromous salmonid habitat*" or on "*naturally reproducing populations of bull trout*".

The language of SB 838 forbids the removal or disturbance of streamside vegetation within 100 yards in a manner that **MAY** impact water quality. This statement is too vague and ambiguous.

This would invite litigation by organizations that object to any kind of activity regardless of the actual impact to water quality.

As stated previously, there are many placer deposits that are located within 300 feet of streams. A five year moratorium would seriously affect the lives of many miners who own these valuable mineral deposits. Many miners have purchased mining claims, invested thousands of dollars in backhoes, bulldozers, and wash plants in order to extract their legally owned minerals. Whether or not imposing a five-year moratorium on their ability to recover their minerals would be enough to justify a claim for damages or a "taking" claim under the 5th amendment, would surely be tested in court.

It costs miners hundreds of dollars every year just to maintain ownership of mining claims, and paying their required fees would be even more onerous if mining operations were placed under a moratorium. Reclamation of existing disturbances during the five year moratorium will be stalled, and miners would still have to maintain their reclamation bonds. The cost of expensive machinery sitting idle for five years would be prohibitive. The effect of a five year moratorium on the use of mining water rights is unknown, but would subject the miners to possible cancellation for non-use.

SB 838 requires a moratorium, not just for mining the beds of the rivers, but stops mining in areas 300' from both sides of the river. But the bill requires the governor's office to "*study matters related to mining using any form of motorized equipment to extract gold, silver or any other precious mineral from placer deposits of the beds of the rivers of this state*". So even though the State is prohibiting off-channel mining, it is not planning on studying anything other than the beds of the rivers.

The bill goes on to require "*a revised regulatory framework that includes but is not limited to: (a) A consolidated regulatory process for mining using motorized equipment or motorized dredge including a single permit system*". It is unclear whether the consolidated process is only being required for mining in the beds of the streams with a motorized dredge, or if the bill requires a revised regulatory framework with a single permit system for **any** mining using motorized equipment. This, of course, would duplicate the operating plan approval process required under DOGMI, BLM, and FS surface mining regulations.

The economic impact of SB 838 on the mining industry and the supporting industries will be considerable. Fish and water quality are already protected by many laws, and further study is completely unnecessary. The Eastern Oregon Mining Association strongly urges you to vote no on SB 838.

Sincerely,



Ken Alexander, President EOMA

P.O. Box 932

Baker City, Oregon 97814