Jefferson Mining District

The Date of February 12, 2013.

SUMMARY FOR CONTENTS OF PUBLIC COMMENT **OPPOSING** LEGISLATION
Agriculture and Natural Resources Committee **HR 2259**

Please add this Summary Sheet and Attached Comment to the Bill Folders for HR 2259 and make this notice a part of the Public Record.

Comment Summary Subject Matter Showing Opposition Warranted

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Condemn the Proposed Legislation Found Inimical to the Public and Private Good.
    The Assembly of Jefferson Mining District earnestly urges this esteemed body to condemn such violative and harmful legislation as the Bill challenged before it.

Comment Attached

Jefferson Mining District

The Date of February 12, 2013.
COMMENT FOR THE PUBLIC RECORD
HR 2259

House Speaker Tina Kotek, Brad Witt, and the Agriculture and Natural Resources Committee Members.

Because of surprise and lack of adequate time for response to each: **Please add this token Comment and Summary to the Bill Folder for HR 2259 and make this notice a part of the Public Record.**

Resolved: Those of the Assembly of Jefferson Mining District vigorously OPPOSE the Bill for the following substantial Law-based reasons, time prejudicially obstructing a more informed response.

Dear House Speaker Tina Kotek, Brad Witt, and the Agriculture and Natural Resources Committee Members:

Introduction

My name is Ron Gibson. I am duly elected by the Assembly of Jefferson Mining District, to the Office of interim chairman, commenting here in this official capacity. I have 43 years experience in the mineral industry, including engineering, mineral estate possession, mineral extraction, mineral product invention, and research and application of the mining law, including Water Law, more specifically the Water Appropriation Water Doctrine, and of ingress and egress, including highways. Mining districts have governmental power and authority and special expertise privy to the unique subject matter of the mineral estate acknowledged by Congress through prevailing federal legislative enactment. Jefferson Mining District is the largest mining district in America, the jurisdiction of which currently serving thousands of mineral estate and other Mining Law grantees and directly covering 3 states including almost half of the state of Oregon. Jefferson Mining District authority extends to any issue adversely affecting miners or mining law related grantees in the cognizance of Jefferson Mining District, such as is being attempted in any of the current proposed legislation adversely affecting the mineral estate or granted water rights. Being the Mining law potentially affects every citizen, Jefferson Mining District serves and responds on behalf of untold millions of Americans now and into the future.

Thank you for this opportunity to respond to the proposed legislation **HR 2259**. Being a compilation of foundational legal precedence law principles and notice for purposes of execution of lawful remedies in the very near future should this committee pass any bill purporting to amend the mining law, we ask you to give this comment the special consideration it deserves to avoid a disaster were these sorts of bills to become law.

Those of the Assembly of Jefferson Mining District vigorously OPPOSE HR 2259.

Time Prejudice

Trying to render the whole of the mining law into a cogent response to a facial takings in the form of the proposed bill, hobbled by the inadequate time provided to respond, a deprivation of substantial due process on matters of vested property and government trust relationships and obligations, being prejudiced further by the various legislative time constraints and political maneuverings imposed obstructing sufficient notice and opportunity to adequately respond on the important and myriad subject matters involved, We present the following compilation of precedent law and application due diligence which the prior committee or Legislative Council were duty-bound to perform prior to advancing the proposed ill-advised legislation which we require be returned to the Legislative Council for confirmation of lack of conflict with existing federal and state laws and to avoid future litigation for committing unlawful takings.

Supremacy Clause, Property Clause, and Commerce Clause Violations.

The current proposed legislation, among many other violations, which cannot be adequately covered in the time provided, is not only a breach of the fiduciary duties of the State, but will, more importantly, be inconsistent with prevailing federal or congressional power of disposal ceded in the ACT OF CONGRESS ADMITTING OREGON INTO UNION, Approved February 14, 1859, establishing that the "*State shall never interfere with the primary disposal of the soil within the same by the United States, or with any regulations Congress may find necessary for securing the title in said soil to bona fide purchasers thereof*", the Supremacy Clause, Property Clause, Commerce Clause, or the national Mining Law.

Moreover, if, on the one hand the proposed legislation is not restricted to Titled State Lands it will be in violation of prevailing law, on the other hand, where Congress expressly granted the minerals to the state, prohibition of an inexpensive mineral extraction method is irrational, such legislation even confined to Titled State Land is bad public policy.

Mining Law is a Primary Disposal of Soil, including Water, the State Shall Never Interfere.

The Mining Law is a primary disposal of the soil the property, enjoyment, possession, and title from which the "*State shall never interfere*"; Never interfere is quite a long time. Primary disposal of the mineral estate acknowledges that "Mineral rights are ownership in land, and therefore [the Locator] is a landowner. See, e.g., United States v. Shoshone Tribe of Indians of Wind River Reservation in Wyo., 304 U.S. 111, 116, 58 S.Ct. 794, 82 L.Ed. 1213 (1938) (with respect to question of ownership, "[m]inerals ... are constituent elements of the land itself"); British-American Oil Producing Co. v. Bd. of Equalization of State of Mont., 299 U.S. 159, 164-65, 57 S.Ct. 132, 81 L.Ed. 95 (1936) (finding a mineral estate an estate in land); Texas Pac. Coal & Oil Co. v. State, 125 Mont. 258, 234 P.2d 452, 453 (1951) ("[l]ands as a word in the law includes minerals") Hicks v. United States Forest Service, 2002; and so long as he complies with the provisions of the mining laws his possessory right, for all practical purposes of ownership, is as good as though secured by patent." Wilbur v. U.S. ex rel. Krushnic, 1930, 50 S.Ct. 103, 280 U.S. 306, 74 L.Ed. 445.

Within the context of mining incident activities regarding the granted mineral estate,

including water, Congress made no provision or reservation for state regulation authority, other than for recording appropriations. In other words, there is nothing criminal about what a grantee appropriator does when extracting minerals, despite unsubstantiated special interest hysteria to the contrary, for which the state is obligated to legislate or where it's sole duty is to record what lawful activity exists. Congress made no reservation to the state, the power to regulate or criminalize the mineral grantee, or cause permits for the enjoyment of the property, or fines for their non-compliance, or most importantly uses imposed greater than that which the mineral estate provides to society in general or for national purposes. In fact, interposition of a permit prior to enjoyment is facially inconsistent or contrary to the Congressional grant that the locator "shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations". This would include water. [emphasis added], reference 30 USC §26 & §35. In fact, the Act of Congress, July 26, 1866, granted water for mineral use in Section 1 and for general purposes in Section 9 to the public, not the State. There are no "Oregon Waters", actually.

Oregon Constitution Article XI-D

Section 1. State's rights, title and interest to water and water-power sites to be held in perpetuity. The rights, title and interest in and to all water for the development of water power and to water power sites, which the state of Oregon now owns or may hereafter acquire, shall be held by it in perpetuity. [Created through initiative petition filed July 7, 1932, and adopted by the people Nov. 8, 1932]

Section 4. Construction of article. Nothing in this article shall be construed to affect in any way the laws, and the administration thereof, now existing or hereafter enacted, relating to the appropriation and use of water for beneficial purposes, other than for the development of water power. [Created through initiative petition filed July 7, 1932, and adopted by the people Nov. 8, 1932]

These ought to be read to be understood that the State is preempted from interfering in any way with water or rights outside of the water and rights granted under this Article which does not include power to pass bills purporting to control water or appurtenant property such as the contemporaneous mineral estate property or that for farming or ranching or other appropriation granted under the Act of Congress of July 26, 1866, Section 9.

The proposed legislation changes the peaceful governmental establishment of the populace. What does the legislature thinks it is prohibiting, regulating, permitting, and requiring fees for in these style proposed Bills that Congress has not already granted outright and not already preempted? If any such Thing could be identified, we require an opportunity to know and address it.

Minerals are Not Actually a Resource.

Not being familiar with the legislative process, does the correct committee have the proposed Bill properly before it? Has it occurred to any one on the committee or in the legislature that water appropriation is not actually a natural resource, but a one-time appropriation, whether

for mineral extraction to other purposes, to be treated distinctly to avoid harm?

Mineral Estate Possession is a Compensable Property.

Being *"mining claims are `private property' which enjoy the full protection of the Fifth Amendment"* as seen in United States of America, v. Shumway, 1999, citing Swanson v. Babbit, 1993, and may not be taken from the claimant by the United States without due compensation. See United States v. North American Transportation & Trading Co., 253 U.S. 330 (1920); cf. Best v. Humboldt Placer Mining Co., *infra.* The legislation proposed is causing and will continue to cause unlawful takings of granted property, including water, rights, remedies, and livelihood contrary to law. The good faith intention of the state to comply with its Constitutional obligation to tender compensation, if it is thought the State can muster a higher land use than a public necessity, public benefit, and public use for the purpose of an Eminent Domain bid is belied by the lack of account of moneys for the purpose or for the administrative consequence of interfering with the economic viability of these granted properties in the bill provisions. If the imposition isn't facially in conflict of the Congressional disposal, in part that the grantee is granted the right to determine the method of economical extraction including the non-consumptive use of water by any method whether or not mechanical, is the State in any financial condition to pay, forever into the future, the mineral estate grantee to not work the property he is granted and entitled or required to work? And if so, if this were lawful, why isn't that provision in the bill proposed?

Streams Provide No State Power or Authority Over the Mineral Estate, including Water.

Riverbed of Non-navigable waterways are not the property of the State to regulate: Reference PPL Montana, LLC v. Montana, 2010, MT 64, 355 Mont. 402, 229 P. 3d 421, reversed and remanded, February 22, 2012; Held: “The Montana Supreme Court’s ruling that Montana owns and may charge for use of the riverbeds at issue was based on an infirm legal understanding of this Court’s rules of navigability for title under the equal-footing doctrine. Pp. 10–26.”

Navigable Waters Subject to Mineral Land Reservation of Congress.

And if Congress defining the “lands beneath navigable waters”, where such streams were not meandered, at 43 USC 1301 *et seq*. Section 1301 (a) – (f) The term “lands beneath navigable waters” does not include the beds of streams in lands now or heretofore constituting a part of the public lands of the United States does not precluded State control of the bed to banks under navigable rivers of U.S. public lands, see the Act of January 30, 1865, providing that “Grants of lands to states or corporation not to include the mineral lands” to mean the mineral estate is always reserved unless expressly conveyed, precluding the states or corporations from owning the mineral estate unless expressly granted and as applicable to navigable rivers completely preempting the state's legislature from lawfully meddling with the mineral estate or the water contemporaneously conveyed to work it.

The Unique Nature of the Mineral Estate Causes Certain Obligations and Unique Liabilities.

What should warn the members of this committee off of voting for passage of the proposed legislation is the unique character of the mineral estate, including water and the substantial law showing the lawless nature of the proposed legislation, the facial lack of public authority for it, and therefore private liability. It will have to be held firmly in the mind that this unique estate is conveyed and dealt with, even by government entities or its agents, as though these were mere individual proprietors without political power or immunities. And it further must be acknowledged, that the mining law is a property law born out of a legislative grant creating legal relationships, the constructive trusts of which are between the United States grantor and the private grantee and may not be interfered with by the state, given the cession of Power over primary disposal of the soil as Congress did in enacting the 1865 Law of Possession, mining title remedy, the granting property Lode Act of 1866 which relates also to grants to water and highways, the property granting Placer Act of 1870, victims of the current proposed lawless legislation, and the more famous and widely known property granting Act of 1872. The Act of 1865, reference 30 USC 53, in particular, regulates that Title challenges are the exclusive jurisdiction of the state courts. The legislature shall not regulate where Congress has spoken. The imagined harms the proposed state legislation seeks to regulate are actually title challenges the Mining Law Congress enacted requires are to be resolved between competing or affected parties in the state courts, not the state legislature. This extends beyond mining to all conveyed land.

Impermissible Interference with Legislative Grants of Congress.

What is a Legislative Grant, but a Present Grant, operating today. And because of the unique nature of the mineral estate unlike any other, these mineral grants are operable forever into the future, at least regarding certain granted minerals, remedies, and other property, such as water and ingress and egress. From *Leavenworth, Lawrence, & Galveston RR. Co. v. United States* (1875): [T]he rules which govern in the interpretation of legislative grants are so well settled by this court that they hardly need be reasserted. 'All grants of this description are strictly construed against the grantee; nothing passes but what is conveyed in clear and explicit language; and, as the rights here claimed are derived entirely from the act of Congress, the terms of which must be plainly expressed in the statute, and, if not thus expressed, they cannot be implied.' “It creates an immediate interest, and does not indicate a purpose to give in future. 'There be and is hereby granted' are words of absolute donation, and import a grant in *praesenti.* This court has held that they can have no other meaning; and the land department, on this interpretation of them, has uniformly administered every previous similar grant. *Railroad Company v. Smith*, 9 Wall. 95; *Schulenberg v. Harriman*, 21 id. 60.

“In construing a public grant, as we have seen, the intention of the grantor, gathered from the whole and every part of it, must prevail. “[A]nd, unless there were other provisions restraining the words of present grant, the grants uniformly were held to be in *praesenti*, in the sense that the title, although imperfect before the identification of the lands, became perfect when the identification was effected and by relation took effect as of the date of the granting act,” St. Paul & Pacific R. R. Co. v. Northern Pacific R. R. “"A grant, in its own nature, amounts to an extinguishment of the right of the grantor, and implies a contract not to reassert that right. A party is, therefore, always estopped by his own grant." Fletcher v. Peck, 10 U.S. 87 (1810)”

And then we have the effect of the mining law that the courts long recognize the Acts of

1866, 1870, and 1872 as amending, is a "present grant" *"revolutionizing the whole land policy of the government, abdicating in the name of the nation its authority and jurisdiction over the richest mineral possession on the face of God's earth,*"[1] conveyed the mineral estate of the United States completely, *an absolute gift of all the mineral wealth without condition and without limitation to all citizens.*[2] It has long-since been settled that *the federal system treats the mineral estate as a proprietor holding paramount title*[3] *to its public domain and not as an attribute of* sovereignty. Standing *in no different relation to the sovereignty of the state than that of any other property which is subject to barter* and sale, 4[5] [*t*]*he minerals do not differ from the great mass of property, the ownership of which may be in the United States or in individuals, without affecting in any respect the political jurisdiction of the state* it has as well been settled with *that fixed and definite legislative policy* granting *its mineral lands* the Proprietor, Congress, in the name of the United States, *forever abandoned the idea of exacting royalties, instead giving free license to all citizens,*" the notion of *royalty in the product of the mines was forever* relinquished.[6]

The settled law regarding any grant, be it for mineral, water or highway, is that it is interpreted strictly, no more or less than expressed, silence not equating to expression by silence, nothing taken by implication; Any ambiguity will resolve in favor of the grantor, given the grantee's right may not be diminished, interfered, or prohibited. The Congress already granting free license, the proposed legislation purporting to require additional permits and fees will impermissibly encroach, diminish, interfere, or cause prohibition. Where Congress has given free license the state is precluded from requiring or charging for additional license, the lawful character of mining and the public necessity of water use for the purpose notwithstanding. The legislation encroaches upon the prevailing authority of Congress stated in the Supremacy Clause, Property Clause, and Commerce Clause, notwithstanding the cession power disposal of the soil.

But Oregon has not in the past made laws in conflict, as do the current regime proposals purporting to trump existing prevailing state and federal laws granting the public necessity, public benefit, and public use character of the mineral estate, including water. Past laws acknowledge, in a continuing way, by those state law enactments, such as the 1899 Oregon water law Section 2 of the Act granting that all "having title or possessory rights to any mineral or other land, shall be entitled to the use and enjoyment of the water of any lake or running stream within the state for mining and other purposes in the development of the mineral resources of the state" "and such waters may be made available to the full extent of capacity thereof without regard to deterioration in quality or diminution in quantity, so that such use of the same does not materially affect or impair the rights of prior appropriations", such right of appropriation to miners relating back to the Act of 1866, this state grant is fully consistent with Section 9, of that water grant.

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1 The Encyclopedia Americana, 1919, Volume M Mining Laws of the United States, Page 184.
2 Page 185, The Encyclopedia Americana, 1919, supra.
3 Handbook of America Mining Law, Geo. P Costigan, Jr., 1908, Pg. 11.
4 Page 10, Moore v. Smaw 17 Cal. 199 79 Am. Dec. 123
5 American Law Relating To Mines And Mineral Land within the Public Land States and Territories and Governing The Acquisition and Enjoyment of Mining Rights in Lands of the Public Domain, Curtis H. Lindley, of the San Fransisco Bar Volume I, l897, Section 80.
6 Ivanhoe Mining Co. v. Consolidated Min. Co., 102 U.S. 167. 173, 26 L.Ed. 126.

Fiduciary Breach.

The representative proposing these style Bills, the Legislative Council advancing the Bills and this committee if passing these style Bills will have failed their fiduciary obligations and duties under state and federal law and the acts establishing the state itself, whether or not in violation of their oath of office to respect law and the valuable property of others and to protect the same. Be of note, it is unlawful for a trustee to attack the beneficiary as the current proposed legislation commits. It is also a violation of law for the state, a water trustee whose duty it is to receive the lawful appropriations under the grant of water to the public, to interfere or to claim for itself the property under its fiduciary.

The proposed legislation will unlawfully regulate or control a subject matter occupied and regulated exclusively by Congress and to a lesser extent, mining districts, such as Jefferson Mining District.

Erroneous Terminology Creating Hardship, Mistreatment, Trespass, and Open Theft.

The terminology used, and we take particular issue with this recurring problem, in the Bill and existing statutes indicate an extreme lack of applicable knowledge about the mineral estate, and the possession of the mineral estate, and the trust relationships established. This lack of *pari materia* knowledge, predictably, causes immeasurable harms and violations. For instance, mining as it is commonly understood as a term is solely a commercial activity whether privately or for National economic or defense purposes. Therefore, the use of the term “recreational” to describe an inherently commercial necessity is erroneous. Consequently, the State attempting to redefine granted appropriations encroaches upon the scope of the field occupied by Congress or methods of extraction already granted by Congress as lawful. Or the use of the term “Limited License”, a descriptive which is improper as the grantees or the exclusive property rights granted do not have any limitation short of the grant, each having an independent property right, the limiting related term allowing discrimination by term obfuscation pertains not to the property granted or possessed but a fiction. One more of many examples of the use of terms causing misapplication of the laws, the use of the term “suction dredge” also often erroneously used, even by ill-informed miners, admits not to mining and mining use of water but an activity under the jurisdiction of the Army Corps of Engineers, the methods it uses under the River and Harbors Act of 1899 in maintaining navigation channels. The term “suction dredge” as correctly used is the Suction Augmented Chain-bucket Dredge and is not normally related to minerals use extraction.

Moreover, being an activity under federal authority, dredging is not available to the state legislature to interfere, unless by special legislation. This special legislation is evidenced in existing code, the provision for a Removal and Fill permit, taking critical note that miners do not normally remove anything for the purposes of navigation improvement, the subject matter of the 1899 Rivers Act, the delegated authority accepted by the State. Because a typical hydraulic miner does not “dredge” or remove anything there is no “dredged spoil” needing a place to fill. Likewise there is no consumptive use of the water. Because of the lack of fidelity to the proper utility on the terms regarding the mineral estate and water use, grave errors are allowed to occur and continue to occur as is happening with the proposed legislation. The proposed legislation, essentially, and but for the immense harm caused, is meaningless because it is not faithful to the

laws it purports to advance and evidences a hodge-podge use of terms obfuscating lawful authority and jurisdiction, violating most every subject matter affected.

Historic Context

As an historical note and continued today, there has always been some difficulty between miners and attorneys. Attorneys, seemly, didn't or don't understand the simplicity of the special property law of the mineral estate improperly dealing with such as an administrative servitude, which it is not. It was found consistent across every mining camp that attorneys were run out.

The apparent reason is that miners were the only one's that understood the law the miners made. This miner made law was later adopted by Congress in accepting as prevailing the laws and regulations of mining districts where not inconsistent with congressional intent. This historic lack of apprehension of mining law and of the mineral estate by Attorneys and legislators appears today to be a continuing harm the evidence of which is the proposed legislation allowed to pass by the Legislative Council, the lack of faithful and appropriate use of terms lawfully applied contained in the Bill notwithstanding. For this reason alone, the proposed legislation ought to be permanently set aside and sternly discouraged in the future.

Jefferson Mining District is available for consultation, if that would help stop the wrongful attacks that the class of the current proposed legislation causes.

Adverse Affect to Wealth and Economy and Taxing to the Treasury of the State.

Further, Bills of this sort will always adversely affect the real wealth of the public and private sectors, and subject the Taxpayer to untold costs as the State depletes its coffers to defend against each and every miner affected, which could be in the 10's of thousands, suing for the harm of the unlawful takings the proposed legislation causes and to pay compensation for an estate of immeasurable monetary liability, not to mention against the federal Government defending its paramount title. These suits will take the form of Class Actions as well as individual for those who believe class action prejudices their Property, being each miner or grantee has independent property rights to vindicate, whether civil, criminal, or unlawful takings.

State Office as "*Ex Officio*" Deputy Mining District Record Held to That Duty and No More.

Furthermore, the state cannot deny, where it has made laws regulating the establishing of a mining claim not in conflict with the federal property disposal, the Office of the local county clerk became an "*ex officio*" deputy mining district recorder. The same deputy office may be said of the state Water Master. By the Congressional disposal power, the state has a higher fiduciary duty to protect mining from encroachment than we believe it currently remembers, where the Legislative Council allows the creation of legislation to interfere with the grantees such that we must stop our granted activity to come here to protect it.

Fees and Underlying Statutes Are Unlawful.

The Bill intends to impose fees. What lawful service is the State purporting it is providing to criminalize a lawful act granted through the exclusive Power of Congress, in favor of issuing license and fee that the provision for fee in the Bill is lawful?

Can this committee identify where a mining district ever collected fees to give to another group of people? What fees in excess of the cost of recording does the state water appropriations recorder lawfully charge in excess of the cost to record mining related or other water appropriations? The Supreme Court holds that there can be none. Can this committee identify how a fee is levied lawfully for a previously granted property?

The Bill unlawfully expands fees for federal property grant recordings or granted uses beyond the cost of recording to fund foreign projects or the State beyond the benefit bestowed to the appropriator. By this, the State becomes a parasite on the backs of Congressional grantees and their obligations penalizing them for hypothetical harms not of their making.

Recording and Permit Fees not Lawfully Imposed.

"[T]he Supreme Court defined a fee as a payment made in connection with a voluntary application to a public agency for a grant bestowing a benefit on the applicant not shared by other members of society" Union Pacific Railroad Company, *et al*., V. Public Utility Commission Of The State Of Oregon; State of Oregon, 1990, adding that "in light of its legislative history and the definition of the term "tax" by the courts, supports the conclusion that Congress did not intend that a levy of the kind imposed by the Oregon statute be included in and thus barred by the section." [emphasis added]; The Mining law contains, as well, no intention by Congress that Oregon impose levy for the property or use of the property granted, bestowing no benefit. The court continuing,That such a fee, purportedly attached "to regulate" "and mitigate the evils incident to the business" is but "a levy to collect the costs of regulation from those regulated is not to be treated as a tax". The fee "the Court held, was not a tax, but "the mere incident of the regulation of commerce". By the Oregon Parks study required in SB 606 and required by the 73rd legislative assembly, though fraudulently withheld from the legislature by the Governor, showing no harm was caused by placer mining in existing Oregon Scenic Waters, our challenge as to the legality of such designations notwithstanding, there is no evil to mitigate in mining or other use of water. This State, because of the unique nature of the mineral estate, without the political power normally applicable, having no authority to regulate the congressional grant or commerce of the mineral estate or jurisdiction to define the mineral estate or its development as an evil seeking mitigation for which any fee "appropriated in advance to the uses of the statute" would be valid, the statute [or proposed Bill for the same] itself therefore and thereby, is unlawful.

Grantee Exclusive Possession as Against the U.S. and All Third Parties, such as the State.

As a matter of law, such [mining claim] interest may be asserted against the United States as well as against third parties, see Best v. Humboldt Placer Mining Co., 371 U.S. 334, 336

(1963); Gwillim v. Donnellan, 115 U.S. 45, 50 (1885), these principles divest the Congress of the United States, the grantor of the proprietary mineral holding, and by ceded agreement, therefore, subsequently to the trustee relationship obligation applicable to the state, and therefore to its legislative body, preempting any authority to "amend", condition, diminish, control, regulate, or retake, etc., the mineral estate long-since residing in the intention of the mineral estate grantee.

Being self-executing and self-operative there is no authority in any governmental proprietor to maintain authority or jurisdiction to create any regulation or rule interfering with property appropriated by Act of Congress, whether or not by patent, disposed exclusively to private grantees, including the use of water, mode of ingress and egress, or every economical means of extraction, and the right to work the claim, the purpose of the disposal. To interfere in anyway, as Oregon Statutes give notice, is a crime. Were an official to use color of authority to adversely affect private property or real estate, or harm the possessor or his title, the act is proscribed, being a felony under state law. The fact of any Representative assuming title to property not actually owned, having no lawful right to, and causing a "discussion" to occur upon the extent of the title to gain control for others is unwarranted in law, constituting a felony extortion. We ask this committee to arrest the criminal acts posing as legislation and avoid being an accessory to the harm now caused to people being required to respond to the threat, that if they do not, they will, in all likelihood, lose their property that was supposed to be protected in law.

Caution Advised Against Allowing Lesser Interests, whether Hypothetical or Alleged to Interfere.

We respectfully advise sufficient caution to anyone believing they can undermine the mineral estate, the livelihood it provides, and the national defense or strategic supply it provides, and the national security the current proposed legislation threatens. We caution, more still, being the mineral estate, including water, is politically or ideologically neutral, being all benefit from this public necessity, to avoid deciding this matter upon Party or ideological lines; Anticipated presentations of pseudo science or of other emotionally charged ideologies is not any authority for the state legislature to challenge Congress, especially where both have made remedy for found private harms where the mineral estate is concerned, i.e., the Law of Possession.

And if this notice has yet to find favor enough to avoid the proposed legislation and lawful treatment of the subject matter, we offer what the Oregon Supreme Court has decided upon the obligation of the state to the beneficiaries of the Mining Law, as stated from A treatise on the American law relating to mines and mineral lands within the public land states and territories and governing the acquisition and enjoyment of mining rights in lands of public domain, Volume 2, 1914, Page 1203:

> "The owner of such a location is entitled to the exclusive possession and enjoyment, against everyone, including the United States itself. [7]

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7 McFeters v. Pierson, 15 Colo. 201, 22 Am. St. Rep. 388, 24 Pac. 1076, 1077; Gold Hill Q. M. Co. v. Ish, 5 Or. 104, 11 Morr. Min. Rep. 635; Seymour v. Fisher, 16 Colo. 188, 27 Pac. 240, 244; Reed v. Munn, 148 Fed. 737, 757, 80 C. C. A. 215.

> Where there is a valid location of a mining claim, the area becomes segregated from the public domain and the property of the locator. He may sell it, mortgage it, or part with the whole or any portion of it as he may see fit.[8]
>
> He is entitled to the most plenary and summary remedies for quieting his claim cognizable in equity.[9]
>
> As was said by the supreme court of Oregon,[10] the general government itself cannot abridge the rights of the miner. **There are equitable circumstances binding upon the conscience of the governmental proprietor that must never be disregarded. Rights have become vested that cannot be divested without the violation of all the principles of justice and reason.**[11] **The same fundamental rules of right and justice govern nations, municipalities, corporations, and individuals.**[12] **The government may not destroy the locator's rights by withdrawing the land from entry or placing it in a state of reservation.**[13]

Please note, for instance, despite their existence currently, making License Use designations which adversely affect congressionally disposed property is an unlawful reservation.

Condemn the Proposed Legislation Found Inimical to the Public and Private Good.

The Assembly of Jefferson Mining District earnestly urges this esteemed body to condemn such violative and harmful legislation as the Bill challenged before it. An emergency has not been established. The only emergency we can find is the emergency caused by ignorance of the Mining Law, including water, the trust duty owed by the State to both Congress and its grantees, and the unexhausted existing remedies to vindicate property rights by those feeling violated or others searching for a new revenue source to find the state, including what we perceive to be Special Interest control of the legislative processes. The Representative(s) proposing the Bill, the Legislative Council advancing these style bills and this committee if passing these bills will have failed their fiduciary obligations and duties under state and federal law and the acts establishing the state itself. Even if the state had the authority to regulate, the bill provides no compensation for the administratively imposed economic harm to the public or grantees or their property or granted uses.

We urge, instead of the facially violative legislation of an incalculable injustice of

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8 St. Louis M. & M. Co. v. Montana Limited, 171 XJ. S. 650, 655, 19 Sup. Ct. Rep. 61, 43 L. ed. 320.

9 Gillis v. Downey, 85 Fed. 483, 488, 29 C. C. A. 286.

10 Gold Hill Q. M. Co. v. Ish, 5 Or. 104, 11 Morr. Min. Rep. 635.

11 To the same effect, see Merced M. Co. v. Fremont, 7 Cal. 317, 327, 68 Am. Dec. 262, 7 Morr. Min. Rep. 313; Conger v. Weaver, 6 Cal. 548, 557, 65 Am. Dec. 528.

12 United States v. Northern Pac. R. R., 95 Fed. 864, 880, 37 C. C. A. 290.

13 Military and National Park Reservations. Opinion Assistant Attorney-General, 25 L. D. 48; Instr., 32 L. D. 387.

immeasurable value reaching irreparable harm, reliance upon the Wisdom ceded to Congress for existing judicial remedy, such as the Law of Possession. We require before further action is

taken, in light of the blatant violations found as herein identified, the Bill is returned to the Legislative Council for confirmation of the lack of conflict with existing federal and state laws and to avoid future litigation for committing unlawful takings. We require also, because the legislative process or legislation is not due process, that prior to attempting legislative intercession any legislator or legislative council ascertain a found Authority and jurisdiction to avoid injustice or unlawful takings, interference with livelihood, or property deprivations;

Oppose the proposed legislation.

I and the Assembly of Jefferson Mining District are available to answer your questions.

Thank you for your considered lawful action to the found threat this Bill is.

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