

REPRESENTATIVE GORDON S. ANDERSON

(NOTE: All emphasis in original)

April 12, 2010

Oregon Department of Environmental Quality
811 SW Sixth Ave.
Portland, OR 97204

Dick Pedersen, Director
Neil Mullane, Administrator, Water Quality Division
Annette Liebe, Manager, Surface Water Section
James Billings, Compliance Specialist, Water Quality Program

RE: PROPOSED NEW INSTREAM/SUCTION DREDGE MINING GENERAL PERMIT AND DEQ'S FAILURE TO CONSULT WITH AFFECTED PARTIES.

Dear DEQ;

I have recently been contacted by a number of my former constituents whom I had the pleasure to serve as their Oregon State Representative from 2003 to 2007. In particular, during 2004-2005, I had the pleasure of assisting members of Oregon's small mining and suction dredge mining community through a rather lengthy consultation process between the staff at DEQ, members of the Oregon Legislature, and representatives from the mining community while DEQ drafted the new 700-PM Suction Dredge Mining Permit which was eventually adopted in July of 2005. In my official capacity, I helped arrange and was present at suction dredge demonstrations, and multiple meetings at the Capitol to help ensure Oregon's miners received fair treatment and the required permit. Sad to say, it appears as though the miners received neither.

I have recently been informed that the Department is currently putting finishing touches on a new mining permit to replace the 700-PM when it expires at the end of June, 2010. It is my understanding that DEQ is currently planning to release a Final Draft of the new in stream mining permit for public comment on or about April 22, 2010, and that DEQ is proposing several major, more restrictive changes to the existing permit.

And, I'm sorry to say, it is my understanding that the Department, to date, has not met in consultation with any of the affected parties pertaining to the new permit, as required by ORS 517.125. Not only that, but according to a "Town Hall Background Sheet" distributed by the Dept. via email on April 9, certain elements of the previous permit, which were originally proposed by the Department as a bargaining point and adopted through the consultation process, are now being removed from the permit without any consultation with the affected parties.

BACKGROUND: On March 10, 2005, a meeting was held at the request of the Department. at the Capitol to discuss elements of the proposed permit. Legislators at that meeting included Representative Tom Butler, Cheryll Adkins, an aide from Senator Jason Atkinson's office and myself. Department staff included Holly Schroeder – Water Quality Administrator, Mark Charles, and Scott Manzano. Representing approximately 1,500 individual Oregon miners were John Holleman and Nick Koepling of the Mineral Resources Legal Foundation, Tom Kitchar – Waldo Mining District, Tom Quintal – Willamette Valley Miners, Guy Michaels – Eastern Oregon Mining Association, Jim Foley and the Waldo Mining District's attorney, James Buchal.

The meeting opened by the Department's proposed compromise, which was that the Department was prepared to exempt (based on data taken at several suction dredge demonstrations in 2004) all suction dredges with intake hoses smaller than 4.0 inches interior diameter from any turbidity restrictions or monitoring. This exemption was offered to the mining community "if" the mining community agreed to not challenge new legislation the Department was introducing to amend the statutes so that the Department. could charge a \$25.00 per year fee for all 700-PM permits.

During more than an hour of discussion, when asked by the miners why larger dredges couldn't also be exempted, Holly Schroeder, Mark Charles and Scott Manzano repeatedly stated that they had the data and were prepared to defend the decision to exempt the smaller dredges, even in court; but could not defend an exemption for dredges with hoses 4.0" (I.D.) and larger. Before the close of that meeting, all parties involved agreed to the "deal" as proposed by the Department. New legislation was passed to allow the Department to charge for the permit, and the smaller dredges received the exemptions on turbidity.

In the current situation, I find it extremely disappointing that an agency of the State of Oregon is now apparently fully prepared to go back on its word to the mining community and members of the legislature, and renege on a duly bargained compromise adopted in full consultation with the affected parties and originally proposed by the of the current permit.....especially in light of the fact that the Department seemingly has no new data or evidence to support any change in the conditions. If there is new, valid, scientific evidence, please forward it to me for communication to present legislators. Please also forward to me a list of any meetings you may have had with the environmental community on this proposed permit.

After some investigation into the history of the current 700-PM permit, and the legal challenges against it, along with what I have seen of the proposed new permit; it strongly appears as though the Department is dismissing Oregon's miners and their strong basis in Federal mining rights in favor of hopes to appease the environmental community so that they do not issue a challenge to the new permit. **I find it deeply disturbing that an agency of the State of Oregon is prepared to restrict the statutory rights of miners under the U.S. Mining Laws, without any new data or information, simply because there might be a challenge to the permit** Furthermore, in light of the outcome of the challenge to the 700-PM permit brought by the miners (in which the miners won and the permit was declared invalid), it seems prudent for the Department to be listening more to the mining community (who are after all experts at this type of mining), and less to an organized effort to restrict such mining to the point of a prohibition.

I would remind the Department that unlike any other group of citizens, those individuals operating under the U.S. Mining Laws have congressionally granted statutory rights (to mine and to the property) which may not be unreasonably infringed. If the end result is the protection of Oregon's environment, the Department needs the cooperation of the mining community. Breaking faith with the miners and renegeing on an agreed upon compromise, along with the other proposed restrictive conditions (especially with a total lack of new data or evidence to support such changes), is guaranteed to remove any trust or cooperation the Department may have enjoyed with the mining community in the past.

As a former legislator of the State of Oregon, **I strongly urge the Dept. to meet in honest consultation with the representatives of the mining community as required by statute before releasing any Final Draft of the permit for public comment.**

Thank you.

Respectfully;

GSA (signed copy to follow by regular mail)

Gordon S. Anderson
Oregon State Representative 2003-07 (Retired)

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