



TESTIMONY

Senate Environment and Natural Resources Committee

March 30, 2017

Oregon Farm Bureau OPPOSES SB 644

Chair Dembrow and Members of the Committee:

On behalf of our farmers and ranchers in Eastern Oregon and statewide, the Oregon Farm Bureau Federation (OFB) respectfully asks the Committee to oppose SB 644, which would give mining priority over agricultural uses on lands zoned for exclusive farm use.

SB 644 eliminates consideration of impacts to agriculture. SB 644 would change the standards for siting a mine on farm and ranch land in Baker, Grant, Union, Harney, Wallowa, Malheur, and Lake Counties. This means that mines would be allowed on land zoned for exclusive farm use in these counties without consideration for impacts on farm and ranch land. As outlined in the letters submitted on the record from some of our impacted county farm bureaus, the local land use approval process is important to ensuring that mining and aggregate operations do not negatively impact existing agricultural operations.

Mining projects do not have trouble getting land use permits. We are at a loss to understand why this provision is being proposed. According to data from DLCD, these counties have seen 105 permit applications since 1997. **Four of the impacted counties – Baker, Malheur, Harney, and Lake – have a 100% success rate with applications for aggregate and surface mining. In the other three counties, the approval rate ranges from 92% to 97%.** In short, mining projects are getting permitted in these counties. We do not understand why an exclusion or change in the permit is needed when the local land use process isn't impeding mining.

The land use process ensures that existing farmers and ranchers won't be impacted by a proposed mine. The local permitting process contains important safeguards for neighboring landowners to ensure mitigation of any impacts from the new mine coming into an existing agricultural area. None of the other permits received by the mining industry look at impacts to neighboring farms and ranchers, or require mitigation of those impacts. In short, removal or alteration of the conditional use process for mines would eliminate the ability of neighboring agricultural operations to raise concerns with the potential impacts of the mine or ask for small changes to the operation to ensure those impacts are mitigated.

Under the -3 amendments, the bill would create a brand-new set of definitions, standards, and permitting requirements for mines on lands zoned for exclusive farm use, none of which relate to farming. We are concerned about the precedent of creating a new set of land use standards for certain types of uses, particularly when there is no evidence that the existing standards – which evaluate impacts to farmland – are not working. Creating new standards on lands zoned for exclusive farm use that ignore farming undermines the zoning system, and places farming at risk of being made subservient to other uses. Additionally, there would be a tremendous cost to the impacted counties, DLCD, and others who would be charged with interpreting and implementing these new standards.

Oregon Farm Bureau supports mining, but not at the expense of existing agricultural uses. Universally, our county Farm Bureaus in the impacted counties support mining and would like to see more of it in their counties. However, we do not want to see mining established at the expense of agriculture, which is the primary economic driver in each of the impacted counties. Given the high existing success rate of the mining industry in obtaining local land use permits, we think the existing process strikes the correct balance in ensuring mining can be successful in these counties while avoiding negative impacts on existing agricultural operations.

The “Right to Mine” provisions are overly broad. We are also concerned about the -3 amendments creating a new “right to mine” provision that would ban nuisance or trespass actions for mines that comply with their required permits. As discussed above, this bill would remove the ability of farmers and ranchers to raise concerns about impacts from mining on their operations through the land use process, meaning farmers would be unprotected by state and local permits. The right to mine law would then eliminate any ability they have to seek recourse for any damages the mine causes to their agricultural operations.

Oregon has lands that are zoned for farming activities, where the county has decided that agriculture is the highest and best use of those lands. This provision would undermine this zoning and could impact our ability to protect agricultural uses on farm zoned lands. This is particularly true given that this bill would have no provision that provides for lawsuits for damage to commercial agricultural products. The provision also impacts the status of mining under negligence and ultrahazardous activity standards. We are concerned that this protection is overly broad, and risks causing further harm to impacted farms and ranches.

Additionally, the findings in the "right to mine" provision squarely place mining above agricultural uses on lands zoned for exclusive farm use. This undermines the zoning of the property and fails to account for the existing uses on neighboring properties.

Thank you for the opportunity to submit comments on SB 644. We urge you to oppose this attempt to grow one industry at the expense of another, particularly when objective data shows there is no need to change the existing processes.

Please contact Mary Anne Nash at maryanne@oregonfb.org with any questions.