

Senate Environment and Natural Resources Committee  
Senate Bill 3 Public Hearing  
Feb. 6, 2017

Karen Tarnow, DEQ  
Ian Madin, DOGAMI  
Russ Stauff, ODFW  
Eric Metz, DSL

# Presentation Overview

1. Regulations in effect without moratorium
2. SB 838 [2013]
  - Task force
  - Two-year restrictions
  - Five-year moratorium [Jan 2, 2016 – Jan 2, 2021]
3. SB 3 [2017]
  - Changes to moratorium
  - Post-moratorium regulations
  - Changes to upland placer mining

# Motorized In-water Placer Mining: Existing Regulations

- DEQ “700PM” general permit  
<http://www.deq.state.or.us/wq/wqpermit/docs/general/npdes700pm/permit.pdf>
- DSL general authorization for ESH water
  - Limits on nozzle diameter
  - Limit on amount of material moved
  - Other limits to protect habitat and water quality
- Individual permits needed for larger equipment and larger operations

# Motorized in-water placer mining

## Existing restrictions (DEQ's 700PM General Permit):

- Turbidity limit
- Avoid fish eggs, mussels and lamprey
- Protect banks and channel structure
- Oil/gas spill prevention measures
- Invasive species protections
- Limited to in-water work periods (ODFW)
- Display permit number on dredge

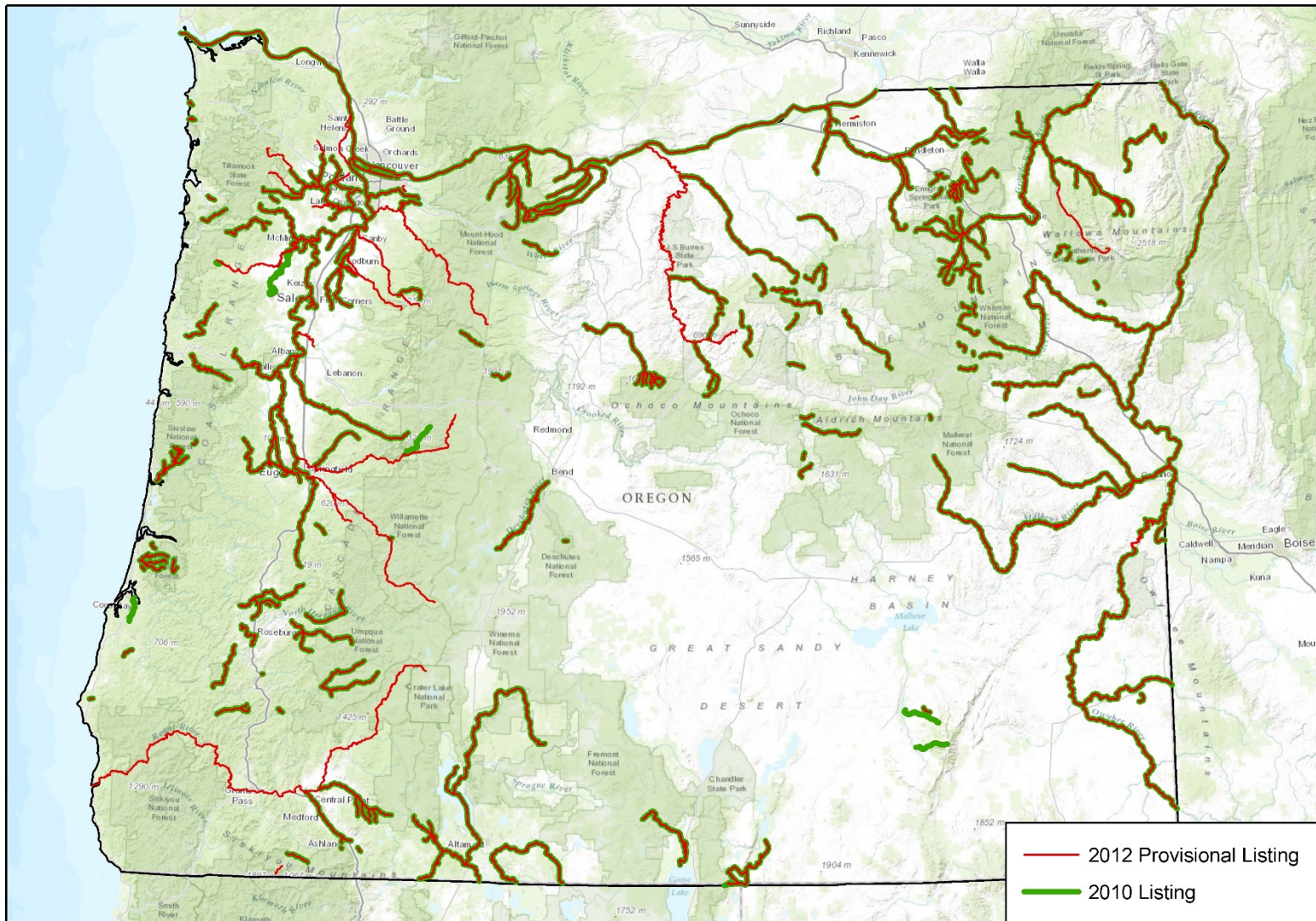
# Motorized in-water placer mining

## Existing prohibitions

- State scenic waterways
- Tribal reservations

General Permit not available for impaired waters  
(sediment, turbidity, toxics)

# Streams Impaired for Turbidity, Sedimentation, and Toxics



Streams shown are both category 4 (TMDL approved or otherwise not needed) and category 5 (TMDL needed – 303d list). Streams listed for all toxics shown except for chlorine.

# Motorized Upland Placer Mining: Existing Regulations

- DEQ “Water Pollution Control Facility” permit required for sedimentation pond
- Most operations covered by WPCF 600 general permit
  - No traceable discharge to groundwater or surface water
  - Don’t disturb vegetation unless unavoidable; restore if disturbed
- Additional approvals required if pond > 20,000 sq. ft. or 5 ft. high.
- DOGAMI permit required if more than 5000 cubic yards of material or one acre of disturbance

# SB 838 [2013]

- Established Governor's task force to propose a revised regulatory framework
  - Consolidated regulatory process
  - Effective compliance, monitoring and enforcement
  - Adequate fee structures
  - Conditions to protect water quality and recover species
  - Addresses social concerns
  - Prohibitions in federal designated areas, scenic waters, state parks, habitat essential to recovery and conservation of salmon, steelhead, lamprey and mussels



# SB 838 [2013]

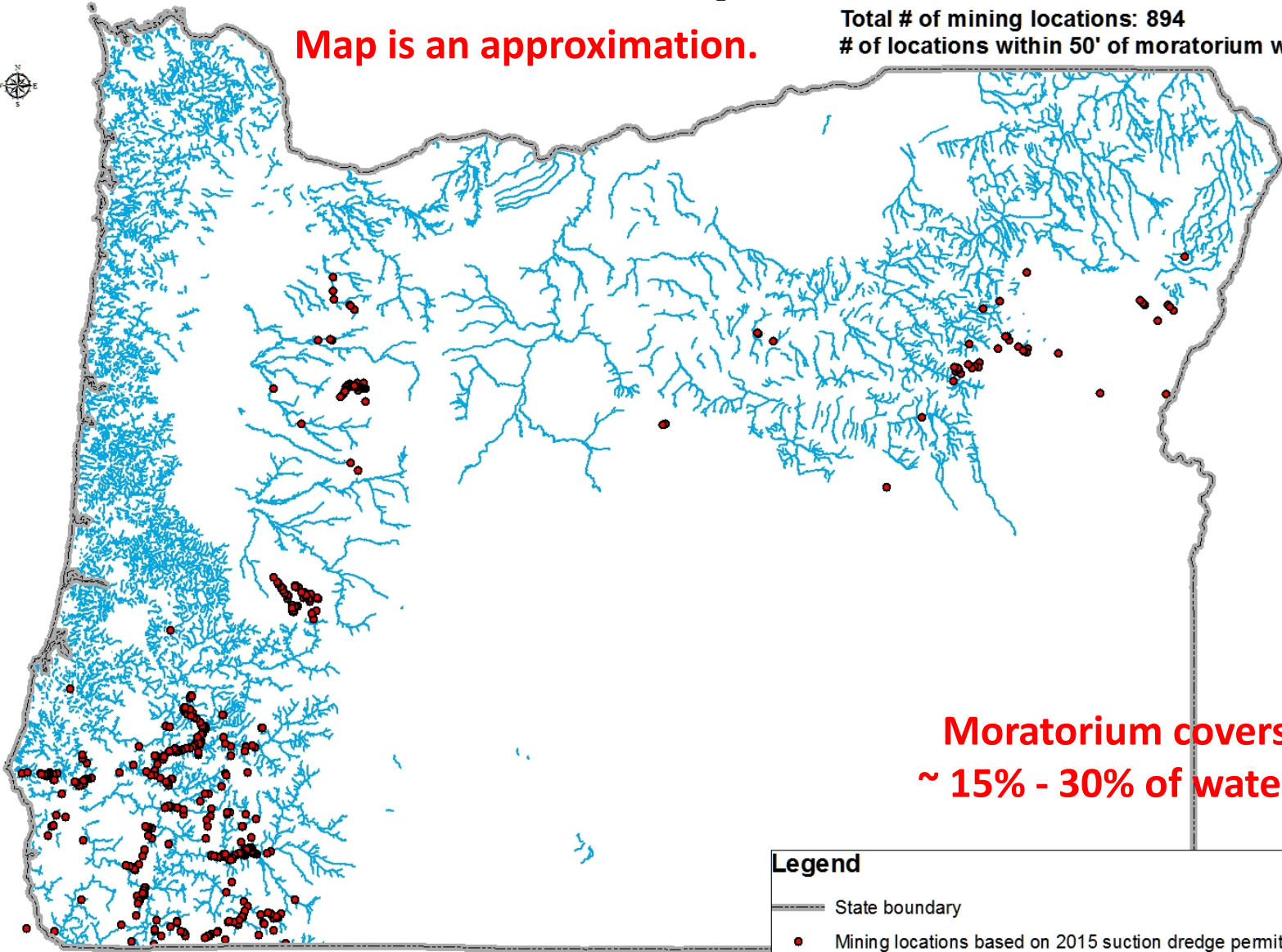
## Moratorium (Jan 2, 2016 – Jan 2, 2021)

- Applies in rivers above lowest extent of spawning habitat
  - In rivers containing ESH or bull trout spawning habitat
  - Except where populations not found due to natural or lawfully placed barrier
  - Estimated to apply to 15% - 30% of waters
- Applies up to 100 yards perpendicular to ordinary high water line, if activity will disturb vegetation in a manner that may impact water quality
- Does not apply if operation has DOGAMI permit

# SB838 Moratorium Waters & Mining Locations

**Map is an approximation.**

Total # of mining locations: 894  
# of locations within 50' of moratorium waters: 287



**Moratorium covers  
~ 15% - 30% of waters**

## Legend

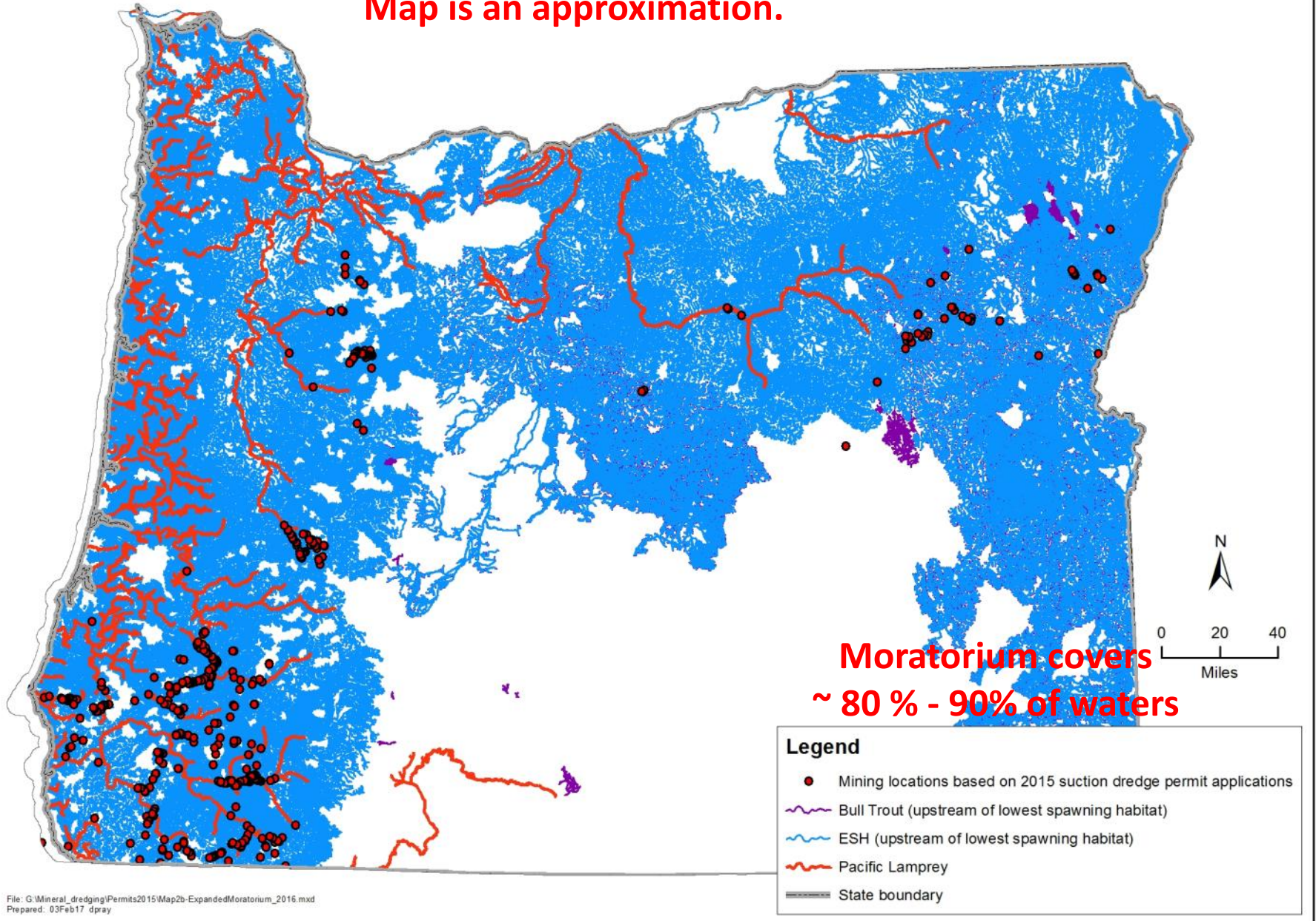
- State boundary
- Mining locations based on 2015 suction dredge permit applications
- Moratorium water, Essential Salmon Habitat & Bulltrout

# SB 3: Proposed Changes to Moratorium

- Adds lamprey habitat
- Includes all tributaries to moratorium waters
- Estimated to apply to 80% – 90% of waters
- Makes violation of the moratorium a Class A violation
- Removes upland placer mining from moratorium beginning Jan 2, 2019.

# SB3: Expanded Moratorium & Mining Locations

Map is an approximation.



\*Some moratorium segments above lawfully placed or mapped natural barriers not represented on the map.

# SB 3: Future Suction Dredge Regulations (2021)

- Consolidated permit issued by DEQ (Removal-Fill and Water Quality)
- Application review process
- Authority for OSP to write citations
- Invasive species check stations

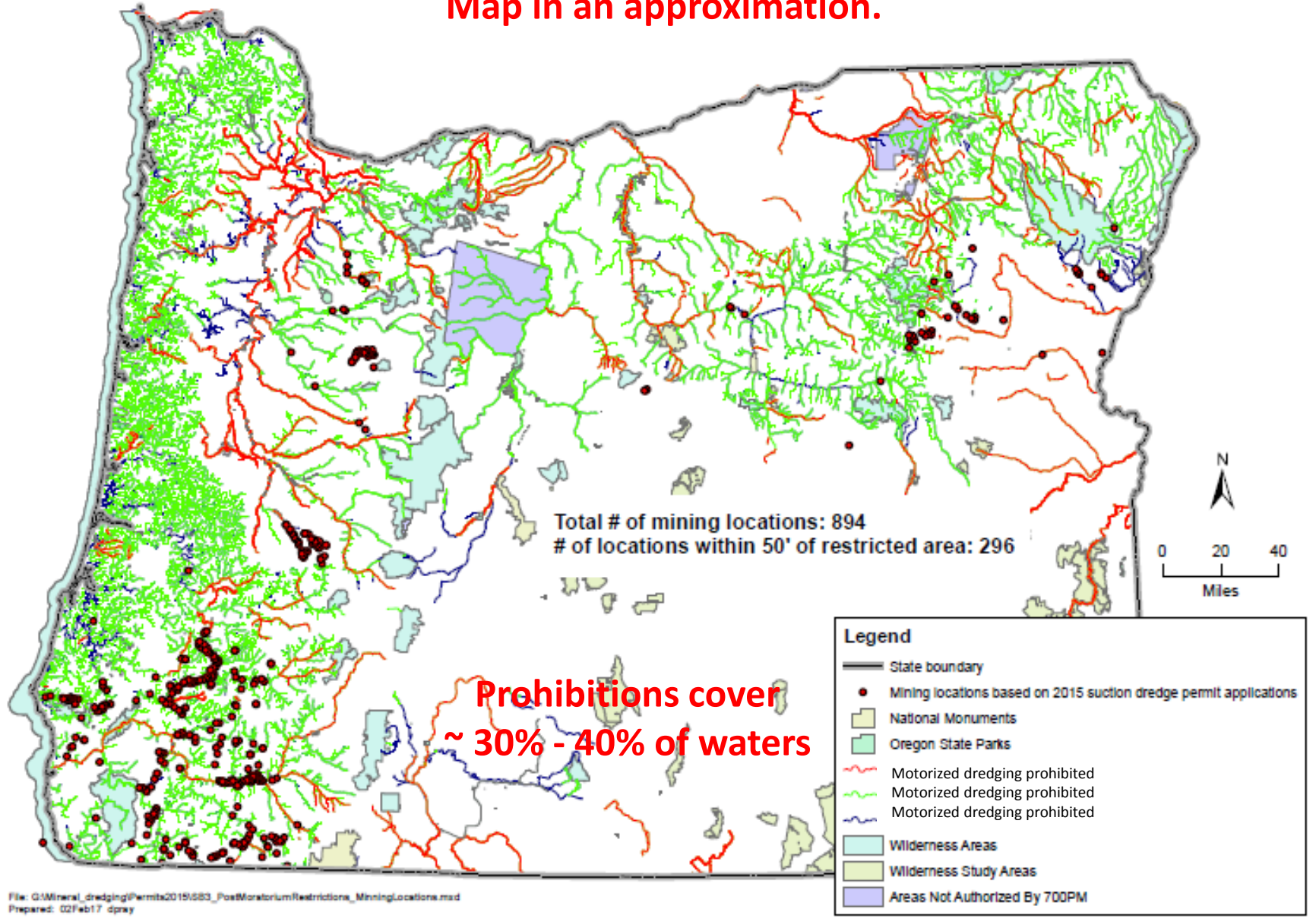


# SB 3: Future Suction Dredge Regulations (2021)

- Prohibitions, including
  - Biological resource habitat (ESH, bull trout, lamprey, freshwater mollusks)
  - State parks, tribal lands, federal wilderness, etc.
  - Impaired waters (sediment, turbidity, toxics)
  - Estimated to apply to 30% - 40% of waters
- Restrictions
  - Social conflicts
  - Distance between operations
  - Culture resource protection

# SB3 Post Moratorium Restrictions & Mining Locations

Map in an approximation.



## Current Permit Requirements

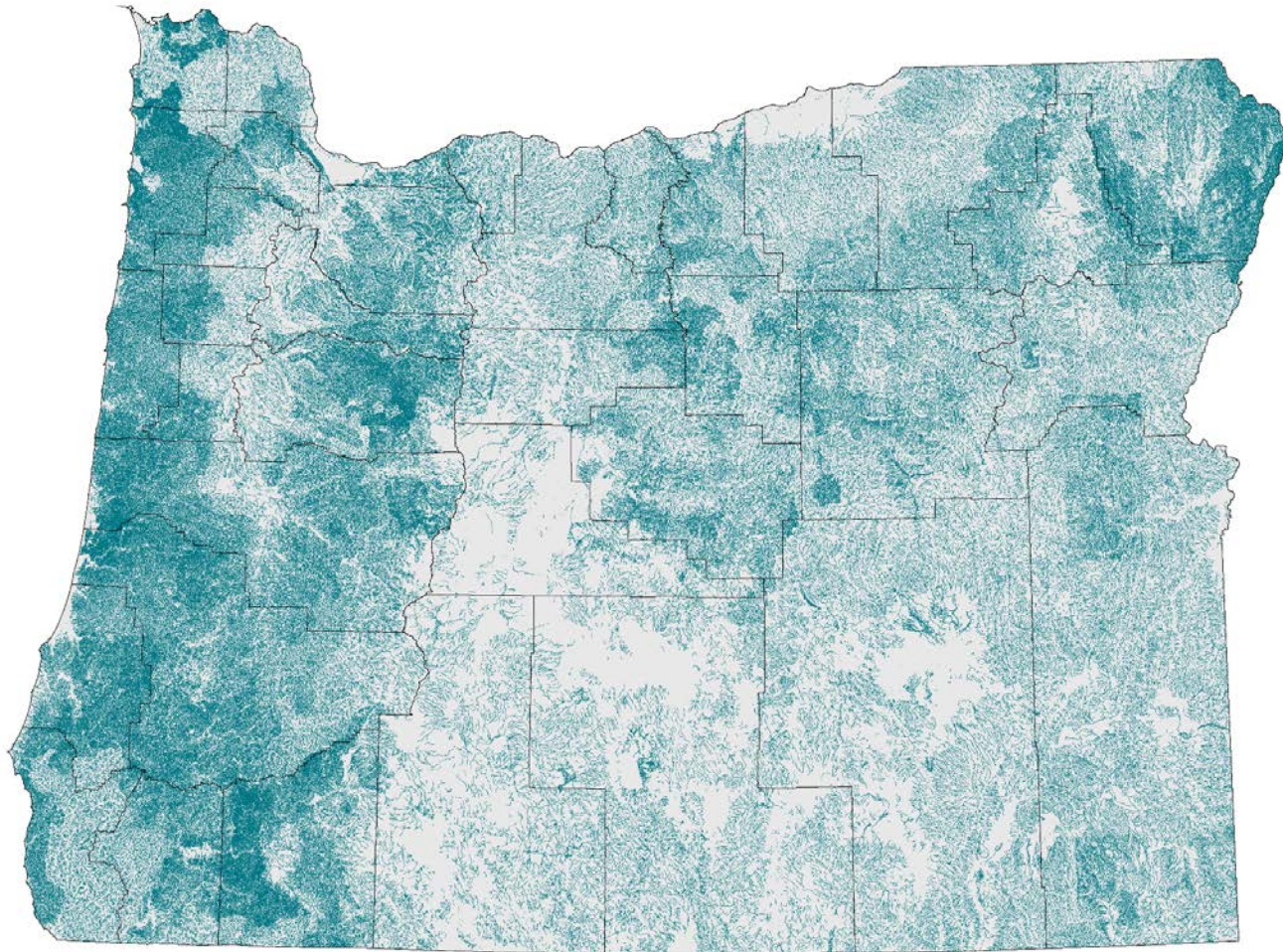
	Current	SB 3
<b>Large-Scale mines</b>	<i>Operating permit required</i>	<i>Operating Permit required</i>
<b>Small-Scale mines</b>	<i>Exclusion certificate required</i>	<ul style="list-style-type: none"> <li>- <i>Operating permit required for “upland” placer mines (new class of placer mines)</i></li> <li>- <i>Exclusion certificate required for aggregate mines</i></li> </ul>





# Upland Placer Mines

*Defined as all precious metal placer mines that are located within 100 yards of the line of ordinary high water of any Oregon stream AND that use motorized equipment of greater than 6 horsepower for site preparation or excavation*



County Boundaries

Area Within 100 Yards of All Streams (19,209,088 acres)

Data source: National Hydrography Dataset  
Stream and River Flowlines (2016)



## Operating Permit Requirements and Costs

Minimum permitting costs are approximately \$10,000-\$15,000, including:

- *Application fee – at least \$1,750*
- *A surveyed site map required – at least \$3,000*
- *Reclamation security required – at least \$5,000*
- *Local land use approval required – Costs range from \$100s-\$10,000+*
- Additional permits, studies, plans may be required
- Permit application review process by agencies and tribal governments
- Permit conditions to protect land, water, biologic and cultural resources
- Reclamation required
- Annual renewal fee of \$850, production fee

## Exclusion Certificate Requirements and Costs

- \$80 application fee
- \$150 annual renewal fee
- Annual production report must be submitted
- No conditions imposed
- No reclamation required



## Enforcement: Large-Scale Placer Mines

### For placer mines with Operating Permits, current enforcement tools include:

- Notice of Violation
- Suspension Order
- Notice of intent to recover security
- Closure and reclamation of site\*
- Criminal penalties, with fines up to \$10,000\*
- Civil penalties, up to \$10,000 per day\*

*\*These tools have been rarely used, if ever*

### Changes proposed by SB 3

No changes to enforcement tools for large-scale placer mines

## Enforcement: Small-Scale Placer Mines

### For placer mines that fail to apply for or renew an exclusion certificate, current enforcement tools include:

- Notice of Violation
- Suspension Order
- Criminal penalties, with fines up to \$10,000\*
- Civil penalties, up to \$10,000 per day\*

*\*These tools have been rarely used, if ever*

### Changes proposed by SB 3

Adds enforcement tools for “upland” placer mines:

- Class A violation for failure to obtain Operating Permit
- Class A violation for failure to observe operating hour restrictions



# Summary: Changes Proposed by SB 3

## Permit Requirements

### Operating Permits

- Operating Permits would be required for “upland” placer mines
  - All precious metal placer mines within 100 yards of the line of ordinary high water on any stream, AND
  - That use motorized equipment of greater than 6 horsepower for site preparation or excavation.

### Exclusion Certificates

- Exclusion Certificates would not be required for placer mines
- Exclusion Certificates would be required for small-scale aggregate mines that fall below thresholds for obtaining an operating permit

## Enforcement Tools

Adds enforcement tools for “upland” placer mines:

- Class A violation for Failure to obtain Operating Permit
- Class A violation for failure to observe operating hour restrictions

