



Testimony in OPPOSITION to SB 46 (Surface Mining)

To: Senate Committee on Environment and Natural Resources

From: Central Oregon LandWatch

Date: January 24, 2019

Mr. Chair, members of the Committee:

In the 2007 Legislative Session, DOGAMI engaged in a thorough and collaborative process with a number of policymakers, stakeholders, and residents in order to develop and refine SB 149, which made various adjustments and improvements to surface mining statutes.

At the time, DOGAMI rightly lauded both the collaborative process and the resulting policy. The measure passed the Senate on a 26-4 vote and passed the House without objection. This was the result of a transparent, deliberative process that included participants from a number of perspectives all working in good faith toward mutually agreed-upon revisions and reforms.

In light of that history, we are disappointed that SB 46 takes a much different approach.

Senate Bill 46 was introduced ten days ago among hundreds of other measures, and this hearing may be the very first and last time the public has an opportunity to weigh in before it garners the momentum of a floor vote. And while that process may benefit measures styled as “housekeeping” or “technical changes,” this measure cuts directly at the provisions worked to in SB 149.

Notwithstanding the deep concerns we have about the process at hand, we have two specific policy concerns with the current draft, which are echoed by a number of residents and stakeholders in Central Oregon (many of whom followed or even participated in the 2007 process).

1. Firstly, the permitting exemption for 1,000 cubic yards or less of extraction from obtaining an exclusion certificate is troubling. While DOGAMI has described this as “hobby mining,” such an extraction could nevertheless have dire and lasting effects to

ecosystems, infrastructure, and surface water. In the same way that “hobby farms” are still subject to zoning regulations and “hobbyist” hot rod drivers are still required to obtain a driver license, these potential effects should clearly necessitate oversight.

2. Secondly, the exemption to the definition of surface mining activities of certain excavation or grading operations is a direct reversal of the 2007 collaborative process. Not only is the terminology vague (what is a “local jurisdiction with land use authority?”), but the phrase “building, public works project or other physical improvement” encompasses nearly any activity. Once fill is removed from a site like this, there is little oversight as to where or even how it is utilized; again, this could have wide-ranging and yet-unknown effects on water use and water quality.

Please take a page out of the 2007 DOGAMI playbook and shelve this measure until stakeholders and policymakers have had an opportunity to discuss, vet, and collaborate on policy improvements alongside residents and other affected members of the public.

Central Oregon LandWatch opposes SB 46.

Thank you.