



## Friends of the Tumalo Wildlife Corridor

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A Public Benefit Non- Profit Corporation registered in Oregon: 996512-92

### **BY EMAIL**

January 23 2019

Senate Committee on Environment and Natural Resources

900 Court Street NE

Salem, OR 97301

### **Re: Comments on SB 46 – Surface Mining Exemptions**

Dear Chair and Committee Members:

We oppose the proposed surface mining permit exemption under ORS 517.750-  
subsection (16)(b)(H)

**(H)** “Excavation or grading operations that are necessary for the on-site construction of a building, public works project or other physical improvement authorized by the local jurisdiction with land use authority, unless any excavated minerals are sold into the commercial market”

This would mean that the Oregon Department of Mining and Mineral Industries (DOGAMI) would no longer have control over such on-site surface mining activities. DOGAMI is uniquely qualified and experienced to provide the necessary oversight with respect to surface mining activities. Local jurisdictions do not always have qualified personnel who can assess such operations. Others such as Deschutes County do not even have grading ordinances.

An example of what could have happened if DOGAMI regulations were not applied occurred in 2016 as follows:

Tumalo Irrigation District (TID) was cited for “surface mining” without a permit and sanctioned by Deschutes County against such activity in the future. Surface mined dirt from the bed of Tumalo Reservoir was removed from the site in trucks to use as fill dirt

for its irrigation canal-piping project. Once the dirt is taken away from site there is no way of monitoring exactly how and where it is used.

This resulted in environmental damage and caused safety issues with heavy trucks accessing the site. Importantly, the trucks passed through the Deer Winter range, an area in Tumalo that, for the past 40 years, has been closed to motor vehicles during the winter months (when the code violation took place). This traffic caused significant disturbance during a critical and stressful time for a mule deer population already in a troubling decline.

Wildlife habitat is often ignored or not even recognized where construction work is taking place. For example, unregulated surface mining may destroy habitat for ground nesting birds such as burrowing owls, populations of which are in serious decline across the state. Sites of cultural and archeological interest are vulnerable to unregulated surface mining as are water sources, soil drainage systems etc.

State law was changed a number of years ago to treat on-site construction surface mining as subject to regulation by DOGAMI. This provided oversight for such activities and thus protects the public interest. It is unclear why abandoning this section of the law is necessary or in the public interest particularly as this change is proposed without the opportunity for adequate public input.

We ask you remove from the bill the amendment to allow unregulated surface mining (excavation) or grading by any persons or entity in Oregon **or** further specify and clarify ORS 517.750 (16)(b)(H) to ensure protection for (for example) wildlife habitat, natural resources and cultural artifacts and sites.

Sincerely

friends of the Tumalo Wildlife Corridor (fTWC)