Jefferson Mining District

The Date of February 26, 2013.

SUMMARY FOR CONTENTS OF PUBLIC COMMENT **OPPOSING** LEGISLATION
House Agriculture and Natural Resources Committee **HB 2248**

Please add this Summary Sheet and Attached Comment to the Bill Folders for HB 2248 and make this notice a part of the Public Record.

Comment Summary Subject Matter Showing Opposition Warranted

Comment Attached

Jefferson Mining District

The Date of February 26, 2013.
COMMENT FOR THE PUBLIC RECORD
HB 2248

House Speaker Tina Kotek, Brad Witt, and the Agriculture and Natural Resources Committee Members.

Because of surprise and lack of adequate time for response to each:
Please add this token Comment and Summary to the Bill Folder for HB 2248 and make this notice a part of the Public Record.

Resolved: Those of the Assembly of Jefferson Mining District vigorously OPPOSE the Bill for the following substantial Law-based reasons, time prejudicially obstructing a more informed response.

Dear House Speaker Tina Kotek, Brad Witt, and the Agriculture and Natural Resources Committee Members:

Introduction.

My name is Ron Gibson. I am duly elected by the Assembly of Jefferson Mining District, to the Office of interim chairman, commenting here in this official capacity. I have 43 years experience in the mineral industry, including engineering, mineral estate possession, mineral extraction, mineral product invention, and research and application of the mining law, including Water Law, more specifically the Water Appropriation Water Doctrine, and of ingress and egress, including highways. Mining districts have governmental power and authority and special expertise privy to the unique subject matter of the mineral estate acknowledged by Congress through prevailing federal legislative enactment. Jefferson Mining District is the largest mining district in America, the jurisdiction of which currently serving thousands of mineral estate and other Mining Law grantees and directly covering 4 states, including the entire state of Oregon.

Jefferson Mining District authority extends to any issue adversely affecting miners or mining law related grantees in the cognizance of Jefferson Mining District, such as is being attempted in any of the current proposed legislation adversely affecting the mineral estate, granted water rights, or ingress and egress, etc. Being the Mining law potentially affects every property owner, Jefferson Mining District serves and responds on behalf of untold millions of Americans now and into the future.

Thank you for this opportunity to respond to the proposed legislation HB-2248. Being a compilation of foundational legal precedence law principles and notice for purposes of execution of lawful remedies in the very near future should this committee pass any bill purporting to amend the mining law or encroach up the field occupied by Congress, we ask you to give this comment the special consideration it deserves to avoid a disaster were these sorts of bills to become law.

Those of the Assembly of Jefferson Mining District vigorously OPPOSE HB 2248.

Time Prejudice.

Trying to render the whole of the mining law into a cogent response to a facial takings in the form of the proposed bill, hobbled by the inadequate time provided to respond, a deprivation of substantial due process on matters of vested property and government trust relationships and obligations, being prejudiced further by the various legislative time constraints and political maneuverings imposed obstructing sufficient notice and opportunity to adequately respond on the important and myriad subject matters involved, We present the following compilation of precedent law and application due diligence which the prior committee or Legislative Council were duty-bound to perform prior to advancing the proposed ill-advised legislation which we require be returned to the Legislative Council for confirmation of lack of conflict with existing federal and state laws and to avoid future litigation for committing unlawful takings.

Supremacy Clause, Property Clause, and Commerce Clause Violations.

The current proposed legislation, among many other violations, which cannot be adequately covered in the time provided, is not only a breach of the fiduciary duties of the State, but will, more importantly, be inconsistent with prevailing federal or congressional power of disposal ceded in the ACT OF CONGRESS ADMITTING OREGON INTO UNION, Approved February 14, 1859, establishing that the "*State shall never interfere with the primary disposal of the soil within the same by the United States, or with any regulations Congress may find necessary for securing the title in said soil to bona fide purchasers thereof*", the Supremacy Clause, Property Clause, Commerce Clause, or the national Mining Law.

Moreover, if, on the one hand the proposed legislation is not restricted to Titled State Lands it will be in violation of prevailing law. On the other hand, where Congress expressly granted the minerals to the state, prohibition of an inexpensive mineral extraction scheme demanding exorbitant fees and constraining permits to develop such a risky estate is irrational, such legislation even confined to Titled State Land is bad public policy. We'd like to remind the state that, in view of this risk, Congress in its wisdom, left the development, costs, and risks to the miner to bear giving free reign as to how the miner economically accomplishes that public necessity. The state ought to follow the same wisdom, not use the public necessity for minerals as an excuse to create a parasitic revenue stream to fund a department whose recent path brings it into foreign territory, under policies that will never turn a profit to the public or private sector, nor are these policies designed to do so.

Where the proposed bill intends, suggests or in fact does apply beyond State owned or Titled land, such as that reverting tho the state for back taxes, it will come in conflict with prevailing federal and existing state law. The Legislative Council was duty-bound to have made a declaration of these conflicts, yet failed.

DOGAMI Powers and Duties Do Not Lawfully Extend to Non-State Mineral Property or Water

Even were the state to produce mineral title, what appears to be statutorily identified as "mineral lands", not mining claims, or patented mineral land, it appears the state agency authority is limited even as to state property. In pertinent part, the delegated duties of the State

Department of Geology and Mineral Industries is, ORS 516, to (1)Initiate and conduct studies and surveys, (2)Conduct as a continuing project a geological survey of Oregon, (3)Initiate, carry out or administer studies and programs, (4)Consider and study kindred scientific and economic questions, (5)Cooperate with federal or other agencies, (6)Serve as a bureau of information and advisory services, (7)Serve as a bureau of information, (8)Collect a library of literature, (9)Make qualitative examinations of rocks, (10)Study minerals and ores, (11)Establish in the department or in cooperation with universities and other organizations a repository for drill cores, none of which identify any regulatory authority over granted or national mineral properties and rights.

Likewise the Powers do not extend to anything such as the proposed legislation entails. The powers are, in pertinent part, to (1)Make or have made qualitative and quantitative determinations of ores, (2)Perform geological surveys, (3)Collect and exhibit specimens, (4)Enter into contracts or agreements with the federal government, (5)Establish, equip and operate a geochemical laboratory.

Moreover, the duties and powers of the governing board of the State Department of Geology and Mineral Industries includes carrying out the policies in three Code sections, such as, extinguishing dormant mineral interest, and other duties which "are to encourage efficient and environmentally sound identification and development of the mineral resources of this state" or protection and "development of geothermal resources" none of which relate to Congressionally disposed minerals or the power to subvert the national Mining Law or mineral policy, but merely those interests "of this state" further refined to include duties relating to state property and to "(b)Receive on behalf of this state, for the use and benefit of the department, gifts, devises and legacies of real or other property". None of these powers or duties extend beyond state property interests and cannot extend to private property possession, including private appropriation for mineral or water, as federal law requires. The Bill unlawfully extends these limitation.

The duties to Initiate, Conduct, Consider, Cooperate, Serve, Study, Establish, or the powers to Make, Perform, and Enter into contracts form no basis for interfering with surface or subsurface prospecting, mining claims, or mineral extraction processes or production including the granted use of water as the bill purports exists in proposing to regulate.

First Impression HB 2248 Conflicts with Existing Law and with the Existing law.

And here we must remind the Committeee, with the onslaught of bad legislation threatening congressionally granted property and rights which Jefferson Mining District is attempting to address, we do an injustice to the entirety of the problems created in this bill or correcting errors to the existing law to which it pertains, and can only comment to a couple of the most egregious matters here upon first impression.

A) If applied to granted to patent lands, the proposed legislation attempts to enlarge the authority of the agency beyond what is lawful.

1) The proposed legislation does this by altering a term in the present code.

a) The Term "Chemical process mine" is removed in favor of a new term "Mining operation" which purports to extend to all mining, not limited to unappropriated lands, and

granted or congressionally disposed lands outside of State ownership or state Titled lands, such as land taken for taxes.
b) This singular term change unlawful expands the scope of the authority of the agency to include not merely chemical process plants, but to ever "surface or underground mine that processes, or produce minerals".
c) Consequently, this then would extend to everything not processed by Gravity separation means presuming, without cause, that any process or production methods outside of gravity separation is harmful and needing regulation.
d) This regulation authority is not provided for in the Congressional grants for mineral prospecting, possession, production, process, or development.
e) Erroneous terminology permits Fiduciary Breach hardship, mistreatment, trespass, and open theft under color of official authority.

B) This bill provision unlawfully encroaches upon the very purpose of the national Mining Law, to produce minerals whether at surface or subsurface deposits.

C) The bill wrongly purports state authority to combine, under state control or regulation, the processing or production of mineral with the reclamation of already manufactured metals.

1) The two subject matters are distinct and of completely differing authority, tending to treat a congressionally granted right in property and of the right of self-determined production of minerals as manufactured goods.

D) This bill unlawfully encroaches upon the granted right in a mineral entryman to determine the most economic method of production. It does this without also recognizing that any improper methods could be stopped with existing state property law remedies.

1) In other words, it unlawful imposes a presumption of guilt merely because the entryman process or produces minerals, this right being congressionally granted notwithstanding.

E) The Bill wrongly burdens a granted property the need of the existence of a permit, the failure of possession of which invokes the authority of the agency.

1) This is an unlawful encroachment of those mineral entries which do not, by their prevailing grant, require a permit in order to enjoy the right of possession extraction or production, and determination as to the method of the extraction.

F) The bill unlawfully claims jurisdiction over all mining, everywhere, not just of state owned minerals on state owned or titled land merely because a mineral entryman does what he is already granted to do, produce mineral.

1) Said another way, the Bill purports authority to delegate regulation power to an agency to require certification of a granted production right granted by Congress.

a) As stated before, this unlawfully encroaches on the mineral estate, a field completely occupied by Congress.

G) A peculiar effect of this bill even where confined to state lands is the onus of any findings concerning the land is put upon the operator, instead of the land owner.

1) The state is being derelict in the management of its lands if it doesn't already know the condition of its lands for the purpose of mineral extraction for purpose of an environmental evaluation which should be available to any operator for compliance BEFORE an operator enters into any investment with the state to extract the state's minerals, if the state has any mineral rights.

2) As applied to private mineral land, this bill provision would be completely in conflict with the congressional mineral grants.

The Bill Impermissibly Interferes With Settled Grants of Property, Rights and Purpose.

To further drive home the point that the bill where intending to regulate a granted property and granted rights thereby will come in conflict with existing law and more specifically the national mineral schema, which includes a directive to foster and encourage mineral development, see 30USC21, we offer the following insight and relating to the Supremacy Clause violation spoken to earlier:

Mining Law is a Primary Disposal of Soil, including Water, the State Shall Never Interfere.

The Mining Law is a primary disposal of the soil the property, enjoyment, possession, and title from which the "*State shall never interfere*"; Never interfere is quite a long time. Primary disposal of the mineral estate acknowledges that "Mineral rights are ownership in land, and therefore [the Locator] is a landowner. See, e.g., United States v. Shoshone Tribe of Indians of Wind River Reservation in Wyo., 304 U.S. 111, 116, 58 S.Ct. 794, 82 L.Ed. 1213 (1938) (with respect to question of ownership, "[m]inerals ... are constituent elements of the land itself"); British-American Oil Producing Co. v. Bd. of Equalization of State of Mont., 299 U.S. 159, 164-65, 57 S.Ct. 132, 81 L.Ed. 95 (1936) (finding a mineral estate an estate in land); Texas Pac. Coal & Oil Co. v. State, 125 Mont. 258, 234 P.2d 452, 453 (1951) ("[l]ands as a word in the law includes minerals") Hicks v. United States Forest Service, 2002; and so long as he complies with the provisions of the mining laws his possessory right, for all practical purposes of ownership, is as good as though secured by patent." Wilbur v. U.S. ex rel. Krushnic, 1930, 50 S.Ct. 103, 280 U.S. 306, 74 L.Ed. 445.

Within the context of mining incident activities regarding the granted mineral estate, including water, Congress made no provision or reservation for state regulation authority, other than for recording appropriations. In other words, there is nothing criminal about what a grantee does when extracting minerals, despite unsubstantiated special interest hysteria to the contrary, for which the state is obligated to legislate or where it's sole duty is to record what lawful activity exists. Congress made no reservation to the state, the power to regulate or criminalize the mineral grantee, or cause permits for the enjoyment of the property, or fines for their non-compliance, or most importantly uses imposed greater than that which the mineral estate provides to society in

general or for national purposes. In fact, interposition of a permit prior to enjoyment is facially inconsistent or contrary to the Congressional grant that the locator "shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations". [emphasis added], reference 30 USC §26 & §35. Said another way, being a permanent conveyance of Congress, there is nothing to reclaim as the agency purports is its authority to regulate. This authority would only be legitimate upon state mineral lands, if any, where the land is not sold but retained after the mineral is extracted. Congressionally granted mineral land is not subservient to any surface interest. It is why mineral estate is the dominant estate. Until the state can show title to the surface of any land, and even then it may not have any authority to diminish, condition, regulate or control the granted mineral or right of extraction of production of the granted minerals. This is so because of the state merely retains surface rights the federal law requires resort to the rule s of the BLM for mineral entry where the is a preexisting surface interest. There are no "Oregon's mineral resources" held by the state in mineral land granted under the national mining law over which a state agency has any authority or jurisdiction; Reference The Encyclopedia Americana, 1919, Volume M Mining Laws of the United States, Page 184, supra. As a matter of settled law, all authority and jurisdiction was conveyed to the locator or patentee, in the name of the nation by Congress, not to the state which is precluded by the Act of January 20, 1865 from obtaining mineral rights unless expressly granted to it.

Mineral Estate Possession is a Compensable Property.

Being *"mining claims are `private property' which enjoy the full protection of the Fifth Amendment"* as seen in United States of America, v. Shumway, 1999, citing Swanson v. Babbit, 1993, and may not be taken from the claimant by the United States without due compensation. See United States v. North American Transportation & Trading Co., 253 U.S. 330 (1920); cf. Best v. Humboldt Placer Mining Co., *infra.* The legislation proposed is causing and will continue to cause unlawful takings of granted property, including water, rights, remedies, and livelihood contrary to law. The good faith intention of the state to comply with its Constitutional obligation to tender compensation, if it is thought the State can muster a higher land use than a public necessity, public benefit, and public use for the purpose of an Eminent Domain bid is belied by the lack of account of moneys for the purpose or for the administrative consequence of interfering with the economic viability of these granted properties in the bill provisions. If the imposition isn't facially in conflict of the Congressional disposal, in part that the grantee is granted the right to determine the method of economical extraction including the non-consumptive use of water by any method whether or not mechanical, is the State in any financial condition to pay, forever into the future, the mineral estate grantee to not work the property he is granted and entitled or required to work? And if so, if this were lawful, why isn't that provision in the bill proposed?

The Unique Nature of the Mineral Estate Causes Certain Obligations and Unique Liabilities.

What should warn the members of this committee off of voting for passage of the proposed legislation is the unique character of the mineral estate and the substantial law showing

the lawless nature of the proposed legislation, the facial lack of public authority for it, and therefore private liability. It will have to be held firmly in the mind that this unique estate is conveyed and dealt with, even by government entities or its agents, as though these were mere individual proprietors without political power or immunities. And it further must be acknowledged, that the mining law is a property law born out of a legislative grant creating legal relationships, the constructive trusts of which are between the United States grantor and the private grantee and may not be interfered with by the state, given the cession of Power over primary disposal of the soil as Congress did in enacting the 1865 Law of Possession, mining title remedy, the granting property Lode Act of 1866 which relates also to grants to water and highways, the property granting Placer Act of 1870, victims of the current proposed lawless legislation, and the more famous and widely known property granting Act of 1872. The Act of 1865, reference 30 USC 53, in particular, regulates that Title challenges are the exclusive jurisdiction of the state courts. The legislature shall not regulate where Congress has spoken. The imagined harms the proposed state legislation seeks to regulate are actually title challenges the Mining Law Congress enacted requires are to be resolved between competing or affected parties in the state courts, not the state legislature.

Impermissible Interference with Legislative Grants of Congress.

What is a Legislative Grant, but a Present Grant, operating today. And because of the unique nature of the mineral estate unlike any other, these mineral grants are operable forever into the future, at least regarding certain granted minerals, remedies, and other property, such as water and ingress and egress. From *Leavenworth, Lawrence, & Galveston RR. Co. v. United States* (1875): [T]he rules which govern in the interpretation of legislative grants are so well settled by this court that they hardly need be reasserted. 'All grants of this description are strictly construed against the grantee; nothing passes but what is conveyed in clear and explicit language; and, as the rights here claimed are derived entirely from the act of Congress, the terms of which must be plainly expressed in the statute, and, if not thus expressed, they cannot be implied.' "It creates an immediate interest, and does not indicate a purpose to give in future. 'There be and is hereby granted' are words of absolute donation, and import a grant in *praesenti.* This court has held that they can have no other meaning; and the land department, on this interpretation of them, has uniformly administered every previous similar grant. *Railroad Company v. Smith*, 9 Wall. 95; *Schulenberg v. Harriman*, 21 id. 60.

"In construing a public grant, as we have seen, the intention of the grantor, gathered from the whole and every part of it, must prevail. "[A]nd, unless there were other provisions restraining the words of present grant, the grants uniformly were held to be in *praesenti*, in the sense that the title, although imperfect before the identification of the lands, became perfect when the identification was effected and by relation took effect as of the date of the granting act," St. Paul & Pacific R. R. Co. v. Northern Pacific R. R. ""A grant, in its own nature, amounts to an extinguishment of the right of the grantor, and implies a contract not to reassert that right. A party is, therefore, always estopped by his own grant." Fletcher v. Peck, 10 U.S. 87 (1810)"

And then we have the effect of the mining law that the courts long recognize the Acts of 1866, 1870, and 1872 as amending, is a "present grant" *"revolutionizing the whole land policy of the government, abdicating in the name of the nation its authority and jurisdiction over the*

richest mineral possession on the face of God's earth,"[1] conveyed the mineral estate of the United States completely, *an absolute gift of all the mineral wealth without condition and without limitation to all citizens.*[2] It has long-since been settled that *the federal system treats the mineral estate as a proprietor holding paramount title* [3] *to its public domain and not as an attribute of* sovereignty. Standing *in no different relation to the sovereignty of the state than that of any other property which is subject to barter* and sale, [4] [5] [*t*]*he minerals do not differ from the great mass of property, the ownership of which may be in the United States or in individuals, without affecting in any respect the political jurisdiction of the state* it has as well been settled with *that fixed and definite legislative policy* granting *its mineral lands* the Proprietor, Congress, in the name of the United States, *forever abandoned the idea of exacting royalties, instead giving free license to all citizens,*" the notion of *royalty in the product of the mines was forever* relinquished.[6]

The Bill Impermissibly Encroaches Upon Settled Law.

The settled law regarding any grant is that they are interpreted strictly, no more or less than expressed, silence not equating to expression by silence, nothing taken by implication; Any ambiguity will resolve in favor of the grantor, given the grantee's right may not be diminished, interfered, or prohibited. The Congress already granting free license, the proposed legislation purporting to require additional permits and fees will impermissibly encroach, diminish, interfere, or cause prohibition. Where Congress has given free license the state is precluded from requiring or charging for additional license, the lawful character of mining notwithstanding. The legislation encroaches upon the prevailing authority of Congress stated in the Supremacy Clause, Property Clause, and Commerce Clause, notwithstanding the cession power disposal of the soil.

But Oregon has not in the past made laws in conflict, as do the current regime proposals purporting to trump existing prevailing state and federal laws granting the public necessity, public benefit, and public use character of the mineral estate, including water and highways. Past laws acknowledge, in a continuing way, by those state law enactments, such as the 1899 Oregon water law Section 2 of the Act granting that all “having title or possessory rights to any mineral or other land, shall be entitled to the use and enjoyment of the water of any lake or running stream within the state for mining and other purposes in the development of the mineral resources of the state” “and such waters may be made available to the full extent of capacity thereof without regard to deterioration in quality or diminution in quantity, so that such use of the same does not materially affect or impair the rights of prior appropriations”, such right of appropriation to miners relating back to the Act of 1866, this state grant is fully consistent with Section 9, of that water grant. The Bill provisions would seek to interfere with all non-gravity uses of water for processing or production. Clearly this is an impermissible encroachment for any “modernizing” interested agency bent on denying present grants of past enactments. We have

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1 The Encyclopedia Americana, 1919, Volume M Mining Laws of the United States, Page 184.
2 Page 185, The Encyclopedia Americana, 1919, supra.
3 Handbook of America Mining Law, Geo. P Costigan, Jr., 1908, Pg. 11.
4 Page 10, Moore v. Smaw 17 Cal. 199 79 Am. Dec. 123
5 American Law Relating To Mines And Mineral Land within the Public Land States and Territories and Governing The Acquisition and Enjoyment of Mining Rights in Lands of the Public Domain, Curtis H. Lindley, of the San Fransisco Bar Volume I, l897, Section 80.
6 Ivanhoe Mining Co. v. Consolidated Min. Co., 102 U.S. 167. 173, 26 L.Ed. 126.

filed a comment to HB 2259 more specific to the water law being violated by these bills which we include herein by this reference.

State Fiduciary Breach.

The representative proposing these style Bills, the Legislative Council advancing the Bills and this committee if passing these style Bills will have failed their fiduciary obligations and duties under state and federal law and the acts establishing the state itself, whether or not in violation of their oath of office to respect law and the valuable property of others and to protect the same. Be of note, it is unlawful for a trustee to attack the beneficiary as the current proposed legislation commits. It is also a violation of law for the state, a water trustee whose duty it is to receive the lawful appropriations under the grant of water to the public, to interfere or to claim for itself the property under its fiduciary.

The proposed legislation will unlawfully regulate or control a subject matter occupied and regulated exclusively by Congress and to a lesser extent, mining districts, such as Jefferson Mining District.

Jefferson Mining District is available for consultation, if that would help stop the wrongful attacks that the class of the current proposed legislation causes.

Adverse Affect to Wealth and Economy and Taxing to the Treasury of the State.

Further, Bills of this sort will always adversely affect the real wealth of the public and private sectors, and subject the Taxpayer to untold costs as the State depletes its coffers to defend against each and every miner affected, which could be in the 10's of thousands, suing for the harm of the unlawful takings the proposed legislation causes and to pay compensation for an estate of immeasurable monetary liability, not to mention against the federal Government defending its paramount title. These suits will take the form of Class Actions as well as individual for those who believe class action prejudices their Property, being each miner or grantee has independent property rights to vindicate, whether civil, criminal, or unlawful takings.

State as "*Ex Officio*" Deputy Mining District Agent Held to That Duty and No More.

Furthermore, the state cannot deny, where it has made laws regulating the establishing of a mining claim not in conflict with the federal property disposal, the departments of government became "*ex officio*" deputy mining district agents. By the Congressional disposal power, the state has a higher fiduciary duty to protect mining from encroachment than we believe it currently remembers, where the Legislative Council allows the creation of legislation to interfere with the grantees such that we must stop our granted activity to come here to protect it. The current bill can be conceived to be wielding authority not even the most power mining district exercised. The example of the effect of the bill would equate to the mining district wresting possession and control of a grantees exclusive possession and unilaterally forcing the grantee to pay the mining district for the permission then the right to mine, despite what Congress enacted. This is certainly contrary to and in conflict of the national mining law as well as the Custom, Tradition, Heritage, and authority of a mining district, whose authority was by consent of the grantee and not

otherwise. Jefferson Mining District could not and has not, and by the *ex officio* relationship as deputy, thereby, the state may not do more than receive the self-executed appropriations of grantees who have the sole right of exclusive enjoyment of their granted property. The Bill exceeds this lawful authority.

Fees and Underlying Statutes Are Unlawful.

The Bill purported to allow fees instead of taxation to fraudulently evade the duty that a revenue bill must originate in the House. What lawful service is the State purporting it is providing to criminalize a lawful act granted through the exclusive Power of Congress, in favor of issuing a license and fee that the provision for fee in the bill is lawful?

Can this committee identify where a mining district ever collected fees to give to another group of people as is being done through the illicit use of fees charged to run the state office or agency? Can this committee identify how a fee is levied lawfully for a previously granted property? The Supreme Court holds that there can be none.

The bill unlawfully charges fees for federal property or granted uses beyond the scope of the grant to fund foreign projects or to the State beyond the benefit bestowed to the applicant. By this, the State becomes a parasite on the backs of Congressional grantees and their obligations penalizing them for hypothetical harms not of their making upon things they have lawful right to.

Permits Fees Not Lawfully Imposed.

"[T]he Supreme Court defined a fee as a payment made in connection with a voluntary application to a public agency for a grant bestowing a benefit on the applicant not shared by other members of society" Union Pacific Railroad Company, *et al*., V. Public Utility Commission Of The State Of Oregon; State of Oregon, 1990, adding that "in light of its legislative history and the definition of the term "tax" by the courts, supports the conclusion that Congress did not intend that a levy of the kind imposed by the Oregon statute be included in and thus barred by the section." [emphasis added]; The Mining law contains, as well, no intention by Congress that Oregon impose levy for the property or use of the property granted. The court continuing, That such a fee, purportedly attached "to regulate" "and mitigate the evils incident to the business" is but "a levy to collect the costs of regulation from those regulated is not to be treated as a tax". The fee "the Court held, was not a tax, but "the mere incident of the regulation of commerce". This State, because of the unique nature of the mineral estate, without the political power normally applicable, having no authority to regulate the congressional grant or commerce of the mineral estate or jurisdiction to define the mineral estate or its development as an evil seeking mitigation for which any fee "appropriated in advance to the uses of the statute" would be valid, the statute [or proposed Bill for the same] itself therefore and thereby is unlawful.

Grantee Exclusive Possession as Against the U.S. and All Third Parties, such as the State.

As a matter of law, such [mining claim] interest may be asserted against the United States as well as against third parties, see Best v. Humboldt Placer Mining Co., 371 U.S. 334, 336 (1963); Gwillim v. Donnellan, 115 U.S. 45, 50 (1885), these principles divest the Congress of the United States, the grantor of the proprietary mineral holding, and by ceded agreement, therefore,

subsequently to the trustee relationship obligation applicable to the state, and therefore to its legislative body, preempting any authority to "amend", condition, diminish, control, regulate, or retake, etc., the mineral estate long-since residing in the intention of the mineral estate grantee.

Being self-executing and self-operative there is no authority in any governmental proprietor to maintain authority or jurisdiction to create any regulation or rule interfering with property appropriated by Act of Congress, whether or not by patent, disposed exclusively to private grantees, including the use of water, mode of ingress and egress, or every economical means of extraction, and the right to work the claim, the purpose of the disposal. To interfere in anyway, as Oregon Statutes give notice, is a crime. Were an official to use color of authority to adversely affect private property or real estate, or harm the possessor or his title, the act is proscribed, being a felony under state law. The fact of any Representative assuming title to property not actually owned, having no lawful right to, and causing a “discussion” to occur upon the extent of the title to gain control for others is unwarranted in law, constituting a felony extortion. We ask this committee to arrest the criminal acts posing as legislation and avoid being an accessory to the harm now caused to people being required to respond to the threat, that if they do not, they will, in all likelihood, lose their property that was supposed to be protected in law.

Condemn the Proposed Legislation Found Inimical to the Public and Private Good.

We urge, instead of the facially violative legislation of an incalculable injustice of immeasurable value reaching irreparable harm, reliance upon the Wisdom ceded to Congress for existing judicial remedy, such as the Law of Possession. We require before further action is taken, in light of the blatant violations found as herein identified, the Bill is returned to the Legislative Council for confirmation of the lack of conflict with existing federal and state laws and to avoid future litigation for committing unlawful takings. We require also, because the legislative process or legislation is not due process, that prior to attempting legislative intercession any legislator or legislative council ascertain a found lack of existing remedy; that any legislator forebear accepting a bill proposal until exhaustion of existing or mandated remedies, such as resort to those provided for nuisance, waste, or trespass, or the Law of Possession, designed to avoid injustice or unlawful takings, interference with livelihood, or property deprivations giving remedy only to those deserving of it;

Oppose the proposed legislation.

I and the Assembly of Jefferson Mining District are available to answer your questions.
Thank you for your considered lawful action to the found threat this Bill is.

Ron Gibson.
Interim Chairman, Jefferson Mining District.
dritecrg@hotmail.com 541 621-5548.

To: House Speaker Tina Kotek
Representative Tina Kotek, Capitol Address: 900 Court St NE, 269, Salem, OR, 97301
Email: Rep.TinaKotek@state.or.us

cc: Committee Members
Brad Witt, Capitol Address: 900 Court St NE, H-374, Salem, OR, 97301
Email: Rep.BradWitt@state.or.us
Representative Sal Esquivel, Capitol Address: 900 Court St NE, H-483, Salem, OR, 97301
Email: Rep.SalEsquivel@state.or.us
Representative Caddy McKeown: Capitol Address: 900 Court St NE, H-376, Salem, OR, 97301
Email: Rep.CaddyMcKeown@state.or.us
Representative Brian Clem: Capitol Address: 900 Court St NE, H-284, Salem, OR, 97301
Email: Rep.BrianClem@state.or.us
Representative Wayne Krieger: Capitol Address: 900 Court St NE, H-381, Salem, OR, 97301
Email: Rep.WayneKrieger@state.or.us
Representative Jeff Reardon, Capitol Address: 900 Court St NE, H-491, Salem, OR, 97301
Email: Rep.JeffReardon@state.or.us
Representative Jim Thompson, Capitol Address: 900 Court St NE, H-388, Salem, OR, 97301
Email: Rep.JimThompson@state.or.us
Representative Ben Unger, Capitol Address: 900 Court St NE, H-377, Salem, OR, 97301
Email: Rep.BenUnger@state.or.us
Representative Gail Whitsett, Capitol Address: 900 Court St NE, H-474, Salem, OR, 97301
Email: Rep.GailWhitsett@state.or.us

Staff: beth.patrino@state.or.us, maria.kelly@state.or.us