

Dear Chair Clem and Committee Members:

I am writing to express concerns that the public interest would be greatly harmed if the provision in the A-Engrossed Senate Bill 1036 that would add a surface mining permit exemption under ORS 517.750 (15)(b)(G) were to be enacted. It would, without limitations, exempt from DOGAMI regulatory oversight, and exclude from the definition of "Surface mining" for all lands, not just landfills,

"Excavation or grading operations necessary for construction and maintenance of utilities, drainage facilities and irrigation facilities, where the excavated material is used on site and is not sold into the commercial market as aggregate material. "

This would allow unfettered excavation on a large scale for onsite construction on private or public lands, including for private purposes that do not serve the public interest. Under current law, excavation of up to 5,000 cubic yards or one surface acre is exempt. To allow unlimited volumes and surface areas to be excavated for onsite construction without an operating permit from DOGAMI will do great harm to lands that should be protected, such as wildlife habitat in areas designated for protection under statewide land use planning Goal 5 in the comprehensive plans of local land use planning authorities.

Excavation for onsite construction can have significant adverse effects on protected wildlife habitat, soil conditions and stability, health and safety, and the environment. Construction of new reservoirs on private lands without regulatory oversight by the state's geologists is an example.

The public should not be exposed to projects that harm the public interest just because there would be costs for DOGAMI oversight. Developers should bear this cost in order to construct new facilities or otherwise significantly alter their land in a socially responsible manner, as they customarily do for such things as building permits and other types of land use approvals by other public agencies.

Fees should be provided by law to be charged to excavators by DOGAMI as part of a continuing process of ensuring regulatory oversight of significant excavation for utilities, drainage facilities, and irrigation facilities. Under current law, small projects are exempt from such oversight, but an open-ended, broad exemption from such oversight as provided for in ORS 517.750(15)(b)(G), as proposed, would be an irresponsible grant of laissez-faire that would allow abuse of the public interest for private gain by developers.

I am a physician practicing and residing in Salem, and am a longtime resident of Oregon and an active outdoorsman. As Oregonians, we expect our legislators and government agencies to provide proper oversight of the use of land and natural resources thereon to ensure they are not exploited improperly or destroyed.

Please amend SB 1036 to remove the proposed ORS 517.750(15)(b)(G) , or substantially limit the scale and type of onsite construction or maintenance that would be allowed without a DOGAMI operating permit.

Sincerely,

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