GOVERNING BOARD MEETING MINUTES OREGON DEPARTMENT OF GEOLOGY AND MINERAL INDUSTRIES

Monday, October 1, 2018 8:30 a.m. Portland, Oregon

1) Call to Order: (Laura Maffei, Board Chair)

Chair Laura Maffei called the meeting to order at 8:30 a.m.

2) Introductions: (Laura Maffei, Board Chair and staff)

Chair Laura Maffei, Vice-Chair Katie Jeremiah, and Board Members Scott Ashford, Diane Teeman and Linda Kozlowski were in attendance. Jeremiah attended via phone call.

Department of Geology and Mineral Industries (DOGAMI) Staff in attendance:

Brad Avy, Director/State Geologist

Lori Calarruda, Recording Secretary/Executive Assistant

Kim Riddell, Chief Financial Officer (CFO)

Bob Houston, Interim Legislative Coordinator

Sarah Lewis, MLRR Program Manager

Jed Roberts, Acting GS&S Program Manager

Cari Buchner, Mining Compliance Specialist

Others in attendance:

Diane Lloyd, Department of Justice (DOJ)

John Terpening, Legislative Fiscal Office (LFO)

Mike Harryman, State Resilience Officer

Meg Reed, DLCD (via phone)

3) Review Minutes of July 17, 2018 and July 23, 2018:

Chair Maffei asked if there were any changes to the minutes as presented. No changes.

Board Action: <u>Kozlowski moved to approve the minutes of July 17, 2018 and July 23, 2018 as</u> submitted. Ashford seconded. Motion carried.

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4) Confirm 2019 DOGAMI Board Meeting Dates:

Lori Calarruda, Executive Assistant presented the proposed 2019 Board meeting dates and Board Retreat location.

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The 2019 DOGAMI Board Meeting Dates:

12 March 18, 2019 (Monday) – Portland, OR

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July 8, 2019 (Monday) – Board Workshop/Retreat – Location TBD

15 July 9, 2019 (Tuesday) – Location TBD

Note: A location for the July dates has not been determined. Chair Maffei asked staff to bring back suggestions to the next DOGAMI Board meeting in December for Board members to decide.

September 20, 2019 (Friday) - Portland, OR

December 13, 2019 (Friday) - Portland, OR

Board Action: <u>Kozlowski moved to accept proposed 2019 Board meeting dates as</u> presented/discussed. Ashford seconded. Motion carried.

5) <u>Tsunami Line Subcommittee Recommendations:</u>

Chair Maffei provided a brief overview of the discussion from July's meeting before turning the discussion over to Board Members Scott Ashford and Linda Kozlowski to present the tsunami line subcommittee recommendations.

Ashford stated he and Kozlowski were appointed to the subcommittee and met for a discussion on August 29, 2018 with Brad Avy, Ian Madin and Jonathan Allan of DOGAMI. The tsunami line legislation was passed 1995 as Senate Bill (SB) 379 and the tsunami line rules were adopted in 1996-1997. The tsunami line adopted in 1996-1997 is the same one used today. The proposed 2013 line had been decided and called the "L" line based on t-shirt sizes. He went into detail on how it was developed and the concerns and issues with accepting the changed line. After discussing the line's history, the subcommittee came up with two options. Ashford said they are recommending moving ahead with Option 1, working with the Governor's Office (State) to create a multi-agency taskforce to find a more comprehensive solution and potentially move DOGAMI out of the regulatory and enforcement position it is currently in regarding the tsunami line.

Ashford said Option 2 is indefinitely suspending consideration of rulemaking to update the existing tsunami inundation zone/line until sufficient information is known regarding potential impacts to Oregon's regulatory setting related to tsunami related aspects of the American Society of Civil Engineers (ASCE) 7-16.

Kozlowski stated the structures associated with the line are critical facilities related to life safety issues and not private development. Due to the life safety issue, it needs to be regulated which does not fall comfortably on DOGAMI but the ASCE 7-16 is compatible with building codes, which means a logical transition to Building Codes makes sense. She said the t-shirt size is more of a public indication of inundation zone and helpful with education and outreach, but the regulatory line is related to building codes and both are important and critical. She used the recent Indonesia disaster as an example of needing to be prepared and said their infrastructure was not in place. Both Ashford and Kozlowski acknowledged George Priest for the exceptional job he did on the tsunami line.

Ashford said the timeline for Option 1 will take an amount of time to move forward with and is something the Agency is willing to put in to get everyone on board. Chair Maffei asked how the coastal communities would be involved once the Governor's taskforce is setup. Ashford replied he thought the taskforce representatives would engage stakeholders across the state as part of the

effort. Mike Harryman stated the policy advisors would lead the taskforce and be the facilitators, and he has spoken to each of the Directors of the agencies, who are all willing to work together.

Kozlowski asked Director Avy if this meant the rulemaking will stop, he replied it had not officially started. Avy added there needs to be a formal letter from the Chair to the Governor's Office requesting their assistance to move forward with a taskforce. Chair Maffei will work with Avy to complete the letter and also have Ashford and Kozlowski review it.

Diane Lloyd stated the exception process has never been used.

Option 1 Recommendation: The Tsunami Line Subcommittee recommends that the DOGAMI Board adopt a motion to formally request the Governor's Office convene and lead a multi-agency taskforce for the purpose of recommending updates to the statutory requirements found in ORS 455.446 (Construction of certain facilities and structures in tsunami inundation zone prohibited) and ORS 455.447 (Regulation of certain structures vulnerable to earthquakes and tsunamis); and to propose a legislative approach and timeline for any recommended statutory changes. The multi-agency taskforce is proposed to include the following agencies:

- Oregon Office of Emergency Management (OEM)
- Oregon Department of Land Conservation and Development (DLCD)
- Oregon Parks and Recreation Department (OPRD)
- Oregon Department of Transportation (ODOT)
- Oregon Seismic Safety Policy Advisory Commission (OSSPAC)
- Oregon Department of Consumer and Business Services (DCBS)
- Oregon Department of Geology and Mineral Industries (DOGAMI)

Option 2 Recommendation: The Tsunami Line Subcommittee recommends that the DOGAMI Board adopt a motion to indefinitely suspend consideration of rulemaking to update the existing tsunami inundation zone (ORS 455.446) until sufficient information is known regarding potential impacts to Oregon's regulatory setting related to tsunami related aspects of the American Society of Civil Engineers (ASCE) 7-16 *Minimum Design Loads and Associated Criteria for Buildings and Other Structures — International Building Code* (IBC).

Board Action: <u>Jeremiah moved for Option 1 Governor's Office Taskforce. Teeman seconded.</u> **Motion carried.**

6) Legislative Concepts (LCs) Update:

Bob Houston, Interim Legislative Coordinator, provided an update on the Legislative Concepts (LCs) submitted by DOGAMI.

Houston said the Agency has continued to move forward through the process with the concepts. A meeting has been scheduled with the Governor's office in October to discuss the two (2) DOGAMI concepts, LC 482 and LC 484. LC 482 proposes to make changes to MLRR fees to ensure adequate delivery of service and ability to meet the regulatory responsibilities, and LC 484 addresses non-clear regulatory language with respect to Exclusion Certificate requirements to set a minimum threshold between 1,000 and 5,000 cubic yards. The other issue it addresses is related to construction sites and determining when a mine/operating permit is needed. They need a permit if the material passes

the minimum threshold and it is being sold on the market. The third Legislative Concept, LC 483 for fee recovery of the first year of the proposed chemical process mine site has been withdrawn. The statute currently says we can recover our costs at the end of the year. Avy said DOGAMI may need to look at this further down the line but the Agency did not want confusion between the two fee concepts potentially jeopardizing the proposed MLRR fee increase.

Ashford asked for clarification on the construction site issue and if they are not allowed to sale it to anyone. Avy and Houston explained if it is sold into commercial market and is over 5,000 cubic yards, which is approximately 500 dump trucks worth of material, then an operating permit would be needed.

Chair Maffei asked if the MLRR fee increase was just to fund the new positions, Houston answered it would allow MLRR to meet their regulatory responsibilities and fund three NRS 2 level site inspectors and a half time ISS 5 for IT support. Maffei asked if the staff was shifted from routine site inspections to permitting backlog. Houston replied yes, the program has also lost staff and recently added staff back in. Avy stated in addition to the staff, the fee increase ensures the program of having enough revenue to make it sustainable and not in a deficit position in out years.

Briefing: No Board Action Required.

7) Key Performance Measures (KPM) 2017 Data Report:

Bob Houston, Interim Legislative Coordinator, presented and reviewed the draft Annual Performance Progress Report. The Key Performance Measures (KPMs) show how the Agency has performed and will be submitted by DOGAMI.

The Agency's overall progress performance on KPMs are as follows: being on target to within 5%, almost half of them are green; for 5% to 15%, just over 16% are yellow; and for greater than 15% approximately 33% are red. Avy added he would be concerned if they were all green because that means the Agency is not challenging itself to reach a target.

Houston said KPMs 1-4 are new and this will be the baseline for them.

KPM 1: Hazards and Risk Assessment Completion:

Hazard and risk assessments for Urban Growth Boundaries (UGBs) to map earthquake, landslide, tsunami, coastal erosion, volcanic or flooding hazards had a 42% baseline. The goal for the future is to complete 100% in the next ten (10) years. Kozlowski asked if a physical map was done for them. Houston replied they could create one. Kozlowski asked where the historical focus has been. Roberts said most of the work has been done on the coast and Willamette Valley. He said it also depends on what projects they have been working on and the ratings for each type. Ashford asked if some hazards have not been done but can be done later and Roberts answered yes, it depends on the funding source. Ashford asked if there is any bias towards higher hazard areas and higher population areas. Roberts replied a lot of the funding has been through federal funding and they have their own metrics/priorities [which can include higher hazard areas].

KPM 2 – Detailed Geologic Map Completion:

Geologic data in the form of high resolution maps has 55%-56% high-level map coverage completed. It depends on where the dollars are coming from as to where the areas are done. It is determined by

Oregon Geologic Mapping Advisory Council (OGMAC) as to what areas of the state are done.
Kozlowski asked if they are lidar maps, Houston said they are geologic maps that describe the geology and are based on lidar. Ashford asked if KPMs 1 and 2 are tied together where you need the lidar to get the high-resolution map, Houston said yes. Maffei asked if the team field check the work,
Houston replied yes. Ashford asked what if lidar was not available, Roberts said DOGAMI has 95% lidar coverage for the high population areas. Ashford said the Agency may want to note under "Factors Affecting Results", that a lot of it is dependent on the lidar collection.

KPM 3 – Lidar Data Completion:

Lidar data at USGS level 2 or better has 46% collection coverage of the state. DOGAMI expects to reach 100% in fifteen (15) years. Kozlowski asked a question on the quality levels, Houston said Jake Edwards is the staff member who has that information.

KPM 4 – Mine Sites Inspected Biennially:

The mine sites inspected since July 2017 is only at 6%. The goal is to be 100% sites inspected at least once every biennium. Houston said MLRR needs the fee increase to reach their goal. Avy added that site inspections are important to keep things on target longer term, but it was a conscience effort to get the permits caught up. Avy wants the site visits to be meaningful and not just a check the box exercise.

KPM 5 - Customer Service:

Customers rating their satisfaction with the agency's customer service as "good" or "excellent" for timeliness, accuracy, helpfulness, expertise, and availability of information. Between 2017-2018 increased levels across all areas except overall where it dropped from 85% to 81% satisfaction and represents thirteen (13) responses received back. The first quarter of 2019 DOGAMI has received eighty-five (85) responses with some good comments. It is an online survey that takes about 2 minutes to complete, in which there are two different customer surveys, overall DOGAMI and MLRR specific. Avy said this is a required KPM that is reported to the Legislature.

KPM 6 - Governance

For Governance, on an annual basis the Board reviews and responds affirmatively or negatively to the best practice criteria. The Board went through and responded to the list of fifteen (15) required questions; the answers will be submitted through the formal process.

Board Action: <u>Kozlowski moved to approve the revisions to the 2018 Annual Progress Performance</u>
Report as presented/revised. <u>Ashford seconded. Motion carried.</u>

Houston stated it was his eighteenth (18th) birthday with DOGAMI!

8) Public Comment:

Chair Maffei asked for public comment. No public comments.

Break

9) Financial Report:

Kim Riddell, Chief Financial Officer, presented the budget status report as of August 31, 2018.

The Board packet contained the 17-19 Budget Report as of August 31, 2018, but Riddell handed out a revised budget packet due to the report pulling incorrectly. The original report for MLRR showed the current ending balance as almost a negative (-) \$600,000 which is not possible. Riddell stated this is a way for the Board to know when there is an issue with the budget. There is no way the agency could go below the current beginning balance as a negative. The budget will be corrected online after the meeting.

For the GS&S program, Riddell said the actual revenue for General Fund will always be a zero (0) balance at the end of the biennium because it will be spent out. The budget is currently at 64% spent but the Agency is only at 54% of the budget left due to prepays for State assessments that are received on an annual basis. Other Funds are negative (-) \$182,611 because they need to be invoiced to receive funds. Federal Funds are negative (-) \$179,000 because the Agency needs to spend before it can draw. Riddell said she does not have any concerns for projected revenue and expenditures. Riddell explained the phone expenditures are phone related costs for wiring and the new phones required by the State, and upgrades to computer systems from last biennium. She is projecting the future costs should not be as high since most of the old systems have been replaced. Ashford asked why there are two line-items for hardware and wiring, Riddell said she will provide an explanation at the next meeting. For the GS&S program actual projected budget percentages, Riddell expects everything to be under budget, somewhere around 61% to 75%. The Strong Motion Instrument fund numbers were included on the bottom of the sheet.

Avy asked Riddell to provide an update to the Board regarding the Multnomah County Courthouse building in town. Riddell explained how a brand-new building is being constructed downtown which is being built differently to absorb the impact of an earthquake. According to Building Codes, they can either put three (3) seismic sensors in the building or pay DOGAMI the equivalent of what it would cost to put them in the building. The County will put the sensors in the building but is also asking DOGAMI to provide fifteen (15) more seismic sensors in the building to gather more seismic information for engineering purposes and has asked DOGAMI to pay for these additional instruments using the Strong Motion Instrument Fund. Chair Maffei asked how the agency feels about this. Avy said the Agency supports this effort. Ashford said he wants to make sure the instruments are maintained, and the data becomes available. A discussion ensued on the requirement for maintaining them in the future. Kozlowski asked who uses the information, Ashford said it is used more by the earthquake engineering community and this information is used to validate how the building moves during an earthquake. Ashford asked how much money for the additional sensors, Riddell replied \$67,750. Kozlowski asked for more information on the fund. Riddell stated in statute, when a public building gets built, the construction engineer has to get three (3) quotes for how much it would cost to put the seismic instruments in the building, but has the option to send the designated amount to DOGAMI and it goes in the Strong Motion Instrument Fund. The Agency then typically pays the University of Oregon (U of O) to put instruments out around the state. Ashford said at a future meeting it would be nice to have someone from U of O come to discuss the seismic network in the State and possibly from USGS as well. Avy mentioned there has been a recent conversation about having them discuss the ShakeAlert program.

Riddell said the MLRR program's current actual revenue and expenditure balance is negative (-) \$248,000. Most of this is due to Paramount, the Grassy Mountain vendor, having questions on what they were being invoiced for and why. She has been having almost weekly meetings with their CFO and anticipates a payment by the next Board meeting. There are some items she agreed with them on and those charges will be removed from the billing. Ashford asked if this gave Riddell more insight

for future large complicated permits and she agreed. Chair Maffei asked if the concern is due to the transfer of ownership, both Riddell and Lewis thought that was part of it, but it is also on DOGAMI for not being aware of what is specifically required. Maffei asked how much is outstanding with them, Riddell replied approximately \$400,000.

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Riddell stated the fee increase will staff the three and a half (3.5) new requested positions, continue funding the current staff, and affords the online system that has an annual maintenance fee. If the fee increase is not approved, MLRR would run out of revenue in 2023 and some staff would need to be let go. This increase is to support the program. Ashford asked if the fee increase is being supported by stakeholders. Houston said they understand the need for the increase. Some of the groups like oil and gas have not had a fee increase in several years, and exploration has not had a fee increase since 1991. He said it takes the same level of work to permit, whether it is mining, or oil and gas and the fee should be similar. Riddell briefly discussed the Reclamation Guarantee Fund (bond fund).

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Board Action: <u>Ashford moved to accept the Budget Status Report as presented with the corrected pages.</u> Kozlowski seconded. Motion carried. Jeremiah abstained due to not receiving the revised <u>budget document.</u>

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10) Calico Update:

Sarah Lewis, MLRR Program Manager, provided the Calico Update.

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Calico is the first for a consolidated permit application. It is in the preapplication phase, no application has been submitted yet, but the company is still looking at submitting the application in December. The company has started the land use process with Malheur county and has received a DOJ briefing on a conditional use permit that can be issued by the county with a condition of approval for a future sage grouse wildlife mitigation plan. They still need to complete six (6) major baseline data reports before the application can be completed. The reports must go through a technical review team consisting of the agencies with permits involved in the consolidated process. The communications strategy is continuing to unfold and twenty-one (21) stakeholder interviews have been completed. DOGAMI is the lead agency in the permitting process and Randy Jones is managing it for DOGAMI. MLRR is working on a chemical mining process for possible future permits. Teeman asked if DOGAMI is lead agency for the federal portion. Lewis said DOGAMI is working to coordinate efforts with them so there are not two different permits. Ashford asked if as lead agency does DOGAMI need to pay the other agencies for their work done, Riddell said the Agency is not required to pay them until it gets paid but DOGAMI does pay them. Lewis said they are transitioning to call it Grassy Mountain because that is the location name and it has changed hands to Paramount. Calico was the original owner.

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Briefing: No Board Action Required.

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291 **11**) MLRR Update:

Sarah Lewis, MLRR Program Manager provided an MLRR update on:

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Management Transition

Lewis said she started her job on August 1, 2018 and is still here as well as the two other new staff members. She is excited to have the staff she has and looks forward to working with them.

Permit Status Summary

Lewis reviewed the detailed list of permits. There are almost 1400 permits that are renewed yearly. The new applications that need to be completed include a required site visit and to be circulated to cooperating agencies for review. Teeman asked if dredging was covered by DOGAMI, Lewis replied those are done through Department of State Lands (DSL).

Lewis reviewed the active surface mining applications breakdown and how long it takes to process, which could be a few months to over 3 years. The table included the twelve applications that are more than a year old and the reasons for their status. Lewis said often there are land disturbances that are not permitted but DOGAMI is unable to require the operator to get a permit. Cari Buchner described the process on how they contact these sites. If it is an already permitted site it is much easier for MLRR to get them compliant. The unpermitted sites are more challenging. In the future, they are looking at ways that are more effective at bringing these people on board, which may include civil penalties.

Buchner described how she came to the Agency, her job roles and background, which includes having a bachelor's degree in natural resources with a minor in fish and wildlife and a specialty in ecosystem management from OSU.

Avy said civil penalties are not a shift in philosophy toward more enforcement. Rather this is an effort to create a level playing field for those that are investing in doing things correctly and helping guide those that are not in compliance. Buchner said they want to help the permittees follow the rules.

Lewis said last week she received a call from Jordan Cove to discuss the permitting process in late October. It looks like they intend to submit two different applications for permits, one for the pipeline and one for the facility, at the beginning of the year.

Kozlowski said she really appreciates Lewis' managing style and optimistic approach, which is great for staff and direction. She is really impressed with what she has done.

Briefing: No Board Action Required.

12) GS&S Update:

Jed Roberts, acting GS&S Program Manager provided an update on GS&S.

Significant New Projects:

- Geohazards Mapping for Benton, Marion, Morrow, and Washington Counties \$660,000 (no match)
- It supports lidar-based mapping of landslides, earthquake liquefaction, flood and channel migration hazards, and covers 39 cities and populated areas. This is the largest grant received from FEMA since DOGAMI started participating in 2008, excluding lidar grants. This project helps

- reach the annual requirement for KPM #1 Geohazard Mapping and Risk Assessments in UGBs.
 GS&S will receive the entire amount of \$660,000.
- 2. Lidar Acquisition for Morrow County \$490,000 (no match)
 This is a first-time lidar collection covering Boardman, Ione, Lexington, Heppner, and
 transportation corridors. The project supports geohazard mapping, covers 1,400 square miles
 and will account for 1.5% improvement on KPM #2 Statewide Lidar Coverage, especially in
 Eastern Oregon. DOGAMI will keep \$64,000, the remainder will go to the lidar vendor. DOGAMI
 has been guiding FEMA to these counties by when their natural hazards mitigation plan is due for
 renewal.
 - 3. Annual National Tsunami Hazard Mitigation Program Activities \$361,000 (no match)
 This project supports community outreach focused on the hospitality industry; "Beat the Wave"
 mapping for Nehalem Bay State Park and Manzanita; mapping of wave arrival times; port and
 maritime guidance maps for Coos Bay; building damage and casualty analysis for Tillamook and
 Clatsop counties using a tsunami hazus simulation program; and installation of tsunami road
 signs for zone areas. Ashford asked what they do with the information on the building damage.
 Roberts said they will either provide the raw data to the jurisdiction or provide the information to
 the public that shows the community what the aggregate is like in the area without looking at
 individual buildings. This shows risk level based on aggregate information.

Major Publications:

- Special Paper 49: Beach and shoreline dynamics in the Canon Beach littoral cell: Implications for dune management
 23,000 dump trucks worth of sand being deposited in dunes – built up naturally. They provided recommendations for dune scraping and planting NW natural grasses.
- 2. Open-File Report 0-18-05: Local tsunami evacuation analysis of Reedsport and Florence, Douglas and Lane Counties
 Includes "Beat the Wave" for Winchester Bay, what to do when the wave is coming and what-if scenarios.

Briefing: No Board Action Required.

13) Director's Report:

Director Avy presented his Director's Report on the following:

Board Appointments

Chair Maffei's appointment has been officially renewed through September 18, 2022. Ashford's appointment was corrected to go through September 2019 due to a technical glitch. [Informed after the meeting that Ashford's appointment correction will instead be addressed at the end of his term.]

Rotational Supervisor/Manager Interviews

Avy discussed the leadership development rotational assignments. The manager position is to be filled for one year this time. Once the manager position is filled, the manager will sit in on the supervisor interview panel, with those positions expected to be filled by early December. Next fall the Agency will probably fill these positions permanently. Avy said it is disruptive to have shifting supervisors, but it provides an opportunity for staff to experience the role. Kozlowski said some

technical people do not make good supervisors and this provides them an opportunity to determine if they would be good at it. Strategic Planning Avy said this is left on the list so it does not fall off the table since Ali Hansen left. The Agency will be looking what the requirements/intentions should be for the Communication Director position. **Affirmative Action Plan** Avy said this is in process and the first draft has been submitted. He mentioned the Annual Employee All Staff meeting is on November 1, 2018 and there will be a speaker discussing affirmative action related concepts. Avy said he wants to have Affirmative Action included in the Strategic Plan/Framework going forward. Avy mentioned Lori Calarruda is the Affirmative Action Representative for the Agency. Avy offered Board members the opportunity to attend the All Staff meeting. Briefing: No Board Action Required. 14) Public Comment: Chair Maffei asked for public comment. No public comments. 15) Board Adjourn: Chair Maffei adjourned the meeting at 11:53 a.m. **APPROVED**