

**GOVERNING BOARD MEETING MINUTES
OREGON DEPARTMENT OF GEOLOGY AND MINERAL INDUSTRIES**

Friday, December 4, 2020

8:30 a.m.

Virtual Public Meeting

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

Chair Laura Maffei called the meeting to order at 8:33 a.m.

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

Chair Laura Maffei, Vice-Chair Katie Jeremiah, and Board Members Scott Ashford and Linda Kozlowski were all in attendance via Zoom video/phone. Diane Teeman was not in attendance.

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

Brad Avy, Director/State Geologist

Lori Calarruda, Recording Secretary/Executive Assistant

Dania Ballard, Former Chief Financial Officer (CFO) now with DOJ

Bob Houston, GS&S Program Manager/Legislative Coordinator

Sarah Lewis, MLRR Program Manager

Vaughn Balzer, Rules Coordinator/Floodplain Reclamationist

Steve Dahlberg, Fiscal Analyst

Others in attendance:

Diane Lloyd, Department of Justice (DOJ)

John Terpening, Legislative Fiscal Office (LFO)

Renee Klein, DAS Office of the Chief Financial Officer

Amira Streeter, Policy Advisor Governor's Office

Christina Appleby, DOGAMI staff on personal time and as DOGAMI's SEIU Sub-Local President

Dorian Cooper, Cooper Consulting

1 **3) Review Minutes of September 25, 2020:**

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

3

4 Board Action: **Ashford moved to approve the minutes of September 25, 2020 as submitted.**

5 **Kozlowski seconded. Motion carried.**

6

7 **4) Confirm 2021 Board Meeting Dates:**

8 Lori Calarruda, Executive Assistant and Chair Maffei presented the proposed 2021 Board meeting

9 dates. Currently all meetings are anticipated to be held via Zoom or take place in Portland. The

10 Board confirmed the suggested dates.

11

12 The 2021 DOGAMI Board Meeting Dates:

13

14 **March 12, 2021 (Friday)** – Zoom/Portland, OR

15

16 **June 25, 2021 (Friday)** – Zoom/Portland, OR

17

18 **September 17, 2021 (Friday)** – Zoom/Portland, OR

19

20 **December 10, 2021 (Friday)** – Zoom/Portland, OR

21

22 **5) Rule Writing:**

23

24 Sarah Lewis, MLRR Program Manager, introduced Vaughn Balzer, Floodplain Reclamationist and
25 Rules Coordinator, to discuss the proposed rules for HB 2202: Aggregate Mining on High Value
26 Farmland in the Willamette Valley. She reminded the Board that in September 2019 the MLRR
27 program requested permission to initiate formal rulemaking and has provided updates on the
28 process. The Rules Advisory Committee (RAC) began in June 2020. The proposed rules have come
29 out of the RAC process and require Board approval to finalize the draft rules prior to submitting them
30 to the Secretary of State for public notice and comment.

31

32 Balzer stated the law became effective on August 1, 2013 (ORS 517.825). The legislation and statute
33 are intended to limit the impacts to high value farm soils from mining in the Willamette Valley by
34 requiring operators to mine substantially all of the significant aggregate resource for sites on land
35 composed of predominately Class 1 and 2 soils., The statute and draft rule are specific to sand and
36 gravel, not rock quarry.

37

38 The concern of losing high value farmland to mining has been a long-standing issue. In 2005 DOGAMI
39 contributed to a report titled, “Preliminary Summary of Aggregate Mining in Oregon with Emphasis in
40 the Willamette River Basin” prepared for the Aggregate and Agriculture Consensus Group by the
41 Institute for Natural Resources at OSU HB 2202 is the latest attempt to address the loss of high value
42 soil to mine excavation within the Willamette Valley.

43

44 DOGAMI convened a Rules Advisory Committee to provide stakeholder input on the draft rule
45 language. The RAC was made up of representatives from the Department of Land Conservation and
46 Development, Department of Agriculture, Oregon Concrete and Aggregate Producers Association
47 (OCAPA), Oregon Farm Bureau, Department of Justice (DOJ), and DOGAMI. Three meetings were
48 held between June and October of 2020 and the RAC deliberated for 7 hours on the draft rules.
49 These meetings were open for the public to listen in, although public input was not collected during
50 the meetings. The Secretary of State’s office will post the rule for public notice and comment period
51 after the draft rule is submitted by DOGAMI. The RAC process was very informative and helpful in
52 clarifying the legislative intent in drafting the rule to be consistent with the purpose of ORS 517.825.

53

54 Balzer said the biggest challenge was defining the terms “predominantly” and “substantially all”.
55 “Predominantly” will apply to new or amended sites composed predominantly of Class 1 and 2 soils.
56 The final draft rule does not associate a percentage with the term because a specific percentage
57 could not be agreed upon during the RAC process. OCAPA and the Farm Bureau preferred not having
58 a percentage. DOGAMI will use the Webster’s Dictionary definition for the term “predominantly”
59 and a site-specific evaluation of soil class to implement this rule. “Substantially all” is defined as
60 approximately 90% of the significant aggregate resource (sand and gravel) determined to be available
underlying the high value farm soils. Defining the term as approximately 90% allows DOGAMI limited

61 discretion when approving the mine plans or the final closure of the site. “Substantially all” has two
62 main requirements. The first requirement is a gravel removal plan detailing how “substantially all” of
63 the significant aggregate resource is proposed to be excavated must be included as part of the
64 application process and approved by DOGAMI. If not met, the application will be denied. The second
65 requirement is at the end of mining, via a report that must demonstrate that “substantially all” the
66 significant aggregate resource has been removed and if not met, DOGAMI will refuse to close the
67 permit.

68
69 Balzer said consensus was received on most but not all aspects of the rule. This specific rule is not
70 retroactive, it does not apply going backwards, it will apply from the point it is approved going
71 forward. For the period between August 1, 2013, when the statute became effective, to now, those
72 few sites that were permitted will be obliged to follow the requirements that were put in the permit
73 conditions of their permits.

74
75 Ashford asked Balzer for clarification on what the issue was, and if farmland is going to be disturbed,
76 do they take all the aggregate and only disturb it once. Balzer said yes and further explained the
77 concern. Chair Maffei said she thought the concern was miners were only coming in and scraping off
78 the easy aggregate and not taking everything, meaning more surface area and soils would be
79 disturbed later. Balzer agreed with her statement.

80
81 Ashford asked, for the RAC, where was consensus not reached. Balzer said it was the term
82 “predominantly” and defining a specific percentage to go along with it. Chair Maffei asked if
83 DOGAMI was wanting to assign a percentage to the term. Balzer explained the initial draft language
84 did include a percentage of “greater than 50%”.

85
86 Board Action: **Maffei moved to approve submission of the draft rule to the Secretary of State to**
87 **initiate formal Public Notice/Public Comment. Ashford seconded. Motion carried**

88
89 **6) Civil Penalties:**

90 Sarah Lewis, MLRR Program Manager, discussed the Civil Penalties being brought to the Board for
91 approval to proceed.

92
93 Lewis provided an update on the Mining Without a Permit Civil Penalties cases, approved earlier this
94 year. The process is moving relatively slowly. On November 4, 2020, the cases were referred to the
95 Office of Administrative Hearings (OAH). On November 18, 2020, DOGAMI filed a motion to
96 consolidate the two cases. Consolidation of the cases into one hearing should result in significant
97 cost savings due to their similarity. The judge will still issue separate proposed orders, even if the
98 cases are consolidated. A pre-hearing conference has been scheduled for December 17, 2020, which
99 is a logistical administrative process. Erica Hamilton, with DOJ, has been working on the cases.

100
101 Lewis explained the Non-Payment of Renewal Fee - Civil Penalty Fact Pattern Matrix format has been
102 changed to make it easier to understand. The order has been reversed to reflect the current cases at
103 the top, and numbers added instead of relying on Site IDs to identify the cases to reduce confusion.
104 The timeline for the number of dates provided has been compressed related to internal tracking and
105 expanded the columns to better reflect the staff’s recommendation and what the Board approves.
106 The cases previously discussed at each meeting have been grouped together between solid dark lines

107 and the gray shading indicates the items have been resolved; open items are white or have no
108 shading. The Board appreciated the format change.

109
110 Lewis stated all four cases presented today have not paid late in the last 3 years. Item 21 is an
111 operating permit that is in the process of being transferred. The current permittee did not pay the
112 renewal fee and staff think there was a miscommunication about responsibility of payment; the
113 receiving permittee has paid the fee and it is no longer delinquent. Due the situation, staff are
114 requesting the Civil Penalties be waived.

115
116 Items 20-18 are all Exclusion Certificates (ECs), that do not require an Operating Permit. The Agency
117 has not previously pursued Civil Penalties for ECs. Even though they are delinquent, the fees are very
118 small, staff do not feel it is worth the effort to go after Civil Penalties and recommend the penalties
119 be waived. Going forward DOGAMI will need to consider how to handle ECs with respect to Civil
120 Penalties and going after payment.

121
122 Chair Maffei and Ashford said the penalties look straightforward to them.

123
124 **Board Action: Jeremiah moved to allow staff to waive the Civil Penalties on all the presented cases.**
125 **Ashford seconded. Motion carried.**

126
127 **7) Grant Tracker Update:**

128 Bob Houston, GS&S Program Manager and Legislative Coordinator, provided an update on the Grant
129 Tracker.

130
131 Houston explained that when the Agency receives a grant award, it develops a final budget for
132 completing the grant. The hours specified for each task are put into personal tracking sheets and
133 also summarized in the Grant Tracker, to allow staff to see how many hours they have to work on a
134 project. Houston said it also shows him who has too many hours or not enough and he can then find
135 other qualified staff to fill in the gaps and re-navigate the workload.

136
137 Houston went through an example to show how the Grant Tracker works. It allows the hours to be
138 rebalanced as new work comes in, projects forward the anticipated hours to complete the grants and
139 projects, identifies staff that do not have enough hours in the system, and finds hours on other
140 projects that are available. He said the goal is to book staff for 80% of project work instead of
141 General Fund. He then contacts the project managers to see how they can collaborate to get
142 projects done.

143
144 Jeremiah asked how often the reporting is done. Houston said there is a monthly rollup of actuals
145 from payroll for the previous month. Houston asked Steve Dahlberg, Fiscal Analyst, to provide an
146 update. Dahlberg said the timing will be approximately 2.5 weeks after the month closes. Ashford
147 asked if there is a comparison for the month on the projected versus the actuals in the Grant Tracker.
148 Dahlberg said yes, staff are being asked to keep their projections in place, which are then compared
149 with actuals to find the difference. Ashford asked about the table that was shown that went back to
150 2019 and if it was actual or projected. Houston said it was projected. The previous times shown in
151 the sheet are actuals.

152

153 Jeremiah asked how many grants each staff member will be working on in a month, her concern is if
154 they are reporting actuals on a monthly basis and working on more than three projects it would be
155 difficult to keep accurate information on what they worked on. Houston said the expectation is staff
156 will record their hours worked on each project, so the projects are accurately billed and invoiced. He
157 said there are some staff who can work on more than three projects, especially those who might be
158 working on reviewing internal documents for publications. For example, Deb Schuller, the
159 Publications Coordinator, touches every single grant.

160
161 Ashford asked if the rest of staff's time is billed to General Fund if it is not charged to projects and if
162 there is a target for different employees on how much time is charged to grants versus General Fund.
163 Houston said the target for all GS&S staff is to bill 85–95% to grants/projects and there is a need to
164 use some General Fund to charge for administrative work. Ashford asked if the staff work overtime.
165 Houston said staff members are not authorized to work overtime.

166
167 Maffei asked if the Grant Tracker is now being rolled out and fully implemented. Houston said they
168 have been utilizing these sheets in a more focused way since October, but he had been working in it
169 manually going back to February.

170
171 Chair Maffei said she appreciated seeing the tool and it makes sense to her.

172
173 Briefing: **No Board Action Required.**

174
175 **8) Governor's Recommended Budget (GRB) Update:**

176 Chair Maffei asked Director Avy to provide a brief introduction. Avy said the Governor's
177 Recommended Budget came out Tuesday. Amira Streeter joined staff the day before (Monday) and
178 provided a high-level summary of the GRB to staff, informing them of the decision of the Governor's
179 Office and DAS to abolish the Department and move the programs into other agencies. It includes a
180 transition year that starts July 1, 2021 and ends June 30, 2022, which at that point, all agency
181 functions would be residing in the Department of Environmental Quality (DEQ) for MLRR, and the
182 Department of Land Conservation and Development (DLCDD) for the remaining GS&S staff. If staff are
183 not included in the transition year, their employment would end on June 30, 2021, which is not a lot
184 of time for staff to find positions. There are four staff members that will be part of the transition
185 year that will not continue after June 30, 2022. Avy said this is one step in the process and it still
186 needs to go to the Legislature, so there may be a different outcome.

187
188 Jeremiah said she had concerns that all the work the Agency has done evaluating the various
189 scenarios to keep things on budget and having extensive conversations with Streeter to give the
190 Agency an opportunity to right the ship has been a waste of time just to have a unilateral decision to
191 abolish the Agency. It was a heavy lift getting stakeholder's support for a very significant fee
192 increase, with the commitment the Agency was not going to be abolished. Then with no stakeholder
193 outreach, all of a sudden, the Agency is going to be abolished. Jeremiah said she has a lot of
194 explaining to do to stakeholders regarding the significant fee increase they supported.

195
196 Amira Streeter, Policy Advisor Governor's Office, introduced herself and provided an overview of the
197 Governor's Recommended Budget. Streeter stated the Governor's Recommended Budget came out
198 on December 1, 2020, that she did have conversations with DOGAMI staff and administration before
199 the budget came out and expressed to them what the request was from the Governor. The

200 Governor's Budget will provide 1 year of funding to DOGAMI, at the end of the fiscal year the budget
201 will shift the agency operations to the Department of Land Conservation and Development and the
202 Department of Environmental Quality. The MLRR program will be shifted to DEQ and the GS&S
203 program to DLCDC. The transition will start July 1, 2021, with details that still need to be worked out.
204 DOGAMI will receive a reduced budget for the first year of the biennium then cease to exist as an
205 independent agency on June 30, 2022.

206
207 Streeter said 2020 has had numerous challenges, the State budget and revenue has been intensely
208 impacted due to the COVID-19 Pandemic, and agencies have been asked to take steep cuts. Both
209 programs have had their funding challenges. The GS&S program has been struggling for a number of
210 years, as it becomes more and more reliant on grant funding and is unable to rely on the Legislature
211 for General Fund requests.

212
213 Streeter said her first recommendation for DOGAMI was to right the ship and correct/fix the grant
214 work. She feels DOGAMI was very successful in that request and said, "no one can argue that the
215 work was not done sufficiently or efficiently, and it is actually quite an amazing feat to see the budget
216 be fixed and retooled to make sure that the Agency was more sustainable". The staff has worked
217 hard, but due to the COVID-19 Pandemic, the Governor's Office really thought it would be best to
218 continue DOGAMI's journey down this path. She said it is not because DOGAMI is not appreciated by
219 the State for its work and expertise, they know that it is recognized across the nation and
220 internationally for its scientific work, but as a small agency, it really has not been as strong as it could
221 be and that this is an opportunity to make sure that DOGAMI is not whittled down to nothing.
222 Streeter stated a lot of this is said with a caveat that it still needs to go through the legislative
223 process, and the Legislature could make recommendations about how they want to see the transition
224 happen or potentially not happen. This discussion will happen during the 2021 legislative session.

225
226 Streeter stated they really want to preserve the work that DOGAMI has done and believes that the
227 work can be duplicated under a different structure. Moving the GS&S program to DLCDC makes a lot
228 of sense to her because DOGAMI is the center for geological mapping and those tools, and there is a
229 nice intersection in alignment between land use and geologic mapping. DOGAMI has been the expert
230 in natural disasters and where they occur, and there is interest in including fire mapping. Merging
231 DLCDC and DOGAMI's expertise in systems together, could open the doors to creating very powerful
232 tools that the State just does not have right now, such as being used for vulnerability assessments
233 with different demographics, in different regions across the state. She believes building up a bigger
234 system would be absolutely beneficial to the entire state and to the public. She stated DLCDC also has
235 the infrastructure to provide grant support. They have a few federal grants and it would be a nice
236 continuation to align the grant funding that DOGAMI already gets into the work that DLCDC is doing.

237
238 Streeter said the MLRR program is supported by other funds and fees. Sarah Lewis has done a really
239 great job of leading that team, but it has struggled, and Sarah has to give a lot of her time individually
240 to handle permits. There is a struggle to do that work in the most efficient way possible. Moving it
241 under DEQ would provide better support to do that work because it is a bigger system. She sees this
242 as a smaller and more efficient government.

243
244 DOGAMI has been limping along for a few years now. If COVID had not greatly hurt the State budget,
245 she did not think this conversation would be happening and DOGAMI would be in a better place in a
246 couple of more biennia. But the circumstances are not great, and they are having to start getting
247 creative with their options.

248
249 Jeremiah said with all due respect she thinks it is highly convenient that Streeter can come in and say
250 all these points with such conviction, that it seems like this decision was made by the Governor's
251 Office from the very beginning and lip service was used to get the fee increase. Then to turn around
252 and move the Agency to other notoriously enforcement driven agencies that do not provide technical
253 support like DOGAMI has provided so well over the years. Jeremiah said the fact that budgets will be
254 cut but the stakeholders will still be charged the same amount; she finds it outrageous and she is
255 extremely disappointed and feels like it was a giant waste of her time to be involved in these
256 conversations.

257
258 Streeter said she is sorry Jeremiah felt that way, but it was not something already cooked and baked
259 from the beginning, it was worked right up until the last minute to make a decision. As to the fee
260 point, she completely understands that perspective. Streeter said when she was presented with this
261 option, by the DAS financial office, her first thought was, "Oh my gosh I can't believe I spent like
262 almost my whole two years working on this to get to this point". It is incredibly disappointing. One
263 thing that had been requested was an ePermitting system, her understanding is DEQ will be having a
264 similar enhanced IT system that will benefit the stakeholders. Streeter reiterated the caveat that this
265 is not a done deal.

266
267 Ashford thanked Streeter for attending and said one of his biggest concerns is moving MLRR into
268 DEQ, which is enforcement driven whereas DOGAMI is a real customer service-oriented agency. His
269 concern is how this will impact the stakeholders since it has a different culture. Streeter said she
270 believes this can be addressed during the transition phase to work out how exactly the mining
271 program will function within a new structure.

272
273 Streeter said she believes the fee increase conversation would have still been had since DEQ operates
274 under fees as part of their mix. Jeremiah said the difference is, and she could be mistaken, that DEQ
275 recently did a unilateral fee increase without any input from stakeholders. DEQ is an agency that is
276 enforcement driven, fee driven, and there is no relationship with stakeholders. She thinks the
277 customer service element will be entirely lost with the culture of the agency, as Board member
278 Ashford stated. Streeter said she understands that Ashford and Jeremiah would like to see the
279 Agency maintain that direct stakeholder outreach and technical assistance, even when it comes to
280 potential fees or additional costs. She thinks that is something that can be addressed.

281
282 Kozlowski said she strongly supports the comments made. She remembers asking if the Board could
283 work with the Governor's Office and was told yes, but that did not happen. The fact that that Board
284 has not been part of the discussions, there has been no outreach, and that it has been a top down
285 decision, is very disappointing. Kozlowski understands this a very difficult period of time, and that
286 very difficult decisions are being made, but doing so without any stakeholder input is something that
287 she thinks will have long-term ramifications, and not necessarily positive ones. DOGAMI is world
288 class in terms of their expertise and ability to deal with both natural hazards and working with the
289 community. The Agency is a valued asset for the community, and this will have negative impact on
290 the public. Kozlowski had questions on what positions will be moved to DLCD, how the transition will
291 work, and how supportive the Governor is going to be in at least trying to reach out to the public to
292 get some input that will inform her, in terms of the importance of communication and education and
293 studies moving forward.

294

295 Streeter apologized for not engaging the Board more about the decision. She said to be completely
296 transparent, a lot of these decisions are made with input that puts the budget at the top of the line
297 and then the Governor’s priorities. The Legislature could turn around and say no—DOGAMI is a
298 valued asset and we like how they are operating right now, instead of shifting them we are going to
299 give them more funding. She feels like that would be a very difficult conversation to have, but it is
300 definitely an option. In terms of the natural disaster work that DOGAMI is doing, she does not see
301 that significantly changing in their transition to DLCD. It is actually a really nice nexus between that
302 department and DOGAMI about how they handle natural disasters. For the staff makeup, the
303 proposal is to have 22 staff members for the transition year, then shift to 18 total, with 7 staff moving
304 to DLCD, and the entire MLRR program of 11 staff moving to DEQ.

306 Kozlowski asked for more specifics regarding what level of positions will be moving to DLCD. She
307 personally feels that a good percentage of the grants that the Agency gets for natural hazards and
308 natural hazard mitigation, is due to the fact that DOGAMI’s reputation is renowned worldwide, which
309 is not necessarily the case with other departments within the State. She asked Streeter if she sees
310 that impacting the grant applications and did the fact that DOGAMI is funded significantly by grants
311 have any impact on the decision itself.

312
313 Streeter answered the grants are really unstable. DOGAMI’s leadership has spent a lot of work to
314 figure out how to fix those dynamics, including creating the Grant Tracker system, and by also
315 narrowing down the number of grants the Agency will receive. DLCD also applies for grants, so she
316 thinks there is a good nexus there to continue that reputation, just in a different structure. She was
317 hesitant to say which positions would be let go because it is not a done deal. Streeter stated Director
318 Avy could share the list with the Board.

319
320 Avy said during the transition year, there will be 22 positions that carry forward. The entire MLRR
321 group moves to DEQ, and the 4 positions that will be part of the transition year but not staying on are
322 the Director, Executive Assistant, IT GS&S, and CFO. The 7 that will carry forward into DLCD, are the
323 continuation of the Program Manager, Grant Accountant, and 5 core function areas – coastal hazard,
324 statewide mapping, FEMA related hazard work , and then one or two additional in support of those
325 functions. Lidar will not be part of the transition. Renee Klein, DAS CFO Analyst, confirmed the
326 positions.

327
328 Kozlowski asked if that means the state will no longer do lidar. Avy responded there is ongoing
329 interest within other agencies to have a lidar program, but specific to DOGAMI that would no longer
330 be a function of the Department after the end of the current biennium. DOGAMI’s lidar consortium,
331 which is the concept of starting with a core area and adding to it by engaging partners to participate
332 and cobbling together a larger aerial extent, will not continue into the transition year.

333
334 Chair Maffei said this transition will have an impact on the Board, but until the Agency no longer
335 exists the Board will need to continue to have input on keeping operations going. It will still need to
336 keep doing things, like rulemaking, or other substantive work that the Board is required to do.

337
338 Avy provided part of his Director’s Update that was tied to this discussion so Board member
339 Kozlowski could hear what his thoughts are going forward before she had to depart the meeting. Avy
340 said the GRB is of course not what the Agency was working toward, but DOGAMI is in a much better
341 operational position to hand off to other agencies. As an executive branch agency, the Department
342 and the Board are expected to support the Governor’s Recommended Budget. He said the challenge

343 before the Agency is to navigate the uncertainty of whatever the final budget might be. On one hand
344 a transition focus for potentially the Governor's Recommended Budget as is, to everything in
345 between being a pretty unpredictable range of alternatives, which will impact future grant work. For
346 example, if the Agency writes a grant from the perspective of 7 staff moving into DLCD, the scope of
347 work will have to be significantly less than if the grant were written with existing Agency staffing.
348 DOGAMI will likely need to offer two versions going forward. One with the reduced staffing, and one
349 with existing staffing, because if the Legislature does not accept the GRB, DOGAMI does not want to
350 be in a position of having an Agency, but not having laid the groundwork for sufficient staff funding.
351 It will be too late in spring to try and revise those grants and DOGAMI will likely lose the opportunity.
352

353 Another example is the Agency's biennial Affirmative Action Plan. It is the type of document that you
354 have to get specific about roles, responsibilities, and accountability within the Agency which is a
355 challenge given the Agency's uncertainty. The 6-year Strategic Plan for 2022-2028 needs to be
356 addressed as well, but it could also be unnecessary.
357

358 The most immediate concern and pressing issue is the huge impact on staff and their morale and
359 stress levels related to personal financial stability, especially those that have 6 or 7 months with the
360 Agency with no guarantee beyond that, who need to be making decisions about applying for other
361 positions. There could be a drain of staff in the interim that affects DOGAMI significantly, particularly
362 if the Agency does continue. There will also be an impact because of commitments already made on
363 grants that the Agency would not have the staff to complete the work. The larger impact is likely if
364 the Agency continues and a significant portion of the staff have moved on to other positions.
365

366 Another item is the heightened communication need within the Agency related to this topic. The
367 Agency is on a really tight budget and every time there is an All-Staff meeting, it affects the General
368 Fund, but they are absolutely necessary, and it is another stress on internal operations. All-Staff
369 meetings have been scheduled every 2 weeks for the foreseeable future as GRB check-ins. There are
370 a lot of implications when you go from 39 to 18 staff and the accompanying loss of capacity to do the
371 GS&S work. The reality is that to a degree, the Agency will be living in two worlds, keeping the
372 potential option open that the Agency might continue and not putting it in future financial jeopardy.
373 Once it becomes widely known, the question from the grant funders will likely be, given the
374 uncertainty how do you know you can deliver. Also, the recent loss of DOGAMI's CFO has an
375 immediate impact and DOGAMI will manage the best it can, but it will make it difficult to get talent
376 on board when there is a pretty large question mark over the future of the Agency.
377

378 Kozlowski is extraordinarily and extremely disappointed with where the Agency is right now and with
379 the lack of communication from the Governor's Office. She appreciates the willingness of Avy to stay
380 on for the transition and thanked him for his work and effort to try and keep the Agency going.
381

382 Streeter said she appreciates the feedback. She knows this conversation is incredibly difficult and
383 there is a long road of struggle ahead of the Agency. This is not the first time an agency has been
384 merged or shifted to another agency in the State's history. She knows it feels really personal and
385 hard right now, but it is about the budget and there are some really challenging decisions to be
386 made. Streeter said she hears everyone loud and clear, and just wants to make sure they understand
387 she knows where they are coming from. She thanked the Board for their time and the Board thanked
388 her for attending.
389

390 Chair Maffei allowed verbal public comment from Dorian Cooper, because Streeter was only in
391 attendance for a short period of time. Public comments are normally limited to only written
392 comments and held at the end of the meeting due to the virtual meeting format.

393
394 Cooper stated she is an engineering geologist who has worked with MLRR and the Portland office
395 since 1990. The focus of her engineering geology is literally designing mining and reclamation plans,
396 so her work has been overlapped and reviewed by DOGAMI and MLRR for the applicants. She has
397 seen a lot of changes over the years, but they have been absolutely fantastic to work with, as staff
398 are very much outreach folks and problem solvers. She is concerned that MLRR being moved into
399 DEQ will have an impact on customer service. As outside consultants, the Portland office is an
400 important group they rely on for technical expertise and up-to-date technical information. The
401 recent years of lidar has tremendously improved the understanding of where landslides are, debris
402 flows, flooding potential, and now with all the fire issues, not to mention the research work regarding
403 earthquakes and tsunamis. She is very concerned about losing some of the folks at DOGAMI in the
404 Portland office, that it will really impact long term Oregon population and understanding potential
405 hazards in Oregon. She hopes the Governor's Office will look at this again and work with DOGAMI to
406 find a better way to handle these changes. She thanked the Board for allowing her to speak at the
407 meeting.

408
409 Chair Maffei thanked Cooper for her comments, the Board appreciates hearing from the consulting
410 community who relies on DOGAMI's work.

411
412 Briefing: **No Board Action Required.**

413
414 **9) Financial Report:**

415 Chair Maffei stated Board member Linda Kozlowski had to leave at 11:00 a.m., saying she had
416 expressed her gratitude to hear Amira Streeter's report to the Board and being able to provide her
417 comments on it before she left.

418
419 Dania Ballard, former Chief Financial Officer, presented the DOGAMI FY 2021 Budget Status Report,
420 as of September 30, 2020, for the Geological Survey and Services (GS&S) and Mineral Land Regulation
421 & Reclamation (MLRR) programs. As of December 1, 2020, Ballard started a position at the
422 Department of Justice and Steve Dahlberg has assumed fiscal processing, budgeting, and monitoring
423 duties in the short term.

424
425 Ballard provided a recap of the FY21 current status. The General Fund ending balance of \$229,584 is
426 due to vacancies and continued budget control. Other Funds has an ending balance of \$285,028.

427
428 Ballard stated the FY21 projected MLRR ending balance of \$328,460 is due to the fee increase taking
429 effect January 1, 2021. Ashford asked to clarify if the MLRR program is strictly fee funded with only
430 minimal support from administration. Ballard answered it is completely Other Fund generated,
431 which means there are fees from permitting and the cost recovery program for Grassy Mountain.
432 Lewis said there are also funds for administering the DEQ stormwater permits on mine sites, which
433 has been established through a Memorandum of Understanding (MOU) with DEQ. Ashford asked if
434 the MLRR program is self-contained, other than the general administrative support from the Business
435 Office. Ballard said that is mostly true, the MLRR Program Manager and staff are purely fee based
436 funded, but there is Agency overhead for the Director and fiscal administration to facilitate the

437 program. If there were a potential change, the overhead and fiscal administration would come from
438 the next agency. Ashford asked if some work has been done for MLRR that is charged to General
439 Fund, specifically related to the digitization of mining records. Houston said the digitization of
440 historical drilling and mining records was a GS&S grant-funded project, not funded through General
441 Fund.

442
443 Ballard said the Strong Motion Instrument Fund has an ending balance of \$305,282. There are 58
444 Cash Securities in the Reclamation Guarantee Fund for an ending balance of \$612,054.

445
446 Ballard said regarding current status, all outstanding grant financial reporting has been completed
447 and is current to date. The project management tool is continuing to provide better ability to
448 schedule and provide oversight on the progress of the projects. Ballard said she has taken a role at
449 the Department of Justice and is sad to be leaving but is proud and honored for her time with
450 DOGAMI. As of December 1, 2020, Steve Dahlberg has taken the fiscal lead and assumed fiscal
451 processing, budgeting, and monitoring duties in the short term. Ballard said she is incredibly proud
452 of the fiscal team and changes they have been able to make regarding expectations, operational
453 structure, fiscal awareness, grant tracking, and timeliness of processing everything. She thanked
454 them for the efforts over the last year.

455
456 Ballard said it has been amazing to watch the learning curve the Project Managers have had over the
457 past year of gaining the awareness of tracking their projects and becoming in tune with the whole
458 budget minded way of doing business. The Leadership Team has had such dedication in enhancing
459 and enforcing the structure of operations. The Agency has really come a long way over the past year
460 and a half and is in a much better position of operational compliance, no matter what the future
461 holds. She thanked the Board for the opportunity to work with them and the Agency.

462
463 Jeremiah said Ballard should be proud for the work she has done over a short period of time; she has
464 done a phenomenal job. She thanked Ballard for her efforts in making the financial data
465 understandable and wished her the best of luck. Ashford agreed and said she did a great job. Chair
466 Maffei agreed with Jeremiah and Ashford and recognized the mountain of work she stepped into and
467 has worked through. Maffei is sad to see her leave, but happy she found another position, lucky DOJ.
468 Avy thanked Ballard for her efforts, all the hours she worked, enduring the frustration taken out on
469 her by folks for things before her time, and taking it in stride saying, "Not a problem, we'll figure it
470 out. It'll be a great day tomorrow".

471
472 Board Action: **Ashford moved to accept the Budget Status Report as presented. Jeremiah**
473 **seconded. Motion carried.**

474
475 **10) MLRR Update:**

476 Sarah Lewis, MLRR Program Manager, provided an update on MLRR.

477
478 Please note, included in this packet is the ENGAGe Fall 2020 newsletter, containing the permit fee
479 changes effective January 1, 2021, being sent out with permit renewals. It can also be found online:
480 <https://www.oregongeology.org/mlrr/engage.htm>

481
482 Permit Status Summary

483 Lewis stated active applications are up this quarter with 37, which is typical for the second quarter of
484 every year and related to new project work starting, amendments or transfers at the end of the
485 summer season. She said it might also be related to the new fee increase going into effect January 1,
486 2021. Lewis stated nine are transfer applications, and she does not see this as an ongoing increase or
487 long-term trend resulting in a backlog of applications. Transfer applications are generally completed
488 in a couple of months and she is not concerned with staff's capacity to handle the workload.
489

490 Lewis introduced revised maps that move the compliance activity portion from the overview map to
491 show them in a new map by number of compliance actions per site. Some sites have five or six
492 actions and may take longer to resolve. She said due to COVID there are not a lot of site inspections
493 to uncover other issues that might be happening.
494

495 Lewis reminded the Board the Permit Fee increase was approved in the August Special Session and
496 takes effect January 1, 2021. She discussed the efforts made by staff to get information out to
497 permittees. They prepared and implemented a coordinated notification effort, including the
498 newsletter that is in the packet and sent out with current renewals. In October they started sending
499 out a fee notification letter to each 2021 renewal permittee for January through March, so a
500 minimum 90-days' notice has been given to every permittee. The letter notifications will be going
501 out month by month and is expected to be completed by the end of January. The updated fee
502 schedules for each permit type are posted on the website as well. Staff have the newsletters and
503 information to share with anyone who calls in with questions. She is very proud of the work staff has
504 done. They do expect a lot of phone calls once the renewal letters go out in January and have set
505 aside staff time specifically allocated for follow-up with permittees who have concerns.
506

507 Grassy Mountain Update

508 Lewis said regarding Grassy Mountain, it is going well and proceeding at a faster pace. There are
509 quarterly meetings being held with the Chief Financial Officer and Project Manager to compare
510 budget to actuals. Steve Dahlberg is the Agency's lead financial support for the project. The
511 invoicing and payments are up-to-date. One notable thing, both Calico and DOGAMI agreed the rigor
512 and transparency of the process is sufficient and jointly acknowledged the budget figure for
513 management of this project. DOGAMI submitted a budget a year ago on December 29, 2019 and the
514 Agency has not spent the entire amount. Calico has suggested MLRR do a cost change to the scope
515 of work, so Lewis will be working with DOJ to develop.
516

517 Additional information has been submitted on Grassy Mountain for state review, including the
518 revised Wildlife Baseline Data Report. DOGAMI submitted a request to the Legislature for a part-
519 time limited duration Chemical Processing Mining Coordinator to take over the project management
520 role, which is on the agenda for the E-Board scheduled for December 11, 2020.
521

522 Hopeful item: For ePermitting, DEQ has a system that is about to go live that may allow MLRR to have
523 a platform on it. In the Governor's Recommended Budget, DOGAMI's legislative concept for
524 ePermitting has not been recommended to move forward due to the proposal to move to DEQ.
525 Lewis had spoken directly to DEQ's Chief Information Officer, who was supportive and hopeful about
526 including DOGAMI effort's into DEQ's testing of EDMS, not knowing about the GRB. They are almost
527 at go live for the first module and was supportive about the possibility of including MLRR's need into
528 a module in the next couple of years, at potentially half the cost.
529

530 Lewis stated the Board has brought up several times the KPMs and site inspection numbers. MLRR
531 had an unexpected opportunity to participate in a State enterprise-wide (DAS Enterprise Information
532 Services or EIS) pilot study using Planet Labs imagery, which is satellite based, on demand, and
533 almost daily imagery of the entire state. The program had access to daily statewide medium
534 resolution and on demand high resolution imagery. MLRR reported back to EIS their results of their
535 study in November. Staff used it to follow up on complaints when they received calls by going in and
536 accessing the previous days image at high resolution to see what was happening. Two complaints
537 were resolved without doing site visits. Lewis said the program received 50 complaints over the past
538 4 years. In situations where the review of satellite imagery could assess the need for a site visit,
539 there could be approximately a \$1,000 savings in staff time on each complaint.

540
541 Their GIS specialist did a rapid assessment of all 1014 permitted mine sites, completed it in 10 hours,
542 and identified 190 mine sites that needed additional attention, meaning 824 sites appear to be
543 operating as expected. This is not something the program can do with inspectors on the ground with
544 their current staffing. This type of assessment would allow them to prioritize those 190 for site visits
545 as capacity is available to do so, which could turn up problems that will increase their workload, but
546 the imagery access allows that assessment. Lewis stated aerial review was part of the program KPM
547 during 2000-2015, but was removed after 2015 due to funding. With reduced site inspections due to
548 application workload and the loss of this tool, it has resulted in the poor performance of the KPM. If
549 the statewide project moves forward, MLRR would have the opportunity to either buy in or have full
550 access if funded at the State level.

551
552 One of the case studies staff also used it for was looking at boundaries to assess the needed
553 reclamation securities. Lewis explained that maps are submitted at the beginning of the application
554 process, if they are not checked for several years, the program does not know if outlines have
555 changed, and without accurate boundaries they will not know what to bond for. This is part of every
556 routine transaction, transfer, amendment, new application, to reassess reclamation bonds. But if
557 they do not go out they do not reassess the bonds. The aerial imagery would allow them to do that
558 in between site inspections.

559
560 Some reclamation bonds are very out-of-date and using Planet Labs imagery MLRR calculated a
561 cumulative reclamation security risk to the Department in the millions of dollars. Lewis said it is a
562 low likelihood of occurrence, but it is a high cost. MLRR has only had to reclaim and use the
563 reclamation bond three times in the last 10 years. The next step for the statewide project is for EIS to
564 take it to the Legislature as part of a coordinated effort that includes county assessors. Lewis
565 thanked the Board for their support.

566
567 Chair Maffei said she thought there might be some privacy issues related to the high-resolution
568 imagery, but that is up to the Legislature to determine. It has been used in the past, so she finds it
569 intriguing.

570
571 Briefing: **No Board Action Required.**

572
573 **10) GS&S Update:**

574 Bob Houston, GS&S Program Manager and Legislative Coordinator, provided an update on the GS&S
575 program.

576

577 Houston said since the last update to the Board the Agency has had six new publications. A natural
578 hazards risk report in the Lower Columbia Sandy River Watershed; an earthquake and tsunami
579 impact analysis for coastal Clatsop County; a natural hazard risk report for Lincoln County; a
580 statewide landslide information database layer for the SLIDO interactive map; a release of a landslide
581 hazard risk study in Tillamook County; and a landslide inventory for a portion of Marion County.
582

583 To date 19 publications have been released in 2020 and staff are working on eight more for 2020
584 related to STATEMAP, multi-hazard risk reports, and landslide reports. They are focused working on
585 projects and developing new ideas for future projects. Staff have been responding to the wildfires of
586 2020 by participating with the Erosion Threat Assessment and Reduction Team (ETART) and
587 Geotechnical Extreme Events Reconnaissance (GEER) Association to conduct landslide – debris flow
588 assessments in the burned areas. Bill Burns has been the lead for the Agency.
589

590 There was need to allocate General Fund dollars for Burns to do the work to ensure it was covered.
591 The Agency is going after two grants to support landslide work in the burned areas. Houston said
592 with having the Agency rely so heavily on grants and budgeting staff at 85-95% chargeable time, it
593 does not allow staff to participate, provide expertise, and alert emergency responders or local
594 communities of potential hazards for areas that are not tied to grants. The Agency is navigating the
595 challenges as they come up, and for this one, Burns has been leveraging his partnerships and
596 professional relationships to see where some funding might be available at the federal level to
597 complete this work.
598

599 Chair Maffei asked how long into the future is the landslide project work going to continue and what
600 will it encompass. She is curious if it is just mapping, mapping and analysis, and will there be a report
601 done out of it. Houston said it is one that is expected to go several years into the future, to identify
602 and observe any changes in those areas after storms and annually by driving the same routes. Those
603 reports are rolled up into the ETART and GEER teams. Maffei asked if this will guide future
604 assessments or be providing information about where the hazards are. Houston said it will help
605 improve the understanding on how burned areas respond to rain events and reactivation of existing
606 slides or debris flows in those areas or new occurrences. Houston suggested having Bill Burns
607 present to the Board on ETART in the future, stating there is not a lot of understanding on the rain
608 event triggers that cause debris flows, especially in the burned areas due to the loss of vegetation.
609 Maffei reiterated that more wildfires are expected in the future.
610

611 Briefing: **No Board Action Required.**
612

613 **12) Director's Report:**

614 Director Avy presented his Director's Report on the following:
615

616 Governor's Recommended Budget (GRB)

617 Avy said he already shared what he wanted to discuss on the GRB and the legislative session during
618 the earlier Governor's Office GRB update. He mentioned there is an All-Staff meeting this afternoon
619 and staff are understandably stressed and want to know which positions are impacted, especially
620 those that would be eliminated at the end of June. Leadership has received approval to share this
621 information with staff. Typically this is done on a one-on-one basis, but that opportunity has passed
622 since it is already public knowledge. The GRB has a huge impact on staff and Avy emphasized the

623 Agency needs to be supportive. He mentioned Sherry Lauer, with HR, has offered to help work with
624 other agencies to find positions for staff.

625

626 Jeremiah said she acknowledges and has empathy for the staff. Ashford said this is a difficult time
627 and very stressful due to the unknown. Chair Maffei said she wanted staff to know they have the
628 Board's support.

629

630 Avy mentioned the possibility that Board meetings may be affected and dates could change. He also
631 stated the affected positions are listed by number, and under the union contract, the current staff in
632 those positions could change due to bumping rights.

633

634 Chair Maffei said she expects the March and June meetings to continue because there are still
635 business items that need to be done, including the Director's Review at the next meeting. Maffei
636 asked Jeremiah if she would be willing to stay on the Board for a little longer. Jeremiah answered
637 yes.

638

639 Jeremiah asked if the State Geologist position is being eliminated. Avy said no, just the Director's
640 position but he does not know how that will play out.

641

642 Ashford asked, related to the legislative session, if there is a boundary between the Legislature and
643 Governor's Office for the changes to the Agency. Avy said for the State Geologist position, the role
644 and expectations are in statute. The Legislature could elect to modify this and other agency
645 responsibilities, but the Governor would need to sign off. He believes this is one reason for the
646 transition year.

647

648 2021 Legislative Session

649

650 Briefing: **No Board Action Required.**

651

652 **13) Public Comment:**

653 Only written comments received prior to or by 1:00 p.m. on the day of the meeting were to be
654 accepted. Chair Maffei asked for any written public comments. No public comments.

655

656 **14) Board Adjourn:**

657 Chair Maffei adjourned the meeting at 12:10 p.m.

658

659 APPROVED

660

661

662

663

664



Laura Maffei, Chair