

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

Friday, April 6, 2018

8:30 a.m.

Portland, Oregon

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

Chair Laura Maffei called the meeting to order at 8:36 a.m.

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

Chair Laura Maffei, Vice-Chair Katie Jeremiah, and Board Members Scott Ashford, Lisa Phipps and Diane Teeman were in attendance.

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

Brad Avy, Director/State Geologist

Lori Calarruda, Recording Secretary/Executive Assistant

Ian Madin, Deputy Director/Chief Scientist

Kim Riddell, Chief Financial Officer (CFO)

Ali Ryan Hansen, Communications Director

Jed Roberts, GS&S Manager

Matt Williams, GIS & Remote Sensing Supervisor

Randy Jones, Chemical Process Mining Coordinator

Lisa Reinhart, Water Quality Reclamationist

Others in attendance:

Sherry Carter, DAS Human Resources (HR)

Rachel Weisshaar, Department of Justice (DOJ)

John Terpening, Legislative Fiscal Office (LFO)

Haylee Morse-Miller, DAS Office of the Chief Financial Officer (CFO)

Linda Kozlowski – Potential new board member

3) Review Minutes of December 11, 2017:

Chair Maffei asked if there were any changes to the minutes as presented.

Board member Phipps added the clarification that it is not a regulatory line to her statement for lines 119-121.

Board Action: **Ashford moved to approve the minutes of December 11, 2017 as amended. Phipps seconded. Motion carried.**

4) Civil Penalties:

Rachel Weisshaar, filling in for Diane Lloyd, stated DOGAMI will not be asking the Board to take further action on this item. She explained that after looking at the Rules, there are two items in them

that would require a civil penalty request to come to the Board for approval. Therefore, in the future, if the Agency wants to pursue a civil penalties action, they will bring it back to the Board.

Maffei introduced Linda Kozlowski as a potential board member going through the process.

5) Strategic Plan Update:

Communications Director Ali Hansen provided an update on the strategic planning progress.

Hansen reviewed the process of how the Strategic Framework was completed. She stated the framework does not include the actionable, measurable, and task-based activities that effectively move the Agency toward achieving its mission and goals. The Strategic Plan is a companion document on how the objectives will be reached by defining projects that complete them. The staff have identified imperatives/initiatives and broad range ideas to accomplish the tasks. The full action plan will be presented to the Board in July. Hansen mentioned the Agency will start developing the 2022-2028 Strategic Framework in 2020. Chair Maffei requested the draft Strategic Plan document be sent to Board members well ahead of the meeting to review and digest the information.

Briefing: **No Board Action Required.**

6) Financial Report:

Kim Riddell, Chief Financial Officer, presented the budget status report as of February 28, 2018.

The Board packet contained the 17-19 Budget Report as of February 28, 2018. As requested at the previous board meeting, the Strong Motion Instrument Fund has been listed as a separate table on the GS&S page and the Reclamation Guarantee Fund (a.k.a. the bond fund) has been separated out for MLRR.

Riddell said her only concern, which should be all CFOs concern, is the cash flow that comes in since the Agency is small. She reminded the Board that federal funds need to be expended before they can be reimbursed. Riddell stated Other Funds of \$1.288 million are stated as being projected because they need to determine what was carried forward from last biennium. She mentioned the packet that was sent to the Board members was different than this one because information was in the wrong spot but it did not affect the bottom line and the packet online is correct. Riddell noted that GS&S has at least forty-five (45) active grants and remarked this program is brilliant at getting grants partly because the Agency is asked to do so much work. Phipps asked if the actual and projected column for GS&S was over projected, Riddell replied yes, but that the funds will total zero (0) at the end of the budget period.

Riddell stated MLRR does not have a negative balance even though it looks like it currently does because the beginning balance is not considered an actual number yet. It is projected to have \$263,500 at the end of the biennium. She said the program is spending more than it is making. Riddell discussed the Reclamation Guarantee Fund section in detail. She stated that a question came up last meeting about Attorney General (AG) costs, she anticipates they will go down in the second year but since it is substantial right now she wants to keep it on there at the higher spend projection. Riddell said the IT online project is currently included but can be removed until next biennium.

Phipps declared she is probably the only member who understands the difference of the information presented today from three (3) years ago. She suggested that having the different types of grants and how they are managed listed in larger categories on the budget report would be nice to see on future reports.

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

7) MLRR Update:

Ian Madin, Chief Scientist and Deputy Director presented his report on MLRR:

Tahe Exception

Madin provided an update on the process of the Tahe Well Exception. The final report and decision document was previously sent to the Board members. The request was to allow Enerfin to drill a new well from the same pad as the old one to obtain the remaining gas because they missed the perfect location to access all the gas from one well. Madin said technically it was straightforward but there were concerned citizens and the Agency wanted to make sure they had an opportunity to participate in the process. The decision was determined only on a technical basis, not a referendum on natural gas drilling in that neighborhood. Enerfin and the public commenters have been notified of the decision. Madin mentioned Mr. Semerjian did appreciate the effort DOGAMI made to keep them informed on what was taking place.

Stormwater Program

Madin stated that MLRR administers the DEQ water quality permits for stormwater and process water at mine sites through an agency agreement and the Agency receives seventy-five percent (75%) of the permit fees for this work. Madin said Lisa Reinhart has done a great job working with permittees and has put together an education program and recently did a training session for industry members.

Introduction of Lisa Reinhart:

Reinhart is the Water Quality Reclamationist and moved here in June from Utah. She said she was doing a similar job in their Oil, Gas and Mining program, which turns out is completely different than this one.

Recent Workshop:

Reinhart said she realized the Agency needed to improve outreach and work with permittees on this program to have them understand what their requirements are under the permits and give them tools to use. The training was well received but hit on the day of the snowstorm so another session is being held in May.

Reinhart stated there are two permits, a stormwater permit and a wastewater permit, both have expired and MLRR is waiting for DEQ to renew them. There are approximately 260 stormwater permits and 70 wastewater permits. Reinhart said DEQ has requirements that can be daunting so she is willing to work with the permittees through an immunity program if they contact her for technical assistance to help them find items to fix without having to

report them. If the Agency receives a complaint or it is an environmental issue then the sites do get referred. She has inspected about thirty (30) sites and all but one had violations and about a quarter of them were referred to DEQ. Jeremiah said she feels an initial immunity approach is better.

Ashford asked about the DEQ permits. Reinhart explained the EPA requires the permits to be renewed every five (5) years, the wastewater permit expired in October 2017 and the stormwater permit expired in December 2017. The Agency has been waiting for the revised ones from DEQ. All expired permits are still active administratively under the expired permits until the new ones are completed.

Jeremiah said the training session was well received and the industry members are looking forward to more from the Agency.

Jeremiah asked how the Agency can work with DEQ to have the process changed to open the door to allow permittees to view the permit and provide input before it is issued so it does not immediately get contested into litigation. Madin replied he plans to discuss it with DEQ and see how to make the process more sustainable.

Madin explained three (3) new FTEs are needed to have the capacity to complete inspections. MLRR went from doing two hundred (200) site visits to forty (40), but was not completing the paperwork that needed to be done. The recent focus has changed to get the paperwork completed. A lengthy discussion of site inspections, paperwork and allocation of staff time took place.

Internal Management Directives (IMDs)

Madin discussed the Agency policy documents, which do not require the Board's approval but wanted the Board to be aware of them. The IMDs will include the immunity document, provisional permits, and bonding. The staff will also be working on one for cultural resources and how they will work with reviewing agencies. Madin plans to present them to the Board over the course of the year.

Rule Writing

Madin said at this point the Agency is looking at rulemaking for HB 2202 and SB 644 for the aggregate and chemical process portions. The Agency needs to change the rules on the map requirements as the current ones are very costly to implement for applicants. Madin explained there are also housekeeping items that Larry Knudsen identified for the rewrite of rules, specifically the term operator and that it can be different from permittee.

Staffing

Madin stated he is currently working on the manager recruitment, office manager position and lead permitting specialist since Kelly Wood left the Agency. He said the manager recruitment was extended.

Introduction of discussion draft Legislative Concepts and Policy Option Packages for the 2019-21 Agency Request Budget

Ali Hansen introduced the Agency's Legislative Concepts (LCs) and Policy Option Packages (POPs) for the Board's consideration. These will be worked up in more detail and brought back to the Board prior to their next regular meeting.

Legislative Concepts:

Increase permit fees to ensure adequate delivery of service and ability to meet regulatory responsibilities, and add cost recovery options for complex permit applications.

- Current permit fees do not support essential program services, including site inspection to proactively address potential issues; timely correction of compliance issues; and effective, efficient day-to-day operations supported by a modern database.
- No efficient mechanism exists to ensure costs for complex permit applications are covered by the applicant, which results in costs being covered with revenue that would otherwise support overall MLRR program services.

Chair Maffei asked if the percentage has been figured out, Hansen said they are still looking at it to determine the best strategy before talking to stakeholders. Ashford asked if MLRR has all their costs covered by fees to provide services, Hansen replied yes. Maffei asked if there is a shortfall, Riddell explained there is not currently a short fall for the fiscal year or biennium but next biennium is coming close with the new hires that will be coming on board. Maffei asked if the Agency did not hire any new employees then could it keep going along, Riddell said that by adding the manager and office personnel it could but it will not be adding efficiency. Jeremiah said she found out DEQ is contemplating a fee increase and asked staff to make sure if DOGAMI will be receiving any of these fees and to clarify before moving forward. Jeremiah also stated the last fee increase was approved because it was well documented and presented to the industry and to keep that in mind.

Add cost recovery option for monitoring and inspecting chemical process mine operations.

- Existing statute does not provide a straightforward option to recover costs for first-year monitoring and inspection of chemical process mines, or to use a more efficient cost recovery model to recover costs beyond a renewal fee in subsequent years.

Maffei asked if the first year is expected to be more expensive for monitoring. Madin replied there is no mechanism for the Agency to recover costs the first year after the permit has been issued. Ashford said the approach then is to incur the costs upfront and include in the renewal fee. He asked if there is a year gap for coverage of services and Madin replied yes.

Refine existing exclusion certificate requirements and construction requirements.

- Broad language in existing statutes requires:
 - Anyone excavating any quantity of mineral to obtain an exclusion certificate, including recreational rock collectors and hobby miners.
 - Any construction project doing significant excavation to be permitted as an aggregate mine.

Ashford asked if the construction industry is supportive of it, Hansen replied they are just starting conversations with stakeholders. Phipps asked if the Agency will issue a pre-notification that if they intend to sell material then they would need a permit, Hansen said an outreach program would need to be designed for it. Ashford asked if construction companies were aware they needed a permit, Hansen responded it was not widely known and is currently complaint driven. Ashford asked if the excavator used the material on another one of their projects if the permit is required. Hansen said they are still working out the details. Ashford stated that whatever the Agency wants to do they need to articulate it well.

Phipps thanked the staff for all the efforts with the MLRR program and turning it around. She feels that the program is on the right track.

Policy Option Packages:

These are above and beyond our baseline of funding.

Effective, efficient MLRR program service delivery and operations.

Increases MLRR program capacity to deliver essential program services and meet regulatory responsibilities, by adding staff with funds generated by legislative concept for permit fee increase. Cost: \$748,643 Other Funds. Positions 3.0 FTE permanent Natural Resource Specialist-2, .5 FTE permanent Information System Specialist-6.

Chair Maffei asked if this was in addition to the fee increase or part of it, Riddell stated it was part of it but this is to obtain approval to get permanent positions and position authority to hire them from the Legislature. Maffei asked if the fee increase did not occur what would happen to the positions if they could not afford to fill them, Riddell answered that the Agency would drop the POP.

Lidar for equitable hazard science to support community resilience

Supports collecting lidar data to meet critical or emerging community resilience needs, such as improving decades-old natural hazard mapping or recovering from disasters, regardless of the community or region's ability to provide matching funds. Cost: TBD General Fund.

Hansen expressed this is to cover a gap in the model. Ashford said it seems twofold, one for small rural communities that are unable to afford to have the service done and two for emergencies without needing to get approval. He asked if the cost would include the collection, processing and management of the data, Riddell replied yes. Phipps stated DOGAMI should focus on the Association of Oregon Counties, Coastal Communities and the Coastal Caucus as they have an interest in this information. Jeremiah asked if the lidar is the same as the drones they wanted to purchase, Hansen explained the process and Ashford included additional information about how lidar is collected.

Increase access to mineral resource information

Supports exploration of mining potential in eastern and southern Oregon, by digitizing and publishing DOGAMI's paper collection of historic mining documents in modern, easy-to-navigate formats. HB 3089, passed in 2015, directed DOGAMI to assess the mineral resource potential in those regions, and to identify further research that may increase mining employment. This

package funds the most cost-effective alternative for such research. Cost: \$394,678 General Fund. Positions: 1.0 FTE limited duration Natural Resource Specialist-4; 1.0 FTE limited duration Natural Resource Specialist-2.

Hansen said the increase was originally brought to the Board last biennium and the Agency has brought it back to them because it was previously well received but not successful. The Board is being asked to consider it again. Chair Maffei asked why it was rejected, Riddell said she believed it was because the State was under a shortfall and DOGAMI did well in the budget process. Maffei does not want the Agency banging their head against the wall if it will not be funded. Madin said this was originally in SB 644 until the very last bill revision and then it was removed.

All Board members supported the Agency's request to move forward with developing these ideas and bringing them back to discuss and vote on.

The ARB for 19-21 is due August 1, 2018 and these POPs will be in it if approved. Maffei said a phone meeting would probably be scheduled before the July meeting to review the budget and approve the POPs and concepts. Ashford stated he wanted to ensure all the details are flushed out before the meeting.

Calico-Grassy Mountain

Madin introduced Randy Jones, who is contracted through DEQ on rotation as the Chemical Process Mining Coordinator for Calico. Jones provided a brief update and said DOGAMI is leading nine (9) state agencies through this process and is the cost recovery path for all the other agencies which may be a problem in the future. He stated this is six (6) years in the making and it is still in the in the pre-application phase in which the company has been collecting baseline data. A consolidated permit application is expected this summer. A Pre-feasibility study needs to be completed before the permitting process can be done. The company is a publicly traded company in Toronto so DOGAMI will not be able to see the study until it is posted online. Chair Maffei asked what happens if the pre-feasibility study comes back bad, Madin replied it could end this process.

Ashford asked since this is the first chemical process site if it is more difficult for Oregon than other states. Madin answered it is probably easier in Nevada since they have quite a few sites and everyone knows how to do everything. Jones said there are more Oregon unique aspects compared to other states. Madin proposed a standing update item on Calico at the upcoming Board meetings, which was acceptable to the Board members.

Briefing: The Board may be asked to take action on this item. No action taken.

8) Public Comment:

Chair Maffei asked for public comment. No public comments.

Break

9) ASCE-7 Update:

Dan Cox, Ph.D., Professor, Coastal and Ocean Engineering at Oregon State University (OSU), provided an ASCE (American Society of Civil Engineers) -7 update.

Professor Cox stated that he works with ASCE-7 on their committee. ASCE-7 is a consensus standard for building standards (7), which is based on risk standards. He explained IBC is International Building Code for countries that are unable to afford the research. Hawaii, Alaska, California, Washington, Oregon are the five (5) states adopting the IBC in 2020, which accepts the ASCE-7 standards. ASCE will be publishing a design guide to go along with the codes. A probabilistic hazard map, similar to one by USGS, was needed to complete the code standards. The committee used a 2,500-year design level event for earthquakes. Based on that design level, there is a two percent (2%) chance of one happening in the next fifty (50) years.

Cox discussed what ASCE-7 provides to engineers and designers for tsunamis. The ASCE-7 codes incorporate some of the science, all of the engineering, and a little of the social science. He briefly mentioned the risk categories. The probabilistic tsunami hazard analysis (PTHA) that was done was based off hundreds of scenarios to determine the probability of having a certain scenario at each point along the US pacific coastline. He said one can access the ASCE-7 database for a specific location and get the expected tsunami inundation characteristics for a 2,500-year event, which is a consistent starting point for practical engineering designs. For the OSU PTHA comparison that was done, the ASCE-7 inundation map compares to DOGAMI's "M" inundation map. Cox said the comparison is the extent of the water coverage area, not the depth of water. Cox explained when they start looking at DOGAMI's t-shirt sizes of XL, XXL, it starts to compare with the 20,000-year return period. Engineers are not comfortable with t-shirt sizes, they would prefer a number and are looking at a probabilistic approach. Cox believes if they did a more thorough job they could come up with the annual exceedance probability.

Teeman asked if any of the archaeological data of when actual events have occurred in the past was used to come up with the probability models, Cox replied yes. He said they are using a 10,000-year record to come up with a 2,500-year event.

Cox stated that in addition to the inundation depth, they are interested in speed, force, arrival time and duration of flooding for not only life safety but how to keep the infrastructure intact. He said they are working to include earthquake with tsunami to create risk for buildings. After tsunamis they also looked at buildings that did not have damage to see why they withstood the tsunami and why the other buildings failed. He was involved with looking at debris that could hit buildings and what damage happens. He discussed vertical evacuation for life safety.

Cox said for designing the new OSU building in Newport, they used both DOGAMI's "XXL" and ASCE-7 and picked the bigger number. The basic lessons for the design of buildings is you can build them to withstand a tsunami event. When they design for seismic safety, in tsunami areas they are already built strong and not much more is needed for a tsunami.

Ashford asked Cox to discuss the difference of DOGAMI's inundation zones and ASCE-7 for evacuation and critical infrastructures. Cox replied that ASCE-7 is only used for critical buildings not evacuation planning. He suggested adopting hazard overlay zones for critical infrastructure and lifeline infrastructure and then looking at ASCE-7 for the expected level of damage for structures. Ashford asked for clarification of the "L" Line and ASCE-7. Cox likes the nationally consistent standard for the entire west coast to be used for the five (5) states. A lengthy discussion took place

and Cox said to determine it, a comprehensive review of each area would need to take place. Phipps asked who would have been part of the committee and if someone from building codes had been involved. Cox replied he did not believe they had anyone attend. Phipps asked if states can adopt only portions of the codes and Cox said he believed they could.

Briefing: The Board may be asked to take action on this item. No action taken.

10) GS&S Update:

Jed Roberts, GS&S Manager provided an update on the GS&S program and discussed significant new projects, exciting proposals and major publications. He said three (3) existing proposals are now significant new projects (1, 3 & 4 below). For new project 2, Phipps asked if DOGAMI can use it as an indicator of the value of that data when the Agency goes to ask for the POPs, Roberts replied yes. Maffei asked if this helps with the Agency's obligation to fulfill SB 3089, Madin stated this is the beginning of getting it completed.

Ashford asked if the landslide hazard research is being done with any of the universities and Roberts said he will check with Bill Burns. [see attached follow-up response]

Roberts announced DOGAMI is working with Earthquake Engineering Research Institute (EERI) to host a workshop on Monday.

Ashford asked if 18-02 is based on worst case scenario and is there a way to do relative likelihood, Roberts said the scenario was selected to meet the needs of emergency response planners who were the primary project stakeholders. Madin stated that this project is based on the most likely Cascadia subduction zone earthquake scenario. Hansen said the summary is a tool DOGAMI made to work with different agencies and is based on Cascadia, with three key messages of better information to help us become better prepared, need to keep working to increase resilience, and every action taken helps. She said people felt it was not as bad as anticipated and feel more empowered. The Agency wants people to take more action to be prepared. Phipps said it makes sense and the coast needs to look at preparing for the influx of people during the different times of the year.

Roberts provided a handout detailing the following information.

Significant New Projects:

- (1) Landslide Hazard Mapping for Coastal Communities
- (2) Mineral Resource Document and Data Preservation
- (3) Annual STATEMAP Geologic Mapping – this is 25th consecutive year we received this funding
- (4) USGS – Eagle Creek Post Fire Monitoring

Exciting Proposals:

- (1) Annual FEMA Cooperating Technical Partner Projects – no match needed

Major Publications:

- (1) Open-File Report 0-18-02: Earthquake Regional Impact Analysis for Clackamas, Multnomah, and Washington Counties – John Bauer is very proud of the work done. Back of sheet had information from the report.

- (2) Open-File Report 0-18-01: Radon Potential in Oregon – it has been added to the HazVu online map

Briefing: **No Board Action Required.**

11) Director's Report:

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

Board Member Vacancy

Avy is pleased the Agency made progress with the appointment of Diane Teeman at the last session. There is a potential new Board member to be confirmed by the Senate in May.

2018 Legislative Session

Avy stated it has been a fairly low-key session for Hansen's first session as Legislative Coordinator.

2015 Budget Note Progress Report

At the 2018 Legislative session the Agency provided a progress report on the Budget Note items that needed to be addressed from the 2015 session, including the IT audit. Avy stated, the Agency has made good progress on all items in the Agency Improvement Scorecard. The Business Model Assessment for the GS&S program is one of the items DOGAMI was asked to look at. It includes grant funding, which is currently workable because the staff is good at securing grants, but cautioned that if the federal government stopped funding projects then the Agency would need to look at what the impact and options might be. He emphasized IT is in a much better place than where the Agency was a few years ago regarding data security and disaster recovery.

Avy said it is likely the Agency will not be required to provide a 2015 Budget Note progress report to the Legislature in the future. The Agency is currently on track with the support of the Legislature, Board and LFO.

Chair Maffei asked when the Agency will get final sign off on the Budget Note. John Terpening said that not having to report to the Legislature is a sign off. Maffei asked Avy if the Business Model Assessment is something that would always be updated, he replied yes. Phipps asked if the Agency is working on an option if the federal funding stopped, Avy responded it is an option but that at present he did not think there would be a return on investment. Phipps asked if prioritizing the grants would be of value, Avy responded he thinks there is value but believes there would be time to adapt since some of the grants have two to three (2-3) year cycles.

Leadership Development

Avy stated the leadership mentoring has been ongoing and he is enjoying meeting with the new supervisors. This week the Agency put out a new employee engagement survey but will not have details for several weeks. The information will be presented at a one-day all staff meeting. A survey has not been done since 2014.

Avy shared that Governor Brown has asked that Agencies and Boards be aware of existing policies for Discrimination and Harassment Free Workplace and Maintaining a Professional Workplace. Chair Maffei handed out the information to the Board members.

Chair Maffei asked where the cycle is for the new supervisors' rotation, Avy replied the supervisor rotation is December to November and this is the second full year. He explained the manager position is a two-year rotation ending in the fall and the Agency will need to look at how they approach it in the future. The current thought is another year of rotations before recruiting for permanent positions.

Briefing: **No Board Action Required.**

12) Future Scheduling Items:

A conference room has been reserved at the Hatfield Marine Science Center in Newport, OR for both July 16 & 17, 2018, based on approval from the Board at the December 11, 2017 meeting.

Chair Maffei said the discussion is to finalize scheduling of the following items:

- Board Retreat/Board Meeting Dates/Times: A regular quarterly meeting plus a retreat. Maffei proposed the retreat, which is a non- substantive meeting with no decisions being made, be held on the afternoon of Monday and the regular Board meeting be held on Tuesday morning. No starting time was decided at this meeting, but will be determined to allow staff to attend. There was a consensus for the dates.
- Director Evaluation: The annual evaluation draft writeup needs to be done in time so it may be completed in an executive session at the July meeting. Chair Maffei told the Board members to look for that coming soon. She said new Board members may not have much input. Phipps asked if she can still participate and provide data on the evaluation, the request was approved by Maffei. Avy added that the evaluation needs to be incorporated going forward into the Board's standard practice for approximately the same time of year.

Board Action: **Ashford moved to have the annual evaluation of the Director performed at the July 17, 2018 meeting. Phipps seconded. Motion carried.**

13) Public Comment:

Chair Maffei asked for public comment.

Ashford thanked Professor Cox for presenting and said he thinks DOGAMI should start having a conversation on next steps moving forward at the July Board meeting. Chair Maffei requested to have it added to the next meeting agenda. Jeremiah asked if the Board can have some of the advocacy groups invited to attend and discuss this topic.

14) Board Adjourn:

Chair Maffei adjourned the meeting at 12:22 p.m.

APPROVED



Laura Maffei, Chair