

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

Monday, December 11, 2017

8:30 a.m.

Portland, Oregon

1) Call to Order: (Lisa Phipps, Board Chair)

Chair Lisa Phipps called the meeting to order at 8:34 a.m.

2) Introductions: (Lisa Phipps, Board Chair and staff)

Chair Phipps, Vice Chair Laura Maffei, and Board Members Katie Jeremiah and Scott Ashford (via phone) 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

Alyssa Pratt, Earth Science Supervisor

Matt Williams, GIS & Remote Sensing Supervisor

Others in attendance:

Sherry Carter, DAS Human Resources (HR)

Diane Lloyd, Department of Justice (DOJ)

John Terpening, LFO

Hayley Morse, DAS/BAM

Bob Short, Robert Short & Associates/OCAPA

3) Election of Chair and Vice-Chair:

The Board members elected the Chair and Vice-Chair

Board Action: Katie moved to elect Board Member Laura Maffei as Chair. Scott Ashford seconded. Motion carried.

Board Action: Scott Ashford moved to elect Board Member Katie Jeremiah as Vice-Chair. Laura Maffei seconded. Motion carried.

4) Confirm Dates and Locations for 2018 Board meetings:

Lori Calarruda, Executive Assistant presented the proposed 2018 Board meeting dates and Board Retreat location.

The 2018 DOGAMI Board meeting dates:

April 6, 2018 (Friday) – Portland, OR

July 16, 2018 (Monday) – Newport, OR – location TBD

July 17, 2018 (Tuesday) – Board Retreat – Newport, OR – location TBD

Note: Ashford suggested the Hatfield Marine Science Center as the location for both July meetings. The actual location will be confirmed at a later date.

October 1, 2018 (Monday) – Portland, OR

December 10, 2018 (Monday) – Portland, OR

Board Action: Maffei moved to accept proposed 2018 Board meeting dates as presented. Jeremiah seconded. Motion carried.

5) Review Minutes of September 18, 2017:

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

Board Action: Katie Jeremiah moved to approve the minutes of September 18, 2017 as submitted. Laura Maffei seconded. Motion carried.

6) Geologist Stamping/Signing Update:

Director Brad Avy presented an update on the Registered Geologist Stamping/Signing Project on behalf of Holly Mercer. Mercer has been meeting with licensed geologist in the Department to get feedback. The Agency will take advantage of DOGAMI's Technical Review Team to align geologists with staff for appropriate oversight instead of creating another layer or structure in the department. The Agency expects to have a procedure in place in the next month and implementing it soon after.

Briefing: **No Board Action Required.**

7) Strategic Plan Update:

Sherry Carter, with DAS Human Resources, and Communications Director Ali Hansen provided an update on the strategic planning progress.

The Agency's Strategic Framework was developed in 2014, through a yearlong process that included staff, stakeholders and the Governing Board. It was created to allow for creativity and flexibility in developing specific plans to achieve goals and outcomes. In July, an internal strategic working group began a process of attaching actions and metrics to the Strategic Framework. The draft document is in progress, but is anticipated to be ready for Board review in April. A draft document for Board review is anticipated by the end of this week.

Rob Hairston-Porter, ReNeea Lofton and Christina Appleby were acknowledged for their contribution to the strategic working group.

Briefing: **No Board Action Required.**

8) Adoption of the Attorney General's Model Rules of Procedure:

Diane Lloyd proposed the adoption of the current version of the Attorney General's Model Rules of Procedure. Per Oregon Statute (ORS 183.341) the Attorney General (AG) prepares model rules of procedure that may be adopted by an agency by reference without following certain rulemaking procedures.

While getting ready for upcoming contested case referrals, Lloyd/DOJ realized that DOGAMI's rules were still citing the 1997 rules, which have been updated since then. Lloyd wants to make sure they are citing the most current version.

Jeremiah stated that it is a smart move to adopt the most current rules for the reasons stated, but asked if there are any other agencies that have declined to adopt them and if so for what reasons. Lloyd said her research has determined that most the natural resource agencies have not adopted the updated version but just as an oversight like DOGAMI and had not done so intentionally.

Maffei asked how frequently the AG updates these rules and should it be kept on the radar. Lloyd said yes, they should be on the radar but was not aware of any upcoming changes.

Ashford asked if the rules take place immediately and if there are any cases that could be affected by this change. Lloyd said there is one case that could bring this up but she does not believe it will be an issue. Ashford asked if it effects how meetings are ran and Lloyd said no.

Staff recommend that the rule be amended to incorporate by reference the current version:

632-001-0005

Model Rules of Procedure

(1) Pursuant to the provisions of ORS 183.341, the Board adopts the Attorney General's Model Rules of Procedure under the Administrative Procedures Act effective [September 15, 1997] **January 31, 2012.**

Board Action: **Jeremiah moved to amend Rule 632-001-0005 to incorporate the current version of the Attorney General's Model Rules of Procedure as presented. Maffei seconded. Motion carried.**

9) Tsunami Line Update:

A year ago, the Board approved the Agency to do preliminary information gathering for rulemaking to revise the existing tsunami line based on updated science. There were concerns from the Coastal Caucus and about potential conflicts related to upcoming International Building Code tsunami standards.

Director Avy and Diane Lloyd provided the Board with an update on the anticipated regulation by Building Codes related to ASCE 7. Lloyd said there are statutes that direct DOGAMI to draw the tsunami inundation line through rulemaking based on science to determine where specific structures cannot be built (hospitals, schools and special occupancy structures). Avy and Lloyd met with Building Codes Division staff, who view tsunami regulation to be in DOGAMI's jurisdiction. They do

not have this topic on their radar and do not intend to do anything unless there is legislative direction for them to be involved. Lloyd said DOGAMI's view of the statutes directs the Agency to draw the line but for limited purposes and there is room under Building Codes existing authority to do more and address other types of structures. DOGAMI does not think it should be involved with determining how structures should be built.

Avy asked the Board for direction on which way they would like staff to proceed.

Maffei asked if Building Codes has any codes related to building in the tsunami zone and Lloyd said no. Ashford said he does not believe it is up to DOGAMI to set the building codes and that the Agency should be looking at discrepancies between DOGAMI's proposed inundation line and the ASCE future building code document.

Chair Phipps said that the tsunami line is intended to identify those areas that critical infrastructure should not be sited. The building code would not necessarily preclude development but dictates the standards that would need to be met from a structural perspective for building a structure. She did not see a real conflict between the two as they have different intents.

Maffei said the conflict would be in the new model code but could be addressed. Ashford said he would be willing to work with someone to compare the conflicts and then address in the next Board meeting. Phipps said there is still another conflict about changing the line with the Coastal Caucus. Jeremiah said she spoke to someone in the hospitality industry on the coast who said the line could cause issues related to hotel owners and insurance, which could affect them greatly.

Ashford and Maffei will work on this issue and asked who they should work with for technical staff and Avy said Ian Madin. Ashford said he believes he has an idea of where the conflicts are and can quickly review the issues, then work with Lloyd and a law clerk on specific areas.

10) Public Comment:

Phipps asked for public comment. No public comments.

11) Financial Report:

Kim Riddell, Chief Financial Officer, presented the budget status report as of November 27, 2017.

The packet contains the 17-19 Budget Report as of November 27, 2017 in the previous and current proposed format versions. The handouts included 17-19 budget report as November 27th in the proposed format version, the projects lists, and the FAQ.

Riddell acknowledged where the Agency has progressed in the last couple of years. She stated that Department of Administrative Services (DAS) was not very involved previously, but are now working closely with the agency, the DAS Chief Financial Office and the Legislative Fiscal Office. Riddell said DAS now reviews everything, but she can explain the numbers to the Board and offer them any information they want. She stated the Agency is "no longer doing it alone".

Ashford said he is so happy with where the Agency is today compared to where they were before when he started. Not only working with DAS on the financial piece, but IT and the strategic planning.

Riddell reviewed the 15-17 budget which is almost final. Other fund remaining balance of \$1.4 million will be carried forward to the next biennium. The federal funds of a positive \$144,721 is a cleanup that had to be done due to previous biennia not being balanced correctly. However, going forward federal funds should be balanced at the end of each biennia. The MLRR ending balance is \$416,864 for AY17.

Riddell reviewed AY19 and handed out both old and proposed versions of the document. The difference between the two is the proposed version contains the projected amounts and what is anticipated, while the old version was a snapshot in time and was old by the time of the meeting. She walked through the FAQ document and explained the information on the budget documents. The actual budget spent is higher than anticipated and may require the Agency to go to the legislature and ask for a limitation increase. Riddell told the Board that she does not have concerns regarding the budget at this time. Maffei had questions on the personnel services and asked why the General Fund seems more this biennium than last. The topic was discussed in depth and Riddell said that it is based on what projects agency staff are working on.

Jeremiah had questions on the MLRR budget. Riddell said she felt the attorney general and other costs will go down once the new rules are done, although she is unsure about the IT costs.

Phipps had a question about the strong motion instrument fund and Riddell said she will add it to the report as a separate and distinct budget. Riddell said the cash bond fund amounts are not represented on the budget because they cannot be touched but she can add it on the report to reflect them.

Riddell stated she added other lines—data processing hardware, other capital outlay and indirect so it is easier for the Board to see the numbers.

Ashford stated he is happy to see the projections on the report.

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

Break

Maffei thanked Chair Lisa Phipps for her leadership the last two years and presented her with a plaque for her service. Avy said it has been a pleasure working with Chair Phipps and she has been very helpful.

12) MLRR Update:

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

Permitting Status:

The Board packet contained a table showing the permitting status. MLRR staff have eliminated the backlog and the general permitting is going well. Madin gave credit to Kelly Wood for working on the permits.

Oil and Gas – Tahe Well:

Enerfin wants to drill a new well on the same pad as the Tambora well due to drilling on the wrong side of a fault. Due to the location being within five hundred (500) feet of the other well, an exception is needed. A hearing was held in November but there was one neighbor who was not notified of the hearing even though they requested to be. Therefore, the staff have pulled together a transcript of the hearing and items presented at the meeting which have been posted online for comment until December 15, 2017. After that, a report will be written up and informing management of the decision.

Supervisory Position:

Madin mentioned the Agency has started the process for the recruitment of a supervisor position for the MLRR office who can run the day-to-day items but not be responsible for the policy level items.

Permit Revocation:

Madin said there was going to be a hearing on a permit revocation but the permittee did not check in with the administrative division, did not retain counsel and has asked for an extension. The next hearing is scheduled for some time in February.

Sister Agency Reviews:

Members of the MLRR staff met with the Washington Geological Survey which has a program similar to DOGAMI. The staff spent two days with the Washington group who walked them through their process and staff learned a lot. Washington was in the same boat about five years ago and they have turned things around. They have a nice integrated field and office database system on a tablet which is synced back to the database. Reports are automatically generated. Jeremiah asked if that was internally developed for them and Madin said yes. They have a full-time database manager, because you need a dedicated person to run it. DOGAMI's CIO is looking to do an RFI but a solution is about two years out.

The staff also visited Nevada, which has a more complicated system. They have separate divisions that do groundwater, abandoned mine lands, oil and gas and geothermal regulation and mining promotion. Aggregate mines are not regulated in Nevada but MLRR staff did learn more about the chemical process mine regulation from the Nevada team who were open and willing to share information. Madin is looking at contracting with them to review some of the agency information related to Calico. The biggest problem with managing these chemical processed mines is they continue to generate fluid you must deal with for a long time. The Oregon guidelines establish a thirty (30) year timeline that it needs to be monitored after the mine is closed, where Nevada does not even discuss closure until after thirty (30) years and some mines have long terms trusts extending out one hundred to three hundred (100-300) years. In Nevada, Reclamation, Regulation and Closure are three different branches.

New Application Form and Permit:

MLRR staff had wanted to start using the new digital form for aggregate mines after January 1, 2018 but SB 644 and HB 2202 may require them to do more things, so they will hold off on using it to capture everything. If it will be longer than six (6) months they may still use it.

A new permit document will include all the information needed, including reclamation plans, maps, responsibilities of permittee and land owners and require both to sign the documents. As amended

permits are done, they would be switched over to the new permit document until everyone is switched over to it.

Water Quality Program:

Lisa Reinhart is doing a great job getting the program together, resulting in more referrals to DEQ. She has been contacting permittees for documentation. She has also been putting together a document to use with permittees and to work with them to clean things up.

Double Bonding:

There is an issue on sites that have federal land or a combination with federal and private there are a mix of bonding situations. The joint bonds with BLM are causing problems because of disagreements with how to reclaim sites.

Calico is one that is a combination of federal and private and MLRR has contacted the DOJ who says DOGAMI should have their own bond. The industry and other states work with BLM by having an Memorandum of Understanding (MOU) that specifies how both entities will work together to manage the bond.

Calico-Grassy Mountain:

Revised Timeline:

The application is now expected in May of 2018. DOGAMI organized a state agency workshop in November to go over the project and worked through the state agencies to find out what would be required for all the permits that need to be done. There are also cooperating agencies that have statutory responsibility for protection but do not have separate permits. This was done to get everyone on board and provide them a heads up that this is coming up and they will need to do something. There is a whole lot of work that can and should be done before the process gets started. The company has come to MLRR asking what type of tailings storage facility design is acceptable and we will work with them to determine everything that should be in it. There is also an environmental assessment and socioeconomics study that needs to be done by MLRR using a contractor.

Staffing:

DOGAMI has signed a contract with DEQ to "rent" Randy Jones to help with this program. It is expected fifty (50) percent of his time for the first few months will be helping with rule writing since he has experience in this area. He is contracted through the biennium.

MLRR will also have a full-time temp to help with handling the documents and filing and are looking to have it filled by end of February.

There needs to be a full-time monitoring of the program as it is being built and the issue is how to pay for it. Avy said he appreciates the forward-thinking approach Madin has taken with this site.

SB 644, HB 2202, and Rulemaking:

SB 644 has several issues related to aggregate mining. Madin has concerns about the provisional permits that will start at beginning of January.

The Agency wants to make the temporary rule permanent.

Cultural resources is one area they may need to do rulemaking for. DOJ was asked if the Agency has responsibility and if a permit can be denied based on the statute and DOJ said yes.

Jordan Cove:

There is some possibility that it may need to be permitted as a gravel mine. The Agency was hoping it could do a construction permit with no reclamation plan since there would not be any reclamation. There is also a possibility the Agency could permit it as usual which would require a lot of paperwork. No matter what course is taken, someone is not going to be happy with the outcome.

Legislative Concepts:

The Agency has a few months before these need to be submitted and Madin is looking at reinstating the construction exemption in order to not have to deal with construction sites that do not sell anything. The Exclusion Certificate needs changes to reduce the number of sites where it is required.

Jeremiah gave him kudos for going out to other states to get information and not re-invent the wheel. She supports working to do rulemaking to limit what needs to be done so there is no political intervention.

Ashford said great job of getting through the back log of permits and going out and visiting Washington and Nevada to get input on best practices and trying to implement them.

Briefing: **No Board Action Required.**

13) GS&S Update:

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

Roberts acknowledged staff involved in the supervisor rotation program. Bill Burns is outgoing after one year and recognized him for his work and efforts he made during his time. Jason McClaughry is continuing a second year. There are two new supervisors – Matt Williams and Alyssa Pratt so the program is going from two supervisors to three supervisors.

Roberts provided a handout detailing the following information.

Significant New Projects:

- (1) FEMA – Tillamook County Landslide Mapping and Risk Assessment
- (2) NOAA along with DLCDC – Beat the Wave (continuing work) and Tsunami Damage Estimates for Coastal Cities (new funding)
- (3) USGS – Cascadia Earthquake-Induced Landslide Dating
- (4) OHA – Earthquake/Tsunami Preparedness Technical Assistance to Coastal Hospitals.

Exciting Proposals:

(1) USGS - Eagle Creek Post Fire Monitoring – proposal to monitor for landslide and debris flows after significant rain events. Drone program may be available to assist.

(2) Annual STATEMAP Geologic Mapping

(3) Landslide Hazard Mapping for Coastal Communities

Major Publications:

(1) Open-File Report 0-17-03: Landslide Inventory for Eastern Multnomah County – Bill Burns mapped landslides for eastern portion of Multnomah County – fast tracked it to get it out to help with post fire.

(2) Revamped Lidar Viewer

(3) Interactive Map Series 56: Statewide Channel Migration Susceptibility – First time statewide map of channel migration.

Briefing: **No Board Action Required.**

14) Director's Report:

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

Board Member Vacancies:

The Agency almost had a senate confirmation in November but now likely in February (Eastern Oregon Geographic Region). Coastal possibilities are still being pursued. One candidate for the coast was very qualified but did not actually live on the coast.

Secretary of State 2016 Audit Follow-Up:

The Secretary of State (SOS) asked for a follow-up on their 2016 audit. There were a number of recommendations in the 2016 audit. The Agency has not yet heard back on its response to the follow-up. Kim Riddell did a great job of getting the policies in place. There is still one policy left to do but it should be done by the end of December.

Organizational/Staffing Changes:

Avy walked the Board through an updated Agency organization chart. The number of staff previously reporting to two supervisors was quite high so having three supervisors is more reasonable. Continuation of the rotations is being evaluated each year, but for now Avy feels it is a great investment for the Agency. It is worth the disruption of changing supervisors to create leadership capacity.

Ian Madin is releasing the Legislative Coordination role and it is being picked up by Ali Hansen.

2018 Legislative Session:

Ali Hansen said the short session runs February through mid-March. It should be low key and nothing is expected for new legislation specific to the Agency.

Avy stated the Agency may need to come back to the legislature to present the budget note progress report update.

Phipps asked about the progress report that was made and if the Agency has moved forward and not backward. Avy said the one measure that had moved back was related to MLRR and they have made progress with a detailed plan to move forward.

Briefing: **No Board Action Required.**

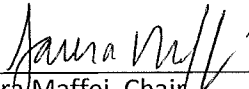
15) Public Comment:

Phipps asked for public comment. No public comments.

16) Board Adjourn:

Chair Phipps adjourned the meeting at 11:24 a.m. and passed the gavel to Laura Maffei.

APPROVED



Laura Maffei, Chair

as amended