

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

Friday, June 10, 2016

8:30 a.m.

Portland, Oregon

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

Chair Lisa Phipps called the meeting to order at 8:36 a.m.

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

Chair Phipps, Vice Chair Laura Maffei, and Board Members Dennis Luke and Larry Givens (via phone at 8:42 a.m.) were in attendance. Scott Ashford 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

Holly Mercer, Assistant Director of Geological Survey and Services (GS&S)

Kim Riddell, Chief Financial Officer (CFO)

Ali Ryan Hansen, Communications Director

Ian Madin, Chief Scientist

Bob Houston, Metallic Ore Geologist / Rules Coordinator

Connor Anderson, Chief Information Officer (CIO)

Alyssa Pratt, Financial Analyst

Rudie Watzig, Spatial Data Specialist

Others in attendance:

Diane Lloyd, Department of Justice (DOJ)

Rich Angstrom, Oregon Concrete and Aggregate Producers Assn (OCAPA) & Oregon Mining Assn (OMA)

Todd Baker, Baker Rock Resources

Bob Short, Robert Short & Associates

John Terpening, Legislative Fiscal Office (LFO)

3) Review Minutes of April 8, 2016:

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

Board Action: **Luke moved to approve the minutes of April 8, 2016 as submitted. Maffei seconded. Motion carried.**

4) HB 3563 Rulemaking Update:

Mercer provided an update on the exclusion certificate process. The Mineral Land Regulation and Reclamation (MLRR) program had received exclusion certificate applications with a \$150.00 application fee attached. This was due to a miscommunication from the program. If the Board

adopts the rule which changes the application fee to \$80.00, the program will refund any overpayment previously received.

Bob Houston, Rules Coordinator, provided a summary of the comments received during public hearings related to OAR 632-030-0016 and 632-030-0022:

- Fees: Public comment indicated proposed fees were too high. Although the statute provided for an application fee of up to \$400.00, the agency conducted a review of staff time to process the application and concluded that an \$80.00 fee would reimburse the agency for the staff time to process the application.
- 60-month summary of mining activity: Houston also pointed out a proposed change at OAR 632-030-0016 (2)(f), which requires a detailed summary of the mining activities during the previous 60 months. Houston indicated that there was a comment received through the public comment period, proposing that the time period for mining activities be 36 months rather than 60 months.

Phipps asked for clarification relating to the cubic yards and the previous temporary rule which referenced a range. Houston explained that portion of the temporary rule was eliminated in the current proposed rule. Since the cost to process an application is the same for all applicants, the proposed rule captured one fee of \$80.00 rather than different fees relating to number of cubic yards. Phipps indicated that she was in favor of one fee.

Luke sought clarification from the miner's perspective. He summarized the process by stating that a miner would pay the initial fee and describe mining activities for the prior 36 months. The miner would then pay a fee the following year, but would only have to describe mining activities for the previous 12 months. Houston confirmed that would be the process. Houston clarified, however, that the renewal fee established by statute is \$150.00.

Maffei inquired if 36 months is sufficient time to understand the operations of the site. Houston replied that based on public comment and the agency review, the agency was comfortable with a 36 month mining history. Director Avy clarified that the \$150.00 renewal fee is mandated by statute and there is no discretion related to that fee. Phipps asked the Board for further questions. Since no further questions were indicated, Phipps asked for a motion. Luke indicated that he would like to know from Department of Justice what should be included in the motion. Lloyd indicated that the motion is for the Board to adopt the exclusion certificate rules as modified by Bob Houston and his testimony.

Board Action: **Luke moved to adopt the HB 3563 Exclusion Certificate Rules amended by Bob Houston and his testimony. Maffei seconded. Motion carried.**

5) **MLRR Legislative Concepts (LCs):**

Director Avy explained that the agency had an LC placeholder in with the Governor's office relating to MLRR fee increases. Since the previous fee increase did not take effect until January 1, 2016, the agency does not believe that it has sufficient trending history to determine if additional fees are necessary in the next biennium. Avy indicated that agency is deferring any statutory fee changes until further data can be obtained and analyzed.

Briefing: **No Board Action Required.**

6) Public Comment:

Phipps asked for public comment.

Rich Angstrom, OCAPA, stated that he appreciated Avy's outreach to the industry. He stated that Avy would be attending OCAPA'S annual meeting and he was looking forward to the DOGAMI awards banquet held during the annual meeting. Angstrom stated that OCAPA was in agreement with the rules the Board had adopted. He further stated that he is working on legislation to remove the placer miners from the exclusion certificate. Angstrom indicated that the exclusion certificate was put in place to capture the evasion the industry and the department felt was occurring in the aggregate industry. It was an inadvertent capture of small placer miners.

Angstrom also stated that he would like to see a specific timeframe in which the Department must respond to public records requests. Angstrom further stated he is hearing comments that the public records requests need to proceed more quickly and it is important for information to get to county commissioners, legislators, consultants and other state and federal agencies.

Luke stated that he read about two of Oregon's US Senators wanting to stop material natural resource excavation and removal from land in eastern Oregon. He asked if Angstrom had seen a similar article. Angstrom replied that he is aware of several issues and specifically mentioned that he is part of an advisory committee for another state agency looking at a natural sensitive waterway on the south coast. He also mentioned the Red Flat Nickel mine and the possibility for job creation in the state. Angstrom also mentioned the monument area and his concerns about stopping mineral extraction. He referenced a Nevada county right next to the monument area which is one of the fastest growing counties because they using mineral resources. Angstrom stated that he points out to the environmental community that Oregon's Department of Environmental Quality and the MLRR type program provide regulatory oversight to make sure mining is environmentally friendly and protects Oregonian's values.

Luke referenced the legislative bill that passed for the Department to encourage mining eastern Oregon. Angstrom indicated that he felt the bill was a policy statement that Oregon supports mining. Maffei inquired as to what type of public records are requested by Angstrom. He indicated that he typically requests budget or policy information to help guide him in supporting the Department or providing feedback to the Department.

Todd Baker testified that he has not asked for public records in a few years but the information requested would help guide him on investment decisions.

Robert Short testified that he would request public records relating to historical volumes and where there is potential rock in certain counties. Phipps inquired whether he felt the response to his requests were timely and Short replied that the responses were very quick.

7) Public Records Request Policy and Procedure:

Holly Mercer presented the proposed Public Records Request Policy and Procedure for DOGAMI.

104 Mercer indicated that Governor Brown has emphasized the importance of agencies having a
105 transparent public records policy. The proposed policy is based on a model similar to the Governor's
106 office policy with a public records log available to the public. Mercer indicated that response
107 timeframes are dependent upon the complexity of the request and whether there is confidential
108 information relating to production information.

109
110 Givens asked what the cost is to the Agency in responding to the requests. Mercer stated that the
111 agency does not have historical information relating to costs, but the new policy provides for cost
112 estimates prior to providing the information. Mercer also indicated that a permittee should be able
113 to review their permit file at the Albany office if the permittee provides proper identification.

114
115 Phipps indicated that she is currently chair of an organization called Open Oregon which is an
116 education group around public records and public meetings laws. She indicated that she feels the
117 proposed policy is important and she feels the agency is taking important steps toward transparency.
118 Phipps stated that she would like to have the agency communicate with the requestor about
119 timeframes, even though she understands that it is difficult to establish specific timeframes in the
120 policy.

121
122 Maffei inquired about the type of information requested and whether there was a concern about
123 sensitive information. Mercer asked that Lloyd provide some guidance regarding this issue. Lloyd
124 indicated that there are specific exemptions to public records that potentially apply to DOGAMI
125 records. These include trade secrets exemption and an exemption for production records. Both are
126 conditional exemptions and there are time limitations even on exemptions. For example, records
127 older than 25 years would need to be disclosed. Maffei suggested that the policy be clarified
128 regarding permittees reviewing their own files. Mercer indicated that if the Board adopted the policy
129 at this meeting, she would gather additional information from MLRR staff and update the policy at a
130 later date relating to permittee's reviewing their own files. Phipps stated that this was an evolving
131 document but the agency needed some structure for the current process. Luke asked if the Agency
132 had received complaints about the process and Mercer replied that to her knowledge they had not
133 received complaints about the process.

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135 Board Action: **Maffei moved to accept the Public Records Request Policy and Procedure as**
136 **presented. Givens seconded. Motion carried.**

137
138 **8) Financial Report:**

139 Kim Riddell, Chief Financial Officer, presented the agency financial statement as of May 27, 2016.
140 Riddell provided an updated handout including a detailed statement of projects. Luke asked if Riddell
141 had any concerns about the financial statement. Riddell indicated that she did not have concerns
142 and noted that MLRR had an improving financial picture. She also indicated that indirects have been
143 allocated through January and she hopes to have them completed by the end of June. Phipps asked
144 about the indirect charges for MLRR and Riddell explained how indirects have been charged to MLRR
145 through May and the total Indirect for July 2015 through June 2016 was a pre-agreed total amount of
146 \$67,500, and that next year's pre-agreed to amount is \$150,000.

147
148 Phipps inquired about a project with a deficit of \$22,000.00 as noted on the project detail document.
149 Riddell explained that previously the grant and project budgets were not routinely reviewed with the
150 CFO and project staff. The agency would then incur cost overruns on projects that were allocated to

151 general fund. Phipps indicated that once these past historical issues were addressed then the agency
152 should see fewer cost overruns. Riddell confirmed that with better communication and oversight,
153 the agency should see fewer cost overruns impacting general fund.

154
155 Avy asked the Board if they would like to see additional changes in the financial report format and
156 reporting. Luke said he likes the new format. Phipps suggested that the report be in a larger format
157 and Maffei suggested that the lines be added to the document so that it is easier to read. Givens
158 complimented staff on the improvements to the financial report.

159
160 Board Action: **Luke moved to accept the Financial Statement Report as presented. Maffei**
161 **seconded. Motion carried.**

162
163 Luke inquired about the resilience exercise taking place during the week of June 10, 2016. Director
164 Avy said that Ali Hansen is participating in the coordination of the media and Ian Madin has been
165 involved as a technical advisor. Avy also stated that the Governor's Disaster Cabinet met and the
166 agency directors participated in role play events. He also indicated that the Governor has a great
167 deal of authority in making policy decisions during a disaster except for the right to bear arms. Avy
168 stated that the DOGAMI scientific staff would provide a data warehouse so that other agencies could
169 access the information.

170
171 **Break**

172
173 **9) Director's Report:**

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

175 **IT Funding Request:** The Emergency Board funded the Agency for specific IT needs (GS&S \$554,808
176 and MLRR \$64,754). Funding includes two new positions; the ISS 8 is limited duration (LD) and the
177 ISS 5 is permanent. Assistant Director Mercer, Connor Anderson, and Avy met with eight legislators
178 to provide a pre-briefing which was helpful in terms of the legislators' awareness and
179 understanding. Avy believes approval of the funding can be interpreted as an investment in the
180 future of the Agency. Avy asked Connor Anderson to come up to explain where this funding will take
181 DOGAMI.

182 Connor Anderson, introduced himself and discussed:

183 Anderson is currently on a job rotation from Enterprise Technology Services (ETS) where he
184 serves as a member of the team that performed the IT assessment for the Office of the State
185 CIO. Avy and Mercer had asked Anderson to assist with preparing the presentation to the
186 Emergency Board and Anderson has agreed to stay on as DOGAMI's CIO (LD). The IT report
187 found serious shortcomings in the long-term financing and support of the IT infrastructure and
188 policies at DOGAMI. The new strategic direction is to begin migrating the infrastructure to the
189 shared services system at the State Data Center. The first phase will be the email system which
190 is scheduled to happen in July and August. The next step is setting up remote work space for
191 staff. The emergency funding will allow project completion by the end of the biennium. A
192 larger strategic roadmap involves making improvements to the website and making public
193 records available online and easier to browse, and to help MLRR develop online permitting as
194 well as a licensing and payment system in future biennia. Luke asked if he (Luke) is based in the
195 Portland and he is in Albany and he wants to tie into the system does he have to have his own
196 computer and how does security work that allows other people to come in from

outside. Anderson stated the current systems do not connect and directly talk to one another. The new single-entity authentication structure will make it possible for everyone in DOGAMI to be able to access the same system which is planned for the fall. Luke asked if that included from home and Anderson stated they would need to use a state owned piece of hardware so they will not be able to use their home computer.

Potential Albany Office Move: As of May 9th, the move is no longer under consideration and wanted to close the loop.

State Resilience Officer: Mike Harryman is located in the office next to Director Avy's. This provides an opportunity for collaboration on items of mutual interest. One of Harryman's roles is to provide leadership for a multi-agency fresh look at the state policy and regulation surrounding the tsunami inundation line with DOGAMI, DLCD, OEM and building code interests. The Governor's office has a placeholder bill to address this subject. Phipps affirmed that DOGAMI still has the leadership role to determine the tsunami line.

Secretary of State Audit Status: The audit has taken a fair amount of the CFO's (Riddell's) time and is now wrapping up. The general summary is that DOGAMI is likely to see concerns expressed about past financial practices, some suggestions on tweaks for improving current processes, but not anticipating at this point a huge surprise. Luke asked if it was a performance or financial audit and Avy answered financial audit. Maffei asked when the last audit was done and Riddell said she did not know. Phipps said it is her understanding that DOGAMI has never had one. Riddell said federal partners have been coming in almost every year and FEMA is actually coming in a couple of weeks.

Leadership Capacity (conceptual organizational structure for leadership development): Efforts toward leadership development were discussed. A conceptual draft of where things are headed was handed out to the Board for review. Agency leadership received staff input on the approach. The goal is to build leadership capacity from within the Agency. It is a multi-year effort for those schooled in the sciences to have an opportunity to learn management and leadership skills and therefore be competitive as leadership positions become available.

As staff rotate into leadership positions, the goal is to keep existing technical teams as whole as possible with limited disruption. Luke asked what the difference is between a Communications Director and a Chief Information Officer. Avy stated the Communications Director has a media and overall communications focus and the Chief Information Officer is IT focused.

Management hopes to implement as soon as they have confirmation there are resources available (5% salary cost increase for supervisors). There are no new individuals/positions other than the position under the CFO. The intent is to integrate agency operations and science across the agency. Phipps said she was pleased to see that we are becoming one Agency. Phipps asked about the dotted line for MLRR. Avy responded it is to provide a technical link to the Chief Scientist. Maffei asked about the two rotational positions and if they would be new positions that needed to be created. Avy said the positions currently exist though some individual roles may need to be adjusted depending on who is selected for a particular rotation. Phipps said it is to open up options. Luke said it is a good start and asked if the Board could have bullet points on what the director would be talking on in advance. Avy agreed to provide.

Briefing: No Board Action Required.

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246 **10) Key Performance Measures (KPM):**

247 Ian Madin, Chief Scientist, presented the proposed KPMs. The proposed KPMs are designed to better
248 reflect the Agency's work, and quantify progress made in key areas.

249
250 Proposed KPMs:

251
252 **1- Hazard Risk Assessments Completion:** Percent of population residing in Oregon Urban Growth
253 Boundaries (UGBs) that have hazard risk assessments that meet criteria to initiate Department of
254 Land Conservation and Development Goal 7 planning for earthquake, landslide, tsunami, coastal
255 erosion, and flooding. Target: 100% of Population residing in Oregon UGBs.

256
257 Madin said this KPM will track the Agency's progress on providing complete, accurate hazard
258 information for all Oregon communities. DOGAMI has developed standardized methods to produce
259 all of these hazard and risk studies.

260
261 The Agency is starting out at 8% completion. With current projects, in one year it will be 17%
262 completion and in 2 years it will be 27% completion. The target will be 8% per year. Madin stated it
263 will take about 10 years for completion and he believes it is a reasonable approach. Madin noted that
264 lidar data is necessary to complete the hazard risk assessments; lidar data is currently available for 99
265 % of the population in UGBs.

266
267 **2 – Lidar Data Completion:** Percent of Oregon (sq. miles) with lidar data at USGS quality level 2 or
268 better. Target: 100% of Oregon.

269
270 Madin stated the goal is coverage of entire state. The Agency is currently at 37%, all of it is western
271 Oregon because fewer funding sources exist for collection in eastern Oregon. Targets within each
272 biennium will need to be established. DOGAMI does not control how much funding is available for
273 lidar projects, which makes establishing realistic targets difficult.

274
275 **3 – Detailed Geologic Map Completion:** Percent of Oregon where geologic data in the form of high
276 resolution maps have been completed to be used for local problem solving. Target: TBD

277
278 Madin stated no changes are proposed to this KPM but the data needs to be recalibrated. The goal is
279 not the entire state, it is the coverage of the nominal inhabited area (NIA), a zone based on
280 population density and water well density which encompasses urban areas, rural residential areas,
281 agriculture areas. It is about 17,000 miles out of the 97,000 of the State, which is the target they are
282 working toward.

283
284 **4 – Accessibility of DOGAMI Information:** Percent of DOGAMI Information that is current and
285 accessible by ensuring legacy data is digitized, indexed, and catalogued, the website is redesigned
286 according to state parameters, and the databases are current, discoverable, and recoverable. Target:
287 100%.

288
289 Comments: Madin stated that the information DOGAMI collects is of greatest use when people can
290 find it and access it easily, and this KPM will track progress on several projects. Initially 40% of the

score comes from progress of the legacy data, 30% on progress for completing the rebuilding of the Agency website and the other 30 % keeping new databases current.

Maffei asked if the emergency funding includes the website and Madin said it does not cover this portion. Madin said they are doing a Policy Option Package (POP) for the funding.

5 – Percent of permitted sites inspected biennially: Target: 100% for all categories.

The KPM will track inspection of all mine sites, a change from the previous KPM that tracked inspections by unique operators rather than individual sites. Mercer noted that a second KPM being considered to track permit application processing times is not moving forward. It was determined that there were permitting processes that could be improved and the staff would like to improve the processes and develop a key performance measure for the next biennium.

6- Customer Service: Percent of customers rating their satisfaction with the Agency's customer service as "good" or "excellent": overall customer service, timeliness, accuracy, helpfulness, expertise and availability of information.

This is a mandatory KPM and Mercer said DOGAMI will work to get better customer service numbers for reporting.

7– Governance: Percent of yes responses by the Governing Board members to the set of best practices.

This is a mandatory KPM.

Discussion on proposed KPMs: Phipps asked if the staff feels that this goes back to the strategic plan and Mercer said yes. These become be part of the Agency Request Budget. These do have to be finalized and complete by the time they submit that budget. DOGAMI is an early submit agency so the budget is due by mid-August. Phipps asked if the Board needed to approve these conceptually to make the deadline and Mercer said yes.

Phipps said she was sorry to see the reclamation KPM go because it addresses natural resources in their entirety. Mercer said by doing a better job doing with the site inspections that DOGAMI will capture that.

Board Action: **Luke moved to accept the proposed KPMs as presented. Maffei seconded. Motion carried.**

Phipps presented Ian with a plaque for his work as Interim Director and State Geologist in 2015. She thanked him for his openness, honesty and integrity. Givens said thank you very much for stepping in and carrying a big burden – his sincere thanks. Madin stated it was the highlight of his career and appreciated the support from the board and staff.

11) Public Comments:

Phipps asked for public comment.

Todd Baker, Baker Rock, commented that he believed the KPMs were good. Baker then stated that he would like to comment as an operator with regard to the permitting process. He indicated that some applications may take up to 8 years and some applications may take 6 months. Maffei asked if a pre-application meeting might be helpful. Baker said it might be useful but it depends on the applicant. Baker said you have to get land use approval first and often DOGAMI'S permit helps with other agencies. Baker further commented on the inspections and stated that some of the inspections may take more time because some operators are not committed to the process. He further stated that his company had a vice president who retired that said if a company figures out how to deal with all the regulations the company will be more profitable in the end.

Additional Business:

Phipps asked if the Board would consider some different dates. She asked if the Board meeting can take place on September 26th which will be after the legislative dates. The Board was receptive to a change in meeting dates in September.

Mercer mentioned that the report for HB 3089 is due to report out during the September legislative days. Luke asked if the board could meet in Corvallis at Oregon State University per Board Member Ashford's invitation. Mercer said they will look into it and send out a new meeting invitation.

Next meeting is Monday, September 26th with a place and time to be announced.

12) Board Adjourn:

At the conclusion of the public comment period, Chair Phipps adjourned the meeting at 11:06 a.m.

APPROVED

A handwritten signature in black ink, appearing to be 'Lisa Phipps', written over a horizontal line.

Lisa Phipps, Chair