

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

Friday, June 25, 2021

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

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

Brad Avy, Director/State Geologist

Lori Calarruda, Recording Secretary/Executive Assistant

Steve Dahlberg, Chief Financial Officer (CFO)

Bob Houston, GS&S Program Manager/Legislative Coordinator

Sarah Lewis, MLRR Program Manager

Cari Buchner, Mining Compliance Specialist

Others in attendance:

Sherry Lauer, DAS Human Resources Business Partner

John Paschal, DAS Executive Recruiter

Pete Pande, Pivotal Resources

Brittany Sale, Pivotal Resources

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 Kuper – Kuper Consulting

3) Review Minutes of March 12, 2021 Board Meeting:

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

Board Action: **Kozlowski moved to approve the minutes of March 12, 2021 as submitted. Ashford seconded. Motion carried.**

4) State Geologist/Director Recruitment Plan discussion:

8 Sherry Lauer, DAS Human Resources Business Partner, and John Paschal, DAS Executive Recruiter,
9 presented the Recruitment Plan and reviewed the Position Description for DOGAMI's State
10 Geologist/Director position.

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12 Paschal stated the timeline for the recruitment is July 1 through September 30, 2021, with an
13 expected hire date of October 1, 2021. This recruitment is a national open competitive search.

14
15 Paschal stated at the end of the Recruitment Plan, there are some example letters to the staff and
16 stakeholders inviting them to participate in the recruitment. He explained the Recruitment Plan
17 contains contact information for those responsible for certain aspects of the plan.

18
19 Paschal said work had been completed in the background by Lauer and Lori Calarruda prior to this
20 meeting, so he is currently on Step 6 of the plan. He received the Position Description and other
21 documents that will be used to create the job announcement. He stated the Board needs to approve
22 the Position Description before he can move forward with creating the job announcement, which will
23 then need to be approved as well. Once the approval has been received, he can post the position.
24 He reviewed the statutes that support the process.

25
26 Chair Maffei asked to clarify that Paschal wants the Board to approve the Position Description at this
27 meeting. Paschal said that is correct. Maffei asked to clarify that items 1-5 in the Action Needed
28 column on page 2 needed to occur at this meeting. Paschal said that is correct.

29
30 Ashford asked how the recruitment process works and if the Governor makes the final decision.
31 Lauer said no, and explained the process is based on the statute. She said typically with the top final
32 candidates, the Governor's Office will do a short interview with the Board Chair and a member of the
33 Governor's Office, and that feedback is incorporated. The Board votes the decision in an Executive
34 Session, and the hope is the Governor's Office supports the final candidate. Ashford thanked Lauer
35 and asked if the previous years of uncertainty with the future of DOGAMI has been taken into
36 account for the search and position and what impact it might have.

37
38 Chair Maffei explained that Director Avy submitted his retirement announcement after the DOGAMI
39 budget was approved. At that time the Agency would be in a position where the Department would
40 be stable enough to do this recruitment. The timing is consistent with having a budget approved by
41 the Legislature and Governor, so the Agency can go forward with recruitment saying it is whole, this
42 is what the mission is, and it has money to do it. Ashford thanked Maffei.

43
44 Lauer said these are questions she would, as a candidate have of the Board or the interview panel, so
45 she would anticipate the Governor's Office may get questions about the GRB process this last session
46 and the Board will likely get questions as well. Anyone who does their homework will likely have
47 some concerns, but these should not be addressed in the background.

48
49 Paschal explained Step 1 of the Recruiting Process is distribution channels of where the job
50 announcement and advertising will be placed, which is scheduled to start July 1, 2021. He reached
51 out to a few already for the best way to have a position posted and has received the necessary steps
52 to take. He asked the Board if they had additional sites they would like to have it posted.

53 Chair Maffei said it looked like a comprehensive list. Paschal thanked Lauer for her assistance with
54 the list.

Paschal stated the job announcement will be posted July 1 – August 29, 2021. He said the Recruitment Plan is mainly for the recruiter to stay on track, but to also notify the Board of where he is in the process. Once the posting is up, he will check weekly to see who has submitted applications, and will screen them based on the requirements.

Chair Maffei said the posting is for 60 days and asked if that was typical, she thought most postings are 30 days. Paschal said it is up to the Board to decide how long they want it posted. Maffei is concerned that some people might not want to wait 60 days to find out if they are considered. A discussion took place between Maffei and Paschal on this concern. Lauer shared in her experience that she has not posted for more than 30 days. She thinks this is a good time, during summer, for a recruitment because of a potential relocation.

Chair Maffei discussed the number of days for posting in relation to the next Board meeting in September, to determine if the Board could get someone hired by October 1, 2021. She said a Special Board Meeting could take place if necessary and asked the other Board members for their thoughts.

Kozlowski said she would support the 30 days but is concerned about the possible need to extend the posting and how it would send the wrong message to potential candidates. She would like to have stakeholders contacted to let them know DOGAMI is healthy now and the future is optimistic, so the influencers in the community are able to tell a positive story.

Ashford said for higher education a recruitment is typically 6 months, and that he would like to ensure that steps are taken to increase the diversity of the candidate pool. He suggested reaching out to target state geologists or senior people in organizations and maybe reach out specifically to women or people of color to let them know we care. Kozlowski said she would support this effort. Paschal said that is part of his recruiting process.

Paschal said he respects the 30 days but that times are different now for hiring, especially because of COVID. Kozlowski asked him to explain. He said that a recent article called “The Great Resignation”, said that 40% of employees plan to leave their positions and they are looking for different aspects to fit their lives. Some people want to work from home and others want to work in the office. The candidates are definitely different compared to years ago. Kozlowski said with that in mind, does that lean towards 30 days or 60 days. Paschal said he did not know because this is a different type of industry. This is also a national recruitment, and he is not sure 30 days is enough.

Chair Maffei said the issue is does the Agency risk losing a candidate by extending it for 60 days. Ashford said at OSU they have a full consideration date, but there is a window of when they can start interviews, and if candidates come in after that they could still interview them. He asked if that is an option for this recruitment.

Lauer said she cautions against that approach because of the Veterans Points and the laws surrounding them to allow equal opportunity. Chair Maffei said she thought if someone is really interested they will wait.

Ashford said he does not have a preference and asked for Amira Streeter’s input about the amount of time. Streeter said her opinion is 60 days because they do not want to rush the recruitment process. This position is important to take DOGAMI to the next level, but it is also requiring a certain level of

technical expertise. She is asking the Board to be thoughtful and intentional about the new State Geologist. She added if the timeline is put up right away, the expectations are already being set.

Kozlowski said she understands it is a technical position but feels having a person who can lead the agency in the future is critical. Kozlowski added two things to follow up on Streeter's point. First, this is going to be a really difficult position, and though the technical is really important, she thinks the management and creative leadership to change is equally as critical, if not more so. Second, this is a really hard combination to find. Streeter agreed.

Chair Maffei said the Agency may not find somebody in 60 days that meets the criteria. Kozlowski said the people at DOGAMI know who good people are and she is hoping that they have channeled those inquiries through staff and people who work in this area because they are going to get the candidates the Agency wants. The proactive outreach is critical along with explaining the 60 days and communicating on a regular basis about where things are in the process.

Streeter said the Board may want to get feedback from stakeholders for input. Lauer said in other recruitments they have asked for feedback from stakeholders and employees before a position was posted but cautions it could lead to having a political impact. She said they do have a recommendation to do stakeholder and employee meet and greet sessions with the candidates, but things could be changed.

Chair Maffei is concerned about making changes and extending the timeline, along with the need to have a Special Board Meeting to approve the changes. She does not want to hold up the process any longer and delay the posting going out. Maffei would like to get the posting out, and the stakeholder and staff input on the backend, which was done last time. Ashford agreed with Maffei and does think it should be 60 days.

Kozlowski asked if, as a public entity, the Agency can contact people who have been referred by stakeholders or staff and let them know the position is open. Paschal explained that it is the recruiter's responsibility to contact and encourage them to apply and to keep contacting candidates to keep them warm. Kozlowski asked if staff can contact him with candidates. He stated employees can reach out directly to him if they have any suggestions for him.

Ashford said it should be made clear to staff that in the process they know to contact Paschal with any suggestions. Lauer said that is already part of the process, the posting is sent out internally to the Agency so staff can forward it on to others as a referral.

Streeter asked if the Board considered decoupling the State Geologist and Director position into two separate positions. Chair Maffei said the statute is clear that it must be the same position (unless the Legislature changes the Board's authority). She also does not believe this is the time to do that. When asked, Lloyd said she had not been contacted regarding this possibility.

Paschal completed reviewing the Recruitment Process. For the Interview and Selection process, he suggested using VidCruiter for the first round of interviews and then the second round would be held via Zoom. The meet and greets would be done through Zoom. He stated he can do the reference checks that are required. The Governor's Office will also interview the final candidates. Lauer added the final interviews are done face-to-face in Executive Session. The survey results are in a report and ready for discussion and deliberation. She added the reason VidCruiter is being suggested, is so more

Board members can be included in the first-round process without needing to hold a public meeting. Chair Maffei had questions regarding this process and if it is a public meeting. Lauer explained these are recorded interviews (not live), so Board members are independently viewing and scoring the candidates, there is no interaction with candidates during this time and there is no deliberation, so it is not considered a public meeting.

Paschal reviewed the final steps in the Recruitment Plan. He said the Position Description in the packet needs to be voted on. From the Position Description, he will build the job announcement and will refer to it if he receives questions from candidates. He briefly went through the remaining documents in the packet.

Paschal asked the Board to decide how long the posting should be—30 or 60 days. Chair Maffei said the consensus seems to be 60 days. She asked the Board if they are ready to vote on the recruitment packet. Both Kozlowski and Ashford said they are comfortable with it.

Board Action: **Ashford moved the Board accepts Motions 1-5 as indicated on the Recruitment Plan as reviewed/presented. Kozlowski seconded. Motion carried.**

5) Civil Penalties:

Sarah Lewis, MLRR Program Manager, introduced Cari Buchner, Mining Compliance Specialist, to discuss the Civil Penalties being brought to the Board for approval to proceed.

Lewis provided an overview of topics to be discussed during the Civil Penalties section, which includes:

- Delegation of approval authority to the State Geologist and requested Board action;
- Review of non-payment of renewal fees and requested Board action;
- Framework for Mining Without a Permit (MWOP);
- Review of two current MWOP cases; and,
- Presentation of two new MWOP cases and requested Board actions.

Lewis said the Board previously requested information on the steps required to transfer approval authority for Civil Penalties to the Department. She stated the statutes are not entirely clear as to who possesses the authority to issue Civil Penalties, whether it is DOGAMI, the Governing Board, or a combination of the two. DOGAMI has been requesting Board approval for any Civil Penalties issued since implementation in 2019 for this reason. DOGAMI proposes to remove the Board approval step for penalties related to fees and is asking the Board to expressly delegate to the State Geologist the authority to impose Civil Penalties for failure to pay any fee required by statute or rule. Lewis stated DOGAMI would continue to request the Board's approval before issuing any other (non-late fee) type of Civil Penalty and would include a quarterly report to update the Board on Civil Penalties issued related to late fees.

Ashford asked about the different types of fees and if this was the most common fee. Lewis said late fees are the only penalty for which delegation is requested. The Board members deferred the decision until the end of the non-payment of renewal fees discussion.

Buchner presented two sites for Board approval of Civil Penalties. She explained that to calculate the penalty, it starts at the median of \$500 and decreases or increases based on mitigating or aggravating factors.

The first site (OP-0159) is an Operating Permit. This is their first late payment, which is a mitigating factor to allow for a reduction of the penalty to \$250, the amount the Program is recommending for the Civil Penalty.

Buchner explained during the first year of implementation, it was suggested by the Board to give extra leniency, but to be careful to not get into the habit of waiving fees. This is now the second year of implementation, and the Program will only recommend waiving fees when there are compelling circumstances beyond mitigating factors.

The second site (OP-0004) has extenuating circumstances and mitigating factors. The permittee for the site passed away and the estate is working to transfer the site to a well-established operator, who is agreeing to pay the renewal fee. The Program recommends waiving the penalty.

Chair Maffei asked for clarification on the mitigating circumstance for OP-0159 that requires a penalty. Buchner said there is only one mitigating factor present and that is this is their first violation eligible for a Civil Penalty, so that allows for a reduction. During the first year of implementation, in situations where it was their first violation for non-payment, it was requested by the Board to be lenient. The Program waived the actual penalty amount and only documented the violation and would consider a penalty if they repeated the offense. In this situation, they have the same mitigating factors, but it is now the second year of implementation, and the Program is trying to not get in the habit of waiving penalties. Maffei asked if they paid their renewal. Buchner said they did and were 85 days late.

Kozlowski asked if these are examples of what would be considered by the State Geologist. Buchner answered yes, these are the type of decisions the Program would be requesting delegation of. Ashford said since these penalties tend to be \$250-\$500, he suggested having a not to exceed dollar amount before coming to the Board for approval. Chair Maffei is open to suggestions if the Board members feel comfortable in allowing the State Geologist to impose up to a certain amount for a penalty. Director Avy said he would be comfortable with fees up to \$1,000 before needing to come back to the Board for approval. Ashford asked if \$1,000 would cover most of these penalties. Lewis said yes, at the moment the Program has only implemented Civil Penalties for these non-payments, which have not exceeded \$500 (and separately the MWOPs).

Board Action: **Ashford moved to accept the Civil Penalties for OP-0159 and waive the penalty for OP-0004. Kozlowski seconded. Motion carried.**

Board Action: **Ashford moved for the Board to delegate to the State Geologist the authority to impose Civil Penalties up to \$1,000 for failure to timely pay any fee required by ORS Chapter 517, any rule implementing that chapter or agency order related to fees. Kozlowski seconded. Motion carried.**

Lewis stated that at the March Board meeting, DOGAMI presented information on the estimated number of Mining Without a Permit (MWOP) cases, which is approximately 140 unique sites: 44

MWOP and 96 mining outside approved areas. The primary goal of the Civil Penalty Program is to bring sites into regulatory compliance. Since the implementation of the program, DOGAMI is seeing significant, site-specific advances in compliance, an average of 80% drop in late payments in each of the last 2 years, and increased compliance with the MWOP cases. Due to the volume of the known and potential MWOP violations and the costs associated with staff time to see each case through to resolution, DOGAMI started with the most egregious cases for the Board's consideration.

Lewis stated the sites with MWOP violations fall across a continuum, in which the regulatory guidance provides a broad framework for classification of severity of violations at each site. She explained the Continuum of MWOP slide. Lewis said the table helps demonstrate the range and types of considerations used by staff to assess each MWOP case. It includes major factors to determine severity, then mitigating considerations and aggravating elements that are ranked on a priority scale from 1 to 10. She added that there is no zero on the scale, as every MWOP site is technically eligible for Civil Penalties. The violations at each site may then be considered across the spectrum of each factor.

Chair Maffei reminded Board members the idea of trying to categorize the various MWOP sites to determine the magnitude of harm is to help prioritize which ones the Program should go after and was discussed at the last Board meeting due to staff resources. Ashford said this is perfect and puts it in perspective and provides a logical way of working through them.

Lewis went through the Compliance Process with the Board as a reminder of what steps staff take before considering Civil Penalties for an MWOP case. She said staff first complete a comprehensive review of the site file or any available information; contact the operator/permittee; visit the site; contact partner permitting agencies; and relay the actions required and timelines to come into compliance to the operator through a Notice of Action (NOA). If the operator is unresponsive or non-compliant, then the case escalates to a Notice of Violation (NOV) with a possible Suspension Order (SO). If the operator continues in violation, then DOGAMI would consider Civil Penalties. Following this process takes months to years, depending on the complexity of the violation and the responsiveness of the operator.

Morgan Creek Buchner reviewed the Morgan Creek (10-0223) case. The contested case hearing scheduled for June 29, 2021 has been postponed due to settlement negotiations. An update will be presented at the next Board meeting in September. She reviewed the case using the new MWOP continuum framework to demonstrate how it can be used to prioritize compliance and to provide context for the two new sites to be presented to the Board. Buchner said Morgan Creek is a relatively small site, but the harm continued for multiple years, and was ongoing when the Program brought the case to the board. In looking at the magnitude of harm on a scale of minimal to severe, they evaluated both the spatial and temporal impacts and determined the magnitude of harm at this site was moderate, with a status of ongoing. Additional aggravating factors at this site include the resistance of the respondents to comply for multiple years at multiple sites, as demonstrated by their incomplete and expired application materials, failure to complete the application process, and failure to comply with the Suspension Order. The site is already in process but ranks an 8 on the MWOP severity scale overall.

Ekroth Quarry Buchner said Ekroth Quarry (29-0040) was discussed at the last Board meeting. Since then, the permittee is complying with the Suspension Order and has hired a qualified consultant. Preliminary plans to address the requirements outlined in the NOV were reviewed by agencies earlier

in the week and approved to move forward with more detailed development. The permittee has indicated a significant shift in their plans for the site. Initially, they expected to remediate the trespass and continue operating. They have now asked their consultant to prepare plans that incorporate final reclamation of the site. Continued compliance with the Suspension Order and indications that the permittee intends to reclaim and close the permit, contributes to reducing the immediacy of concern for continued environmental harm. This has reduced the urgency of pursuing Civil Penalties to gain compliance. When it first came to the Board it was a 9 but has been decreasing. However, the program believes the violations at this site do warrant assessment of penalties and anticipate having a penalty amount for Board consideration at the December Board meeting.

Blossom Gulch Buchner stated that Blossom Gulch (06-NP0002) has taken a lot of staff time over the last few months for Mining Without a Permit; Violating a Suspension Order; Failure to Comply with a Notice of Violation; DSL investigating fill/removal violations; and DEQ investigating water quality violations. It is located on a tributary to Blossom Gulch which is a small tributary to Coos Bay, that empties into the bay at the City of Coos Bay Boardwalk. Native Cutthroat trout spawn in the upper basin, and a small population of Coho salmon (ESA-listed) have been known to ascend to the middle/upper basin to spawn. The fish district also stocks fall Chinook salmon pre-smolts from the Bandon Hatchery at the culvert next to Blossom Gulch School.

Buchner reviewed the fact pattern with the Board. January 2021: Received a complaint of mining activity for topsoil being sold from a property adjacent to Blossom Gulch. February 2021: Issued a Notice of Action to the landowner requiring an application, reclamation of the disturbance, or demonstration that the activity is exempt. March 2021: Issued Notice of Violation and Suspension Order because no response was received from the NOA. April 2021: DOGAMI conducted site inspection with DEQ and the operator, in which the reclamationist clearly communicated the activity required a permit from DOGAMI before it continued. June 2021: June 9 and 10 DOGAMI received photos and videos documenting ongoing activity that started in November 2020, including a photo of an excavator filling a truck on May 13, 2021, and a series of videos from the doorbell camera showing 12 loads leaving the site on June 8, 2021. June 10: DOGAMI issued a warning letter (Recommendation for Civil Penalty) outlining the potential penalties for continuing to MWOP under a Suspension Order. June 18: Staff contacted the operator, who said he was not operating and was working on the application. June 19: DOGAMI received two new video clips of excavation activity on the site. June 25 (today): DOGAMI requests the Board's determination on whether or not to pursue Civil Penalties.

Buchner explained the site on the continuum, in magnitude of harm, ranks high and has attracted DEQ and DSL interest with respect to their jurisdictions. The harm continues on the site and the operator is non-responsive to Department requirements. The site is currently ranked at a 7 but it has escalated at a high rate over the last month, therefore the Program believes pursuing Civil Penalties is the appropriate next step to deter continued violations and encourage compliance at the site. If the Board approves moving forward, a Special Board meeting to approve the penalty amount may be needed prior to the September Board meeting.

Ashford asked if the penalty would be based on the video from the neighbor and can the Agency do that. Lloyd said the evidence would be submitted to a reviewing body if some sort of injunction would be pursued. Ashford said it seems the penalty is based off the information supplied by the concerned citizen, and asked if it moved forward, would the accuracy of the evidence be weighed.

Lloyd said they would probably provide an affidavit from the neighbor that had taken the footage before they would testify, which could be used as well in weighing that evidence. Ashford asked about the economic benefit. Buchner said the economic benefit is for the operator. Ashford asked if other agencies are involved at this site. Buchner said she has been in contact with the other agencies and this site is on their radar.

Shale Pit Buchner said the second case, Shale Pit (15-0260), was mined without a permit and they applied for an Operating Permit, that was issued in June 2021. The site is located adjacent to Keene Creek, the largest perennial tributary of Jenny Creek, a stream recognized for its biodiversity and ecological importance to native fish species. The Jenny Creek sucker, which is listed as a Sensitive Species by the BLM, has been found in Keene Creek as far as 3 miles upstream of the confluence with Jenny Creek. Because of the environmentally sensitive nature of Keene Creek, and interest from Trout Unlimited and a local legislator, the Board is asked to make a determination of whether or not the Department should pursue Civil Penalties for this site.

Buchner reviewed the fact pattern with the Board. June 2019: Public record request from Trout Unlimited evolved into a complaint for potential water quality violations due to unpermitted activity. August 2019: DOGAMI visited the site and issued a NOA to the landowner, because a permit was needed. November 2019: DOGAMI received an Operating Permit Application and conducted a site inspection as required for all new Operating Permits. December 2019: DOGAMI received request from local land use department to delay a permit decision, while the Program continued reviewing and processing the application. August 2020: DOGAMI received a complaint of material being hauled from the site. September 2020: DOGAMI issued a Notice of Violation and Suspension Order and the applicant requested an informal review of the NOV and SO, both were upheld by the State Geologist. December 2020: Circulation of the DOGAMI Operating and Reclamation Plan was completed. Spring 2021: Applicant diligently pursued all third-party approvals. June 2021: Land use approval was finalized and DOGAMI issued the Operating Permit. June 25, 2021 (today): DOGAMI requests the Board's determination on whether or not to pursue Civil Penalties.

Buchner explained the site ranks 3 on the continuum, and the potential for higher risk to sensitive habitat has been addressed through permitting. The applicant was responsive and timely in working with the agencies. This was their first violation, and they are now in compliance.

Lewis said these previous two cases are also representative of broader categories of sites with similar violations as demonstrated by the severity of violations. DOGAMI has not yet completed a Civil Penalty case for MWOP and is hesitant to take on multiple additional cases before understanding the full staff time and resources required to complete the process. The volume of potential cases at the lower rankings would quickly overwhelm the Program capacity and jeopardize core program functions. With the numbers of MWOP sites estimated, it is her assessment that the Program can consistently and sustainably pursue actions at the rank of 7 or higher. Lewis asked the Board to support the operational decision that the appropriate level of implementation for MWOP Civil Penalties at this time is for cases that rank in the range of 7-10.

Ashford asked if the Agency received a complaint of a 6, would the staff still pursue it and potentially apply Civil Penalties. Lewis explained the staff would follow the entire procedures and do a complete review before asking for Civil Penalties. Ashford said he understood. Chair Maffei said her understanding is there is not a ranking on the continuum until after there is interaction between DOGAMI and the operator.

Kozlowski said the way it has been setup on the scale is very helpful and she strongly supports the utilization of staff time based on the severity of cases. She is impressed at the thoughtful nature of how it was put together. She said targeting the most severe is the best approach. Chair Maffei said in the case of Shale Pit, she would rather not penalize an operator if they came into compliance, the Agency should reward them for coming into compliance. Ashford agreed, stating the Agency's goal is compliance and not to be punitive or raise funds.

Chair Maffei said the focus on staff's time should be on sites that rank 7 or higher. Ashford agreed.

Board Action: **Ashford moved that DOGAMI pursue Civil Penalties against Blossom Gulch. Kozlowski seconded. Motion carried.**

Board Action: **Ashford move that DOGAMI does not pursue Civil Penalties at the Shale Pit site. Kozlowski seconded. Motion carried.**

Ashford said for Blossom Gulch he would like to receive something from the neighbor. Lloyd said that a statement could be requested from them describing what they provided and the context around it, and also seeking their potential involvement as a witness if the case proceeds, to better substantiate the evidence that has been provided. Ashford said that is all he is asking.

Chair Maffei said from the point of view of a neighbor complaining about mining, Lewis and Buchner see it regularly, and only pursue the ones that are the most egregious. Lewis said Buchner documents everything before moving forward with it and the Program wants to ensure it has good evidence that stands up moving forward. Buchner said there have been multiple neighbors who have complained about this site, they are the only ones to come forward and willing to follow their evidence to hearing if necessary.

Chair Maffei said she had a conversation with Lewis and Buchner yesterday, and they discussed that there will always be about 10 cases that are the most egregious and this allows the staff to focus on them.

6) Financial Report:

Steve Dahlberg, Chief Financial Officer, presented the DOGAMI FY2021 Budget Status Report, as of April 30, 2021, for the Geological Survey and Services (GS&S) and Mineral Land Regulation & Reclamation (MLRR) programs.

Dahlberg said the update represents actuals through the end of April and projections are for May and June. DOGAMI will be underbudget at the end of this fiscal year and the biennium in General Fund, Other Funds, and Federal Funds.

The General Fund ending balance of \$339,866 is due to constant monitoring, vacancy savings, staff working more on grants than originally planned, and better than expected results from the Lidar program. It also incorporates a planned reversion of \$300,000 from vacancy savings as agreed to with the analysts from DAS CFO, LFO, and Governor's Office. The projected ending balance for Other Funds is \$306,709 and Federal Funds is \$56,656.

Dahlberg stated the breakdown from the last meeting showed the Agency was \$800,000 underbudget. Knowing the Agency will be underbudget, it has strategically increased spending these last few months on much needed replacements and equipment, which included IT equipment consisting of laptops, servers, desktops, and peripherals for \$175,368; and training, scientific tools, and upgrades for \$113,702. In addition, \$35,650 for a consultant working on the Organizational Management Assessment, and \$2,500 for Agency Publications/Representations was spent for total expenditures of \$327,220. The Agency expects to still be underbudget by about \$173,000 [plus \$300,000 vacancy savings reversion].

Chair Maffei asked if the higher level of General Fund is due to staff charging their time to projects and not General Fund. Dahlberg confirmed this is true. He added, the Lidar program has brought in about \$2.4 million dollars this biennium. DOGAMI recently received Legislative Approval to apply for two lidar projects for next biennium, nearly \$1.2 million from FEMA, and \$250,000 from BLM.

MLRR's projected ending balance of \$401,324 is due to the continued careful monitoring of their expenses, the fee increase that went into effect January 1, 2021, and \$70,000 from federal reimbursement for COVID-19. Chair Maffei asked what the cash reserves goal is for the program. Dahlberg said it was \$330,000-\$350,000 but actuals are higher than that due to the COVID-19 reimbursement.

The Strong Motion Instrument Fund has an ending balance of \$260,166. It received two deposits from buildings and paid the University of Oregon for purchase of sensors. The Reclamation Guarantee Fund ending balance is \$669,943 with 58 Cash Securities.

For the Business Office, all external grant financial reporting is current; internal grant financial reports are updated monthly with on-going monthly meetings with the project managers to review the status and expected activity. The Grant Tracker tool is being used by staff (entering their forecasted hours on grant work) and management to monitor and reallocate resources as needed.

Dahlberg reviewed and explained the actuals and forecast for the remainder of the fiscal year using several graphs. He also reviewed a spreadsheet containing the expenditures that have been placed and said there are some items that have been ordered but are delayed due to supply issues and will be charged next biennium. Ashford asked what happens to the left-over budget. Dahlberg answered unfortunately it is returned and does not carry forward.

Dahlberg provided an update on the Fiscal Analyst 3 position. The first-round candidate took another position and the second-round posting closes June 28, 2021, which has potentially five highly qualified candidates.

Dahlberg asked the Board what their preference is for future presentations, and if they want to see the graphs first. Kozlowski said she prefers the graphs first. Ashford asked Dahlberg to keep the projections (forecast) to compare the actuals moving forward.

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

7) Management Consultant Update:

Pete Pande and Brittany Sale, of Pivotal Resources, Inc., presented a summary of their Organizational Assessment & Recommendations Report: “Pathway to Sustained Success” for DOGAMI.

Pande said they would go through highlights on the report since there is a lot of information in it. They will provide a little information about their company and who they are. They will discuss what the background of the assessment is, what they have learned, and discussion about next steps. The Board was encouraged to ask questions at any time throughout the presentation.

Pivotal Resources was founded in 1993, and are a consulting and capability-building firm focused on successful organization change and improvement, using Lean Six Sigma, Leadership Development, Strategic Planning, Change Management, and Assessments and Transformation. They have extensive experience with Oregon state agencies, such as ODOT, Secretary of State, DSL, ODFW, DEQ, and others. They have worked with commercial enterprises and work globally, but have a niche working with state agencies.

Pande said their project is to provide an objective perspective on the current situation of the Agency. The process has been to look at how has the Agency gotten to where it is now; talk about what the challenge is, and perspectives are; understand how things are being done now; and what the relationships are, both within the Agency and with other stakeholders. Most importantly talk about where the focus areas are that should be considered for change and improvement and offer recommendations. It is important to understand this is not intended to be a checklist or laundry list to go do all these things. These are things being presented for the Board’s, stakeholder, and Leadership Team’s consideration, but not to rush out and do everything. They have to be prioritized. An outline with some suggestions for the strategic planning process will also be presented.

The theme and the tone of what Pivotal tried to do in this process is to learn from the past but not dwell on it. Try to focus on the future of what the Agency needs to do to build on recent, promising improvements, and think about what can be done to become the agency staff want to be going forward—trying to be future focused.

Pande said this is basically a quick review of the process. They have done interviews and document review fairly exhaustively. They then presented some initial themes to the leadership team and identified some areas to explore in more depth— a deeper dive—and then prepared the report. Pande said during the report preparation they did a lot of additional research to test and validate their hypothesis to make sure what they think is happening is really happening. They have broken the report into three elements for each of the four areas, and will talk about positives, challenges, and then recommendations for consideration in each of them. He quickly showed a list of the different folks they spoke with during the research process, the focus groups, and a sample of some of the documents, reviews and reports, and testimony they used. They’ve learned a lot about DOGAMI.

Pande said when they present a report like this that it is helpful to remind people that they tend to focus on where there are opportunities for improvement. They might be called negatives, but they are not necessarily negatives because every organization has improvement opportunities—the best and the worst. He said after having done this for about 30 years, you would be shocked to see the issues that arise in what you might think is a great company or great organization and then you find out all the problems, you would be kind of disillusioned. They often find the strengths and opportunities go hand in hand, but sometimes there will be a strength and you need to keep working

on it. People will ask: “What do you mean, is it a strength or is it a weakness” But sometimes they are complementary. He said prioritization and interpretation of this is critical. They do not know everything about DOGAMI, and there is a lot they know but can’t even explain in the report. Pande stated the options going forward are to continue what you are already doing, redirect resources towards other things, launch new initiatives or investigate the possibility of new initiatives, or do nothing.

It is important to think carefully before acting on anything. Even though Pivotal is presenting recommendations, the Agency is going to need to first do its own discussion around what it really wants to accomplish if it takes on a recommendation and/or idea they suggested. Pande explained the use of the Transformation Pyramid, which shows a hierarchy of how any change process really needs to work: If you do not start with the foundation of vision and goals, you end up doing a bunch of stuff that people do not really understand why.

Pande stated there is a lot of information here, so he is going to highlight some specifics. He will start with the summary for overall and then go into each area: Overall Agency, Business Office and Support Services, GS&S and then MLRR.

Pande said the overall current situation for DOGAMI as an agency with a long history, that started out focused on supporting and regulating mining, but has evolved to focus equally, if not more, on understanding and helping the state handle and deal with the risks of natural hazards. Unfortunately, there have been challenges over at least 10 years in the areas of financial, management, and structural—like the kids show, “A Series of Unfortunate Events.” “At times,” one person said, “We are always on our heels at DOGAMI.”, which he thought was a pretty good description of what it must feel like to be part of this organization, with it being buffeted by challenges, some self-inflicted and some outside the control of the Agency.

At the same time, the science, services, and role of DOGAMI is clearly valued, which came out in February when the GRB was presented and so many people spoke about the value of DOGAMI. They have included a summary of quotes from that testimony in their report. Obviously, there is still a question about whether DOGAMI can overcome these challenges and move forward. This is the theme of this assessment, by including the things that need to be thought about and addressed.

The good news is, almost ironically, there has been some pretty important progress over the past biennium, especially in financial transparency and cost management. It is seen in the reports that Dahlberg prepared, by staying on or underbudget, and understanding where the costs are over the course of a project and over the course of a biennium. That foundation of confidence and transparency is critical to be able to move forward. This is an important opportunity to continue and accelerate improvements, refocus energies, and tackle critical issues. There are still some obstacles to make that happen and what they focus on in their report, but they wanted to highlight positives too, and there are a lot of positives they have identified.

Pande said for each of the categories in the Agency, Business Office, and programs, they will present positives, challenges, and recommendations. Rather than going one by one, they will present on screen the whole list of each, but point out a couple highlights from each list.

Overall Agency & Leadership – Positives: The two things that really bear emphasis here are the staff passion and commitment. There is a lot of frustration among people at DOGAMI, but at the same

time, people will say in the next paragraph, “I love the work that I do.” “I value what we provide to the state as an agency.” “I’m frustrated maybe by the obstacles, but I feel what we do is really important.” Pande said having worked with a lot of agencies and people in organizations, the unanimity of commitment and passion is pretty distinctive within DOGAMI. You will find a lot of those organizations where you have got a certain tier that are all on board and passionate, and other people are just there to do their job. You do not find that in this agency. It is pretty encouraging, important, and impressive.

Pande stated the second thing is the achievement of Key Performance Measures (obviously there is one exception to that). Despite all these challenges, to see an agency that is hitting the mark on not just the KPMs but the goal, is pretty impressive. A lot of work has been done despite all the obstacles. It makes you think: “Wow if it could just shed some of this other baggage, it would be a superstar.” This is what they have people think about, actually being a superstar.

Overall Agency & Leadership – Challenges: On the challenges side, a couple of things that are really important and at the top, are climate of frustration and low levels of trust. In going back to the Transformation Pyramid, the top of the pyramid is relationships, where people are not getting along and unfortunately some of that is going on in DOGAMI. It tends to happen because of uncertainty, lack of clarity, and just a general unknown, which can lead people to get into a bad frame of mind. That is a critical challenge for DOGAMI, despite all the good stuff. The ongoing leadership instability (in a way that is not true for the past few years), and obviously bringing in a new director is going to mean you have a new challenge. The other thing he pointed out, to remind folks, is the perceived lack of direction. The Agency needs to focus on doing better in its processes.

Overall Agency & Leadership – Recommendations/Considerations: Pande said of the five items listed, the first two focus on the theme of the need to get past what the Agency has been through, get on the same page, and start working together more effectively. There is good collaboration, but it needs to improve. The second set of two (1.3, 1.4) are about communication. Being better, and finding ways to be more visible to the public and communities, and the sense of value for the Agency’s work. Have more visibility externally and then going along with better communication and trust, how do we do that more internally. Because of all the changes and the threats that the agency has been under, you get to this situation where people kind of want to know everything, every day. And it has been tough for most of the staff who are concerned, as well as for management, who cannot spend all their time giving an hourly update on what is going on. Internal communication needs to be better aligned with what management and staff can do and what they need.

Pande said in terms of the Executive Director, there is a sense among a fairly large number of staff that DOGAMI really needs the State Geologist to be someone who has a strong scientific background. He added that as important as that is, they would still advise the Agency to find someone who can really be a strong leader. It is not that the science part is not important, because it is, but leadership is going to be and should be a priority for the individual. Someone who can be a good, fair leader for all employees of the Agency.

Business Office & Support Services – Positives: This is one of the areas of improvement in the fact that there are more resources now to ensure the ability to keep an eye on and handle the complex financial challenges of DOGAMI today; including careful management of contracts, so that grant proposal requirements are more fully understood; performance tracking; and the surplus coming into the end of the biennium, which is better than it has been in other biennia. Pivotal had to go through

the procurement process in order to get this contract and would say it was very well managed. Pande stated the thing he wanted to highlight here is with the stronger capability in the CFO and Business Office. It allows an opportunity for that role to play one of being a strategic partner, which is something that many organizations talk about and kind of aspire to have their financial people be partners in leading the agency, but it does not happen that much. They have a sense that Dahlberg and his team can really be strong partners with the programs, the Director, and Board to help chart the future and achieve the aspirations of DOGAMI.

Business Office & Support Services – Challenges: One challenge is maintaining the Information Technology edge, which is something to keep an eye on now that there is no Chief Information Officer. Sacrificing that position to the budget challenges put the question mark around how well will DOGAMI be able to stay at the edge of technology, which is pretty important for the type of science that the Agency is responsible for.

Business Office & Support Services – Recommendations/Considerations: Pande said it is like when you clean your garage, you get everything all neat and you do a good job of putting things away, then you start to get sloppy and the discipline starts to fall apart, and then six months later you need to clean the garage again. It happens that way with organizational, financial, and other types, they kind of lose that edge and get sloppy. The need is to keep pushing for improving people and it will fall on the program to help make that happen. Their main recommendation is to continue to refine other reporting, contracting, project, cost, and performance management. Trying to accelerate some of the process improvements that have been extensive or sometimes delayed and get everyone on board to tighten the screws, so the Agency can continue to be on top of the concerns and focus efforts on the real work.

GS&S – Positives: There are some important positives around the need to be pursuing grants. Even folks that are not necessarily happy about all that, will admit that they know what people are looking for and they can really work customers and funders to define what the outcomes the Agency is trying to accomplish. There is always an eager recipient for the work that DOGAMI and GS&S are doing, which is a really good thing. Another positive is tied to the Business Office, which is better management of projects, so there is clearly less uncertainty about where they are and that helps make those projects successful and come in under budget.

GS&S – Challenges: The challenges are how do you keep the effort up, but find the right grant to get enough work—and that is a tricky thing. Pande said the geologists and the senior folks, feel the high level of responsibility to keep their people employed, so they are out there trying to bring in the money to help people keep their jobs. At the same time, for good reason, there is guidance in terms of what is financially viable for the Agency. But it makes it a little difficult, if they are told to go out and sell, but do *not* sell *that*. It is getting people used to and coming to terms with how to get smart about looking for the right kinds of projects, but still maintain that service; reinvent and forward looking ways to find these projects. There has been good work done on that, but it is one of the areas that still needs strong teamwork.

Pande said the other challenge is coupled with the folks from the statewide perspective. The Lidar Consortium, makes a lot of sense, but it is not being executed statewide the way it was originally conceived. They think there needs to be more of a statewide look at if they Agency is going to continue the consortium; and if so, the need is to establish some cooperation and collaboration throughout the enterprise. They could not recommend specifics on that without doing more

research, but it is something they feel makes a lot of sense for state and local governments. The need to determine what DOGAMI's role is to be and cooperation with the agencies should be included.

GS&S – Recommendations/Considerations: Pande said they have a hypothesis on 3.3, that working with the grant providers, there may be an opportunity to get more funding oriented towards communication. They heard the grant people will not pay for DOGAMI staff to go out and meet with the local community, or they get to make one presentation and they are done. They think this is an assumption that needs to be challenged. Maybe FEMA is not all that interested in promoting the work they are funding, but they expect there might be more opportunity to collaborate with funders to put in DOGAMI outreach that would be reported as part of the project, rather than General Fund. They do not know for sure, but it is something they think would make sense to look at going forward.

There has been good effort made, but the Program needs to continue improving the staffing/resource management, because there are still issues that come up for project management where people could use their time on the projects more efficiently.

MLRR – Positives: Pande said there are very strong positives for this program. A lot of work and focus on improving consistency, which had gotten out of control over a long period of time, from the way they understood it. In centralizing that work, it uncovered a lot of issues around different ways of handling different mines and different places, which is not good. He said consistency is only helpful if it helps you do things in a more efficient and more effective way, and it is the inconsistency that led to a lot of challenge in assessment and enforcement. This is a positive that it has been improving, but it is another one of those where it is both a positive *and* an area for improving, so there is still a long way to go.

Pande stated another positive is the enforcement capability. With the possibility of Civil Penalties for paying late and getting a potential fine, all the late payments were reduced by 83%. With having a little teeth in the enforcement capability, the decision to allow MLRR to do that has been really important. He thinks their staff has much more of a sense of we have done some, but we are finally able to do the right thing, and that as a form of compliance it creates better behavior by a mine operator.

MLRR – Challenges: Pande said the first one that stands out to them because it mostly ties to the mission of MLRR. Obviously providing permits to mines and helping with mining operators do their work, is one level of their mission, but the other one is to make sure that activity is not done in a bad way. Pivotal works with other agencies that do regulation and it is almost always paired up with a challenge where they have a role of enabling the industry to do its work but at the same time they want to make sure they do not do things in a bad way. They have to be a supportive and partner/partnering player in the field but at the same time watch out for the bad stuff. The fact that there is a fairly high number of unpermitted and out of boundary line mining operations, seems like a big challenge for MLRR.

Pande said statute, rule, and permit conflicts causes a huge amount of challenge and frustration for the folks doing the work in the Program. It also puts the state at risk because there are places where it says one thing here and says the opposite there, and trying to find out which guideline to apply when working with this particular situation. It is a big challenge. Almost all agencies have some level

of things that evolve over time and rules are not easy to update, but you have to bite the bullet and do it at some point or it just becomes more work.

MLRR – Recommendations/Considerations: Pande said one they highlighted is 4.2: Identifying and addressing gaps in coordination with other agencies. They chose this area because there is a lot of interdependency in mining operations and how it affects the state and the work of other agencies. For example, right now there is a collaboration with DEQ that actually provides funds to DOGAMI. There are probably other agencies that would not be able to provide funding, but by aligning the work with other agencies it would make it easier for the mine operator and for the state. From the information they looked at and the discussions they had, it seems like there are other opportunities where trying to formalize or identify where those alignments can be better defined would make it better for DOGAMI, the other agencies, and ultimately for the mine operator. This would be something important to consider.

Pande said they looked at 4.4 because right now it is the only KPM that ties to MLRR, which is the number of inspections. It has been put on hiatus because of the high volume of permits and compliance activity, and from their perspective it made sense to not miss some of the basic stuff the Program has to do and have their service level go down because of challenges related to enforcement activity and COVID. A good thing about the inspection, is it is a leading indicator. The Program knows and hopes that if they do more inspections it will lead to better operations, compliance, and reclamation down the road. On the other hand, it does not really say anything about what is the current state of mining operations in the state. A suggestion is to change it to number or percentage of mines operating without a permit, something that really shows the Program is managing and ensuring the state and residents of the state, that mining operations in Oregon are well run. They think that will benefit the industry as well as the regulation.

Chair Maffei stated they had a discussion earlier in the meeting on Civil Penalties and where the focus should be, by making a more streamline process to be able to know what is the most egregious of the mining without a permit sites.

Pande responded that a lot of times when they do this kind of an activity, they will find that it is a validation as much as to help. It confirms these are the things that an agency focused on and they are coming in and saying to keep it up. He added that when it comes to the rules, you have to be careful about continuing to kick the can down the road, and the fundamentals of the rules that DOGAMI operates under, it then creates another ripple effect.

Chair Maffei stated fixing the KPM to better reflect what is happening is actually another priority the Board has been discussing. With DOGAMI's future being uncertain during the past 8 months it was something that has been on their minds but it was not a priority at that time. Pande said DOGAMI's KPMs are probably not as out of whack as compared to some other agencies, but it is good they are looking at it, because there is some opportunity to improve it. Chair Maffei agreed.

Ashford said going back to the recommendations for GS&S, he wanted to acknowledge the work done with the improvement of the project management and that he is really happy to see that was acknowledged in the report. He thinks the improvement has helped the Agency. He asked about 3.1, and if there are grants that are really made for DOGAMI and if this is more like guardrails to keep them on track. Pande replied it is a combination, you should not take on grants that do not cover the costs. It is one of the big challenges in change management for DOGAMI. It needs to build a business

but still needs to be fiscally responsible for the State. It's a tough line to walk. He thinks the Program is making significant progress, but there is still frustration, from everything he has heard. It is tough to manage everybody getting on the same page. Ashford thanked him.

Kozlowski said she is particularly interested in the GS&S recommendations and delighted to see 3.3 She thinks that it is really critical and potentially possible. She asked what happens next with this particular report and is it something that is given to the staff and then Pivotal walks away, or is it something the Agency needs to closely look at in terms of recommendations. Pande replied it is a very good question and thanked Linda for teeing up the next slide. Chair Maffei said it was all planned.

Pande said that any of the work they do, with success or lack thereof, is in the hands of their client. The Board, Agency, Governor's Office, LFO and DAS, are all partners in this, so these are some of the things they think are important and the sequence and timing of it will depend mostly on the onboarding of the new Director, but some stuff might be able to happen sooner.

Next Steps & Strategic Planning: Pande said "Refresh" the Mission, Vision, and Values does not mean that the Agency is way out of whack, but they think it is really important that everybody get reconnected with what the Agency is all about. That includes perhaps moving in a little bit different direction, that maybe there are things the Agency is doing now that it should not do anymore. He does not think it is a huge strategic rethink, but is important to check.

The plan is to do another future strategic plan and in talking to Director Avy, it is his feeling, and he totally agrees, that the new Director needs to come on board and first understand enough about what is going on in the Agency. He said Avy's perspective is that this report will help the new Director get on board much faster because they have given a summary of what is up with DOGAMI. There might be an opportunity for a shorter-term team-building activity, where a facilitator works with staff and management to get past some of the trust and teamwork challenges, overall and with each other, which some of it is personal stuff.

Pande said they recommend hiring consultants to help with strategic planning. The Strategic Plan can use these recommendations as potential opportunities to execute some of the things in the report, like the rule writing, or the change of the KPM. The Board could initiate some of them or wait for the new Director. When they present these recommendations, the last thing they want any client to do is say, write up an action plan for each one and go do it, all at once.

Chair Maffei stated the report will be finalized next week by the end of the biennium. Once the final report is in, she thinks it will be shared with whomever needs to see it. Pande said they view their customer for this report as the Agency, Board, and what he calls the Agency's enterprise partners, which are the Governor's liaison, John Terpening, Renee Klein, and the folks that are most directly involved in supporting and guiding DOGAMI.

Sale stated Pivotal will be attending the All Staff meeting on Monday to give a presentation on their findings. Pande said they are presenting this to staff and will probably use much of the same slides with them. There was a good suggestion from someone within DOGAMI, that Pivotal, should talk directly with staff and the management team agreed.

Kozlowski said she thinks it is an excellent report and wants to make sure there is some direction for next steps, what can be done now, and in the future. There are some that can be done immediately, some the Agency may not want to do for a year, some it does not want to do without a new Director, some are Board responsibilities, and some are staff responsibilities. She thinks those need to be clearly outlined. She does not want to see it go on the shelf. Pande stated that is certainly not their desire either.

Maffei said if it was not for the upcoming change in management, these would be moved forward with right away. Pande said that is the theme that they would like to get people to recognize around where DOGAMI is now and spending all the time commiserating, regretting, and getting upset about what happened in the past is not going to be useful. The Agency needs to think what is it going to do now. Just let go as much as possible, do not unlearn what you have learned, but focus on the learning to get the huge amount of benefit that this Agency provides. Sale stated all this should be done collaboratively with staff as much as possible, and that would facilitate effectiveness and there are staff who are very committed to their role and interested in making it work well.

A General Strategic Planning Roadmap: Pande said they provided a very generic high-level view of strategic planning. This is probably not all the steps that DOGAMI would want to do, but these are generally the things that they are helping organizations with in putting together a strategic plan. They did put together a sample timeline of about a 6-month process that could be accelerated but can take longer.

Pande explained they did not do any external outreach outside of the Agency or state government, but they did listen to the testimony from the legislative session. The Agency might want feedback from external stakeholders to be a part of it, but that can be a gigantic activity, so you will need to triangulate where it comes from. He added sometimes the staff will say that at DOGAMI we want our leaders to tell us what our direction should be, but it works a lot better if the people who do the work have some input on it too.

Pande said when they went through this process, they had very open, productive, and cooperative participation, and felt comfortable that nobody hid anything from them. They received lots of varying opinions. He acknowledged Lori Calarruda for her assistance in scheduling the meetings. Pande also noted the leadership team, the staff, everybody was very cooperative. Chair Maffei said they all recognize her talent for making appointments.

Chair Maffei thanked Pande for his time and completing it so quickly. She was not convinced they could get it done in the amount of time the Agency had.

Briefing: **No Board Action Required.**

8) **MLRR Update:**

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

Please note, included in this packet is the ENGAGe Spring 2021 Edition newsletter that is also available online: <https://www.oregongeology.org/mlrr/engage.htm>

Permit Status Summary

Lewis stated new permits have continued to increase and active applications are back up to over 50. There are fewer transfers that take less time to process, and increased new and amended permit applications. The added volume and type of application has increased the average processing time to over 7 months and is expected to go up due to the increased workload. This information has been proactively communicated to permittees and applicants, who have been understanding.

The Program continues to generate steady input and output on compliance issue cases. Staff are balancing the workload. With the Compliance Specialist as the single point of contact for communications, there has been significant improvement in quality of materials being submitted even on the first try. Staff are doing a really good job of working together to be as efficient as possible given the circumstances.

The spring newsletter continues to have information on the new fees that went into effect January 1, 2021. They have been using the back page to highlight standard permit conditions. This newsletter has specific insight on what to look for in Boundary Marking. Staff have been proactively working on providing this information to permittees and applicants in hopes of dramatically improving outcomes related to compliance issues.

Rule Making Update

Lewis stated the rules on High Value Farmland and Aggregate Mining have formally been filed with the Secretary of State and made available for public and legislative comment. DOGAMI held a public hearing, and no public or legislative comments were received. It will be submitted for final filing with an effective date of August 1, 2021 [to be revised]. Lewis recognized Vaughn Balzer, who stepped in as the Rules Coordinator less than a year ago and guided the process successfully to completion.

With respect to other rulemaking efforts, the current focus is a comprehensive review and rule writing to address Executive Order 15-18 related to the Oregon Sage Grouse Acton Plan, approved by the Board in March of 2020. DOGAMI is already working with our partners at ODFW on this effort and will provide an update at the September Board meeting.

Chair Maffei ask to clarify if this is DOGAMI's rule and how the Agency will implement the Executive Order in the permit review. Lewis said yes.

Grassy Mountain Update

Lewis said regarding Grassy Mountain, in late April Karl Wozniak joined DOGAMI in the role of Chemical Process Mining Coordinator. He had a 30 plus year career as a hydrogeologist with the Oregon Water Resources Department. He is a registered geologist and has field experience in epithermal gold and base-metal deposits. He is an outstanding fit for this position.

There were also staffing changes on the applicant's side this spring, and Lewis reports that protocols put in place for project management and coordination have helped keep lines of communication strong.

The applicant has confirmed they will submit revised Groundwater and Geochemistry Baseline Data reports next month. DOGAMI will distribute these to the Technical Review Team and make available for public comment. The applicant also plans to submit a revised full application in late summer.

Kozlowski stated excellent progress. It sounds like Lewis could not have found a better person for the role. It is like a miracle.

Lewis stated last month DOGAMI was invited to participate in an informal hearing on Mining in Oregon for the Natural Resources and Agriculture Subcommittee. On May 20th, she gave a short presentation of the regulatory responsibilities of MLRR, and an overview of the permitting process and workload.

Lewis said that during the financial update, Dahlberg brought up that MLRR is in the process of hiring a Business Analyst related to ePermitting. The 21-23 budget included a requirement for DOGAMI to work with DEQ to explore the possibility of utilizing DEQ's Electronic Data Management System (EDMS), known as *yourDEQonline*. DOGAMI and DEQ are having monthly meetings to coordinate the steps required for DOGAMI to develop MLRR business requirements and map them to the current EDMS system. With that mapping in hand, DEQ and DOGAMI can submit the information to their vendor (EnfoTech) for a quote and timeline and then develop the agencies response to the Budget Note. The response is due October 2021.

Briefing: **No Board Action Required.**

9) GS&S Update:

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

Since March's update the program has released four new publications: Geologic map of the Dufur area in Wasco County; Local tsunami evacuation analysis of Gold Beach and nearby unincorporated communities in Curry County (Beat the Wave); Statewide Building Footprints for Oregon, release 1.0; and Oregon Seismic Hazard Database, release 1.0. The Department has published six reports in the first 6 months of 2021 and expects to have another eight to ten for the rest of the year, which is in alignment with the previous 5-year average of 14 publications per year.

DOGAMI received legislative approval to apply for three federal grants (two are "anchor grants"). One is for NOAA, in the amount of \$473,977 for risk awareness and public outreach. The second is for the FEMA CTP Program in the amount of \$2,213,647 that includes geological and natural hazard risk assessments, post-wildfire debris flow mapping, channel migration, and lidar collection. The third grant is for BLM lidar collection in the amount of \$250,000. These opportunities are in alignment with DOGAMI's mission.

To maintain fiscal responsibility, the Agency will only pursue grants that allow it to recover all costs. The Agency had to forego five DAS-GEO grant opportunities, because they do not allow indirect funds to be charged to grants. This could cause some issues going forward with regards to not having enough grants to cover staff's work or may limit the Department's ability to participate on critical non-grant supported work in underserved communities. As the Agency progresses through each biennium, some of these opportunities may become feasible provided any limitation on the grant does not impact the Agency's ability to end each biennium with a reasonable underbudget General Fund cushion. DOGAMI is working to maintain a financially stable and healthy organization that provides outstanding and critical science information and regulation.

Ashford said he agrees with the decision for this year but going forward there might be a grant that would require grant match that makes sense for DOGAMI to go after. In the future, DOGAMI should consider them but continue to make an informed decision on whether to pursue them.

Kozlowski said she supports this, as it was one of the questions she had.

Houston said in response he has worked with the Business Office to develop a tool that would allow DOGAMI to track the ending balance to see how much General Fund dollars are actually available for these types of projects. As the Agency starts each biennium it will start out conservative, but maybe around the mid-part of the biennium these opportunities will become available. The problem with some grants, especially DAS-GEO, is it only comes on a biennial cycle and will always hit at the start of each biennium. Going forward there may be opportunities where the need for the science is high and reprioritization of the General Fund may be needed to cover it. This is part of their current decision making.

Ashford said all the more reason for Dahlberg's forecasting to be accurate and checked as the Agency moves forward.

Briefing: **No Board Action Required.**

10) Director's Report:

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

DOGAMI – In Brief Review

Avy said an old western movie title came to mind as he was preparing his report, "The Good, the Bad, and the Ugly—and he would add to the title as of this spring..." "A Hopeful Future". When Avy started his role at DOGAMI he was looking for a challenge and was not disappointed. Given the rollercoaster experience of DOGAMI, he wanted to recognize a few good high-level Agency moments over the past 5 years, because they tend to get lost in all the challenges. Avy also included some not so good moments the Agency has taken the opportunity to learn from.

Good Highlights:

- DOGAMI staff has continued to produce exceptional science despite agency challenges
- Major progress has been made on the state of DOGAMI IT, including establishing a secure server room and regular data transfer/backup to Salem
- Peeling back many layers of the MLRR onion has led to numerous operational and regulatory improvements; in addition to a much-needed MLRR fee increase
- DOGAMI geologists are now either registered geologists or becoming so and officially stamping and signing their work
- Nearly a dozen DOGAMI technical staff have gained 1-2 years of direct supervisory and/or management experience through job rotations or acting appointments

Not So Good Highlights:

- Overspending of the budget, which forced greater focus on grant planning and monitoring
- After a very rough start (self-imposed by DOGAMI), Grassy Mountain/Calico is now on track

- 1003 • Agency abolishment was proposed—but DOGAMI has risen from the ashes due to the
1004 outpouring of support from the statewide community and DOGAMI’s financial progress and
1005 discipline over the biennium
1006

1007 DOGAMI – Future State

1008 Avy stated DOGAMI is at a great point to build on the current positive momentum to include
1009 transition to a new director. There is a solid leadership team in place and staff have indicated a
1010 desire to partner for DOGAMI’s success. The next major initiative and great opportunity is
1011 development of DOGAMI’s 6-year Strategic Plan.
1012

1013 Avy – Path to Retirement

1014 Avy stated starting July 1st, Sarah Lewis, MLRR Program Manager, will be Acting Director for the
1015 month of July. He will be back in August to wrap up his time with the Agency and retire September
1016 1st. Avy said he appreciated the opportunity he has had to serve as Director of DOGAMI.
1017

1018 Kozlowski said it has been a joy to work with Avy, and he has taken the Agency through some
1019 challenging times with extraordinarily strong leadership, commitment, and passion for DOGAMI, its
1020 staff, and the Board. She appreciates his work, and he has had a positive impact on the Agency.
1021

1022 Ashford agreed with Kozlowski. He said he thinks he has made some good hires and has enjoyed
1023 working with him. He mentioned the turn around at MLRR under his leadership.
1024

1025 Chair Maffei thanked Avy for everything.
1026

1027 Briefing: **No Board Action Required.**
1028

1029 **11) Confirm Time and Date for Next Meeting:**

1030 Chair Maffei stated the next DOGAMI Board is currently scheduled for Friday, September 17, 2021 at
1031 8:30 a.m. – 1:00 p.m. in Portland or via Zoom. She confirmed this date is still acceptable for the
1032 Board.
1033

1034 Board members talked about the possibility of moving to in-person meetings and their preferences.
1035 A brief discussion took place about doing Zoom or maybe a hybrid of in-person and virtual. It will
1036 depend on what happens with COVID and the reopening of the State. No decision has been made at
1037 this time.
1038

1039 Chair Maffei said she hoped to fill Katie Jeremiah’s position in the near future, and is looking forward
1040 to finding another Board member, as the Board is meant to be setup with five members.
1041

1042 **12) Public Comment:**

1043 Only written comments received prior to or by 1:30 p.m. on the day of the meeting were to be
1044 accepted. Chair Maffei asked for any written public comments. No public comments.
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1046 **13) Board Adjourn:**

1047 Chair Maffei adjourned the meeting at 12:58 p.m.

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APPROVED



Laura Maffei, Chair