

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

Monday, July 13, 2020

8:30 a.m.

Virtual Public Meeting

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

Chair Laura Maffei called the meeting to order at 8:30 a.m.

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

Chair Laura Maffei, Vice-Chair Katie Jeremiah, and Board Members Scott Ashford, and Diane Teeman and Linda Kozlowski were all in attendance via Zoom video/phone.

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

Brad Avy, Director/State Geologist

Lori Calarruda, Recording Secretary/Executive Assistant

Dania Ballard, Chief Financial Officer (CFO)

Bob Houston, Interim GS&S Program Manager/Legislative Coordinator

Sarah Lewis, MLRR Program Manager

Cari Buchner, Mining Compliance Specialist

Steve Dahlberg, Fiscal Analyst

Others in attendance:

Diane Lloyd, Department of Justice (DOJ)

John Terpening, Legislative Fiscal Office (LFO)

Renee Klein, DAS Office of the Chief Financial Officer

Christina Appleby, DOGAMI Staff on personal time

Chair Maffei thanked Scott Ashford and Jennifer Beck of OSU, for allowing us to use their Zoom account for the meeting.

3) Review Minutes of March 9, 2020, May 14, 2020, and June 23, 2020:

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

Jeremiah had a question about the IT computer system upgrade discussion from a previous meeting. The information was identified in the minutes.

Board Action: **Kozlowski moved to approve the minutes of March 9, 2020, May 14, 2020, and June 23, 2020 as submitted. Jeremiah seconded. Motion carried.**

4) 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 stated Buchner

just celebrated her 2-year anniversary as the Mining Compliance Specialist and recognized her for the tremendous amount of work that she has done to develop this program. The program has gone from having no Compliance Specialist to having a systematic way to assess these penalties and help make the program more effective in attaining compliance.

Buchner reviewed two Civil Penalties for non-payment of renewal fees. The first site is over 92-days late. The permittee sent the renewal form back with a note stating the site is closed per their discussion/agreement with a Reclamationist. Buchner stated she communicated with them this is not the correct way to close the site. There has been no response from them, even with the Notice of Civil Penalty. Buchner does not recommend waiving the \$250 first offense penalty because they have been so non-responsive to the appropriate method of closing a site.

The second site is a chronic late payer who requested an extension and then paid 25-days late, both occurring after becoming eligible to receive a Civil Penalty. Buchner recommends assessing a \$500 penalty.

Kozlowski said the organization and presentation was very clear on the information provided, which she appreciated. Ashford agreed and thanked Lewis and Buchner for their efforts.

Chair Maffei said some of these sites are way out of compliance, allowing the Board to make easy and straight forward decisions. Maffei stated the process of having the Board approve all the Civil Penalties is a ramp up to the MLRR program being allowed to do this automatically at some point for routine penalties.

Board Action: **Ashford moved to allow staff to move forward with Civil Penalties on the presented cases. Kozlowski seconded. Motion carried.**

Lewis provided, through the use of a decision tree, an overview for the range of Civil Penalties that are defined in statute and rule. MLRR has focused on the late/non-payment of renewal fees because it has been the highest administrative burden for the lowest level of violation and has brought more sites into compliance for paying on time. Mining Without a Permit (MWOP) is a much higher violation as a Class 4 Violation and is one of the more egregious categories of violation because they are operating without any regulation at all. The goal is to bring the operator into compliance to protect human health, safety and the environment; minimize off-site impacts; ensure reclamation of the site; and level the playing field so all operators bear the full cost of mining and regulation. When someone mines without a permit and they sell the material into the market it is unfair competition.

Lewis reviewed the steps of MLRR's approach to compliance for Surface Mining, which are done through outreach, by setting clear expectations, providing contact information, sending multiple reminders, and making accommodations for circumstances. Formal notices consist of Notice of Action (NOA) and Notice of Violation (NOV). These are generally effective, but there are few to no consequences to the operator or permittee if the problem is not addressed. There have not been a lot of options on how to proceed and the NOA/NOV approach is a high administrative load and not always effective.

Lewis discussed the enforcement options. She said the Suspension Order is hard to enforce because it is just an order with no built-in enforcement action. The other option available is to pull the bond

and reclaim the site. Lewis said this requires technical follow up with technical staff if they pull the bond and reclaim the site, it is up to MLRR to do the reclamation activity and pay for it. There is now the option of Civil Penalties for Class 1-4. Lewis stated MLRR can use Criminal Penalties, but it requires Circuit Court involvement and is much more expensive. Civil Penalties provide a way to have moderate to severe consequences to operators and permittees, but the goal is not severe consequences, it is to bring them into compliance. This may require high administrative and DOJ effort. Civil Penalties can be used to cover costs if they are recovered.

Buchner presented information related to a site that was being mined and operated without a permit. Buchner stated for a violation to be considered a Class 4, it either has to pose an immediate threat to human health and safety or cause actual human injury or has caused damage to the environment.

Buchner presented a case study with photos of harm to the environment. In this example, the operator was assessed a \$117,000 Civil Penalty and convicted of one count of criminal Water Pollution II. A Suspension Order was subsequently issued and an additional \$127,000 in Civil Penalties were assessed by the Department of Environmental Quality.

Buchner discussed the Morgan Creek Pit (10-0223), an unpermitted mining operation brought to the Board for guidance regarding a Civil Penalty of Mining Without a Permit. There is approximately 10 acres of surface disturbance and it is located in steep terrain, upslope from a creek designated as essential salmonid habitat. Buchner said this site is in a landslide area and provided erosion related details. On June 3, 2020, Buchner did a site visit to document the situation. She discussed the specific issues they found, which are: widespread erosion; significant new disturbance with no Best Management Practices (BMPs); evidence of recent slope failures; turbid discharge into Morgan Creek was observed, sampled, documented, and provided to DEQ for follow-up; and the silt fence between the settling pond and Morgan Creek is no longer effective.

Buchner reviewed the fact pattern timeline for the site that started in 2015.

- 2015 – Mining Without a Permit (MWOP) confirmed by site inspection, NOV issued; Operating Permit required (disturbance over 5 acres, production unknown)
- 2016 – Operating Permit Application received; found to be significantly deficient. It was subsequently withdrawn.
- 2017 – Reclamation inspection determined incomplete reclamation
 - Suspension Order issued; reclamation required
- 2019 – Reclamation inspection discovered continued activity on site
 - DOGAMI staff were told by operator they always intended to permit the site, wants an Exclusion Certificate
 - Site does not qualify for an Exclusion Certificate, Operating Permit required, security required, still under Suspension Order
 - Inspected again, more activity noted; Operating Permit Application requested
- 2020 – Exclusion Certificate Application submitted, denied

- 103 ○ Operator requests review of Exclusion Certificate denial by State Geologist, denial
104 upheld; still under Suspension Order
- 105 ○ DOGAMI receives from complainant multiple photos of trucks hauling material off
106 site
- 107 ○ Inspection discovered new expansions at site, documented turbid discharge
- 108 ○ Department recommends Civil Penalties

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110 There has been a long history of non-responsiveness, non-compliance, and now blatant violations of
111 the Suspension Order. The program is now recommending Civil Penalties for this site. The photos of
112 trucks leaving the site start on April 28, 2020, for context, the State Geologist Review was issued on
113 April 8, 2020. On June 23, 2020, Buchner reminded them the Suspension Order is still in effect, the
114 last two photos are from June 27, 2020.

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116 To determine the amount of the Civil Penalty, Buchner said they are only considering violations they
117 can document as having occurred after July 1, 2019, when MLRR first began implementing Civil
118 Penalties. She showed a chart of 58 citable violations and discussed several options for determining
119 the Civil Penalty amount that could be charged to both the operator and landowner. Buchner stated
120 per the Internal Management Directive for implementing Civil Penalties, aggravating factors can
121 justify assessing a penalty above the median and mitigating factors can justify assessing a penalty
122 lower than the median. In this case, many of the aggravating factors are applicable and none of the
123 mitigating factors. The 58 violations in the single notice are not counting the previous similar
124 violations that occurred between 2015 and July 1, 2019. It is clear this is a pattern of conduct at this
125 site since 2015.

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127 Lewis asked the Board what additional information that DOGAMI/MLRR should be considering for
128 this first assessment of Civil Penalties for Mining Without a Permit. Jeremiah said to Lewis and
129 Buchner they did a nice job presenting an example of egregious violations with no respect for the
130 regulatory scheme that all permittees are under and agreed with Lewis that it really creates unfair
131 competition. She said there are enough facts to support issuing Civil Penalties in this situation, but
132 this is a slippery slope and does not want the Agency going from a compliance assistance agency with
133 a lot of stakeholder support into a fully enforcement agency. The stakeholders want even
134 enforcement of regulations, but do not want to receive tickets without having technical assistance to
135 identify ways to come into compliance first; especially stormwater since the Stormwater program has
136 only been in effect the last several years. Operators are trying to go from what inspectors have come
137 onsite and said for 20 plus years to all of a sudden they are under egregious violations of standards
138 and significant Civil Penalties and they didn't even know that they were doing anything wrong; and in
139 some cases have been lauded for their efforts for the same circumstances that they are now under
140 enforcement for. Jeremiah said we need to remember this is a permittee funded arm of the Agency
141 and so to the extent that the Agency expects industry to continue to support them in getting
142 additional funding to move forward, there has to be an investment of the technical support side of
143 the Agency being a priority over enforcement and writing tickets.

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145 Chair Maffei said she understood Jeremiah to say that the Agency should not be in a position where
146 inspectors go out and write tickets, but at the same time MLRR needs to protect those doing it right.

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Ashford said it seems to him that the Operating Permit is the opening for DOGAMI to help permittees do things in the right way and give them ideas on how to be compliant. Refusing to get the permit in the first place is a different route than the Agency trying to issue tickets.

Jeremiah agreed with Ashford for the most part, but as a permittee, her experience on the reclamation side, has been that staff of the Agency have been extremely helpful, and very sharp when it comes to being a technical resource. When it came to the new sudden enforcement of the stormwater permits, her experience is the consistent comment was it is not our job to tell you how to comply, you have a permit you are under, you've got to figure it out.

Kozlowski said she supports the Agency helping in the transition and being a supporter rather than a negative force but is also concerned about the environmental impact and the length of time these permits take and the damage it does to the environment in the interim. She thinks there needs to be a balance with the permitting process, but her concern is about the environmental impact that is happening at this time and the more time it continues.

Ashford asked Jeremiah if the stormwater comment is coming from DOGAMI or is it another agency. She responded DOGAMI has been delegated authority from DEQ for enforcement of the stormwater permits, and believes that the comment of we can't tell you how to comply, you just have to comply, is coming from DEQ. She does not think DEQ staff is very eager to help find ways to help people with permits.

Chair Maffei asked if the Board was being requested to approve moving forward with enforcement against this particular mining site. Lewis said yes, there is currently no final number for the penalty amount. She said they could propose a range and get approval to move forward/proceed somewhere within that range, or the other option is for them to take the feedback received today and come back to the Board during a Special Meeting or the September Board meeting. The only concern with delay is there is ongoing harm to the environment. Maffei agreed stating the operation has been continuing on an almost daily basis for 5 years.

Kozlowski stated this is blatant, which is the discouraging part. Chair Maffei said this is the type of violation that needs to be dealt with. Teeman said she believes MLRR should move forward with assessing the Civil Penalty due to the environmental impact and the fact they are blatantly not following the rules, which is unfair to the ones who are following the rules and are paying.

Ashford asked if there is a level of penalty that would get them to comply and an amount of penalty to allow the Agency to move ahead. Lewis said they do not know how much economic benefit they may have received through production, but they can determine how much in fees have been avoided. Buchner said they do have one other site they have been trying to get permitted since 2014 but it is held up due to fish passage. They have a consistent history of not being responsive to Department communication.

Buchner said that Civil Penalties are not the first step MLRR takes to get permitted sites into compliance. They start at the beginning of the process and try to work through the issue. It only gets to the Civil Penalties stage if the permittee keeps ignoring them through all the other steps.

Jeremiah reinforced the slippery slope dynamic when you start having enforcement be the focus of the direction that the Agency is headed. She thinks the way things are going now with the Agency continuing to be a technical resource is helpful for those who want to comply.

Jeremiah asked if they had the operator on the phone today, what comments would the operator have about not wanting or needing a permit. Diane Lloyd, DOJ, said in the past the operator did hire counsel and sought State Geologist review of the Department's denial of their application for the Exclusion Certificate (EC), but what they have done has surpassed the threshold of mining material. She said perhaps going forward they only intend to mine below the Operating Permit threshold, but they disregard the fact that they have already exceeded the threshold and are not eligible for an EC, because they tried to argue that the statute is written prospectively to allow them to seek an EC based on what they plan in the future as opposed to the current facts on the ground.

Chair Maffei asked if it is possible to get an EC if you are already mining a site. Buchner answered, yes if it is below the thresholds that require an Operating Permit. Maffei asked how the Agency can determine if they are mining below the threshold if they do not have a permit in the first place and they are not reporting to MLRR. Lewis said the threshold is both a production amount and an aerial disturbance in acreage, so they can assess by the acreage of disturbance. Jeremiah asked if the County has been involved, she believes there would be a land use issue here. Buchner said Douglas County has given them land use approval for this site.

Chair Maffei mentioned that there is a placeholder meeting for later in July and that she wants to discuss this in more detail. Ashford asked if things had gone well, what would they have paid in fees during this time. Buchner said for the application fees, productions fees, renewal fees, boundary survey map, geotechnical study for slope stability concerns, and stormwater treatment, she is guessing \$30-\$50K. Ashford said he thought the Agency should look at fees. Avy said the company should not only be fined for the cost of obtaining a permit since it might be cheaper to just keep paying fines.

Ashford asked Lloyd what the Board should consider or not consider in determining the amount of penalties. Lloyd said the Civil Penalty authority has been in DOGAMI's statute since the 1990s. If these penalties continue, the Board may want to look at rulemaking moving forward to standardize the types of Civil Penalties for cases like this one. She said Buchner has done a good job of reflecting the list and range of penalties that can be determined, and the Board can consider. Ashford said one thing discussed was an economic trade off and he was curious about it. Chair Maffei said it is routinely used in calculation of penalties.

Teeman said she echoed what Director Avy mentioned. In her line of business, they often say that it is better to ask forgiveness than permission, because the Natural Resource and Cultural Resource damages and fines that are assessed are usually less than what the revenue is for some corporations. She thinks that being able to get right what the cost versus benefits of a scenario like this would be would be helpful to make sure that if the Agency is going to go through the trouble of assessing some kind of Civil Penalties or expenses towards the company, that it should have teeth, otherwise why bother doing it.

Chair Maffei asked if Civil Penalties that are assessed go to General Fund. Lloyd answered fees recovered through Civil Penalties go to the Agency. Lewis said there are restrictions on what can be done with the funds. The agency may recover the costs of assessing Civil Penalties and then it is

deposited in the Voluntary Reclamation fund under Division 38 and used solely for reclamation. It is not for general use, but it can go towards any action under the Civil Penalty program. Maffei said she would like the staff to flesh out the penalty to give the Board more information to decide on the penalty.

Kozlowski asked if a Civil Penalty is assessed, if there is a next step alternative since this operator has a history of ignoring DOGAMI. She is really concerned about the environmental damage and the fact that they are ignoring DOGAMI totally. The Agency needs to make a really strong statement. She would like to know what the Board's options are. This discussion should be part of the next meeting.

Chair Maffei summarized there is support for a penalty, the Board just wants more specifics. The Board has not had to deal with one of these before. It is very helpful for them to see how the process was laid out and the amount of time spent over the last 5 years to get the site into compliance. The fact that they have another operation makes her a little nervous, but it does sound like they are trying to move forward with their application. Kozlowski said she hopes so.

5) Financial Report:

Dania Ballard, Chief Financial Officer, presented the DOGAMI FY20 Budget Status Report, as of April 30, 2020, for the Geological Survey and Services (GS&S) and Mineral Land Regulation & Reclamation (MLRR) programs.

Ballard said the update is through the end of April. She did a recap of what has been happening. In April, the Agency was still waiting to get the second-year budget approved and the numbers presented reflect that; there was an ask of \$3,104,928. She said revenue collection and accounts payable have become routine and discussed the activities that still need to be done for catch up and year-end, including indirect cost reclassification from General Fund to Federal and Other Funds.

The current GS&S General Fund ending balance is negative (-) \$3,151,589, because the second-year budget was not approved at this time. The second-year ask of \$3,104,928 was approved for \$2,864,393, after an adjustment of \$240,535 due to COVID-19 related reductions, which include 1.5 positions (the CIO and .5 Publications Coordinator), Services and Supplies, and closure of the Newport and Baker City offices.

The MLRR program is projected to have an ending balance of negative (-) \$201,831 in December 2020 due to operating costs being greater than revenue coming in. Two parallel tracks are in place for a fee increase, one this biennium and a Policy Option Package (POP) for next biennium. If the fee increase does not happen this biennium, potential layoffs could start late summer.

The Strong Motion Instrument Fund had expenditures of \$9,281, leaving an ending balance of \$337,545. Ballard anticipates more expenses that will hit before the end of the year.

The Reclamation Guarantee Fund released some bonds and securities at the same time it received four more securities, leaving an ending balance of \$614,207 in Cash Securities.

Federal Funds is a negative (-) \$1 due to rounding adjustments.

Ballard said the monthly project financials are up-to-date, and budget building has been aligned to actuals. When a project hits 30% budget left, there is a reforecast meeting to determine the remaining details moving forward. Ballard stated the Business Office is coming up to speed and getting routine processes ironed out. Recently a weekly functional status update was launched, which is basically a list of all open-ended items having to do with Accounts Payable (A/P), Accounts Receivable (A/R), invoicing, and requested system project code numbers. This list is reviewed weekly with DAS.

Ashford asked if the difference between the \$3.1 million and \$2.8 million will cause a deficit at the end of the year and how will the Agency take care of that. Ballard said it is showing a deficit because it has not been reallocated for the changes that have been done with the second-year budget. The amounts will get reallocated during the reclassification process which has been held up because of the second-year budget. Chair Maffei clarified that means it will get allocated to projects so it will come out of grant funding at some point. Ballard stated that is correct.

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

6) Review 21-23 Agency Request Budget (ARB):

Dania Ballard, Chief Financial Officer, reviewed the draft 2021-23 Agency Request Budget (ARB) for DOGAMI.

Ballard emphasized this is a draft budget document. She explained where the Agency is now and how the ARB is built. In context, she said the previous biennium budget is built with inflation, exceptional changes that are approved DAS controlled costs, and Policy Option Packages (POPs) added into it. For the budget as a whole, if there are no changes from one biennium to the next, the Board will only see inflationary based amounts or centralized costs from DAS or the effects of POPs that were accepted. In DOGAMI's particular case, there are no real Agency changes from this biennium to next biennium. She explained the reason there are holes missing in the budget, is the system entry typically takes the last biennium and rolls it forward into the next one, but since the Agency had a one-year budget and the second-year budget had to be added in differently, it caused a glitch. All the reports that would typically be in the ARB are in audit status. The numbers showing have not been audited and there could be changes once it goes through the audit.

As Ballard started through the Budget Narrative, she said Chair Maffei will need to sign the Certification page by July 31, 2020. Ballard asked Houston to provide a brief description of HB 3309. Houston said in the 2019 Full Session HB 3309 amended the definition of surface mining to exclude certain excavations and grading activities. It also removed DOGAMI's authority to prohibit certain construction within the tsunami inundation zone.

For the Agency Summary, Ballard said the expenditures are broken down by program area. She emphasized that for Shared Services versus Administration & Technical Services, most of the GS&S staff are in the Administration & Technical Services category. The amounts for Shared Services are more due to the POPs for IT & Server Replacement for \$196,000 and Matching for Grants and Grant Development of \$400,000. The Distribution by Fund Type is a comparison of the Legislatively Approved Budget (LAB) from the last biennium to the proposed budget which is generally higher due to the POPs. Other Funds is higher due to MLRR's ePermitting POP of \$1,000,000.

Ballard briefly reviewed the Mission Statement and Statutory Authority that describes what the Agency does and why. It includes the Strategic Framework and Key Performance Measures (KPMs), that also briefly describe the reason for the POPs. She stated the placeholder pages are there because of the audit hold and waiting for information.

The Program Prioritization for 2021-23 is a repeat of the previous biennium and is a breakdown of each program within both GS&S and MLRR, reflecting what DOGAMI does. It also contains a rollup of all the program areas and the MLRR POPs. In DOGAMI there are two main financial programs of the budget, GS&S and MLRR. GS&S has the entire Agency administrative overhead charges, which have not been separated out yet.

Ballard went through the 10% reduction option scenarios requirement that is a standard part of the budget process. This particular reduction scenario was based on the work done within the last 3 months. In the previous scenario, the Fiscal Analyst position was eliminated and in this scenario it is reduced to a half-time position. This scenario also has a Geologist position being reduced to a half-time position.

Ballard stated the Organization Charts consist of the first-year budget, the second-year budget, and the anticipated/proposed organization going forward for the GS&S and MLRR programs. The MLRR organization charts are based on getting the fee increase.

Ballard went through the Revenue Forecast Narrative, which is based on the second-year ask of the 2019-21 budget, including the POPs. One of the POPs is for the MLRR fee increase in the amount of \$1,560,000 and is built into the graph amount of \$5,299,099. The narrative is a carryforward of the last biennium and discusses how the Agency is funded. MLRR receives funding through the fees they generate for permits. GS&S is for the work being done in support of the grants. Ballard pointed out that the STATEMAP grant has been awarded since 1992 and the current budget already reflects funding in it to match that grant and expects it to continue moving forward, so it is not included in the POP.

Ballard discussed the GS&S Program Funding and Request, focusing on years 2021-23, stating the future years listed are simply an inflationary factor applied to those numbers. The General Fund ask is \$6,500,460 for the next biennium. The program is expecting \$2,895,279 in Other Funds and \$6,308,753 in Federal Funds, for a total biennium funding need of \$15,704,492. Avy noted the GS&S Program Manager was added in the 2019-21 second-year budget. Chair Maffei asked about the \$1.9 million increase. Ballard answered the differences are mostly attributed to \$600,000 for Policy Option Packages, addition of the Program Manager, personnel services inflation, corrected DAS Assessments, and services and supplies inflation. Maffei said it is a lot of money in a budget year when things are going to be tight.

Ballard reviewed the key points for the GS&S budget breakdown and the types of grant work being done in previous biennia, which are the basis for the 2021-23 estimates. She stated some grants do not allow for contracted services. Ballard briefly went through the two POPs for IT Equipment Replacement ask of \$196,000, and Match for Grants and Grant Development ask of \$400,000.

Ballard reviewed the MLRR program Budget Narrative. There are currently 11 permanent FTE positions and the same ask will be done in the next biennium. The expected expenditures are

\$4,497,689. The budget increases the MLRR program total funding authority by \$727,216. There are two proposed statutes coming through as POPs that may impact the budget, the fee increase and ePermitting.

The first POP is the Position Alignment for a staff person working out of class; an ISS 4 working as an ISS 5.

The second POP is for the fee increase which is on two parallel tracks. The Agency is trying to get the increase approved in this biennium but is also asking for it next biennium, to help mitigate the risk if it does not get approved this biennium. If it is approved for this biennium, the POP will be pulled from the ARB. Avy said the POPs are important to present to tee them up for the future even if they do not go through at this time, so the legislature understands the Agency's needs. Ballard said part of approval of the Agency Request Budget is the Board buying off on the asking of the POPs, not having the assumption the Agency will necessarily receive the funding.

The third POP is for ePermitting, with a total ask of \$1,184,177 going through several biennia. The rest of the placeholders are for systems reports that still need to have auditing completed.

Ballard said the next section of the ARB is Special Reports that include the Affirmative Action Report. Avy said the Affirmative Action Report is the last one approved for use in the early ARB submittal, but in the fall an updated report will be included in the Governor's Request Budget (GRB). He expects the next one to include more information on Diversity, Equity and Inclusion.

Chair Maffei asked what the Board will be approving and when. Ballard said some of the placeholders will show historic information of how much money the Agency had in the past versus how much they are asking for. Ballard said the Board should have the information and be comfortable with it before approving the ARB. She expects the audited information later in July. The placeholders will be updated once the audit is completed and the graphics will align with the budget detail. Maffei asked what the information will contain. Ballard said more detailed line item reports that support the summary level graphics.

Ashford thanked Ballard for keeping them so well informed over the last several meetings, and that there are no surprises in the narrative. He said it was helpful for Avy to talk about some of the POPs and to get them on the table for the legislature to understand the Agency's needs, even if they are not approved. He is happy with the information being provided. Kozlowski agreed. Teeman said it was thorough and well thought out, the asks are reasonable and hopes it gets funded. Chair Maffei stated this speaks to the importance of the previous meetings that were held and getting a sense of what the budget was going to look like ahead of time. Ballard thanked the Board for their nice commentary, that it is helpful for her to understand what information they want to hear going forward.

Chair Maffei said she believes it is better to wait to see the final numbers from the audit before approving it. Avy agreed and mentioned the narrative and graphics will align with the line items so the Board members do not have to review all of them unless they want to.

Chair Maffei asked what the DAS audit process consists of, so the Board understands it and is more comfortable giving the final approval. Ballard explained the process, saying the budget information is input into the system, then another group SABRS (a budget development department in DAS) verifies

the information. Once it matches and is approved, it is released to be put in the ARB. Ballard asked Renee Klein to explain what SABRS does. Klein said it stands for Statewide Accounting Budget Reporting Services, it is a technical expert group for the budget entry into the Statewide Budget System. They go through the information with a fine-tooth comb to verify that what has been entered is correct, including percentages. Once they are done, it then goes to Klein to review even further and look at more information. She sits in on the budget calls because it helps her to understand and interpret the information she is reviewing. She stated part of the reason it is taking so long for DOGAMI is because of the one-year budget. They had to ask for it to essentially be backed out and put in as an entire two-year budget, which is a tremendous amount of work to do and taking longer than anticipated.

Chair Maffei said the next special meeting is scheduled for July 28, 2020. This should allow the audited ARB to be completed and provide the Board time to review it before the meeting so it can be approved by the Board. She will then sign the Certification page, and the final ARB can be turned into DAS.

Break

7) Grant Budget Monitoring Tool:

Dania Ballard, Chief Financial Officer, and Bob Houston, Interim GS&S Program Manager and Legislative Coordinator, presented the Grant Budget Monitoring Tool for DOGAMI.

Ballard said this tool is still in the conceptual stage but some of the items that will be shown are a refinement of things the Agency is already doing. As far as processes are concerned, she and Houston have been having monthly meetings with project managers to review project specific financials and discuss how to stay on budget. At the 30% mark of money left on a project, they have implemented a project reforecast for the remainder of the budget to meet the deadlines and stay on budget. A new budget of the remaining work that needs to be completed is constructed, and if variances are identified of where it can possibly go over, they discuss strategies on how to get it underbudget.

Ballard said the purpose of the tool is to provide analytics: by taking projected hours and funding and comparing it to actual performance; identifying how to best utilize the various expertise of staff; and obtaining a perspective of individual staff workload. It is to inform staff scheduling and manage project timelines and task scheduling. Overall, it is to provide operational metrics for decision-making related to grant management, performance, and agency resource utilization.

Ballard reiterated the tool is a conceptual draft that is currently in the testing stage. For it to be successful, the actual information will be added in monthly by project managers and the Business Office. She explained a potential issue that should be avoided with this tool is overscheduling of staff. Ashford asked how quickly can the monthly updates take place so project managers can make educated decisions. Ballard said it is about 3 weeks before the project managers will have the information from the previous month. She explained the financial system closes for the previous month by the second or third week, and the Business Office prepares the project specific financials and detail used for meetings with project managers.

The **Grant Sheet** is a single grant input sheet that collects key information such as duration, budget, fund-type, and direct costs. Ballard provided and discussed an example of a FEMA grant that is filled out by the project manager with the number of hours for each person on the project. She stated the sheets have been tied to other spreadsheets to pull the information over. Ballard reviewed and explained the example in detail. Chair Maffei said it looks like there is still money that has not been spent. Ballard explained that some information has not been included so she could produce the visual, but it will be spent. She said the goal is to spend the grant to within 1% of the total without going over. This is a cultural change for the Agency. Kozlowski asked if this will show what is left on grants. Ballard said it will say "Award Remaining" but this sheet is not meant to inform that statistic.

The report **Grants All** will show a summary of projections to actual revenue for all the grants on one page. Ballard explained how this will be used to avoid going overbudget. Ashford asked how much manual time will be used to complete this since it is an automated spreadsheet. Ballard said it will happen monthly to keep current and take Business Office staff about 4 hours to input the information, then maybe 4 hours for the project managers to input their information.

The report **Grants Total** shows total grant projections to actual revenue total for a time period including award by fund type. Ballard said this spreadsheet is useful because it provides a total idea of what the projected expenses are for all the projects; the bottom shows the distribution of Federal, Other and General Funds that helps the Agency work with DAS to project what the cash flow will be for revenue earned. It is a tool to help better manage the cash flow. The same spreadsheet populates the report **Grants Individual**, which shows individual grant projections to actual revenue total for the time period, including award by fund type.

The report **Employees All** is the monthly summary of scheduled hours by employee on projects. Ballard stated this shows the scheduled hours for each staff member so they can see where staff may be overbooked or underbooked, to allow the Program Manager to better align and balance the workload and to help balance schedules. An example is Geologists, if the expertise is transferrable amongst different people, that could mean rescheduling staff to work on different projects to better balance the workload. She said it could also lead to the possible need to extend a grant or ask for a no cost extension, to best meet the needs with the expertise availability that the Agency has.

The report **Employees Individual** is a monthly summary of scheduled hours for an employee. Ballard provided an example of one employee to look at all the projects they are working on, and to see if there is flexibility in a project to be rescheduled to a different timeframe. This view helps identify who to talk to, which project manager to work with in terms of balancing staff.

The report **Expertise Capacity** is a monthly scheduled capacity by expertise. Ballard said it is a summary view of the Agency's expertise as a whole; how well are they staffed and how does the Agency balance it. She said the position titles will change as they try to get closer to what staff are doing. Ashford asked if someone shows 200%, what does that mean. Ballard explained that multiple project managers planned the staff's time for that period, and it is unrealistic, causing the Program Manager to talk to project managers to shift the timeline in order for the work to get done. She said this tracking sheet will also help determine when to balance the workload based on each type of expertise and it could help to determine if the Agency needs to hire a particular classification of staff. Ballard said this includes help in determining if another position should be included in future biennial asks.

Chair Maffei asked a question about information not matching up and if it is related to the tool still being in development. Ballard answered it could be because she closed it off at a previous month. It may not have been entered in for the full amount of the grant because there are grants that go two years out and the full schedule was not available for the entire two years. She also stated that she can narrow the report down to a specific timeframe to calculate just that time period. Maffei asked how will the project manager know how much money is left on a grant, so they do not overspend, as the one spreadsheet does not look like it accurately represents what they have left on the grant. Ballard said there are two places for that, the Monthly Project Financials and the projections versus actuals, but it is the Monthly Project Financials which will show how much money is left on a project. Maffei said her concern, with this particular spreadsheet, is that because of that control of the month at the top, it gives the impression there is a higher percentage of the grant left when it is not the case. Ballard said that is a fair statement and it will be changed. Maffei said it does not look like reality and thinks this is the Agency's exact problem with project managers not knowing how much money is left on a grant. She wants the spreadsheets to accurately represent what is really available. Ballard said she appreciated the feedback and the fix will be made. Maffei said with all the problems in the past, it is nice to see a program coming together that will help the staff and Board, and to be able to represent to the world that DOGAMI is doing what they can to track it.

Briefing: **No Board Action Required.**

8) Project Pipeline Approval Process:

Bob Houston, Interim GS&S Program Manager and Legislative Coordinator, presented the Project Pipeline Approval Process for DOGAMI.

Houston went through the Project Pipeline/Grant Approval process timeline and provided the following major takeaways.

Project Idea

Potential project ideas are commonly sourced through well-developed professional relationships, networks, and partnerships. Project ideas typically develop a fundamental understanding of geoscience information to help decision makers solve geologic-based concerns. Provides earth science information and regulation to make Oregon safe and prosperous. Project idea timeframe could be 1 week to +10 years.

Initial Project Concept Discussion

Staff and GS&S Program Manager meet to explore the concept and criteria to scope the project to determine if the concept should be further developed. Initial project concept discussion timeframe is 1 week to 2 months.

Project Criteria

- Justification/need/benefits
- Alignment to:
 - Agency's Mission
 - Strategic Framework
 - Duties of the Agency – ORS 516
 - Key Performance Measures

- Estimated budget
- Limitations on charging indirect funds
- Matching funds or in-kind match requirement
- Ability to leverage work to help other projects
- Publication and public outreach
- Timeframe
- Number of staff and staffing capacity
- Expertise required
- Geologist of Record
- External project partners
- Funding entities and source type
- Type of agreement
 - State or Federal Grant
 - Inter-Agency Agreement (IAA)
 - Task order, etc.
- Need for a subcontractor
- Potential challenges or concerns
- Need for Legislative authorization to proceed (10-day letter)
- Board's grant selection/grant management guidance

Houston stated the Board gave the Agency guidance on avoiding grants with high administrative costs or increased match requirements, and low total budget amounts where it is not a benefit for the Department since it would cost more to go after and manage. The Agency is conscientiously flagging those grants as they come through the process.

Project Pipeline Proposal Development

The project manager and GS&S Program Manager review the potential project's primary budget criteria with the CFO. Concurrence from the CFO initiates development of the Project Pipeline Proposal and budget details for Leadership Team review. The GS&S Program Manager schedules a Project Pipeline Proposal presentation to Leadership Team for authorization to proceed. The Project Pipeline Proposal development timeframe is 1 to 2 weeks.

Primary Budget Criteria

- Budget, task-oriented expense, on-task expense contingency, services and supplies
- Limitations on charging indirect funds
- Matching funds or in-kind match requirement
- Ability to leverage the work to help other projects

Project Pipeline Proposal Leadership Team Presentation (spreadsheet examples)

Staff presents a scoped Project Pipeline Proposal and budget to the Leadership Team. The Leadership Team reviews the complete criteria as presented in initial project concept discussion phase. The Leadership Team may authorize the Project Pipeline to proceed to next steps, amend proposal, or deny approval with an explanation of concerns. The Project Pipeline Proposal Leadership Team presentation timeframe is 1 to 2 Leadership Team meetings. Examples of a Project Pipeline Proposal and Grant Budget build were shared with the Board. Houston said together these are reviewed by the Leadership Team for determination if it will proceed at that time.

617
618 Project Pipeline Proposal Refinement

619 With Leadership Team's authorization to proceed, the project manager finalizes the project scope,
620 goals, budget, deliverables, communications plan, closure plan, and obtains all necessary pre-
621 application agreement signatures. Preliminary scoping and refinement with the funder often occur
622 during this phase and it can be a very iterative process. The project manager holds frequent
623 meetings with the GS&S Program Manager to review the proposal, deliverables, and budget to
624 ensure the project remains on scope and within mission. The GS&S Program Manager may request
625 Technical Review Committee review depending on the complexity of the proposal. Houston said up
626 to and including this phase of the pipeline process the Agency is unable to bill this work to any
627 existing grant. All of the grant development work, from project idea to grant award, is billed to and
628 requires General Funds and highlights the need for our Policy Option Package 101 – Match for
629 Federal/Other Fund Grants and Grant Development. The project manager holds a kick-off meeting as
630 a follow-up with project team associates to discuss the project. Project Pipeline Proposal refinement
631 timeframe is 1 week to 3 months.

632
633 Legislative Authorization (10-day letter)

634 The GS&S Program Manager, Legislative Coordinator, and Director coordinate with the Governor's
635 Office, DAS-CFO, and Legislative Fiscal Office to determine if legislative authorization is required to
636 proceed with the grant application, which is commonly known as a 10-day Letter. If the legislative
637 authorization is required, the project manager will work with the GS&S Program Manager and CFO to
638 prepare a letter for the Director to submit to the Governor's Office, DAS-CFO, and Legislative Fiscal
639 Office; followed by a presentation to the Joint Committee on Ways and Means Subcommittee on
640 Natural Resources. Legislative authorization timeframe is 1 day to several weeks.

641
642 Grant Application Submittal to Funder

643 Following any required legislative authorization, the project manager works with the CFO to obtain
644 all signatures and approvals to submit the grant application to the funder. Status updates are
645 provided to the GS&S Program Manager. Grant application submittal to funder timeframe is <1
646 week.

647
648 Grant Awarded (grant tracking tool updated)

649 On notification of a grant award, financial systems are updated, and budget and staff hour
650 projections are entered into the Grant Tracking Tool. Houston said this allows them to have accurate
651 information for the monthly project meetings. The project manager holds a kick-off meeting with the
652 Technical Review Committee, Geologist of Record, technical reviewer, and staff associates. **There is a**
653 **clear and consistent commitment across the Agency that all projects will be prevented from going**
654 **overbudget, whatever that requires.** Grant award timeframe is 3 to 6+ months.

655
656 Project Research (including 30% budget remaining)

657 With the commencement of work, the CFO and the GS&S Program Manager hold monthly meetings
658 with the project manager throughout the period of the grant to ensure the grant remains
659 underbudget, progressing to completion within the timeframe of the deliverable. The GS&S Program
660 Manager and CFO in collaboration with the project manager evaluate monthly grant work progress,
661 budgets and assign staff hours. When the grant funds are nearing 30% direct budget remaining, a
662 detailed budget reforecast of the remaining funds is conducted to ensure the project deliverables are

completed underbudget. These meetings become more frequent as the project nears completion. **There is a clear and consistent commitment across the Agency that all projects will be prevented from going overbudget, whatever that requires.** Project research timeframe is 0.5 to 5 years for grants; 1 week to several weeks for Inter-Agency Agreements and other agreements.

Project Delivery and Final Closure

Following completion of the project deliverables, an after-action review is conducted to determine areas of the project that went well or need improvement. The Business Office completes a final financial closure for the project and requests for final closure of the project in the state system. Project delivery and final closure timeframe is 3 months to 1 year.

Staff task hours and expenditures of the initial grant budget are reviewed to further refine future similar grant applications.

For the overall timeframe of Project Idea to Final Closure, Houston said it can take one month for an IAA, most grants take 1 to +5 years, and some projects could take over 10 years before the right mix of funding can be identified.

Ashford said he is happy with the direction the Agency is going but the proof will actually be in implementing all of it. He stated part of it is the plan that the Agency will not leave money on the table and will plan to spend out all the money in each grant. Ballard explained the first priority is to not go overbudget, but if they find there is more budget remaining, they will contact the funder to see if they can add another task without going overbudget. Houston added that as it gets closer to the end of the project, they have more frequent financial meetings to ensure the grant does not go overbudget. Chair Maffei verified that a contingency is being built in without going overbudget.

Teeman said this new process may make DOGAMI more competitive on some grants. She also thinks this is heavier on the front end, but will make the mid-grant and final-grant reporting a whole lot easier and asked if that had been a consideration. Ballard said those are true statements. In terms of the budget, communication with the funder, and doing monthly financial processing, has allowed the Agency to be more precise at grant reporting and is allowing DOGAMI to be better organizationally setup to be able to respond to funder needs. Chair Maffei said it is clearly more work on the front end but will make it more efficient.

Chair Maffei thanked Ballard and Houston for all the work they are doing to keep the Agency from going overbudget.

Briefing: **No Board Action Required.**

9) MLRR Update:

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

Please note, included in this packet is the ENGAGe Special Pandemic Edition May 2020 newsletter being sent out and can also be found online: <https://www.oregongeology.org/mlrr/engage.htm>

Permit Status Summary

Lewis reviewed the detailed list of permits. Lewis said with COVID protocols in place, they are prioritizing the limited number of inspections they are doing to ones that are required for moving forward with some kind of action, which include complaints, and new permit and amendment permits that require a site inspection by a Reclamationist. They have also done a few site closures. This will affect the KPM for next year, but it is unavoidable. There are some agencies not doing site inspections at all.

Lewis stated the permits are being processed on an average of under 6 months and the numbers are staying consistent. She is expecting two to three more Civil Penalties for the September meeting, which will take the Agency through the first year of Civil Penalties. Every renewal will have seen the new procedure at that point. She feels this program is a success.

A special Pandemic Edition newsletter has been sent out to address permittee concerns. MLRR has been receiving many more complaints because people are now working at home and community members have been more involved with quarry sites. There have been more Public Records Requests as well.

MLRR held their first Rules Advisory Committee (RAC) meeting in the beginning of July for rulemaking on HB 2202 High Value Farmland in the Willamette Valley. Attendees included representatives from OCAPA, the Farm Bureau, Department of Land Conservation and Development, Department of Agriculture, Department of Justice and DOGAMI. They anticipate one or two more meetings and hope to have made significant progress by September. Lewis said this is one of the good things that the department is still working on moving forward even during this time of budget uncertainty and telework.

Staff continue to be incredibly committed to the mission of the Agency and to making the program as successful as they can, given the restrictions they are working with. They are also working on a county outreach pamphlet, which is about six to seven pages that they plan to send to counties and other government entities to help them better understand what DOGAMI does and where the challenges are with the process.

They are participating in a state initiative of a pilot program to receive satellite imagery for the entire state. They are coordinating with the State's centralized technical services and other natural resource agencies to receive access to as frequent as daily satellite imagery at a resolution high enough for them to make a determination of on-site conditions. She said an example is the Civil Penalty case presented, they were able to look at imagery from a project called "Planet Labs" and were able to fine tune the week during which the majority of the new operation had occurred. There is currently no charge for it with the exception of staff time to look over the imagery, but she is hopeful that MLRR can be a test case to show how important it is to have this kind of data. Along with other resource agencies, DOGAMI may be able to be part of a bigger effort to provide this kind of real time information to help decision making with respect to what is going on across the land. She hopes to have more news about this at the September meeting.

Lewis said regarding Grassy Mountain, she speaks with Calico twice a month. The indications are they expect to start scheduling meetings with state agencies in the coming months. This means they are working on developing the additional information requested during the Completeness Review done back in February. She expects more activity to start in late summer or early fall.

Briefing: **No Board Action Required.**

10) GS&S Update:

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

Houston provided the Board with a map of the state showing where all the grant work is being done by the Agency. He said there are three statewide projects effecting the entire state that DOGAMI is working on, the Data Preservation Grant, a Landslide Warning System, and Building Footprints.

The **Project Concepts in Development** (pre-award phase) are what are currently in the system being tracked. The earlier presentation depicts what these concepts need to proceed through. He said the **Pre-pipeline Concepts** is where it is the idea and when he is working with project managers to develop the grant by answering the criteria questions before it is presented to the Leadership Team. There was approximately \$750,000 worth of grants/projects in this stage when the Board packet was done, with an additional grant identified for \$450,000 for a total of \$1,200,000 of potential activity coming to the Leadership Team for review and approval. The Leadership Team **Approved Pipeline Projects** have been presented to the Leadership Team and approved to move forward and are in the refinement stage in prepping to file the grant application online. There is approximately \$175,000 worth of projects in this stage. The **Submitted Applications** have been through the full application submittal phase, including legislative authorization (10-day Letter), being submitted to funders, and are awaiting award notification. The total being submitted to the funders is approximately \$1,190,000. There is a total of \$2,569,000 for all the identified projects the Agency has a potential of seeking.

Active Projects (awarded) - Grant Number 1-25: is a total of active projects in the research phase. The charts show the awarded values, broken down by direct and indirect budget in different views. These are also broken out by grants and Inter-Agency Agreements (IAA). The IAAs are often a legislative requirement in the other agencies for which they utilize DOGAMI's expertise. The total for these projects is \$4,298,000, with \$3,500,000 being in direct funds and \$700,000 in indirect funds. Houston went through an example of a FEMA grant to demonstrate how the grant tracker sheet will help reflect if a grant needs to be extended or have a scope change.

Project Workload Complete (pending final grant closure) - Grant Number 26-62: represents those grants that have completed the geologic research and are now in the final financial wrap-up. Some of these grants go back to about 2016 and are going through the system to be closed out through the Statewide Financial Accounting System. Houston said this is a workload staff are unable to bill to anymore. He mentioned this is where they are having after-action conversations with the project manager, Program Manager and CFO to inform the next round of grant applications to get better targeted budgets.

Houston discussed what has been happening for the GS&S program in 2020. Five Open-File Report publications have been released. Process improvement documents have either been updated or created. Communication improvements have been taking place through one-on-one, small groups, or all-staff meetings, and a listening session.

Briefing: **No Board Action Required.**

804
805 **11) Director's Report:**

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

807
808 Program Manager Recruitment – Geological Survey & Services Program

809 Avy said the recruitment for the position posted on June 30, 2020 and it closes July 30, 2020. This is
810 the position that was added in the second-year budget. This position will facilitate continued
811 progress within the program.

812
813 Internal Communications Plan Update

814 Avy stated the Leadership Team has met a couple of times to maintain the Internal Communications
815 Plan as a working document; an update will be shared with the Board shortly. A running list is being
816 kept of staff ideas/suggestions. One part of the plan that has been helpful is weekly reports from
817 staff to their supervisors. It provides an opportunity to address emerging issues that need attention.
818 It is a reference point and written record for the Agency to monitor and act on the items.

819
820 Strategic Planning 2022-2028

821 Avy discussed the past efforts made on the 2015-2021 Strategic Framework to create
822 implementation items to move it into a Strategic Plan. The next Strategic Plan is for 2022-2028.
823 There is currently some funding set aside for a facilitator for this work. Efforts should be starting in
824 the fall and by that time the Agency should know if it still has funding for a facilitator.

825
826 DOGAMI – A Sense of Urgency

827 Avy said from his perspective, and to acknowledge the Leadership Team and staff, there has been no
828 let up on the intensity around financial discipline. This is related to resolving financial issues, last year
829 layoffs; settling Calico disputed charges and increased project activity; gaining DAS and legislative
830 approval to apply for grants; navigating the 2020 Short Session with its successes and
831 disappointments regarding the second-year budget and MLRR fee increase; E-Board approval for the
832 second-year budget (one week before initiating Agency wide-layoffs); and the challenges of recent
833 layoffs. Looking forward, we are anticipating an upcoming Special Session and are hopeful there will
834 be a place on the agenda for the MLRR fee increase. Uncertainty remains regarding potential staff
835 reductions following upcoming revenue forecasts and overall statewide budget balancing in the 2021
836 Legislative session. Avy acknowledged staff across the Agency for staying on task with a sense of
837 urgency.

838
839 Chair Maffei thanked him for his efforts and appreciated him summarizing of where the Agency has
840 been and where it is going.

841
842 Briefing: **No Board Action Required.**

843
844 **12) Confirm Time and Date for Next Meeting:**

845 Chair Maffei stated the next DOGAMI Board is currently scheduled for Friday, September 25, 2020 at
846 8:30 a.m. – 1:00 p.m. in Portland. She confirmed this date is still acceptable for the Board. The next
847 regular meeting will include KPMs and the Director's Evaluation. Maffei said the Evaluation should

848 go to the same recipients as last time and she will work with Sherry Lauer, at DAS HR, to get the
849 survey out. The next revenue forecast is September 23, 2020.

850
851 Chair Maffei said the potential Special Board meeting currently scheduled for 8:30 a.m. – 10:30 a.m.
852 on Tuesday, July 28, 2020 will be held to discuss and approve the 2021-23 Agency Request Budget
853 (ARB). The Board agreed to also include Civil Penalties on the meeting agenda.

854
855 **13) Public Comment:**

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

858
859 **14) Board Adjourn:**

860 Chair Maffei adjourned the meeting at 12:29 p.m.

861
862 APPROVED

863
864 
865 _____
866 Laura Maffei, Chair
867