1) **Call to Order:**
Chair Larry Givens called the meeting to order at 8:35 am.

2) **Introductions:**
Board Chair Larry Givens, , and Board Members Donald Haagensen, Charles Vars, and Lisa Phipps were present. Vice Chair Steve Macnab attended via teleconference.

DOGAMI Staff in attendance:
State Geologist Vicki McConnell
Assistant Director Gary Lynch
Assistant Attorney General Larry Knudsen
Chief Scientist Ian Madin
Administrative Assistant Carol DuVernois

In the audience:
Larry Tuttle, Center for Environmental Equity
Ron Helinski, New West Technologies, working with DOE for the geothermal program
Douglas MacDougal, Schwabe, Williams and Wyatt, prospective Governing Board member
Kahlid Wahab, Kaiser Permanente, Environmental Justice Task Force
Jonathan Oster, Environmental Justice Task Force
John Petersen, Tide Creek Rock Company
Agnes Petersen, Tide Creek Rock Company
David B. Williamson, Attorney for Agnes and John Petersen
Geoff Garcia, Geologist

3) **Approval of Minutes of September 28, 2009 Cannon Beach Meeting**
   Motion: Charles Vars moved to approve minutes as written. Don Haagensen seconded the motion. Motion carried.

4) **Environmental Justice Task Force Briefing:** (Gary Lynch and EJTF members)
   a. **Representative members of the Environmental Justice Task Force**, Kahlid Wahab and Jonathan Oster, briefed the Board on EJTF activities: Information Item. Board considered this agenda item training.
   b. Wahab and Oster outlined the purpose and goals of the Task Force.
   c. Environmental Justice is defined as the fair treatment of all people regardless of race, class, or ethnicity in the areas of environmental benefits
and burdens, as well as access to the processes that affect decisions regarding environmental justice. The Task Force realized the need to break the Task Force into subgroups and brief each agency independently, in a more customized approach. They said that DOGAMI’s role would most likely revolve around information sharing and interagency collaboration. They also mentioned the possibility of including environmental justice language in position descriptions and performance evaluations for managers. Haagensen suggested using environmental justice language in the Key Performance Measures as a top-down approach. Wahab emphasized that the Task Force should be viewed as a resource and collaborative connection rather than an imposing entity.

5) **Board Business:**
   a. **Update on Board recruitment:** *Update Item*
      Don Haagensen and Charles Vars’ terms were up at the end of December and Vars agreed to another term if confirmed. Mr. Douglas MacDougual is the nominee for Don Haagensen’s seat, pending Senate confirmation. MacDougual made a brief statement of his interest to the Board.
   b. **Briefing on Travel Reimbursement Policy for Board members:** *Update Item*
      McConnell outlined the policies for the Board and went over the reimbursement form.
   c. **Farewell to Don Haagensen, Long time Board member:** *Update Item*
      Staff and Board members thanked Don Haagensen for 17 years of service to the Governing Board.

6) **Break**

7) **State of the Agency:** (Vicki S. McConnell, State Geologist)
   a. **Agency activities update:** *Update Item*
      McConnell briefed the Board on recent grants and contracts, publications and outreach efforts, recent meetings and conferences, ongoing Congressional legislation and upcoming state legislation.
   b. **Review of Key Performance Measure Report:** *Update Item*
      McConnell noted that we have 11 Key Performance Measures and are making progress on all of them. We have a new Key Performance Measure 12 and are phasing out KPM 4 – the hazard awareness measure, since we could not figure out a way to measure such a subjective issue. She pointed out that although these KPMs do a pretty good job of what we are doing, they do not cover all the programs and projects we have. For example, we do not have a lidar program KPM, even though we’ve had the program for 4 years now, so there is no way to measure successes and failures on that. Neither is there a flood mapping KPM, nor restoration KPM, nor KPMs for Oil & Gas or Geothermal. So not only can we not measure our progress on these projects, there is no official way to advertise these projects to either
the Governor's Office or the Legislature. McConnell also notified the Board that the whole KPM office has been eliminated by the legislature and the duties have been absorbed by DAS BAM and LFO.

c. Request to initiate a review of Agency Business Plan: Action Item

McConnell briefed the Board on the original business plan of the agency 73 years ago, when the state paid the agency 100% of its budget, and what the reality is today. She noted that we will be facing another round of budget cuts in a month or so, and up until this point we have dealt with the cuts by fund-shifting of staff away from General Funds. She would like to come to the Board in March with an objective plan of different models of what the agency can do. The state used to pay for the agency 100%, therefore they had a right to everything first hand. Now they do not pay for 100% of everything, and we are still based on the outdated business plan from 73 years ago. She would like to bring forward the ability to get receipts authority. McConnell asked for permission to go forward with developing a process of reviewing the agency business plan.

Motion: Vars moved to direct staff to evaluate an alternate business plan for funding for the agency. Phipps seconded the motion. Motion carried.

8) Regulatory Issues: (Gary Lynch, Mineral Lands Regulation and Reclamation Program)

a. Status of rulemaking for aggregate, oil and gas, geothermal laws: Update/Action Item

Lynch and AAG Knudsen briefed the Board on review of necessary geothermal program rules and asked for authority to write said rules.

Motion: Haagensen moved to authorize the department to begin Phase 1 of rulemaking for implementation of Senate Bill 190 for the rules related to geothermal development in the state, and that because of an urgency to provide protection for the resource and for the natural resources and environment of Oregon and to implement the provisions as early as possible, and also because the changes are of a housekeeping nature or of an uncontroverted nature or of a nature that would not involve a significant policy discussion, that we do not use an advisory committee. Vars seconded the motion. Motion carried.

b. Status of transfer of reclamation bonds and permit applications in Columbia County: Update Item

Lynch notified the Board that the transfer is now complete, with few issues. McConnell wanted to recognize the efforts of MLRR and Larry Knudsen in making this as smooth and positive a transition as possible.

c. Summary of operational and enforcement activities for surface mining and oil and gas and geothermal regulatory programs: Update Item

Lynch discussed recent meetings and the possibility of having a workshop in the summer to inform the public about geothermal energy activity in the
state. He mentioned a storm water violation, which is the first enforcement issue with this program shared with the DEQ.

9) **Middle Columbia Steelhead Conservation and Recovery Plan:** (Suzanne Knapp, Natural Resources Policy Advisor, Governor’s Natural Resource Office)

   a. **Informational briefing on the plan and its implementation:**
   
   Information Item. Board considered this agenda item as training.

   Suzanne Knapp gave a presentation to the Board outlining the conservation and recovery plan’s history, the threats the fish face and next steps for the plan.

10) **Set Time and Date for next meeting:** (Board)

    The next meeting will be on Friday, March 26, 2010 in the Portland office.

11) **Additional Public Comment:** (three minutes limit per person unless otherwise specified at the meeting by the Chair)

    Geoff Garcia commented on the presentation by Suzanne Knapp, suggesting that the recovery plan implementation include some geologists.

12) **Break for Lunch**

13) **Consideration of Request for Declaratory Ruling by Board**

    a. Tide Creek Rock, Columbia County, has filed a Request for Declaratory Ruling with the Board in the case of their proposed reclamation bond with DOGAMI for their aggregate operation.

    AAG Knudsen briefed the Board on the background and process involved with the Consideration of Request for Declaratory Ruling. He outlined the types of bonds the state will accept, which are a Performance Bond and an Irrevocable Letter of Credit. Tide Creek Rock would like to use a Property Bond. Knudsen discussed the issues involved with the acceptance of a Property Bond, which include that it goes against agency rules, and that the nature and form of the bond do not have the same level of assurance as a Performance Bond. This was the basis for the agency to decide not to accept the documents proffered by Tide Creek Rock, which were not issued by a licensed security insurer based in Oregon as the rules require and were deemed by the department as not secure. Knudsen noted that the agency is bound to follow the rules unless they are amended.

    Attorney David Williamson, speaking on behalf of the petitioners, argued that the issues are “Can you do it?” and “Should you do it?” He cited ORS 517.810(3), which distinguishes between operators and landowners, in which it says that the department may accept a similar security from the landowner equal to the estimated cost of the reclamation as determined by the department in consultation with the operator in lieu of the bond or other security required of the applicant. He believes the Property Bond submitted is preferable to the Performance Bond. He said the Petersens are land rich
and cash poor, and could not qualify for a security bond or an Irrevocable Letter of Credit.

John and Agnes Petersen briefed the Board on their backgrounds and summarized why they thought they should be allowed to proceed with the Declaratory Ruling, because though unusual, their request is not against the rules. They detailed their repeated attempts to secure a Performance Bond and explained that with the economic situation it is nearly impossible to get.

Knudsen clarified that the Board needed to decide whether or not to approve the request for a Declaratory Ruling. He also said they could request that staff look at other options in more detail or propose a new rule.

Motion: Vars moved to deny the petition for Declaratory Ruling.

Haagensen seconded.

Discussion: Haagensen noted that his second was reluctant, because he did not want to put people in a position where it’s difficult for them to perform a legitimate business. However, with the present statute and rules, he doesn’t see how he could approve the request, because the statutes and rules need to apply equally to everyone.

Motion carried. 4 ayes, 1 no.

14) Adjourn

Action Items:

Lynch will update the Board after visiting Tide Creek Rock.

APPROVED:

Larry Crivens, Chair

Steve Macnab, Vice Chair

Charles Vars

Lisa Phipps

Douglas MacDougal