

**GOVERNING BOARD MEETING
OREGON DEPARTMENT OF GEOLOGY & MINERAL INDUSTRIES**

Friday, February 11, 2011
Portland, Oregon

1) Call to Order:

Chair Larry Givens called the meeting to order at 8:35 am.

2) Introductions:

Board Chair Larry Givens, Vice Chair Steve Macnab and Board Members Doug MacDougal, Lisa Phipps, and Charles Vars were present.

DOGAMI Staff in attendance:

State Geologist Vicki McConnell

Assistant Director Gary Lynch

Assistant Director Don Lewis

Chief Scientist Ian Madin joined after the break

Cartographer Rachel Lyles

Earth Science Information Officer James Roddey

Administrative Assistant Carol DuVernois

Natural Resource Specialist Bob Houston (teleconference for item 7)

In the audience:

Larry Tuttle, Director, Center for Environmental Equity

Rich Angstrom, President, Oregon Concrete & Aggregate Producers Association

1 **3) Approval of Minutes of November 9, 2010 Salem Meeting:** (Board) *Action*
2 *Item*

3 **Motion:** Macnab moved and Vars seconded motion to approve minutes
4 as written. Motion carried.

5
6 **4) Board Business:**

7 **a. Thank you from former Governor Kulongoski:** *Information*
8 *Item*

9 McConnell briefed the Board on the letter from the outgoing Governor.

10 Board members would like to send a thank you letter to Kulongoski from the
11 agency and Board.

12
13 **5) Executive Office and Legislative Assembly Update:** (Vicki S. McConnell,
14 State Geologist)

15 **a. Governor Kitzhaber's and 76th Legislative Assembly's**
16 **Policy Directions for Natural Resources:** *Information Item*

17 McConnell outlined the budget process so far for all the natural resource
18 agencies. There has not yet been a Natural Resource Policy Advisor
19 named, so the Directors are still meeting as a Cabinet, without a member of
20 the Governor's office attending. Governor Kitzhaber asked for a high level

21 draft budget to be submitted by the natural resource group, which was
22 accomplished in a very positive manner. She noted that all fourteen of the
23 natural resource agencies collectively have less than 1% of the General
24 Fund budget and for each dollar put into natural resources you are getting
25 about thirty-seven dollars back. Natural resource Directors have been
26 meeting with stakeholders from industry, private forests, water resources and
27 environmental groups, to discuss natural resource budgets and the
28 stakeholders submitted a letter to the legislature expressing concern
29 regarding the funding of natural resource agencies and the diversion of funds
30 from fees accounts into the General Fund.

31 **b. Overview of Governor Kitzhaber's Governor's Balanced**
32 **Budget (GBB) and DOGAMI-specific budget: *Update Item***

33 Don Lewis gave the Board a detailed presentation of the DOGAMI specific
34 budget for 2011-13 and where it is in the legislative process.

35 **c. Update on SB 122 – relating to DOGAMI funding authority:**
36 ***Update Item***

37 SB 122 was one of the first bills to be heard in committee, as it is considered
38 relevant, non-controversial and has no fiscal impact. The bill passed through
39 the first chamber unanimously. There was a concern from one legislator that
40 any money received by DOGAMI from a non-profit would have strings
41 attached.

42 **d. Overview of other legislation that relates to DOGAMI**
43 **activity and mission: *Information Item***

44 McConnell reviewed recent legislative activity that could have a possible
45 effect on the agency.

46 **6) Break**

47 **7) Regulatory Issues:** (Gary Lynch, Mineral Lands Regulation and
48 Reclamation Program)

49 **a. Status of rulemaking for oil and gas and geothermal laws:**
50 ***Update Item***

51 Lynch wanted to recognize Bob Houston and Vaughn Balzer for the hard
52 work they've done on the Oil & Gas and Stormwater issues. He also
53 mentioned that with Houston's hard work we have gone from zero to forty
54 geothermal permits in the last two years.

55
56 Houston has completed his technical revisions to the Oregon Administrative
57 Rules 632 Division 10-Oil & Gas rules; Division 15-Information & Seismic
58 Test Holes for Oil & Gas; and Division 20-Geothermal rules.

59
60 Division 10 rules have been reviewed by Agency Assistant Attorney General
61 Knudsen (AAG). The next step is for the Division 10 rules to proceed to a
62 Rules Advisory Committee. DOGAMI has identified several individuals to
63 participate on the committee.

64
65 The technical changes to Division 15 rules are currently under administrative
66 review. After the administrative review process, the draft rules will be

67 reviewed by AAG. Because both Division 10 and 15 rules relate to the Oil
68 and Gas program, DOGAMI will hold a Rules Advisory committee hearing
69 consecutively for both divisions.
70

71 Division 20 (second half) of the Geothermal rule drafting process is on the
72 same track as the Oil and Gas Division 10 and 15. The technical changes to
73 Division 20 rules are currently under administrative review. After the
74 administrative review process, the draft rules will be reviewed by the AAG.
75 DOGAMI is currently soliciting participants to take part in the Division 20
76 Rules Advisory Committee. Once a balanced committee has been obtained
77 DOGAMI will proceed with the rules advisory committee.
78

79 The Board would like to see the Draft Rules after the administrative review
80 and the AAG review, but before they are turned over to the Rules Advisory
81 Committee.

82 **b. Summary of operational and enforcement activities for**
83 **surface mining and oil and gas and geothermal regulatory**
84 **programs: Update Item**

85 Lynch discussed operational and enforcement issues, including enforcement
86 updates on Tidewater Sand and Gravel, Coburg Road Quarry, Oregon
87 Resource Corporation (ORC) and Harney Rock.
88

89 **Harney Rock** requested a contested case hearing to dispute the calculated
90 reclamation security bond amount compiled by DOGAMI. DOGAMI staff
91 participated in a teleconference with ODOJ Administrative Law Judge and
92 Harney Rock to discuss the ground rules and set a date for the contested
93 case hearing, which will be March 29, 2011.
94

95 **Tidewater Sand and Gravel:** Tidewater was operating without a 1200A
96 DEQ stormwater permit and drew a complaint. MLRR issued a suspension
97 order. Tidewater backfilled and brought the site back to compliance.
98 Tidewater is reviewing the Stipulated Order about the permit violation.
99 However, the county has denied any further mining on the site.
100

101 **Coburg Road Quarry (CRQ):** The department issued a Notice of Violation
102 (NOV) to the permittee (CRQ) based on the stamped Certified Engineering
103 Geologist slope stability study that concluded that blasting caused impacts to
104 the adjacent property and structures. CRQ requested an informal review by
105 the State Geologist of the particulars of the Notice of Violation. The State
106 Geologist found no issue with the NOV, however she instructed MLRR staff
107 and AAG Kundsén to work with the permittee through the initial stages of the
108 contested case hearing process. CRQ has requested approval to conduct
109 and monitor several test blasts at the quarry in an effort to determine the
110 validity of the slope-stability study submitted on behalf of the adjacent
111 landowner. DOGAMI will contract for the technical expertise to review and
112 approve this Test Blasting Evaluation Plan. The results of the test blasts and

113 accompanying report will be submitted to the department for review and
114 approval. Information in this report will be used to determine if blasting
115 impacted the adjacent property. If it is confirmed that blasting at CRQ
116 caused or threatens to cause impacts to the adjacent property, CRQ would
117 then be required to develop a slope-stability mitigation plan and a structural
118 mitigation plan to stabilize the property and any impacted structures. If it is
119 documented that blasting at CRQ did not cause or does not threaten to
120 cause impacts to the adjacent property, CRQ would be required to submit a
121 phased Operational Blasting Plan to DOGAMI for review and approval prior
122 to commencing blasting operations.

123
124 **Oregon Resources Corporation (ORC):** DOGAMI issued a permit to ORC
125 in late December 2009; other agency permits followed. ORC continues work
126 on construction of their processing plant which is anticipated to be ready for
127 full scale processing operations by June of 2011 at which time mining
128 operations are planned to commence at the South Seven Devils site. The
129 opposition to ORC remains very vocal and active with inquiries to state and
130 federal agencies and has filed suit under the Clean Water Act in federal court
131 against the ACOE and NMFS for issuing the federal approvals for the mining
132 operation.

133 **c. Enerfin Resources Northwest request for spacing unit**
134 **exception at Mist Gas Field: *Information Item***

135 Enerfin Resources applied to drill a second gas production well (Well B)
136 within a spacing unit that was already occupied by an active production well
137 (Well A). Enerfin stated that production from Well A has significantly
138 decreased volumetrically since initially coming online and would be
139 converting Well A to a reservoir monitoring well shortly. Enerfin Resources
140 submitted a letter requesting to change the status of Well A to a monitoring
141 well. The existing Well A will now monitor the gas reservoir pressure and
142 gas-water contact elevation. DOGAMI has conditioned this new monitoring
143 well (Well A) to not allow any gas to be produced until an exception to the
144 spacing unit has been first obtained. After applying this condition to the new
145 monitoring Well A, DOGAMI was able to proceed through our normal
146 permitting process on the new production well (Well B).

147
148 **8) State of the Agency:** (Vicki S. McConnell, State Geologist)

149 **a. Update of Agency activity by State Geologist: *Update Item***

150 McConnell briefed the Board on recent activity in the agency, including
151 project grant proposals and approvals, completed or near complete projects,
152 recent meetings, conferences, staffing changes and released publications.

153 **b. Financial Report for Agency activity through end of 2010:**
154 ***Information Item***

155 Lewis reported on the financial state of the agency. The end of the calendar
156 year 2010 puts us 75% through the 2009-2011 biennium. We have conducted
157 a financial review of our ongoing revenue and expenses for both programs.
158 The agency is on track to finish the biennium with sufficient ending balances

159 and continuing projects into the next biennium and within the revised
160 Legislatively Approved Budget (revisions reflect both cuts to General Funds
161 and increase in Other Fund and Federal Fund spending limitations).
162

163 Board member Doug MacDougal introduced the idea of partnering DOGAMI
164 with OMSI to have OMSI display information about lidar and its derivatives in
165 the museum. He volunteered to liaise with OMSI to increase our outreach
166 efforts. Vice-Chair Macnab suggested including the High Desert Museum
167 and the Aquarium in Newport. McConnell suggested including the Tillamook
168 State Forest Center as well. MacDougal will follow through with his contact
169 at OSMI to confirm interest.

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

171 The next meeting will be on Friday June 24, 2011 in Portland.
172

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

175 Rich Angstrom, President of Oregon Concrete & Aggregate Producers
176 Association, briefed the Board on the Association's perspective on the
177 Natural Resource agency consolidation discussion going on in Salem.
178 OCAPA is not in support of the idea, and would like for there to be continued
179 consolidation of responsibility, and there needs to be regulatory streamlining.
180 He will be talking to the legislature about permitting overlaps. Permitting is
181 very technical and rigorous, but does not need to have multiple agencies
182 looking at the same issue. Everybody wins if we have the right experts who
183 can render the opinions.
184

185 Angstrom also informed the Board that they have signed the letter to the
186 Governor and the Co-Chairs of the Ways & Means Committee asking them
187 to not sweep funds from fees for the budget. The Association feels that if
188 you are going to ask an interest group to fully fund a program, the fees
189 should stay with the program.
190

191 Angstrom also asked for details of the fund shift for MLRR administration,
192 and for information on succession planning for when senior administrative
193 employees retire.
194

195 Larry Tuttle, the Director of the Center for Environmental Equity, which
196 monitors mineral applications on public lands, and finding responsible parties
197 to clean up residues left behind from abandoned mines. Tuttle urged the
198 agency to not get involved in suction dredge mining. He believes the permits
199 do little to protect streams and waterways, and that the permittees, who must
200 keep records or logs, are not required to submit them to anyone for review.
201 He also believes that there is a disconnect between the permitting agency,
202 DEQ, and the enforcement agency, the State Police. CEE will challenge that
203 aspect of the permit with the EPA.
204

205 Tuttle wanted to mention the Formosa Silver Butte Mine. The mine is a
206 superfund site, there is an impasse between the BLM and the EPA and there
207 are no funds for clean up.

208
209 Tuttle also warned the agency to be aware of any strings attached to grants
210 they may receive.

211

212 **11) Adjourn**

213

214 **Action Items:**

- 215 1. Board will write a letter of thanks to former Governor Kulongoski.
216 Done.
- 217
- 218 2. Staff will contact Senior Policy Coordinator Brenda Bateman from
219 Water Resources to see if she will talk to the Board about the Oregon
220 Water Supply and Conservation Initiative.
- 221
- 222 3. MLRR will share draft rules with Board before they go to the Rules
223 Advisory Committee.
- 224
- 225 4. Decide when next Governing Board KPM & Director's Evaluation
226 should be.
- 227
- 228 5. Set up landslide inventory maps and the political implications of those
229 maps as a future meeting topic.
- 230
- 231 6. Send Angstrom details of the fund shift for MLRR administration, and
232 for information on succession planning for when senior administrative
233 employees retire.
- 234
- 235 7. MacDougal will follow through with his contact at OSMI to confirm
236 interest in displaying information about Lidar and its derivatives.

237

238 APPROVED:

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242 _____
Larry Givens, Chair

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Steve Macnab, Vice Chair

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Charles Vars

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Lisa Phipps

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Douglas MacDougal