GOVERNING BOARD SPECIAL MEETING
OREGON DEPARTMENT OF GEOLOGY AND MINERAL INDUSTRIES

July 28, 2020
8:30 a.m.

Teleconference Public Meeting Agenda

To adhere to the state’s social distancing requirements and to slow the spread of COVID-19, this public meeting will be conducted as a virtual meeting. Written testimony can be submitted in advance, but no later than 10:30 a.m. on the meeting day to lori.calarruda@oregon.gov. Written comments received will be distributed to the Board.

Dial: 1-253-215-8782
When prompted, enter ID number: 936 9973 2251
If prompted for a Password: 829721

Governor Brown’s Executive Orders

The Board makes every attempt to hold strictly to the sequence of the distributed agenda. Times and topics may change up to the last minute. This agenda is available on the DOGAMI website: www.oregongeology.org.

8:30 a.m.    Item 1:    Call to Order – Chair Laura Maffei

8:35 a.m.    Item 2:    Introductions – Chair Laura Maffei and staff

8:40 a.m.    Item 3:    Review 2021-23 Agency Request Budget (ARB) – Dania Ballard, Chief Financial Officer
                    Board Action: The Board will be asked to take an action on this item

9:40 a.m.    Item 4:    Civil Penalties – Sarah Lewis, MLRR Program Manager
                    Board Action: The Board will be asked to take an action on this item

10:10 a.m.   Item 5:    Public Comment
                    Only written comments received prior to or by 10:30 a.m. on the day of the meeting will be accepted

10:20 a.m.   Item 6:    Board Adjourn

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PLEASE NOTE

AGENDA
The Board meeting will begin at 8:30 a.m. and proceed chronologically through the agenda. Times listed on the agenda are approximate. At the discretion of the chair, the time and order of agenda items—including addition of intermittent breaks—may change to maintain meeting flow.

PUBLIC TESTIMONY
For this special meeting, only written comments will be accepted.

REASONABLE ACCOMMODATION OF DISABILITIES
Please contact us at least three business days prior to the meeting to let us know if you need reasonable accommodations. Contact the Director’s Office at (971) 673-1555 to make your request.
Staff Report and Memorandum

To: Chair, Vice-Chair, and members of the DOGAMI Governing Board

From: Dania Ballard, Chief Financial Officer

Date: July 22, 2020

Regarding: Agenda Item 3 – Review 21-23 Agency Request Budget (ARB)

Dania Ballard, Chief Financial Officer, will review the 21-23 Agency Request Budget (ARB) for DOGAMI.

Proposed Board Action: The Board will be asked to take an action on this item.
TO:        DOGAMI Governing Board
FROM:      Dania Ballard, Chief Financial Officer
DATE:      July 24, 2020
SUBJECT:   AY23 Agency Request Budget Revision

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AY23 Agency Request Budget

On July 13, 2020 the DOGAMI Governing Board was presented a draft of the AY23 (July 1, 2021 – June 30, 2023) Agency Request Budget (ARB). Information supporting the ARB has been delayed due to multiple system issues stemming from an AY21 split-year budget approval process.

However, as of Friday, July 24, 2020, the AY23 ARB has been thoroughly reviewed and is materially correct. The operational narrative that supports DOGAMI’s budget ask has not changed. However, the DOGAMI AY23 ARB has been revised (increased) to reflect true budgetary needs. For Board consideration, the graphics and tables of the following pages represent the substance of DOGAMI’s Agency Request Budget. The Board will be asked to approve this budget ask.

The DAS audit is anticipated to be completed by July 31, 2020. Once the audit is complete, specific reports including corrected historic data will be generated to complete the ARB documentation for submission.
Summary of AY23 Agency Request Budget Revisions

Agency Summary Narrative

Budget Summary Graphics (07/13/2020 version for comparison)

2021-23 Agency Expenditure Estimates by Section

Agency Summary Narrative

Budget Summary Graphics (07/24/2020 final budget numbers)

2021-23 Agency Expenditure Estimates by Section
Budget Summary Graphics (07/13/2020 version for comparison)

2021-23 Distribution by Fund Type

Comparison of 2019-21 Legislatively Approved Budget (as of April 2020) with the 2021-23 Agency Request Budget
Budget Summary Graphics (07/24/2020 final budget numbers)

2021-23 Distribution by Fund Type

Comparison of 2019-21 Legislatively Approved Budget with the 2021-23 Agency Request Budget
## Program Prioritization for 2021-23 (107BF23)

Summary of total budget changes:

<table>
<thead>
<tr>
<th>Program Prioritization</th>
<th>07/13/2020 Version for Comparison</th>
<th>07/24/2020 Final Budget Numbers</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Lidar</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Fund</td>
<td>$ 15,142</td>
<td>$ 173,692</td>
</tr>
<tr>
<td>Other Fund</td>
<td>$ 871,047</td>
<td>$ 871,047</td>
</tr>
<tr>
<td>Federal Fund</td>
<td>$ 3,192,329</td>
<td>$ 3,192,329</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ 4,078,518</td>
<td>$ 4,237,068</td>
</tr>
<tr>
<td><strong>GSS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Fund</td>
<td>$ 6,485,318</td>
<td>$ 6,407,753</td>
</tr>
<tr>
<td>Other Fund</td>
<td>$ 2,024,232</td>
<td>$ 2,027,080</td>
</tr>
<tr>
<td>Federal Fund</td>
<td>$ 3,116,424</td>
<td>$ 3,117,332</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ 11,625,974</td>
<td>$ 11,552,165</td>
</tr>
<tr>
<td><strong>MLRR</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Fund</td>
<td>$ -</td>
<td>$ -</td>
</tr>
<tr>
<td>Other Fund</td>
<td>$ 3,498,550</td>
<td>$ 5,216,421</td>
</tr>
<tr>
<td>Federal Fund</td>
<td>$</td>
<td>$ -</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ 3,498,550</td>
<td>$ 5,216,421</td>
</tr>
<tr>
<td><strong>Grand Total</strong></td>
<td>$ 19,203,042</td>
<td>$ 21,005,654</td>
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</tbody>
</table>
Revenue Forecast (07/13/2020 version for comparison)

Revenue Forecast Graphic

2021-23 Agency Wide Funds by Source (excluding General Funds and Lottery Funds)

Revenue Forecast (07/24/2020 final budget numbers)

Revenue Forecast Graphic

2021-23 Agency Wide Funds by Source (excluding General Funds and Lottery Funds)
Geological Survey & Services (GS&S) Program Executive Summary

Program Funding and Request (07/13/2020 version for comparison)

<table>
<thead>
<tr>
<th></th>
<th>2021-23</th>
<th>2023-25</th>
<th>2025-27</th>
</tr>
</thead>
<tbody>
<tr>
<td>GF</td>
<td>$6,500,460</td>
<td>$6,929,207</td>
<td>$7,389,322</td>
</tr>
<tr>
<td>OF</td>
<td>$2,895,279</td>
<td>$3,048,753</td>
<td>$3,211,475</td>
</tr>
<tr>
<td>FF</td>
<td>$6,308,753</td>
<td>$6,683,769</td>
<td>$7,084,052</td>
</tr>
<tr>
<td>Total</td>
<td>$15,704,492</td>
<td>$16,661,730</td>
<td>$17,684,849</td>
</tr>
</tbody>
</table>

Program Funding and Request (07/24/2020 final budget numbers)

<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>GF</td>
<td>$6,581,445</td>
<td>$7,016,229</td>
<td>$7,482,860</td>
</tr>
<tr>
<td>OF</td>
<td>$2,898,127</td>
<td>$3,051,718</td>
<td>$3,214,562</td>
</tr>
<tr>
<td>FF</td>
<td>$6,309,661</td>
<td>$6,684,714</td>
<td>$7,085,036</td>
</tr>
<tr>
<td>Total</td>
<td>$15,789,233</td>
<td>$16,752,662</td>
<td>$17,782,457</td>
</tr>
</tbody>
</table>

Geological Survey & Services (GS&S) Program Executive Summary

Comparison to 2019-21 Funding (07/13/2020 version for comparison)

This 2021-23 budget increases the Agency’s GS&S Program total funding support from 2019-21 by $1,897,235.

Comparison to 2019-21 Funding (07/24/2020 final budget numbers)

This 2021-23 budget increases the Agency’s GS&S Program total funding support from 2019-21 by $1,972,055.
Geological Survey & Services Program Unit Narrative (07/13/2020 version for comparison)

- 2021-23 Expenditures: $15,704,492
  - $6,500,460 GF
  - $2,895,279 OF
  - $6,308,753 FF

The program is 58.6% funded by Federal Funds and Other Funds.

Geological Survey & Services Program Unit Narrative (07/24/2020 final budget numbers)

- 2021-23 Expenditures: $15,789,233
  - $6,581,445 GF
  - $2,898,127 OF
  - $6,309,661 FF

The program is 58.3% funded by Federal Funds and Other Funds.

Mineral Land Regulation & Reclamation (MLRR) Executive Summary

Program Funding and Request (07/13/2020 version for comparison)

<table>
<thead>
<tr>
<th></th>
<th>2021-23</th>
<th>2023-25</th>
<th>2025-27</th>
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<tbody>
<tr>
<td>GF</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
</tr>
<tr>
<td>OF</td>
<td>$ 4,497,689</td>
<td>$ 4,808,890</td>
<td>$ 5,143,629</td>
</tr>
<tr>
<td>FF</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
</tr>
<tr>
<td>Total</td>
<td>$ 4,497,689</td>
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</tbody>
</table>

Mineral Land Regulation & Reclamation (MLRR) Executive Summary

Program Funding and Request (07/24/2020 final budget numbers)

<table>
<thead>
<tr>
<th></th>
<th>2021-23</th>
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<tbody>
<tr>
<td>GF</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
</tr>
<tr>
<td>OF</td>
<td>$ 5,216,421</td>
<td>$ 5,553,690</td>
<td>$ 5,915,275</td>
</tr>
<tr>
<td>FF</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
</tr>
<tr>
<td>Total</td>
<td>$ 5,216,421</td>
<td>$ 5,553,690</td>
<td>$ 5,915,275</td>
</tr>
</tbody>
</table>
Mineral Land Regulation & Reclamation (MLRR) Executive Summary

Comparison to 2019-21 Funding (07/13/2020 version for comparison)

This 2021-23 budget increases the Agency’s MLRR Program total funding authority from 2019-21 by $727,216.

Comparison to 2019-21 Funding (07/24/2020 final budget numbers)

This 2021-23 budget increases the Agency’s MLRR Program total funding authority from 2019-21 by $1,445,948.

MLRR Program Unit Narrative (07/13/2020 version for comparison)

- 2021-23 Expenditures: $4,497,689 OF,

MLRR Program Unit Narrative (07/24/2020 final budget numbers)

- 2021-23 Expenditures: $5,216,421 OF,

ATTACHMENTS:

AY23 Un-audited Agency Request Budget
Staff Report and Memorandum

To: Chair, Vice-Chair, and members of the DOGAMI Governing Board

From: Sarah Lewis, MLRR Program Manager

Date: July 22, 2020

Regarding: Agenda Item 4 – Civil Penalties

Sarah Lewis, MLRR Program Manager, and Cari Buchner, Mining Compliance Specialist, will present program recommended Civil Penalties.

Proposed Board Action: The Board will be asked to take an action on this item.
Steps for proceeding with Civil Penalties

DOGAMI Governing Board
July 28, 2020 Meeting
Notice of Civil Penalty issued

- Respondent has 20 days to request a hearing
  - If a hearing is not requested the Notice becomes Final Order by default
  - Penalty due in 10 days
What if they request a hearing?
• DOJ facilitates referral to Office of Administrative Hearings
• Opportunities to resolve informally and reduce penalty throughout process

What if they don’t pay?
• A lien can be placed on the respondents real property
• The past-due civil penalties can be referred for collections
• If any portion of the civil penalty is not paid, 9% interest will accrue
Violations:

• Exceeding 5 acres of disturbance
• Mining With Out a Permit (MWOP)
• Violating Suspension Order

Water quality violations have been referred to DEQ
Classifying Violations for Morgan Creek

• **Exceeding 5 acres of disturbance – Class 4**
  • Disturbance of 10 acres. Operating permit required. EC denial clearly and repeatedly communicated.
  • One violation

• **Engaging in and allowing MWOP – Class 4**
  • Excavation, stockpiling, hauling materials without a permit
  • Multiple documented violations

• **Violating Suspension Order – Class 1**
  • Excavation, stockpiling, hauling materials in violation of Suspension Order
  • Multiple documented violations

• **Assessed to both operator and landowner**
### Determining magnitude of violation

**Mitigating factors (-)**
- Voluntary disclosure
- Magnitude of the harm
- Voluntary compliance

*Note: aggravating and mitigating factors may be reconsidered based operator’s response and actions taken to come into compliance*

**Aggravating factors (+)**
- Economic benefit derived from the violation
- **The number of violations**
- Magnitude of the harm
- **Previous similar violations**
- Pattern of conduct

<table>
<thead>
<tr>
<th>Violation Classifications</th>
<th>Reduced (EEO*)</th>
<th>Median</th>
<th>Maximum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class 1</td>
<td>$ 250.00</td>
<td>$ 500.00</td>
<td>$ 1,000.00</td>
</tr>
<tr>
<td>Class 2 (Includes repeat Class 1 Violations)</td>
<td>$ 750.00</td>
<td>$ 1,500.00</td>
<td>$ 3,000.00</td>
</tr>
<tr>
<td>Class 3 (Includes repeat Class 2 Violations)</td>
<td>$ 1,500.00</td>
<td>$ 3,000.00</td>
<td>$ 6,000.00</td>
</tr>
<tr>
<td>Class 4 (Includes repeat Class 3 Violations)</td>
<td>$ 3,000.00</td>
<td>$ 6,000.00</td>
<td>$ 10,000.00</td>
</tr>
</tbody>
</table>

* Expedited Enforcement Offer (EEO)
## Total occurrences for each violation

<table>
<thead>
<tr>
<th>Documentation</th>
<th>Violation</th>
<th>Number of Occurrences</th>
<th>Penalty Per Occurrence</th>
<th>Total Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aerial imagery, Disturbance in excess of 10 acres</td>
<td>Exceeding 5 acres of disturbance without an Operating Permit</td>
<td>1</td>
<td>$10,000</td>
<td>$10,000</td>
</tr>
<tr>
<td>EC application received 2/24/20 reported 2,000 cy of production</td>
<td>Mining Without a Permit</td>
<td>1</td>
<td>$10,000</td>
<td>$10,000</td>
</tr>
<tr>
<td></td>
<td>Suspension Order Violation</td>
<td>1</td>
<td>$1,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>06/03/20 Inspection report, Photos E-2019-08 and E-2019-10</td>
<td>Mining Without a Permit</td>
<td>1</td>
<td>$10,000</td>
<td>$10,000</td>
</tr>
<tr>
<td></td>
<td>Suspension Order Violation</td>
<td>1</td>
<td>$1,000</td>
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<tr>
<td>06/03/2020 Inspection Report</td>
<td>Mining Without a Permit</td>
<td>1</td>
<td>$10,000</td>
<td>$10,000</td>
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<tr>
<td></td>
<td>Suspension Order Violation</td>
<td>1</td>
<td>$1,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Trail Cam Photos 4/28/20, 5/7/20, 5/16/20; 5/28/20, 6/27/20</td>
<td>Mining Without a Permit</td>
<td>5</td>
<td>$10,000</td>
<td>$50,000</td>
</tr>
<tr>
<td></td>
<td>Suspension Order Violation</td>
<td>5</td>
<td>$1,000</td>
<td>$5,000</td>
</tr>
</tbody>
</table>
Economic Benefit and Industry Context

The numbers below provided are for context only and do not represent actual economic cost or benefit.

Regulatory fees avoided since 2013 (~$16,115)
  • DOGAMI Operating Permit Fees & Renewals = $7250
  • DEQ NPDES 1200A Permit = $8865

Possible profit made since 2013 (unknown)
  • Estimate based on Operating Permit threshold
  • 5,000 cy/yr * 7 years = 35,000 cy

Cost to come into compliance now (~$51,500)
  • DOGAMI & DEQ Permit fees = $6500
  • Consultants for Stormwater plan and implementation= $5,000-15,000
  • Permit Boundary Survey Map = $5,000-15,000
  • Geotechnical study and report = $5,000-15,000

Potential civil penalties from DEQ for water quality violations
Program Recommended Civil Penalty:

- Calculated based on violations since July 1, 2019
- (maximum penalty amount for each classification) * (a subset of total occurrences) =
- $98,000 (Landowner)
- $98,000 (Operator)
- The penalty amount may be reduced by mitigating factors, to no less than the Expedited Enforcement Offer amount ($29,000 per respondent)