GOVERNING BOARD MEETING MINUTES
OREGON DEPARTMENT OF GEOLOGY AND MINERAL INDUSTRIES

Friday, December 4, 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 8:33 a.m.

2) Introductions: (Laura Maffei, Board Chair and Staff)
Chair Laura Maffei, Vice-Chair Katie Jeremiah, and Board Members Scott Ashford and Linda Kozlowski were all in attendance via Zoom video/phone. Diane Teeman was not in attendance.

Department of Geology and Mineral Industries (DOGAMI) Staff in attendance:
Brad Avy, Director/State Geologist
Lori Calarruda, Recording Secretary/Executive Assistant
Dania Ballard, Former Chief Financial Officer (CFO) now with DOJ
Bob Houston, GS&S Program Manager/Legislative Coordinator
Sarah Lewis, MLRR Program Manager
Vaughn Balzer, Rules Coordinator/Floodplain Reclamationist
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
Amira Streeter, Policy Advisor Governor’s Office
Christina Appleby, DOGAMI staff on personal time and as DOGAMI’s SEIU Sub-Local President
Dorian Cooper, Cooper Consulting

3) Review Minutes of September 25, 2020:
Chair Maffei asked if there were any changes to the minutes as presented. No changes.

Board Action: Ashford moved to approve the minutes of September 25, 2020 as submitted. Kozlowski seconded. Motion carried.

4) Confirm 2021 Board Meeting Dates:
Lori Calarruda, Executive Assistant and Chair Maffei presented the proposed 2021 Board meeting dates. Currently all meetings are anticipated to be held via Zoom or take place in Portland. The Board confirmed the suggested dates.

The 2021 DOGAMI Board Meeting Dates:
March 12, 2021 (Friday) – Zoom/Portland, OR

June 25, 2021 (Friday) – Zoom/Portland, OR

September 17, 2021 (Friday) – Zoom/Portland, OR

December 10, 2021 (Friday) – Zoom/Portland, OR

5) Rule Writing:

Sarah Lewis, MLRR Program Manager, introduced Vaughn Balzer, Floodplain Reclamationist and Rules Coordinator, to discuss the proposed rules for HB 2202: Aggregate Mining on High Value Farmland in the Willamette Valley. She reminded the Board that in September 2019 the MLRR program requested permission to initiate formal rulemaking and has provided updates on the process. The Rules Advisory Committee (RAC) began in June 2020. The proposed rules have come out of the RAC process and require Board approval to finalize the draft rules prior to submitting them to the Secretary of State for public notice and comment.

Balzer stated the law became effective on August 1, 2013 (ORS 517.825). The legislation and statute are intended to limit the impacts to high value farm soils from mining in the Willamette Valley by requiring operators to mine substantially all of the significant aggregate resource for sites on land composed of predominately Class 1 and 2 soils, The statute and draft rule are specific to sand and gravel, not rock quarry.

The concern of losing high value farmland to mining has been a long-standing issue. In 2005 DOGAMI contributed to a report titled, “Preliminary Summary of Aggregate Mining in Oregon with Emphasis in the Willamette River Basin” prepared for the Aggregate and Agriculture Consensus Group by the Institute for Natural Resources at OSU HB 2202 is the latest attempt to address the loss of high value soil to mine excavation within the Willamette Valley.

DOGAMI convened a Rules Advisory Committee to provide stakeholder input on the draft rule language. The RAC was made up of representatives from the Department of Land Conservation and Development, Department of Agriculture, Oregon Concrete and Aggregate Producers Association (OCAPA), Oregon Farm Bureau, Department of Justice (DOJ), and DOGAMI. Three meetings were held between June and October of 2020 and the RAC deliberated for 7 hours on the draft rules. These meetings were open for the public to listen in, although public input was not collected during the meetings. The Secretary of State’s office will post the rule for public notice and comment period after the draft rule is submitted by DOGAMI. The RAC process was very informative and helpful in clarifying the legislative intent in drafting the rule to be consistent with the purpose of ORS 517.825.

Balzer said the biggest challenge was defining the terms “predominantly” and “substantially all”. “Predominantly” will apply to new or amended sites composed predominantly of Class 1 and 2 soils. The final draft rule does not associate a percentage with the term because a specific percentage could not be agreed upon during the RAC process. OCAPA and the Farm Bureau preferred not having a percentage. DOGAMI will use the Webster’s Dictionary definition for the term “predominantly” and a site-specific evaluation of soil class to implement this rule. “Substantially all” is defined as approximately 90% of the significant aggregate resource (sand and gravel) determined to be available underlying the high value farm soils. Defining the term as approximately 90% allows DOGAMI limited...
discretion when approving the mine plans or the final closure of the site. “Substantially all” has two main requirements. The first requirement is a gravel removal plan detailing how “substantially all” of the significant aggregate resource is proposed to be excavated must be included as part of the application process and approved by DOGAMI. If not met, the application will be denied. The second requirement is at the end of mining, via a report that must demonstrate that “substantially all” the significant aggregate resource has been removed and if not met, DOGAMI will refuse to close the permit.

Balzer said consensus was received on most but not all aspects of the rule. This specific rule is not retroactive, it does not apply going backwards, it will apply from the point it is approved going forward. For the period between August 1, 2013, when the statute became effective, to now, those few sites that were permitted will be obliged to follow the requirements that were put in the permit conditions of their permits.

Ashford asked Balzer for clarification on what the issue was, and if farmland is going to be disturbed, do they take all the aggregate and only disturb it once. Balzer said yes and further explained the concern. Chair Maffei said she thought the concern was miners were only coming in and scraping off the easy aggregate and not taking everything, meaning more surface area and soils would be disturbed later. Balzer agreed with her statement.

Ashford asked, for the RAC, where was consensus not reached. Balzer said it was the term “predominantly” and defining a specific percentage to go along with it. Chair Maffei asked if DOGAMI was wanting to assign a percentage to the term. Balzer explained the initial draft language did include a percentage of “greater than 50%”.

Board Action: Maffei moved to approve submission of the draft rule to the Secretary of State to initiate formal Public Notice/Public Comment. Ashford seconded. Motion carried

6) Civil Penalties:

Sarah Lewis, MLRR Program Manager, discussed the Civil Penalties being brought to the Board for approval to proceed.

Lewis provided an update on the Mining Without a Permit Civil Penalties cases, approved earlier this year. The process is moving relatively slowly. On November 4, 2020, the cases were referred to the Office of Administrative Hearings (OAH). On November 18, 2020, DOGAMI filed a motion to consolidate the two cases. Consolidation of the cases into one hearing should result in significant cost savings due to their similarity. The judge will still issue separate proposed orders, even if the cases are consolidated. A pre-hearing conference has been scheduled for December 17, 2020, which is a logistical administrative process. Erica Hamilton, with DOJ, has been working on the cases.

Lewis explained the Non-Payment of Renewal Fee - Civil Penalty Fact Pattern Matrix format has been changed to make it easier to understand. The order has been reversed to reflect the current cases at the top, and numbers added instead of relying on Site IDs to identify the cases to reduce confusion. The timeline for the number of dates provided has been compressed related to internal tracking and expanded the columns to better reflect the staff’s recommendation and what the Board approves. The cases previously discussed at each meeting have been grouped together between solid dark lines
and the gray shading indicates the items have been resolved; open items are white or have no shading. The Board appreciated the format change.

Lewis stated all four cases presented today have not paid late in the last 3 years. Item 21 is an operating permit that is in the process of being transferred. The current permittee did not pay the renewal fee and staff think there was a miscommunication about responsibility of payment; the receiving permittee has paid the fee and it is no longer delinquent. Due the situation, staff are requesting the Civil Penalties be waived.

Items 20-18 are all Exclusion Certificates (ECs), that do not require an Operating Permit. The Agency has not previously pursued Civil Penalties for ECs. Even though they are delinquent, the fees are very small, staff do not feel it is worth the effort to go after Civil Penalties and recommend the penalties be waived. Going forward DOGAMI will need to consider how to handle ECs with respect to Civil Penalties and going after payment.

Chair Maffei and Ashford said the penalties look straightforward to them.

Board Action: Jeremiah moved to allow staff to waive the Civil Penalties on all the presented cases. Ashford seconded. Motion carried.

7) Grant Tracker Update:

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

Houston explained that when the Agency receives a grant award, it develops a final budget for completing the grant. The hours specified for each task are put into personal tracking sheets and also summarized in the Grant Tracker, to allow staff to see how many hours they have to work on a project. Houston said it also shows him who has too many hours or not enough and he can then find other qualified staff to fill in the gaps and re-navigate the workload.

Houston went through an example to show how the Grant Tracker works. It allows the hours to be rebalanced as new work comes in, projects forward the anticipated hours to complete the grants and projects, identifies staff that do not have enough hours in the system, and finds hours on other projects that are available. He said the goal is to book staff for 80% of project work instead of General Fund. He then contacts the project managers to see how they can collaborate to get projects done.

Jeremiah asked how often the reporting is done. Houston said there is a monthly rollup of actuals from payroll for the previous month. Houston asked Steve Dahlberg, Fiscal Analyst, to provide an update. Dahlberg said the timing will be approximately 2.5 weeks after the month closes. Ashford asked if there is a comparison for the month on the projected versus the actuals in the Grant Tracker. Dahlberg said yes, staff are being asked to keep their projections in place, which are then compared with actuals to find the difference. Ashford asked about the table that was shown that went back to 2019 and if it was actual or projected. Houston said it was projected. The previous times shown in the sheet are actuals.
Jeremiah asked how many grants each staff member will be working on in a month, her concern is if they are reporting actuals on a monthly basis and working on more than three projects it would be difficult to keep accurate information on what they worked on. Houston said the expectation is staff will record their hours worked on each project, so the projects are accurately billed and invoiced. He said there are some staff who can work on more than three projects, especially those who might be working on reviewing internal documents for publications. For example, Deb Schuller, the Publications Coordinator, touches every single grant.

Ashford asked if the rest of staff’s time is billed to General Fund if it is not charged to projects and if there is a target for different employees on how much time is charged to grants versus General Fund. Houston said the target for all GS&S staff is to bill 85–95% to grants/projects and there is a need to use some General Fund to charge for administrative work. Ashford asked if the staff work overtime. Houston said staff members are not authorized to work overtime.

Maffei asked if the Grant Tracker is now being rolled out and fully implemented. Houston said they have been utilizing these sheets in a more focused way since October, but he had been working in it manually going back to February.

Chair Maffei said she appreciated seeing the tool and it makes sense to her.

**Briefing: No Board Action Required.**

8) **Governor’s Recommended Budget (GRB) Update:**

Chair Maffei asked Director Avy to provide a brief introduction. Avy said the Governor’s Recommended Budget came out Tuesday. Amira Streeter joined staff the day before (Monday) and provided a high-level summary of the GRB to staff, informing them of the decision of the Governor’s Office and DAS to abolish the Department and move the programs into other agencies. It includes a transition year that starts July 1, 2021 and ends June 30, 2022, which at that point, all agency functions would be residing in the Department of Environmental Quality (DEQ) for MLRR, and the Department of Land Conservation and Development (DLCD) for the remaining GS&S staff. If staff are not included in the transition year, their employment would end on June 30, 2021, which is not a lot of time for staff to find positions. There are four staff members that will be part of the transition year that will not continue after June 30, 2022. Avy said this is one step in the process and it still needs to go to the Legislature, so there may be a different outcome.

Jeremiah said she had concerns that all the work the Agency has done evaluating the various scenarios to keep things on budget and having extensive conversations with Streeter to give the Agency an opportunity to right the ship has been a waste of time just to have a unilateral decision to abolish the Agency. It was a heavy lift getting stakeholder’s support for a very significant fee increase, with the commitment the Agency was not going to be abolished. Then with no stakeholder outreach, all of a sudden, the Agency is going to be abolished. Jeremiah said she has a lot of explaining to do to stakeholders regarding the significant fee increase they supported.

Amira Streeter, Policy Advisor Governor’s Office, introduced herself and provided an overview of the Governor’s Recommended Budget. Streeter stated the Governor’s Recommended Budget came out on December 1, 2020, that she did have conversations with DOGAMI staff and administration before the budget came out and expressed to them what the request was from the Governor. The
Governor’s Budget will provide 1 year of funding to DOGAMI, at the end of the fiscal year the budget will shift the agency operations to the Department of Land Conservation and Development and the Department of Environmental Quality. The MLRR program will be shifted to DEQ and the GS&S program to DLCD. The transition will start July 1, 2021, with details that still need to be worked out. DOGAMI will receive a reduced budget for the first year of the biennium then cease to exist as an independent agency on June 30, 2022.

Streeter said 2020 has had numerous challenges, the State budget and revenue has been intensely impacted due to the COVID-19 Pandemic, and agencies have been asked to take steep cuts. Both programs have had their funding challenges. The GS&S program has been struggling for a number of years, as it becomes more and more reliant on grant funding and is unable to rely on the Legislature for General Fund requests.

Streeter said her first recommendation for DOGAMI was to right the ship and correct/fix the grant work. She feels DOGAMI was very successful in that request and said, “no one can argue that the work was not done sufficiently or efficiently, and it is actually quite an amazing feat to see the budget be fixed and retooled to make sure that the Agency was more sustainable”. The staff has worked hard, but due to the COVID-19 Pandemic, the Governor’s Office really thought it would be best to continue DOGAMI’s journey down this path. She said it is not because DOGAMI is not appreciated by the State for its work and expertise, they know that it is recognized across the nation and internationally for its scientific work, but as a small agency, it really has not been as strong as it could be and that this is an opportunity to make sure that DOGAMI is not whittled down to nothing.

Streeter stated a lot of this is said with a caveat that it still needs to go through the legislative process, and the Legislature could make recommendations about how they want to see the transition happen or potentially not happen. This discussion will happen during the 2021 legislative session.

Streeter stated they really want to preserve the work that DOGAMI has done and believes that the work can be duplicated under a different structure. Moving the GS&S program to DLCD makes a lot of sense to her because DOGAMI is the center for geological mapping and those tools, and there is a nice intersection in alignment between land use and geologic mapping. DOGAMI has been the expert in natural disasters and where they occur, and there is interest in including fire mapping. Merging DLCD and DOGAMI’s expertise in systems together, could open the doors to creating very powerful tools that the State just does not have right now, such as being used for vulnerability assessments with different demographics, in different regions across the state. She believes building up a bigger system would be absolutely beneficial to the entire state and to the public. She stated DLCD also has the infrastructure to provide grant support. They have a few federal grants and it would be a nice continuation to align the grant funding that DOGAMI already gets into the work that DLCD is doing.

Streeter said the MLRR program is supported by other funds and fees. Sarah Lewis has done a really great job of leading that team, but it has struggled, and Sarah has to give a lot of her time individually to handle permits. There is a struggle to do that work in the most efficient way possible. Moving it under DEQ would provide better support to do that work because it is a bigger system. She sees this as a smaller and more efficient government.

DOGAMI has been limping along for a few years now. If COVID had not greatly hurt the State budget, she did not think this conversation would be happening and DOGAMI would be in a better place in a couple of more biennia. But the circumstances are not great, and they are having to start getting creative with their options.
Jeremiah said with all due respect she thinks it is highly convenient that Streeter can come in and say all these points with such conviction, that it seems like this decision was made by the Governor’s Office from the very beginning and lip service was used to get the fee increase. Then to turn around and move the Agency to other notoriously enforcement driven agencies that do not provide technical support like DOGAMI has provided so well over the years. Jeremiah said the fact that budgets will be cut but the stakeholders will still be charged the same amount; she finds it outrageous and she is extremely disappointed and feels like it was a giant waste of her time to be involved in these conversations.

Streeter said she is sorry Jeremiah felt that way, but it was not something already cooked and baked from the beginning, it was worked right up until the last minute to make a decision. As to the fee point, she completely understands that perspective. Streeter said when she was presented with this option, by the DAS financial office, her first thought was, “Oh my gosh I can’t believe I spent like almost my whole two years working on this to get to this point”. It is incredibly disappointing. One thing that had been requested was an ePermitting system, her understanding is DEQ will be having a similar enhanced IT system that will benefit the stakeholders. Streeter reiterated the caveat that this is not a done deal.

Ashford thanked Streeter for attending and said one of his biggest concerns is moving MLRR into DEQ, which is enforcement driven whereas DOGAMI is a real customer service-oriented agency. His concern is how this will impact the stakeholders since it has a different culture. Streeter said she believes this can be addressed during the transition phase to work out how exactly the mining program will function within a new structure.

Streeter said she believes the fee increase conversation would have still been had since DEQ operates under fees as part of their mix. Jeremiah said the difference is, and she could be mistaken, that DEQ recently did a unilateral fee increase without any input from stakeholders. DEQ is an agency that is enforcement driven, fee driven, and there is no relationship with stakeholders. She thinks the customer service element will be entirely lost with the culture of the agency, as Board member Ashford stated. Streeter said she understands that Ashford and Jeremiah would like to see the Agency maintain that direct stakeholder outreach and technical assistance, even when it comes to potential fees or additional costs. She thinks that is something that can be addressed.

Kozlowski said she strongly supports the comments made. She remembers asking if the Board could work with the Governor’s Office and was told yes, but that did not happen. The fact that that Board has not been part of the discussions, there has been no outreach, and that it has been a top down decision, is very disappointing. Kozlowski understands this a very difficult period of time, and that very difficult decisions are being made, but doing so without any stakeholder input is something that she thinks will have long-term ramifications, and not necessarily positive ones. DOGAMI is world class in terms of their expertise and ability to deal with both natural hazards and working with the community. The Agency is a valued asset for the community, and this will have negative impact on the public. Kozlowski had questions on what positions will be moved to DLCD, how the transition will work, and how supportive the Governor is going to be in at least trying to reach out to the public to get some input that will inform her, in terms of the importance of communication and education and studies moving forward.
Streeter apologized for not engaging the Board more about the decision. She said to be completely transparent, a lot of these decisions are made with input that puts the budget at the top of the line and then the Governor’s priorities. The Legislature could turn around and say no—DOGAMI is a valued asset and we like how they are operating right now, instead of shifting them we are going to give them more funding. She feels like that would be a very difficult conversation to have, but it is definitely an option. In terms of the natural disaster work that DOGAMI is doing, she does not see that significantly changing in their transition to DLCD. It is actually a really nice nexus between that department and DOGAMI about how they handle natural disasters. For the staff makeup, the proposal is to have 22 staff members for the transition year, then shift to 18 total, with 7 staff moving to DLCD, and the entire MLRR program of 11 staff moving to DEQ.

Kozlowski asked for more specifics regarding what level of positions will be moving to DLCD. She personally feels that a good percentage of the grants that the Agency gets for natural hazards and natural hazard mitigation, is due to the fact that DOGAMI’s reputation is renowned worldwide, which is not necessarily the case with other departments within the State. She asked Streeter if she sees that impacting the grant applications and did the fact that DOGAMI is funded significantly by grants have any impact on the decision itself.

Streeter answered the grants are really unstable. DOGAMI’s leadership has spent a lot of work to figure out how to fix those dynamics, including creating the Grant Tracker system, and by also narrowing down the number of grants the Agency will receive. DLCD also applies for grants, so she thinks there is a good nexus there to continue that reputation, just in a different structure. She was hesitant to say which positions would be let go because it is not a done deal. Streeter stated Director Avy could share the list with the Board.

Avy said during the transition year, there will be 22 positions that carry forward. The entire MLRR group moves to DEQ, and the 4 positions that will be part of the transition year but not staying on are the Director, Executive Assistant, IT GS&S, and CFO. The 7 that will carry forward into DLCD, are the continuation of the Program Manager, Grant Accountant, and 5 core function areas – coastal hazard, statewide mapping, FEMA related hazard work, and then one or two additional in support of those functions. Lidar will not be part of the transition. Renee Klein, DAS CFO Analyst, confirmed the positions.

Kozlowski asked if that means the state will no longer do lidar. Avy responded there is ongoing interest within other agencies to have a lidar program, but specific to DOGAMI that would no longer be a function of the Department after the end of the current biennium. DOGAMI’s lidar consortium, which is the concept of starting with a core area and adding to it by engaging partners to participate and cobbling together a larger aerial extent, will not continue into the transition year.

Chair Maffei said this transition will have an impact on the Board, but until the Agency no longer exists the Board will need to continue to have input on keeping operations going. It will still need to keep doing things, like rulemaking, or other substantive work that the Board is required to do.

Avy provided part of his Director’s Update that was tied to this discussion so Board member Kozlowski could hear what his thoughts are going forward before she had to depart the meeting. Avy said the GRB is of course not what the Agency was working toward, but DOGAMI is in a much better operational position to hand off to other agencies. As an executive branch agency, the Department and the Board are expected to support the Governor’s Recommended Budget. He said the challenge
before the Agency is to navigate the uncertainty of whatever the final budget might be. On one hand
a transition focus for potentially the Governor’s Recommended Budget as is, to everything in
between being a pretty unpredictable range of alternatives, which will impact future grant work. For
example, if the Agency writes a grant from the perspective of 7 staff moving into DLCD, the scope of
work will have to be significantly less than if the grant were written with existing Agency staffing.
DOGAMI will likely need to offer two versions going forward. One with the reduced staffing, and one
with existing staffing, because if the Legislature does not accept the GRB, DOGAMI does not want to
be in a position of having an Agency, but not having laid the groundwork for sufficient staff funding.
It will be too late in spring to try and revise those grants and DOGAMI will likely lose the opportunity.

Another example is the Agency’s biennial Affirmative Action Plan. It is the type of document that you
have to get specific about roles, responsibilities, and accountability within the Agency which is a
challenge given the Agency’s uncertainty. The 6-year Strategic Plan for 2022-2028 needs to be
addressed as well, but it could also be unnecessary.

The most immediate concern and pressing issue is the huge impact on staff and their morale and
stress levels related to personal financial stability, especially those that have 6 or 7 months with the
Agency with no guarantee beyond that, who need to be making decisions about applying for other
positions. There could be a drain of staff in the interim that affects DOGAMI significantly, particularly
if the Agency does continue. There will also be an impact because of commitments already made on
grants that the Agency would not have the staff to complete the work. The larger impact is likely if
the Agency continues and a significant portion of the staff have moved on to other positions.

Another item is the heightened communication need within the Agency related to this topic. The
Agency is on a really tight budget and every time there is an All-Staff meeting, it affects the General
Fund, but they are absolutely necessary, and it is another stress on internal operations. All-Staff
meetings have been scheduled every 2 weeks for the foreseeable future as GRB check-ins. There are
a lot of implications when you go from 39 to 18 staff and the accompanying loss of capacity to do the
GS&S work. The reality is that to a degree, the Agency will be living in two worlds, keeping the
potential option open that the Agency might continue and not putting it in future financial jeopardy.
Once it becomes widely known, the question from the grant funders will likely be, given the
uncertainty how do you know you can deliver. Also, the recent loss of DOGAMI’s CFO has an
immediate impact and DOGAMI will manage the best it can, but it will make it difficult to get talent
on board when there is a pretty large question mark over the future of the Agency.

Kozlowski is extraordinarily and extremely disappointed with where the Agency is right now and with
the lack of communication from the Governor’s Office. She appreciates the willingness of Avy to stay
on for the transition and thanked him for his work and effort to try and keep the Agency going.

Streeter said she appreciates the feedback. She knows this conversation is incredibly difficult and
there is a long road of struggle ahead of the Agency. This is not the first time an agency has been
merged or shifted to another agency in the State’s history. She knows it feels really personal and
hard right now, but it is about the budget and there are some really challenging decisions to be
made. Streeter said she hears everyone loud and clear, and just wants to make sure they understand
she knows where they are coming from. She thanked the Board for their time and the Board thanked
her for attending.
Chair Maffei allowed verbal public comment from Dorian Cooper, because Streeter was only in attendance for a short period of time. Public comments are normally limited to only written comments and held at the end of the meeting due to the virtual meeting format.

Cooper stated she is an engineering geologist who has worked with MLRR and the Portland office since 1990. The focus of her engineering geology is literally designing mining and reclamation plans, so her work has been overlapped and reviewed by DOGAMI and MLRR for the applicants. She has seen a lot of changes over the years, but they have been absolutely fantastic to work with, as staff are very much outreach folks and problem solvers. She is concerned that MLRR being moved into DEQ will have an impact on customer service. As outside consultants, the Portland office is an important group they rely on for technical expertise and up-to-date technical information. The recent years of lidar has tremendously improved the understanding of where landslides are, debris flows, flooding potential, and now with all the fire issues, not to mention the research work regarding earthquakes and tsunamis. She is very concerned about losing some of the folks at DOGAMI in the Portland office, that it will really impact long term Oregon population and understanding potential hazards in Oregon. She hopes the Governor’s Office will look at this again and work with DOGAMI to find a better way to handle these changes. She thanked the Board for allowing her to speak at the meeting.

Chair Maffei thanked Cooper for her comments, the Board appreciates hearing from the consulting community who relies on DOGAMI’s work.

Briefing: **No Board Action Required.**

9) **Financial Report:**

Chair Maffei stated Board member Linda Kozlowski had to leave at 11:00 a.m., saying she had expressed her gratitude to hear Amira Streeter’s report to the Board and being able to provide her comments on it before she left.

Dania Ballard, former Chief Financial Officer, presented the DOGAMI FY 2021 Budget Status Report, as of September 30, 2020, for the Geological Survey and Services (GS&S) and Mineral Land Regulation & Reclamation (MLRR) programs. As of December 1, 2020, Ballard started a position at the Department of Justice and Steve Dahlberg has assumed fiscal processing, budgeting, and monitoring duties in the short term.

Ballard provided a recap of the FY21 current status. The General Fund ending balance of $229,584 is due to vacancies and continued budget control. Other Funds has an ending balance of $285,028.

Ballard stated the FY21 projected MLRR ending balance of $328,460 is due to the fee increase taking effect January 1, 2021. Ashford asked to clarify if the MLRR program is strictly fee funded with only minimal support from administration. Ballard answered it is completely Other Fund generated, which means there are fees from permitting and the cost recovery program for Grassy Mountain. Lewis said there are also funds for administering the DEQ stormwater permits on mine sites, which has been established through a Memorandum of Understanding (MOU) with DEQ. Ashford asked if the MLRR program is self-contained, other than the general administrative support from the Business Office. Ballard said that is mostly true, the MLRR Program Manager and staff are purely fee based funded, but there is Agency overhead for the Director and fiscal administration to facilitate the
program. If there were a potential change, the overhead and fiscal administration would come from the next agency. Ashford asked if some work has been done for MLRR that is charged to General Fund, specifically related to the digitization of mining records. Houston said the digitization of historical drilling and mining records was a GS&S grant-funded project, not funded through General Fund.

Ballard said the Strong Motion Instrument Fund has an ending balance of $305,282. There are 58 Cash Securities in the Reclamation Guarantee Fund for an ending balance of $612,054.

Ballard said regarding current status, all outstanding grant financial reporting has been completed and is current to date. The project management tool is continuing to provide better ability to schedule and provide oversight on the progress of the projects. Ballard said she has taken a role at the Department of Justice and is sad to be leaving but is proud and honored for her time with DOGAMI. As of December 1, 2020, Steve Dahlberg has taken the fiscal lead and assumed fiscal processing, budgeting, and monitoring duties in the short term. Ballard said she is incredibly proud of the fiscal team and changes they have been able to make regarding expectations, operational structure, fiscal awareness, grant tracking, and timeliness of processing everything. She thanked them for the efforts over the last year.

Ballard said it has been amazing to watch the learning curve the Project Managers have had over the past year of gaining the awareness of tracking their projects and becoming in tune with the whole budget minded way of doing business. The Leadership Team has had such dedication in enhancing and enforcing the structure of operations. The Agency has really come a long way over the past year and a half and is in a much better position of operational compliance, no matter what the future holds. She thanked the Board for the opportunity to work with them and the Agency.

Jeremiah said Ballard should be proud for the work she has done over a short period of time; she has done a phenomenal job. She thanked Ballard for her efforts in making the financial data understandable and wished her the best of luck. Ashford agreed and said she did a great job. Chair Maffei agreed with Jeremiah and Ashford and recognized the mountain of work she stepped into and has worked through. Maffei is sad to see her leave, but happy she found another position, lucky DOJ. Avy thanked Ballard for her efforts, all the hours she worked, enduring the frustration taken out on her by folks for things before her time, and taking it in stride saying, “Not a problem, we’ll figure it out. It’ll be a great day tomorrow”.

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

10) **MLRR Update:**

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

Please note, included in this packet is the ENGAGe Fall 2020 newsletter, containing the permit fee changes effective January 1, 2021, being sent out with permit renewals. It can also be found online: https://www.oregongeology.org/mlrr/engage.htm

**Permit Status Summary**
Lewis stated active applications are up this quarter with 37, which is typical for the second quarter of every year and related to new project work starting, amendments or transfers at the end of the summer season. She said it might also be related to the new fee increase going into effect January 1, 2021. Lewis stated nine are transfer applications, and she does not see this as an ongoing increase or long-term trend resulting in a backlog of applications. Transfer applications are generally completed in a couple of months and she is not concerned with staff’s capacity to handle the workload.

Lewis introduced revised maps that move the compliance activity portion from the overview map to show them in a new map by number of compliance actions per site. Some sites have five or six actions and may take longer to resolve. She said due to COVID there are not a lot of site inspections to uncover other issues that might be happening.

Lewis reminded the Board the Permit Fee increase was approved in the August Special Session and takes effect January 1, 2021. She discussed the efforts made by staff to get information out to permittees. They prepared and implemented a coordinated notification effort, including the newsletter that is in the packet and sent out with current renewals. In October they started sending out a fee notification letter to each 2021 renewal permittee for January through March, so a minimum 90-days’ notice has been given to every permittee. The letter notifications will be going out month by month and is expected to be completed by the end of January. The updated fee schedules for each permit type are posted on the website as well. Staff have the newsletters and information to share with anyone who calls in with questions. She is very proud of the work staff has done. They do expect a lot of phone calls once the renewal letters go out in January and have set aside staff time specifically allocated for follow-up with permittees who have concerns.

**Grassy Mountain Update**

Lewis said regarding Grassy Mountain, it is going well and proceeding at a faster pace. There are quarterly meetings being held with the Chief Financial Officer and Project Manager to compare budget to actuals. Steve Dahlberg is the Agency’s lead financial support for the project. The invoicing and payments are up-to-date. One notable thing, both Calico and DOGAMI agreed the rigor and transparency of the process is sufficient and jointly acknowledged the budget figure for management of this project. DOGAMI submitted a budget a year ago on December 29, 2019 and the Agency has not spent the entire amount. Calico has suggested MLRR do a cost change to the scope of work, so Lewis will be working with DOJ to develop.

Additional information has been submitted on Grassy Mountain for state review, including the revised Wildlife Baseline Data Report. DOGAMI submitted a request to the Legislature for a part-time limited duration Chemical Processing Mining Coordinator to take over the project management role, which is on the agenda for the E-Board scheduled for December 11, 2020.

Hopeful item: For ePermitting, DEQ has a system that is about to go live that may allow MLRR to have a platform on it. In the Governor’s Recommended Budget, DOGAMI’s legislative concept for ePermitting has not been recommended to move forward due to the proposal to move to DEQ. Lewis had spoken directly to DEQ’s Chief Information Officer, who was supportive and hopeful about including DOGAMI effort’s into DEQ’s testing of EDMS, not knowing about the GRB. They are almost at go live for the first module and was supportive about the possibility of including MLRR’s need into a module in the next couple of years, at potentially half the cost.
Lewis stated the Board has brought up several times the KPMs and site inspection numbers. MLRR had an unexpected opportunity to participate in a State enterprise-wide (DAS Enterprise Information Services or EIS) pilot study using Planet Labs imagery, which is satellite based, on demand, and almost daily imagery of the entire state. The program had access to daily statewide medium resolution and on demand high resolution imagery. MLRR reported back to EIS their results of their study in November. Staff used it to follow up on complaints when they received calls by going in and accessing the previous day’s image at high resolution to see what was happening. Two complaints were resolved without doing site visits. Lewis said the program received 50 complaints over the past 4 years. In situations where the review of satellite imagery could assess the need for a site visit, there could be approximately a $1,000 savings in staff time on each complaint.

Their GIS specialist did a rapid assessment of all 1014 permitted mine sites, completed it in 10 hours, and identified 190 mine sites that needed additional attention, meaning 824 sites appear to be operating as expected. This is not something the program can do with inspectors on the ground with their current staffing. This type of assessment would allow them to prioritize those 190 for site visits as capacity is available to do so, which could turn up problems that will increase their workload, but the imagery access allows that assessment. Lewis stated aerial review was part of the program KPM during 2000-2015, but was removed after 2015 due to funding. With reduced site inspections due to application workload and the loss of this tool, it has resulted in the poor performance of the KPM. If the statewide project moves forward, MLRR would have the opportunity to either buy in or have full access if funded at the State level.

One of the case studies staff also used it for was looking at boundaries to assess the needed reclamation securities. Lewis explained that maps are submitted at the beginning of the application process, if they are not checked for several years, the program does not know if outlines have changed, and without accurate boundaries they will not know what to bond for. This is part of every routine transaction, transfer, amendment, new application, to reassess reclamation bonds. But if they do not go out they do not reassess the bonds. The aerial imagery would allow them to do that in between site inspections.

Some reclamation bonds are very out-of-date and using Planet Labs imagery MLRR calculated a cumulative reclamation security risk to the Department in the millions of dollars. Lewis said it is a low likelihood of occurrence, but it is a high cost. MLRR has only had to reclaim and use the reclamation bond three times in the last 10 years. The next step for the statewide project is for EIS to take it to the Legislature as part of a coordinated effort that includes county assessors. Lewis thanked the Board for their support.

Chair Maffei said she thought there might be some privacy issues related to the high-resolution imagery, but that is up to the Legislature to determine. It has been used in the past, so she finds it intriguing.

Briefing: No Board Action Required.

10) GS&S Update:

Bob Houston, GS&S Program Manager and Legislative Coordinator, provided an update on the GS&S program.
Houston said since the last update to the Board the Agency has had six new publications. A natural hazards risk report in the Lower Columbia Sandy River Watershed; an earthquake and tsunami impact analysis for coastal Clatsop County; a natural hazard risk report for Lincoln County; a statewide landslide information database layer for the SLIDO interactive map; a release of a landslide hazard risk study in Tillamook County; and a landslide inventory for a portion of Marion County.

To date 19 publications have been released in 2020 and staff are working on eight more for 2020 related to STATEMAP, multi-hazard risk reports, and landslide reports. They are focused working on projects and developing new ideas for future projects. Staff have been responding to the wildfires of 2020 by participating with the Erosion Threat Assessment and Reduction Team (ETART) and Geotechnical Extreme Events Reconnaissance (GEER) Association to conduct landslide – debris flow assessments in the burned areas. Bill Burns has been the lead for the Agency.

There was need to allocate General Fund dollars for Burns to do the work to ensure it was covered. The Agency is going after two grants to support landslide work in the burned areas. Houston said with having the Agency rely so heavily on grants and budgeting staff at 85-95% chargeable time, it does not allow staff to participate, provide expertise, and alert emergency responders or local communities of potential hazards for areas that are not tied to grants. The Agency is navigating the challenges as they come up, and for this one, Burns has been leveraging his partnerships and professional relationships to see where some funding might be available at the federal level to complete this work.

Chair Maffei asked how long into the future is the landslide project work going to continue and what will it encompass. She is curious if it is just mapping, mapping and analysis, and will there be a report done out of it. Houston said it is one that is expected to go several years into the future, to identify and observe any changes in those areas after storms and annually by driving the same routes. Those reports are rolled up into the ETART and GEER teams. Maffei asked if this will guide future assessments or be providing information about where the hazards are. Houston said it will help improve the understanding on how burned areas respond to rain events and reactivation of existing slides or debris flows in those areas or new occurrences. Houston suggested having Bill Burns present to the Board on ETART in the future, stating there is not a lot of understanding on the rain event triggers that cause debris flows, especially in the burned areas due to the loss of vegetation. Maffei reiterated that more wildfires are expected in the future.

Briefing: No Board Action Required.

12) Director’s Report:

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

Governor’s Recommended Budget (GRB)

Avy said he already shared what he wanted to discuss on the GRB and the legislative session during the earlier Governor’s Office GRB update. He mentioned there is an All-Staff meeting this afternoon and staff are understandably stressed and want to know which positions are impacted, especially those that would be eliminated at the end of June. Leadership has received approval to share this information with staff. Typically this is done on a one-on-one basis, but that opportunity has passed since it is already public knowledge. The GRB has a huge impact on staff and Avy emphasized the
Agency needs to be supportive. He mentioned Sherry Lauer, with HR, has offered to help work with other agencies to find positions for staff.

Jeremiah said she acknowledges and has empathy for the staff. Ashford said this is a difficult time and very stressful due to the unknown. Chair Maffei said she wanted staff to know they have the Board’s support.

Avy mentioned the possibility that Board meetings may be affected and dates could change. He also stated the affected positions are listed by number, and under the union contract, the current staff in those positions could change due to bumping rights.

Chair Maffei said she expects the March and June meetings to continue because there are still business items that need to be done, including the Director’s Review at the next meeting. Maffei asked Jeremiah if she would be willing to stay on the Board for a little longer. Jeremiah answered yes.

Jeremiah asked if the State Geologist position is being eliminated. Avy said no, just the Director’s position but he does not know how that will play out.

Ashford asked, related to the legislative session, if there is a boundary between the Legislature and Governor’s Office for the changes to the Agency. Avy said for the State Geologist position, the role and expectations are in statute. The Legislature could elect to modify this and other agency responsibilities, but the Governor would need to sign off. He believes this is one reason for the transition year.

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Briefing: No Board Action Required.

13) Public Comment:

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

14) Board Adjourn:

Chair Maffei adjourned the meeting at 12:10 p.m.

APPROVED

Laura Maffei, Chair