

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

Monday, March 10, 2014
Portland, Oregon

1) Call to Order: (Larry Givens, Board Chair)

Chair Givens called the meeting to order at 8:30 am.

2) Introductions: (Larry Givens, Board Chair and staff)

Board Chair Larry Givens, Vice Chair Douglas MacDougal and Board Members Lisa Phipps, and Dennis Luke were present. Charles Vars is no longer attending meetings, though he has not yet been replaced by the Governor's Office.

DOGAMI Staff in attendance:

Vicki McConnell, State Geologist

Gary Lynch, Assistant Director, MLRR

Andree Pollock, Assistant Director, GS&S

Rachel Smith, Project Operations Manager

Larry Knudsen, Assistant Attorney General, DOJ

Carol DuVernois, Executive Assistant

Others:

Larry Tuttle, Center for Environmental Equity

Randy Jones, Dept of Environmental Quality

1 Prior to agenda item 3, there was a motion to amend the agenda to add Agenda Item
2 5e: Summary of Legislation, and to add a Public Comment item prior to Agenda Item
3 7a, which is an action item.

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5 **Motion: Luke moved to approve the agenda as amended. MacDougal seconded the**
6 **motion. Motion carried.**

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8 **3) Approval of Minutes of November 25, 2013 Portland Meeting:** (Board) *Action Item*

9 **Motion: Luke moved to approve minutes as distributed. Phipps seconded. Motion**
10 **carried.**

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12 McConnell reviewed the action items from the minutes. HB2202 draft rules are not
13 yet ready for distribution. DEQ Director Pedersen will be invited to meet with the
14 Board at the next meeting.

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16 **4) Board Business:**

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a. Update on Board nominations: *Information Item*

18 Chair Givens noted for the record that the Director’s Evaluation has been completed
19 and sent to DAS.

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21 The agency has sent recommendations to the Governor’s Office for Vars’ seat on the
22 Board. The Governor’s Office has not yet made a recommendation to the Senate.

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24 MacDougal’s seat on the Board has expired and he will not serve a second term, but
25 will stay for one or two more meetings while we look for a replacement.

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27 **b. Discussion of letter from Center for Environmental Equity:**
28 ***Information Item***

29 Chair Givens asked Larry Tuttle, the Director for the Center of Environmental Equity
30 for comments, which he submitted in written form and are part of the public record.
31 Tuttle disagrees with the Board’s decision that Mr. Jones stays on the Technical
32 Review Team, but accepts the decision. He believes there is a dangerous precedent
33 being set that will blur the political offices of the state with the permitting process.
34 He believes that the roles of independent agencies will erode and the Governor’s
35 Office policy of inserting themselves into the decision making processes of agencies
36 is a dangerous precedent. The dual role of Mr. Jones is part of that dangerous
37 precedent, and he doesn’t believe the state should be making these types of
38 decisions based on the personalities that happen to be involved at the particular
39 time. If Mr. Jones continues on in the Grassy Mountain application process, Tuttle
40 will continue to point out where he believes there are conflicts. He believes there
41 are a lot of conflicts, and if the staff and Board decide differently he will accept that.
42 He believes Mr. Jones’ presentation to the legislature was clearly as an advocate for
43 the project rather than an advocate for the process.

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45 Luke noted that many people who are involved in both sides of the decisions have a
46 better perspective. He understands Mr. Tuttle’s point, but doesn’t see it as a
47 conflict. Chair Givens noted that as a current County Commissioner, he is often in a
48 dual role of regulation and advocacy.

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50 Tuttle responded that the difference here is that a technical evaluation should be
51 free of political influence and development interest.

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53 Chair Givens then asked Randy Jones, from the Oregon Department of
54 Environmental Quality, and acting as the department’s liaison for the Northeast and
55 Greater Eastern Regional Solutions Center in La Grande, for comment. He believes
56 that Mr. Tuttle’s raising of this issue is timely and an important consideration for all
57 the members of the TRT and the Project Coordinating Committee in the context of
58 chemical mining rules in Oregon. It is always a consideration as an agency person in
59 a permitting role to ensure that there is clear objectivity within committees. In
60 regard to DEQ’s role he needs to make absolutely sure that the respective rules for
61 chemical mining under DOGAMI or DEQ are enforced.

62 Phipps noted that it is not uncommon to have people sitting on advisory committees
63 that wear multiple hats, and clarified with Jones that his role as co-chair is primarily
64 as a facilitator and his vote holds no more weight than any others. Jones also stated
65 that he has no pecuniary interest in the company. Chair Givens said that the notion
66 of the Oregon Solutions Teams is to solve regional problems, no matter what they
67 are, not just for economic development.

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69 MacDougal wanted to know why Tuttle believes Jones has a conflict of interest
70 merely by virtue of his position in DEQ, without any economic or financial
71 involvement.

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73 Tuttle responded that there are no public members on the TRT. He sees the
74 Regional Solutions Centers staff as extensions of the Governor's office, and that is
75 where he sees the conflict.

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77 Phipps asked if Jones was advocating for the project when he testified in front of the
78 House Interim Committee on Agriculture and Natural Resources, on September 25,
79 2013. Jones said that his testimony was on behalf of the TRT and explained the
80 process, the status of the project, and its next steps. He noted that he is excited
81 about his role for DEQ and in the context of regional solutions, and for the state of
82 Oregon. However there are rules that guide the process and approvals that might be
83 issued.

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85 McConnell asked AAG Knudsen to clarify what staff's and agencies' responsibilities
86 are when it comes to conflict of interest. Knudsen said that Oregon does have a very
87 strong conflict of interest law that is financially based, that if a person or a person's
88 family member has a financial interest in something then that can preclude making
89 governmental decisions. That is not what we have at issue here; these are policy
90 issues, not legal issues.

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92 Luke noted that people in local government run into this all the time, and must be
93 able to work within the framework of the rules.

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95 **5) State of the Agency:** (State Geologist & Agency Staff)

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

97 McConnell briefed the Board on the agency's recent activities including new and
98 completed projects, staffing changes, meetings and conferences attended by staff
99 and the recent staff engagement survey. The results of the engagement survey are
100 being digested by management at this time and the results will be brought to the
101 Board in the future.

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103 **b. Financial Report for Agency activity through January 2014:**
104 ***Information Item***

105 Pollock reported on the financial status of the agency for the last quarter.

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c. Review of ongoing projects: *Update Item*

McConnell introduced the list of projects and corresponding maps. Pollock pointed out the lack of projects in eastern Oregon because we are not getting the investment from the federal government or others. However, we continue to pursue lidar in order to get data, so the eastern side of the state will have the same tools as the west side.

d. Agency Strategic Plan Workgroup: *Update Item*

The workgroup met for a full day meeting to work out the draft language of the new Strategic Plan. There are several subcommittees that have been assigned to work on the Vision, Goals and Objectives. The workgroup will get together in mid-April and bring a draft to the Board at the next meeting. We will then send it out to staff and stakeholders for feedback.

e. Summary of Legislation: *Update Item*

The legislative session ended on time. There were not many bills that had a direct effect on the agency, other than statewide policy bills, and HB4015B that codifies Regional Solutions into a program.

6) Break

7) Regulatory Issues: (Gary Lynch, Mineral Land Regulation and Reclamation Program)

a. Agency is requesting the Board adopt draft administrative rules for implementation of HB 2248; relating to chemical process mining regulation: *Action Item*

Prior to discussion, the Board allowed for Public Comment. There was no Public Comment.

Lynch briefed the Board on rulemaking process and the comments received during the public comment period held after the public hearing on December 5, 2013. The Board was given a list of comments submitted and the agency's response to each comment. AAG Knudsen noted that the draft rules had not changed appreciably since the Board last saw them in September. There was only one minor change due to public comment. McConnell reminded the Board that these rules do not affect any mining done below the high water line on any waterway in the state; those are regulated by the Department of State Lands. After brief discussion the Board moved to adopt the rules.

Motion: Luke moved to adopt amendments to Division 35 and Division 37 as sent out in attachment (a) to the staff report. MacDougal seconded. Motion carried.

McConnell briefly outlined the status of draft rules for HB 2202, which involved aggregate mining on high value farm land, making sure they mine deeply enough to mine the area out, rather than take only the easily removed aggregate and move on to disturb more surface area.

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Motion: Phipps moved to have staff move forward with preparing draft rules to implement HB 2202 (2013). Luke seconded the motion. Motion carried.

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

Mining Enforcement:

MLRR issued a Notice of Violation (NOV) to the operator of the Harrington Quarry near Sodaville (DOGAMI permit ID 22-0100). The operator has been cooperative, and concerned citizens are working with the agency. The permit violation deals with possible off-site impacts as a result of blasting. MacDougal asked if we should regulate blasting somehow. Knudsen explained that our mission is based on the concept of reclamation rather than environmental well-being. However, reclamation is defined broadly to include offsite impacts, so if rocks are falling outside the permit boundary, that is an offsite impact. The tool for reclamation is bonding, but is not a very good regulatory tool for preventing damage from blasting.

Mining Update:

Permit numbers are holding around the 900 mark, and we are making solid progress on reaching our key performance measure.

The low water year has produced minimal stormwater issues.

The DOGAMI MLRR awards for 2013 are moving along with the Award Selection meeting toward the end of May.

We continue to participate on the State Sage Grouse Conservation plan; a draft version is expected around June. Currently the BLM is developing their Resource Management Plan. Ultimately, and hopefully, the two policy plans will be melded into a well-coordinated Sage Grouse Policy for the State.

Geothermal or Oil & Gas Enforcement:

There are no enforcement actions related to the Oil and Gas or Geothermal Programs at this time.

Geothermal Update:

Since the last update to the Board, the department has received one Geothermal Well application (Olene Gap, Klamath County) and one Geothermal Well Modification application (Paisley), and has issued one Geothermal Well application (Olene Gap, Klamath County). Olene Gap is moving forward with a 10 megawatt plant, so there may be a unitization request in the near future. The current number of geothermal permits is 29; there are 6 Geothermal Prospect permits. To date, 25 Geothermal Well applications and 3 Geothermal Prospect Well applications remain under review.

193 Over the previous three years, Surprise Valley Electric (SVE) has drilled three
194 production wells near the town of Paisley in central Oregon. SVE has submitted a
195 modification application to convert one of their production wells to allow for the
196 reinjection of geothermal resource back to the production zone. If approved, this
197 permitting action would allow produced geothermal waters to be circulated back to
198 the production zone, replenishing the source to balance the geothermal hydrologic
199 system.

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201 Oil & Gas Program Update:

202 Since the last update to the Board, the department has received one Oil and Gas
203 Seismic Program permit application (Mist Gas Field), and closed one gas well after it
204 was properly decommissioned. The total number of active Oil and Gas permits
205 remains 105, with one Oil and Gas Seismic program permit. Currently, 4 Oil and Gas
206 well applications, and one Seismic Program application remain under review.

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208 **c. Calico/Grassy Mountain Gold prospect permitting activity: *Update***
209 ***Item***

210 There is not much happening with Grassy Mountain. There was one subcommittee
211 meeting of the Technical Review Team. There was an attempt by Rock Star mining
212 to buy Calico and it does not seem to have gone through, however we do not track
213 those issues.

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215 **8) Review of Policy Option Package concepts for 2015-17 budget** (Vicki McConnell,
216 State Geologist)

217 **a. Overview of policy initiative concepts the agency have developed in**
218 **preparation for drafting the 2015-17 Agency Request Budget: *Action***
219 ***Item***

220 We will be developing an Agency Request Budget through a process similar to this
221 biennium with the same budget outcomes as defined by the Governor's 10 Year
222 Plan. We know there have been some revisions to the process to streamline and
223 better align with the existing state budget system.

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225 In preparation for development of the DOGAMI Agency Request Budget, McConnell
226 briefed the Board on five Policy Option Package concepts. These concepts are to
227 continue ongoing programs such as the Lidar Data Acquisition Program and to ask
228 for investment by the state into our geologic hazards programs: flood, landslide, and
229 earthquake seismic hazards. McConnell also brought forth the possibility about
230 asking for a POP for mineral resource and geothermal assessments. We have shown
231 over the last decade that our cooperative project business plan is workable but with
232 no direct investment by the state we are unable to focus on state priorities or fully
233 leverage federal and other funds.

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235 **Motion: Phipps moved to authorize staff to move forward with Policy Option**
236 **Packages outlined and to develop the additional POP for mineral resources and**
237 **geothermal assessments. MacDougal seconded. Motion carried.**
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239 **9) Set Time and Date for next meeting: (Board)**

240 The next meeting will be held Monday, June 16, 2014 in Portland.
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242 **10) Additional Public Comment: (three minutes limit per person unless otherwise**
243 **specified at the meeting by the Chair)**

244 Larry Tuttle discussed Calico Resources. The pending sale fell through because the
245 buyer did not come up with the second down payment, but they are actively
246 looking for another buyer. The pace of whatever they are doing will slow down
247 considerably and he would be surprised if they invest very much in data collection
248 and he doubts that Calico will spend much if they are marketing the asset.
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250 Quartz Mountain, in southern Oregon, has had a lot of interest over the years, but
251 does not give up its gold very easily. It is in a mercury overlay zone, so there are
252 some issues there. Last year, a group called Orsa Ventures started a process of
253 exploration permit with the Forest Service. Since then it has been sold to Alamos
254 Gold, which has indicated an interest in proceeding. It appears that the forest end
255 of the exploration permit has been approved, which means that the state permit
256 can be processed. So it may be that the file a Notice of Intent in 2015.

257 **11) Adjourn**

258 The meeting was adjourned at 11:57 am.
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260 **Action Items:**

- 261
- 262 1. Invite Dick Pedersen to present at the next meeting.
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 - 264 2. Figure out a good place to have the fall meeting (Hood River, Baker City, ?)
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APPROVED:

Larry Givens, Chair

Douglas MacDougal, Vice Chair

Lisa Phipps

Dennis Luke