

**GOVERNING BOARD MEETING MINUTES
OREGON DEPARTMENT OF GEOLOGY AND MINERAL INDUSTRIES**

Friday, June 25, 2021

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, and Board Members Scott Ashford and Linda Kozlowski were all in attendance via Zoom video/phone. Vice-Chair Katie Jeremiah and Board Member Diane Teeman were not in attendance.

Department of Geology and Mineral Industries (DOGAMI) Staff in attendance:

Brad Avy, Director/State Geologist

Lori Calarruda, Recording Secretary/Executive Assistant

Steve Dahlberg, Chief Financial Officer (CFO)

Bob Houston, GS&S Program Manager/Legislative Coordinator

Sarah Lewis, MLRR Program Manager

Cari Buchner, Mining Compliance Specialist

Others in attendance:

Sherry Lauer, DAS Human Resources Business Partner

John Paschal, DAS Executive Recruiter

Pete Pande, Pivotal Resources

Brittany Sale, Pivotal Resources

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 Kuper – Kuper Consulting

1 **3) Review Minutes of March 12, 2021 Board Meeting:**

2 Chair Maffei asked if there were any changes to the minutes as presented. No changes.

3

4 Board Action: **Kozlowski moved to approve the minutes of March 12, 2021 as submitted. Ashford**
5 **seconded. Motion carried.**

6

7 **4) State Geologist/Director Recruitment Plan discussion:**

8 Sherry Lauer, DAS Human Resources Business Partner, and John Paschal, DAS Executive Recruiter,
9 presented the Recruitment Plan and reviewed the Position Description for DOGAMI's State
10 Geologist/Director position.

11
12 Paschal stated the timeline for the recruitment is July 1 through September 30, 2021, with an
13 expected hire date of October 1, 2021. This recruitment is a national open competitive search.
14

15 Paschal stated at the end of the Recruitment Plan, there are some example letters to the staff and
16 stakeholders inviting them to participate in the recruitment. He explained the Recruitment Plan
17 contains contact information for those responsible for certain aspects of the plan.
18

19 Paschal said work had been completed in the background by Lauer and Lori Calarruda prior to this
20 meeting, so he is currently on Step 6 of the plan. He received the Position Description and other
21 documents that will be used to create the job announcement. He stated the Board needs to approve
22 the Position Description before he can move forward with creating the job announcement, which will
23 then need to be approved as well. Once the approval has been received, he can post the position.
24 He reviewed the statutes that support the process.
25

26 Chair Maffei asked to clarify that Paschal wants the Board to approve the Position Description at this
27 meeting. Paschal said that is correct. Maffei asked to clarify that items 1-5 in the Action Needed
28 column on page 2 needed to occur at this meeting. Paschal said that is correct.
29

30 Ashford asked how the recruitment process works and if the Governor makes the final decision.
31 Lauer said no, and explained the process is based on the statute. She said typically with the top final
32 candidates, the Governor's Office will do a short interview with the Board Chair and a member of the
33 Governor's Office, and that feedback is incorporated. The Board votes the decision in an Executive
34 Session, and the hope is the Governor's Office supports the final candidate. Ashford thanked Lauer
35 and asked if the previous years of uncertainty with the future of DOGAMI has been taken into
36 account for the search and position and what impact it might have.
37

38 Chair Maffei explained that Director Avy submitted his retirement announcement after the DOGAMI
39 budget was approved. At that time the Agency would be in a position where the Department would
40 be stable enough to do this recruitment. The timing is consistent with having a budget approved by
41 the Legislature and Governor, so the Agency can go forward with recruitment saying it is whole, this
42 is what the mission is, and it has money to do it. Ashford thanked Maffei.
43

44 Lauer said these are questions she would, as a candidate have of the Board or the interview panel, so
45 she would anticipate the Governor's Office may get questions about the GRB process this last session
46 and the Board will likely get questions as well. Anyone who does their homework will likely have
47 some concerns, but these should not be addressed in the background.
48

49 Paschal explained Step 1 of the Recruiting Process is distribution channels of where the job
50 announcement and advertising will be placed, which is scheduled to start July 1, 2021. He reached
51 out to a few already for the best way to have a position posted and has received the necessary steps
52 to take. He asked the Board if they had additional sites they would like to have it posted.

53 Chair Maffei said it looked like a comprehensive list. Paschal thanked Lauer for her assistance with
54 the list.
55

56 Paschal stated the job announcement will be posted July 1 – August 29, 2021. He said the
57 Recruitment Plan is mainly for the recruiter to stay on track, but to also notify the Board of where he
58 is in the process. Once the posting is up, he will check weekly to see who has submitted applications,
59 and will screen them based on the requirements.

60
61 Chair Maffei said the posting is for 60 days and asked if that was typical, she thought most postings
62 are 30 days. Paschal said it is up to the Board to decide how long they want it posted. Maffei is
63 concerned that some people might not want to wait 60 days to find out if they are considered. A
64 discussion took place between Maffei and Paschal on this concern. Lauer shared in her experience
65 that she has not posted for more than 30 days. She thinks this is a good time, during summer, for a
66 recruitment because of a potential relocation.

67
68 Chair Maffei discussed the number of days for posting in relation to the next Board meeting in
69 September, to determine if the Board could get someone hired by October 1, 2021. She said a
70 Special Board Meeting could take place if necessary and asked the other Board members for their
71 thoughts.

72
73 Kozlowski said she would support the 30 days but is concerned about the possible need to extend the
74 posting and how it would send the wrong message to potential candidates. She would like to have
75 stakeholders contacted to let them know DOGAMI is healthy now and the future is optimistic, so the
76 influencers in the community are able to tell a positive story.

77
78 Ashford said for higher education a recruitment is typically 6 months, and that he would like to
79 ensure that steps are taken to increase the diversity of the candidate pool. He suggested reaching
80 out to target state geologists or senior people in organizations and maybe reach out specifically to
81 women or people of color to let them know we care. Kozlowski said she would support this effort.
82 Paschal said that is part of his recruiting process.

83
84 Paschal said he respects the 30 days but that times are different now for hiring, especially because of
85 COVID. Kozlowski asked him to explain. He said that a recent article called “The Great Resignation”,
86 said that 40% of employees plan to leave their positions and they are looking for different aspects to
87 fit their lives. Some people want to work from home and others want to work in the office. The
88 candidates are definitely different compared to years ago. Kozlowski said with that in mind, does
89 that lean towards 30 days or 60 days. Paschal said he did not know because this is a different type of
90 industry. This is also a national recruitment, and he is not sure 30 days is enough.

91
92 Chair Maffei said the issue is does the Agency risk losing a candidate by extending it for 60 days.
93 Ashford said at OSU they have a full consideration date, but there is a window of when they can start
94 interviews, and if candidates come in after that they could still interview them. He asked if that is an
95 option for this recruitment.

96
97 Lauer said she cautions against that approach because of the Veterans Points and the laws
98 surrounding them to allow equal opportunity. Chair Maffei said she thought if someone is really
99 interested they will wait.

100
101 Ashford said he does not have a preference and asked for Amira Streeter’s input about the amount of
102 time. Streeter said her opinion is 60 days because they do not want to rush the recruitment process.
103 This position is important to take DOGAMI to the next level, but it is also requiring a certain level of

104 technical expertise. She is asking the Board to be thoughtful and intentional about the new State
105 Geologist. She added if the timeline is put up right away, the expectations are already being set.

106
107 Kozlowski said she understands it is a technical position but feels having a person who can lead the
108 agency in the future is critical. Kozlowski added two things to follow up on Streeter's point. First, this
109 is going to be a really difficult position, and though the technical is really important, she thinks the
110 management and creative leadership to change is equally as critical, if not more so. Second, this is a
111 really hard combination to find. Streeter agreed.

112
113 Chair Maffei said the Agency may not find somebody in 60 days that meets the criteria. Kozlowski
114 said the people at DOGAMI know who good people are and she is hoping that they have channeled
115 those inquiries through staff and people who work in this area because they are going to get the
116 candidates the Agency wants. The proactive outreach is critical along with explaining the 60 days and
117 communicating on a regular basis about where things are in the process.

118
119 Streeter said the Board may want to get feedback from stakeholders for input. Lauer said in other
120 recruitments they have asked for feedback from stakeholders and employees before a position was
121 posted but cautions it could lead to having a political impact. She said they do have a
122 recommendation to do stakeholder and employee meet and greet sessions with the candidates, but
123 things could be changed.

124
125 Chair Maffei is concerned about making changes and extending the timeline, along with the need to
126 have a Special Board Meeting to approve the changes. She does not want to hold up the process any
127 longer and delay the posting going out. Maffei would like to get the posting out, and the stakeholder
128 and staff input on the backend, which was done last time. Ashford agreed with Maffei and does think
129 it should be 60 days.

130
131 Kozlowski asked if, as a public entity, the Agency can contact people who have been referred by
132 stakeholders or staff and let them know the position is open. Paschal explained that it is the
133 recruiter's responsibility to contact and encourage them to apply and to keep contacting candidates
134 to keep them warm. Kozlowski asked if staff can contact him with candidates. He stated employees
135 can reach out directly to him if they have any suggestions for him.

136
137 Ashford said it should be made clear to staff that in the process they know to contact Paschal with
138 any suggestions. Lauer said that is already part of the process, the posting is sent out internally to
139 the Agency so staff can forward it on to others as a referral.

140
141 Streeter asked if the Board considered decoupling the State Geologist and Director position into two
142 separate positions. Chair Maffei said the statute is clear that it must be the same position (unless the
143 Legislature changes the Board's authority). She also does not believe this is the time to do that.
144 When asked, Lloyd said she had not been contacted regarding this possibility.

145
146 Paschal completed reviewing the Recruitment Process. For the Interview and Selection process, he
147 suggested using VidCruiter for the first round of interviews and then the second round would be held
148 via Zoom. The meet and greets would be done through Zoom. He stated he can do the reference
149 checks that are required. The Governor's Office will also interview the final candidates. Lauer added
150 the final interviews are done face-to-face in Executive Session. The survey results are in a report and
151 ready for discussion and deliberation. She added the reason VidCruiter is being suggested, is so more

152 Board members can be included in the first-round process without needing to hold a public meeting.
153 Chair Maffei had questions regarding this process and if it is a public meeting. Lauer explained these
154 are recorded interviews (not live), so Board members are independently viewing and scoring the
155 candidates, there is no interaction with candidates during this time and there is no deliberation, so it
156 is not considered a public meeting.

157
158 Paschal reviewed the final steps in the Recruitment Plan. He said the Position Description in the
159 packet needs to be voted on. From the Position Description, he will build the job announcement and
160 will refer to it if he receives questions from candidates. He briefly went through the remaining
161 documents in the packet.

162
163 Paschal asked the Board to decide how long the posting should be—30 or 60 days. Chair Maffei said
164 the consensus seems to be 60 days. She asked the Board if they are ready to vote on the recruitment
165 packet. Both Kozlowski and Ashford said they are comfortable with it.

166
167 Board Action: **Ashford moved the Board accepts Motions 1-5 as indicated on the Recruitment Plan**
168 **as reviewed/presented. Kozlowski seconded. Motion carried.**

169
170 **5) Civil Penalties:**

171 Sarah Lewis, MLRR Program Manager, introduced Cari Buchner, Mining Compliance Specialist, to
172 discuss the Civil Penalties being brought to the Board for approval to proceed.

173
174 Lewis provided an overview of topics to be discussed during the Civil Penalties section, which
175 includes:

- 176 • Delegation of approval authority to the State Geologist and requested Board action;
- 177 • Review of non-payment of renewal fees and requested Board action;
- 178 • Framework for Mining Without a Permit (MWOP);
- 179 • Review of two current MWOP cases; and,
- 180 • Presentation of two new MWOP cases and requested Board actions.

181
182 Lewis said the Board previously requested information on the steps required to transfer approval
183 authority for Civil Penalties to the Department. She stated the statutes are not entirely clear as to
184 who possesses the authority to issue Civil Penalties, whether it is DOGAMI, the Governing Board, or a
185 combination of the two. DOGAMI has been requesting Board approval for any Civil Penalties issued
186 since implementation in 2019 for this reason. DOGAMI proposes to remove the Board approval step
187 for penalties related to fees and is asking the Board to expressly delegate to the State Geologist the
188 authority to impose Civil Penalties for failure to pay any fee required by statute or rule. Lewis stated
189 DOGAMI would continue to request the Board's approval before issuing any other (non-late fee) type
190 of Civil Penalty and would include a quarterly report to update the Board on Civil Penalties issued
191 related to late fees.

192
193 Ashford asked about the different types of fees and if this was the most common fee. Lewis said late
194 fees are the only penalty for which delegation is requested. The Board members deferred the
195 decision until the end of the non-payment of renewal fees discussion.

196

197 Buchner presented two sites for Board approval of Civil Penalties. She explained that to calculate the
198 penalty, it starts at the median of \$500 and decreases or increases based on mitigating or aggravating
199 factors.

200
201 The first site (OP-0159) is an Operating Permit. This is their first late payment, which is a mitigating
202 factor to allow for a reduction of the penalty to \$250, the amount the Program is recommending for
203 the Civil Penalty.

204
205 Buchner explained during the first year of implementation, it was suggested by the Board to give
206 extra leniency, but to be careful to not get into the habit of waiving fees. This is now the second year
207 of implementation, and the Program will only recommend waiving fees when there are compelling
208 circumstances beyond mitigating factors.

209
210 The second site (OP-0004) has extenuating circumstances and mitigating factors. The permittee for
211 the site passed away and the estate is working to transfer the site to a well-established operator,
212 who is agreeing to pay the renewal fee. The Program recommends waiving the penalty.

213
214 Chair Maffei asked for clarification on the mitigating circumstance for OP-0159 that requires a
215 penalty. Buchner said there is only one mitigating factor present and that is this is their first violation
216 eligible for a Civil Penalty, so that allows for a reduction. During the first year of implementation, in
217 situations where it was their first violation for non-payment, it was requested by the Board to be
218 lenient. The Program waived the actual penalty amount and only documented the violation and
219 would consider a penalty if they repeated the offense. In this situation, they have the same
220 mitigating factors, but it is now the second year of implementation, and the Program is trying to not
221 get in the habit of waiving penalties. Maffei asked if they paid their renewal. Buchner said they did
222 and were 85 days late.

223
224 Kozlowski asked if these are examples of what would be considered by the State Geologist. Buchner
225 answered yes, these are the type of decisions the Program would be requesting delegation of.
226 Ashford said since these penalties tend to be \$250-\$500, he suggested having a not to exceed dollar
227 amount before coming to the Board for approval. Chair Maffei is open to suggestions if the Board
228 members feel comfortable in allowing the State Geologist to impose up to a certain amount for a
229 penalty. Director Avy said he would be comfortable with fees up to \$1,000 before needing to come
230 back to the Board for approval. Ashford asked if \$1,000 would cover most of these penalties. Lewis
231 said yes, at the moment the Program has only implemented Civil Penalties for these non-payments,
232 which have not exceeded \$500 (and separately the MWOPs).

233
234 Board Action: **Ashford moved to accept the Civil Penalties for OP-0159 and waive the penalty for**
235 **OP-0004. Kozlowski seconded. Motion carried.**

236
237 Board Action: **Ashford moved for the Board to delegate to the State Geologist the authority to**
238 **impose Civil Penalties up to \$1,000 for failure to timely pay any fee required by ORS Chapter 517,**
239 **any rule implementing that chapter or agency order related to fees. Kozlowski seconded. Motion**
240 **carried.**

241
242
243 Lewis stated that at the March Board meeting, DOGAMI presented information on the estimated
244 number of Mining Without a Permit (MWOP) cases, which is approximately 140 unique sites: 44

245 MWOP and 96 mining outside approved areas. The primary goal of the Civil Penalty Program is to
246 bring sites into regulatory compliance. Since the implementation of the program, DOGAMI is seeing
247 significant, site-specific advances in compliance, an average of 80% drop in late payments in each of
248 the last 2 years, and increased compliance with the MWOP cases. Due to the volume of the known
249 and potential MWOP violations and the costs associated with staff time to see each case through to
250 resolution, DOGAMI started with the most egregious cases for the Board's consideration.

251
252 Lewis stated the sites with MWOP violations fall across a continuum, in which the regulatory
253 guidance provides a broad framework for classification of severity of violations at each site. She
254 explained the Continuum of MWOP slide. Lewis said the table helps demonstrate the range and
255 types of considerations used by staff to assess each MWOP case. It includes major factors to
256 determine severity, then mitigating considerations and aggravating elements that are ranked on a
257 priority scale from 1 to 10. She added that there is no zero on the scale, as every MWOP site is
258 technically eligible for Civil Penalties. The violations at each site may then be considered across the
259 spectrum of each factor.

260
261 Chair Maffei reminded Board members the idea of trying to categorize the various MWOP sites to
262 determine the magnitude of harm is to help prioritize which ones the Program should go after and
263 was discussed at the last Board meeting due to staff resources. Ashford said this is perfect and puts
264 it in perspective and provides a logical way of working through them.

265
266 Lewis went through the Compliance Process with the Board as a reminder of what steps staff take
267 before considering Civil Penalties for an MWOP case. She said staff first complete a comprehensive
268 review of the site file or any available information; contact the operator/permittee; visit the site;
269 contact partner permitting agencies; and relay the actions required and timelines to come into
270 compliance to the operator through a Notice of Action (NOA). If the operator is unresponsive or non-
271 compliant, then the case escalates to a Notice of Violation (NOV) with a possible Suspension Order
272 (SO). If the operator continues in violation, then DOGAMI would consider Civil Penalties. Following
273 this process takes months to years, depending on the complexity of the violation and the
274 responsiveness of the operator.

275
276 **Morgan Creek** Buchner reviewed the Morgan Creek (10-0223) case. The contested case hearing
277 scheduled for June 29, 2021 has been postponed due to settlement negotiations. An update will be
278 presented at the next Board meeting in September. She reviewed the case using the new MWOP
279 continuum framework to demonstrate how it can be used to prioritize compliance and to provide
280 context for the two new sites to be presented to the Board. Buchner said Morgan Creek is a
281 relatively small site, but the harm continued for multiple years, and was ongoing when the Program
282 brought the case to the board. In looking at the magnitude of harm on a scale of minimal to severe,
283 they evaluated both the spatial and temporal impacts and determined the magnitude of harm at this
284 site was moderate, with a status of ongoing. Additional aggravating factors at this site include the
285 resistance of the respondents to comply for multiple years at multiple sites, as demonstrated by their
286 incomplete and expired application materials, failure to complete the application process, and failure
287 to comply with the Suspension Order. The site is already in process but ranks an 8 on the MWOP
288 severity scale overall.

289
290 **Ekroth Quarry** Buchner said Ekroth Quarry (29-0040) was discussed at the last Board meeting. Since
291 then, the permittee is complying with the Suspension Order and has hired a qualified consultant.
292 Preliminary plans to address the requirements outlined in the NOV were reviewed by agencies earlier

293 in the week and approved to move forward with more detailed development. The permittee has
294 indicated a significant shift in their plans for the site. Initially, they expected to remediate the
295 trespass and continue operating. They have now asked their consultant to prepare plans that
296 incorporate final reclamation of the site. Continued compliance with the Suspension Order and
297 indications that the permittee intends to reclaim and close the permit, contributes to reducing the
298 immediacy of concern for continued environmental harm. This has reduced the urgency of pursuing
299 Civil Penalties to gain compliance. When it first came to the Board it was a 9 but has been
300 decreasing. However, the program believes the violations at this site do warrant assessment of
301 penalties and anticipate having a penalty amount for Board consideration at the December Board
302 meeting.

303
304 **Blossom Gulch** Buchner stated that Blossom Gulch (06-NP0002) has taken a lot of staff time over the
305 last few months for Mining Without a Permit; Violating a Suspension Order; Failure to Comply with a
306 Notice of Violation; DSL investigating fill/removal violations; and DEQ investigating water quality
307 violations. It is located on a tributary to Blossom Gulch which is a small tributary to Coos Bay, that
308 empties into the bay at the City of Coos Bay Boardwalk. Native Cutthroat trout spawn in the upper
309 basin, and a small population of Coho salmon (ESA-listed) have been known to ascend to the
310 middle/upper basin to spawn. The fish district also stocks fall Chinook salmon pre-smolts from the
311 Bandon Hatchery at the culvert next to Blossom Gulch School.

312
313 Buchner reviewed the fact pattern with the Board. January 2021: Received a complaint of mining
314 activity for topsoil being sold from a property adjacent to Blossom Gulch. February 2021: Issued a
315 Notice of Action to the landowner requiring an application, reclamation of the disturbance, or
316 demonstration that the activity is exempt. March 2021: Issued Notice of Violation and Suspension
317 Order because no response was received from the NOA. April 2021: DOGAMI conducted site
318 inspection with DEQ and the operator, in which the reclamationist clearly communicated the activity
319 required a permit from DOGAMI before it continued. June 2021: June 9 and 10 DOGAMI received
320 photos and videos documenting ongoing activity that started in November 2020, including a photo of
321 an excavator filling a truck on May 13, 2021, and a series of videos from the doorbell camera showing
322 12 loads leaving the site on June 8, 2021. June 10: DOGAMI issued a warning letter
323 (Recommendation for Civil Penalty) outlining the potential penalties for continuing to MWOP under a
324 Suspension Order. June 18: Staff contacted the operator, who said he was not operating and was
325 working on the application. June 19: DOGAMI received two new video clips of excavation activity on
326 the site. June 25 (today): DOGAMI requests the Board's determination on whether or not to pursue
327 Civil Penalties.

328
329 Buchner explained the site on the continuum, in magnitude of harm, ranks high and has attracted
330 DEQ and DSL interest with respect to their jurisdictions. The harm continues on the site and the
331 operator is non-responsive to Department requirements. The site is currently ranked at a 7 but it has
332 escalated at a high rate over the last month, therefore the Program believes pursuing Civil Penalties
333 is the appropriate next step to deter continued violations and encourage compliance at the site. If
334 the Board approves moving forward, a Special Board meeting to approve the penalty amount may be
335 needed prior to the September Board meeting.

336
337 Ashford asked if the penalty would be based on the video from the neighbor and can the Agency do
338 that. Lloyd said the evidence would be submitted to a reviewing body if some sort of injunction
339 would be pursued. Ashford said it seems the penalty is based off the information supplied by the
340 concerned citizen, and asked if it moved forward, would the accuracy of the evidence be weighed.

341 Lloyd said they would probably provide an affidavit from the neighbor that had taken the footage
342 before they would testify, which could be used as well in weighing that evidence.
343 Ashford asked about the economic benefit. Buchner said the economic benefit is for the operator.
344 Ashford asked if other agencies are involved at this site. Buchner said she has been in contact with
345 the other agencies and this site is on their radar.

346
347 **Shale Pit** Buchner said the second case, Shale Pit (15-0260), was mined without a permit and they
348 applied for an Operating Permit, that was issued in June 2021. The site is located adjacent to
349 Keene Creek, the largest perennial tributary of Jenny Creek, a stream recognized for its biodiversity
350 and ecological importance to native fish species. The Jenny Creek sucker, which is listed as a
351 Sensitive Species by the BLM, has been found in Keene Creek as far as 3 miles upstream of the
352 confluence with Jenny Creek. Because of the environmentally sensitive nature of Keene Creek, and
353 interest from Trout Unlimited and a local legislator, the Board is asked to make a determination of
354 whether or not the Department should pursue Civil Penalties for this site.

355
356 Buchner reviewed the fact pattern with the Board. June 2019: Public record request from Trout
357 Unlimited evolved into a complaint for potential water quality violations due to unpermitted activity.
358 August 2019: DOGAMI visited the site and issued a NOA to the landowner, because a permit was
359 needed. November 2019: DOGAMI received an Operating Permit Application and conducted a site
360 inspection as required for all new Operating Permits. December 2019: DOGAMI received request
361 from local land use department to delay a permit decision, while the Program continued reviewing
362 and processing the application. August 2020: DOGAMI received a complaint of material being hauled
363 from the site. September 2020: DOGAMI issued a Notice of Violation and Suspension Order and the
364 applicant requested an informal review of the NOV and SO, both were upheld by the State Geologist.
365 December 2020: Circulation of the DOGAMI Operating and Reclamation Plan was completed. Spring
366 2021: Applicant diligently pursued all third-party approvals. June 2021: Land use approval was
367 finalized and DOGAMI issued the Operating Permit. June 25, 2021 (today): DOGAMI requests the
368 Board's determination on whether or not to pursue Civil Penalties.

369
370 Buchner explained the site ranks 3 on the continuum, and the potential for higher risk to sensitive
371 habitat has been addressed through permitting. The applicant was responsive and timely in working
372 with the agencies. This was their first violation, and they are now in compliance.

373
374 Lewis said these previous two cases are also representative of broader categories of sites with similar
375 violations as demonstrated by the severity of violations. DOGAMI has not yet completed a Civil
376 Penalty case for MWOP and is hesitant to take on multiple additional cases before understanding the
377 full staff time and resources required to complete the process. The volume of potential cases at the
378 lower rankings would quickly overwhelm the Program capacity and jeopardize core program
379 functions. With the numbers of MWOP sites estimated, it is her assessment that the Program can
380 consistently and sustainably pursue actions at the rank of 7 or higher. Lewis asked the Board to
381 support the operational decision that the appropriate level of implementation for MWOP
382 Civil Penalties at this time is for cases that rank in the range of 7-10.

383
384 Ashford asked if the Agency received a complaint of a 6, would the staff still pursue it and potentially
385 apply Civil Penalties. Lewis explained the staff would follow the entire procedures and do a complete
386 review before asking for Civil Penalties. Ashford said he understood. Chair Maffei said her
387 understanding is there is not a ranking on the continuum until after there is interaction between
388 DOGAMI and the operator.

389
390 Kozlowski said the way it has been setup on the scale is very helpful and she strongly supports the
391 utilization of staff time based on the severity of cases. She is impressed at the thoughtful nature of
392 how it was put together. She said targeting the most severe is the best approach. Chair Maffei said
393 in the case of Shale Pit, she would rather not penalize an operator if they came into compliance, the
394 Agency should reward them for coming into compliance. Ashford agreed, stating the Agency's goal is
395 compliance and not to be punitive or raise funds.

396
397 Chair Maffei said the focus on staff's time should be on sites that rank 7 or higher. Ashford agreed.

398
399 Board Action: **Ashford moved that DOGAMI pursue Civil Penalties against Blossom Gulch.**
400 **Kozlowski seconded. Motion carried.**

401
402 Board Action: **Ashford move that DOGAMI does not pursue Civil Penalties at the Shale Pit site.**
403 **Kozlowski seconded. Motion carried.**

404
405 Ashford said for Blossom Gulch he would like to receive something from the neighbor. Lloyd said
406 that a statement could be requested from them describing what they provided and the context
407 around it, and also seeking their potential involvement as a witness if the case proceeds, to better
408 substantiate the evidence that has been provided. Ashford said that is all he is asking.

409
410 Chair Maffei said from the point of view of a neighbor complaining about mining, Lewis and Buchner
411 see it regularly, and only pursue the ones that are the most egregious. Lewis said Buchner
412 documents everything before moving forward with it and the Program wants to ensure it has good
413 evidence that stands up moving forward. Buchner said there have been multiple neighbors who have
414 complained about this site, they are the only ones to come forward and willing to follow their
415 evidence to hearing if necessary.

416
417 Chair Maffei said she had a conversation with Lewis and Buchner yesterday, and they discussed that
418 there will always be about 10 cases that are the most egregious and this allows the staff to focus on
419 them.

420 421 **6) Financial Report:**

422 Steve Dahlberg, Chief Financial Officer, presented the DOGAMI FY2021 Budget Status Report, as of
423 April 30, 2021, for the Geological Survey and Services (GS&S) and Mineral Land Regulation &
424 Reclamation (MLRR) programs.

425
426 Dahlberg said the update represents actuals through the end of April and projections are for May and
427 June. DOGAMI will be underbudget at the end of this fiscal year and the biennium in General Fund,
428 Other Funds, and Federal Funds.

429
430 The General Fund ending balance of \$339,866 is due to constant monitoring, vacancy savings, staff
431 working more on grants than originally planned, and better than expected results from the Lidar
432 program. It also incorporates a planned reversion of \$300,000 from vacancy savings as agreed to
433 with the analysts from DAS CFO, LFO, and Governor's Office. The projected ending balance for Other
434 Funds is \$306,709 and Federal Funds is \$56,656.

435

436 Dahlberg stated the breakdown from the last meeting showed the Agency was \$800,000
437 underbudget. Knowing the Agency will be underbudget, it has strategically increased spending these
438 last few months on much needed replacements and equipment, which included IT equipment
439 consisting of laptops, servers, desktops, and peripherals for \$175,368; and training, scientific tools,
440 and upgrades for \$113,702. In addition, \$35,650 for a consultant working on the Organizational
441 Management Assessment, and \$2,500 for Agency Publications/Representations was spent for total
442 expenditures of \$327,220. The Agency expects to still be underbudget by about \$173,000 [plus
443 \$300,000 vacancy savings reversion].
444

445 Chair Maffei asked if the higher level of General Fund is due to staff charging their time to projects
446 and not General Fund. Dahlberg confirmed this is true. He added, the Lidar program has brought in
447 about \$2.4 million dollars this biennium. DOGAMI recently received Legislative Approval to apply for
448 two lidar projects for next biennium, nearly \$1.2 million from FEMA, and \$250,000 from BLM.
449

450 MLRR's projected ending balance of \$401,324 is due to the continued careful monitoring of their
451 expenses, the fee increase that went into effect January 1, 2021, and \$70,000 from federal
452 reimbursement for COVID-19. Chair Maffei asked what the cash reserves goal is for the program.
453 Dahlberg said it was \$330,000-\$350,000 but actuals are higher than that due to the COVID-19
454 reimbursement.
455

456 The Strong Motion Instrument Fund has an ending balance of \$260,166. It received two deposits
457 from buildings and paid the University of Oregon for purchase of sensors. The Reclamation
458 Guarantee Fund ending balance is \$669,943 with 58 Cash Securities.
459

460 For the Business Office, all external grant financial reporting is current; internal grant financial
461 reports are updated monthly with on-going monthly meetings with the project managers to review
462 the status and expected activity. The Grant Tracker tool is being used by staff (entering their
463 forecasted hours on grant work) and management to monitor and reallocate resources as needed.
464

465 Dahlberg reviewed and explained the actuals and forecast for the remainder of the fiscal year using
466 several graphs. He also reviewed a spreadsheet containing the expenditures that have been placed
467 and said there are some items that have been ordered but are delayed due to supply issues and will
468 be charged next biennium. Ashford asked what happens to the left-over budget. Dahlberg answered
469 unfortunately it is returned and does not carry forward.
470

471 Dahlberg provided an update on the Fiscal Analyst 3 position. The first-round candidate took another
472 position and the second-round posting closes June 28, 2021, which has potentially five highly
473 qualified candidates.
474

475 Dahlberg asked the Board what their preference is for future presentations, and if they want to see
476 the graphs first. Kozlowski said she prefers the graphs first. Ashford asked Dahlberg to keep the
477 projections (forecast) to compare the actuals moving forward.
478

479 Board Action: **Kozlowski moved to accept the Budget Status Report as presented. Ashford**
480 **seconded. Motion carried.**
481

482 7) **Management Consultant Update:**

483 Pete Pande and Brittany Sale, of Pivotal Resources, Inc., presented a summary of their Organizational
484 Assessment & Recommendations Report: “Pathway to Sustained Success” for DOGAMI.

485
486 Pande said they would go through highlights on the report since there is a lot of information in it.
487 They will provide a little information about their company and who they are. They will discuss what
488 the background of the assessment is, what they have learned, and discussion about next steps. The
489 Board was encouraged to ask questions at any time throughout the presentation.

490
491 Pivotal Resources was founded in 1993, and are a consulting and capability-building firm focused on
492 successful organization change and improvement, using Lean Six Sigma, Leadership Development,
493 Strategic Planning, Change Management, and Assessments and Transformation. They have extensive
494 experience with Oregon state agencies, such as ODOT, Secretary of State, DSL, ODFW, DEQ, and
495 others. They have worked with commercial enterprises and work globally, but have a niche working
496 with state agencies.

497
498 Pande said their project is to provide an objective perspective on the current situation of the Agency.
499 The process has been to look at how has the Agency gotten to where it is now; talk about what the
500 challenge is, and perspectives are; understand how things are being done now; and what the
501 relationships are, both within the Agency and with other stakeholders. Most importantly talk about
502 where the focus areas are that should be considered for change and improvement and offer
503 recommendations. It is important to understand this is not intended to be a checklist or laundry list
504 to go do all these things. These are things being presented for the Board’s, stakeholder, and
505 Leadership Team’s consideration, but not to rush out and do everything. They have to be prioritized.
506 An outline with some suggestions for the strategic planning process will also be presented.

507
508 The theme and the tone of what Pivotal tried to do in this process is to learn from the past but not
509 dwell on it. Try to focus on the future of what the Agency needs to do to build on recent, promising
510 improvements, and think about what can be done to become the agency staff want to be going
511 forward—trying to be future focused.

512
513 Pande said this is basically a quick review of the process. They have done interviews and document
514 review fairly exhaustively. They then presented some initial themes to the leadership team and
515 identified some areas to explore in more depth— a deeper dive—and then prepared the report.
516 Pande said during the report preparation they did a lot of additional research to test and validate
517 their hypothesis to make sure what they think is happening is really happening. They have broken
518 the report into three elements for each of the four areas, and will talk about positives, challenges,
519 and then recommendations for consideration in each of them. He quickly showed a list of the
520 different folks they spoke with during the research process, the focus groups, and a sample of some
521 of the documents, reviews and reports, and testimony they used. They’ve learned a lot about
522 DOGAMI.

523
524 Pande said when they present a report like this that it is helpful to remind people that they tend to
525 focus on where there are opportunities for improvement. They might be called negatives, but they
526 are not necessarily negatives because every organization has improvement opportunities—the best
527 and the worst. He said after having done this for about 30 years, you would be shocked to see the
528 issues that arise in what you might think is a great company or great organization and then you find
529 out all the problems, you would be kind of disillusioned. They often find the strengths and
530 opportunities go hand in hand, but sometimes there will be a strength and you need to keep working

531 on it. People will ask: “What do you mean, is it a strength or is it a weakness” But sometimes they
532 are complementary. He said prioritization and interpretation of this is critical. They do not know
533 everything about DOGAMI, and there is a lot they know but can’t even explain in the report. Pande
534 stated the options going forward are to continue what you are already doing, redirect resources
535 towards other things, launch new initiatives or investigate the possibility of new initiatives, or do
536 nothing.

537
538 It is important to think carefully before acting on anything. Even though Pivotal is presenting
539 recommendations, the Agency is going to need to first do its own discussion around what it really
540 wants to accomplish if it takes on a recommendation and/or idea they suggested. Pande explained
541 the use of the Transformation Pyramid, which shows a hierarchy of how any change process really
542 needs to work: If you do not start with the foundation of vision and goals, you end up doing a bunch
543 of stuff that people do not really understand why.

544
545 Pande stated there is a lot of information here, so he is going to highlight some specifics. He will start
546 with the summary for overall and then go into each area: Overall Agency, Business Office and
547 Support Services, GS&S and then MLRR.

548
549 Pande said the overall current situation for DOGAMI as an agency with a long history, that started out
550 focused on supporting and regulating mining, but has evolved to focus equally, if not more, on
551 understanding and helping the state handle and deal with the risks of natural hazards.
552 Unfortunately, there have been challenges over at least 10 years in the areas of financial,
553 management, and structural—like the kids show, “A Series of Unfortunate Events.” “At times,” one
554 person said, “We are always on our heels at DOGAMI.”, which he thought was a pretty good
555 description of what it must feel like to be part of this organization, with it being buffeted by
556 challenges, some self-inflicted and some outside the control of the Agency.

557
558 At the same time, the science, services, and role of DOGAMI is clearly valued, which came out in
559 February when the GRB was presented and so many people spoke about the value of DOGAMI. They
560 have included a summary of quotes from that testimony in their report. Obviously, there is still a
561 question about whether DOGAMI can overcome these challenges and move forward. This is the
562 theme of this assessment, by including the things that need to be thought about and addressed.

563
564 The good news is, almost ironically, there has been some pretty important progress over the past
565 biennium, especially in financial transparency and cost management. It is seen in the reports that
566 Dahlberg prepared, by staying on or underbudget, and understanding where the costs are over the
567 course of a project and over the course of a biennium. That foundation of confidence and
568 transparency is critical to be able to move forward. This is an important opportunity to continue and
569 accelerate improvements, refocus energies, and tackle critical issues. There are still some obstacles
570 to make that happen and what they focus on in their report, but they wanted to highlight positives
571 too, and there are a lot of positives they have identified.

572
573 Pande said for each of the categories in the Agency, Business Office, and programs, they will present
574 positives, challenges, and recommendations. Rather than going one by one, they will present on
575 screen the whole list of each, but point out a couple highlights from each list.

576
577 **Overall Agency & Leadership – Positives:** The two things that really bear emphasis here are the staff
578 passion and commitment. There is a lot of frustration among people at DOGAMI, but at the same

579 time, people will say in the next paragraph, “I love the work that I do.” “I value what we provide to
580 the state as an agency.” “I’m frustrated maybe by the obstacles, but I feel what we do is really
581 important.” Pande said having worked with a lot of agencies and people in organizations, the
582 unanimity of commitment and passion is pretty distinctive within DOGAMI. You will find a lot of
583 those organizations where you have got a certain tier that are all on board and passionate, and other
584 people are just there to do their job. You do not find that in this agency. It is pretty encouraging,
585 important, and impressive.

586
587 Pande stated the second thing is the achievement of Key Performance Measures (obviously there is
588 one exception to that). Despite all these challenges, to see an agency that is hitting the mark on not
589 just the KPMs but the goal, is pretty impressive. A lot of work has been done despite all the
590 obstacles. It makes you think: “Wow if it could just shed some of this other baggage, it would be a
591 superstar.” This is what they have people think about, actually being a superstar.

592
593 **Overall Agency & Leadership – Challenges:** On the challenges side, a couple of things that are really
594 important and at the top, are climate of frustration and low levels of trust. In going back to the
595 Transformation Pyramid, the top of the pyramid is relationships, where people are not getting along
596 and unfortunately some of that is going on in DOGAMI. It tends to happen because of uncertainty,
597 lack of clarity, and just a general unknown, which can lead people to get into a bad frame of mind.
598 That is a critical challenge for DOGAMI, despite all the good stuff. The ongoing leadership instability
599 (in a way that is not true for the past few years), and obviously bringing in a new director is going to
600 mean you have a new challenge. The other thing he pointed out, to remind folks, is the perceived
601 lack of direction. The Agency needs to focus on doing better in its processes.

602
603 **Overall Agency & Leadership – Recommendations/Considerations:** Pande said of the five items
604 listed, the first two focus on the theme of the need to get past what the Agency has been through,
605 get on the same page, and start working together more effectively. There is good collaboration, but
606 it needs to improve. The second set of two (1.3, 1.4) are about communication. Being better, and
607 finding ways to be more visible to the public and communities, and the sense of value for the
608 Agency’s work. Have more visibility externally and then going along with better communication and
609 trust, how do we do that more internally. Because of all the changes and the threats that the agency
610 has been under, you get to this situation where people kind of want to know everything, every day.
611 And it has been tough for most of the staff who are concerned, as well as for management, who
612 cannot spend all their time giving an hourly update on what is going on. Internal communication
613 needs to be better aligned with what management and staff can do and what they need.

614
615 Pande said in terms of the Executive Director, there is a sense among a fairly large number of staff
616 that DOGAMI really needs the State Geologist to be someone who has a strong scientific background.
617 He added that as important as that is, they would still advise the Agency to find someone who can
618 really be a strong leader. It is not that the science part is not important, because it is, but leadership
619 is going to be and should be a priority for the individual. Someone who can be a good, fair leader for
620 all employees of the Agency.

621
622 **Business Office & Support Services – Positives:** This is one of the areas of improvement in the fact
623 that there are more resources now to ensure the ability to keep an eye on and handle the complex
624 financial challenges of DOGAMI today; including careful management of contracts, so that grant
625 proposal requirements are more fully understood; performance tracking; and the surplus coming into
626 the end of the biennium, which is better than it has been in other biennia. Pivotal had to go through

627 the procurement process in order to get this contract and would say it was very well managed.
628 Pande stated the thing he wanted to highlight here is with the stronger capability in the CFO and
629 Business Office. It allows an opportunity for that role to play one of being a strategic partner, which
630 is something that many organizations talk about and kind of aspire to have their financial people be
631 partners in leading the agency, but it does not happen that much. They have a sense that Dahlberg
632 and his team can really be strong partners with the programs, the Director, and Board to help chart
633 the future and achieve the aspirations of DOGAMI.
634

635 **Business Office & Support Services – Challenges:** One challenge is maintaining the Information
636 Technology edge, which is something to keep an eye on now that there is no Chief Information
637 Officer. Sacrificing that position to the budget challenges put the question mark around how well will
638 DOGAMI be able to stay at the edge of technology, which is pretty important for the type of science
639 that the Agency is responsible for.
640

641 **Business Office & Support Services – Recommendations/Considerations:** Pande said it is like when
642 you clean your garage, you get everything all neat and you do a good job of putting things away, then
643 you start to get sloppy and the discipline starts to fall apart, and then six months later you need to
644 clean the garage again. It happens that way with organizational, financial, and other types, they kind
645 of lose that edge and get sloppy. The need is to keep pushing for improving people and it will fall on
646 the program to help make that happen. Their main recommendation is to continue to refine other
647 reporting, contracting, project, cost, and performance management. Trying to accelerate some of
648 the process improvements that have been extensive or sometimes delayed and get everyone on
649 board to tighten the screws, so the Agency can continue to be on top of the concerns and focus
650 efforts on the real work.
651

652 **GS&S – Positives:** There are some important positives around the need to be pursuing grants. Even
653 folks that are not necessarily happy about all that, will admit that they know what people are looking
654 for and they can really work customers and funders to define what the outcomes the Agency is trying
655 to accomplish. There is always an eager recipient for the work that DOGAMI and GS&S are doing,
656 which is a really good thing. Another positive is tied to the Business Office, which is better
657 management of projects, so there is clearly less uncertainty about where they are and that helps
658 make those projects successful and come in under budget.
659

660 **GS&S – Challenges:** The challenges are how do you keep the effort up, but find the right grant to get
661 enough work—and that is a tricky thing. Pande said the geologists and the senior folks, feel the high
662 level of responsibility to keep their people employed, so they are out there trying to bring in the
663 money to help people keep their jobs. At the same time, for good reason, there is guidance in terms
664 of what is financially viable for the Agency. But it makes it a little difficult, if they are told to go out
665 and sell, but do *not* sell *that*. It is getting people used to and coming to terms with how to get smart
666 about looking for the right kinds of projects, but still maintain that service; reinvent and forward
667 looking ways to find these projects. There has been good work done on that, but it is one of the
668 areas that still needs strong teamwork.
669

670 Pande said the other challenge is coupled with the folks from the statewide perspective. The Lidar
671 Consortium, makes a lot of sense, but it is not being executed statewide the way it was originally
672 conceived. They think there needs to be more of a statewide look at if they Agency is going to
673 continue the consortium; and if so, the need is to establish some cooperation and collaboration
674 throughout the enterprise. They could not recommend specifics on that without doing more

675 research, but it is something they feel makes a lot of sense for state and local governments. The
676 need to determine what DOGAMI's role is to be and cooperation with the agencies should be
677 included.

678
679 **GS&S – Recommendations/Considerations:** Pande said they have a hypothesis on 3.3, that working
680 with the grant providers, there may be an opportunity to get more funding oriented towards
681 communication. They heard the grant people will not pay for DOGAMI staff to go out and meet with
682 the local community, or they get to make one presentation and they are done. They think this is an
683 assumption that needs to be challenged. Maybe FEMA is not all that interested in promoting the
684 work they are funding, but they expect there might be more opportunity to collaborate with funders
685 to put in DOGAMI outreach that would be reported as part of the project, rather than General Fund.
686 They do not know for sure, but it is something they think would make sense to look at going forward.

687
688 There has been good effort made, but the Program needs to continue improving the
689 staffing/resource management, because there are still issues that come up for project management
690 where people could use their time on the projects more efficiently.

691
692 **MLRR – Positives:** Pande said there are very strong positives for this program. A lot of work and
693 focus on improving consistency, which had gotten out of control over a long period of time, from the
694 way they understood it. In centralizing that work, it uncovered a lot of issues around different ways
695 of handling different mines and different places, which is not good. He said consistency is only
696 helpful if it helps you do things in a more efficient and more effective way, and it is the inconsistency
697 that led to a lot of challenge in assessment and enforcement. This is a positive that it has been
698 improving, but it is another one of those where it is both a positive *and* an area for improving, so
699 there is still a long way to go.

700
701 Pande stated another positive is the enforcement capability. With the possibility of Civil Penalties for
702 paying late and getting a potential fine, all the late payments were reduced by 83%. With having a
703 little teeth in the enforcement capability, the decision to allow MLRR to do that has been really
704 important. He thinks their staff has much more of a sense of we have done some, but we are finally
705 able to do the right thing, and that as a form of compliance it creates better behavior by a mine
706 operator.

707
708 **MLRR – Challenges:** Pande said the first one that stands out to them because it mostly ties to the
709 mission of MLRR. Obviously providing permits to mines and helping with mining operators do their
710 work, is one level of their mission, but the other one is to make sure that activity is not done in a bad
711 way. Pivotal works with other agencies that do regulation and it is almost always paired up with a
712 challenge where they have a role of enabling the industry to do its work but at the same time they
713 want to make sure they do not do things in a bad way. They have to be a supportive and
714 partner/partnering player in the field but at the same time watch out for the bad stuff. The fact that
715 there is a fairly high number of unpermitted and out of boundary line mining operations, seems like a
716 big challenge for MLRR.

717
718 Pande said statute, rule, and permit conflicts causes a huge amount of challenge and frustration for
719 the folks doing the work in the Program. It also puts the state at risk because there are places where
720 it says one thing here and says the opposite there, and trying to find out which guideline to apply
721 when working with this particular situation. It is a big challenge. Almost all agencies have some level

722 of things that evolve over time and rules are not easy to update, but you have to bite the bullet and
723 do it at some point or it just becomes more work.

724
725 **MLRR – Recommendations/Considerations:** Pande said one they highlighted is 4.2: Identifying and
726 addressing gaps in coordination with other agencies. They chose this area because there is a lot of
727 interdependency in mining operations and how it affects the state and the work of other agencies.
728 For example, right now there is a collaboration with DEQ that actually provides funds to DOGAMI.
729 There are probably other agencies that would not be able to provide funding, but by aligning the
730 work with other agencies it would make it easier for the mine operator and for the state. From the
731 information they looked at and the discussions they had, it seems like there are other opportunities
732 where trying to formalize or identify where those alignments can be better defined would make it
733 better for DOGAMI, the other agencies, and ultimately for the mine operator. This would be
734 something important to consider.

735
736 Pande said they looked at 4.4 because right now it is the only KPM that ties to MLRR, which is the
737 number of inspections. It has been put on hiatus because of the high volume of permits and
738 compliance activity, and from their perspective it made sense to not miss some of the basic stuff the
739 Program has to do and have their service level go down because of challenges related to
740 enforcement activity and COVID. A good thing about the inspection, is it is a leading indicator. The
741 Program knows and hopes that if they do more inspections it will lead to better operations,
742 compliance, and reclamation down the road. On the other hand, it does not really say anything
743 about what is the current state of mining operations in the state. A suggestion is to change it to
744 number or percentage of mines operating without a permit, something that really shows the
745 Program is managing and ensuring the state and residents of the state, that mining operations in
746 Oregon are well run. They think that will benefit the industry as well as the regulation.

747
748 Chair Maffei stated they had a discussion earlier in the meeting on Civil Penalties and where the
749 focus should be, by making a more streamline process to be able to know what is the most egregious
750 of the mining without a permit sites.

751
752 Pande responded that a lot of times when they do this kind of an activity, they will find that it is a
753 validation as much as to help. It confirms these are the things that an agency focused on and they
754 are coming in and saying to keep it up. He added that when it comes to the rules, you have to be
755 careful about continuing to kick the can down the road, and the fundamentals of the rules that
756 DOGAMI operates under, it then creates another ripple effect.

757
758 Chair Maffei stated fixing the KPM to better reflect what is happening is actually another priority the
759 Board has been discussing. With DOGAMI's future being uncertain during the past 8 months it was
760 something that has been on their minds but it was not a priority at that time. Pande said DOGAMI's
761 KPMs are probably not as out of whack as compared to some other agencies, but it is good they are
762 looking at it, because there is some opportunity to improve it. Chair Maffei agreed.

763
764 Ashford said going back to the recommendations for GS&S, he wanted to acknowledge the work
765 done with the improvement of the project management and that he is really happy to see that was
766 acknowledged in the report. He thinks the improvement has helped the Agency. He asked about 3.1,
767 and if there are grants that are really made for DOGAMI and if this is more like guardrails to keep
768 them on track. Pande replied it is a combination, you should not take on grants that do not cover the
769 costs. It is one of the big challenges in change management for DOGAMI. It needs to build a business

770 but still needs to be fiscally responsible for the State. It's a tough line to walk. He thinks the Program
771 is making significant progress, but there is still frustration, from everything he has heard. It is tough
772 to manage everybody getting on the same page. Ashford thanked him.
773

774 Kozlowski said she is particularly interested in the GS&S recommendations and delighted to see 3.3
775 She thinks that it is really critical and potentially possible. She asked what happens next with this
776 particular report and is it something that is given to the staff and then Pivotal walks away, or is it
777 something the Agency needs to closely look at in terms of recommendations. Pande replied it is a
778 very good question and thanked Linda for teeing up the next slide. Chair Maffei said it was all
779 planned.
780

781 Pande said that any of the work they do, with success or lack thereof, is in the hands of their client.
782 The Board, Agency, Governor's Office, LFO and DAS, are all partners in this, so these are some of the
783 things they think are important and the sequence and timing of it will depend mostly on the
784 onboarding of the new Director, but some stuff might be able to happen sooner.
785

786 **Next Steps & Strategic Planning:** Pande said "Refresh" the Mission, Vision, and Values does not mean
787 that the Agency is way out of whack, but they think it is really important that everybody get
788 reconnected with what the Agency is all about. That includes perhaps moving in a little bit different
789 direction, that maybe there are things the Agency is doing now that it should not do anymore. He
790 does not think it is a huge strategic rethink, but is important to check.
791

792 The plan is to do another future strategic plan and in talking to Director Avy, it is his feeling, and he
793 totally agrees, that the new Director needs to come on board and first understand enough about
794 what is going on in the Agency. He said Avy's perspective is that this report will help the new
795 Director get on board much faster because they have given a summary of what is up with DOGAMI.
796 There might be an opportunity for a shorter-term team-building activity, where a facilitator works
797 with staff and management to get past some of the trust and teamwork challenges, overall and with
798 each other, which some of it is personal stuff.
799

800 Pande said they recommend hiring consultants to help with strategic planning. The Strategic Plan can
801 use these recommendations as potential opportunities to execute some of the things in the report,
802 like the rule writing, or the change of the KPM. The Board could initiate some of them or wait for the
803 new Director. When they present these recommendations, the last thing they want any client to do
804 is say, write up an action plan for each one and go do it, all at once.
805

806 Chair Maffei stated the report will be finalized next week by the end of the biennium. Once the final
807 report is in, she thinks it will be shared with whomever needs to see it. Pande said they view their
808 customer for this report as the Agency, Board, and what he calls the Agency's enterprise partners,
809 which are the Governor's liaison, John Terpening, Renee Klein, and the folks that are most directly
810 involved in supporting and guiding DOGAMI.
811

812 Sale stated Pivotal will be attending the All Staff meeting on Monday to give a presentation on their
813 findings. Pande said they are presenting this to staff and will probably use much of the same slides
814 with them. There was a good suggestion from someone within DOGAMI, that Pivotal, should talk
815 directly with staff and the management team agreed.
816

817 Kozlowski said she thinks it is an excellent report and wants to make sure there is some direction for
818 next steps, what can be done now, and in the future. There are some that can be done immediately,
819 some the Agency may not want to do for a year, some it does not want to do without a new Director,
820 some are Board responsibilities, and some are staff responsibilities. She thinks those need to be
821 clearly outlined. She does not want to see it go on the shelf. Pande stated that is certainly not their
822 desire either.

823
824 Maffei said if it was not for the upcoming change in management, these would be moved forward
825 with right away. Pande said that is the theme that they would like to get people to recognize around
826 where DOGAMI is now and spending all the time commiserating, regretting, and getting upset about
827 what happened in the past is not going to be useful. The Agency needs to think what is it going to do
828 now. Just let go as much as possible, do not unlearn what you have learned, but focus on the
829 learning to get the huge amount of benefit that this Agency provides. Sale stated all this should be
830 done collaboratively with staff as much as possible, and that would facilitate effectiveness and there
831 are staff who are very committed to their role and interested in making it work well.

832
833 **A General Strategic Planning Roadmap:** Pande said they provided a very generic high-level view of
834 strategic planning. This is probably not all the steps that DOGAMI would want to do, but these are
835 generally the things that they are helping organizations with in putting together a strategic plan.
836 They did put together a sample timeline of about a 6-month process that could be accelerated but
837 can take longer.

838
839 Pande explained they did not do any external outreach outside of the Agency or state government,
840 but they did listen to the testimony from the legislative session. The Agency might want feedback
841 from external stakeholders to be a part of it, but that can be a gigantic activity, so you will need to
842 triangulate where it comes from. He added sometimes the staff will say that at DOGAMI we want
843 our leaders to tell us what our direction should be, but it works a lot better if the people who do the
844 work have some input on it too.

845
846 Pande said when they went through this process, they had very open, productive, and cooperative
847 participation, and felt comfortable that nobody hid anything from them. They received lots of
848 varying opinions. He acknowledged Lori Calarruda for her assistance in scheduling the meetings.
849 Pande also noted the leadership team, the staff, everybody was very cooperative. Chair Maffei said
850 they all recognize her talent for making appointments.

851
852 Chair Maffei thanked Pande for his time and completing it so quickly. She was not convinced they
853 could get it done in the amount of time the Agency had.

854
855 Briefing: **No Board Action Required.**

856
857 **8) MLRR Update:**

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

859
860 Please note, included in this packet is the ENGAGE Spring 2021 Edition newsletter that is also
861 available online: <https://www.oregongeology.org/mlrr/engage.htm>

862
863 Permit Status Summary

864 Lewis stated new permits have continued to increase and active applications are back up to over 50.
865 There are fewer transfers that take less time to process, and increased new and amended permit
866 applications. The added volume and type of application has increased the average processing time to
867 over 7 months and is expected to go up due to the increased workload. This information has been
868 proactively communicated to permittees and applicants, who have been understanding.

869
870 The Program continues to generate steady input and output on compliance issue cases. Staff are
871 balancing the workload. With the Compliance Specialist as the single point of contact for
872 communications, there has been significant improvement in quality of materials being submitted
873 even on the first try. Staff are doing a really good job of working together to be as efficient as
874 possible given the circumstances.

875
876 The spring newsletter continues to have information on the new fees that went into effect January 1,
877 2021. They have been using the back page to highlight standard permit conditions. This newsletter
878 has specific insight on what to look for in Boundary Marking. Staff have been proactively working on
879 providing this information to permittees and applicants in hopes of dramatically improving outcomes
880 related to compliance issues.

881
882 Rule Making Update

883 Lewis stated the rules on High Value Farmland and Aggregate Mining have formally been filed with
884 the Secretary of State and made available for public and legislative comment. DOGAMI held a public
885 hearing, and no public or legislative comments were received. It will be submitted for final filing with
886 an effective date of August 1, 2021 [to be revised]. Lewis recognized Vaughn Balzer, who stepped in
887 as the Rules Coordinator less than a year ago and guided the process successfully to completion.

888
889 With respect to other rulemaking efforts, the current focus is a comprehensive review and rule
890 writing to address Executive Order 15-18 related to the Oregon Sage Grouse Acton Plan, approved by
891 the Board in March of 2020. DOGAMI is already working with our partners at ODFW on this effort
892 and will provide an update at the September Board meeting.

893
894 Chair Maffei ask to clarify if this is DOGAMI's rule and how the Agency will implement the Executive
895 Order in the permit review. Lewis said yes.

896
897 Grassy Mountain Update

898 Lewis said regarding Grassy Mountain, in late April Karl Wozniak joined DOGAMI in the role of
899 Chemical Process Mining Coordinator. He had a 30 plus year career as a hydrogeologist with the
900 Oregon Water Resources Department. He is a registered geologist and has field experience in
901 epithermal gold and base-metal deposits. He is an outstanding fit for this position.

902
903 There were also staffing changes on the applicant's side this spring, and Lewis reports that protocols
904 put in place for project management and coordination have helped keep lines of communication
905 strong.

906
907 The applicant has confirmed they will submit revised Groundwater and Geochemistry Baseline Data
908 reports next month. DOGAMI will distribute these to the Technical Review Team and make available
909 for public comment. The applicant also plans to submit a revised full application in late summer.

910

911 Kozlowski stated excellent progress. It sounds like Lewis could not have found a better person for
912 the role. It is like a miracle.

913
914 Lewis stated last month DOGAMI was invited to participate in an informal hearing on Mining in
915 Oregon for the Natural Resources and Agriculture Subcommittee. On May 20th, she gave a short
916 presentation of the regulatory responsibilities of MLRR, and an overview of the permitting process
917 and workload.

918
919 Lewis said that during the financial update, Dahlberg brought up that MLRR is in the process of hiring
920 a Business Analyst related to ePermitting. The 21-23 budget included a requirement for DOGAMI to
921 work with DEQ to explore the possibility of utilizing DEQ's Electronic Data Management System
922 (EDMS), known as *yourDEQonline*. DOGAMI and DEQ are having monthly meetings to coordinate the
923 steps required for DOGAMI to develop MLRR business requirements and map them to the current
924 EDMS system. With that mapping in hand, DEQ and DOGAMI can submit the information to their
925 vendor (EnfoTech) for a quote and timeline and then develop the agencies response to the Budget
926 Note. The response is due October 2021.

927
928 Briefing: **No Board Action Required.**

929
930 **9) GS&S Update:**

931 Bob Houston, GS&S Program Manager and Legislative Coordinator, provided an update on the GS&S
932 program.

933
934 Since March's update the program has released four new publications: Geologic map of the Dufur
935 area in Wasco County; Local tsunami evacuation analysis of Gold Beach and nearby unincorporated
936 communities in Curry County (Beat the Wave); Statewide Building Footprints for Oregon, release 1.0;
937 and Oregon Seismic Hazard Database, release 1.0. The Department has published six reports in the
938 first 6 months of 2021 and expects to have another eight to ten for the rest of the year, which is in
939 alignment with the previous 5-year average of 14 publications per year.

940
941 DOGAMI received legislative approval to apply for three federal grants (two are "anchor grants").
942 One is for NOAA, in the amount of \$473,977 for risk awareness and public outreach. The second is
943 for the FEMA CTP Program in the amount of \$2,213,647 that includes geological and natural hazard
944 risk assessments, post-wildfire debris flow mapping, channel migration, and lidar collection. The
945 third grant is for BLM lidar collection in the amount of \$250,000. These opportunities are in
946 alignment with DOGAMI's mission.

947
948 To maintain fiscal responsibility, the Agency will only pursue grants that allow it to recover all costs.
949 The Agency had to forego five DAS-GEO grant opportunities, because they do not allow indirect funds
950 to be charged to grants. This could cause some issues going forward with regards to not having
951 enough grants to cover staff's work or may limit the Department's ability to participate on critical
952 non-grant supported work in underserved communities. As the Agency progresses through each
953 biennium, some of these opportunities may become feasible provided any limitation on the grant
954 does not impact the Agency's ability to end each biennium with a reasonable underbudget General
955 Fund cushion. DOGAMI is working to maintain a financially stable and healthy organization that
956 provides outstanding and critical science information and regulation.

957

958 Ashford said he agrees with the decision for this year but going forward there might be a grant that
959 would require grant match that makes sense for DOGAMI to go after. In the future, DOGAMI should
960 consider them but continue to make an informed decision on whether to pursue them.

961
962 Kozlowski said she supports this, as it was one of the questions she had.

963
964 Houston said in response he has worked with the Business Office to develop a tool that would allow
965 DOGAMI to track the ending balance to see how much General Fund dollars are actually available for
966 these types of projects. As the Agency starts each biennium it will start out conservative, but maybe
967 around the mid-part of the biennium these opportunities will become available. The problem with
968 some grants, especially DAS-GEO, is it only comes on a biennial cycle and will always hit at the start of
969 each biennium. Going forward there may be opportunities where the need for the science is high
970 and reprioritization of the General Fund may be needed to cover it. This is part of their current
971 decision making.

972
973 Ashford said all the more reason for Dahlberg’s forecasting to be accurate and checked as the Agency
974 moves forward.

975
976 Briefing: **No Board Action Required.**

977
978 **10) Director’s Report:**

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

980
981 DOGAMI – In Brief Review

982 Avy said an old western movie title came to mind as he was preparing his report, “The Good, the Bad,
983 and the Ugly—and he would add to the title as of this spring...” “A Hopeful Future”. When Avy started
984 his role at DOGAMI he was looking for a challenge and was not disappointed. Given the rollercoaster
985 experience of DOGAMI, he wanted to recognize a few good high-level Agency moments over the past
986 5 years, because they tend to get lost in all the challenges. Avy also included some not so good
987 moments the Agency has taken the opportunity to learn from.

988
989 Good Highlights:

- 990 • DOGAMI staff has continued to produce exceptional science despite agency challenges
- 991 • Major progress has been made on the state of DOGAMI IT, including establishing a secure
992 server room and regular data transfer/backup to Salem
- 993 • Peeling back many layers of the MLRR onion has led to numerous operational and regulatory
994 improvements; in addition to a much-needed MLRR fee increase
- 995 • DOGAMI geologists are now either registered geologists or becoming so and officially
996 stamping and signing their work
- 997 • Nearly a dozen DOGAMI technical staff have gained 1-2 years of direct supervisory and/or
998 management experience through job rotations or acting appointments

999
1000 Not So Good Highlights:

- 1001 • Overspending of the budget, which forced greater focus on grant planning and monitoring
- 1002 • After a very rough start (self-imposed by DOGAMI), Grassy Mountain/Calico is now on track

- 1003 • Agency abolishment was proposed—but DOGAMI has risen from the ashes due to the
1004 outpouring of support from the statewide community and DOGAMI’s financial progress and
1005 discipline over the biennium
1006

1007 DOGAMI – Future State

1008 Avy stated DOGAMI is at a great point to build on the current positive momentum to include
1009 transition to a new director. There is a solid leadership team in place and staff have indicated a
1010 desire to partner for DOGAMI’s success. The next major initiative and great opportunity is
1011 development of DOGAMI’s 6-year Strategic Plan.
1012

1013 Avy – Path to Retirement

1014 Avy stated starting July 1st, Sarah Lewis, MLRR Program Manager, will be Acting Director for the
1015 month of July. He will be back in August to wrap up his time with the Agency and retire September
1016 1st. Avy said he appreciated the opportunity he has had to serve as Director of DOGAMI.
1017

1018 Kozlowski said it has been a joy to work with Avy, and he has taken the Agency through some
1019 challenging times with extraordinarily strong leadership, commitment, and passion for DOGAMI, its
1020 staff, and the Board. She appreciates his work, and he has had a positive impact on the Agency.
1021

1022 Ashford agreed with Kozlowski. He said he thinks he has made some good hires and has enjoyed
1023 working with him. He mentioned the turn around at MLRR under his leadership.
1024

1025 Chair Maffei thanked Avy for everything.
1026

1027 Briefing: **No Board Action Required.**
1028

1029 **11) Confirm Time and Date for Next Meeting:**

1030 Chair Maffei stated the next DOGAMI Board is currently scheduled for Friday, September 17, 2021 at
1031 8:30 a.m. – 1:00 p.m. in Portland or via Zoom. She confirmed this date is still acceptable for the
1032 Board.
1033

1034 Board members talked about the possibility of moving to in-person meetings and their preferences.
1035 A brief discussion took place about doing Zoom or maybe a hybrid of in-person and virtual. It will
1036 depend on what happens with COVID and the reopening of the State. No decision has been made at
1037 this time.
1038

1039 Chair Maffei said she hoped to fill Katie Jeremiah’s position in the near future, and is looking forward
1040 to finding another Board member, as the Board is meant to be setup with five members.
1041

1042 **12) Public Comment:**

1043 Only written comments received prior to or by 1:30 p.m. on the day of the meeting were to be
1044 accepted. Chair Maffei asked for any written public comments. No public comments.
1045

1046 **13) Board Adjourn:**

1047 Chair Maffei adjourned the meeting at 12:58 p.m.

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1050
1051
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1054

APPROVED



Laura Maffei, Chair