

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

Monday, June 26, 2017

8:30 a.m.

*Portland, Oregon*

**1) Call to Order:** (Lisa Phipps, Board Chair)

Chair Lisa Phipps called the meeting to order at 8:33 a.m.

**2) Introductions:** (Lisa Phipps, Board Chair and staff)

Chair Phipps, Vice Chair Laura Maffei, and Board Members Scott Ashford and Katie Jeremiah were in attendance.

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

Brad Avy, Director/State Geologist

Lori Calarruda, Recording Secretary/Executive Assistant

Kim Riddell, Chief Financial Officer (CFO)

Ian Madin, Chief Scientist/Deputy Director

Ali Ryan Hansen, Communications Director

Jed Roberts, GS&S Program Manager

Holly Mercer, Policy Assistant to the Director

Connor Anderson, Chief Information Officer (CIO)

Others in attendance:

Diane Lloyd, Department of Justice (DOJ)

Mike Harryman State Resilience Officer/Governor's Office

Bob Short, Robert Short & Associates

Annie Montgomery, Coastal Caucus Fellow

**3) Review Minutes of April 17, 2017:**

Phipps asked if there were any changes to the minutes as presented. No changes.

Board Action: **Ashford moved to approve the minutes of April 17, 2017 as submitted. Maffei seconded. Motion carried.**

**4) Proposed Concept by the Coastal Caucus:**

Annie Montgomery, 2017 Legislative Fellow, presented a Proposed Concept by the Coastal Caucus for the tsunami inundation zone. She requested questions on the concept from the DOGAMI Board to take back to the Caucus.

Chair Phipps said she feels like the Coastal Caucus may not fully understand all the nuances and it would be beneficial for DOGAMI to understand the multiple processes the Caucus is bringing into this concept and how the processes align or do not align with each other. She said it is interesting that

15 under the Proposed Concept we would still create an inundation line that does not particularly have  
16 any value associated with it except as an education line. It seems like the education under the  
17 existing regulation is in providing the information to the public, saying here are your five (5) choices  
18 and here is the science it is based on for how you choose to deal with it, planner, homeowner,  
19 business owner. You now have that information in front of you to make an informed decision. The  
20 establishment of whether you are in or out of the line in itself really does not feel like it adds  
21 anything in the context of what the concept proposes. There is really little to be gained and a lot of  
22 money and capacity to be spent for no added value.

23  
24 Ashford said ASCE 7-16 are design and construction standards, and wondered if DOGAMI can use  
25 information in ASCE 7-16 to establish DOGAMI's tsunami line. He said evacuation is not included in  
26 ASCE 7-16. Chair Phipps asked why and if there was any value in it. Phipps said she is disappointed  
27 that the Agency is the science authority for the State of Oregon and it seems to be creating a  
28 situation that the science is no longer a part of the decision making process. The ASCE 7 line  
29 happened to line up but it could have not lined up very well. Then you are in the situation of whose  
30 science is better. The State of Oregon has tasked these matters to the Department of Geology and  
31 Mineral Industries so it seems by default that should be the go to. Phipps said on the flip side, these  
32 standards that ASCE is proposing creates a much bigger burden than what was coming from DOGAMI  
33 and it is more restrictive. Ashford said he would add that one of the advantages to adopting the  
34 ASCE standards is it is nationally vetted by experts around the country and not just Oregon and not  
35 just local experts. He thinks that is a positive direction.

36  
37 Chair Phipps asked if there was anything in the Proposed Concept that requires Building Codes to  
38 make a decision if DOGAMI is being removed. Phipps said she is worried that it may turn into a  
39 situation where there is nothing. Montgomery said not that she remembers but she would take that  
40 back to the Caucus. Lloyd said it lets Building Codes be permissive, it allows them to adopt but it  
41 does not require them to. Ashford asked if that means it is up to the local governments. Maffei  
42 stated that the existing rules only deal with critical facilities and this would remove all of that.  
43 Ashford asked if the existing rules for critical facilities and hospitals would be overturned by this and  
44 Montgomery said she believes so.

45  
46 Chair Phipps said she has worked for local government for a long time and there is value in local  
47 control but every local entity is different, their capacity is different, the skillsets that are brought to  
48 the table vary dramatically and not many of them have science-based planners in their offices.  
49 Asking them to have political will without any kind of support behind them is asking a lot and it does  
50 not mean that the whole entity does not want to do something, but rather it does not have the  
51 capacity, the understanding or support from people who should be supporting them to move  
52 something forward. That needs to be considered. There is not a local planner, for example, who has  
53 not secretly went, thank heavens there is an ODFW or DSL, or whatever the entity and whatever the  
54 issue is, it is because they simply were not going to be able to make it on their own.

55  
56 Director Avy asked Montgomery how the Agency should engage the Caucus on future drafts.  
57 Montgomery said after session when things have calmed down a little bit, towards the end of  
58 summer to reengage the Coastal Caucus about the issue. Ashford asked for the timeline on this.  
59 Montgomery said she thinks it is past the point to be introduced for this session but maybe next  
60 session. She stated this was drafted this session and was being floated. Montgomery said there  
61 were a lot of different conversations happening and maybe a sit down discussion would help.  
62

63 Jeremiah asked how the FEMA Flood Plain zones are established and how is that interplayed between  
64 the land use and what FEMA has established for them. Chair Phipps discussed the process.  
65 Montgomery said she feels that the small communities have been hit hard with all the different  
66 regulations. Maffei wanted to make sure that they know that DOGAMI's regulation is not new but  
67 requires updates regularly. Ashford said that all the agencies should sit down and have a discussion  
68 to make sure everything is being covered.

69  
70 Briefing: **No Board Action Required.**

71  
72 **5) Update Regarding Upcoming Hearings:**

73 Diane Lloyd, Assistant Attorney General, provided an update on two upcoming hearings.

74  
75 The first hearing is related to Enerfin and a special ruling in Division 10. The rules require that wells  
76 not be located within 500 feet from the nearest producing well in the same pool and require a  
77 hearing for an exception to the rule. The Mist rules allow the Agency to have a department hearing  
78 and not a board hearing. The hearing will be done with Director Avy or Deputy Director Madin  
79 presiding over the hearing and making a decision. Enerfin could have another hearing based on the  
80 decision. It would go to the Court of Appeals if appealed. Ashford asked if it was the same as a  
81 proposed order and Lloyd explained that process. Ashford asked if there are costs associated with  
82 appealing and Lloyd said yes.

83  
84 Maffei stated that as she mentioned at a previous board meeting she has a conflict of interest  
85 regarding Enerfin and is unable to participate in this discussion and asked that it be noted for the  
86 record.

87  
88 The second hearing request is a more standard process. The Agency had to issue a permit revocation  
89 order for a quarry that has been out of compliance with its permit. The landowner will not let a  
90 permittee back on the property to comply with the permit and the Agency has referred it to the  
91 Office of Administrative Hearings to handle it. It could be six months out depending on case load.

92  
93 Lloyd was asked to provide more information on Calico and described the process.

94  
95 Briefing: **No Board Action Required.**

96  
97 Holly Mercer introduced Sherry Carter, DOGAMI's new HR Representative.

98  
99 **6) MLRR Update:**

100 Ian Madin, Deputy Director presented his report on MLRR.

101  
102 Permitting Status

103 In looking for additional information to provide the Board about the permits, MLRR looked back to  
104 2012-2013 when there was a big bump in permits coming in but not going out, which caused the  
105 backlog of permits last year. The Program has issued three (3) times as many permits in this year  
106 compared to the last five (5) years. Maffei asked if it was a lot and Madin replied yes. They are  
107 making good progress with it and have pulled back on routine inspections to focus on permitting.  
108

109 Kelley Wood has been managing the permits and has been able to get them completed and out the  
110 door as well as closing out old ones. Ashford asked if the active ones include the backlog permits and  
111 Madin said yes, about twenty (20) old ones and the new ones received are included in the active  
112 numbers. Ashford asked how they will track them going forward. Madin said most new ones will  
113 take a year to process and we will probably always be sitting on a backlog given the timeline it takes  
114 to get them done. Ashford asked how the Agency will know. Madin said if the numbers stay the  
115 same or decline then the Agency is successful. He hopes that new forms and efficient processing will  
116 take less time to process permits. Holly Mercer said defining when an application is complete or not  
117 complete has been a challenge. Madin said that hopefully the new processes will minimize that  
118 uncertainty.

119  
120 Jeremiah asked Madin for clarification about his comments on SB 644 and the Agency's authority to  
121 issue a permit conditional upon other agencies' approvals, including land use. Madin stated he is  
122 waiting for a written opinion from Diane Lloyd as to whether MLRR does or does not have authority  
123 before moving forward. Jeremiah asked about permits waiting in the queue for this clarification.  
124 Lloyd said the Agency has been following with the process the way they have been. Madin gave an  
125 example of a DSL requirement. Jeremiah said industry thinks DOGAMI is the agency that should be  
126 the one that issues its permit first. Madin said they will be coming back to the Board for input on  
127 how they should proceed in the future.

128  
129 Madin handed out a letter from Rich Angstrom from OCAPA and Lloyd said DOGAMI will respond.

130  
131 Jeremiah read into record examples of conditional permits.

132  
133 Windsor Rock Products, Marion County, DOGAMI permit with conditions for county road permit, DSL  
134 and Corps wetlands permit.

135  
136 Sunny Valley Sand and Gravel, Josephine County, DOGAMI permit with condition for county road  
137 access permit, county permit for bridge construction, DEQ 1200A.

138  
139 Bates and Roth or Fort James, Columbia County, DOGAMI permit with DSL, Corps wetlands permits.

140  
141 Storm Water Program

142 Madin reminded the Board that DOGAMI is an agent for DEQ for storm water permits. These permits  
143 are renewed every five (5) years and all are due this year. The Agency did not have anyone in this  
144 position and was able to hire Lisa Reinhart before the hiring freeze. DEQ has not yet come up with  
145 the new standards to implement the permitting process. It is good business and a good revenue  
146 stream.

147  
148 OCAPA Conference/Awards

149 Madin briefly discussed information presented at the OCAPA awards ceremony. He said it was  
150 impressive the kind of work the permittees are doing for reclamation. It is a valued part of the  
151 program and the permittees are honored to get the awards.

152

153 Permitting of Construction Projects

154 Madin discussed the permitting of construction projects in Bend. For the moment, they have made a  
155 decision based on staff availability (resources) to not track down the construction permits and are  
156 focusing on the backlog of mine permits.

157  
158 Calico-Grassy Mountain

159 Madin stated a new Notice of Intent was received in February, which starts off the process and  
160 baseline data collection. The law is written with no mechanism for a modification so an entirely new  
161 Notice of Intent has to be submitted for any changes. The Agency will review the data collection plan  
162 and then review the data collected and then should be in a position to accept the baseline data,  
163 which needs to be done before Calico can submit an application. The change was a small one to  
164 move the northern boundary 1500 feet to the north. Calico has previously submitted the baseline  
165 data and if it is still valid they can add to it. The Agency has agreed to have the humidity cell test  
166 terminated at the recommendation of its contractor because the data needed has been collected.  
167 The test determines if acid drainage will be produced.

168  
169 MLRR Business Model Review

170 Madin said the Budget Note in 2015 required them to do an analysis of the business processes for  
171 both parts of the Agency. He said he has an understanding of the shortcomings of the Program and  
172 has a detailed list of what needs to be done to fix them. To summarize the shortcomings of the  
173 Program, he stated there are two major issues. First, difficult policy issues. There are no written  
174 policy and procedures and no consensus with staff on them; causing staff to be unclear on what to  
175 do. Second, the permitting tools are inefficient and need to be improved. There has been poor  
176 attention to recordkeeping and the filing system is archaic. With information not being in a database,  
177 it is difficult to determine what happened in the past and it has generated sticky problems for the  
178 permitting process. The current funding and staffing is not enough to have both proper and well  
179 documented files and an aggressive field presence.

180  
181 Madin stated the high level approach is to reorganize the staff towards specialization and to develop  
182 clear work flows for all the permitting and compliance issues. An all-day meeting is scheduled in July  
183 to review the process for aggregate permitting and determine who does what. He feels once it is  
184 made clear it will be easier for the staff to follow. Madin plans to try to have one all-staff meeting a  
185 month to get through the major parts of their workload resulting in a much clearer picture for staff to  
186 carry out their duties. It will also provide a good basis to determine if fees are adequate.

187  
188 Ashford asked with the ambiguity of the rules and statutes if DOJ is involved. Madin stated he gets a  
189 comprehensive DOJ legal review on all these issues before he makes a decision. Madin believes by  
190 specializing each position, it should help keep the answers consistent.

191  
192 Jeremiah asked if the staff is keeping a list of inefficiencies that could help with reducing the costs  
193 instead of needing to raise the fees. Madin replied yes. Madin also said Rich Angstrom is planning  
194 on a major rewrite of statutes in 2018, so they will wait and it will be pushed out one year.

195  
196 Madin provided a brief update on the Enerfin status. The Tambora well had a conflict with a  
197 neighbor for lease on mineral rights. Enerfin wants to drill another well in the same proximity (less

198 than 500 feet) which requires a hearing with the Agency not the Board. The purpose of the rule is to  
199 minimize the surface disturbance by minimizing the number of wells drilled.

200  
201 Madin introduced Bob Brinkmann who has been dealing with all the permitting steps of the process.

202  
203 Briefing: **No Board Action Required.**

204  
205 **7) Public Comment:**

206 Phipps asked for public comment.

207  
208 Comment of Bob Short: Short said he wanted to provide an accolade to Ben Mundie for the awards  
209 program.

210  
211 **Break**

212  
213 **8) Financial Report:**

214 Kim Riddell, Chief Financial Officer, presented the budget status report through June 9, 2017. The  
215 packet contained the budget report, the grants/projects lists and a Frequently Asked Questions (FAQ)  
216 sheet. Riddell said all indirects are up to date and General Fund will be spent out to the penny. The  
217 federal funds will be a zero balance at the end of the biennium. Riddell said she has no concerns  
218 about closing out the biennium as DAS Shared Financial Services has been working with them closely.  
219 Chair Phipps asked questions about the MLRR program and why it appears they are ahead. Riddell  
220 stated it was due to having three vacant positions and standard practice is for three (3) months of  
221 funds in case of limited revenue. The budget report does not include projections. Riddell stated she  
222 would like to include projections for next biennium. Avy expressed his appreciation for what Riddell  
223 has accomplished with the budget, including the executed contracts for office improvements that  
224 needed to be done prior to the end of the biennium.

225  
226 Chair Phipps said at the end of 2015 she was full of skepticism and cynicism because everything was  
227 under a microscope and Riddell has brought the Agency to a place where the Board feels that they  
228 understand how these dollars are being spent, it is clear and they know they can question and get  
229 responses. She appreciates everything Riddell has done.

230  
231 Riddell said the next document includes all of the grants. She said the Agency currently has on the  
232 books about \$2 million of federal funds going forward for the next biennium. It does not include  
233 FEMA, Statemap, or NOAA for the next year. There is about \$800,000 for other funds for next  
234 biennium. Phipps asked if the grants that are over budget need to be paid for with General Fund and  
235 if they are legacy ones that will not be continuing into the biennium; Riddell said that is correct.  
236 Maffei wanted to clarify that she understood that the Agency was paying for the overages with  
237 General Fund and Riddell stated yes. They are now closely watching the grants and having monthly  
238 meetings with the PIs.

239  
240 Board Action: **Jeremiah moved to accept the Budget Status Report as presented. Ashford**  
241 **seconded. Motion carried.**

242  
243 **9) Federal Budget Impact:**

244 Riddell said the Agency is not hearing anything regarding the federal budget that would have an  
245 impact as of yet. There is a lot of speculation but no one knows what is going to happen. Riddell said  
246 the Agency will budget based on what is received and is looking for other avenues of funding for this  
247 next biennium. A FEMA grant will be applied for next month. The Agency has not been receiving  
248 information saying we will receive less funds. NOAA funds NTHMP and President Trump did sign the  
249 Tsunami Act that will dedicate \$25 million to programs. Riddell will keep the Board updated on  
250 anything she hears.

251  
252 Briefing: **No Board Action Required.**

253  
254 **10) Legislative Report:**

255 Ian Madin, provided the following legislative update.

256  
257 SB 1036 – Passed out of House with a minor amendment taking out irrigation. It was sent to Rules.

258 SB 850 – OSSPAC studies on seismic issues passed and went to Governor’s office and was signed.

259 HB 2711 – The fracking ban died in committee.

260 HB 2399 – All paleontological materials held by any state agency must be surrendered to the Condon  
261 Museum at U of O.

262 SB 644 – Changes the aggregate permitting procedures – large scale mines in Eastern Oregon would  
263 be exempt from county land use permitting process but the sage grouse protection would still be in  
264 place. Conflicts between agriculture adjacent to the mine and the mine will be handled by the  
265 Project Coordination Committee, who will come up with conditions to alleviate the conflict then give  
266 it to DOGAMI to handle as it deems appropriate. The process restricts the input on permits from  
267 Cooperating Agencies with no permit in the process. Provisional permits may be issued by DOGAMI  
268 that state the applicant needs to get other permits before they can mine. It is still very confusing.

269  
270 Briefing: **No Board Action Required.**

271  
272 **11) GS&S Update:**

273 Jed Roberts, Program Manager provided the GS&S Update. Roberts said they are working with  
274 Riddell on an operational budget for the program and coming up with line items such as matching  
275 funds on federal grants, training budget, outreach and development, project overruns and how much  
276 we need to plan for, and office and field equipment. The plan is to go back to staff after July 10<sup>th</sup> with  
277 numbers. For the non-General Funds they will be creating a break even analysis for grants that  
278 covers the gap and what we need to do to cover staff. Jeremiah asked if they get copies of each  
279 programs budgets as a Board. Riddell said she will provide any reports the Board wants. Riddell said  
280 they could provide the details on all new ones going forward. Ashford asked how the Agency  
281 provides for overruns. Roberts said they include contingency scenarios for the initial budgets, but  
282 determining what is an allowable overrun amount is still a work in progress. Riddell said there is no  
283 line item in the actual budget and they use a percentage and try to project for that. An overage still  
284 has to be paid for so it needs to be taken from another bucket. Ashford asked about matching funds  
285 and how they decide on them. Roberts said they have a certain amount set aside for these and there  
286 are projects paid for with General Fund and what the Agency wants to accomplish. Ashford said it is  
287 important to determine those. Roberts said they want input from the staff but all are approved by  
288 management.

290 Roberts discussed field safety. He said most of the staff are behind on training and wants to get  
291 those in the field certified and keep the 2-year certifications updated.

292

293 Roberts discussed unmanned aerial systems otherwise called drones. The drones will be used for  
294 activities such as field reconnaissance for geologic mapping in unsafe areas, coastal change  
295 monitoring from different angles to do 3-D modeling, and monitoring mine sites. They will not be  
296 flying them for some time as FAA changed their regulations, they need to register the drones and  
297 have certified drone pilots, and the Oregon Department of Aviation has new regulations. The plan is  
298 to have small group of staff become experts and more staff to have licenses to fly. They hope to be  
299 flying in the fall.

300

301 Ashford asked about capturing the data and if there are cameras. Roberts replied yes, they have staff  
302 skilled in the programs already using it for other work being done and lidar is one group. Jeremiah  
303 asked if they are weather resistant and Roberts said yes and they are industrial grade are also insured  
304 for two (2) years. They ordered two (2) quadcopters and one (1) hexicopter for the coast. Ashford  
305 asked how much they cost and Roberts said about \$20,000 for all of them including extra batteries  
306 and sturdy carrying cases.

307

308 Briefing: **No Board Action Required.**

309

310 **Break**

311

312 **12) Director's Report:**

313 Director Avy presented the Director's Report on the following:

314

315 Leadership Development Update

316 Avy highlighted the management/supervisor rotation program. Candidates will apply again in the fall  
317 for supervisor positions as they are one-year rotations and the manager is a 2-year. He appreciates  
318 the manager and supervisors and their interest and enthusiasm to engage their staff and become  
319 part of the process to improve communication. One thing that has been lacking within the agency in  
320 previous years is regular feedback to employees. A focus over the last several months has been on  
321 developing an employee evaluation process to provide annual feedback to employees on their  
322 performance.

323

324 Annual Staff Evaluations

325 Avy did a walkthrough of a handout. He stated it was an annual check-in and provides  
326 acknowledgement of what the employee has accomplished and what is expected. The organizational  
327 chart is colored based on where the position falls within on the Strategic Framework. The DOGAMI  
328 Strategic Framework was done in an easier format for employees to determine where they fall on it.  
329 The annual check-in package contains a matrix example of a position. It also provides an opportunity  
330 where the staff can work in something else. This is draft and will go out to staff for input before  
331 making it final. Avy wants this to be a positive experience for staff. This does not address  
332 performance issues.

333



334 Maffei asked if this will be automated online and Avy stated yes, except for the supervisor's  
335 narrative. Avy thanked Deb Schueller for her work on completing the form. Avy will provide an  
336 update next meeting as to input from staff.

337

338 Briefing: **No Board Action Required.**

339

340 **13) Portland Office Facilities Update & Mini-Tour:**

341 Avy briefly discussed the facility changes in the Portland office. Lori Calarruda provided a tour of the  
342 improved office areas and Connor Anderson provided a tour of the new Server Room located on the  
343 8<sup>th</sup> floor.

344

345 Briefing: **No Board Action Required.**

346

347 **Break**

348

349 **14) Director/State Geologist Performance Evaluation Procedure:**

350 Holly Mercer, Policy Assistant to the Director, stated a procedure was not previously in place for the  
351 Director evaluation and this is a KPM that has been missed in the past. She reviewed the proposed  
352 Director/State Geologist Performance Evaluation, which uses a performance year of January 1-  
353 December 31.

354

355 Ashford asked if DOGAMI uses a 360 process and Mercer said she was not aware of it. Ashford said  
356 at OSU they do not accept anonymous input but some are reluctant to provide it due to retaliation.  
357 Sherry Carter, HR Rep, said they have a tool called Allegiance for other Boards she supports. It has a  
358 76% response rate. It is not anonymous but that information is captured, just not part of the  
359 graphics and summary of information.

360

361 Ashford asked if the timeline of two weeks works for feedback. Chair Phipps said yes, she thought it  
362 would work. Phipps asked if the Board wanted to move forward with voting.

363

364 Board Action: **Maffei moved to accept the basic framework as developed for the Director/State**  
365 **Geologist Performance Evaluation Procedure as presented. Ashford seconded. Motion carried.**

366

367 **15) Executive Session – Annual Director's Review:**

368 Chair Phipps announced the start of the Executive Session for the Director's Annual Review.

369

370 **16) Return to Public Session:**

371

372 **17) Annual Director Review:**

373 Chair Phipps reconvened the regular public session following the Director's Evaluation. Phipps said  
374 the Board had a good evaluation for the Director, that he is exceeding expectations and they have a  
375 list of goals and accomplishments for him. Ashford moved to accept the Annual Director Review.

376

376 Maffei seconded. Approved.

377

378 Board Action: Ashford moved to accept the Annual Director Review. Maffei seconded. Motion  
379 carried.

380

381 Chair Phipps asked Sherry Carter what does the Board do with the original form and Carter replied  
382 that it goes into the personnel file and Director Avy receives a copy. Diane Lloyd answered the  
383 Board's question about the confidentiality of personnel files. She stated they are treated as  
384 confidential files, but some parts may be released for public records requests.

385

386 The Board had a question on how DOJ opinions are requested. Lloyd stated most agencies have a  
387 general counsel person assigned to them. They bill their time hourly, which that rate is set by  
388 statute and it is currently \$175 an hour. She stated her time is tracked in tenth of an hour  
389 increments. There was some overlap of time with the previous attorney during the transition. Lloyd  
390 said historically questions from MLRR did not come over to DOJ that should have and currently she  
391 is receiving questions directly from Madin and not from staff. Ashford asked if she received an email  
392 from staff would she answer it and she said yes, but she usually copies in her response back. A  
393 discussion occurred after Ashford asked several questions about rulemaking, conceptual bills and  
394 the ambiguity of statutes. In response to Ashford, Lloyd confirmed there are differences between  
395 legislative and rules processes.

396

397 Sherry Carter stated HR uses the Labor Employment side of DOJ for personnel issues and Lloyd said  
398 there are other areas of DOJ related to trial and appellate, that agencies could end up working with.

399

400 Phipps asked the Board members if they would be interested in some sort of workshop or retreat to  
401 discuss being part of the board and roles and responsibilities—possibly in conjunction with the  
402 September board meeting. Avy suggested putting together a draft agenda and Ashford suggested  
403 doing the retreat in the morning.

404

405 **18) Public Comment:**

406 Phipps asked for public comment. No public comment.

407

408 **19) Confirm Time and Date for next Meeting:**

409 The next Board meeting will be held on Monday, September 18, 2017 and is tentatively scheduled to  
410 be held in Eugene, OR with a possible field trip to mine site(s) included.

411

412 **20) Board Adjourn:**

413 Chair Phipps adjourned the meeting at 1:37 p.m.

414

415

416 APPROVED

417

418

419

420   
Lisa Phipps, Chair

421

## Proposed Concept

5/10/17

### Summary

In 1994, the legislature gave State Department of Geology and Mineral Industries (DOGAMI) authority to identify and map the tsunami inundation hazards along the Oregon coast and to restrict construction within those areas. This proposed concept would remove authority of DOGAMI and its governing board to prohibit construction or to require special construction standards in tsunami inundation zones. DOGAMI will have increased accountability and transparency when determining inundation hazards through a new public process for affected communities.

- DOGAMI's authority to prohibit construction in a tsunami inundation zone will no longer be needed because there is a new national tsunami standard to address construction requirements for tsunami inundation zones.
- The new tsunami construction standard (ASCE 7-16) will address all building types (not just essential facilities) to mitigate tsunami risks.
- DOGAMI would retain the authority to adopt tsunami inundation zone maps, which could trigger use of the new standard (ASCE 7-16).
- There will be increased transparency by creating a public process that will establish tsunami inundation zone maps. The public process will now include:
  - Criteria for establishing inundation zone maps adopted by rule after consultation with affected communities.
  - An appeal process for local communities that disagree with application of the tsunami inundation zone standards.
  - A provision allowing a group of 10 people, or an organization representing 10 or more people, to appeal the adoption of a tsunami inundation zone map.

### EMERGENCY MANAGEMENT AND SERVICES

**401.950 Definitions; tsunami warning information; rules.** (1) As used in this section:

(a) "Transient lodging facility" means a hotel, motel, inn, condominium, any other dwelling unit or a public or private park that is made available for transient occupancy or vacation occupancy as those terms are defined in ORS 90.100.

(b) "Tsunami inundation zone" means an area of expected tsunami inundation, based on scientific evidence that may include geologic field data and tsunami modeling, determined by the governing board of the State Department of Geology and Mineral Industries, by rule, as required by ORS 455.446 (1)(b) and (c).

(2) The Office of Emergency Management, in consultation and cooperation with the State Department of Geology and Mineral Industries, shall:

(a) Develop and adopt by rule tsunami warning information and evacuation plans for distribution to transient lodging facilities located in a tsunami inundation zone; and

(b) Facilitate and encourage broad distribution of the tsunami warning information and evacuation plans to transient lodging facilities and other locations within tsunami inundation zones frequented by visitors to the area.

(3) The office is not required to carry out the duties assigned under subsection (2) of this section if sufficient moneys are not available under ORS 401.955. [Formerly 401.861]

**455.446 Construction of certain facilities and structures in tsunami inundation zone prohibited; establishment of zone; rules; exceptions.** (1)(a) ~~New essential facilities described in ORS 455.447 (1)(a)(A), (B) and (G) and new special occupancy structures described in ORS 455.447 (1)(e)(B), (C) and (E) may not be constructed in the tsunami inundation zone established under paragraph (c) of this subsection. The provisions of this paragraph apply to buildings with a capacity greater than 50 individuals for every public, private or parochial school through secondary level and child care centers.~~

~~(ba) The State Department of Geology and Mineral Industries shall establish the parameters of the area of expected tsunami inundation based on scientific evidence that may include geologic field data and tsunami modeling.~~

**(b) The State Department of Geology and Mineral Industries shall by rule establish criteria for creating tsunami inundation zone boundaries in consultation with all affected communities.**

~~(c) The governing board of the State Department of Geology and Mineral Industries, by rule, shall determine the tsunami inundation zone based on the parameters established by the department. The board shall adopt the zone as determined by the department under paragraph (b) of this subsection, **after consultation with jurisdictions within proposed inundation zone map.** except as modified by the board under paragraph (d) of this subsection.~~

**(2) Any person may appeal the determination under subsection (b) pursuant to ORS Chapter 183.**

**(3) Ten or more persons, or an association representing 10 or more persons, may appeal a determination under subsection (c) pursuant to ORS Chapter 183.**

~~(d) The board may grant exceptions to restrictions in the tsunami inundation zone established under paragraph (c) of this subsection after public hearing and a determination by the board that the applicant has demonstrated that the safety of building occupants will be ensured to the maximum reasonable extent:~~

- ~~— (A) By addressing the relative risks within the zone.~~
- ~~— (B) By balancing competing interests and other considerations.~~
- ~~— (C) By considering mitigative construction strategies.~~
- ~~— (D) By considering mitigative terrain modification.~~
- ~~— (e) The provisions of paragraph (a) of this subsection do not apply:~~
  - ~~— (A) To fire or police stations where there is a need for strategic location; and~~
  - ~~— (B) To public schools if there is a need for the school to be within the boundaries of a school district and fulfilling that need cannot otherwise be accomplished.~~
- ~~— (f) All materials supporting an application for an exception to the tsunami inundation zone are public records under ORS 192.005 to 192.170 and must be retained in the library of the department for periods of time determined by its governing board.~~
- ~~— (g) The applicant for an exception to the tsunami inundation zone established under paragraph (c) of this subsection shall pay any costs for department review of the application and the costs, if any, of the approval process.~~
- ~~— (2) The definitions in ORS 455.447 apply to this section.~~
- ~~— (3) The provisions of this section do not apply to water dependent and water related facilities, including but not limited to docks, wharves, piers and marinas.~~

~~—(4) Decisions made under this section are not land use decisions under ORS 197.015 (10). [1995 c.617 §2; 2005 c.22 §329; 2007 c.354 §31]~~

**455.447 Regulation of certain structures vulnerable to earthquakes and tsunamis; rules.**

(1) ~~As used in this section, unless the context requires otherwise:~~

(a) “Essential facility” means:

(A) Hospitals and other medical facilities having surgery and emergency treatment areas;

(B) Fire and police stations;

(C) Tanks or other structures containing, housing or supporting water or fire-suppression materials or equipment required for the protection of essential or hazardous facilities or special occupancy structures;

(D) Emergency vehicle shelters and garages;

(E) Structures and equipment in emergency-preparedness centers;

(F) Standby power generating equipment for essential facilities; and

(G) Structures and equipment in government communication centers and other facilities required for emergency response.

(b) “Hazardous facility” means structures housing, supporting or containing sufficient quantities of toxic or explosive substances to be of danger to the safety of the public if released.

(c) “Major structure” means a building over six stories in height with an aggregate floor area of 60,000 square feet or more, every building over 10 stories in height and parking structures as determined by Department of Consumer and Business Services rule.

(d) “Seismic hazard” means a geologic condition that is a potential danger to life and property that includes but is not limited to earthquake, landslide, liquefaction, tsunami inundation, fault displacement, and subsidence.

(e) “Special occupancy structure” means:

(A) Covered structures whose primary occupancy is public assembly with a capacity greater than 300 persons;

(B) Buildings with a capacity greater than 250 individuals for every public, private or parochial school through secondary level or child care centers;

(C) Buildings for colleges or adult education schools with a capacity greater than 500 persons;

(D) Medical facilities with 50 or more resident, incapacitated patients not included in subparagraphs (A) to (C) of this paragraph;

(E) Jails and detention facilities; and

(F) All structures and occupancies with a capacity greater than 5,000 persons.

(2) The Department of Consumer and Business Services ~~shall~~ may consult with the Seismic Safety Policy Advisory Commission and the State Department of Geology and Mineral Industries prior to adopting rules. ~~Thereafter, the~~ Department of Consumer and Business Services may adopt rules as set forth in ORS 183.325 to 183.410 to amend the state building code to:

(a) Require new building sites for essential facilities, hazardous facilities, major structures and special occupancy structures to be evaluated on a site specific basis for vulnerability to seismic geologic hazards.

(b) Require a program for the installation of strong motions accelerographs in or near selected major buildings.

(c) Provide for the review of geologic and engineering reports for seismic design of new buildings of large size, high occupancy or critical use.

(d) Provide for filing of noninterpretive seismic data from site evaluation in a manner accessible to the public.

(3) For the purpose of defraying the cost of applying the regulations in subsection (2) of this section, there is hereby imposed a surcharge in the amount of one percent of the total fees collected under the structural and mechanical specialty codes for essential facilities, hazardous facilities, major structures and special occupancy structures, which fees shall be retained by the jurisdiction enforcing the particular specialty code as provided in ORS 455.150 or enforcing a building inspection program under ORS 455.148.

(4) Developers of new essential facilities, hazardous facilities and major structures described in subsection (1)(a)(E), (b) and (c) of this section and new special occupancy structures described in subsection (1)(e)(A), (D) and (F) of this section that are located in an identified tsunami inundation zone shall **may** consult with the State Department of Geology and Mineral Industries for assistance in determining the impact of possible tsunamis on the proposed development and for assistance in preparing methods to mitigate risk at the site of a potential tsunami. Consultation shall **may** take place prior to submittal of design plans to the building official for final approval. [1991 c.956 §12; 1995 c.79 §229; 1995 c.617 §1; 2001 c.573 §12]

#### **Department of Geology and Mineral Industries**

**516.090 General duties and powers of board; rules.** (1) The governing board of the State Department of Geology and Mineral Industries shall:

(a) Direct and review the performance of the State Geologist and the State Department of Geology and Mineral Industries in carrying out its duties and responsibilities pursuant to this chapter and ORS chapters 517, 520 and 522.

(b) Carry out the policies set forth in this chapter and ORS chapters 517, 520 and 522.

(c) Establish policies and approve plans that lead to an understanding of geology and mineral resources of the state, geologic processes and hazards and scientific, economic and tourism issues relating to geology and mineral industries.

(d) At the discretion of the board, accept from the United States or any of its agencies such funds as may be made available to this state for any of the purposes contemplated by this chapter, and shall enter into such contracts and agreements with the United States or any of its agencies or with Oregon or any of its agencies as may be necessary, proper and convenient, and not contrary to the laws of this state.

(e) Review and approve budget requests of the department.

(f) In accordance with applicable provisions of ORS chapter 183, adopt rules establishing criteria and procedures by which the department may enter into contracts or agreements pursuant to ORS 516.035 (6), including but not limited to criteria and procedures that ensure protection of the public interest and advance the duties of the department as described in ORS 516.030.

(2) The board may:

(a) In accordance with applicable provisions of ORS chapter 183, adopt rules necessary for the administration of the laws that the board is charged with administering, **except the board may not adopt any rules prohibiting construction or requiring special construction standards.**

(b) Receive on behalf of this state, for the use and benefit of the department, gifts, devises and legacies of real or other property, and use them in accordance with the wishes of the donors, or,

in the absence of specific instructions by the donors, manage, use and dispose of the gifts and legacies as may be deemed by the board for the best interest of the state.  
[Amended by 1993 c.260 §6; 2011 c.72 §2]

DRAFT