

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

**July 28, 2020**  
**8:30 a.m.**

**Teleconference Public Meeting Agenda**

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

**Dial: 1-253-215-8782**

**When prompted, enter ID number: 936 9973 2251**

**If prompted for a Password: 829721**

Governor Brown’s [Executive Orders](#)

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

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|-------------------|----------------|--|
| <b>8:30 a.m.</b>  | <b>Item 1:</b> | <b>Call to Order</b> – Chair Laura Maffei  |
| <b>8:35 a.m.</b>  | <b>Item 2:</b> | <b>Introductions</b> – Chair Laura Maffei and staff  |
| <b>8:40 a.m.</b>  | <b>Item 3:</b> | <b>Review 2021-23 Agency Request Budget (ARB)</b> – Dania Ballard, Chief Financial Officer<br>Board Action: The Board will be asked to take an action on this item |
| <b>9:40 a.m.</b>  | <b>Item 4:</b> | <b>Civil Penalties</b> – Sarah Lewis, MLRR Program Manager<br>Board Action: The Board will be asked to take an action on this item                                 |
| <b>10:10 a.m.</b> | <b>Item 5:</b> | <b>Public Comment</b><br>Only <u>written comments</u> received prior to or by 10:30 a.m. on the day of the meeting will be accepted                                |
| <b>10:20 a.m.</b> | <b>Item 6:</b> | <b>Board Adjourn</b>   |

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**PLEASE NOTE**

**AGENDA**

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

**PUBLIC TESTIMONY**

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

**REASONABLE ACCOMMODATION OF DISABILITIES**

Please contact us at least three business days prior to the meeting to let us know if you need reasonable accommodations. Contact the Director's Office at (971) 673-1555 to make your request.

# Staff Report and Memorandum

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

From: Dania Ballard, Chief Financial Officer

Date: July 22, 2020

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

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

*Proposed Board Action: The Board will be asked to take an action on this item.*



**TO:** DOGAMI Governing Board  
**FROM:** Dania Ballard, Chief Financial Officer  
**DATE:** July 24, 2020  
**SUBJECT:** AY23 Agency Request Budget Revision

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## **AY23 Agency Request Budget**

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

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

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

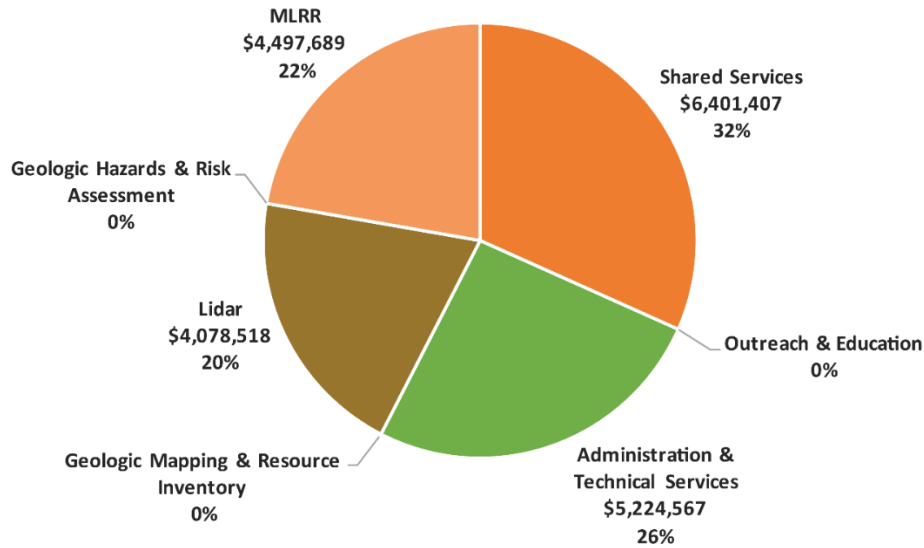
## Summary of AY23 Agency Request Budget Revisions

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### Agency Summary Narrative

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

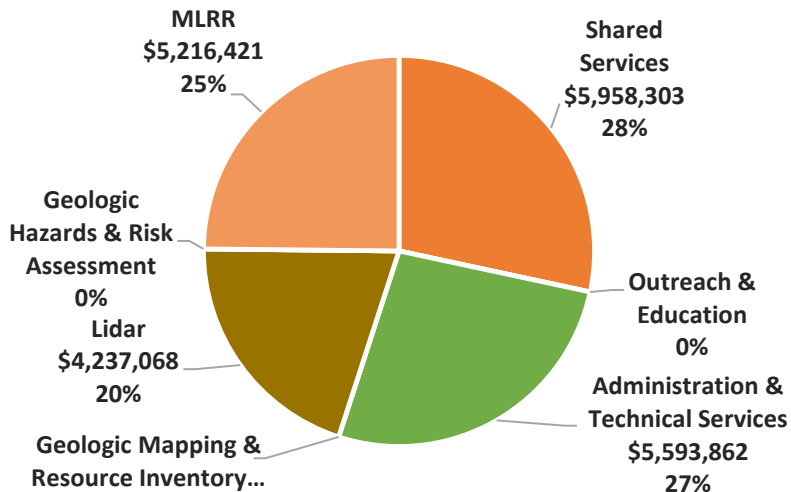


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### 2021-23 Agency Expenditure Estimates by Section

### Agency Summary Narrative

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

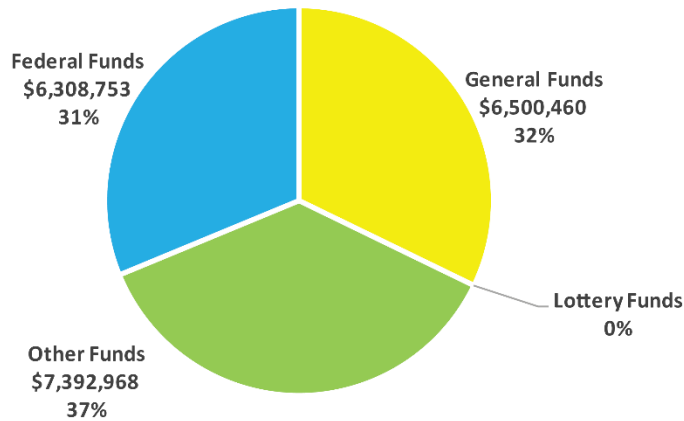


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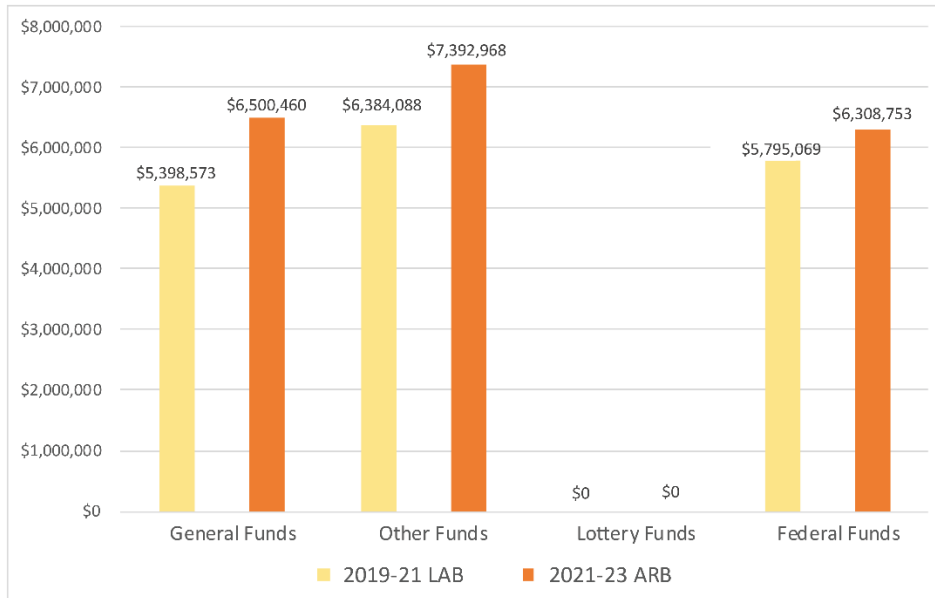
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### 2021-23 Agency Expenditure Estimates by Section

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



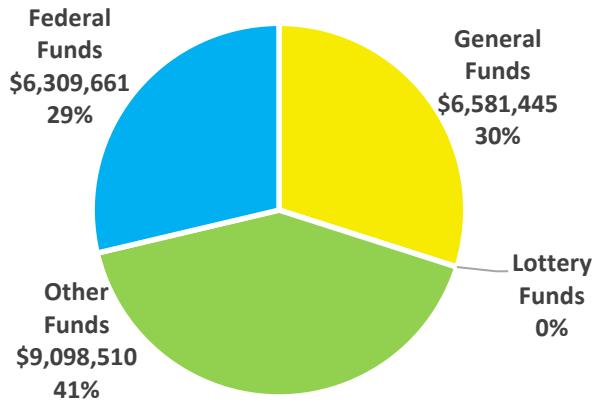
**2021-23 Distribution by Fund Type**



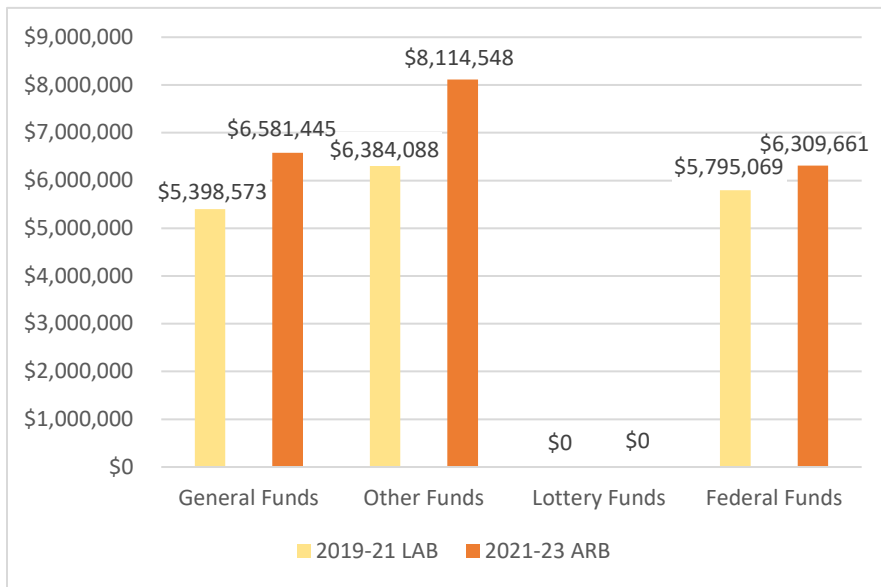
**Comparison of 2019-21 Legislatively Approved Budget (as of April 2020) with the 2021-23 Agency Request Budget**

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



**2021-23 Distribution by Fund Type**



**Comparison of 2019-21 Legislatively Approved Budget with the 2021-23 Agency Request Budget**

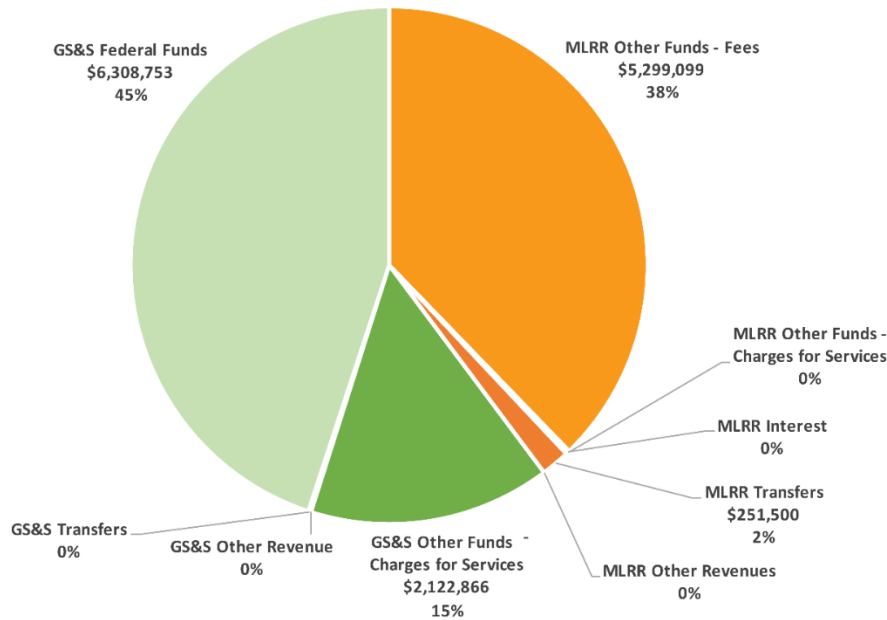
## Program Prioritization for 2021-23 (107BF23)

Summary of total budget changes:

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

**Revenue Forecast (07/13/2020 version for comparison)**

**Revenue Forecast Graphic**

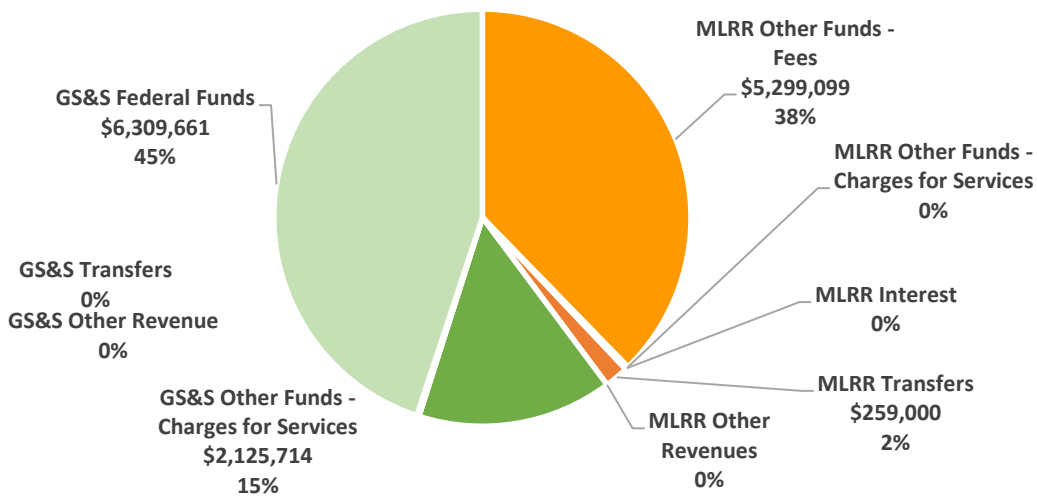


**2021-23 Agency Wide Funds by Source (excluding General Funds and Lottery Funds)**

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

**Revenue Forecast Graphic**



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

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**Geological Survey & Services (GS&S) Program Executive Summary**  
**Program Funding and Request (07/13/2020 version for comparison)**

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

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

GSS Program Funding Request (GSS Executive Summary)			
	<b>2021-23</b>	<b>2023-25</b>	<b>2025-27</b>
GF	\$ 6,581,445	\$ 7,016,229	\$ 7,482,860
OF	\$ 2,898,127	\$ 3,051,718	\$ 3,214,562
FF	\$ 6,309,661	\$ 6,684,714	\$ 7,085,036
Total	\$ 15,789,233	\$ 16,752,662	\$ 17,782,457

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

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

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

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

This 2021-23 budget increases the Agency's GS&S Program total funding support from 2019-21 by \$1,972,055.

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**Geological Survey & Services Program Unit Narrative (07/13/2020 version for comparison)**

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

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

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

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

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

**Mineral Land Regulation & Reclamation (MLRR) Executive Summary**

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

	2021-23	2023-25	2025-27
GF	\$ -	\$ -	\$ -
OF	\$ 4,497,689	\$ 4,808,890	\$ 5,143,629
FF	\$ -	\$ -	\$ -
Total	\$ 4,497,689	\$ 4,808,890	\$ 5,143,629

**Mineral Land Regulation & Reclamation (MLRR) Executive Summary**

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

	2021-23	2023-25	2025-27
GF	\$ -	\$ -	\$ -
OF	\$ 5,216,421	\$ 5,553,690	\$ 5,915,275
FF	\$ -	\$ -	\$ -
Total	\$ 5,216,421	\$ 5,553,690	\$ 5,915,275

## **Mineral Land Regulation & Reclamation (MLRR) Executive Summary**

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

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

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

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

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

- 2021-23 Expenditures: \$4,497,689 OF,
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### **MLRR Program Unit Narrative (07/24/2020 final budget numbers)**

- 2021-23 Expenditures: \$5,216,421 OF,
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## **ATTACHMENTS:**

AY23 Un-audited Agency Request Budget

# Staff Report and Memorandum

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

From: Sarah Lewis, MLRR Program Manager

Date: July 22, 2020

**Regarding: Agenda Item 4 – Civil Penalties**

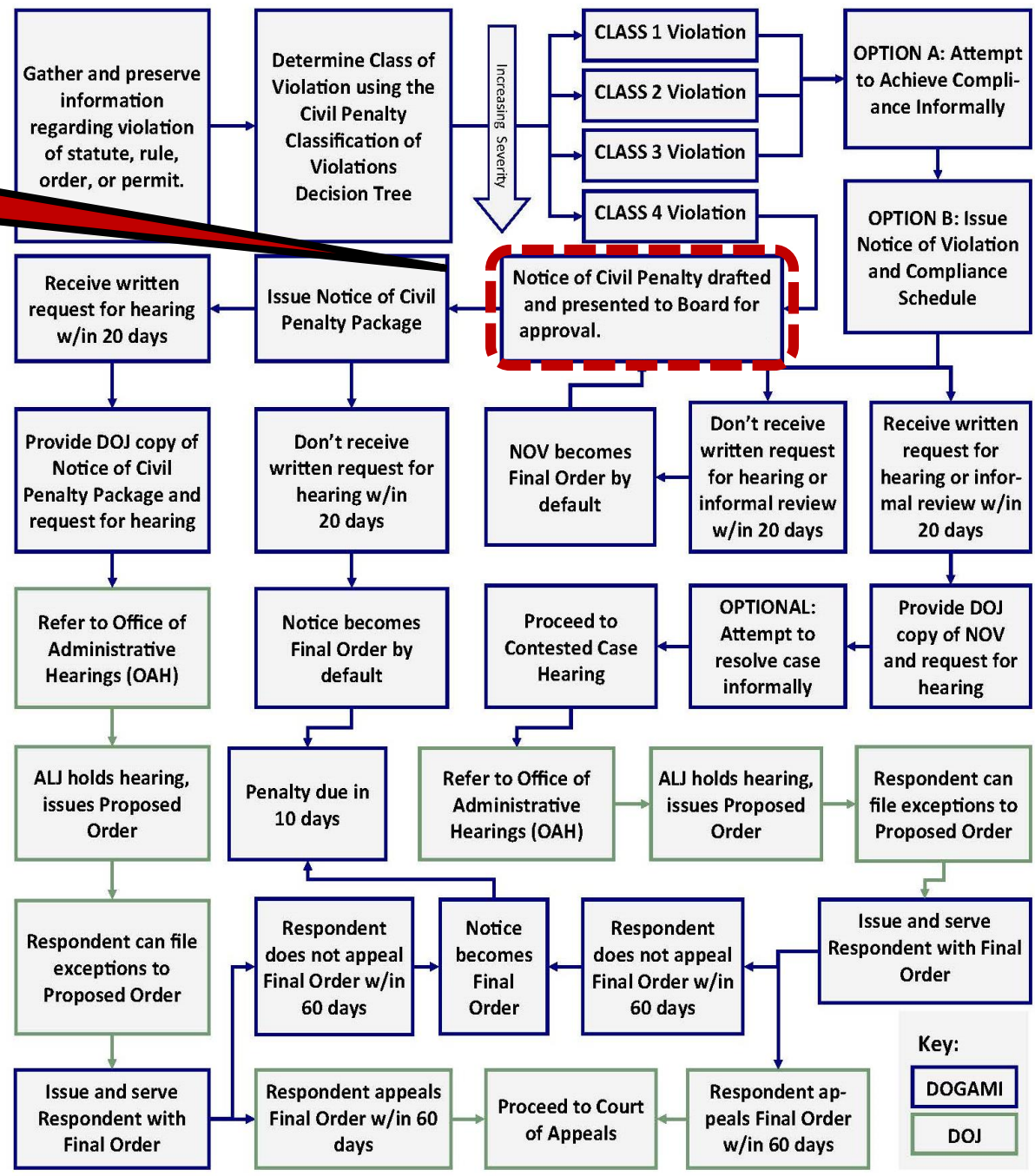
Sarah Lewis, MLRR Program Manager, and Cari Buchner, Mining Compliance Specialist, will present program recommended Civil Penalties.

***Proposed Board Action: The Board will be asked to take an action on this item.***

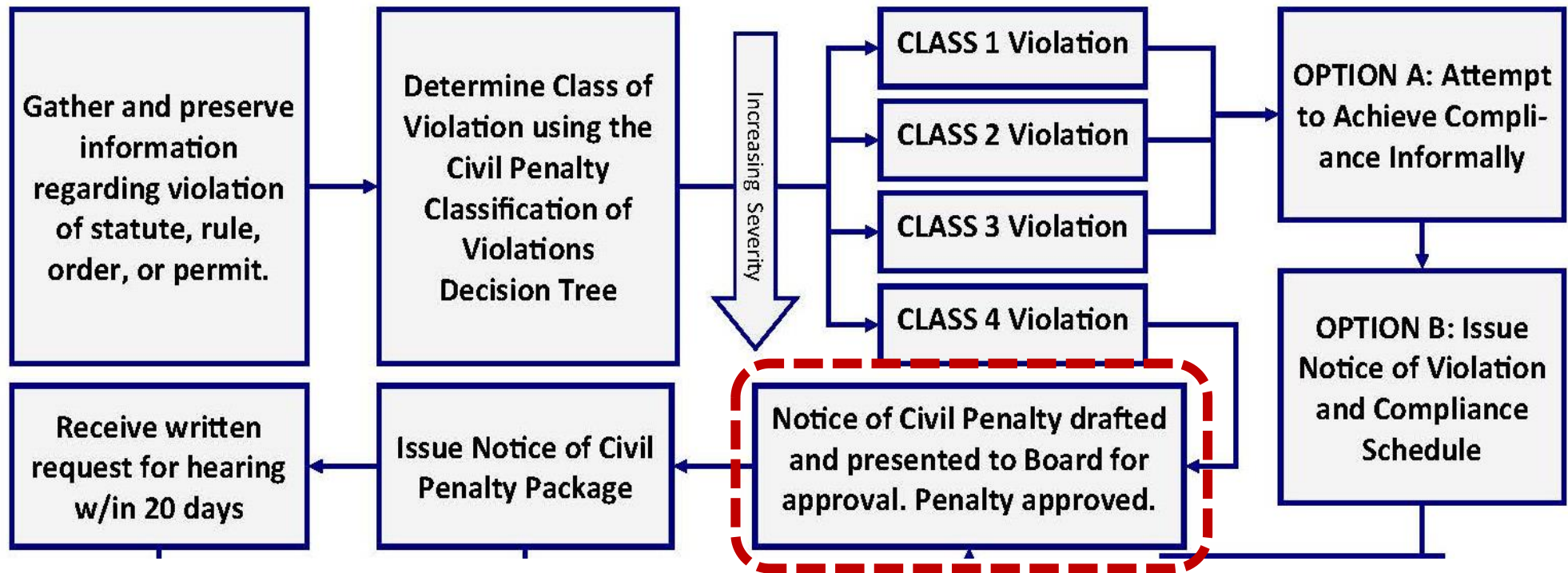
We are here

# Steps for proceeding with Civil Penalties

DOGAMI Governing Board  
July 28, 2020 Meeting



## Process for Assessing Civil Penalties



## Notice of Civil Penalty issued

- Respondent has 20 days to request a hearing
  - If a hearing is not requested the Notice becomes Final Order by default
  - Penalty due in 10 days







# MORGAN CREEK (10-0223)

## Violations:

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

Water quality violations have been referred to DEQ



# Classifying Violations for Morgan Creek

- **Exceeding 5 acres of disturbance – Class 4**
  - Disturbance of 10 acres. Operating permit required. EC denial clearly and repeatedly communicated.
  - One violation
- **Engaging in and allowing MWOP – Class 4**
  - Excavation, stockpiling, hauling materials without a permit
  - Multiple documented violations
- **Violating Suspension Order – Class 1**
  - Excavation, stockpiling, hauling materials in violation of Suspension Order
  - Multiple documented violations
- **Assessed to both operator and landowner**

# Determining magnitude of violation

Violation Classifications	Reduced (EEO*)	Median	Maximum
Class 1	\$ 250.00	\$ 500.00	\$ 1,000.00
Class 2 (Includes repeat Class 1 Violations)	\$ 750.00	\$ 1,500.00	\$ 3,000.00
Class 3 (Includes repeat Class 2 Violations)	\$ 1,500.00	\$ 3,000.00	\$ 6,000.00
Class 4 (Includes repeat Class 3 Violations)	\$ 3,000.00	\$ 6,000.00	\$ 10,000.00

\* Expedited Enforcement Offer (EEO)

## Mitigating factors (-)

- Voluntary disclosure
- Magnitude of the harm
- Voluntary compliance

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

## Aggravating factors (+)

- Economic benefit derived from the violation
- **The number of violations**
- Magnitude of the harm
- **Previous similar violations**
- **Pattern of conduct**

# Total occurrences for each violation

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

# Economic Benefit and Industry Context

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

## **Regulatory fees avoided since 2013 (~\$16,115)**

- DOGAMI Operating Permit Fees & Renewals = \$7250
- DEQ NPDES 1200A Permit = \$8865

## **Possible profit made since 2013 (unknown)**

- Estimate based on Operating Permit threshold
- 5,000 cy/yr \* 7 years = 35,000 cy

## **Cost to come into compliance now (~\$51,500)**

- DOGAMI & DEQ Permit fees = \$6500
- Consultants for Stormwater plan and implementation = \$5,000-15,000
- Permit Boundary Survey Map = \$5,000-15,000
- Geotechnical study and report = \$5,000-15,000

## **Potential civil penalties from DEQ for water quality violations**



# MORGAN CREEK (10-0223)



## Program Recommended Civil Penalty:

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