

Analysis

Department of Geology and Mineral Industries

Report on Mined Land Regulation and Reclamation Fees

Analyst: John Terpening

Request: Acknowledge receipt of a report from the Department of Geology and Mineral Industries on its Mined Land Regulation and Reclamation fees.

Analysis: The Department of Geology and Mineral Industries (DOGAMI) Mined Land Regulation and Reclamation program (MLRR) is funded exclusively on fees paid by the regulated mineral resources exploration and extraction industries, which includes surface mining, mineral exploration, oil and gas, and geothermal. The Department had proposed a fee increase during the 2019 session (SB 45) that was not approved due to uncertainty around the permitting process related to the chemical gold mine known as Grassy Mountain and its impact on MLRR program cash flows. However, without a fee increase this biennium, the program will not have enough revenue to continue current operations before the end of the 2019-21 biennium.

As a result, the Department's 2019-21 budget bill, SB 5511 (2019), included budget note instructions for a review of the programs projected revenue and expenditures and provide a detailed fee increase proposal to fund the existing program, including appropriate indirect costs, that will also provide a sufficient ending fund balance. In accordance with the budget note, DOGAMI submitted their report to the Co-Chairs of the Joint Committee on Ways and Means on January 17, 2020.

The Department's report and accompanying fee proposal includes fee increases across each regulated industry and provides that each permitted program funds its own segment of the program without subsidization from other permit types and is intended to provide the program with an estimated six-month operating cash balance by the 2025-27 biennium. Additionally, the proposed fee increase includes sufficient funding for the MLRR program to contribute its share of indirect costs for agency overhead at a rate of 15.51%.

In addition to covering indirect costs, the fee proposal is intended to fund the current 11 staff within the program, plus a portion of a limited duration position that is being requested as part of the Department's second year budget. This limited duration Natural Resources Specialist 4 position (0.63 FTE) will spend 60% of its time dedicated to the Grassy Mountain chemical gold mine permit application process and 40%, or 0.25 FTE, will assist the MLRR program with senior technical mining experience. The portion of the position dedicated to Grassy Mountain is funded through a cost-recovery agreement with the company pursuing the chemical gold mine permit.

Finally, it should be noted that while the report outlines a proposed fee increase intended to fund current operations, including indirect costs, and provide a six-month ending balance over time, the actual fee increase will be considered through separate legislation.

Legislative Fiscal Office Recommendation: Acknowledge receipt of the report.



Oregon

Kate Brown, Governor

Department of Geology and Mineral Industries

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January 17, 2020

The Honorable Senator Betsy Johnson
The Honorable Senator Elizabeth Steiner Hayward
The Honorable Representative Dan Rayfield
Interim Joint Committee on Ways and Means
900 Court Street NE, H-178 State Capitol
Salem, OR 97301

Dear Co-Chairpersons:

Nature of the Request

Late in the 2019 legislative session, the Department of Geology and Mineral Industries (DOGAMI) failed to meet its budget due to inadequate grant management practices and insufficient capacity and controls in its financial practices. As a result, the Legislature provided DOGAMI with a one-year budget. The purpose of this letter is to request legislative approval during the 2020 legislative session for a second-year DOGAMI budget. In addition to a second-year budget for the Geologic Survey and Services (GS&S) Program, we are requesting legislative approval of proposed fee and expenditure limitation increases for the Mineral Land Regulation and Reclamation (MLRR) Program. Lastly, we request an opportunity to present DOGAMI's proposed budget and proposed fee increase in the 2020 legislative session.

These requests are contingent on the Governor's Office strategic plan and recommendations regarding DOGAMI's future as required in Budget Note #2 – Agency Outlook in SB 5511 (2019).

Agency Action

DOGAMI has aggressively and urgently pursued actions to correct grant management and financial practice deficiencies. The Department has also undertaken strict cost-containment measures in the first year to limit General Fund spending. Specific actions taken are highlighted in Attachment 1 – DOGAMI Financial/Grant Management Progress.

Action Requested

DOGAMI Second-Year Budget for 2019-21

Agency Administration and Geological Survey and Services Program

The mission of DOGAMI is to provide earth science information and regulation to make Oregon safe and prosperous. Our work increases understanding of Oregon's geologic resources and hazards through science and stewardship. The following table presents the proposed Agency budget summary for a second-year.

DOGAMI Second-Year Budget for 2019-21	
Agency Administration/GS&S Program	
General Fund	\$3,104,928
Other Fund (excluding MLRR)	\$1,308,461
Federal Fund	\$2,902,495
MLRR – Fees	
Other Fund	\$2,230,303
(see Attachment 2 – Second-Year Budget for 2019-21)	
Agency Total	
General Fund	\$3,104,928
Other Fund	\$3,538,764
Federal Fund	\$2,902,495
Total:	\$9,546,187

The GS&S Program is currently without permanent supervisory or management positions. Since 2016, supervision and management have been provided through rotational opportunities for staff to gain supervisory and management experience to build capacity for the Agency (these rotations were generally budgeted 80% General Fund; 20% Federal Fund grants). However, the lack of a permanent, experienced manager for the GS&S Program contributed to grant management challenges. Due to the technical oversight required for project managers and staff, the current rotational supervisors have limited time available to spend on their grant project work which has required grant extensions.

In the proposed GS&S budget there is a request for one permanent PEM D manager position. The GS&S Program needs the skill sets of both supervision and management—ideally the current rotational supervisors will be focused primarily on day-to-day project manager oversight, staff training and development, evaluating technical performance, providing

technical guidance/coaching, and monitoring grant expenditures. In parallel with the MLRR Program's manager, the proposed GS&S Program manager would be primarily focused on providing leadership in overarching strategic-level geologic survey and services decision making, GS&S Program resources and outcomes needed to achieve long-term goals, program performance management, providing geologic survey program vision and direction, stakeholder engagement, and establishing and approving program budgets.

The attached organization chart identifies proposed positions for the Agency (Attachment 3 – DOGAMI Proposed Organization Chart). Increased Business Office capacity is already having a positive impact on financial operations. For the Agency to be positioned for long-term success, a parallel investment is needed in GS&S Program management.

The increases in the second-year budget for Personnel Services are attributable to higher than budgeted costs to fill the business office positions as a result of pay equity determinations and for the proposed GS&S manager position. Additionally, the request includes increases to Services and Supplies that were not adequately reflected in the first-year budget (e.g., facilities rent, professional services, office expenses).

GS&S Other Fund and Federal Fund

The proposed Other Fund and Federal Fund portions of the budget for GS&S match the first-year budget for the Agency. Based on current projects and grants, the Agency does not anticipate needing an adjustment at this time beyond matching the first-year budget.

Mineral Land Regulation and Reclamation Program

The MLRR Program is funded exclusively with fees paid by the regulated mineral resource exploration and extraction industries: surface mining, mineral exploration, oil and gas, and geothermal.

The MLRR proposed budget includes a request for a Limited Duration (LD) Natural Resource Specialist 4 (NRS 4) position with 60% time allocated as a Chemical Mining Permit Lead (100% cost recovery and not part of standard MLRR Program costs) and 40% time as a Mining Geologist to support the MLRR Program. The MLRR Program does not have internal capacity to meet the statutory demands of a chemical process mine application. The NRS 4 position will provide capacity to manage and administer the current chemical process mine application (Grassy Mountain application was submitted to DOGAMI November 2019) with the balance of the position's time to provide senior technical mining expertise for the program. In addition to the LD position, the MLRR proposed second-year budget includes an increase of \$362,917 which includes limitation necessary for \$238,687 of indirect costs that had not been previously budgeted and \$124,230 to reflect professional services that are cost recoverable for the chemical mine permit processing.

MLRR Proposed Fee Increase

Budget Note #3 – Mined Land Reclamation and Regulation Fees in SB 5511 (2019): *“...The Department is directed to review the program’s projected revenue and expenditures and report to the Joint Committee on Ways and Means during the 2020 legislative session with a detailed fee increase proposal to fund the existing program, including appropriate indirect costs, that will also provide a sufficient ending fund balance.”*

The proposed fee increase that accompanies this budget request is projected to sustain the existing program operations and enable the Program to achieve its regulatory responsibilities, meet stakeholder service delivery expectations, prevent permit-related delays and environmental impacts, while building toward an estimated six-month program operating reserve around the start of the 2025-27 biennium. The revenue projections should allow the program to remain sufficiently funded during a potential downturn in the economy and its related effect on fees. Without a fee increase, the MLRR Program will run short of Other Fund revenue sufficient to continue current operations before the end of the current 2019-21 biennium.

The Agency’s 2019 requested MLRR Program fee increase (SB 45) was not approved due to uncertainty around the permitting process related to the chemical gold mine known as Grassy Mountain and its impact on program cash flow. The current proposed fee increase is based in part on the fee increase proposed in 2019 with a more thorough budgeting of anticipated costs. Key principles of the proposed fee increase include: 1) each permitted program area to carry the cost of that industry segment (i.e., mining, exploration, oil and gas, geothermal with no subsidization between industries); 2) each program area fee’s to be brought current (some fees were last adopted in 1991 and 2007); 3) similar charges to industry for similar level of work required for permit applications; and, 4) inclusion of appropriate indirect costs. Unlike SB 45, the proposed fee increase does not support additional site inspection visits (Key Performance Measure (KPM) #4 – Percent of Permitted Mine Sites Inspected Biennially) or an e-permitting platform.

As with last session’s fee increase proposal, DOGAMI has reached out to 17 stakeholder groups representing both the industry and environment. Last session there was industry interest in an adequately funded MLRR Program and acknowledgement that certain fees had been neglected over time. The challenge with stakeholder support last session was lack of availability of detailed financials and a lack of clarity over whether chemical process mine cost recovery expenses were separate from the basis for the fee increase. These issues have been addressed and with DOGAMI Governing Board approval of the proposed budget on January 10, 2020, staff have begun meeting with stakeholder groups with detailed financial projections and backup documentation for the proposed MLRR fees. The fee increase is requested to take effect January 1, 2021. (Attachment 4 – DOGAMI-MLRR Proposed Fee Schedule Summary)

Legislation Affected

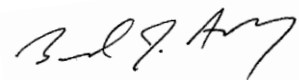
Legislation affected by the proposed Second-Year Budget for 2019-21 includes:

- SB 5511 sec 1, sec 2(1) and 2(2) and sec 3, chapter 690, Oregon Laws 2019
 - ORS 517 – Mining and Mining Claims
 - ORS 520 – Conservation of Oil and Gas
 - ORS 522 – Geothermal Resources.
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The Director, Leadership Team, and Staff are committed to implement best financial and grant management practices and never again experience a budget shortfall. This commitment, project management controls, increased business office capacity, the proposed GS&S Program manager position, and the proposed MLRR Chemical Mining Permit Lead (limited duration) position help ensure success.

Thank you for your consideration of this request. If you have any questions, please contact me at 971-673-1550.

Sincerely,



Brad J. Avy
Director

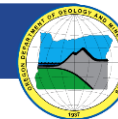
cc: Ken Rocco, Legislative Fiscal Officer
George Naughton, Chief Financial Officer
Amira Streeter, Governor's Office
John Terpening, Legislative Fiscal Office
Renee Klein, Chief Financial Office

Attachments

- 1) DOGAMI Financial/Grant Management Progress
- 2) DOGAMI Second-Year Budget for 2019-21
- 3) DOGAMI Proposed Organization Chart
- 4) DOGAMI-MLRR Proposed Fee Schedule Summary

DOGAMI-MLRR Proposed Fee Schedule Summary

January 2020



MLRR Fee Schedule	Mining: Aggregate, Coal, Placer, Metal Mine Operating Permit 900 active permits		Exploration Permit 15 active permits		Oil & Gas – 100 active permits Geothermal – 30 active permits	
	Current Fees Last Updated 2015	2020 Proposed Fee Bill	Current Fees Last Updated 1991	2020 Proposed Fee Bill	Current Fees Last Updated 1991 & 2007	2020 Proposed Fee Bill
Application Fee	\$1,750	\$2,000	\$400	\$2,000	\$2,000	\$2,000
Annual Renewal Fee	\$850 (base fee)	\$1,460 (base fee)	\$300	\$1,460	\$1,500 (1 st year)	Oil & Gas: \$1,160
	\$0.0095 (\$/tons)	\$0.015 (\$/tons)			\$500 (2 nd yr. to closure)	Geothermal: \$2,725

Mining permit renewal fee schedule comparisons (Note: average annual tonnage 95,000 tons):

- **Current** renewal fee schedule: [base fee (\$850) + production fee (\$0.0095 x 95,000 tons of rock = \$902.50)] = **\$1,752.50**
- **2020 Proposed Fee Bill:** [base fee (\$1,460) + production fee (\$0.015 x 95,000 tons of rock = \$1,425)] = **\$2,885**

2020 Proposed Fee Bill includes:

- One limited duration position (NRS 4) distributed 60% Chemical Mining Permit Lead (100% cost recovery, not part of standard MLRR Program costs) and 40% Mining Geologist
- The proposed fee increase **does not support additional site inspection visits** (Key Performance Measure (KPM) #4 – Percent of Permitted Mine Sites Inspected Biennially) or an **e-permitting platform** (in contrast with SB 45 (2019))

Current Fee Challenges:

- Current fee **revenue/staffing does not** fully support delivery of **program services** including:
 - timely correction of **compliance issues**;
 - site inspections that proactively address **on-site problems**; and
 - staff support for the **Chemical Process Mining** (Grassy Mountain) permit/regulatory process
- By **Spring 2021**, fee revenue **will not** support current service levels, **requiring staff reductions**

Increased Fee Goals:

- Fulfill **regulatory responsibilities**
- Meet stakeholder **service delivery expectations**
- Achieve **Application Fee parity** across Mining, Oil & Gas, and Geothermal Programs
- Prevent **permit-related delays** and **environmental impacts**
- Build a six-month **program reserve by the 2025-27 beginning balance**; full share of **agency indirect costs**