



# Oregon

Kate Brown, Governor

## Department of Geology and Mineral Industries

Mineral Land Regulation and Reclamation

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Date: January 25, 2016

TO: Karen Quigley, Director, Legislative Commission on Indian Services

FROM: Brad Avy, State Geologist

SUBJECT: **Department of Geology and Mineral Industries' 2015 Government-to-Government Report**

I am pleased to submit this report in response to legislative direction ORS 182.162 – 182.168 (SB 770). The report describes activities and tribal contacts of the Department of Geology and Mineral Industries (DOGAMI) for 2015.

### Executive Summary

DOGAMI is a relatively new member to the Natural Resources Work Group and Cultural Resource Cluster Group as such, this is the third Government-to-Government annual report submitted by DOGAMI. Since the initial DOGAMI participation at the Natural Resources Work Group meeting in March 2012, DOGAMI has responded to meet the objectives of Executive Order EO-96-30. DOGAMI has effectively developed a partnership with the LCIS, SHPO, and Oregon's Indian Tribal Governments. Working cooperatively, concerns raised at subsequent meetings have been addressed. Fossil hunters in Oregon are now aware they may not disturb archeological sites. Tribal government representatives now have the opportunity to review and comment on all applications to DOGAMI for mineral and energy development projects. DOGAMI will continue to identify and address mutual goals and concerns that affect Tribal interests.

### Major Highlights for 2015

- DOGAMI continues to circulate all new permit applications for mining, oil & gas, and geothermal development to the LCIS for distribution to the appropriate tribal government staff for review and comment. Two DOGAMI mining operating permits have been withheld pending completion of cultural resource surveys.
- DOGAMI staff continue to meet individually with tribal cultural resource staff members to discuss ways to better share information and coordinate the review process.
- DOGAMI now circulates all new permit applications for mining, oil & gas, and geothermal development to SHPO for review and comment.
- DOGAMI will continue lidar flights in the area of Indian lands.
- DOGAMI will continue Tribal contacts regarding the OHA seismic hazard project.

### Department Relations with Indian Tribes

Oregon statutes (*ORS 182.162-182.168, SB 770*) require that state agencies that work with tribal governments submit annual reports describing their relationship in response to five factors that should be codified in an agency policy. Each of the factors is listed below, along with DOGAMI's response:

#### **182.164 State agencies to develop and implement policy on relationship with tribes**

ORS 182.164 directs state agencies to develop and implement a policy that:

- Identifies agency staff responsible for developing and implementing agency programs that affect the Tribes;
- Establishes a process to identify agency programs that affect Tribes;
- Promotes communication between DLCD and Tribes;
- Promotes positive Government-to-Government relations; and

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- Establishes a method of notifying agency staff of the statutory provisions and agency policy.

**DOGAMI Response to ORS 182.164**

DOGAMI has drafted an agency policy to conform with Executive Order EO-96-30. It is the intent to have the DOGAMI Governing Board adopt a formal agency policy in 2016.

Since attending the Government-to-Government Natural Resources Working Group Meeting on March 14, 2012, in Pendleton, DOGAMI has moved forward to implement the goals of ORS 182.164. Specifically, DOGAMI has:

- Established several internal processes to better facilitate relations between the Tribes and DOGAMI staff.
- Provide notification to the public on the importance of protecting archeological sites in Oregon.
- Established a notification process to better coordinate and inform Tribes about proposed mine, oil & gas, and/or geothermal development projects under consideration.
- Provide the opportunity for tribal governments to review and comment on proposed mine, oil & gas, and/or geothermal development projects.
- Continue Government-to-Government relations on natural resource issues involving mineral and energy development, and geological data gathering.
- Participate in the natural resources working group and the cultural resource cluster group.
- Partnered with the Coquille and Grande Ronde Tribes in obtaining lidar imaging data.
- Provide quality control analysis on lidar imaging data obtained by the Confederated Tribes of the Warm Springs.
- DOGAMI's participates in a Technical Advisory Team lead by Confederated Tribes of the Umatilla Indian Reservation for the development of a groundwater model of the upper Umatilla River basin.
- The Burns-Paiute Tribe is one of our stakeholders on the FEMA Silvies Watershed project.

(a) ***The name of individuals in the state agency who are responsible for development and implementing programs of the state agency that affect Tribes.***

**DOGAMI Response to Subsection (a)**

Ian Madin is the Interim State Geologist (Director) and is the primary contact responsible for overall relations, and for development and implementing of agency programs that affect Tribes. Richard Riggs is Asst. Director of Mineral Land Regulation and Reclamation; Holly Mercer is Asst. Director Geologic Survey and Services, both are the alternate contact for the Director.

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*Primary Contact to Natural Resources Working Group and Cultural Resource Cluster Group*

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The agency's primary and alternate contacts are responsible for assuring that the agency is kept apprised of activities that may be of interest to the Tribes, to provide appropriate tribal contacts, and ensure that the Tribes are informed of agency activities. The agency recognizes that maintaining good communication is a benefit to the Tribes and to the State of Oregon.

**(b) *The process the state agency established to identify the programs of the state agency that affect Tribes.***  
**DOGAMI Response to Subsection (b)**

DOGAMI informs the Tribes of agency programs that potentially affect the Tribes, primarily through agency participation in the Natural Resource Working Group and Cultural Resource Cluster Group which are comprised of representatives from other state agencies, and from the several Tribes. These groups provide a forum for two-way communication and government-to-government relations. As directed by the agency's primary and alternate contacts, the contacts assigned to the clusters provide periodic updates to the Tribes on agency program activities, while the Tribes inform contacts of relevant tribal programs, and agency programs affecting the Tribes.

DOGAMI may also meet with governmental and natural resource representatives of individual tribes to address specific issues as they arise in geographic regions around the state. These department efforts have proven successful, given the diverse interests of the Tribes, the complexity of resource extraction issues that affect the Tribes' unique interests, and the diverse services that DOGAMI provides to the state.

DOGAMI participation in the Government-to-Government process is reflected in the following list of meetings:

Natural Resources Workgroup & Cultural Resource Cluster Group – Joint Meeting: Ben Mundie participated in the meeting in Grand Ronde on January 28, 2015.

Cultural Resource Cluster Group Meeting: Ben Mundie participated in the meeting in Salem on March 4, 2015.

Interagency Cultural Resource Council meeting: Ben Mundie participated in the meeting in Salem on March 5, 2015.

Oregon State Parks Cultural Resource Training: Kelly Wood participated in the training from April 7 – April 10, 2015.

Interagency Cultural Resource Council meeting: Did not attend meeting in Portland on June 17, 2015.

Natural Resource Work Group meeting: Did not attend meeting in Pendleton on June 23, 2015.

Cultural Resource Cluster Meeting: Ben Mundie participated in the meeting in Bend on September 29, 30 2015.

Interagency Cultural Resource Council meeting: Richard Riggs participated in the meeting in Salem on October 22, 2015.

Natural Resources Work Group & Cultural Resource Cluster joint meeting: Richard Riggs will participate in the meeting in Canyonville on December 15, 2015.

Annual Summit Meeting: Richard Riggs will participate in the meeting in Canyonville on December 16, 2015.

**(c) *The effort of the state agency to promote communication between the state agency and the Tribes, and Government-to-Government relations between the state and Tribes.***  
**DOGAMI Response to Subsection (c)**

Being an active participant in the Natural Resources Work Group and Cultural Resource Cluster Group is a significant step towards promoting two-way communication and government-to-government relations. The agency's designated contacts and others have participated in cluster groups or working groups, as well as with the Tribes directly to insure potential impacts from mineral extraction and energy development activity are addressed prior to development.

DOGAMI recently initiated the process to include all Tribes in the review and comment process regarding proposed mineral extraction and energy development projects statewide. This process will help identify those proposed development projects with the potential to impact cultural and historic sites, and develop mitigation strategies. DOGAMI has actively sought to meet with individual tribal staff to insure communication and coordination occurs between the proper individuals.

The agency is committed to conducting meetings around the state as often as possible, and will continue to invite tribal governments to participate in the meetings themselves.

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- (d) *A description of the training required by statute. (ORS 182.166(1) pertains to training(s) offered by the Department of Administrative Services at least once a year.)*

**DOGAMI Response to Subsection (d)**

DOGAMI is committed to attend future Summit meetings as well as Cluster Group meetings. These meetings are an important source of training for department staff in a wide range of subjects of concern to the tribes. The information gained in this manner is shared with other members of the department.

- (e) *The method the state agency established for notifying employees of the state agency of the provisions of ORS 182.162 to 182.168 and the policy the state agency adopts under ORS 182.164.*

**DOGAMI Response to Subsection (e)**

DOGAMI holds Leadership Team Meetings in the Portland Office twice a month, and the Mineral Land Regulation and Reclamation Program in Albany conducts staff meetings at least once a month. The provisions of ORS 182.162 to 182.168 are a regular topic of discussion in both settings.

When new staff that may work with a Tribe is hired, the agency's primary and alternate contacts brief them on cluster activities, and provide an overview of the statutory requirements for working with tribal governments on agency activities.