



## **OREGON DEPARTMENT OF GEOLOGY AND MINERAL INDUSTRIES**

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### **Oregon Senate Committee on Veterans and Emergency Preparedness**

*April 7, 2015 Public Hearing on SB 778*

### **Oregon Department of Geology and Mineral Industries (DOGAMI) testimony**

Chair Boquist, Vice Chair Monnes-Anderson, and Committee members, I am Ian Madin, Interim State Geologist and Director of the Department of Geology and Mineral Industries.

Thank you for allowing DOGAMI to comment on SB 778. SB 778 would give DOGAMI the authority to require tsunami hazard mitigation measures for certain types of new development in the designated tsunami hazard zone. That authority would extend to prohibition of the development if no satisfactory mitigation measures are possible. The bill would also change the occupancy threshold at which colleges or adult education schools are subject to regulation. DOGAMI takes no position on this bill, but we would like to review the existing regulations and comment on what we see as potential consequences and costs.

There is a clear scientific consensus that Oregon faces a significant risk of an earthquake as large as magnitude 9 along the Cascadia Subduction Zone. Because of the proximity of the Subduction Zone to the Oregon coast, such an earthquake would generate a very large tsunami that would arrive at the coast within minutes of the earthquake. Many Oregon coastal communities face truly catastrophic destruction and loss of life in the event of the next Cascadia Subduction Zone earthquake.

Since the 1995 passage of SB 379, DOGAMI has had a statutory role (ORS 455.446 and 455.447) in regulation of development in the designated tsunami inundation zone. The Governing Board of the Department establishes the boundaries of the tsunami inundation zone by rule (OAR Chapter 632 Division 005). Certain essential facilities, defined in the statute, are prohibited from being constructed in the designated inundation zone. Developers of other types of high-occupancy or hazardous facilities specified in statute must consult with the Department about tsunami mitigation measures before obtaining a building permit. The developer is not required to act on the Department's recommendations.

Some facilities, chiefly those that are water-dependent like docks, are exempt. For essential facilities that are prohibited by statute from being sited in the inundation zone, the Governing Board may grant exceptions, through an application and review process, which includes a public hearing.

To date, there have been 14 instances in which DOGAMI has been contacted about developments in the inundation zone, and in 7 of those, the developer has been required to consult with DOGAMI. There have been no requests for exceptions.

We do not know how many essential facilities have been sited outside of the tsunami inundation zone as a result of this regulatory program.

***The Oregon Department of Geology and Mineral Industries provides earth science information and regulation to make Oregon safe and prosperous. Learn more at [www.OregonGeology.org](http://www.OregonGeology.org)***

SB 778 replaces the non-binding consultation requirement for certain types of developments with a system in which the Department would specify measures that would be required in order to mitigate the risk of unreasonable danger to occupants from a tsunami. SB 778 would require the DOGAMI Governing Board to write new rules to define unreasonable risk, to specify procedures for determining the level of tsunami risk posed by a particular development, and to specify procedures by which the Department would develop its recommended or required mitigation measures. Many of the technical issues involved are outside of the competence of DOGAMI staff, and would require contracting with specialists.

The bill also gives the Department the authority to prohibit the development if there are no satisfactory mitigation measures available, or presumably if the developer refuses to implement the Department's required measures. For these cases, the Governing Board would need to write rules that provide for public comment and define a contested case hearing and appeals process. We anticipate that many decisions to allow or disallow a particular development would be highly controversial, resulting in litigation and expense to the department.

There will be a substantial one-time cost to the Department for the rule-writing that will be required by SB 778, and there will be substantial ongoing costs to retain specialist consultants, and manage the public hearing and appeals process. The Department does not have funds for either of these tasks.

Thank you again for the opportunity to address this committee. I would be happy to answer any questions you may have.