

**REGULAR MEETING
STATE BOARD OF LAND COMMISSIONERS
October 9, 1990**

The regular meeting of the State Board of Land Commissioners was held Tuesday, October 9, 1990, at 9:00 a.m. in the conference room of the Joe R. Williams office building. Governor Cecil D. Andrus presided. Those members present were:

Honorable Cecil D. Andrus, President, and Governor of the State of Idaho
Honorable Pete T. Cenarrusa, Secretary of State
Honorable Jim Jones, Attorney General
Honorable J. D. Williams, State Auditor
Honorable Jerry L. Evans, Superintendent of Public Instruction

Stanley F. Hamilton, Secretary to the Board

Consent Agenda

- A. Official Transactions -- August 1990
- B. Easement Requests:
 - 1. General Telephone Exchange Northwest, Inc. -- Underwater Cable -- Bonner County
 - 2. East Side Highway District -- Bridge -- Kootenai Co.
 - 3. Eastside Sewer District -- Priest Lake Crossing -- Bonner Co. (Withdrawn)
- C. Disposal of Surplus Property:
 - 1. 0.20 acre, Albion, Idaho -- Board of Education
 - 2. 0.14 acre, Gooding, Idaho -- Department of Education
- D. Land Sale Parcel No. 372-88 -- 0.16 acre -- Minidoka Co.
- E. Request for Time Extension for Improvement Construction -- R. V. Hansberger

Mr. Hamilton requested that Item B-3 be withdrawn at this time since the Lake Protection Act permit issue has not yet been resolved. Gov. Andrus so ordered.

J. D. Williams moved to approve the consent agenda items. Jerry Evans seconded. The motion passed unanimously.

Supplemental Agenda

Peggy Clemmer

Governor Andrus noted that Mrs. Clemmer appeared before the Board in May in reference to a road leading to her first tier lot and some improvements that were to be done to that road.

Mrs. Clemmer acknowledged that the state did put some dirt down and that has helped, but there is more of a major project in store. Mrs. Clemmer voiced several concerns with the rest of the project. First, the first bids came in too high (to be accepted), so the project was again opened for bids too late in the season. It is not clear how many trees will be cut and that she also was told that the stumps are going to be left standing. She visited Mr. Petzak (in the Idaho Department of Lands office) in McCall who told her that since the price was so great, the state had to cut back (on its specifications), and are not planning to do the stumping. Mrs. Clemmer said that she is very upset about that because the project needs to be done right. Added to that concern is the weather -- there has already been one snow. Mrs. Clemmer also stated she fears that the quality of the work will suffer because there is no inspector (on the project). What she is requesting of the board is to skip the project for this year.

Mr. Hamilton advised that if the weather turns bad, the project will not be done; that the circumstances have to be reasonably right before the state can proceed. Mr. Hamilton assured the board there will be an inspector on the site during the entire operation.

Governor Andrus commented that Mrs. Clemmer's wish to withhold this operation this year would take a reversal by the board, and noted that the bids are due tomorrow and that there is the possibility there may not be any bids. Mr. Hamilton explained that if there are no bids, the department would go back and negotiate with the first bidder and perhaps do the job in the spring or next fall when there is the money. Mr. Hamilton repeated that the department does not intend to do the job unless the circumstances are proper for that kind of work. If the weather goes bad, it will automatically go to next spring at the earliest. J. D. Williams asked what the department will do about Mrs. Clemmer's concerns with cutting of the trees. Mr. Hamilton advised that normally the department doesn't like to do much cutting of trees in there but there are some problems with getting fire equipment in and out of there, and the department feels it is time to do something about that. Some trees will have to come out, but it will be the absolute minimum. Mr. Hamilton said he would look into the question of stumping.

Mrs. Clemmer explained that she also has another topic to bring before the board which is about a park exchange in McCall recommended by the Idaho Foundation for Parks and Land. She would like to alert the board that there is a group of people interested in seeing what they can do to change this situation.

Mr. Hamilton explained that a strip of that land is filled, submerged, land, and it belongs to the state. Behind that land there is a strip of land owned by the City of McCall. The city and Mr. Manchester are in the process of negotiating an exchange for this parcel which would see it go from the city to Manchester. If that happens, then the department will provide him with a lease for this parcel provided nothing is built on it. Mr. Hamilton thinks the concerns are mostly with the exchange between the city and Mr. Manchester. Governor Andrus suggested that Mrs. Clemmer continue to work with the city on that exchange, and if it is consummated, then she could come back to the board.

Malad Gorge Hydroelectric Project Briefing

Governor Andrus recognized the visitors--Helen Chenoweth of Consulting Associates, representing the developers, and their legal counsel, Ray Rigby. Also present: Kip Runyan, President, Malad Power Co.; Blaine Graff, Project Manager with Malad Hydro Partners; and Yvonne Ferrell, Director of the Department of Parks and Recreation.

Mr. Hamilton said that this proposed project involves state endowment lands and if the project goes ahead, it would be brought back to the board with a specific easement proposal across those state lands. It also involves some State Parks and Recreation land.

Ray Rigby stated that he was appearing on behalf of Malad Hydro Partners which is an equal partnership with Consulting Associates and the Malad Power Co. which is wholly owned by the Idawest Energy Co. which in turn is wholly owned by the Idaho Power Co.

Mr. Rigby explained that the area of endowment lands that would be affected is a total of 4.21 acres and the impact would be very negligible because they will be using the existing canal, the existing pond, and much of the project would be underground.

Using maps and photographs to illustrate, Mr. Graff explained that the project proposes to divert from an existing diversion just upstream from the interstate crossing; they would improve that diversion and build their own headwork structure at the end of that; build a 320' canal across, onto private ground on the border of the park until they get near the existing pond which is on the Department of Lands parcel within the park boundary. The existing pond would not be enlarged. They would add an intake structure at the northwest corner of the pond. That structure would be a low, concrete structure about 40' wide with a gate to cut off the penstock. The penstock is an 80" steel pipe that would be buried to the powerhouse where there would be a vertical shaft. The powerhouse sits adjacent to Idaho Power's Upper Malad Diversion Dam. Mr. Graff explained that this is a revision of the recent license amendment application which minimizes the amount of canal on Department of Parks land.

Mr. Rigby pointed out that the applicant has an option for a long-term easement from the power company for the site at this power plant, and he also provided handouts on the sequence of events which they thought might be helpful to the board and to show that the study has been exhaustive and complete. They are asking the board to look at an answer by the November meeting if at all possible.

Mr. Williams asked what the source of the water in the pond is and whether the character of that water would be changed at all. Mr. Graff replied that the pond gradually drains during the winter so the character of the pond after the construction should be improved as there will be water flowing to the pond. Mr. Williams noted that on the present lease with the Parks Department for the 40 acres of endowment land, the income is about \$310 a year. He asked what the income to the endowment might be with this proposal. The reply was that depending on the location of the powerhouse, it could be up to \$20,000 in annual payments or royalties. Governor Andrus said he will not vote on this until he knows where that point is.

Yvonne Ferrell, Director of Parks and Recreation, said that the Parks Board has made a policy decision on a similar proposal twice and the project has changed dramatically with each presentation. This is a new proposal. She said that the other proposals that the Parks Board denied involved Parks lands significantly. She cannot anticipate what the Parks Board will do with this latest proposal although it does have the least impact on the park. Mrs. Ferrell said this is on the Parks Board agenda scheduled for November 9.

Governor Andrus asked that Director Ferrell take back the information supplied here and have her professional staff look at it and report back at her earliest convenience.

Smoke Management

Mr. Hamilton pointed out that, as the board knows, smoke management in north Idaho has been an issue for a long time. Several months ago, some of the large timber owners and some of the agencies got together to see if anything could be done to manage smoke from slash burning. Brian Shiplett, fire and fuel specialist for the department, headed that up from this agency's standpoint. Mr. Hamilton said that earlier the department had looked at the possibility of adopting some emergency rules

to bring this project along, but the discussions with the people involved indicated that this might be tried on a voluntary basis.

Mr. Shiplett briefed the board on the voluntary smoke management plan to curb slash related smoke emissions in north Idaho this fall in lieu of promulgating rules. He said this is the result of a very exciting voluntary effort on the part of the burners and the regulators to manage the smoke from forest management activities. Many of the major burners recognized that their smoke was having an impact on the public. The department was also frustrated with the air quality bureau's system of imposing a stagnation limit on all ten northern counties at the same time. It was felt there should be a better way. In May the major burners met with the regulatory agencies and they talked about alternatives. They formed a steering committee to evaluate those alternatives. They also received an informative presentation from the Montana airshed group and an invitation to join them. A north Idaho airshed group was formed composed of four federal agencies -- the U.S. Forest Service, Idaho BLM, BIA, and the Corps of Engineers; four state agencies -- the Idaho Dept. of Lands, the Idaho Air Quality Bureau, the Idaho Fish and Game and the University of Idaho, and four private companies -- Potlatch Corporation, Plum Creek, DAW Forest Products, and Louisiana-Pacific Corporation. They delineated three airshed areas-which were pointed out on the map by Mr. Shiplett.

Mr. Shiplett explained that the system fits in with the Montana Airshed group monitoring unit for the 1990 burn year. They have levied assessments upon themselves of \$200 for a basic membership fee and an additional 25 cents an acre for each burned acre. The money will be used to lease monitoring equipment. The observations are sent to Missoula and air conditions are balanced with the burning activity, and restrictions are issued for the next day. They feel it is a very workable solution and will prevent major smoke impacts on the public for the state's activities, at least.

Outstanding Resource Water Designation

Mr. Hamilton drew the board's attention to this information item. Priest Lake is being considered for designation as an outstanding resource water source. This designation would impact the department because of the 200,000 acre state forest on the east shore. This issue will be coming before the board in the future. The department will be working with the Department of Health and Welfare and others to see if a solution can be found.

Executive Session

Jerry Evans made the motion that the board go into executive session under the provision of Idaho Code 67-2345(f) to consider possible litigation or a settlement thereof. Pete Cenarrusa seconded. The motion passed unanimously.

Proposed Settlement--State ex rel Board vs. Hanson and Central Paving, Inc. Canyon County, Case #CV-8901055C

Steve Schuster, legal counsel for the Department of Lands, briefed the board on a proposed settlement agreement in this case.

Regular Session

Back in regular session, the Board unanimously agreed to accept the proposal presented by Mr. Schuster.

There being no further business brought before the board, the meeting was adjourned.

STATE BOARD OF LAND COMMISSIONERS



President, and Governor of the State of Idaho

Countersigned:



Secretary of State



Secretary to the Board and Director of the
Idaho Department of Lands

