

STANLEY F. HAMILTON
DIRECTOR

BOARD OF LAND
COMMISSIONERS

CECIL D. ANDRUS
Governor

PETE T. CENARRUSA
Secretary of State

LARRY ECHOHAWK
Attorney General

J.D. WILLIAMS
State Auditor

JERRY L. EVANS
Sup't of Public
Instruction

December 14, 1992

The Idaho Statesman
1200 North Curtis Road
Boise, Idaho 83706

To the Editor:

In the past few weeks, several articles and editorials concerning the management of Idaho's 2.4 million acres of endowment land have appeared in the Idaho Statesman.

In one article, Andrew Garber quotes Mike Medberry of the Idaho Conservation League (ICL) as saying: "The fact is that state lands belong to the public. We should have some say."

Before commenting on Mr. Medberry's statement, I would like to briefly review the history and purpose of Idaho's endowment lands.

In 1969, Gordon C. Trombley, then the Commissioner of the Idaho Department of Public Lands, said: "Evidence strongly suggests a lack of public knowledge and understanding of the term 'state lands.' These lands are, at times, referred to as, 'public lands,' 'grant lands,' 'school lands,' 'endowment lands,' etc. Irregardless (sic) of the term used to describe them, there appears to be a general widespread misconception as to how they were acquired, their purpose and dedication, and their disposition."

Mr. Medberry's statement shows that Gordon Trombley's 1969 observation is as accurate today as it was then.

The fact is that what Mr. Medberry calls state lands -- really endowment lands -- do not belong to the public.

When Idaho entered the union in 1890, the federal government granted almost 3 million acres of land to the new state for the support of public schools. Another 672,000 acres were granted for the support of eight other public institutions.

Strictly speaking, the State of Idaho merely holds title to endowment lands in trust for specified beneficiaries much the same as any private trust established to care for a child, conserve the assets of an estate, or fund a favorite charity.

KEEP IDAHO GREEN
PREVENT WILDFIRE

EQUAL OPPORTUNITY EMPLOYER

As in a private trust, the maker (settlor) of the trust establishes a trust corpus (land, cash, stocks, etc.), a beneficiary, and trust terms (directions), and names a trustee. The trustee has a fiduciary duty to carry out the intent of the settlor. The trustee cannot change the trust terms and must operate within the narrow confines of those directions.

In the case of the Idaho endowment lands, the settlor is the United States of America; the corpus is the land grant; and, the trustee is the state board of land commissioners (board).

The nine beneficiaries are Public Schools, the U of I School of Science, Charitable Institutions, the University of Idaho, State Hospital South, Penitentiary, the U of I Agricultural College, Public Buildings, and the Normal Schools (Idaho State University and Lewis-Clark State College).

The trust terms, established by the Idaho Admission Act and Article IX, Section 8, Idaho Constitution, are very specific. They require the state board of land commissioners to "...[manage the lands] in such manner as will secure the maximum long term financial return to the institution to which granted..."

The state board of land commissioners, as trustees of the trust, manage the endowment lands in accordance with this charge. To allow any other use would be an illegal diversion of proceeds to an entity other than the beneficiaries.

It is not unethical or dishonorable to produce income from endowment lands. Indeed, the law directs us to do so.

Nor is the constitutional charge to "secure the maximum long term financial return" a license to abuse the land or destroy the long term productivity of the resource -- as some contend.

Rather, the constitutional charge is a directive to use the land in such a way that it will continue to be productive for our children and grandchildren and all who come after us.

Despite these clear directions, some people are uncomfortable with the management objective for endowment lands. They argue that the beneficiaries and the terms of the trust as set forth in the constitution should be changed.

There are formidable obstacles to this idea.

First, such changes require a constitutional amendment that would require a two-thirds majority in both houses of the legislature and a majority vote of the people in a general election.

Second, the proposed changes would require congressional action to amend the state's Admission Act -- the act that formally admitted this state into the union.

Third, the proposed changes would need the support of the beneficiaries in whom the title to the land is vested. Legally designated beneficiaries might not willingly accede to the demands of special interest groups to hand over the endowment grant lands in what would be one of the greatest land grabs ever. The battle could go on for years.

For some time, ICL has been demanding a public comment process for activities on endowment lands.

Basically, ICL suggests that the board and the department adopt a public comment process similar to that used by the USDA-Forest Service.

The forest service public comment (and appeal) process has been so badly abused on occasion that it has resulted in gridlock for forest service timber sale offerings -- often on procedural rather than substantive issues. That kind of a process serves no-one well -- least of all the legally designated beneficiaries of the land trust.

Idaho does not need a similar process.

Furthermore, the department does not believe that additional, formal opportunities for public involvement are necessary in the management of endowment lands.

We already work with interested and affected parties in all of our endowment land management activities. Yes, even the Idaho Conservation League can participate. We have invested considerable funds to train all of our resource managers in the development and use of citizen participation processes.

One of the first steps in preparation of any department land management activity is the identification of potentially affected interests -- such as neighboring landowners, special interest groups, and others who may have a particular interest in the affected land.

The Idaho Statesman
Guest Editorial
Managing The Endowment Lands
December 14, 1992
Page 4 of 4

We want to know the opinions and comments of those interests, and we make every effort to incorporate their concerns into our activities.

Our existing information and public involvement program allows persons interested in our activities to ask for information about planned projects. We willingly provide information about our activities, and recognize an obligation to do so. We believe that the public has been satisfied with our response.

In general, those who have expressed dissatisfaction have been special interests like ICL who are upset because they cannot dictate management of the endowment lands for their own "environmentally correct purposes".

ICL is a special interest group with a clear agenda about endowment land management. They represent their own interests -- not necessarily those of the public.

The department of lands has a staff of more than 200 dedicated people who are very well qualified in the art and science of natural resource management. We work hard to carry out the management directives of the constitutional charge. ICL insults all those people with its shotgun allegations of mismanagement.

I do not question that the department can do better. We constantly examine our management practices, and we constantly change those practices as better methods are found.

All in all, however, the Idaho Department of Lands is proud to manage the endowment lands (and produce income) in such a way that the land will continue to be productive for our children and grandchildren. We believe that we have faithfully carried out the constitutional charge using the best resource management practices available. We intend to continue to do so.

Cordially,

A handwritten signature in dark ink, reading "Stan Hamilton". The signature is written in a cursive, flowing style.

Stanley F. Hamilton
Director