



STATE BOARD OF LAND COMMISSIONERS

Dirk Kempthorne, Governor and President of the Board
Ben Yursa, Secretary of State
Lawrence G. Wasden, Attorney General
Keith L. Johnson, State Controller
Marilyn Howard, Superintendent of Public Instruction

Winston A Wiggins, Secretary to the Board

Final Minutes Regular Land Board Meeting September 14, 2004

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, September 14, 2004 in Boise, Idaho. The meeting began at 9:10 a.m. The Honorable Governor Dirk Kempthorne presided. The following members were present:

Honorable Secretary of State Ben Yursa
Honorable Attorney General Lawrence G. Wasden (*via conference phone*)

Secretary to the Board Winston A Wiggins

State Controller Keith Johnson was absent for this meeting. Superintendent Howard attempted to join the meeting via conference call, however, technical difficulties prevented her from doing so. Attorney General Wasden participated in the meeting via conference phone beginning at 9:10 a.m.

Director Wiggins advised the Board that today marks IDL's first new employee orientation. Seventeen new IDL employees are present in the audience. Many of these employees represent new positions authorized by the Board and the Legislature last year to increase the timber harvest.

Governor Kempthorne welcomed the new employees. He stated his first job with the State of Idaho was with the Department of Lands. At that time he also attended a Board meeting, and he felt it was an interesting experience. He believes great things happen with the Department and that staff dedication and devotion reaps dividends for the children and other citizens in the state.

New IDL Employees:

- Jake Willard, Forester, [Ponderosa Supervisory Area](#) (Deary)
- Jake Cafferty, Forester, [Clearwater Supervisory Area](#) (Orofino)
- David Gregory, Forester, [Ponderosa Supervisory Area](#) (Deary)
- Michael Henn, Range Resource Manager, [Southwest Supervisory Area](#) (Boise)
- Rebecca Beavers, Range Resource Manager, [Southwest Supervisory Area](#) (Boise)
- Julie Raeder, Financial Specialist, [Director's Office](#) (Boise)
- Jasen King, Forest Resource Manager, [Payette Lakes Supervisory Area](#) (McCall)
- Nicole Lee, Office Specialist, [Priest Lake Supervisory Area](#) (Coolin)
- Ron Durham, Resource Supervisor, [Priest Lake Supervisory Area](#) (Coolin)
- Wayne Lynn, Forester, [St. Joe Supervisory Area](#) (St. Maries)
- Kevin Benton, Private Forestry Specialist, [Maggie Creek Supervisory Area](#) (Kamiah)
- Stephen Cox, GIS Analyst, [Management Information Systems](#), Director's Office (Boise)
- John Farbo, Resource Manager – Timber, [Clearwater Supervisory Area](#) (Orofino)

- Robert Pentzer, Forester, [Craig Mountain Supervisory Area](#) (Craigmont)
- Stephen Smith, Lands Resource Program Manager, [Forest Management Bureau](#), Coeur d'Alene Staff Office (Coeur d'Alene)
- Keith O'Connor, Right-of-Way Specialist, [Bureau of Real Estate](#), Director's Office (Boise)

Director Wiggins also introduced Denise Mills, the new Assistant Director for Lands, Minerals and Range. Denise will replace Jay Biladeau, who is retiring after 32 years of State service. Denise has a background in mining, geology and water. She brings great strengths to the Department, and she will have many interactions with the Board in the coming months.

Governor Kempthorne welcomed all of the new staff and wished them the best in their careers with the Department.

- **CONSENT**

Director Wiggins provided background information on the Consent Agenda items.

A motion was made by Secretary of State Ysursa to approve the Consent Agenda with the exception of Agenda Item 2. Attorney General Wasden seconded the motion. The motion carried on a vote of 3-0, with State Controller Johnson and Superintendent Howard being absent for this vote.

Subsequently, a motion was made by Secretary of State Ysursa to approve Agenda Item 2. Attorney General Wasden seconded the motion. The motion carried on a vote of 3-0, with Controller Johnson and Superintendent Howard being absent for this vote.

1. Director's Report – *approved*

- Interest Rate on Department Transactions – July, August 2004
- Bureau of Real Estate, Land Sale Section, Official Transactions – June, July 2004
- Bureau of Real Estate, Easement Section, Official Transactions – June, July 2004
- Bureau of Surface and Mineral Resources, Official Transactions – June, July 2004
- Timber Sale Official Transactions – June 30, 2004 through August 31, 2004
- Timber Sale Activity Report – July, August 2004
- Legal Matter Summary
- Fire Season Update – July, August 2004

2. Endowment Fund Investment Board Manager's Report – *Staffed by Matthew Haertzen, CFA, Manager of Investments, EFIB – approved*

Mr. Haertzen provided an overview of the Manager's Report.

DISCUSSION: For the benefit of the new employees, Governor Kempthorne asked Mr. Haertzen how many investment managers currently are involved with the endowment. Mr. Haertzen stated about twelve. Governor Kempthorne went on to explain that Mr. Haertzen is the manager with the Endowment Fund Investment Board. The report provided by Mr. Haertzen gives the Land Board an overview of the investment managers and their performance. The current report shows that we have a very strong team at this point. The Land Board also meets with the Endowment Fund Investment Board twice per year to enhance communication.

BOARD ACTION: A motion was made by Secretary of State Ysursa to accept the Manager's report. Attorney General Wasden seconded the motion. The motion carried on a vote of 3-0, with State Controller Johnson and Superintendent Howard being absent for this vote.

3. Timber Sales – Staffed by Bob Helmer, Chief, Bureau of Forest Management – approved

A. Flying Bear	CR-10-0340	1,650	MBF	Bonner County
B. Cat Hunt	CR-10-0344	2,950	MBF	Bonner County
C. Outer Crazy Creek	CR-20-0243	715	MBF	Bonner County
D. North Springdale	CR-20-0251	2,845	MBF	Bonner County
E. Camp G OSR	CR-40-0779	2,020	MBF	Clearwater County
F. Not Flat	CR-50-0105	2,545	MBF	Valley County
G. North Placer	CR-50-0114	4,480	MBF	Washington County
H. Eastside Payette	CR-50-0122	2,205	MBF	Valley County

4. Agreement for Purchase of Conservation Easement, St. Joe Basin Forest Conservation Project: Phase 2 (Mica Creek) – Staffed by Ron Litz, Assistant Director, Forestry and Fire – approved

DEPARTMENT RECOMMENDATION: Authorize the Department to acquire a conservation easement on 24,876.5 acres.

BOARD ACTION: Approved.

5. Approval Request for Disclaimer of Interest to M. Scott and Alysa M. Bishop for Accretion Land Adjacent to the Boise River in Ada County – Staffed by Perry Whittaker, Chief, Bureau of Real Estate – approved

DEPARTMENT RECOMMENDATION: It is recommended that a disclaimer of interest be issued for this parcel of land totaling 11.89 acres of the former bed of the Boise River. The recommended fee is \$600.00.

BOARD ACTION: Approved.

6. Approval Request for Disclaimer of Interest to Gerald and Lynette Timmons for Accretion Land Adjacent to the Boise River in Ada County – Staffed by Perry Whittaker, Chief, Bureau of Real Estate – approved

DEPARTMENT RECOMMENDATION: It is recommended that a disclaimer of interest be issued for this parcel of land (totaling 3.70 acres, more or less) of the former bed of the Boise River. The recommended fee is \$600.00.

BOARD ACTION: Approved.

7. Approval request to sell Lots 12 and 13 of the Amended Elk Valley Subdivision in Elmore County – Staffed by Perry Whittaker, Chief Bureau of Real Estate – approved

DEPARTMENT RECOMMENDATION: Direct the Department to advertise and sell the two Elk Valley lots without reservation of minerals at public auction with a minimum bid of \$70,000.

BOARD ACTION: Approved.

8. Approval request to sell Lot 42 of the Evergreen Terrace Subdivision No. 2 in Valley County – Staffed by Perry Whittaker, Chief, Bureau of Real Estate – approved

DEPARTMENT RECOMMENDATION: Direct the Department to advertise and sell the 0.188 acre lot without reservation of minerals at public auction with a minimum bid of \$45,000.

BOARD ACTION: Approved.

9. Results of Non-Appealed Grazing Lease Auction – Staffed by Tracy Behrens, Range and Cropland Program Manager, Surface and Mineral Resources Bureau – **approved**

DEPARTMENT RECOMMENDATION: That the Board accept the high bids submitted at the auctions for leases G-7609, G-8655, G-8821 and G-9760 and direct the Department to issue new ten-year grazing leases to the highest bidders. Each lease will include a summary of the grazing management proposal submitted by the high bidder and accepted by the Department.

BOARD ACTION: Approved.

10. Determination of Non-Navigability of Herman Lake, Boundary County, Idaho – Staffed by Steve Schuster, Deputy Attorney General, Idaho Department of Lands – **approved**

DEPARTMENT RECOMMENDATION: The Department recommends that the Land Board adopt its determination that Herman Lake is not navigable-in-fact.

DISCUSSION: Governor Kempthorne asked if minerals in the lake bed had been discussed. Assistant Director Biladeau stated no. Governor Kempthorne then asked what constitutes navigability. Deputy Attorney General Steve Schuster responded that State ownership of a lake requires that the lake be navigable-in-fact under the federal test for navigability. The federal test requires that the body of water be used as a highway or channel for commerce. The key in this case is whether the lake had been used in the past as a pathway. Given the size and geographic location of Herman Lake, it is difficult to imagine that this lake has ever been used as a pathway between two points because it is quite small and shallow. The State is unaware of any evidence showing such use.

BOARD ACTION: Approved.

11. Minutes – approved

A. Regular Land Board Meeting – July 13, 2004

• **REGULAR**

12. Timber Supply Stabilization Act – Presented by Ron Litz, Assistant Director, Forestry & Fire – **Deferred**

DEPARTMENT RECOMMENDATION: Deny Bennett Lumber Products, Inc.'s request to suspend the "qualified bidder" requirement for the remainder of Idaho.

BOARD ACTION: This agenda item was deferred.

13. Revised Memorandum of Understanding – Old Penitentiary Site – Presented by Winston Wiggins, Director – **approved**

DEPARTMENT RECOMMENDATION: Direct IDL to execute the revised MOU with ISHS and IBG and to initiate a review of the MOU in August 2006 to determine whether continued IDL involvement is needed.

DISCUSSION: Governor Kempthorne asked if the two-year review mentioned in the Board memo would be management by exception. He asked if the Land Board would be required to approve the MOU again in two years. Director Wiggins responded that at the conclusion of two years, the Department and the two other parties would only come to the Board if significant changes were necessary. Director Wiggins further commented that the Botanical Garden and the Historical Society have been working well together over the last number of months. The possibility exists that after two

years it may be determined the MOU is no longer needed. Governor Kempthorne asked if the MOU would lapse in two years. Director Wiggins stated it would not.

Comment by Steve Guerber, Idaho Historical Society. Mr. Guerber thanked Director Wiggins for his work on the MOU. He stated the Historical Society is pleased to have not only this memo, but also the completion of the Master Plan by the Botanical Garden. Those two documents put in black and white what previously had been gray areas. Mr. Guerber looks forward to continued success with the relationship between the agencies.

Comment by Sandra Breuer, Idaho Botanical Garden. Ms. Breuer commented that the Botanical Garden views its location at the Old Penitentiary District as mutually beneficial. The IBG believes it is better for being there and also believes that the District is better for the IBG being there. Ms. Breuer commented, "When you get a lot of passionate and competent people together, if you clarify their roles, write them down, I think good things can happen, and that is what has happened here. We feel very good moving forward with this MOU in place."

Secretary of State Ysursa thanked the parties for their hard work. He commented the Board will continue to have a "velvet hammer" in the dispute, but he is confident that this is a positive step toward future communication and cooperation between the entities.

BOARD ACTION: A motion was made by Secretary of State Ysursa to accept the Department's recommendation. Attorney General Wasden seconded the motion. The motion carried on a vote of 3-0, with Controller Johnson and Superintendent Howard being absent for this vote.

14. Fiscal Year 2006 Department of Lands Budget Proposal – Presented by Winston Wiggins, Director – approved

DEPARTMENT RECOMMENDATION: Direct the Department to forward the proposed FY 2006 budget to the Legislature for consideration.

DISCUSSION: Governor Kempthorne noted that the 27th payroll is a phenomenon that occurs approximately once every eleven years, and it is an additional pay period in that year. The impact will be about \$23 million to the State of Idaho.

BOARD ACTION: A motion was made by Secretary of State Ysursa to support the Department's budget recommendation and to send it to the Legislature. Attorney General Wasden seconded the motion. The motion carried on a vote of 2-0, with Governor Kempthorne abstaining and with Controller Johnson and Superintendent Howard being absent for this vote.

At 9:52 a.m. a motion was made by Secretary of State Ysursa to resolve into Executive Session. Attorney General Wasden seconded the motion. The motion carried on a vote of 3-0, with Controller Johnson and Superintendent Howard being absent for this vote.

• **EXECUTIVE SESSION**

- A. **To Consider Records that are Exempt from Disclosure [\[Idaho Code § 67-2345\(1\)\(d\)\]](#)**
- B. **To Consider and Advise Its Legal Representatives in Pending Litigation or Where There is a General Public Awareness of Probable Litigation [\[Idaho Code § 67-2345\(1\)\(f\)\]](#)**
- C. **To Consider Personnel Matters [\[Idaho Code § 67-2345\(1\)\(b\)\]](#)**

Upon unanimous consent, and there being no further business to come before the Board, the meeting resolved into Regular Session and adjourned at 10:00 a.m.

IDAHO STATE BOARD OF LAND COMMISSIONERS

/s/ Dirk Kempthorne

President, State Board of Land Commissioners and
Governor of the State of Idaho

/s/ Ben Ysursa

Ben Ysursa
Secretary of State

/s/ Winston A Wiggins

Winston A Wiggins
Director

The above-listed final minutes were approved by the State Board of Land Commissioners at the October 12, 2004 regular Land Board meeting.