



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 13, 2005

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, September 13, 2005 in Boise, Idaho. The meeting began at 9:02 a.m. in the second floor courtroom of the Borah Post Office Building. The Honorable Secretary of State Ben Yursa presided. The following members were present:

Honorable Attorney General Lawrence G. Wasden  
Honorable State Controller Keith L. Johnson  
Honorable Superintendent of Public Instruction Marilyn Howard

Secretary to the Board Winston A Wiggins

Governor Dirk Kempthorne was absent for this meeting.

• **CONSENT**

**Director Wiggins provided background information on the Consent Agenda items.**

**A motion was made by Controller Johnson to approve the Consent Agenda in its entirety. Superintendent Howard seconded the motion. The motion carried on a vote of 4-0, with Governor Kempthorne being absent for this vote.**

**1. Director's Report – approved**

- A. Interest Rate on Department Transactions – August 2005
- B. Bureau of Real Estate, Land Sale Section, Official Transactions – July 2005
- C. Bureau of Real Estate, Easement Section, Official Transactions – July 2005
- D. Timber Sale Activity Report
- E. Timber Sale Official Transactions – July 23, 2005 through August 26, 2005
- F. Legal Matter Summary
- G. Fire Season Update – Director Wiggins stated suppression expenditures are estimated at a net obligation of just under \$10 million through the remainder of this season.

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

A. A.Careywood	CR-20-0246	2,550	MBF	Bonner
B. Curtis Creek	CR-20-0257	1,575	MBF	Bonner
C. Trail 8	CR-21-3008	1,520	MBF	Boundary
D. Little Bald Skeel	CR-31-0004	2,600	MBF	Kootenai
E. Teakean Towers	CR-41-0009	7,785	MBF	Clearwater
F. Luella Mine Pole	CR-41-0019	500	MBF	Latah
		201,800	LF	Latah
G. Brown Rice	CR-43-4007	2,205	MBF	Idaho
H. Hanson Hat Trick	CR-50-0126	4,912	MBF	Adams

3. **Final Approval Proposed Rule Amending IDAPA 20.03.08, Rules for Easements on State-Owned Lands** – Staffed by Perry Whittaker, Chief Bureau of Real Estate – **approved**

*DEPARTMENT RECOMMENDATION:* Adopt the proposed rule and authorize the Department to prepare and submit a Pending Rule packet to OAR for publication in the Administrative Bulletin.

*BOARD ACTION:* Approved.

4. **Approval to Issue Grazing Leases G-9188, G9686 and G9755 to the Highest Bidders** – Staffed by Tracy Behrens, Program Manager, Grazing and Cropland Program – **approved**

*DEPARTMENT RECOMMENDATION:* Accept the high bids submitted at auctions for grazing leases G-9188, G-9686 and G-9755 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 successful bidder and accepted by IDL. The first year's rental deposits will be refunded to the unsuccessful applicants.

*BOARD ACTION:* Approved.

5. **Minutes – approved**

- A. Regular Land Board Meeting – August 9, 2005
- B. Special Land Board Meeting – August 17, 2005

• **REGULAR**

6. **Endowment Fund Investment Board Report** – Presented by Richelle Sugiyama, Interim Investment Manager, EFIB

Ms. Sugiyama stated as of September 9, the current value of the Fund is approximately \$889.6 million. Fiscal year-to-date returns are approximately 5.1%, with month-to-date returns through September 9 at 1.6%. The total Fund returned 5.1%, which is about 90 basis points ahead of the benchmark. The return was primarily due to the U.S. equity and international equity allocations. The U.S. equity return of 6.5% exceeded the benchmark return, which in this case is the Russell 3000 benchmark, by approximately 160 basis points. The international equity portfolio exceeded the MSCI EAFE benchmark by about 40 basis points. Asset allocation is on target. The domestic equity allocation is approximately 56%; International equity 15%; fixed income and cash approximately 28%.

*DISCUSSION:* Attorney General Wasden noted that fiscal year-to-date active manager relative returns for Intech and Oppenheimer are below their benchmarks. He asked if that is consistent with their performance or is that an anomaly over the past short time period. Ms. Sugiyama stated she believes it is an anomaly. Both managers will be watched going forward. Oppenheimer has had periods of relative out and underperformance so this is something that will be tracked regularly and an update should be available by the next meeting.

Attorney General Wasden asked about fiscal year-to-date total returns in terms of percentages allocated to large cap, mid cap, US small cap and international equity. It appears that mid cap, small cap and international are producing larger returns than large cap. He asked if that is consistent with recent history and are allocations properly divided among those categories. Ms. Sugiyama stated this is an issue that will be visited by the new Manager of Investments, who will begin working on October 1. The current asset allocation mix will be reviewed to determine if it works best for the Endowment Fund as a whole. Allocations have been consistent throughout. Generally an attempt has been made to maintain the same allocation as the Russell 3, which is representative of the broad asset class. PERSI has a similar 15% international equity allocation.

Superintendent Howard noted if the Board members have questions about market volatility, they should keep the report from one week ago and the current report from this week side by side to see the variation from week to week. This week's report is a much better report than last week's.

No action was taken on this agenda item.

**7. Conceptual Approval Tamarack Land Exchange** – Presented by Denise Mills, Assistant Director, Lands, Minerals, Range

*DEPARTMENT RECOMMENDATION:* Direct the Department to work with the federal agencies to develop an equal value land exchange proposal to acquire selected portions of federal property adjacent to the current Tamarack Resort and to complete the necessary timber cruises, environmental studies and appraisals to complete the exchange and commence lease negotiations with Tamarack for the potentially acquired parcels.

*DISCUSSION:* Attorney General Wasden asked if any arrangement has been made for public input. Assistant Director Denise Mills stated the federal agencies will be required to conduct environmental assessments and other analyses. That process involves public input. If the Board wishes, the Department would be in a position to set up additional public meetings, which may be warranted in some cases, to engage in discussions with user associations and others. Attorney General Wasden stated it would assist him in his decision to know what people think about the proposal. He would appreciate allowing the public an opportunity to comment.

Controller Johnson echoed Attorney General Wasden's comments about public input. He stated it strikes him as particularly important as it relates to the west slope of Parcel D. That area has historically been known as a premier snowmobiling area. Tamarack seems to be very accommodating to the snowmobile community. However, Controller Johnson does not know if input has already been received from the snowmobile association or others. Those users would have an interest in what happens to make sure the area remains accessible.

Superintendent Howard asked about parcels in the Boulder-White Cloud area. Some parcels are inaccessible and not useable. On the map she noted a road going north from Hailey with some private land and some sites along that land. Those sites are different from the ones at the top of the mountain. She asked if those sites become Forest Service under this exchange. Director Wiggins stated the parcels would become Forest Service and are high value properties that lie on the north side between Galena and Stanley. The second one from the top actually has a subdivision platted. The other two are in the valley with great views and terrific opportunities. Undoubtedly the parcels will be very high in value when they are appraised for highest and best use. These properties have been included primarily because the opportunities to realize an appropriate rate of return is not very likely, and they would, assuming they would appraise as expected, provide quite a bit of exchange material toward the Tamarack acquisition. Superintendent Howard agreed that the properties appear to be high value properties. She noted a great number of isolated parcels dotting the landscape in the area south of Mountain Home. She speculated those are grazing parcels, which do not provide a high rate of return. She compared that to the land in the Sun Valley area that just sold for a good price. She stated she needs more information about this kind of value ratio – seeing what we are getting for what we are giving.

Secretary of State Ysursa asked if current users on some of the federal land have been contacted to see how this would disrupt their operation or how essential some of this land is to their operation. He has heard a few comments. Director Wiggins stated not at this point because the Department is only in the pre-conceptual stage, but those contacts will occur as the Department starts to develop a package. The Department has produced a laundry list of potential disposal properties, however, the list could change in the conceptual work through as values are developed and people are contacted.

Controller Johnson stated he believes the Department has laid down a good process for moving forward. Tamarack has made a real effort to be successful and to be good citizens.

*BOARD ACTION:* A motion was made by Controller Johnson to approve the Department's recommendation. Attorney General Wasden seconded the motion. Secretary of State Ysursa added that within the motion is a

strong request for public input on this proposal. The motion carried on a vote of 4-0, with Governor Kempthorne being absent for this vote.

**8. Pre-Conceptual Statewide Land Exchange** – *Presented by Denise Mills, Assistant Director, Lands, Minerals, Range*

*DEPARTMENT RECOMMENDATION:* Direct IDL to develop and implement a public outreach strategy for communicating the proposal to interested and potentially affected parties and the public and for soliciting public input. Upon development of this strategy, the Department will provide an estimated schedule for completing the conceptual proposal.

*DISCUSSION:* Attorney General Wasden stated it is his understanding that the Department will go out to discuss this matter with open meetings and will receive written and oral comments reflecting what all of the stakeholders feel is important with regard to this proposal. At this stage it is a general discussion. Director Wiggins stated that is correct.

In looking at the map, Superintendent Howard asked if scattered school sections across the state would be consolidated into several clusters and disappear from the map. Director Wiggins stated they would not actually disappear. They disappear as red and reappear as green, and they would remain school sections. From a strictly trust standpoint, the idea would be to consolidate those scattered parcels into blocks that administratively would be reasonable for the Department to manage. Secondly, the consolidation would improve the revenue stream. Director Wiggins stated he recognizes that all of this will not happen at once or probably in his lifetime. He realizes there may be good reasons to retain some of these scattered parcels, but this is more of a broad brush wish list that has had very little, other than generalized, consideration at the Department's level.

Secretary of State Yursa commented with the Board's trust responsibilities, this proposal is something that needs to be considered. He asked if all of the parcels will be exchanged or if the Department is considering selling some parcels at public auction. Director Wiggins stated pending Board approval, the Department will take a closer look at some of the parcels and some may indeed be better to retain and dispose through sale. That review would be part of the refinement of the idea as it moves forward.

Superintendent Howard asked if the Department is currently working with anyone in terms of trying to chart future growth in the state. She stated this is a "three-generation look" at what is going to be valuable down the road that might not be seen as valuable today. She noted, for example, that the corridor between Pocatello and Rexburg will grow, but she wondered if discussions about other parts of the state have been held in terms of what the expectations would be for future economic development. She expressed interest in looking at the whole picture when moving forward. Director Wiggins responded that the Department is in the process of developing an appropriate job description and will hire staff with land use planning skills. In addition, people in the private sector are available for contracting.

Controller Johnson stated he has questions and concerns about the proposal, but they are probably best left for a public meeting or some future discussion. He believes there is enough here to suggest moving forward with at least a discussion to engage in the process. Idaho clearly is going through a transition in the use of its public lands.

*BOARD ACTION:* Controller Johnson moved the adoption of the Department's recommendation. Superintendent Howard seconded the motion with the understanding that this information will be broadly distributed so that interested parties will have a chance to weigh in on it. The motion carried on a vote of 4-0, with Governor Kempthorne being absent for this vote.

**9. Authorization for Ski Lift Financing and Construction** – *Presented by George Bacon, Operations Chief-South and Kent Nelson, Deputy Attorney General*

*DEPARTMENT RECOMMENDATION:* (1) Direct the Department to execute the "Authorization for Ski Lift Financing and Construction Agreement" to allow Tamarack to enter into a lease-purchase or a fixture financing agreement for construction of the Whitewater and Wildwood ski lifts on the leased premises under the aforementioned terms and conditions. (2) Direct the Department to address performance and payment

bonding within the "Authorization for Ski Lift Financing and Construction Agreement" with one of two alternatives: (a) At its discretion, the Department may limit the bonding requirements to payment bonds for work to be done and materials to be supplied by subcontractors of the general contractor, provided that the Department determines that the terms of the lease-purchase agreement or the lender's commitment to loan provide adequate assurance of payment to the general contractor for the lift construction; or (b) The Department may waive bonding requirements at its discretion if it concludes that such bonding is not commercially feasible and/or that the financing mechanism utilized by Tamarack and contracts with the general contractor provide adequate assurance of performance and payment. (3) Direct the Department that unless there is a modification of the land lease between the State and Tamarack Resort, no future authorizations will be considered until the debt is serviced on the lift loan or lease-purchase agreement and Tamarack Resort owns the Whitewater and Wildwood lifts free and clear. (4) Direct the Department to analyze and discuss with representatives of Tamarack Resort, whether any strict requirements in the land lease (Lease M-5042) have now become unnecessary hindrances to the success of the land lease. Recommendations for lease modifications will be ready for presentation at the State Board of Land Commissioners regular meeting in January 2006.

- **Audience with the Board**

**Scott Turlington, Tamarack Resort.** Mr. Turlington stated Tamarack approached the Board with some apprehension in requesting this authorization to proceed with more efficient financing. However, given its success to date, Tamarack felt it was a reasonable request to move forward utilizing this equipment lease financing, which is fairly common throughout the ski resort industry.

Referring to item number two, option A or B, Mr. Turlington stated Tamarack has had lengthy discussions with the Department and feels it is better if the Department has discretion to waive the bonding requirements, given that the contractors and subcontractors redo and build lifts all over the world and are guaranteed their payment through the financing company. Subsequently, subcontractors also get paid. Option 2B gives the Department discretion. It does not put Tamarack in a box in the event that the subcontractor, for example, can not get bonding. It provides flexibility and some discretion at the Department's level to work with the Resort. The lifts are going in now and are about halfway through. Concrete foundations are being poured.

On another note, Mr. Turlington informed the Board that about two weeks ago Tamarack signed what was an historical agreement between Tamarack and the snowmobile association. The agreement designates separate use areas, especially on the west side of the summit. In addition, it creates new groomed trails. Tamarack has been working on this effort for about a year with the snowmobile association and local communities. The Memorandum of Agreement has been entered into. In fact, Mr. Turlington stated it is a first of its kind, and Tamarack is proud of that accomplishment.

- **Audience with the Board**

**Steve Millemann, Attorney for Tamarack Resort.** Mr. Millemann thanked the Department for their cooperation in working with Tamarack through this issue and stated the Resort endorses the recommendations as presented, with a request that the Board endorse recommendation 2B. Mr. Millemann stated this is not quite like a typical construction project where you have a general contractor and multiple subcontractors and multiple material supplies. Doppelmayr, one of two international and national lift manufacturers and installers, is contractually obligated to manufacture, provide and install the lifts. They will use perhaps one principal subcontractor, provided by Tamarack, in that process. Doppelmayr is responsible from start to finish, and that influences the request for the Board's endorsement of recommendation 2B. The recommendations allow a means for Tamarack to proceed to get these two lifts up this year to keep the established momentum going, which is critical.

*DISCUSSION:* Attorney General Wasden asked if the Department and Deputy Attorney General Kent Nelson feel comfortable with recommendation 2B. Deputy Attorney General Nelson stated in these circumstances, he does feel comfortable with recommendation 2B. This is a single large contractor-related project. The mechanism anticipated, available for review first, is pre-established financing either through a lease-purchase or through a committed loan. Deputy Attorney General Nelson stated he does not see inherent risks. Operations Chief George Bacon added that recommendation 2B does seem to be the better option.

*BOARD ACTION:* A motion was made by Attorney General Wasden to adopt the Department's recommendation. With regard to recommendation number two, the Board adopts 2B. Controller Johnson seconded the motion. The motion carried on a vote of 4-0, with Governor Kempthorne being absent for this vote.

#### **10. Department of Lands Fiscal Year 2007 Budget – Presented by Winston Wiggins, Director**

*DEPARTMENT RECOMMENDATION:* Direct the Department to forward the proposed FY 2007 budget to the Legislature for consideration.

*DISCUSSION:* Attorney General Wasden asked if Ms. Opp discussed the budget proposal with the Division of Financial Management (DFM) and, if so, what has been the nature of those conversations. Ms. Opp stated the Department has discussed the budget proposal with DFM. There is some concern regarding the lump sum request, which is unique and would require specific intent language in the budget. There was some question about whether the base reduction is enough. Ms. Opp stated the agency having a 2½% cushion where other dedicated fund agencies are at 11% to 35% is very reasonable. The Department does want to get it down to provide the Board with maximum flexibility to address the beneficiary distribution rates. Discussions will continue with DFM. After the Board renders a decision on the budget, the Department will talk with DFM further about the request and try to respond to their questions.

Director Wiggins commented that the lump sum request is unusual. He realizes that the Department is asking for a lot of trust. The Department, the Board and the Earnings Reserve Account are unique and is, in fact, a business that happens to be a government agency. The Department believes that if you are going to be able to respond as a business to opportunities or to specific needs, that it is appropriate to be able to get out of the multiple stove-pipe budgeting scenario. The Department will continue to visit with DFM and with members of the Joint Finance Committee and will answer any questions they might have about the control of this. Director Wiggins believes the Department has demonstrated that trust is justified because of the prior handling of fire funds for many years under the lump sum authority, including accompanying audits. Director Wiggins pointed out that currently the Fire Program is a lump sum authority with year-to-year granting. It is not something that is granted and then left in place without specific language from year to year. It could easily be removed.

Attorney General Wasden stated he asked his question because it is an unusual request, although the position as presented is rational. It is a matter of concern to him, but he will listen. He commented he is glad to know that Director Wiggins sees this as a matter of trust, and a trust that can not be violated without dire consequences.

*BOARD ACTION:* A motion was made by Controller Johnson to accept the Department's recommendation. Attorney General Wasden seconded the motion. The motion carried on a vote of 4-0, with Governor Kempthorne recused for this vote.

#### **• INFORMATION**

**Director Wiggins briefed the Board on the Information Agenda items. No Land Board action is required on the Information Agenda.**

#### **11. Clear Creek Lot 4 Land Sale Results**

This lot sold for \$2.5 million with the closing to be completed by the middle of October. Funds go into the Public School Land Bank.

#### **12. Buttercup Property Development Update**

A Working Group is analyzing different proposals. The Department will try to have a final recommendation by the October or November meeting.

### 13. Results of Various Grazing Lease Auctions

Eight grazing lease auction results, with no improvement credit concerns noted, are included in this item. Three leases are in southwest Idaho around Boise (Southwest Supervisory Area) and five leases are in the Ponderosa Supervisory Area (Deary). The conflict applicant in each case is Lazy Y, the successful bidder. As of this morning, two of the auctions (G-4051 and G-4057) have been appealed by the current lessees.

Three other leases have not gone to auction. The conflict applicant, Lazy Y, has requested additional information on the improvement credits on two of those leases and has objected to the improvement credits on the third. The Department's goal is to have the improvement credits finalized prior to auction.

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At 10:31 a.m., a motion was made by Attorney General Wasden to resolve into Executive Session. Superintendent Howard second the motion. The motion carried on a vote of 4-0, with Governor Kempthorne being absent for this vote. Before the start of Executive Session, a short recess was taken. Executive Session began at 10:38 a.m.

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- **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\(1\)\(b\)](#)]**
  - D. **To Consider Acquiring an Interest in Real Property Which is Not Owned by a Public Agency [[Idaho Code § 67-2345\(1\)\(c\)](#)]**
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At 11:11 a.m., the Board resolved into Regular Session. No actions were taken by the Board during the Executive Session.

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There being no further business to come before the Board, a motion was made by Attorney General Wasden at 11:11 a.m. to adjourn. Controller Johnson seconded the motion. The motion carried by unanimous consent.

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 11, 2005 regular Land Board meeting.