



STATE BOARD OF LAND COMMISSIONERS
Dirk Kempthorne, Governor and President of the Board
Ben Ysursa, 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
May 9, 2006

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, May 9, 2006 in Boise, Idaho. The meeting began at 9:03 a.m. in the second floor courtroom of the Borah Post Office building. The Honorable James Risch presided. The following members were present:

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

Governor Dirk Kempthorne and Secretary to the Board Winston A Wiggins were absent. Operations Chief George Bacon served as Secretary to the Board for this meeting.

• **CONSENT**

Operations Chief Bacon provided background information on the Consent Agenda items.

A motion was made by Controller Johnson to adopt the Consent Agenda in its entirety. Secretary of State Ysursa seconded the motion. In seconding the motion, Secretary of State Ysursa expressed appreciation to Perry Whittaker for his work on item 3. The motion carried on a vote of 5-0.

• **CONSENT**

1. Director's Report – approved

- A. Interest Rate on Department Transactions – April 2006
- B. Bureau of Real Estate, Land Sale Section, Official Transactions – March 2006
- C. Bureau of Real Estate, Easement Section, Official Transactions – March 2006
- D. Timber Sale Official Transactions – March 25, 2006 through April 21, 2006
- E. Timber Sale Activity Report
- F. Legal Matter Summary

2. Timber Sales – Staffed by Roger Jansson, Operations Chief-North and Mary Fritz, Acting Operations Chief-South – approved

A. Cavanaugh Pole	CR-10-0361	125	MBF	Bonner
		57,550	LF	
B. River Breaks	CR-30-0518	6,070	MBF	Benewah
C. West Boise	CR-31-0006	4,085	MBF	Kootenai
D. Swamp Cabin Commercial	CR-42-5012	2,320	MBF	Idaho
E. Grasshopper Ridge	CR-42-5018	2,315	MBF	Clearwater
F. East Lakey	CR-50-0134	4,154	MBF	Adams
G. Antelope Valley	CR-80-0098	2,210	MBF	Clark
H. Targhee Creek	CR-80-0100	1,025	MBF	Fremont

DISCUSSION: Operations Chief Bacon noted timber sales B, C and E contain clearcuts. In Item B, the clearcut is 9 acres and is necessary to address disease problems and root rot. Resistant species will be planted. Item C has a 68-acre clearcut. A more favorable species will be planted. Item E has a 40-acre clearcut. This is a decadent stand with no other available option. All of the clearcuts conform with the Board's policy on clearcutting and are silviculturally justified. Clearcutting is the only choice in these cases. Items G and H are sales in Eastern Idaho that have insect problems and dying timber. The Department is asking the Board to waive the four-week advertising period and to allow a one-week period. This requested change will allow timber to get to market quickly at the beginning of the field season. Governor Risch asked if the sale is lodgepole pine. Operations Chief Bacon stated he believes lodgepole pine exists in the sale area, but for the large part, it is a mixed stand.

3. Request for Approval to Transfer Big Wood Canal Water Shares to the City of Gooding – Staffed by Perry Whittaker, Chief, Bureau of Real Estate – approved

DEPARTMENT RECOMMENDATION: Direct the Department to transfer two (2) shares of Big Wood Canal water to the City of Gooding for irrigation purposes associated with the former surplus property deeded to the City and to issue a new deed to the City that includes the two shares of water.

DISCUSSION: Governor Risch asked why the water shares were not transferred to the City of Gooding at the time the property was transferred. Perry Whittaker, Chief, Bureau of Real Estate, responded that the Department did not transfer the water shares in anticipation of transferring those shares to other endowment land for irrigation purposes. However, an agreement has been reached to sell two water shares to the City of Gooding for the Basque Center's use, with the remaining six water shares being transferred to endowment land.

Attorney General Wasden asked how the share value was determined. Operations Chief Bacon stated the Area Manager in Jerome performed an analysis of the selling price of water shares in the area and reviewed this particular situation. Evidentially the canal supplying the water is not currently being used and is at the end of the line. The value is considered reasonable based on the location of where the water would be shipped and what other water shares are going for in the area.

Secretary of State Ysursa expressed his appreciation to Perry Whittaker for his work on this agenda item.

BOARD ACTION: Approved.

4. Disclaimer of Interest for the Former Bed of the Boise River, Canyon County, Idaho – Staffed by Perry Whittaker, Chief, Bureau of Real Estate – approved

DEPARTMENT RECOMMENDATION: Direct the Department to issue a disclaimer of interest for one parcel totaling 3.13 acres of the former bed of the Boise River and to require Madeline Marshall to pay a fee of \$600.00 to the Department of Lands for this transaction.

DISCUSSION: None.

BOARD ACTION: Approved.

5. Minutes – approved

A. Regular Land Board Meeting – April 11, 2006

• **REGULAR**

6. Endowment Fund Investment Board Manager's Report – Presented by Larry Johnson, Manager of Investments, EFIB

• **REGULAR**

7. Endowment Fund Investment Board Report – Presented by Larry Johnson, Manager of Investments, EFIB

A. Joint Meeting with the Endowment Fund Investment Board

Dean Buffington, Chairman of the Endowment Fund Investment Board (EFIB), stated this joint meeting with the Land Board is a continuation of a program which began several years ago in an effort to foster better communication between the two boards.

Chairman Buffington introduced the members of the EFIB:

Present: Gavin Gee, Vice Chairman, EFIB; Tom Kealey, Chairman, Compensation Committee; Representative Bill Deal, Vaughn Heinrich, Sue Simmons, Senator Brad Little.

Not Present: John Taylor, Chairman, Audit Committee; Richelle Sugiyama

Chairman Buffington also introduced RBC Dain Rauscher consultants John Pickett and Eric Micek.

On behalf of all Idahoans, Governor Risch thanked the members of the EFIB for their work.

Chairman Buffington stated that the EFIB sees no significant issues now or in the immediate future. The Fund year-to-date has returned 14.5%, which is 2.5% above the benchmark. The balance of the Fund is over \$980 million, and if that level is maintained, the Fund will finish the fiscal year above the loss benchmark established for the Public School Endowment Fund. Going forward, the next issue will be to develop the FY 2008 distribution levels, which the EFIB will review and present to the Land Board. The Reform Review Task Force will assist the EFIB in its review and revision of the spending policy to ensure that the best recommendation is made. Later in August the EFIB Audit Committee, and then the full EFIB, will review year-end financials and the independent audit. The EFIB will present the results and any questions or issues to the Land Board.

During the next legislative session, the EFIB will work with the State Tax Commission to develop legislation to deposit certain unclaimed property assets to the Public School Endowment Fund. In 1996 or 1997 legislation was passed that directed escheated property to the general fund. Prior to that time, those monies had been delivered to the Public School Fund. The change in the deposit of these funds since 1996 totals approximately \$250,000. However, it is a constitutional requirement that those funds be deposited to the Public School Fund. Governor Risch asked if this topic pertains to escheated funds or all unclaimed funds, including lost bank accounts. Larry Johnson, Manager of Investments for the EFIB, stated it pertains only to unclaimed estates for which there is no beneficiary and abandoned dividends and shares of Idaho corporations.

Governor Risch asked if it is the EFIB's intention to recoup the \$250,000 that had been allegedly wrongfully applied. Chairman Buffington stated it is his Board's intent to suggest legislation to achieve that.

B. Endowment Fund Investment Board Manager's Report – *Presented by Larry Johnson, Manager of Investments, EFIB*

Mr. Johnson, Executive Officer of the EFIB, introduced his staff. Andy Potter, fiscal Officer; Judy Shock, Office Administrator; Chris Halvorson, Investment Officer.

Also present: Doug Bates, Clearwater Advisors, an investment manager for the endowment funds.

Mr. Johnson reviewed the April 30 preliminary investment report. Results through the end of April show strong equity returns, especially in international markets. In this fiscal year, nine of the eleven active managers are performing at or above their benchmark, with two managers slightly below their index.

Mr. Johnson informed the Board he will be working with the EFIB and Land Board staff to develop a concise and meaningful one or two-page quarterly report to assist the Land Board in further monitoring the activities of the Investment Board and the performance of the endowment funds.

No action was taken on this agenda item.

C. Asset Management Policy Overview (on behalf of the Reform Review Task Force)

Mr. Johnson stated he has been asked by the Reform Review Task Force to review the Asset Management Guidelines Overview provided as an agenda item. These pages are the start of what the Task Force envisions to be a much larger and definitive document that would provide a clear foundation for decision making regarding endowment assets. Mr. Johnson yielded to Clive Strong to describe the Task Force's rationale and vision for the overall document.

Clive Strong, Chief, Natural Resources Division, Attorney General's Office. Mr. Strong provided background information.

Deputy Attorney General Strong. When Idaho was admitted to the Union, like the other states, it received certain assets for the benefit of schools and other beneficiaries, which were provided under the Admissions Bill and certain provisions of the Constitution, specifically Article IX. That trust is like a private trust and is subject to the same kind of fiduciary obligations as a private trustee, which under Idaho law means the Prudent Investor Rule.

In the mid-1990s one of the questions raised was, "Are we implementing trust management in a way consistent with the Prudent Investor Rule?" Then Governor Batt appointed an endowment review board to look at trust management. During that review, a couple of beliefs came to light. One belief was that the original intent of creating the trust was built around the concept that the best investment was ownership of land. In the 19th century that was typically thought to be the

securest and most rewarding type of investment. Securities at the time were viewed as risky and subject to fraud and not much oversight. In reviewing Article IX, many of those concepts were embedded in the Constitution.

However, when fast forwarding to modern times, investment strategies have changed significantly. Stocks and bonds are now considered one of the better investment vehicles because various laws that have been enacted to ensure their security. Additionally, with inflation comes a need for diversification. One of the options that the trust assets did not have was diversification. There were simply two separate assets – one was the fund, invested almost solely in bonds, and the other was the land, which was treated and managed as a separate asset. There was not much coordination between the two assets. Endowment reform was intended to modernize investment strategies.

In the Endowment Fund, we have moved forward in diversifying investments by investing in stocks as well as bonds and establishing benchmarks. The same change needs to occur with the land assets. Benchmarks need to be established to determine whether an appropriate rate of return is being received in light of modern investment strategies. The Asset Management Guidelines will not be used for purposes of divestment of assets. It is important to emphasize the need for a diversified portfolio, and lands are an important part of that diversification. It has been the philosophy of the Reform Review Task Force, as well as the Land Board, that land assets are to be kept as a vital part of the diversified portfolio. However, we do manage approximately a little over 2.5 million acres of land with some of those lands returning higher rates than others. The idea of the Asset Management Guidelines is to provide a vehicle by which this Board can periodically, as with the benchmark, evaluate its land assets. If some of those land assets are not performing at the level that is appropriate, then a process would be implemented for evaluation of what to do and that evaluation may include trimming costs, selected disposal/exchange of lands or the development of a long-term strategy for improving returns.

These Guidelines are not intended to force a particular outcome. Instead it is intended to lay out a decision making process whereby the Land Board, as trustees, can make determinations about the best methods of response to underperforming assets.

The Reform Review Task Force is looking for guidance from the Land Board as to whether the right elements are in the Asset Management Guidelines. The Task Force will then expand the Guidelines and bring a more complete product back to the Land Board in the fall for approval. The Guidelines would be used to better evaluate performance of the assets in the land trust and to ensure management in coordination with the assets in the endowment fund.

For clarification, Attorney General Wasden noted that this agenda item is for the Land Board's information. No action is needed today. The Asset Management Guidelines Overview will be submitted for Land Board approval at the June meeting.

Governor Risch acknowledged the importance of the Task Force's work.

No actions taken on agenda items 6A, 6B or 6C.

8. Marina Maintenance and Moorage Rental Policy – *Presented by Denise Mills, Assistant Director, Lands, Minerals, Range*

DEPARTMENT RECOMMENDATION: Authorize the Department to facilitate negotiations between the marina owners and the floathome owners, including the FHA, in order to develop a process for establishing reasonable monthly moorage rates that satisfy the Board's policy.

DISCUSSION: A verbatim transcript is available upon written request to Susan Terry, Idaho Department of Lands, Post Office Box 83720, Boise, Idaho 83720-0050.

BOARD ACTION: A motion was made by Attorney General Wasden to authorize the Department to facilitate negotiations as requested in this item. In addition, Attorney General Wasden directed that the Department at some point in the future present to the Board for discussion a long-range plan for these moorage facilities. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 5-0.

- **INFORMATION**

Operations Chief Bacon briefed the Board on the Information Agenda items. No Land Board action is required on the Information Agenda.

9. Annexation Issues on Endowment Land Near City of Boise Airport

Governor Risch asked what is to be gained by the City or State through this annexation. Department of Lands Southwest Area Supervisor Steve Douglas responded that expansion of the Boise airport was the main driver. Plans from several developers south of Boise show that the path of growth appears to be headed in that direction. In addition there is talk of Orchard and Lake Hazel being extended. The City and the airport were concerned about the approach and departure of aircraft and what types of use would compliment that kind of operation.

Secretary of State Ysursa added the benefit to the State is access to lands that currently do not have access. That access, along with new development in the area, will increase the value of the State land. It also points out that any State land in Ada, Canyon, Kootenai, Bonner, Valley and Blaine counties should be closely scrutinized. The State owns some very valuable properties with some of those properties not generating much income.

10. Priest Lake Cottage Site Indexing for the Calculation of 2007 Rental Rates

Secretary of State Ysursa noted that the Priest Lake rate is increasing 12%. He asked about the status of the Payette Lake lawsuit and what the rate change is, if any, at Payette Lake. Mr. Murphy stated the data has not been received yet.

At 10:21 a.m., a motion was made by Controller Johnson to resolve into Executive Session to discuss items covered by Idaho Code 67-2345(1)(f) and 67-2345(1)(c). Secretary of State Ysursa seconded the motion. The motion carried by unanimous consent.

- **EXECUTIVE SESSION**

- A. **To Consider Records that are Exempt from Disclosure [[Idaho Code § 67-2345\(1\)\(d\)](#)] - withdrawn**
- 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\(1\)\(b\)](#)] - withdrawn**
- D. **To Consider Acquiring an Interest in Real Property Which is Not Owned by a Public Agency [[Idaho Code § 67-2345\(1\)\(c\)](#)]**

At 10:36 a.m. a motion was made by Attorney General Wasden to resolve into regular session. Superintendent Howard seconded the motion. The motion carried on a vote of 5-0. No actions were taken by the Board during the Executive Session.

INFORMATION ITEM NOT ON THE AGENDA – NO ACTION TAKEN ON THIS ITEM

Operations Chief Bacon and Deputy Attorney General Kent Nelson informed the Board about ongoing work with Tamarack Resort on a leasehold mortgage. A considerable amount of time was spent on the leasehold mortgage terms under orders from the Board for the drafting of the Tamarack lease, which was to protect the State, and State lands, from bankruptcy. Deputy Attorney General Nelson stated he is pleased that Tamarack is able to go forward in a fine credit position and use this as collateral.

At 10:40 a.m. a motion was made by Attorney General Wasden to adjourn. Superintendent Howard seconded the motion. The motion carried on a vote of 5-0.

There being no further business to come before the Board, the meeting adjourned at 10:40 a.m.

IDAHO STATE BOARD OF LAND COMMISSIONERS

/s/ James E. Risch

James E. Risch
President, State Board of Land Commissioners and
Governor, 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 June 13, 2006 regular Land Board meeting.