



STATE BOARD OF LAND COMMISSIONERS

James E. Risch, 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

Secretary to the Board

Final Minutes  
Regular Land Board Meeting  
September 12, 2006

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, September 12, 2006 in Boise, Idaho. The meeting began at 9:09 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  
Honorable Superintendent of Public Instruction Marilyn Howard

Secretary to the Board for this meeting: Assistant Director George Bacon

• **CONSENT**

**Assistant Director Bacon provided background information on the Consent Agenda items.**

**A motion was made by Attorney General Wasden to approve the Consent Agenda with the exception of items 7 and 8. Items 7 and 8 were moved to the Regular Agenda. Controller Johnson seconded the motion. The motion carried on a vote of 5-0.**

**1. Director's Report – approved**

- A. Interest Rate on Department Transactions – August 2006
- B. Bureau of Real Estate, Land Sale Section, Official Transactions – July 2006
- C. Bureau of Real Estate, Easement Section, Official Transactions – July 2006
- D. Timber Sale Official Transactions – July 22, 2006 through August 25, 2006
- E. Timber Sale Activity Report
- F. Legal Matter Summary
- G. Bureau of Surface and Mineral Resources, Official Transactions – July 2006
- H. Fire Season Summary

**2. Timber Sales – Staffed by Roger Jansson, Operations Chief-North, and Steve Douglas, Operations Chief-South – approved**

A. Middle Fly	CR-10-0349	2,005	MBF	Bonner
B. Light Pole	CR-30-0532	600	MBF	Clearwater/Shoshone
		118,700	LF	
C. Scramble Pole	CR-30-0533	1,009	MBF	Clearwater/Shoshone
		355,465	LF	

**3. Request by the Department of Health and Welfare to Transfer Ownership in Certain Real Property** – Staffed by Al Drennen, Bureau Chief, Operational Services, Department of Health and Welfare – **approved**

*DEPARTMENT RECOMMENDATION:* That the State Board of Land Commissioners, on behalf of the State of Idaho, transfer its record ownership in the property by quit claim deed to the Department of Health and Welfare to allow for the Department of Health and Welfare's eventual sale of the property under independent statutory authority.

*BOARD ACTION:* Approved.

**4. Results of Auction for Grazing Lease G-6387, Preston Lord** – Staffed by George Bacon, Assistant Director, Lands, Minerals, Range – **approved**

*DEPARTMENT RECOMMENDATION:* That the Board accept the high bid of \$5,500 submitted by Preston Lord for grazing lease G-6387 and direct the Department to issue a new ten-year lease to Mr. Lord. The lease will include a summary of the grazing management proposal submitted by the high bidder and accepted by the Department.

*BOARD ACTION:* Approved.

**5. Rules Governing Grazing Leases and Cropland Leases, IDAPA 20.03.14.102** – Staffed by George Bacon, Assistant Director, Lands, Minerals, Range – **approved**

*DEPARTMENT RECOMMENDATION:* Adopt the proposed rule with changes based on public comment, modify the temporary rule and authorize the Department to prepare and submit a pending rule packet to the Office of Administrative Rules for publication in the administrative bulletin.

*BOARD ACTION:* Approved.

**6. Vegetation Management Policy, Update to the “Resource Assessment Form”** – Staffed by George Bacon, Assistant Director, Lands, Minerals, Range – **approved**

*DEPARTMENT RECOMMENDATION:* Approve the Department's recommended modifications to the vegetation management policy Resource Assessment Form.

*BOARD ACTION:* Approved.

**7. Approval Request for Disclaimer of Interest to Randy Jackson for Accretion Land Adjacent to the Snake River in Bingham County** – Staffed by Perry Whittaker, Chief, Bureau of Real Estate – **This item was moved to the Regular Agenda.**

*DEPARTMENT RECOMMENDATION:* Direct the Department to issue a disclaimer of interest for one parcel totaling 118.27 acres of the former bed of the Snake River and to require Ms. Randy Jackson to pay a fee of \$600.00 to the Department of Lands for this transaction.

*DISCUSSION:* Chris Morris, Resource Specialist, Eastern Idaho Supervisory Area, responded to questions from the Board.

Controller Johnson noted it appears from the photographs that no activity is taking place on this land. Resource Specialist Morris stated this piece of property does not have improvements and mainly

consists of cottonwoods and a few pine trees and junipers. Controller Johnson asked if Mr. Jackson is using the land for grazing. Resource Specialist Morris responded that Ms. Randy Jackson is representing the estate of her father, Donald Jackson. The land has not been grazed for many years. In looking at the property on several occasions, Resource Specialist Morris stated he has not seen evidence of cattle. Controller Johnson asked if there is development potential on this ground due to its proximity to the river. Resource Specialist Morris stated that is always a possibility, however, he is unclear whether the State is able to develop trust land. This particular parcel is trust land and not endowment land.

Controller Johnson asked what happens if the Board decides not to move forward with the recommendation of the Department. He noted the State is not asserting at this point that it even owns the land. It is a quiet title action more than anything else. Controller Johnson stated when he saw this agenda item he was bothered by the acreage and by the appearance that the State was giving away 118 acres for \$600. He wanted to make it clear on the record that is not the case. Assistant Director Bacon noted the State has title, by virtue of the river, to the bed of the river wherever it moves. When the river moves to a new channel, the old channel ends in limbo with no owner. The public trust has no need of it because there is no need of the river to go there any longer. Hence the State has the process of disclaiming the land so the upland owner can clear title.

*BOARD ACTION:* A motion was made by Controller Johnson to adopt the Department's recommendation. Secretary of State Yursa seconded the motion. The motion carried on a vote of 5-0.

**8. Conceptual Approval Request for Camas Prairie Facilitated Exchange – Staffed by Perry Whittaker, Chief, Bureau of Real Estate – This item was moved to the Regular Agenda.**

*DEPARTMENT RECOMMENDATION:* Direct the Department to work with The Clearwater Group to complete development of an equal value land exchange proposal and the necessary environmental investigations, timber cruises and appraisals to finalize the exchange. The final exchange proposal will be brought back to the Land Board for final approval.

*DISCUSSION:* Superintendent Howard noted this item seeks conceptual approval between the Department and The Clearwater Group. The Clearwater Group, in turn, is working with a number of other groups. At this point there appears to be a discrepancy in terms of acreage, and it is Superintendent Howard's understanding that there will be further efforts to try to create equity in land value. She asked if we know who we are dealing with and, by giving conceptual approval, do we in any way compromise our future ability to gain more value for the State in these land exchanges.

Assistant Director Bacon responded the proponents who have hired The Clearwater Group as consultants are Bennett Lumber and Konkolville Lumber. The Department has identified endowment lands that are scattered and hopes to exchange secondary timberland for primary timberland so the revenue stream would increase even though the acres may go down. Any final package would have equal value and come before the Board as a separate agenda item.

Perry Whittaker, Chief, Bureau of Real Estate, noted that Arlen Olson, a principal of The Clearwater Group is in the audience and available to answer questions for the Board. The Clearwater Group is an organization that works as a facilitator for land exchanges. This is an exchange that would allow the State to dispose of many parcels in one exchange versus multiple exchanges. This conceptual approval would allow the Department to continue working with The Clearwater Group to identify additional private lands for the endowments to acquire. The Department would handle the investigations, such as timber cruises and appraisals, to get to an equal value exchange. If the Department does not have additional lands identified to acquire, it would drop state lands to get to an equal value package.

Superintendent Howard noted there are objectives on both sides. The Department has some objectives to try to stop dealing with isolated parcels and to try to get contiguous land. She wondered where the value lies for others unless it is multi-values based on who the client is. Mr. Olson stated that is a hard question to answer. It is very difficult to generate motivation and interest on the part of landowners to participate in this process until conceptual approval is obtained. Once the conceptual approval is reached, Mr. Olson believes landowners will become interested.

Superintendent Howard asked if Mr. Olson is a part of The Clearwater Group. Mr. Olson stated he is one of the principals of The Clearwater Group. Superintendent Howard stated her question has always been "what's in it for me" in terms of public schools, but her question to Mr. Olson is "what's in it for you." Mr. Olson stated this is his job. The members of The Clearwater Group, the principals, have been involved in facilitating land exchanges for more than twenty years. The Group has handled exchanges in Washington, Oregon, Idaho, Montana and Wyoming. Some of those land exchanges have been very simple, small exchanges and others have been large and complex. Mr. Olson stated The Clearwater Group makes its money from the private side of the exchanges. Exchanges with public agencies are based on equal value. The Clearwater Group generates cost recovery margins in transactions by working with companies, such as the Bennett Lumber Company, the Konkolville Lumber Company and other private landowners.

Superintendent Howard stated she does not have objections to moving ahead with this conceptual approval. However, she urged the Board and the Department to "look out for our clients with the same fervor that would be matched by the other side."

Governor Risch asked when a specific proposal would be brought back to the Board. Assistant Director Bacon stated it depends on how much interest The Clearwater Group can develop with other parties and how much state land is involved. Mr. Olson added it is his experience these exchanges are a multi-year effort.

*BOARD ACTION:* A motion was made by Superintendent Howard to direct the Department, on behalf of the people of the State of Idaho, to work with The Clearwater Group to complete development of equal land values and other issues related to this conceptual approval. Controller Johnson seconded the motion. The motion carried on a vote of 5-0.

**9. Fiscal Year 2008 Department of Lands Budget Approval** – Staffed by Kathy Opp, Division Administrator, Support Services – **approved**

*DEPARTMENT RECOMMENDATION:* Approve the Department FY08 budget proposal as submitted to the Division of Financial Management and the Legislative Services Office on September 1, 2006.

*BOARD ACTION:*

**10. Minutes** – **approved**

A. Regular Land Board Meeting – August 8, 2006

• **REGULAR**

**11. Endowment Fund Investment Board Manager's Report** – Presented by Chris Halvorson, Investment Officer, EFIB

Mr. Halvorson reported the value of the endowment fund for the month of August, citing preliminary figures as of August 31, is approximately \$967 million. The total fund was up 1.6% with the fiscal year-to-date up 1.4%. Markets were helped by the Federal Reserve in mid-August as fears of inflation

subsidized, and a rally occurred across the board in almost every asset class except small cap. For the month of August, the S&P 500 was up 2.4% and the Lehman Aggregate Bond Index was up 1.5%.

No action was taken on this agenda item.

**12. Results of Auction for Grazing Lease G-4054 Mason Butte Cattlemen Association – Lazy Y Ranch, LTD – Presented by George Bacon, Assistant Director, Lands, Minerals, Range**

*DEPARTMENT RECOMMENDATION:* That the Board reject the high bid of \$1,000 submitted by Lazy Y Ranch LTD for grazing lease G-4054 and offer a new ten-year lease to Mason Butte Cattlemen Association at their high bid of \$600.

*DISCUSSION:* A 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 Controller Johnson to move adoption of the Department's recommendation. Secretary of State Ysursa seconded the motion. The motion carried by unanimous consent (aye, 5-0).

**13. Planned Auctions of New Cottage Sites at Priest Lake – Presented by George Bacon, Assistant Director, Lands, Minerals, Range**

*DEPARTMENT RECOMMENDATION:* That the Board direct the Department to review and recommend rental rate structures for new cottage sites. In addition, that the Department defer the auctions of new cottage sites, including lots 37A and 37B at Rocky Point on Priest Lake, until a rent structure for them is approved by the Board.

*DISCUSSION:* Governor Risch asked if the Department is proposing that new cottage sites have a different lease structure than old cottage sites. Assistant Director Bacon responded the Department is anticipating that new cottage sites would have a different rental structure. Current leases expire in 2010, and the Department needs to address the issue of what will happen at that time. Assistant Director Bacon stated the Department felt it was prudent to point out this small window of opportunity. Governor Risch agreed that it is prudent to consider this option. He also realizes it will probably cause some difficulties in the future for the Board.

Governor Risch asked if the county actually makes an evaluation of the property. Assistant Director Bacon stated it depends on whether it is Payette Lake or Priest Lake. Mike Murphy, Chief, Bureau of Surface and Mineral Resources, added that the Department has two scenarios for rent calculation. At Payette, the Department uses county assessed values to calculate rent. In the past at Priest Lake, the Department used county assessed values, but between 2003 and today, the Department transitioned from the Bonner County assessed values to appraised values. The Department now calculates the rent using appraised values determined by a contractor.

Secretary of State Ysursa stated the Board needs to look at the entire process, both in Payette Lake and Priest Lake. With proper notice the State, as lessor, can change rents. Idaho Code 58-310a states that lessees have the ability to not be conflicted if, in fact, the State is receiving market rent. Market rent is what needs to be established, and two and a half percent of bare land is low. He suggested this issue should not be isolated to Priest Lake. New lessees should not be treated differently than others on the rate. Everyone should go in with their eyes open on what the value is and go from there.

Governor Risch asked how much is received annually on cottage leases. Secretary of State Ysursa stated three to four million dollars is the net revenue from recreational leases.

Bureau Chief Murphy stated another dynamic at play is the leasehold values that exist now. At Payette Lake, the Department recently processed a couple of assignments where the leasehold value exceeded a million dollars. The Department collects ten percent of that upon a transaction.

Governor Risch asked if there is an existing study of open market values. Secretary of State Ysursa stated there was a study when the two and a half percent was set. That study, however, would need to be modified and updated. Controller Johnson asked if it is definitive that there can not be a separate formula at Priest Lake and Payette Lake. He asked if this is necessarily an equal protection issue. Is there a significant difference, either geographically or in the market, that would suggest it would be possible to have a different formula. Governor Risch stated there would have to be a good reason, and it would have to be carefully articulated.

Superintendent Howard noted these kinds of properties are not just valuable in Idaho. These properties are valued across the Pacific Northwest. She would like to have information on how other states are structured and what would constitute a fair value in certain circumstances. Assistant Director Bacon stated the Department plans to do exactly what Superintendent Howard suggested and that is look at what other western states are doing.

Assistant Director Bacon added that the Department is seeking guidance regarding the two lots that are pending sale. Controller Johnson asked if the State owns the adjacent lots. Bureau Chief Murphy responded that the State does own the surrounding lease lots.

Governor Risch asked if the State might be better off auctioning these properties and investing the money received. Superintendent Howard stated these are money making properties and the value is continually rising.

**BOARD ACTION:** A motion was made by Attorney General Wasden to move adoption of the Department's recommendation. Controller Johnson seconded the motion. The motion carried on a vote of 5-0.

*At 10:15 a.m. a motion was made by Attorney General Wasden to resolve into Executive Session for the purpose of considering records that are exempt from disclosure, consider and advise legal representatives in pending litigation where there is a general public awareness of probable litigation and to consider personnel matters. Controller Johnson seconded the motion. The motion carried by unanimous consent (aye, 5-0). No role call was necessary.*

- **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\(1\)\(c\)](#)]

*At 10:58 a.m. Governor Risch called the meeting back to Regular Session. Attorney General Wasden stated that during the Executive Session the Board discussed personnel issues regarding the directorship of the Department of Lands. No actions were taken by the Board during the Executive Session.*

**ITEM NOT ON AGENDA – BOARD ACTION TAKEN IN REGULAR SESSION**

*BOARD ACTION:* Secretary of State Ysursa moved that George Bacon be appointed Acting Director of the Idaho Department of Lands with all powers, rights and responsibilities of the position until further action by the Board. Attorney General Wasden 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 11:00 a.m.

IDAHO STATE BOARD OF LAND COMMISSIONERS

*/s/ James E. Risch*

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

*/s/ Ben Ysursa*

Ben Ysursa  
Secretary of State

*/s/ George B. Bacon*

George B. Bacon  
Interim Director

The above-listed final minutes were approved by the State Board of Land Commissioners at the October 10, 2006 regular Land Board meeting.