



STATE BOARD OF LAND COMMISSIONERS

C. L. "Butch" Otter, Governor and President of the Board

Ben Ysursa, Secretary of State

Lawrence G. Wasden, Attorney General

Donna M. Jones, State Controller

Tom Luna, Superintendent of Public Instruction

George B. Bacon, Secretary to the Board

Final Minutes
Regular Land Board Meeting
December 20, 2007

The regular meeting of the Idaho State Board of Land Commissioners was held on Thursday, December 20, 2007 in Boise, Idaho. The meeting began at 9:14 a.m. in the second floor courtroom of the Borah Post Office building. The Honorable Governor C. L. "Butch" Otter presided. The following members were present:

- Honorable Secretary of State Ben Ysursa
- Honorable Attorney General Lawrence Wasden
- Honorable State Controller Donna Jones
- Honorable Superintendent of Public Instruction Tom Luna

- Secretary to the Board Director George Bacon

• **CONSENT**

A motion was made by Controller Jones to approve the Consent Agenda in its entirety. Attorney General Wasden seconded the motion. The motion carried on a vote of 5-0.

1. **Director's Report – approved**

- A. Interest Rate on Department Transactions – November 10, 2007
- B. Timber Sale Activity Report
- C. Timber Sale Official Transactions – November 2007
- D. Legal Matter Summary
- E. Bureau of Surface and Mineral Resources, Official Transactions – October 2007
- F. Bureau of Real Estate, Official Transactions, Land Sale – October 2007
- G. Bureau of Real Estate, Official Transactions, Easement – October 2007
- H. Fire Settlement Information

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

NORTH OPERATIONS

A. West Bear	CR-31-0011	4,285 MBF	Shoshone
B. Cameron OSR	CR-41-0038	2,285 MBF	Clearwater
C. King Valley	CR-41-0043	1,005 MBF	Benewah

SOUTH OPERATIONS

D. Rainy Cedar II	CR-40-0801	5,540 MBF	Clearwater
E. Forgotten Forties	CR-40-0811	1,215 MBF	Clearwater

F. Cemetery Pulp	CR-42-5023	10,080 MBF	Clearwater
G. Cow Camp	CR-60-0175	3,200 MBF	Boise
H. Ice House	CR-80-0101	1,480 MBF	Fremont and Clark
I. Sawtell	CR-80-0102	1,280 MBF	Fremont
J. Kelly	CR-80-0103	3,170 MBF	Madison

DISCUSSION: Director Bacon provided additional information on the following sales:

- Item C, King Valley – This sale was handled under a Memorandum of Understanding between the Department of Lands and the Department of Parks and Recreation. The Department handles these types of transactions regularly to help the Department of Parks and Recreation manage its timber.
- Item F, Cemetery Pulp – This sale is on the Maggie Creek Supervisory Area and contains two clearcuts. The clearcuts are necessary due to decadent trees that have both stem and root rot. Although this sale is not a part of the overall Maggie Creek Pulp Plan, it reflects a similar problem.

ITEM F DISCUSSION: Governor Otter noted that after the October 18 Land Board meeting, a constituent Opinion piece was published in the Lewiston Morning Tribune regarding the Maggie Creek Pulp Plan. He asked Director Bacon for his thoughts on the article. Director Bacon stated the article contained some inaccuracies and that the Department responded with an article that was published by the Tribune on December 9.

- Item G, Cow Camp – This sale is on the Southwest Supervisory Area, Boise. The sale was offered once and did not sell. An investigation indicated that due to declining markets, the Department's minimum prices were too high. The Department proposed bringing the sale back and offering it at a price at which staff believes it will sell. If the sale does not sell a second time, the Department is requesting that it be allowed to reappraise the sale and offer it a third time without coming back to the Board.

ITEM G DISCUSSION: Director Bacon stated the Department will never have a deficit sale. Governor Otter asked for clarification. Director Bacon stated a deficit sale costs more to put the sale up than is received in income. Federal agencies occasionally have deficit sales where the administrative process costs more than the income from the sale. Governor Otter asked how the Department would handle a similar situation. Director Bacon stated the Department would delay the sale until the market improves. Governor Otter asked how the Department would handle a distressed sale, such as a sale needed for rot or disease. Director Bacon stated an analysis would have to be made. If the situation created a threat, then the Department would consider the bigger picture. At that point it may be necessary to take immediate action. However, the Department has never been in that position. Governor Otter commented the Department should not be hesitant to take action if it is a bug infestation or similar situation where there is a danger of damage to a contiguous resource. He asked the Department to bring those kinds of situations forward because maintenance is a better option.

3. Disclaimer of Interest for the Former Bed of the Payette River, Gem County, Idaho (Kincaid) - Staffed by Keith O'Connor, Lands Program Specialist, Bureau of Real Estate – approved

DEPARTMENT RECOMMENDATION: Direct the Department to issue a disclaimer of interest for one parcel totaling 9.81 acres of the former bed of the Payette River and to require Lawrence L. Kincaid to pay a fee of \$600.00 to the Department of Lands for this transaction.

BOARD ACTION: Approved.

4. Disclaimer of Interest for the Former Bed of the South Fork Snake River, Bonneville, County, Idaho (Ott) – Staffed by Keith O’Connor, Lands Program Specialist, Bureau of Real Estate – approved

DEPARTMENT RECOMMENDATION: Direct the Department to issue a disclaimer of interest for one parcel totaling 41.96 acres of the former bed of the Snake River and to require Mr. Christopher Ott to pay a fee of \$600.00 to the Department of Lands for this transaction.

DISCUSSION: Governor Otter noted the size of this parcel and that the river appears to be moving quite a bit. Director Bacon stated this part of the Snake River in the Swan Valley area has had a lot of movement over the years. Attorney General Wasden added that in this area the river is not bounded by a defined canyon and therefore has much greater latitude in moving. Director Bacon agreed and stated that a lot of the uplands are being developed. Governor Otter asked if the upland owners are allowed to armor or rip rap through the Army Corps of Engineers. Director Bacon stated he believes they can to a certain extent. However, they can not encroach upon state-owned lands without a permit.

BOARD ACTION: Approved.

5. Minutes – approved

A. Regular Land Board Meeting – November 15, 2007

• **REGULAR**

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

- A. Monthly Report
- B. Investment Report

The Fund fiscal year-to-date return is 4%. Active managers are outperforming their benchmarks and the Fund is performing as well as can be expected given the adverse market conditions.

No action was taken on this agenda item.

7. Cancellation Request for Easement No. 2285 – Presented by Bob Brammer, Assistant Director, Lands, Minerals, Range

DEPARTMENT RECOMMENDATION: That the Board direct the Department to cancel Easement No. 2285 since the property has not been used for the purposes specified in the easement terms for at least thirteen years.

DISCUSSION: Attorney General Wasden asked if Mr. Dave Holtom responded to any of the Department’s inquiries. Assistant Director Brammer stated Mr. Holtom did not respond. Attorney General Wasden remarked that he was intrigued by the history of this easement. The easement was supposedly split into two lesser portions and subsequently assigned. He asked if the Department had been informed of that change. Assistant Director Brammer stated easement assignments are typically handled through the Department’s regular transaction report. This easement was reconsolidated under Valleywide Co-Op as a single instrument.

For the record, Controller Jones stated she visited the site last summer and agrees with the Department that the site has excellent commercial development potential.

Governor Otter asked if the Department of Environmental Quality has determined that there is no need for further remediation. Assistant Director Brammer stated it is his understanding that the site was remediated in 1994 to DEQ's satisfaction.

BOARD ACTION: A motion was made by Secretary of State Ysursa to move the Department's recommendation to cancel the easement. Attorney General Wasden seconded the motion. The motion carried on a vote of 5-0.

8. Results of Actuarial Analysis of Mine Reclamation Fund and Recommended Minimum Balance – Presented by Eric Wilson, Minerals/Navigable Waters Program Manager, Bureau of Minerals and Surface Resources

DEPARTMENT RECOMMENDATION: Direct the Department to establish the reasonable minimum balance for the mine reclamation fund at \$770,250 and conduct an actuarial audit of the fund on a periodic basis, at least every five years.

DISCUSSION: Governor Otter asked if a market exists over the initial \$100,000. Mr. Wilson responded that what Governor Otter was describing would be a re-insurance type of product, and this program does not envision anything like that. Many operations dealing with hazardous waste, or potentials for acid mine drainage or those types of issues, are excluded. The Department tries to screen out high liability operations.

Governor Otter remarked that a larger pool and reduced risk might be achieved if catastrophic coverage from re-insurance followed the initial \$100,000. He asked if the Department considered that option. Mr. Wilson stated the Department has not considered that option but could discuss the possibility with the Bureau of Risk Management. Attorney General Wasden stated while it is early to draw conclusions, it would be worth considering.

Governor Otter commented it would be informative to consider that aspect. He feels it would increase the pool risk size considerably and therefore lessen exposure. Mr. Wilson stated when the recommended minimum balance set today is exceeded hopefully excess funds can be used to pay for administration of the program and other purposes. One of those administrative costs could be a re-insurance policy, if such a policy was not available through Risk Management or if there was some added cost to the Department. That option could dovetail nicely.

Governor Otter asked if the Department could provide a report on that possibility. Director Bacon stated yes. He also pointed to the written background document included in the Board book. The document identifies that work needs to be done to determine when the right amount of money is reached, whatever that might be. The Department will continue to do actuaries on a regular basis, perhaps every five years, to make sure the minimum is the right number. It is anticipated that the fund will grow and at some point the Department will need to decide what to do with the surplus. The Department plans to continue researching this topic and will bring back recommendations to the Board about that aspect of it.

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

9. Results of Grazing Lease Auction G-3043 – Presented by Bob Brammer, Assistant Director, Lands, Minerals, Range – **WITHDRAWN**

DEPARTMENT RECOMMENDATION: That the Board reject both the post-auction offer by Lazy Y Ranch to pay additional compensation of \$4,686.00 and its high bid of \$1,500.00 submitted for lease G-3043; that the Board offer a new ten-year grazing lease to Klaveano Ranches, Inc., at their bid of \$1,200.00; that the Board direct the Department to refund the first year's rental deposit to Lazy Y Ranch.

DISCUSSION: Governor Otter asked if interested parties are notified before an item is pulled from the agenda so they do not travel unnecessarily to attend a meeting. Director Bacon stated the Department did make the necessary notifications ahead of time on this agenda item and does routinely make those kinds of notifications.

BOARD ACTION: Upon unanimous consent, this agenda item was withdrawn.

10. Results of Grazing Lease Auction G-5698 – Presented by Bob Brammer, Assistant Director, Lands, Minerals, Range

DEPARTMENT RECOMMENDATION: That the Board offer a new ten-year lease to Lazy Y Ranch and direct the Department to refund their premium bid of \$6,500.00.

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

BOARD ACTION: A motion was made by Controller Jones that the Board offer a new ten-year lease to Lazy Y Ranch and direct the Department to refund their premium bid of \$6,500.00. Attorney General Wasden seconded the motion. The motion carried on a vote of 3-2, with Governor Otter, Controller Jones and Attorney General Wasden voting aye; Secretary of State Yursa and Superintendent of Public Instruction Luna voted nay.

11. Cancellation Request for Dredge and Placer Mining Permit DMP-110 – Presented by Eric Wilson, Minerals/Navigable Waters Program Manager, Bureau of Minerals and Surface Resources

DEPARTMENT RECOMMENDATION: That the Board direct the Department to cancel Dredge and Placer Mining Permit 110 and direct the Department to attempt to recover the \$15,000 surety bond.

DISCUSSION: None.

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

12. Asset Management Plan Update – Presented by Kathy Opp, Deputy Director

DEPARTMENT RECOMMENDATION: That the Board approve the asset management plan sections as presented; that the Board provide guidance regarding the need for the *Recommendations/next steps* section listed in the current plan outline.

DISCUSSION: Secretary of State Yursa asked about the parcel nomination process. Deputy Director Opp stated the parcel nomination process was piloted this summer. Secretary of State Yursa asked how this process relates to requests from Payette Lake cottage site owners who are interested in an exchange. He asked if those requestors were directed through this process. Ms. Opp stated several

of those requestors were given parcel nomination process packets and were asked to provide information.

Secretary of State Ysursa asked about the Board's long range acquisition strategy and the land bank. He is looking for an analysis that covers whether it is better to exchange, sell or retain cottage sites or other properties. He asked about the policy and where the Department is in the process of answering those kinds of questions. He asked, for example, if the request made by Mr. Michael Fery regarding a possible Payette Lake cottage site exchange went through this process. Ms. Opp stated Mr. Fery's request went through the local area office as specified in the parcel nomination process cover sheet. The Area office is the starting point. Mr. Fery's request encompassed IDL's Payette Lake Office in McCall and Southwest Area Office in Boise. The Southwest Area Office was involved because the property Mr. Fery sought to exchange was in Canyon County. After a cursory analysis completed by the Department, Mr. Fery was given a response as to why the Department was not interested in an exchange at that time. Ms. Opp stated it is important that these transactions are evaluated on an individual basis.

Secretary of State Ysursa stated while he is familiar with the response to Mr. Fery, he is interested in the Department's overall policy and how the Board is involved in the decision-making process. He agreed that the written Asset Management Plan is a very positive step. However, he feels some policy decisions should be made by the Board. The Board needs to make long range rational decisions based on good financial analysis. The 2001 Governor's Citizens' Ad Hoc Evaluation Committee on Lands/Endowment told the Board to get out of the cottage site business, at least at Payette Lake. He asked if it would make sense to do that and what is the Department's analysis of that option.

Director Bacon stated the Department agrees that at some point options will have to be modeled. The Department will then bring recommendations to the Board on what the asset mix of the land holdings should be, such as how many acres of timber and range and how much commercial and residential property should be included. That process begins with several efforts that are currently underway and are not yet completed, such as a mass appraisal of all properties to set the baseline, the implementation of the Asset Management Plan and the establishment of individual asset business plans. Director Bacon stated more work needs to be done so that the Department can make recommendations as to what the best mix of assets should be.

Governor Otter noted a change under attachment 1F. The words "land bank" and "land exchange" were replaced with "land acquisition" and "disposal strategy." He asked for clarification of this wording change. Deputy Director Opp stated the committee felt the revised title was more comprehensive because the land bank is just one tool. Land exchange is also just one tool. It was felt that the topic should be broadened, and the land bank was cited as part of the implementation strategy.

Attorney General Wasden thanked Deputy Director Opp and all of the staff who worked on the Asset Management Plan. He commented it is obvious a great deal of effort has gone into the preparation and detail of the Plan and that the Plan will make a significant difference in the future.

BOARD ACTION: A motion was made by Attorney General Wasden to adopt this portion of the Asset Management Plan as presented. Controller Jones seconded the motion. The motion carried on a vote of 5-0.

- **INFORMATION**

No Land Board action is required on the Information Agenda.

13. Disclaimers of Interest on Bear Lake – Presented by Bob Brammer, Assistant Director, Lands, Minerals, Range

DISCUSSION: Attorney General Wasden asked if Utah is also using the 5923.65 foot elevation. Assistant Director Brammer stated Utah does use the same elevation.

Secretary of State Ysursa commented that in the past interest has been expressed in drilling for oil under Bear Lake on both sides, Utah and Idaho. He asked if anything like that is currently occurring. Assistant Director Brammer stated that kind of activity has experienced renewed interest, but he is unaware of any proposal to drill under the lake again.

14. Annual Forest Harvest Methodology – Presented by Bob Helmer, Chief, Bureau of Forest Management

DISCUSSION: Governor Otter asked how many mills are currently operating in the second Congressional district. Mr. Helmer stated there are four mills in that district. Governor Otter asked if the Department has completed market work on price suppression. Mr. Helmer stated the Department is looking into that but has not come up with a figure yet. The Department is looking at all of the different constraints, such as visuals, Snake River Basin Adjudication, etc., and is waiting for the plans and the modeling to determine the actual numbers.

Governor Otter asked if the Department has factored the possibility of biomass into its planning. Mr. Helmer stated the Department has been looking at that option and currently has a staff member, Richard Furman, working with the biomass committee to consider various possibilities. Mr. Helmer stated that biomass would help the Department reduce smoke emissions related to slash piles and is definitely being considered across the state.

At 11:06 a.m. a motion was made by Attorney General Wasden to resolve into Executive Session pursuant to Idaho Code §67-2345(1)(c), (d) and (f) for the purpose of discussing the acquisition of real property not currently owned by the State, records exempt from disclosure and pending litigation. Controller Jones seconded the motion. The motion carried by unanimous consent.

• **EXECUTIVE SESSION**

- A. **To Consider Personnel Matters** [[Idaho Code § 67-2345\(1\)\(b\)](#)]
- B. **To Acquire An Interest in Real Property which is not owned by a Public Agency** [[Idaho Code § 67-2345\(1\)\(c\)](#)]
- C. **To Consider Records that are Exempt from Disclosure** [[Idaho Code § 67-2345\(1\)\(d\)](#)]
- D. **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\(1\)\(f\)](#)]

At 1:20 p.m. a motion was made by Controller Jones to resolve into Regular Session. Superintendent Luna seconded the motion. The motion carried by unanimous consent. The Board discussed the acquisition of real property not currently owned by the State, records exempt from disclosure and pending litigation. No actions were taken by the Board during the Executive Session.

Upon return to Regular Session, Governor Otter presented a Certificate of Appreciation to retiring employee Ron Litz, Assistant Director, Forestry and Fire, for his many years of service to the State of Idaho.

At 1:30 p.m. a motion was made by Controller Jones to adjourn. Attorney General Wasden seconded the motion. The motion carried on a vote of 5-0.

IDAHO STATE BOARD OF LAND COMMISSIONERS

/s/ C. L. "Butch" Otter
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
Director

The above-listed final minutes were approved by the State Board of Land Commissioners at the January 17, 2008 regular Land Board meeting.