



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
September 16, 2008

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, September 16, 2008 in Boise, Idaho. The meeting began at 9:03 a.m. in the second floor courtroom of the Borah Building. The Honorable Governor C. L. "Butch" Otter presided. The following members were present:

Honorable Ben Ysursa, Secretary of State
Honorable Attorney General Lawrence Wasden (via conference phone)
Honorable State Controller Donna Jones
Honorable Superintendent of Public Instruction Tom Luna

For the record, Governor Otter recognized the presence of a quorum absent Superintendent Luna. Attorney General Wasden participated in the meeting via conference phone.

Prior to beginning the Consent Agenda, Director Bacon introduced Tony Pirc, the new Department of Lands' Purchasing Agent for the Division of Support Services.

At 9:07 a.m. Governor Otter recognized the presence of Superintendent Luna.

• **CONSENT**

A motion was made by Controller Jones to move approval of the Consent Agenda with the exception of item 6. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 5-0.

A motion was made by Controller Jones to approve item 6, the Department of Lands' budget. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 4-0, with Governor Otter recused for this vote.

1. Director's Report – approved

- A. Interest Rate on Department Transactions – September 2008
- B. Timber Sale Activity Report
- C. Timber Sale Official Transactions
- D. Legal Matter Summary
- E. Bureau of Surface and Mineral Resources, Official Transactions – July 2008
- F. Bureau of Real Estate, Official Transactions, Land Sale – July 2008
- G. Bureau of Real Estate, Official Transactions, Easement – July 2008
- H. Fire Settlement Information
- I. Fire Season Report

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

<u>NORTH OPERATIONS</u>				<u>County</u>	<u>IDL Area Ofc</u>
A. No Back OSR	CR-30-0545	3710	MBF	Clearwater	St. Joe
B. Trapper OSR	CR-30-0549	5410	MBF	Clearwater/Shoshone	St. Joe
C. Ruby Fork	CR-41-0032	5650	MBF	Latah	Ponderosa
<u>SOUTH OPERATIONS</u>					
D. John Lewis Road	CR-40-0985	1635	MBF	Clearwater	Clearwater

3. **Request Approval to Auction the Central Washington Place Commercial Building located at 602 North 5th Street, Boise** – Staffed by Jane Wright, Strategic Business Analyst – **approved**

DEPARTMENT RECOMMENDATION: That the Board direct the Department to market the above-referenced property and conduct an auction for disposal in February 2009. The minimum bid amount will be set at \$3,300,000.00.

BOARD ACTION: Approved.

4. **Endowment Lands Public Education and Communications Plan** – Staffed by Kathy Opp, Deputy Director – **approved**

DEPARTMENT RECOMMENDATION: That the Board direct the Department to engage in a professional services agreement under the Board's contracting authority to continue the public education program related to endowment lands. The estimated cost for these professional services in any fiscal year shall not exceed \$85,000. Additional projects may be added with prior approval from the Board.

BOARD ACTION: Approved.

5. **Request from the Idaho Park and Recreation Board to Authorize the Endowment Fund Investment Board to Manage Investment of an Endowment – Trail of the Coeur d'Alenes Escrow Account** – Staffed by Steve Strack, Office of the Attorney General – **approved**

DEPARTMENT RECOMMENDATION: That the Board authorize the EFIB to manage the above-described endowment fund under such terms as the EFIB and the Park and Recreation Board determine are appropriate.

BOARD ACTION: Approved.

6. **Fiscal Year 2010 Budget Proposal** – Staffed by Patrick Hodges, Division Administrator, Support Services – **approved**

DEPARTMENT RECOMMENDATION: That the Board approve the Department FY 10 budget proposal as submitted to the Division of Financial Management and the Legislative Services Office prior to September 2, 2008.

BOARD ACTION: A motion was made by Controller Jones to approve item 6, the Department of Lands' budget. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 4-0, with Governor Otter recused for this vote.

7. Minutes – approved

A. Regular Land Board Meeting – August 19, 2008

• **REGULAR**

8. Endowment Fund Investment Board Manager's Report – Presented by Andy Potter, EFIB

- A. Monthly Report
- B. Investment Report

Mr. Potter stated that the Endowment Fund Investment Board met on August 18 and approved a change in the investment policy increasing the target for international equity investments from 20% to 30% of total equities. A timeline to implement this policy change will be approved at the November EFIB meeting.

Upcoming Issues: The annual audit of the endowment fund financial statements has been completed. Reports have been delivered, and the EFIB will mail copies to Land Board members shortly.

Investment Report: Fiscal year-to-date the fund is down 5.87%. However, managers performed well in conjunction with the general market and are performing as expected. While the endowments have suffered along with the markets, the bankruptcy with Lehman Brothers has had no unusual affect on the fund.

DISCUSSION: Superintendent Luna asked about the decision to increase international investments from 20% to 30%. He stated the dollar has been strengthening and as the dollar continues to strengthen, Superintendent Luna wonders if it is a wise move to increase international investments at this time. Mr. Potter stated the decision was made by the EFIB, and Mr. Johnson would need to respond to that question. Superintendent Luna requested that Mr. Johnson email the projections and rationale behind the decision.

No action was taken on this agenda item.

9. Candidate Conservation Agreement with Assurances for Sage Grouse – Presented by Bob Brammer, Assistant Director, Lands, Minerals, Range

DEPARTMENT RECOMMENDATION: That the Board direct the Department to work with the Office of Species Conservation to develop Candidate Conservation Agreements with Assurances for sage-grouse on endowment lands.

DISCUSSION: Governor Otter mentioned an earlier Candidate Conservation Agreement, including easements, for slickspot peppergrass. That CCA, a joint effort by State and private landowners, offered a conservation easement for the purpose of preserving additional populations of slickspot peppergrass on private and state land. Although the U.S. Fish and Wildlife Service agreed with the CCA, the agreement was later denied by a federal court. Governor Otter wants to ensure that this agreement avoids the same problems. Assistant Director Brammer stated the Department will coordinate this effort with the Office of Species Conservation.

Secretary of State Yursa asked that the Department also provide background information to the Board on the slickspot peppergrass CCA.

BOARD ACTION: A motion was made by Secretary of State Yursa to move the approval of this agenda item. In addition, Secretary of State Yursa requested that the Department research the history on the Candidate Conservation Agreement for slickspot peppergrass and provide that information to the Board. Controller Jones seconded the motion. The motion carried on a vote of 5-0.

10. Request by Hatfield Log Homes for Interest and/or Stumpage Relief on the Sloan's Timber Sale (TS-50-3543, Valley County) – Presented by Kurt Houston, Operations Chief-South

DEPARTMENT RECOMMENDATION: That the Board direct the Department to deny Hatfield Log Homes' request for interest and stumpage reductions on the Sloan's Timber Sale (TS-50-3543).

AUDIENCE WITH THE BOARD: Todd Hatfield, Hatfield Log Homes

Mr. Hatfield stated economic conditions are extremely challenging. Fuel alone has cost his business \$60,000. His hardship comes as a direct result of the closure of Evergreen Mill and increased hauling costs. Currently Mr. Hatfield sends logs to Bennett Forest Products in Grangeville. While he took into account fluctuating market prices when he bid the sale, he asked the Board for a hardship due to forced hauling destination charges. Although Tamarack Mill's closure is not a catastrophic act of nature, it is an extreme, unexpected event that materially changed the value of the lumber.

Mr. Hatfield noted the Board's current policy states extreme circumstances include, but are not limited to, acts of nature. He feels he falls into this category where it is not an act of nature, but it is an extreme circumstance. Mr. Hatfield believes a denial of this request avoids common sense practices regarding the support and prosperity of small business ownership throughout Valley County. He is asking for the difference in hauling charges.

DISCUSSION: Governor Otter asked Mr. Hatfield for the total figure he was seeking. Mr. Hatfield stated \$180,000 would cover extra haul costs, but he is willing to accept any figure the Board would consider granting.

Superintendent Luna asked Mr. Hatfield if this would still be an issue if the mill had accepted the logs. Mr. Hatfield stated it would not be an issue. Superintendent Luna then asked if Mr. Hatfield's cause should be with Tamarack for having a contractual agreement to take the logs and then refusing to do so. Mr. Hatfield stated it was a verbal agreement with the mill. He spoke with the mill representative prior to the sale being offered, and at that time he was assured they would take the logs. There was no written contract; only a verbal agreement. Superintendent Luna noted the mill did not burn down nor did it go out of business. It appears this is a business relationship that did not turn out the way Mr. Hatfield anticipated and those things happen often in business. Superintendent Luna questioned the Board's role in this matter.

Controller Jones stated she also has been a small business owner and understands the pressures faced by Mr. Hatfield. While she sympathizes with his situation, she agreed with Superintendent Luna's assessment.

Secretary of State Yursa asked Director Bacon if he anticipates other people seeking relief from the Board due to economic conditions coupled with mill closures. Director Bacon stated there is a bigger problem throughout the timber industry, and the general economy drives that. Yet another downturn is being seen in the market, and the dire predictions for housing starts, problems with interest loans, et cetera, highlight the fact that the entire industry is suffering. Secretary of State Yursa asked about the impact of contract extensions on sales. Director Bacon stated the longer a sale goes on the more it costs. The initial contract requires the purchaser to pay six percent simple interest per year. That

interest rate goes up to the thirty-year home mortgage rate, which translates into half a percent per month. On any material removed at two years, the purchaser pays twelve percent interest; three years, eighteen percent interest. Director Bacon stated there is quite a penalty to extend a sale.

Superintendent Luna asked what the financial impact is to the State if Mr. Hatfield's request is not approved. Director Bacon stated Mr. Hatfield is current with his contract. If Mr. Hatfield gave up the contract, the State has bonds and the initial deposit to offset any damages that might occur. The State also has the timber, which can be reoffered in a different form. Where the State may be hurt is there would be one less purchaser buying products in an area that has seen a terrible decline in the timber industry. Southeastern Idaho has very little opportunity with only one mill in the Council area. The continued operations of the timber base in that country is a concern to the Department. If the infrastructure is lost, there is no place to sell state timber. With 215 MBF under contract, if the issue becomes widespread throughout the industry, it could severely impact income to the endowment.

BOARD ACTION: A motion was made by Controller Jones to move approval of the Department's recommendation. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 5-0.

- **INFORMATION AGENDA**

Background information was provided as indicated below. No Land Board action is required on the Information Agenda.

- **11. Update on Grazing Subcommittee Activities** – *Presented by Bob Brammer, Assistant Director, Lands, Minerals, Range*

At 9:57 a.m. a motion was made by Controller Jones to resolve into Executive Session under Idaho Code § 67-2345(1)(f) to communicate with legal counsel. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 5-0.

- **EXECUTIVE SESSION**

- **A. Idaho Code 67-2345 (1)(f) – To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated.**

At 10:40 a.m. a motion was made by Secretary of State Ysursa to resolve into Regular Session. Controller Jones seconded the motion. The motion carried on a vote of 5-0. The Executive Session was held in accordance with the Idaho Open Meeting Law. No action was taken by the Board during the Executive Session.

There being no further business to come before the Board, at 10:40 a.m. a motion was made by Secretary of State Ysursa to adjourn. Superintendent Luna seconded the motion. The motion carried on a vote of 5-0. Meeting adjourned.

