



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
 January 20, 2009

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, January 20, 2009, in Boise, Idaho. The meeting began at 9:10 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 Secretary of State Ben Ysursa
 Honorable Attorney General Lawrence Wasden
 Honorable State Controller Donna Jones
 Honorable Superintendent of Public Instruction Tom Luna

For the record, Governor Otter recognized the presence of a quorum.

• **CONSENT**

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

1. Director's Report – approved

- A. Interest Rate on Department Transactions – January 2009
- B. Timber Sale Activity Report
- C. Timber Sale Official Transactions – December 2008
- D. Legal Matter Summary
- E. Bureau of Surface and Mineral Resources, Official Transactions – December 2008
- F. Fire Settlement Information

DISCUSSION: Director Bacon noted the Department has approximately 300 MBF of timber under contract with residual value estimated at about \$81 million. Stumpage prices are falling as the trend has continued and the amount of monthly harvest is down to about normal levels for this time of year.

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

NORTH OPERATIONS

None

COUNTY

AREA OFFICE

SOUTH OPERATIONS

A. Radio Ridge	CR-40-0808	1,420	MBF	Clearwater	Clearwater (Orofino)
B. Loop Ridge	CR-40-0952	3,740	MBF	Clearwater	Clearwater (Orofino)

3. Agreement for Purchase of Conservation Easement (Gold Creek Ranch-Phase I) – Staffed by Craig Foss, Chief, Bureau of Forestry Assistance – approved

DEPARTMENT RECOMMENDATION: That the Board authorize the Department to acquire a conservation easement on 400 acres.

DISCUSSION: None.

BOARD ACTION: Approved.

4. Application for Renewal of Mineral Lease No. 3822 (Kootenai River; BF RediMix, Inc.) – Staffed by Roger Jansson, Operations Chief-North – approved

DEPARTMENT RECOMMENDATION: Deny the request for renewal of riverbed Mineral Lease No. 3822 based on potential harm to public values and the State's commitments to cooperative fisheries habitat restoration efforts and direct the Department to use its discretion in leasing or permitting the removal of usable material if that activity would be practicable and complement restoration efforts.

DISCUSSION: Attorney General Wasden asked about the potential exposure to litigation versus the \$6500 per year leasing income. Director Bacon stated exposure to risks or a "take" action against the state are extremely high due to the fact that this area has been deemed critical fish habitat. Actions and/or sanctions could potentially cost the state millions of dollars.

Governor Otter asked how many acres are involved with this lease. Director Bacon stated this is Public Trust Land, and the activity has taken place in a river gravel bar encompassing several acres.

BOARD ACTION: Approved.

5. Minutes – approved

A. Regular Land Board Meeting – December 16, 2008

• **REGULAR**

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

A. Monthly Report - No significant actions of the EFIB this month.

Three upcoming issues:

1. The Treasurer's office and the EFIB are developing legislation to clarify the process by which school bonds are guaranteed by the State and the public school endowment fund. The legislation clarifies the process.
2. EFIB staff has prepared a new forecast of earnings reserve balances based on recent market losses and a revised forecast of land revenues from the Department of Lands. The EFIB's JFAC budget presentation is scheduled on February 5, 2009.
3. The EFIB is currently seeking new investment managers for Mid-Cap Growth and Emerging Markets mandates. Selection may be completed by as early as February.

B. Investment Report

1. Investment performance through December 31, 2008 – Month: 3.4%; Fiscal Year: -22.5%. Investment managers are performing as expected.

C. Updated Forecast of Earnings Reserves

Mr. Johnson provided background information on expected earnings reserve balances through FY 2011.

Governor Otter asked Director Bacon if the Department is considering a strategy to raise the timber harvest volume set for this year. Director Bacon stated after a year of research, the Department has calculated the numbers and hopes to present information to the Board not only recommending an increase in harvest, but also listing resources needed for the increase and the relative values of each.

Governor Otter asked Mr. Johnson what analysts have told him about the prospects for the economy in the future. Mr. Johnson stated the general consensus is that a turnaround will not occur until the second half of 2010 at the earliest. The impact of economic forces on Idaho timber revenues is difficult to predict due to the unique forest base. Governor Otter asked Mr. Johnson if he regularly confers with other state investors and economists. Mr. Johnson said he meets regularly with PERSI investment staff. Governor Otter suggested Mr. Johnson also meet with the state economist.

No action was taken on this agenda item.

7. Request by Hatfield Log Homes for a Hardship Termination (Sloans Timber Sale; TS-50-3543; Valley County) – Presented by Kurt Houston, Operations Chief-South

DEPARTMENT RECOMMENDATION: That the Board approve a hardship contract termination of the Sloans Timber Sale (TS-50-3543), assess penalties and costs of \$133,424.70 and return \$73,538.30 to Hatfield Log Homes.

DISCUSSION: A transcript is available upon written request to Susan Terry, Idaho Department of Lands, Post Office Box 83720, Boise, Idaho 83720-0050 or by email to sterry@idl.idaho.gov or by fax to (208) 334-2339.

BOARD ACTION: A motion was made by Attorney General Wasden to move the Department's recommendation to approve a hardship contract termination of the Sloans Timber Sale assessing penalties and costs in the amount of \$136,301.54 and returning \$70,619.46 to Hatfield Log Homes. Controller Jones seconded the motion.

Superintendent Luna offered a substitute motion that the Board approve a hardship contract termination of the Sloan Timber Sale and return \$101,282.80 to Hatfield Log Homes. Secretary of State Yursa seconded the motion for the purpose of further discussion. At the determination of the Chair, the motion failed.

Governor Otter recognized the original motion by Attorney General Wasden to accept the recommendation of the Department, which is the awarding of \$73,538.30. Attorney General Wasden noted there was a correction by the Department that the numbers were actually \$136,301.54 and returning \$70,619.46. Governor Otter stated "the Chair stands corrected." With that correction, a vote was taken. The motion carried on a vote of 3-2 (aye – Yursa, Wasden, Jones; nay – Otter, Luna).

8. Request by Three Rivers Timber for Contract Extensions and Interest Relief (Timber and Salvage Sales) – Presented by David Groeschl, Assistant Director, Forestry and Fire

DEPARTMENT RECOMMENDATION: After careful consideration, and acting in the best long-term interest of the trusts, IDL recommends the following:

- 1) For timber and salvage sale contracts that will expire before July 1, 2010, grant one 1-year “market-related” extension on a case-by-case basis. The conditions of extension are:
 - a. Each purchaser must submit a written request thirty days in advance of contract expiration, identifying the specific sale(s) that expire before July 1, 2010 for which they are requesting a 1-year market extension;
 - b. Timber or salvage sales with access limitations, insect or disease mortality, or where timeliness of harvest is required to ensure recovery of value may not be eligible for the 1-year market extension;
 - c. Contract extensions will not be granted for any sales where delinquent or outstanding balances are due;
 - d. This would not be a permanent change to the current extension policy, but a one-time exception reflecting the overall state of the economy. At this time, the Department does not recommend making a commitment to a second market-related extension based on a price index.
- 2) Continue to charge interest on stumpage as required by Idaho Statute, IDAPA Rule and all current timber sale contracts. This is also consistent with case law and the principles of undivided loyalty and prudent behavior by a trustee.
- 3) Continue to implement the Board approved Annual Sale Plans.
- 4) Continue to appraise sales using current log prices and set minimum stumpage rates as approved by the Land Board at the February 13, 2001 Land Board meeting. Current policy establishes minimum stumpage prices at 50% of the average selling price by species for the previous four calendar quarters.

DISCUSSION: A transcript is available upon written request to Susan Terry, Idaho Department of Lands, Post Office Box 83720, Boise, Idaho 83720-0050 or by email to sterry@idl.idaho.gov or by fax to (208) 334-2339.

BOARD ACTION: A motion was made by Controller Jones that the Board approve the recommendation of the Department. (1) For timber and salvage sale contracts that will expire before July 1, 2010, grant one year market-related extension on a case-by-case basis. The conditions of the extension are: (a) each purchaser must submit a written request thirty days in advance of contract expiration identifying the specific sale(s) that expire before July 1, 2010 for which they are requesting a one-year market extension; (b) timber or salvage sales with access limitations, insect or disease mortality or where timeliness of harvest is required to ensure recovery of value may not be eligible for one-year market extension; (c) contract extensions will not be granted for any sales where delinquent or outstanding balances are due; (d) this would not be a permanent change to the current extension policy but a one-time exception reflecting the overall state of the economy. At this time, the Department does not recommend making a commitment to a second market-related extension based on a price index. (2) Continue to charge interest on stumpage as required by the Idaho Statute, IDAPA Rule and all current timber sale contracts. This is also consistent with case law and the principles of undivided loyalty and prudent behavior by a trustee. (3) Continue to implement the Board-approved annual sales plans. (4) Continue to appraise sales using current log prices and set

minimum stumpage rates as approved by the Board at the February 13, 2001 Land Board meeting. Current policy establishes minimum stumpage prices at 50% of the average selling price by species for the previous four calendar quarters. Attorney General Wasden seconded the motion. The motion carried on a vote of 5-0.

9. Land Board Off-Site Meeting Locations for 2009 – *Presented by George Bacon, Director*

DEPARTMENT RECOMMENDATION: That the Board direct the Secretary to establish two regular meetings of the State Board of Land Commissioners outside of Boise, with the June meeting in McCall and an October meeting in Moscow.

DISCUSSION: Governor Otter expressed appreciation for the Department's recommendation. However, he asked the Department to provide a cost estimate for the suggested off-site meetings. He noted it is especially important that costs be considered during these down economic times. He asked that the Department also provide estimated costs in the future when this recommendation comes before the Board. Controller Jones and Attorney General Wasden concurred.

Governor Otter added that another communication alternative is video conferencing. In that way, fewer Department resource staff would be needed at the meeting, and the public would still be able to participate.

BOARD ACTION: This agenda item was deferred to the February 17, 2009 regular meeting. No action was taken at this time.

- **INFORMATION**

No Land Board action is required on the Information Agenda.

10. Moorage Study – *Presented by Mike Murphy, Chief, Bureau of Surface and Mineral Resources*

DISCUSSION: Governor Otter asked about fees. Mr. Murphy stated fees vary depending on the type of encroachment. Currently \$250 is charged per float home per year, or 3.75% of the revenue returned to the marina owner. The \$250 has been flat. Anytime the monthly rental rate of a moorage for a float home exceeds \$551, then the 3.75% kicks in. Right now the rates experienced at Boileau's under this agreement are in the \$700-\$900 range per month, so it will trip into the 3.75%. That translates in the \$300-\$400 range per float home moorage.

Governor Otter asked if cost figures will be budgeted for submission to the Legislature as part of the Land Board budget. Director Bacon responded the first step is to establish a dedicated account. Right now this is a general fund program. Historically fees brought in have been less than the amount of the general fund allocation. The Department plans to bring forward a proposal to make this program self-sufficient, user pay and a dedicated fund. The Department believes the program is stable but will be able to tell more at the end of the fiscal year. If the program is stable, a request will be made to the Legislature for a dedicated fund.

Governor Otter asked if this would be the single source for the fund or does the marina owner pay fees. Mr. Murphy stated an encroachment fee, which establishes the encroachment upon construction or any type of modification, and ongoing lease fees are returned.

- **EXECUTIVE SESSION**

None

