



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
June 16, 2009

Idaho First Bank, 475 East Deinhard Lane, McCall

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, June 16, 2009, in McCall, Idaho. The meeting began at 1:27 p.m. at Idaho First Bank, Community Room, 475 East Deinhard Lane, McCall, Idaho. The Honorable Governor C. L. "Butch" Otter presided. The following members were present:

Honorable Secretary of State Ben Ysursa
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.

Prior to beginning the Consent Agenda, Director Bacon asked that item eleven be moved forward to before item 9. Assistant Director Groeschl will present that item and has another engagement. No objection being heard, Governor Otter so ordered.

• **CONSENT**

A motion was made by Controller Jones to approve the Consent Agenda with corrections as noted on pages 6 and 8 of the April 21, 2009 draft minutes. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 5-0.

1. Director's Report – approved

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

DISCUSSION: Referring to item B, the Timber Sale Activity Report, Director Bacon noted timber sales sold for approximately \$138 to \$140 a thousand. Sales that did not sell will be reappraised and reoffered.

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

<u>NORTH OPERATIONS</u>				<u>COUNTY</u>	<u>AREA OFFICE</u>
A. Upper Wolf Track	CR-10-0378	1,540	MBF	Boundary	Priest Lake (Coolin)
B. Hump Bump	CR-10-0379	2,100	MBF	Bonner Boundary	Priest Lake (Coolin)

C. Something Cherry	CR-30-0536	6,485	MBF	Benewah	St. Joe (St. Maries)
D. Lost Hobbit	CR-30-0553	5,480	MBF	Shoshone	St. Joe (St. Maries)
E. Bogus OSR	CR-30-0566	4,710	MBF	Shoshone	St. Joe (St. Maries)

SOUTH OPERATIONS

F. South Dent	CR-40-0986	1,010	MBF	Clearwater	Clearwater (Orofino)
G. Silver Lewis OSR	CR-40-1036	1,865	MBF	Clearwater	Clearwater (Orofino)
H. Maggie-Harris Cutoff	CR-42-5037	5,050	MBF	Idaho	Maggie Creek (Kamiah)
I. Shotgun Pulp	CR-42-5038	4,950	MBF	Clearwater	Maggie Creek (Kamiah)
J. Dry Fir	CR-50-0148	2,290	MBF	Adams Washington	Payette Lakes (McCall)

DISCUSSION: Regarding item D, Lost Hobbit, Superintendent Luna asked which endowment would pay for the \$90,000 repair to the Henderson Loop Bridge. Director Bacon stated Lost Hobbit is 100% public school endowment so the public school endowment would pay. Superintendent Luna asked if other endowments would pay a proportionate share if they also benefited from the bridge repair. Director Bacon stated the Department does calculate proportionate shares and charges each endowment accordingly.

Governor Otter asked about the window for rehab on the 338 acres of clearcut. Director Bacon stated typically the Department collects seed from trees during good cone years so that activity is ongoing. Governor Otter asked if the Department has a seed inventory. Director Bacon stated the Department does have a seed inventory and keeps adding to that inventory. However, some species, such as larch and ponderosa pine, are hard to get and could be as much as seven years between good cone crops.

When clearcuts are planned and the sale is sold, staff receive logging plans from the operators and start planning the planting of trees. Sow seed orders are placed in the fall, and the nursery will grow the trees through the next summer. Young trees will be delivered the following spring. Through this process, the Department receives a two-year old seedling in a little less than two years. Replanting will occur anywhere from one to two years after harvest.

3. Authorization for Issuance of Deficiency Warrants to Pay Fire Suppression Costs in Fiscal Year 2009 – Staffed by Brian Shiplett, Chief, Bureau of Fire Management – approved

DEPARTMENT RECOMMENDATION: That the Board authorize the Department to issue deficiency warrants necessary to pay fire suppression costs beyond the \$154,300 appropriation for fiscal year 2010.

DISCUSSION: Governor Otter asked about the \$154,300 figure. Director Bacon stated this request covers costs above \$154,300. Typically deficiency warrants range from \$4 million in a light year and our worst year, two years ago, was \$21 million.

BOARD ACTION: Approved.

4. State Participation as a Member of: [Staffed by Brian Shiplett, Chief, Bureau of Fire Management] – approved

- A. Southern Idaho Timber Protective Association
- B. Clearwater-Potlatch Timber Protective Association

DEPARTMENT RECOMMENDATION: That the State continue to participate as a member of the (A) Southern Idaho Timber Protective Association and (B) Clearwater-Potlatch Timber Protective Association.

BOARD ACTION: Approved.

5. Request to Complete Conveyance of General Fund Land to Panhandle Health District – Staffed by Bob Brammer, Assistant Director, Lands, Minerals, Range – approved

DEPARTMENT RECOMMENDATION: That the Board direct the Department to complete the conveyance of the General Fund Land ownership in Lots 12 and 13, Block 8, Southmayd, McKinney and Wilsons Addition in the City of Sandpoint, Idaho, to the Panhandle Health District upon payment to the General Fund of \$26,104.59.

DISCUSSION: None.

BOARD ACTION: Approved.

6. Conveyance of Homedale Armory Property to Owyhee County – Staffed by Bob Brammer, Assistant Director, Lands, Minerals, Range – approved

DEPARTMENT RECOMMENDATION: That the Board direct the Department to revert the one-half ownership in the Homedale Armory Property, identified as Lots 10, 11 and 12 of Block 14, back to Owyhee County per Idaho Code §46-726.

DISCUSSION: None.

BOARD ACTION: Approved.

7. Minutes – *approved as corrected

A. Regular Land Board Meeting – April 21, 2009

page 6, agenda item 7 – change Decker to **Deckard; page 8, agenda item 8 – change 2012 to **212**.*

B. Regular Land Board Meeting – May 19, 2009 – *no corrections/changes noted.*

• **REGULAR**

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

A. Monthly Report

- Endowment reserves at the end of April were at least 2.7 times the size of approved 2010 distributions. Some endowments had over five times their 2010 distribution in reserve.
- The Endowment Fund Investment Board met on May 19 after the last Land Board meeting. The Investment Board reviewed the distribution policy found in the Land Board's Asset Management Plan Guideline and recommended no changes.
- No compliance or legal issues.
- *Upcoming Events:* The EFIB will present a recommendation on proposed FY 2011 distributions at the August 18 Land Board meeting. Based on current information, including investment losses and expected reduced land revenues, the EFIB staff will recommend to the Investment Board that the distribution be maintained at FY 2010 levels. However, the Department of Lands recently provided a revised forecast of land revenue. Based on that revised forecast it is possible the EFIB's recommendation could change before the August Land Board meeting.

B. Investment Report

- 4.6% positive return for the month of May.
- Fiscal year-to-date deficit is -18%.
- Through the end of May, the fund is even with its benchmark for the fiscal year.

- To date returns for the month of June have been flat.

DISCUSSION: Governor Otter asked for the investment reserve balance in the public school fund. Mr. Johnson stated that the public school fund, relative to its distribution, is the lowest at 2.7 times the size of approved 2010 distributions.

No action was taken on this agenda item.

9. Revision of IDAPA 20.03.14, Grazing Leases and Cropland Leases – Presented by Bob Brammer, Assistant Director, Lands, Minerals, Range

DEPARTMENT RECOMMENDATION: That the Board direct the Department to request gubernatorial approval of the revised rule as a Temporary Rule to the extent authorized under the Idaho Administrative Procedure Act and that the Board direct the Department to proceed with rulemaking in accordance with the Idaho Administrative Procedure Act using the revised rule as the Proposed Rule.

DISCUSSION: Governor Otter asked about the boiler-plate language for the section covering rights reserved to the Department, the old section 021. He wondered why the Department would make it part of the contractual relationship and what part is negotiated. Mr. Brammer stated the boiler plate language is incorporated into the lease, and the Department felt restating it in the rules would be redundant.

Secretary of State Ysursa commended the Grazing Subcommittee for their work. He asked if the Board plans to lengthen grazing leases from the current ten years to up to thirty-five years. Mr. Brammer stated there has been support for a twenty-year grazing lease. The twenty-year figure has been used fairly consistently throughout discussions and public meetings. The Department does see value in moving forward with legislation in the next session to extend the lease term up to twenty years for grazing leases. Secretary of State Ysursa stated he would be sure to watch for the legislation. He noted changes to the Admissions Act removed the ten year limit and left it open.

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

10. Cottage Site 2010 Rent Changes and Update on Cottage Site Subcommittee – Presented by Mike Murphy, Chief, Bureau of Surface and Mineral Resources

DEPARTMENT RECOMMENDATION: That the Land Board retain the 2010 rental rate for all cottage sites at the existing 2009 level.

DISCUSSION: A verbatim transcript will be available upon written request.

BOARD ACTION: A motion was made by Secretary of State Ysursa that the Board approve the recommendation to freeze the rents at Payette Lake and Priest Lake. Controller Jones seconded the motion. The motion carried on a vote of 5-0.

11. Authorization to Raise the Fire Assessment Surcharge for Each Improved Lot or Parcel to the Maximum Allowed by Idaho Code – Presented by David Groeschl, Assistant Director, Forestry and Fire

DEPARTMENT RECOMMENDATION: That the Board authorize the Department to raise the surcharge for each improved lot or parcel from \$20 to \$40, which is the maximum allowed by Section 38-111, Idaho Code.

DISCUSSION: None.

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

*** Governor Otter left the meeting at 2:40 p.m.*

12. Adoption of Proposed Rule, IDAPA 20.02.02, Rules of Practice and Procedure before the State Board of Land Commissioners – Presented by Steve Schuster, Deputy Attorney General

DEPARTMENT RECOMMENDATION: That the Board adopt the proposed rule IDAPA 20.01.01, Rules of Practice and procedure before the State Board of Land Commissioners.

DISCUSSION: None.

BOARD ACTION: A motion was made by Controller Jones to adopt temporary rule IDAPA 20.02.01, Rules of Practice and Procedure before the State Board of Land Commissioners. Superintendent Luna seconded the motion. The motion carried on a vote of 4-0, with Governor Otter being absent for this vote.

*** Governor Otter returned to the meeting at 2:43 p.m.*

*** Secretary of State Ysursa left the meeting at 2:44 p.m.*

13. IDL Annual Strategic Plan Update – Presented by Patrick Hodges, Division Administrator, Support Services

DEPARTMENT RECOMMENDATION: That the Board direct the Department to submit the FY 2010 – FY 2013 Strategic Plan to the Division of Financial Management by the July 1, 2009 deadline.

DISCUSSION: None.

BOARD ACTION: A motion was made by Controller Jones to approve the work product in the annual strategic plan update and to submit the 2010-2013 strategic plan to the Division of Financial Management by the July 1, 2009 deadline. Attorney General Wasden seconded the motion. The motion carried on a vote of 4-0, with Secretary of State Ysursa being absent for this vote.

*** Secretary of State Ysursa returned to the meeting at 2:50 p.m.*

• INFORMATION

None

At 2:50 p.m. a motion was made by Controller Jones that pursuant to Idaho Code 67-2345(1)(c) and (f) the Board resolve into Executive Session for the purpose of discussing the acquisition of an interest in real property which is not held by a public agency and to communicate with legal counsel regarding legal ramifications of, and legal options for, pending litigation or controversies not yet litigated but imminently likely to be litigated. Controller Jones requested that a roll call vote be taken and that the secretary record the vote in the minutes of the meeting. Superintendent Luna seconded the motion. Prior to a vote being taken, Attorney General Wasden asked if the motion included Idaho Code 67-2345(1)(d) or (c). Controller Jones stated (1)(c). Attorney General Wasden asked if there is a need to go into Executive Session also for (1)(d). Director Bacon stated the need for Executive Session is for items (d) and (f). With consent of her second, Controller Jones modified her motion to reflect sections (d) and (f). The motion carried on a vote of 5-0. [Aye – Otter, Ysursa, Wasden, Jones, Luna; Nay – 0; Absent – 0; Excused – 0]

*** Secretary of State Ysursa left the meeting at 2:51 p.m.*

• EXECUTIVE SESSION

A. Idaho Code 67-2345(1)(d) – To consider records that are exempt from disclosure as provided in chapter 3, title 9, Idaho Code.

B. 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.

*** Secretary of State Ysursa returned to the meeting at 3:01 p.m.*

At 3:01 p.m. a motion was made by Controller Jones to resolve into Regular Session. Superintendent Luna seconded the motion. The motion carried on a vote of 5-0. No action was taken by the Board during the Executive Session.

Action Taken Subsequent to Executive Session

Upon return to Regular Session a motion was made by Superintendent Luna that the Board move to disclaim interest in clay, kaolin, quartz and clay by-products in state mineral estate in property sold prior to 1986. Controller Jones seconded the motion. The motion carried on a vote of 4-0, with Governor Otter recused for this vote.

There being no further business to come before the Board, at 3:23 p.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.

IDAHO STATE BOARD OF LAND COMMISSIONERS

/s/ C. L. "Butch" Otter

**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 July 21, 2009 regular Land Board meeting.