



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

May 18, 2010

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, May 18, 2010, in Boise, Idaho. The meeting began at 9:05 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 State Controller Donna Jones

Honorable Superintendent of Public Instruction Tom Luna

Governor Otter called the meeting to order and recognized the presence of all board members with the exception of Attorney General Wasden. Attorney General Wasden joined the meeting at approximately 9:50 a.m. via conference call. Controller Jones left the meeting at 11:21 a.m.

Director George Bacon was absent, and Deputy Director Kathy Opp served as Secretary to the Board for this meeting.

• **CONSENT**

A motion was made by Controller Jones to approve the Consent Agenda in its entirety. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 4-0, with Attorney General Wasden being absent from this vote.

1. Director's Report – approved

- A. Interest Rate on Department Transactions – May 2010
- B. Timber Sale Activity and Information Report – April 2010
- C. Division of Lands, Minerals, Range Official Transactions – April 2010
- D. Legal Matter Summary – April 2010
- E. Fire Settlement Information – April 2010

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. Inside Outlet	CR-10-0392	1,200	MBF	Bonner	Priest Lake (Coolin)
B. Middle Fish	CR-20-0285	4,000	MBF	Bonner	Pend Oreille (Sandpoint)
C. UMM OSR	CR-20-0287	3,065	MBF	Bonner	Pend Oreille (Sandpoint)
D. Faulty Towers	CR-21-3020	4,635	MBF	Bonner Boundary	Kootenai Valley (Bonners Ferry)
E. Schell's Sawlog	CR-30-0580	6,615	MBF	Benewah	St. Joe (St. Maries)
F. Glimmer Ridge	CR-41-0048	5,900	MBF	Latah	Ponderosa (Deary)
G. South Spur	CR-41-0067	4,770	MBF	Clearwater	Ponderosa (Deary)
<u>SOUTH OPERATIONS</u>					
H. Parallel OSR	CR-40-1035	1,175	MBF	Clearwater	Clearwater (Orofino)
I. Souse Q	CR-40-1044	3,145	MBF	Clearwater	Clearwater (Orofino)

3. **Proposed Land Board Meeting – Sandpoint** – Staffed by George Bacon, Director, Department of Lands – **approved**

DEPARTMENT RECOMMENDATION: That the Board convene the regularly scheduled June 2010 Land Board meeting in Boise instead of Sandpoint due to budgetary and scheduling considerations.

DISCUSSION: None.

BOARD ACTION: Approved.

4. **Minutes** – **approved**

A. Regular Land Board Meeting – April 20, 2010

• **REGULAR**

5. **Joint Meeting with the Endowment Fund Investment Board** – Presented by Larry Johnson, Manager of Investments, Endowment Fund Investment Board

- A. Manager's Report
- B. Investment Report
- C. Semi-Annual Report
- D. Distribution Policy Discussion

A verbatim transcript is available upon written request to Susan Terry, Idaho Department of Lands, Post Office Box 83720, Boise, ID 83720-0050, or email sterry@idl.idaho.gov or fax (208) 334-2339. No action was taken on this agenda item.

6. Request for Approval of Long-Term Commercial Lease to Cotterel WindEnergy Center LLC – Presented by Bob Brammer, Assistant Director, Lands, Minerals, Range

DEPARTMENT RECOMMENDATION: That the Board approve the draft long-term commercial lease to Cotterel WindEnergy Center, LLC.

DISCUSSION: None.

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

7. Perrine Block Management Actions – Presented by Kathy Opp, Deputy Director, and Kate Langford, Strategic Business Unit

DEPARTMENT RECOMMENDATION: That the Board direct the Department to begin negotiations with the Jerome County Commissioners to develop a Memorandum of Understanding for the purpose of improving management of the Trust Land known as the Perrine Block and to facilitate Jerome County's implementation of BLM Recreation Lease IDI-34292.

DISCUSSION: Controller Jones commented it is her understanding that there may be objections to the Department's recommendation. She expressed her desire for an open and transparent process. Ms. Langford responded that there will be a certain amount of consternation over the proposal. The expectation for the larger area, from the interstate to the canyon rim, is that it will be one large recreational park. While that is a possibility, Ms. Langford stated the endowment trust lands are working lands, and it will take time and discussion to alleviate concerns. She went on to say that one concern the Department has heard is that access is being taken away. Ms. Langford stated the Department does not want to take away access but instead wants to redirect that access to the BLM site so that the trust land will not be harmed, as is currently occurring. Part of the redirection process will include appropriate signage to delineate between BLM recreational land and endowment trust land. It will be a process to educate the public about the differences between BLM lands and endowment trust lands. Non-motorized access and utilization of the rim area would be allowed because of the picturesque nature of the area, which is one of the site's best features. The Department understands, however, that there will be a certain level of concern and that time will be needed to allay those fears.

Another concern that may surface over time may come from the City of Twin Falls regarding the aquifer protection area. The City currently has a portion of this trust land under a conservation lease, which provides one of the best revenue sources for the site. The entire block generates a little over \$9,000 per year; however, expenses total \$5,000 to \$6,000 per year for fire mitigation measures, and then approximately another \$5,000 to \$6,000 per year for vehicle removal and cleanup of dumped cars, burned vehicles, trash, et cetera. At best the trust land asset breaks even, but in reality usually operates in the red.

Deputy Director Opp added that part of the purpose of the recommendation is to begin working with Jerome County on an MOU. Jerome County has a public process, and it is the Department's intention to attend their commission meetings to assure an open transparent process.

Governor Otter asked if the Department has received comments from the motorized, such as ATV and off-road vehicle, and equestrian communities who now access the property. Ms. Langford stated the Department did not feel it was appropriate to begin those types of interactions until the Land Board was comfortable moving forward. Governor Otter stated while he understands that, he notes the recommendation and resulting motion support non-motorized access to the trust land site. In order to assure an open and transparent process, comments should be solicited from those groups.

AUDIENCE WITH THE BOARD

Cathy Roemer, Jerome County Commissioner – Commissioner Roemer expressed appreciation for the presentation as brought forward by Deputy Director Opp. Jerome County Commissioners are willing to listen and examine all options. She agrees with Governor Otter that the whole process needs to be open and transparent. She stated that Jerome County Commissioners are open to hearing from all groups who may be currently using not only the state land, but also the Snake River Canyon Park, formerly known as the North Rim Canyon Park.

Roy Prescott – Mr. Prescott stated he serves as the chairman of the group that County Commissioners have asked to take the lead on what is happening with this park. He stated he is a former County Commissioner and initiated the start of this issue.

As background, Mr. Prescott stated in 1898 the United States Senate passed an appropriations bill to set this piece of property aside as a national park. That bill was defeated in 1898 by the House. The bill was defeated because of the Carey Act, which diminished the amount of water flowing over Shoshone Falls. From that point forward, this discussion has proceeded to where it is today.

Mr. Prescott stated there have always been questions. Some issues concern access. Two years ago the Idaho Department of Transportation considered a change to the access. ITD had two major programs and met with property owners, including a ten-acre subdivision and Idaho Power in the Shoshone Falls area. Highway districts from both Jerome and Twin Falls were also involved; however, the matter lapsed.

Mr. Prescott stated some questions will be difficult. Issues brought up in the past will need to be reviewed again. Two major studies were completed regarding off-road vehicle access. In 1996 the BLM identified the area for potential sale. Comments were solicited, and the majority of those responding stated their wish that the property not be sold and instead suggested that the property be used for a park to protect the aesthetic value of the site. Groups reflected in the comments included off-road vehicle, equestrian, the National Cattlemen's Association and the Idaho Cattle Association.

Mr. Prescott stated there will be a great deal of discussion if the State Land Board enters into the process. For the last hundred years people have tried to approach this issue, and it appears now is the time to sit down and define lines. Mr. Prescott noted eight years ago this matter was brought before the Land Board. At that time the County was concerned about financing. Even in those times dollars were difficult. Mr. Prescott believes the State of Idaho needs to engage now and to take under advisement some of the issues.

Governor Otter stated while he is prepared to move forward with the Department's recommendation, he feels there should not be any limitations or directives included in the recommendation until the Department returns to the Board with comments and additional information. Mr. Prescott agreed with the need for transparency in the process. He noted there are a variety of interests, such as the City of Twin Falls' water source. All of the different interests must be fleshed out. Mr. Prescott stated he has been involved in this process for the last fifteen years, and the opportunity presented is to focus on minimizing negative impacts and maximizing positive impacts for all interested parties. Governor Otter agreed and stated that should be the focus.

Ms. Langford emphasized the language in the recommendation is to begin negotiations and is not predetermined. The Department would not begin any public process without the support of the Land Board. While the items in the recommendation are desired, they are just a starting point.

BOARD ACTION: A motion was made by Controller Jones to direct the Department to begin negotiations with Jerome County Commissioners to develop a Memorandum of Understanding for the purpose of improving management of the Trust Land known as the Perrine Block and to facilitate Jerome County's implementation of the BLM Recreational Lease IDI-34292. Secretary of State Yursa seconded the motion with the proviso that the negotiations will be open-ended and not limited to any of the goals, etc., stated in the memo, but that the purpose is to begin discussions and negotiations to develop an MOU. For clarification, Governor Otter asked if it is also the Board's understanding that the Department will present a draft MOU to the Board before they proceed with a final MOU. Secretary of State Yursa stated yes. Controller Jones modified the motion to include that the Department will report back the results and bring the draft MOU before the Board at a later date. The motion carried on a vote of 5-0.

8. ~~Request by Three Rivers Timber, Inc., for Hardship Terminations of the Snake 2 Commercial (TS 40-3524) and Mill Road Commercial (TS 40-3591) Timber Sales — Presented by David Groeschl, Assistant Director, Forestry and Fire~~ — THIS AGENDA ITEM WAS WITHDRAWN.

DEPARTMENT RECOMMENDATION: Approve hardship terminations for the Snake II Commercial (TS-40-3524) and the Mill Road Commercial (TS-40-3591) timber sales and assess damages to Three Rivers Timber, Inc., in the amounts of \$592,018.48 for the Snake II Commercial timber sale and \$178,938.90 on the Mill Road Commercial timber sale.

DISCUSSION: Deputy Director Opp stated this item is a request from Three Rivers Timber for a hardship termination of the Snake 2 Commercial and Mill Road Commercial Timber Sales. This

item has been withdrawn at this time. The Department's understanding is that an offer has been submitted to the receiver, and negotiations are underway with the intent to operate the mill with an assignment of these two timber sales included.

BOARD ACTION: Withdrawn.

9. Request by the Department of Lands to Change the Procedure for Determination of Minimum Stumpage Rates for State Timber Sales – *Presented by David Groeschl, Assistant Director, Forestry and Fire*

DEPARTMENT RECOMMENDATION: That the Board direct the Department (1) to maintain the current delivered log price appraisal system and continue to set the minimum bid price at the higher of the minimum price or delivered log appraised price on a species basis. The exceptions (perishable, fire or insect-killed material) noted on the State Board of Land Commissioners memo dated April 11, 1995, will still apply. (2) Change the Department procedure for determination of minimum prices from the current 50% for all species to the following: (a) for species with bid values equal to or greater than \$200 per MBF retain the current formula at 50% of statewide average bid price for the previous four quarters; (b) for species with bid values equal to or greater than \$150 and less than \$200 per MBF, use 60% of the statewide average bid price for the previous four quarters; (c) for species with bid values less than \$150 use 70% of the statewide average bid price for the previous four quarters.

DISCUSSION: Governor Otter noted that the April 11, 1995 approved board memo was not included with the attachments. Assistant Director Groeschl stated under salvage situations, that memo allowed lower than minimum stumpage calculated rates.

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

10. Cottage Site Valuation Appeal Policy – *Presented by Mike Murphy, Chief, Bureau of Surface and Mineral Resources*

DEPARTMENT RECOMMENDATION: The Department recommended that the Land Board adopt the proposed valuation appeal policy and direct the Department to implement this policy through the new cottage site lease that begins January 1, 2011.

DISCUSSION: Secretary of State Yursa commented that this process applies to both lakes. In fact, the lease is written so that either appraisals or use of the county assessor can be done. The current policy continues the use of the county assessor at Payette Lake, but at any point if that changed, Payette Lake lessees would also be under this process. Mr. Murphy agreed stating there is flexibility within the policy.

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

- **INFORMATION**

None

At 11:15 a.m. a motion was made by Controller Jones to resolve into Executive Session. Superintendent Luna seconded the motion. At this point, Governor Otter stated the Board would go at ease subject to the call of the Chair. Attorney General Wasden reminded the Board that a roll call vote is required before the Board resolves into Executive Session.

[A brief recess was taken.]

At 11:19 a.m. a motion was made by Controller Jones that the Board resolve into Executive Session as per 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. Controller Jones requested that a roll call vote be taken. Secretary of State Yursa seconded the motion. For the record, Governor Otter stated the previous motion and voice vote is ruled out of order and will be replaced with this motion and roll call vote.

ROLL CALL VOTE: Secretary of State Yursa: aye; Attorney General Wasden: aye; Controller Jones: aye; Superintendent Luna: aye; Governor Otter: aye. Vote tally: 5 aye (Yursa, Wasden, Jones, Luna, Otter); 0 nay.

- **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.**

- Tamarack Update (by Robert Follett, Deputy Attorney General)

Controller Jones left the meeting at 11:21 a.m.

At 11:38 a.m. a motion was made by Superintendent Luna to resolve into Regular Session. Superintendent Luna noted that no action was taken by the Board during the Executive Session. Secretary of State Yursa seconded the motion. The motion carried on a vote of 4-0, with Controller Jones being absent from this vote.

There being no further business to come before the Board, a motion was made by Superintendent Luna at 11:39 a.m. to adjourn. Secretary of State Yursa seconded the motion. The motion carried on a vote of 4-0, with Controller Jones being absent from this vote. Meeting adjourned.

