



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
November 16, 2010

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, November 16, 2010, in Boise, Idaho. The meeting began at 8:48 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

Governor Otter recognized the presence of a quorum, and, for the record, noted the absence of Attorney General Wasden and Superintendent Luna.

At 8:49 a.m. a motion was made by Secretary of State Ysursa that the Board resolve into Executive Session pursuant to Idaho Code 67-2345(1)(f) for the purpose of communicating with legal counsel regarding legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. Secretary Ysursa requested that a roll call vote be taken, and that the secretary record the vote in the minutes of the meeting. Controller Jones seconded the motion. Roll Call Vote: *Aye*: Ysursa, Jones, Otter; *Nay*: None; *Absent*: Wasden, Luna.

At 8:51 a.m. the public was asked to leave the room to allow the Board to enter into Executive Session.

• **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. [TOPICS: (1) Harper's Bend Fire Settlement; (2) Cottage Site Litigation]

Superintendent Luna joined the Executive Session at 8:54 a.m. by conference phone; however, due to technical difficulties, Superintendent Luna was unable to adequately hear the proceedings and discontinued his participation at 9:11 a.m.

At 9:29 a.m. a motion was made by Secretary of State Ysursa that the Board resolve out of Executive Session and that the official minutes of the meeting reflect that no action was taken by the

Board during the Executive Session. Controller Jones seconded the motion. The motion carried on a vote of 3-0, with Attorney General Wasden and Superintendent Luna being absent from this vote.

At 9:30 a.m. a brief recess was taken and the public was invited to re-enter the courtroom for the Land Board's public session.

At 9:34 a.m. Governor Otter called the State Land Board regular public meeting to order.

• **CONSENT**

1. Director's Report

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

DISCUSSION: Referring to the Timber Sale Activity and Information Report (Item B), Director Bacon noted that total volume under contract is at the highest level the Department has ever had in its history – over 416 million board feet and 191 timber sales. Overall purchasers have performed admirably well over the last couple of years.

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

<u>NORTH OPERATIONS</u>				<u>COUNTY</u>	<u>AREA OFFICE</u>
A. Prater North	CR-20-0289	3,600	MBF	Bonner	Pend Oreille (Sandpoint)
B. Spring Thin	CR-20-0290	3,000	MBF	Bonner	Pend Oreille (Sandpoint)
<u>SOUTH OPERATIONS</u>				<u>COUNTY</u>	<u>AREA OFFICE</u>
C. Motorway	CR-42-5043	5,245	MBF	Idaho	Maggie Creek (Kamiah)

DISCUSSION: Governor Otter asked if the Department has spoken with officials in Sandpoint and Bonner County regarding the road closure noted in the Spring Thin sale (North Operations, Item B). Roger Jansson, Operations Chief-North, IDL, responded that staff did consult with the city. He noted this particular road is old with the last activity occurring in the 1960s. The roads were built with wooden culverts in stream bottoms and some are rotting out. The city supports the Department's actions and recognizes that this closure will help protect the watershed.

3. Timber License Plate Fee – Staffed by Betty Munis, Idaho Forest Products Commission

DEPARTMENT RECOMMENDATION: That the Board approve the Timber License Plate Information Card appropriation request for \$2,300.00 as requested by the Idaho Forest Products Commission and the Idaho Department of Lands.

DISCUSSION: None.

4. **Revision of IDAPA 20.02.14, Rules for Selling Forest Products on State-Owned Endowment Land and Repeal of IDAPA 20.02.11, Timber Supply Stabilization Act of 1989 on State Forests – Staffed by David Groeschl, Assistant Director, Forestry and Fire**

DEPARTMENT RECOMMENDATION: That the Board adopt as a pending rule IDAPA 20.02.14, Rules for Selling Forest Products on State Owned Endowment Land, as revised, and repeal IDAPA 20.02.11, Timber Supply Stabilization Act of 1989 on State Forests.

DISCUSSION: Secretary of State Yursa indicated he has had inquires about the Department forming a committee with forest industry and logger representation. He stated one of the key questions asked is how this delivered product sale will work and how much it will be used. Will it be used on a trial basis? Will only a few be done? What is the idea? He asked if the committee will discuss and answer these types of questions. Bob Helmer, Chief, Bureau of Forest Management, IDL, responded that the committee is being established to take input. Questions have been asked about how the Department would implement delivered product sales. Four public meetings were held with loggers beginning in December 2009, and three public meetings were held on the rules. On November 30, 2010 a purchaser and logger committee meeting will be held to gather additional information on how they see this being implemented. If the rules are passed, five pilot sales are planned for the next year and then the Department would have to determine how many more would be done. At this time the Department is not expecting more than 10% of the sales to be sold in this fashion so it will be a small percentage. In several areas, and especially where the Department has experienced difficulty with the markets, it would be an opportunity for the Department to sell some sales that staff were unable to sell in the past. The Department believes there are several advantages to moving forward with this proposal.

Secretary of State Yursa thanked Mr. Helmer for the information. He stated “That’s something that I, for one, will be watching real closely so I know you’ll keep us informed.” Mr. Helmer stated, “Yes, we will.”

5. **Pending Rulemaking for IDAPA 20.03.04, Rules for the Regulation of Beds, Waters and Airspace Over Navigable Lakes in the State of Idaho – Staffed by Eric Wilson, Minerals and Navigable Waters Program Manager**

DEPARTMENT RECOMMENDATION: That the Board direct the Department to submit pending rules for IDAPA 20.03.04, “Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho,” to the 2010 legislative session.

DISCUSSION: None.

6. **Results of Conflicted Grazing Lease Auctions – Staffed by Kurt Houston, Operation Chief-South**

DEPARTMENT RECOMMENDATION: That the Board direct the Department to award the leases to the high bidders at auction.

DISCUSSION: Secretary of State Yursa noted a \$60,000 bid and stated, “Pretty good.”

7. **Approval of Minutes – October 19, 2010 Regular Meeting (Twin Falls Meeting)**

DISCUSSION: None.

CONSENT AGENDA BOARD ACTION: A motion was made by Controller Jones to approve the Consent Agenda as presented. Secretary of State Yursa seconded the motion. The motion carried on a vote of 3-0, with Attorney General Wasden and Superintendent Luna being absent from this vote.

- **REGULAR**

8. Harper's Bend Fire Settlement – *Presented by Steve Schuster, Deputy Attorney General, IDL*

DEPARTMENT RECOMMENDATION: The Department recommends that the Board approve the proposed settlement agreement.

DISCUSSION: None.

BOARD ACTION: A motion was made by Controller Jones to approve the proposed settlement. Secretary of State Yursa seconded the motion. The motion carried on a vote of 3-0, with Attorney General Wasden and Superintendent Luna being absent from this vote.

~~**9. Recommendation of the Cottage Site Subcommittee regarding 2011-2020 Cottage Site Lease Language**~~ – *Presented by George Bacon, Director* – **DEFERRED**

10. Tamarack Proposed Agreement – *Presented by George Bacon, Director*

DEPARTMENT RECOMMENDATION: That the Board enter into a settlement agreement with Tamarack, Credit Suisse and TMA that will, among other specific items developed by the Department's legal counsel, cure the default on the 2010 Tamarack lease payment, make a half payment of the rent due on January 1, 2011, extend the time for Tamarack to assume or reject the State Lease until July 1, 2011, and consent to TMA's operation of the ski hill under a sublease from Tamarack.

DISCUSSION: Secretary of State Yursa commended all of the parties involved with this effort. He remarked that the State, and especially the endowments, can only benefit by having some operation up at Tamarack, and he hopes this extension will help. Controller Jones echoed the Secretary of State's comments. She agreed that a lot of people have worked very hard to get to this point.

To clarify the record, Director Bacon stated the extension of time would be until June 30, 2011, not July 1, 2011.

BOARD ACTION: Secretary of State Yursa moved approval of the Department's recommendation. Controller Jones seconded the motion. The motion carried on a vote of 3-0, with Attorney General Wasden and Superintendent Luna being absent from this vote.

11. Appeal of Director's Decision for Conflict Grazing Lease G-800084 (Thompson) – *Presented by Kurt Houston, Operations Chief-South*

DEPARTMENT RECOMMENDATION: That the Board uphold the Director's decision to reject the appeal filed by Thompson Livestock and direct the Department to conduct an auction for lease G800084.

A verbatim transcript is available upon written request to Idaho Department of Lands, Attention Recording Secretary, Post Office Box 83720, Boise, ID 83720-0050 or email sterry@idl.idaho.gov or fax to (208) 334-2339.

BOARD ACTION: Secretary of State Yursa moved approval of the Department's recommendation. Controller Jones seconded the motion. Governor Otter called for a roll call vote. Roll Call Vote: *Aye:* Yursa, Jones; *Nay:* Otter; *Absent:* Wasden, Luna. The motion carried on a vote of 2-1, with Attorney General Wasden and Superintendent Luna being absent from this vote.

12. Review of Public Relations Contract – Presented by Kathy Opp, Deputy Director

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.

DISCUSSION: Controller Jones asked Mr. Tracy to persuade her regarding the need for building plaques. She asked why the plaques are important or necessary. Mr. Tracy stated the issue of building plaques has been thoroughly discussed. The last public opinion poll showed a 10-12 point increase in support of the Department's efforts when people understand the purpose of the property and how the money is spent. Deputy Director Opp added that the Department's last commercial property purchase provides an example. Opinions were expressed that there was a lack of transparency in the Department's actions. It is important for the public to understand that endowment properties are managed for the trust beneficiaries and are not a general asset of the state, and it is important that these properties be managed appropriately to support those beneficiaries. In that effort, the Department feels it is important to continue communicating this message, and this is another way to express that support in a very open fashion. The plaques send a message to the public that "Hey, this is an endowment asset. These moneys support your schools, K-12, universities, higher education and mental health facilities in this state," which is an important concept that our Founding Fathers struck over a hundred years ago. The Department believes the plaques are another way to further that outreach.

BOARD ACTION: Controller Jones moved approval of the Department's recommendation. Secretary of State Yursa seconded the motion. For the record, and prior to a vote being taken, Governor Otter informed the Board of a potential conflict in that Mr. Tracy was beneficial in his previous campaign for Governor; however, Governor Otter felt that the potential conflict would not prevent him from casting a vote on this agenda item. The motion carried on a vote of 3-0, with Attorney General Wasden and Superintendent Luna being absent from this vote.*

13. Joint Meeting with the Endowment Fund Investment Board

- A. Manager's Report – Presented by Larry Johnson, Manager of Investments
- B. Investment Report – Presented by Larry Johnson, Manager of Investments
- C. Annual Report – Presented by: Dean Buffington, Chairman; John Taylor, Audit Committee Chairman; Larry Johnson, Manager of Investments

Dean Buffington, Chairman, Endowment Fund Investment Board, introduced the EFIB members. Mr. Buffington also noted that this is the EFIB's semi-annual meeting with the State Land Board wherein the EFIB provides a report on its activities along with an annual report on the independent audit of the endowment fund.

EFIB BOARD MEMBERS PRESENT: Dean Buffington, Chairman; Gavin Gee, Vice Chair; Representative Max Black; Senator Chuck Winder; Vaughn Heinrich; Tom Kealey; Sue Simmons; Richelle Sugiyama; John Taylor, Chairman, Audit Committee

EFIB STAFF PRESENT: Larry Johnson, Manager of Investments; Chris Halvorson, Investment Officer; Andy Potter, Fiscal Officer

ALSO IN ATTENDANCE: Julie Weaver, Deputy Attorney General, EFIB; Janet Becker-Wold, Asset Consultant, Callan Associates; Jae Hallett and James Yee, Audit Firm Representatives; Investment Managers, Clearwater Associates

- **MONTHLY REPORT – Mr. Johnson**

Mr. Johnson stated there are no legal or compliance issues to report. Referring to graphs provided with this report, Mr. Johnson stated the EFIB monitors key variables to ensure adequate reserves will be maintained and compares actual revenues with projections provided by the Department of Lands last July. He noted so far this year the endowments have received 43% of the year's total forecasted revenues, which is about on track with history for what is expected at this point in the year. Therefore, Mr. Johnson stated the level of land revenues is consistent with the level used in the cash flow forecast the Land Board reviewed when distributions rates were set last August. Mr. Johnson noted the other income source for the endowments is the return of the fund and investment returns have been stronger than forecast last August. Earnings reserve coverage remains strong and all endowments, with the exception of Public School, have at least 470%, or almost five years, of annual distributions in reserve. Public School has 261% or 2.6 years. Mr. Johnson added that there will be a high level of distributions to Public School this year and it is expected that number will decline to around 2.1 times by the end of 2012. Overall, Public School is in line with expectations.

In summary, Mr. Johnson stated the EFIB believes that reserves are sufficient to maintain the 2012 level of distributions into 2013 and beyond.

- **INVESTMENT REPORT – Mr. Johnson**

Mr. Johnson stated the fund gained 2.9% in October with the fiscal year-to-date return at 13.5%, which is about .8% ahead of the benchmark. Active managers are performing as expected. Mr. Johnson noted one major personnel change has occurred with Metropolitan West and the EFIB is discussing how to respond to that change. So far in November, the fund is up a little less than 1% so results continue to be positive.

Mr. Johnson referred to a handout showing how the Idaho endowment fund has done versus other public funds for different time periods. The chart reflects that the Idaho endowment ranked sixth percentile in the third quarter of 2010, where one is top and a hundred is the bottom. The endowment also ranks above average in each of the other time periods reflected in the graph. For

the last five years, the endowment fund ranked 19th percentile with better performance than 81% of other public funds. In comparison with the Idaho Public Employees Plan, PERSI, the endowment fund has had strong results in the last few years finishing ahead of PERSI in the time periods on this chart except for the five-year column where PERSI was slightly ahead. Mr. Johnson stated the Land Board can be pleased not only with the performance of the endowment fund, but also with the performance of the state's pension fund as well.

- **EFIB ANNUAL REPORT TO THE STATE LAND BOARD – Mr. Johnson**

Mr. Johnson stated there are certain annual reporting requirements for the EFIB that are laid out in the Land Board's Asset Management Plan. Any fiduciary, including the Land Board, must ensure that the experts they have delegated duties to are actually performing those duties and that is the main purpose of this annual report.

Mr. Johnson stated for that the fiscal year 2010, the total fund balance grew 13% and earnings reserves increased 8% to a reasonable \$165 million. He noted this occurred despite the fact that receipts from the Department of Lands were down 24%. Distributions were up 8% to \$46 million and, for the year, the investment gain was almost 16%. For the last five years, the return was 3.7%. The total investment management expense for overseeing the endowment fund was .43%.

- **EFIB AUDIT REPORT – Mr. John Taylor, EFIB Audit Committee Chairman**

Mr. Taylor stated the independent auditor's report included a review of internal controls and no instances of non-compliance with any regulations or laws were found. The EFIB is pleased to submit a very complimentary report this year. Mr. Taylor acknowledged the work of other Audit Committee Members, Representative Max Black and Sue Simmons. They fully participated in Audit Committee meetings to ensure compliance with requirements.

DISCUSSION: Secretary of State Yursa thanked EFIB members and staff for their work. Controller Jones also expressed her appreciation.

No action was taken on this agenda item.

- **INFORMATION**

None

* Regarding Agenda Item 12, at 10:47 a.m. Controller Jones stated for the record that Mr. Tracy worked on her previous political campaign as well and that she did not believe the potential conflict would prevent her from casting a vote on this agenda item.

At 10:48 a.m. a motion was made by Secretary of State Yursa to adjourn. Controller Jones seconded the motion. The motion carried on a vote of 3-0, with Attorney General Wasden and Superintendent Luna being absent from this vote. Meeting adjourned.

