



STATE BOARD OF LAND COMMISSIONERS

C. L. "Butch" Otter, Governor and President of the Board
Ben Yursa, Secretary of State
Lawrence G. Wasden, Attorney General
Donna M. Jones, State Controller
Tom Luna, Superintendent of Public Instruction

Tom Schultz, Secretary to the Board

Final Minutes
State Board of Land Commissioners' Regular Meeting
November 15, 2011

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, November 15, 2011 in Boise, Idaho. The meeting began at 10:27 a.m. in the second floor courtroom of the Borah Building, 304 North 8th Street, Boise. The Honorable Governor Brad Little presided. The following members were present:

Honorable Secretary of State Ben Yursa
Honorable State Controller Donna Jones
Honorable Superintendent of Public Instruction Tom Luna

For the record, all Board members were present with the exception of Attorney General Wasden.

• **CONSENT**

1. Director's Report

- A. Interest Rate on Department Transactions – November 2011
- B. Timber Sale Activity and Information Report – October 2011
- C. Division of Lands, Minerals, Range Official Transactions – October 2011
- D. Legal Matter Summary – October 2011

DISCUSSION: Referring to the Timber Sale Activity and Information Report, Director Schultz noted that timber sale bids are significantly higher than minimum rates set by the Department. Average price per MBF is \$207. Fiscal year to date harvest receipts are just over \$22,000,000. Trends are holding similar to FY2011 receipts which totaled \$54,000,000. To date the Department has prepared and sold 72% of harvest targets, volume to date is about 170 MMBF. Regarding the Lands, Minerals, Range Official Transactions, Director Schultz commented that two residential cottage site assignments had no premium rent, one grazing lease was cancelled due to non-payment, and there are seven cottage site leases that have not been renewed at the FY2012-2013 rate of 4%. Director Schultz identified two items on the Legal Matter Summary that will be discussed in executive session: 0-7 Fire and Bagley Miscellaneous Lease.

2. Timber Sales for Approval – 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. McDonald	CR-20-0267	3,600	MBF	Bonner	Pend Oreille (Sandpoint)
<u>SOUTH OPERATIONS</u>				<u>COUNTY</u>	<u>AREA OFFICE</u>
None					

3. Endowment Fund Investment Board Manager’s Report – Presented by Larry Johnson, EFIB Manager of Investments, and Dean Buffington, EFIB Chair, and John Taylor, Audit Committee Chair

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, Judy Shock, Management Assistant

ALSO IN ATTENDANCE: Julie Weaver, Deputy Attorney General, EFIB; Janet Becker-Wold, Asset Consultant, Callan Associates; Jae Hallett, Eide Bailly; Rhet Hulbert, Investment Manager, Clearwater Associates

- A. Manager’s Report – Mr. Johnson indicated there are no legal or compliance concerns for the past month. Mr. Johnson noted the endowments have received 56% of FY2012 forecasted revenues; the level of land revenues is ahead of cash flow forecast presented to the Land Board when distribution rates were set in August. The returns on the fund are somewhat weaker than forecasted in August, but overall reserves are in good shape. All endowments except Public School have at least 4.6 years of annual distributions and Public School has 2.6 years. FY2012 and FY2013 should finish with reserves sufficient to maintain the current level of distributions into FY2014 and further.
- B. Investment Report – Mr. Johnson stated that October was an outstanding month for the fund, gaining 8.3%. Fiscal year to date the fund is 4% below end of FY2011, approximately 30 basis points behind the benchmark. Managers are performing as expected. November to date the fund is down slightly less than 1%.
- C. EFIB Annual Report – Mr. Johnson reviewed the summary on page 2 which shows the Total Fund increased 22%, Earnings Reserve increased 24%, receipts from Lands were up 45% and distributions were up 48% to \$68,000,000 in FY2011. Mr. Johnson commented that FY2011 was a terrific investment year; investment gain was 24.6%. The last 5 years the average return was 6.2%. Total management expenses for the Fund are 0.43% (43 basis points).

Mr. Taylor explained that the EFIB Annual Report is prepared by internal staff and audited by independent auditors, Eide Bailly, who specifically review statements for accuracy, exceptions or internal control procedures and all were found to be acceptable. The audit scope was expanded somewhat this year, reviewing more activities of the Department of Lands although in limited detail, mostly related to cash flow and allocation of cash receipts and disbursements as related to each individual fund. Mr. Taylor thanked Department of Lands' staff for their cooperation. One goal of this audit report is to provide as much transparency to beneficiaries as possible. In that regard, there are a series of summaries for the beneficiaries and the standard audit report follows. There is also supplemental information included to provide more detail and transparency to the beneficiaries. Mr. Taylor thanked Eide Bailly for their services.

Mr. Johnson concluded by stating that any Fiduciary including the Land Board must ensure that experts to whom tasks are delegated are actually performing the duties they've been given, and this is one of the main purposes of the annual report. As indicated on page 4 of the report, the Investment Board gives their formal acknowledgement that there were no material violations of investment policy or guidelines, and that those guidelines were recently reviewed. There were four EFIB board meetings with 86% attendance by Board members and five Board members had perfect attendance. The remaining pages of the report are an excerpt of EFIB's Strategic Plan for FY2012 and beyond.

Mr. Johnson then introduced Margaret Bird, Director, Children's Land Alliance Supporting Schools (CLASS). CLASS is a national organization that helps education interest groups work together to advocate for prudent management of School Trust assets. Idaho has a CLASS chapter and several of those members are present today as well.

Ms. Bird stated her employment is through the Utah State Office of Education, representing the beneficiaries for the State Board of Education in Utah. Ms. Bird explained that CLASS is an organization of education leaders in 20 western states. In the west, 45 million acres are granted for the purpose of supporting public schools and CLASS believes it's a very important thing to have those who speak for education be present. CLASS is very committed to developing well informed advocates on behalf of the trust lands and on behalf of the endowment funds. CLASS delegates are here in Idaho because Idaho outshines every other state in this nation in terms of its performance of its Permanent Fund. Ms. Bird offered compliments to the chairman of the Endowment Fund as well as Larry Johnson and his staff. Ms. Bird noted that Idaho has done such an outstanding job that Utah wanted to learn what Idaho is doing, emulate those good ideas and then share those ideas with the other 18 western states to urge their moving towards something similar. Ms. Bird asserted that millions of dollars are being lost to schools across the west because other states are not doing as well as Idaho. Ms. Bird expressed appreciation for this opportunity to learn from Idaho and was impressed by the EFIB meeting she attended earlier. Ms. Bird again applauded Idaho for an excellent job and offered congratulations on the Department's new Director, Tom Schultz, whom CLASS has previously worked with through the Western States Land Commission. Ms. Bird thanked the Land Board for their time.

Governor Little and the Board thanked Ms. Bird for her presentation.

4. Department of Correction Surplus Property Disposal - Cottonwood – Staffed by Kurt Houston, Operations Chief-South

DEPARTMENT RECOMMENDATION: 1) Declare the Department of Correction parcel described as the Cottonwood Property surplus state property.
2) Direct the Department of Lands to advertise the property, including mineral rights, for sale and conduct a public auction to dispose of this surplus property.

DISCUSSION: Controller Jones asked what will be the cost of asbestos abatement on this property. Director Schultz responded that the cost is included in the appraised price. The property is appraised "as-is" and asbestos abatement expense would be borne by the purchaser of the property. Governor Little commented that disclosure of the abatement would be part of the state auction process. Director Schultz concurred.

5. Disclaimer of Interest Request – Shepherd Family Limited Partnership – Staffed by Sid Anderson, Program Manager-Public Trust/Residential

DEPARTMENT RECOMMENDATION: Direct the Department to issue a disclaimer of interest for one parcel totaling 72.46 acres of the former bed of the Snake River, and to require The Nathan and Helen Shepherd Family Limited Partnership to pay the remaining processing fee of \$300 or actual cost, whichever is greater, to the Department of Lands for this transaction.

6. Approval of Minutes – October 18, 2011 Regular Meeting (Boise)

CONSENT AGENDA BOARD ACTION: A motion was made by Superintendent Luna that the Board approve the Consent Agenda as presented. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 4-0.

• **REGULAR**

7. Pending Rule IDAPA 20.03.15, Geothermal Leasing – Presented by Eric Wilson, Program Manager-Minerals

DEPARTMENT RECOMMENDATION: Direct the Department to submit the Pending Rule for IDAPA 20.03.15, "Rules Governing Geothermal Leasing on Idaho State Lands" to the 2012 legislative session.

BOARD ACTION: A motion was made by Secretary of State Ysursa that the Board approve the Department's recommendation and submit the Pending Rule to the legislature. Controller Jones seconded the motion. The motion carried on a vote 4-0.

DISCUSSION: Governor Little asked if the Department has ascertained no conflicts between these Geothermal rules and the Oil & Gas rules approved earlier during the Oil & Gas Conservation Commission meeting as there is some reference to geothermal resources in those rules. Mr. Wilson affirmed that both sets of rules are in harmony.

8. Makoff Land Exchange – Presented by Jane Wright, Strategic Business Analyst

DEPARTMENT RECOMMENDATION: The Department recommends that the Board approve the land exchange of the above referenced parcels pursuant to the terms and conditions of the Land Exchange Agreement.

BOARD ACTION: A motion was made by Controller Jones that the Board approve the land exchange pursuant to the terms and conditions of the Land Exchange Agreement. Secretary of State Yursa seconded the motion. The motion carried on a vote of 4-0.

DISCUSSION: Controller Jones agreed that this exchange makes sense for the endowments and congratulated the Department on moving forward with this exchange.

- **INFORMATION**

No Land Board action is required on the Information Agenda.

9. Asset Management Plan Update – Presented by Kathy Opp, Deputy Director

At 11:09 a.m. a motion was made by Secretary of State Yursa to resolve into Executive Session 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 seconded the motion. Governor Little called for a roll call vote. ROLL CALL – Aye: Yursa, Jones, Luna, Little; Absent: Wasden. The motion carried on a vote of 4-0.

- **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. [TOPIC: Miscellaneous Lease M-5015]
- 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. [TOPIC: 0-7 Fire]
- C. **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]

At 11:28 a.m. a motion was made by Secretary of State Yursa 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 4-0.

- **REGULAR**

10. Approval of Settlement on Miscellaneous Lease M-5015 – *Presented by Clay Smith, Deputy Attorney General*

DEPARTMENT RECOMMENDATION: The Department recommends that the settlement terms set forth be approved.

BOARD ACTION: A motion was made by Superintendent Luna that the Board approve the settlement as proposed. Secretary of State Yursa seconded the motion. The motion carried on a vote of 4-0.

11. Approval of Settlement on 0-7 Fire Case – *Presented by Steve Schuster, Deputy Attorney General*

DEPARTMENT RECOMMENDATION: The Department recommends that the settlement for \$130,000 be approved.

BOARD ACTION: A motion was made by Superintendent Luna that the Board accept the settlement as proposed. Secretary of State Yursa seconded the motion. The motion carried on a vote of 4-0.

At 11:30 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 4-0. Meeting adjourned.

