



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

Tom Schultz, Secretary to the Board

Final Minutes
State Board of Land Commissioners' Regular Meeting
April 17, 2012 – 9:00 AM

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, April 17, 2012 in Boise, Idaho. The meeting began at 9:09 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 Ysursa
Honorable Attorney General Lawrence Wasden
Honorable State Controller Donna Jones

For the record, all Board members were present with the exception of Superintendent Luna.

• **CONSENT**

1. Director's Report

- A. Interest Rate on Department Transactions – April 2012
- B. Timber Sale Activity and Information Report – March 2012
- C. Division of Lands, Minerals, Range Official Transactions – March 2012
- D. Legal Matter Summary – March 2012

DISCUSSION: On the Timber Sale and Information Report, Director Schultz stated that the Department had one timber sale last month with a 76% up bid over the appraised value. Timber volume under contract is about 433 MMBF, with a value just over \$86.5 million. Director Schultz noted harvest receipts to date are just under \$42 million. The Department has sold approximately 97% of target timber sales to date, or 234.6 MMBF. Director Schultz indicated cumulative harvest receipts year to date are approximating 2009 figures, which were \$50 million at year end.

From the LMR Official Transaction Report, Director Schultz noted a Commercial Office/Retail lease with the community center in Coolin and a lease for a compost facility (Industrial) with a rent of \$4,500/ year base plus 10% gross receipts. Director Schultz stated the Exploration Location leases are all for gold exploration.

In addition, Director Schultz commented on the Minerals Assignments from Bridge Energy/Paramax to Bridge Energy only, making Bridge Energy 100% owner of those permits. Governor Little inquired if the Department charges an administrative fee for those assignments. Director Schultz responded that a nominal assignment fee is charged. Director Schultz then pointed out several Commercial Communication Site cancellations, some of which were for nonpayment; a few are now paid in full and reinstated. Secretary of State Yursa asked if M6092, Idaho National Guard, was cancelled due to nonpayment. Director Schultz replied, yes, adding that the Department has been in negotiations with the National Guard regarding fees.

Moving to the Legal Matters Summary, Director Schultz asked Edith Pacillo, Deputy Attorney General, to provide a brief summary concerning the Hoyle case. Ms. Pacillo summarized for the Board that Mr. Hoyle was a lessee with four cabin site leases of which he assigned three. Mr. Hoyle then claimed the three leases in his bankruptcy plan and gave the impression that he also owned the fee simple. The Department objected to the bankruptcy plan and was successful in having the plan disallowed. Mr. Hoyle now has to submit a new plan, which was due on the 15th. The automatic stay was lifted on the property, so management of the property may again commence. The Department is moving forward with a lawsuit to recover funds that Mr. Hoyle received from wrongfully renting those properties. Mr. Hoyle has not filed a new plan and has asked for some extra time to which the Department will object. Mr. Hoyle has made a counterclaim against the Department of Lands arguing fraudulent representations by the Department, with damages as a result. The Department is currently formulating an answer and will defend the claim. Secretary of State Yursa asked who is representing Mr. Hoyle. Ms. Pacillo replied Mr. Hoyle's counsel is Blair Clark.

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. Outside Outlet	CR-10-0411	2,100	MBF	Bonner	Priest Lake (Coolin)
B. Mica Peak 2	CR-22-5028	1,465	MBF	Kootenai	Mica (Coeur d'Alene)
C. Upper Baldy	CR-31-0020	4,145	MBF	Kootenai	Cataldo (Kingston)
 <u>SOUTH OPERATIONS</u>				 <u>COUNTY</u>	 <u>AREA OFFICE</u>
D. Cedar Ladder Pole	CR-40-1063	335	MBF	Clearwater	Clearwater (Orofino)
		6,278	Poles		
E. Benton Divide Pole	CR-40-1090	1,315	MBF	Clearwater	Clearwater (Orofino)
		2,585	Poles		
F. Huckleberry Resale	CR-60-0188	6,715	Tons	Boise / Valley	Southwest (Boise)
G. South Williams Resale	CR-60-0191	11,684	Tons	Elmore	Southwest (Boise)

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

- A. Manager's Report - Mr. Johnson reported that distributions for FY12 and FY13 are well secured. No significant actions by the Investment Board other than as a result of organizational changes, the Board is in the process of transitioning Tradewinds Global Investors \$70 million international equity mandate to an index fund and will then consider additional action.
- B. Investment Report - Mr. Johnson stated the Endowment Fund earned 1.2% for the month of March, which puts fiscal year to date at 4%, slightly ahead of the benchmark.

DISCUSSION: Mr. Johnson noted that the Endowment Fund Investment Board will attend the May 15th Land Board meeting and give its regular semi-annual report.

Several pieces of legislation relating to either EFIB or endowment funds were mentioned. Mr. Johnson related the Investment Board currently manages the Judges' Retirement Fund. House Bill 660 was passed that provides that PERSI will take over investment of the funds once the IRS confirms the tax free status of the plan; that might not happen for several years. Governor Little inquired how long the IRS confirmation letter has been pending. Mr. Johnson replied approximately 3 years. Mr. Johnson explained House Bill 591 restructured Idaho's unclaimed property laws. The Constitution requires that unclaimed estates and unclaimed stocks and dividends of Idaho corporations must be deposited in the Public School Fund. This bill requires the Treasurer to advertise for the rightful owners to claim the property for 10 years before it is permanently transferred, giving owners more time to claim before it becomes a permanent part of the Public School Fund. Mr. Johnson reported that Senate Bill 1363 allows owners of unclaimed property of any type – money left in a savings account or utility deposit for example – to donate it to any one of several state funds including the Public School Endowment. The Investment Board expects some claimants might begin donating their property to the Endowment, but supposes those amounts would be small.

4. Timber License Plate Fee Recommendations – Staffed by Betty Munis, Director, Idaho Forest Products Commission

DEPARTMENT RECOMMENDATION: That the Board direct the Department to proceed with the recommended educational projects listed in Attachment 1 and developed jointly with the Idaho Forest Products Commission.

DISCUSSION: None.

5. Approval of Minutes – March 20, 2012 Regular Meeting (Boise)

CONSENT AGENDA BOARD ACTION: A motion was made by Attorney General Wasden that the Board adopt the Consent Agenda. Controller Jones seconded the motion. The motion carried on a vote of 4-0.

- **REGULAR**

6. FY13 Timber Sale Plan – *Presented by Bob Helmer, Bureau Chief-Forest Management*

DEPARTMENT RECOMMENDATION: Direct the Department of Lands to proceed with publication and implementation of the FY13 Timber Sales Plan.

DISCUSSION: Governor Little inquired if 247 MMBF is the end target in the Forest Asset Management Plan. Mr. Helmer replied that it is.

BOARD ACTION: A motion was made by Secretary of State Yursa that the Board adopt the Department recommendation. Attorney General Wasden seconded the motion. The motion carried on a vote of 4-0.

Background information was provided by the presenter indicated below. No Land Board action is required on the Information Agenda.

- **INFORMATION**

7. Legislative Update – *Presented by Patrick Hodges, Division Administrator-Support Services*

DISCUSSION: Secretary of State Yursa asked for an update on Senate Bill 1390 regarding certificates of insurance and how the bill may affect the Department. Director Schultz asked Deputy Attorney General Clive Strong to respond. Mr. Strong noted the primary impact of the bill is that the Department can no longer rely on certificates of insurance, which will affect some of the Department's programs. In particular the timber sales program uses certificates of insurance and some adjustments in program policy will be required. Mr. Strong commented in the cottage site program, staff examines insurance policies as a matter of procedure. Mr. Strong mentioned an aspect of S1390 is the engrossed amendment to the bill that provides certificates issued for state law programs may have an exemption. Mr. Strong indicated the Department may look at use of regulations as a way to address concerns. Governor Little encouraged deputy attorneys general to work with the Department of Insurance and determine the best policy for the State going forward. Governor Little stated many agencies count on certificates of insurance; however, insurance companies don't recognize them and the State is probably at risk unless named as an insured.

At 9:36 a.m. a motion was made by Attorney General Wasden to resolve into Executive Session pursuant to Idaho Code § 67-2345(1) subsection (c) for the purposes of considering the acquisition of an interest in real property not presently owned by a public agency. Attorney General Wasden requested that a roll call vote be taken and that the Secretary record the vote in the minutes of the meeting. Secretary of State Yursa seconded the motion. Roll Call Vote: *Aye:* Yursa, Wasden, Jones, Little; *Nay:* None; *Absent:* Luna.

