



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
May 15, 2012

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, May 15, 2012 in Boise, Idaho. The meeting began at 8:59 a.m. in the Senate and House Auditorium (Room WW02) at the State Capitol, 700 W Jefferson, Boise. The Honorable Governor C. L. "Butch" Otter presided. The following members were present:

Honorable Secretary of State Ben Ysursa
Honorable Attorney General Lawrence Wasden
Honorable State Controller Donna Jones
Honorable Superintendent Tom Luna

For the record, Governor Otter recognized the presence of all Board members.

• **CONSENT**

1. Director's Report

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

DISCUSSION: Director Schultz noted from the Timber Sale Activity and Information Report, the Department's estimated residual volume under contract is about \$90.4 million. Harvest receipts to date are at \$47.2 million. Director Schultz mentioned that Random Lengths, a publication received by the Department each month, indicates that housing starts and permits across the country are up about 20% over last year so there's a little bit of optimism in the market. Director Schultz stated the Department's FY2012 Timber Sale Program is at 104% of target: 243 MMBF including sales being approved today; target was 234.6 MMBF. Cumulative harvest receipts are nearly \$50 million and cumulative harvest volume is close to 280 MMBF (147% of 5 year average), which is tracking closely with FY2011's record year for harvest volume. Governor Otter commented on the Canadian report of beetle kill in Canada and asked if the Department expects that kind of material to come someplace else in the market and reduce prices elsewhere. Director Schultz stated he attended a briefing about a year and a half ago on the beetle activity and much of the material left is probably not going to have a lot of merchantable value to it. Director Schultz commented most of that blip on the market has already occurred. Director Schultz also noted Canada shipped a large amount over to Japan and elsewhere and the Department expects to see less of an impact in the future.

Director Schultz pointed out several items from the Lands, Minerals, Range Official Transactions, including a commercial recreation lease to an outfitter, a commercial military lease to the Air Force for a survival school at Priest Lake on Jack Pine Flats, and several navigable waters leases. Director Schultz mentioned two residential assignments with no premium rent per the new contract, and several commercial communication site leases. Recalling a remark from last month's Board meeting, Director Schultz stated the Idaho National Guard's lease is reinstated and paid. Director Schultz also noted a disclaimer of interest that granted 1.18 acres to Clearwater River Properties as well as an acquired easement which granted the Department a 25' public right of way.

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. Pole Chaser	CR-10-0407	335	MBF	Bonner	Priest Lake (Coolin)
		3,885	Poles		
B. Cat Power	CR-10-0415	1,100	MBF	Bonner	Priest Lake (Coolin)
C. Bodie	CR-20-0294	3,000	MBF	Bonner	Pend Oreille (Sandpoint)
D. North Hoodoo	CR-20-0295	5,300	MBF	Bonner	Pend Oreille (Sandpoint)
E. Naples Knob OSR	CR-21-3024	4,270	MBF	Boundary	Kootenai Valley (Bonners Ferry)
F. Mary Boehl Pole	CR-30-0557	920	MBF	Shoshone /	St. Joe (St. Maries)
		3,000	Poles	Clearwater	
G. Long Meadow	CR-41-0071	7,200	MBF	Clearwater	Ponderosa (Deary)
<u>SOUTH OPERATIONS</u>				<u>COUNTY</u>	<u>AREA OFFICE</u>
H. Casey Creek	CR-40-1093	19,075	Tons	Clearwater	Clearwater (Orofino)
I. Bartlett Forties	CR-40-1096	2,490	MBF	Clearwater	Clearwater (Orofino)
J. French Fry	CR-40-1113	6,070	MBF	Clearwater	Clearwater (Orofino)

DISCUSSION: Referring to the Pole Chaser sale, Director Schultz noted the Department has received some recent comments from several landowners that there is an eagle's nest on this sale. The Department will comply with the Bald and Golden Eagle Protection Act; there will be an area of about 330' set back from the nesting.

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

Mr. Johnson introduced Chairman Dean Buffington for this semi-annual joint meeting. Chairman Buffington introduced EFIB members present at the meeting: Richelle Sugiyama, Tom Kealey, Senator Chuck Winder, Representative Max Black and Director of Finance Gavin Gee. Chairman Buffington noted that EFIB members would hold their board meeting following the Land Board meeting. Chairman Buffington also introduced two representatives from Callan Associates: Janet Becker-Wold and Bill Howard and then asked Mr. Johnson to present the EFIB report.

Mr. Johnson recognized EFIB staff members present at the meeting: Judy Shock, Chris Halvorson, Andy Potter and Deputy Attorney General Julie Weaver.

- A. Manager's Report – Mr. Johnson stated that distributions for FY2012 and FY2013 are well secured. There were no significant actions of the Investment Board in the last month. Mr. Johnson advised that the Investment Board and Department of Lands completed a reconciliation of land management expenses for each endowment over the previous 11 years, going back to Endowment Reform in 2000. Mr. Johnson remarked that as a result, earnings reserves will rise by \$9 million to reflect cash held at the Department of Lands. EFIB financial statements will start to consolidate any endowment cash held at the Department of Lands. Mr. Johnson added that the reconciliation disclosed land management expenses for Fiscal Year 2007 for the Capitol Permanent Fund were never invoiced to, or paid by, the Capitol Commission. The Capitol Commission has been requested to reimburse the other endowments for \$48,000. Mr. Johnson stated there are no compliance or legal issues to report.

- B. Investment Report – Mr. Johnson noted April was essentially a break even month for the Endowment Fund. Mr. Johnson reported a loss just over 3% for the month of May to date making fiscal year to date positive 0.4%. Mr. Johnson advised that during the month of April EFIB completed the termination of Tradewinds Global Advisors and replaced their mandate temporarily with an index fund.

- C. Semi-Annual Report – Mr. Johnson discussed the financial summary on page 6, which covers the previous 9 months year to date for FY2012. Looking back to the previous year end, Mr. Johnson noted the total fund balance through March had gone up 4% and earnings reserves were up 3%. In that 9 month period receipts from endowment lands have been strong but are down modestly (about 4%) over the same period in FY2011. Mr. Johnson stated investment return for the first 9 months was 4%, for the previous 5 years was 4.9%. The Fund was ahead of benchmark for both the 9 months and the 5 year period.

Referring to the graph on page 7 representing endowment assets over time, Mr. Johnson noted the Fund reached a record level of assets by the end of March, over \$1.3 billion. Mr. Johnson explained the chart on page 8 is a comparison of EFIB investment performance with other public funds; lower numbers are better. The Endowment Fund had good performance vs. peers, in the top 10% over 4 years and the top 11% over 5 years. Mr. Johnson described graphs on pages 9-11 show three measures tracked by the Investment Board. Twice a year the Department of Lands provides a forecast of land revenues by endowment looking forward 3 years or more. The chart on page 9 reflects receipts received as a percentage of the forecast for just the current fiscal year. Revenues for 6 of 8 endowments are above expectations for FY2012. Page 10 shows the Earnings Reserve coverage ratio. Reserves protect distributions should there be a decline in land revenues or severe negative returns in the endowment funds. Distributions for this year and next are assured; all reserves are near or above their 5 year targets, except Public Schools which is relatively healthy at 3.3 years. Mr. Johnson commented the graph on page 11 reflects the inland lumber price, which EFIB has found useful to monitor. Exports continue to support lumber prices; despite the relatively low housing starts the last couple of years, lumber prices don't reflect the depression in the housing market seen in North America.

Mr. Johnson explained the Investment Board oversees a program to boost the credit rating of voter approved school bonds to AAA. The state has a program to improve the credit rating of school bonds to the state's credit rating of AA+ and the support of the Public School Endowment Fund raises those bonds to the highest possible rating of AAA. The Endowment Fund currently has approximately \$514 million of bonds that are guaranteed under the Credit Enhancement Program guaranteeing annual payments of \$66 million a year. For the first 9 months of FY2012 there have been \$90 million of bonds issued and guarantees issued. Most of those bonds were ones that have been refinanced in this low interest rate environment which in turn results in lower interest rates for taxpayers. Mr. Johnson stated as part of making that guarantee the Endowment Fund earns a guarantee fee, which totaled about \$19,000 over that same 9 month period. The EFIB estimates that for the school districts, the value of the lower interest rate they get from AAA rather than AA+ is about 5 to 10 times the value of what they pay the Endowment Fund for issuing its non-cancelable guarantee.

DISCUSSION: Secretary of State Yursa inquired if the \$9 million addition to the Earnings Reserves as a result of the reconciliation with the Department is reflected in this report, and asked if most of that will go into the Public School Reserve Fund. Mr. Johnson replied the figures in this report do not reflect the \$9 million; that will be reported in EFIB's audited statements at the end of the fiscal year. Mr. Johnson explained each of the endowments will see an increase but Public School will receive the largest amount at \$3 million.

4. Disclaimer of Interest – Piercy, Boise River – Staffed by Sid Anderson, Program Manager-Public Trust/Residential

DEPARTMENT RECOMMENDATION: Direct the Department to issue a disclaimer of interest for one parcel totaling 10.257 acres of the former bed of the Boise River, and to require Dale W. Piercy to pay the remaining processing fee of \$384.87 to the Department for this transaction.

DISCUSSION: Secretary of State Yursa requested clarification of the Department's recommendation, that it does include a twenty-five foot (25') public use right of way easement to be granted by Mr. Piercy. Director Schultz confirmed that is correct.

5. Approval of Minutes – April 17, 2012 Regular Meeting (Boise)

CONSENT AGENDA BOARD ACTION: A motion was made by Controller Jones that the Board adopt the Consent Agenda. Attorney General Wasden seconded the motion. The motion carried on a vote of 5-0.

• **REGULAR**

6. Negotiated Rulemaking, IDAPA 20.02.01, Rules Pertaining to the Idaho Forest Practices Act – Presented by Terry Cundy, Chairman-FPAAC, Craig Foss, Bureau Chief-Forestry Assistance, and Ara Andrea, Program Manager-Service/Regulatory

DEPARTMENT RECOMMENDATION: Direct the Department to initiate rulemaking to update IDAPA 20.02.01, Rules Pertaining to the Idaho Forest Practices Act.

DISCUSSION: None.

BOARD ACTION: A motion was made by Attorney General Wasden that the Board adopt the Department recommendation that is direct the Department to initiate rulemaking to update IDAPA 20.02.01, Rules Pertaining to the Idaho Forest Practices Act. Secretary of State Yursa seconded the motion. The motion carried on a vote of 5-0.

7. Negotiated Rulemaking, IDAPA 20.03.14, Rules Governing Grazing, Farming, Conservation, Noncommercial Recreation, and Communication Site Leases – Presented by Neil Crescenti, Program Manager-Grazing, Ag, Conservation

DEPARTMENT RECOMMENDATION: Authorize the Department to enter into negotiated rulemaking for IDAPA 20.03.14.

DISCUSSION: Governor Otter recalled an issue of concern with a lease near Blackfoot Reservoir, regarding driving cattle and ease of access to and across leases, and inquired if the rules would provide for easier access. Division Administrator Bob Brammer noted the Department did not anticipate making any changes in the rules at the starting point but stated it could be incorporated in the negotiated rules. Mr. Brammer explained the situation recalled by Governor Otter was the lease conflict between Thompson Livestock and Jay Van Orden; Thompson was not successful in retaining the lease which created a need for a trailing permit through the lease that was acquired by Van Orden. The Department was able to resolve that issue. Mr. Brammer advised that the Department will ensure that those types of concerns are considered and included in the draft lease provisions so all parties know, whether they retain the lease or acquire the lease, what the resolution will be with regard to access.

BOARD ACTION: A motion was made by Attorney General Wasden that the Board approve the Department recommendation that is that it authorize the Department to enter into negotiated rulemaking for IDAPA 20.03.14. Controller Jones seconded the motion. The motion carried on a vote of 5-0.

8. Request for Approval of Long-term Commercial Lease to Meadow Creek Project Company LLC – Presented by Bob Pietras, Program Manager-Commercial Energy Resources

DEPARTMENT RECOMMENDATION: Approve the long-term commercial lease to Meadow Creek Project Company LLC.

DISCUSSION: Governor Otter inquired how this project comports with the PUC limitation on megawatts per project. Mr. Pietras stated that Ridgeline has separated the project into two sections: one is an 80 megawatt project and the other is a 40 megawatt project, thereby staying under the requirements of the PUC.

BOARD ACTION: A motion was made by Attorney General Wasden that the Board adopt the Department recommendation that is approve the long term commercial lease to Meadow Creek Project Company LLC. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 5-0.

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

- **INFORMATION**

9. Transit Study – Presented by Kathy Opp, Deputy Director, and Roger Titmus, Strategic Business Analyst

DISCUSSION: Attorney General Wasden commented that the proposal is interesting and worthy of further examination and observed that in the future there will be a need for light rail, tram, or train to move people from the western part of the valley to Boise central. Attorney General Wasden asked how the transit center would fit in with that type of long-term planning. Mr. Titmus indicated that the Department would gather additional information following the meeting and then provide a response to Land Board members. Governor Otter inquired what portion of the \$11.9 million project funds are federal funds. Mr. Titmus replied approximately \$9 million plus, with the remaining funds provided by Capital City Development Corporation. Governor Otter advised that the Department get confirmation that the \$9 million in federal funds is secured, considering the potential budget cutbacks in Washington D.C. and the fact that the Federal Transportation Administration is now without funding and is operating under a continuing resolution. Mr. Titmus stated the Department will obtain confirmation of the federal funding.

At 9:44 a.m. a motion was made by Attorney General Wasden to resolve into Executive Session pursuant to Idaho Code § 67-2345(1) subsections (b) and (f) to consider the evaluation of a public officer or employee, and to communicate 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. 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 Ysursa seconded the motion. Roll Call Vote: *Aye:* Ysursa, Wasden, Jones, Luna, Otter; *Nay:* None; *Absent:* None.

- **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: Payette River Island]
- 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: Crown Point]
- C. Idaho Code 67-2345(1)(b) – To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student. [TOPIC: 7 Month Review – Director, Department of Lands]

At 10:41 a.m. the Board resolved out of Executive Session by unanimous consent. No action was taken by the Board during the Executive Session.

There being no further business before the Board, at 10:41 a.m. a motion was made by Controller Jones to adjourn. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 5-0. Meeting adjourned.

