



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
Brandon D. Woolf, State Controller
Tom Luna, Superintendent of Public Instruction

Tom Schultz, Secretary to the Board

FINAL Minutes
State Board of Land Commissioners' Regular Meeting
October 16, 2012

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, October 16, 2012 in the State Capitol Auditorium (Room WW02) at 700 West Jefferson, Boise, Idaho. The meeting began at 9:01 a.m. The Honorable Governor C. L. "Butch" Otter presided. The following members were present:

Honorable Secretary of State Ben Yursa
Honorable Attorney General Lawrence Wasden
Honorable State Controller Brandon Woolf
Honorable Superintendent of Public Instruction 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 – October 2012
- B. Timber Sale Activity and Information Report – September 2012
- C. Division of Lands, Minerals, Range Official Transactions – September 2012
- D. Legal Matter Summary – September 2012
- E. Fire Season Report – September 2012

DISCUSSION: Director Schultz reviewed the Timber Activity Report stating the Department is actively preparing about 10 MMBF of salvage for sale: approximately 8 MMBF fire salvage and 2 MMBF blow down at Priest Lake. Director Schultz noted timber volume under contract is 456 MMBF, with a residual value just over \$92 million. General market trends this month indicate not much activity in terms of trading; it appears industry is waiting to see what will happen as a result of the Presidential election. Director Schultz stated the Department's sales target for FY2012 is 242 MMBF, of which 57% (137 MMBF) has sold or is to be sold following approval by the Board this month. Harvest receipts remain on track with FY2009 results, which the Department anticipates will be in the \$50 million range at the end of FY2012. Director Schultz reported stumpage prices are holding flat at about \$200/MBF; putting that into perspective, September 2007 prices were about \$300/MBF and as recently as March 2012 prices were in the \$150/MBF range. Prices have ticked up in the last year which is a positive sign.

Director Schultz pointed out several exploration locations under new instruments on the LMR Transaction Report; three under endowment programs, three under public trust programs. Director Schultz noted the three exploration locations under public trust programs are on the Salmon River between Riggins and White Bird; these are exploration locations for gold. Director Schultz explained exploration locations are issued when an application is submitted to the Department; if the application is correct a certificate is issued and then the applicant can explore. After that exploration period, which is up to 2 years, an applicant can then apply for a lease with the Department to pursue dredging. At the September 18th Land Board meeting, the Department requested approval from the Board to issue a lease for potential production; whereas these on this month's report are simply exploration locations that were issued.

Director Schultz next mentioned twelve residential leases for which lessees had not paid by the due date. Nine of the twelve have since been paid; three are still pending payment and are in default. Governor Otter asked if lessees had been notified; Director Schultz replied yes, they were notified. Governor Otter then inquired what the process going forward is for those three. Director Schultz responded the Department is discussing that with legal counsel and noted that historically the lessees would be in default and would be directed to remove their improvements, or if they are in good faith trying to remove those improvements the Department could potentially issue a short term permit to allow for removal of those improvements.

Returning to the prior subject, Attorney General Wasden indicated he received a copy of a letter signed by Jonathan Oppenheimer dated October 10th, sent to Director Schultz, questioning a number of issues about those three exploration location applications. Attorney General Wasden asked, assuming the Board adopts and approves this Consent Agenda, what action is taking place today with regard to those three exploration applications, namely instruments L430004, L500016 and L500017. Director Schultz replied the Consent Agenda is in essence ministerial actions that have been taken already by the Department. The Board is being provided with information on this item as to what has occurred. These exploration locations, the certificates, have been issued. Attorney General Wasden expressed his understanding that this section of river that these permits apply to is closed or will soon be closed, and there is no activity that takes place during that closed period. Director Schultz stated that is also his understanding.

Director Schultz summarized the Fire Update Report, stating the Department as of October 1st anticipates costs to be over \$22 million. The Department expects to recover reimbursable expense of \$7.8 million, resulting in an obligation to the state of \$14.5-\$15 million. Director Schultz recapped number of fires on state land is at 40% of the 20 year average and number of acres burned is 4,500, which is about 50% of the 20 year average. Acres burned across the state of Idaho are significantly higher; a conservative number is just over 1.7 million acres.

Governor Otter noted the Mustang and the Halstead fires occurred on and near tributaries of the Salmon River where a great deal of money has been spent on salmon recovery. Governor Otter stated that Department of Fish and Game has been asked to make an estimate of how much damage will occur to salmon spawning beds following heavy rains this fall and snow melt next spring due to resulting ash and resulting erosion from those fires. In addition, the Department of Environmental Quality (DEQ) has been asked to provide an estimate of how much pollutants were put into the air as a result of these forest fires. Governor Otter noted an early estimate was 1,700,000 tons of which an additional 2.5 million tons of mercury was reactivated.

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. Just Crazy	CR-20-0302	1,990	MBF	Bonner	Pend Oreille (Sandpoint)
B. Silver Dollar Pole	CR-41-0078	2,870	Poles	Latah	Ponderosa (Deary)
		820	MBF		

<u>SOUTH OPERATIONS</u>				<u>COUNTY</u>	<u>AREA OFFICE</u>
C. North Battles	CR-40-1108	9,465	MBF	Clearwater	Clearwater (Orofino)
D. JD Black TON	CR-50-0177	19,874	TONS	Idaho	Payette Lakes (McCall)
E. Wet Gulch TON	CR-50-0178	11,840	TONS	Idaho	Payette Lakes (McCall)

DISCUSSION: Director Schultz noted that the JD Black TON and Wet Gulch TON sales are fire salvage sales. Both sales are appraised at below IDL minimum prices. Department policy for appraising sales is to take 50% of the average price for the last 4 quarters sales. The Department would like to auction these salvage sales quickly, and salvage material is often not worth what it would be at a green sale, so minimum price is set low to encourage bidding.

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

- A. Manager’s Report
- B. Investment Report

DISCUSSION: Mr. Johnson stated Endowment Fund reserves are strong partly as a result of strong land revenues as reviewed by Director Schultz earlier in this meeting. Mr. Johnson remarked there were no significant actions of the Investment Board and no issues or areas of concern to report. Mr. Johnson noted that all Investment Board members will be attending the November 20th Land Board meeting. Mr. Johnson reported the Fund ended September with a value of \$1.34 billion, which may be a record. The investment return during the month of September was 2% which brought fiscal year to date returns to 5.5%. Thus far year to date investment funds are running ahead of benchmark, and all investment managers are performing as expected.

4. Results of 2012 Auctions for Conflicted Grazing Leases – Staffed by Neil Crescenti, Program Manager-Grazing, Ag, Conservation

DEPARTMENT RECOMMENDATION: Direct the Department to award the leases listed in Attachment 1 to the high bidders of each respective auction.

DISCUSSION: Director Schultz reported the Department had 18 conflict auctions. The results recorded in this agenda item include 16 of the 18; one conflict auction was appealed and will be presented later in today's meeting; one conflict auction was not completed in time for this month's agenda. Director Schultz noted all except one of the 16 lease auction were for renewals; one was for unleased lands that were acquired through the Makoff land exchange. Director Schultz explained the Department generated about \$533,000 through these premium bids. The Department generates on average gross revenues from the grazing program of just under \$2 million a year; premium bids from these 16 leases alone constituted approximately 25% of the

gross revenue to be generated from the grazing program. Director Schultz added that the Department has 1,175 grazing leases throughout the state; 1.77 million acres are grazed, with 260,000 AUMs across state lands. Director Schultz remarked that competition on these grazing leases is a significant factor in revenue generation. The average price for these conflict auctions constituted a \$10.00/AUM premium, more than doubling the minimum rate of \$6.00/AUM. Director Schultz noted many of these tracts have good access and productivity which elevated premium bids on these leases. Governor Otter agreed with the value of competition and commended the Department's efforts. Governor Otter recalled that five years ago when some of these leases were started and now are in conflict, feeder calves were about \$0.90; today they are \$1.37. Weaned calves at 550 lbs are at \$1.50, where they were at \$1.10. Governor Otter reasoned the value of the market is also expressing itself in lease prices.

5. Approval of Minutes – September 18, 2012 Regular Meeting (Boise)

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

- **REGULAR**

6. Appeal of Lease G7000129 Conflict Auction Results – Presented by Neil Crescenti, Program Manager-Grazing, Ag, Conservation

DEPARTMENT RECOMMENDATION:

1. The Board reject the appeal submitted by Devil Creek Ranch (Existing Lessee).
2. Direct the Department to accept the high bid of \$6,000 and award lease G700129 to Jerry Russell Robinson (Conflictor).

DISCUSSION: A verbatim transcript is available by request to the Department of Lands, Attn: Land Board Recorder, PO Box 83720, Boise, Idaho 83720-0050 or by email to public_records_request@idl.idaho.gov.

BOARD ACTION: A motion was made by Secretary of State Ysursa that the Board approve the Department recommendation. Attorney General Wasden seconded the motion. The motion carried on a vote of 5-0.

- **INFORMATION**

NONE

At 9:49 a.m. a motion was made by Attorney General Wasden to resolve into Executive Session pursuant to Idaho Code § 67-2345(1) subsections (c) and (f) for the purposes of considering the acquisition of an interest in real property not presently owned by a public agency 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, Woolf, 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: Tamarack]
- B. Idaho Code 67-2345(1)(c) – to conduct deliberations concerning labor negotiations or to acquire an interest in real property which is not owned by a public agency. [TOPIC: MOSS Campus LEX]
- 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. [TOPIC: Bank of America Settlement]

At 10:06 a.m. the Board resolved out of Executive Session by unanimous consent. No action was taken by the Board during the Executive Session.

- **REGULAR**

7. Approval of Settlement with Bank of America – Presented by Edith Pacillo, Deputy Attorney General

DEPARTMENT RECOMMENDATION: The Department recommends that the settlement be approved in principal and authorize the Director to approve the final language for the stipulated judgment, in consultation with the Office of the Attorney General.

DISCUSSION: Ms. Pacillo explained the reason for asking that the settlement be approved in principal is because language in the stipulated judgment has not yet been finalized. Ms. Pacillo expressed confidence in granting the Director discretion, in consultation with the Office of the Attorney General, to finalize the language. Governor Otter reaffirmed that if the Board consents and adopts the Department's recommendation, then the Director is authorized to proceed and finalize the settlement. Governor Otter queried that no material change to the final language is anticipated. Ms. Pacillo replied that Bank of America has agreed to everything requested in the Complaint and there is no reason to expect any deviation.

BOARD ACTION: A motion was made by Attorney General Wasden that the Board approve the Department recommendation. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 5-0.

There being no further business before the Board, at 10:09 a.m. a motion was made by Attorney General Wasden to adjourn. Controller Woolf seconded the motion. The motion carried on a vote of 5-0. Meeting adjourned.

