



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
November 20, 2012

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, November 20, 2012 in the State Capitol Auditorium (Room WW02) at 700 West Jefferson, Boise, Idaho. The meeting began at 9:00 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 (*via conference phone*)

For the record, Governor Otter recognized the presence of all Board members, with Superintendent Luna joining the meeting by conference phone.

• **CONSENT**

1. Director's Report

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

DISCUSSION: Director Schultz noted from the Timber Sale Activity Report that the Department has 452 MMBF of timber under contract worth \$91 million. Timber harvest receipts to date are just over \$25.4 million, which is roughly half of the receipts expected for FY2013. Director Schultz remarked that market trends show some indication of confidence in the housing market; housing starts jumped in September to the highest level since mid-2008. There has been some reports in the papers about lumber exports from Idaho that have grown significantly between 2009-2011; specifically Idaho Forest Group suggested that almost 1/8th of their production went to Asia. Director Schultz stated the Department has sold about 150 MMBF to date, which is 62% of harvest target for FY2013. The Department's harvest receipts are on a trajectory similar to FY2008; total receipts for FY2013 are anticipated to be somewhere in the \$50-\$55 million range. Harvest volume is tracking roughly with FY2012 which had a record harvest level of 330 MMBF; the Department

could likely be in the 300 MMBF harvest level for FY2013. Director Schultz commented that stumpage prices have been steady for the last several months, holding at about \$200/MBF.

Attorney General Wasden noted the Department has increased its timber harvest, in part due to some bores that needed to be removed. Attorney General Wasden asked how far into the future that sustained cut will continue.

Director Schultz replied there is a term used in forestry called non-declining even flow where the same amount of volume is harvested over time. At some point a prediction can be made about a fall down effect where there is a drop in that volume and it is no longer sustained. Director Schultz stated that he and State Forester David Groeschl have discussed the Department's harvest volume and they agree that current harvest volume is suitable for some period of time, probably another 10-20 years. The Department will re-run the model in the next 3-5 years to determine if there is a fall down effect from the current level of harvest. Director Schultz noted at this time there is not a projected date that volume is expected to drop down; it will be based on mortality, fires, and other measures. Director Schultz remarked that where the volume comes from will shift over time. The Department has seen reduced volume in southern Idaho, and increased harvest in the northern part of the state. Director Schultz restated that the Department will run a model in the next few years and will brief the Land Board at that time.

Governor Otter recalled in 2007 the Department harvested 213 MMBF but was 2 billion board feet behind in its model for sustainable yields and sustainable cut. Governor Otter asked where the Department is on that 2 billion now.

Director Schultz responded that it is not as simple as reporting, for instance, that an additional 30 MMBF has been harvested over the last 3 years to reduce that 2 billion because growth is occurring at the same time. The Department has brought that number down but it is not a significant number; average growth rates are in the range of 250 board feet per acre per year with some of the better sites far in excess of that. The Department continues to bring that 2 billion down but for every additional MMBF, timber is also growing; it is not a one-for-one relationship.

Governor Otter inquired if the Department is focusing at all on the larger trees in the larger plots. Governor Otter noted that once the trees get over about 28" in girth they tend to be more difficult to sell because only four mills in the state have a carriage that can handle trees over 28".

Director Schultz replied that the Department does continue to harvest essentially all age classes and all species on its sites. The monthly timber sales brought before the Board show a fair degree of even age management occurring on the landscape. Director Schultz commented that there are some treatments in southern Idaho where select pine might be left for seed trees but primarily harvest that is occurring is even age management; those larger trees are being harvested as well. The Department will occasionally see a discount for larger trees, but they are still selling on the marketplace.

Referring to the LMR Transaction Report, Director Schultz remarked on the many oil and gas leases listed. Those are a result of the August 3rd auction the Department held, offering leases on large tracts of ground on the Payette River. Director Schultz stated there is a setback on those tracts; drilling in the riverbed is not permitted activity. Director Schultz commented the Department

reinstated 7 residential leases that had defaulted for late payments. An additional 6 sites were also in default status; one lessee has since made payment. The remaining five lessees were sent notice on November 13 that they have 20 additional days to provide insurance. Director Schultz noted two land sale transactions on the report. The first one, Ironwood Investors, was a Department of Corrections transaction that the Department facilitated. The other sale was a Forest Service sale that involved Idaho Fish and Game. Those sales involved non-endowment lands.

Director Schultz commented on the Fire Season Update, to put this fire season in perspective, Idaho burned over 1.7 million acres statewide; nationally that number was about 9.1 million acres. Governor Otter asked if those were federal lands. Director Schultz replied that number is for all ownership, including federal. Idaho's 1.75 million acres represents nearly 20% of the national total. The Department protects about 6 million acres across Idaho, not only state lands. This year 4,674 acres burned in the Department's protection area, approximately half of the 9,100 acre historic average. Director Schultz reported that the Department spent an estimated total of \$22.7 million dollars. The Department will recover just over \$8 million in reimbursable to the state for a net obligation of \$14.5 million. Department staff took significant assignments out of state and several staff are still helping with the aftermath of Hurricane Sandy. Director Schultz remarked that it was a long, substantial fire season, continuing into October. Many Department employees gave tremendous effort, and tragically there was one firefighting fatality in Idaho, Anne Veseth, who fought on the Steep Corner fire.

Governor Otter observed that 101 of the 182 total number of fires in the Department's protection area were human caused. Governor Otter inquired if there is recovery above and beyond the \$8 million. Director Schultz replied that the Department, with legal counsel, does vigorously pursue recovery for human caused fires and is involved in some fire investigations. Director Schultz stated that the Department has not projected those recovery numbers in the reimbursable estimates.

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. Hoodoo Valley	CR-20-0303	4,000	MBF	Bonner	Pend Oreille (Sandpoint)
B. Omega Pole	CR-41-0070	7,480	Poles	Clearwater	Ponderosa (Deary)
		2,275	MBF		
<u>SOUTH OPERATIONS</u>				<u>COUNTY</u>	<u>AREA OFFICE</u>
C. Decision Saddle	CR-40-1117	5,525	MBF	Clearwater	Clearwater (Orofino)

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

- A. Manager's Report
- B. Investment Report
- C. EFIB Annual Report

DISCUSSION: Dean Buffington, Chairman of the Endowment Fund Investment Board, explained that EFIB members are meeting with the Land Board as one of two semi-annual meetings wherein the EFIB provides the Land Board with an update of EFIB activities and presents an audit report of EFIB's

most current financial statements. Chairman Buffington introduced other EFIB members in attendance: Gavin Gee, Board Vice Chairman; Warren Bakes; Representative Max Black; Tom Kealey; Sue Simmons, Compensation Committee Chair; Richelle Sugiyama; John Taylor, Audit Committee Chair; Senator Chuck Winder. Chairman Buffington also introduced Gary Mahn, who is considering serving on the EFIB. Chairman Buffington then introduced Larry Johnson, Manager of Investments for the Endowment Fund Investment Board to present the EFIB report.

Attorney General Wasden expressed to Chairman Buffington his and the Land Board's appreciation for the significant time, effort and service that all Investment Board members contribute to the people of Idaho.

Mr. Johnson first introduced Investment Board staff members: Chris Halvorson, Investment Officer; Andy Potter, Fiscal Officer; and Judy Shock, Administrative Manager. Mr. Johnson also introduced: Janet Becker-Wold, asset consultant from Callan Associates, Denver; Bobby Lawrence, audit firm representative from Eide Bailly, Boise; Nick Bratt and Ellen Cohen, investment management representatives from Lazard Asset Management, New York; and Rhet Hulbert, investment management representative from Clearwater Advisors, Boise.

Mr. Johnson began by covering the standard monthly report, stating there were no compliance or legal concerns. Mr. Johnson then reviewed a graph comparing actual land revenues with the Department of Lands' conservative prediction in July. Through October of this year, the endowments received 54% of the year's total forecasted revenues, which is well ahead of average. Historically the endowments have received about 39% at this point in the year. Mr. Johnson noted that the current level of land revenues is ahead of the conservative cash flow forecast that was presented when distribution rates were set last August. The EFIB also evaluates current reserve levels as measured in terms of years of coverage. Endowment Fund returns have been ahead of the conservative forecast made in August which, when combined with above average revenue from the land base, has kept reserves in good shape. Mr. Johnson stated that all endowments except Public School have at least 4.5 years of annual distributions in reserve. Public School is at 3.5 years now, almost a year more than at this time last year; Public School reserves are headed in the right direction. The Endowment Fund will finish this year and next year with sufficient reserves to maintain the current level of distributions into FY2015 and beyond.

Mr. Johnson commented on the investment report, stating the Endowment Fund lost 1% in October, but fiscal year to date through the end of October is up 4.5% which is about 20 basis points ahead of the benchmark. All active managers are performing as expected in this market environment. Mr. Johnson then explained two charts comparing the Endowment Fund to public fund peers. In the first chart, the length of the bars from the top to the bottom shows the range of returns that other public funds have reported over various periods. Idaho outperformed its peers in every time period shown: one year, two years, three years, four years, five years. In this ranking a lower number is better and the Endowment Fund is at the 18th percentile versus other public funds over five years. Mr. Johnson remarked that one way to obtain outstanding investment results over short periods of time is to take a lot of risk so the EFIB is cognizant of risk. Mr. Johnson noted the second chart shows the risk/return trade-off. Endowment Fund returns are somewhat above average, as is the risk. The EFIB is comfortable taking a little more risk and getting a little more return.

Mr. Johnson covered the EFIB annual report, stating it is important that any fiduciary, including the Land Board, ensure that the experts to whom tasks are delegated are actually performing the duties that they have been given. The Investment Board gives its formal acknowledgement that there are no material violations of investment policy and that those guidelines were recently reviewed at the Investment Board's February meeting. The Board held four meetings for the year ended October. The Board had 81% attendance at its meetings with 6 members having perfect attendance during that year period. Mr. Johnson noted the report includes an excerpt of the EFIB's strategic plan with goals and objectives, and key performance measures.

John Taylor, EFIB Audit Committee Chair, provided a summary of the FY2012 financial statement audit. The audit report again this year shows an unqualified opinion; all the assets that should be in the Endowment Fund have been accounted for. Total assets of the Fund are about \$1.3 billion. The audit work found nothing to report on compliance and internal controls of the Fund. Mr. Taylor stated that again this year, with cooperation of Department of Lands, the EFIB's auditor performed some audit procedures at the Department. This was instituted after the legislative auditor cut back on their annual review. There are no transactions or items to be reported. Mr. Taylor concluded that the audit report resulted in a very clean opinion again this year.

Secretary of State Ysursa observed that this will be Mr. Taylor's last meeting with the Endowment Fund Investment Board and thanked him for his service; Secretary of State Ysursa wondered how many years Mr. Taylor had served on the Investment Board. Mr. Taylor responded that Governor Batt appointed him and he was reappointed twice after that, serving a little over 15 years in total. Mr. Taylor noted the audit committee was formed about 7 years earlier, resulting in improved structure; members serving on the committee have helped produce a very clean audit report these past few years. Governor Otter also thanked Mr. Taylor, and presented him with a letter of appreciation on behalf of the Land Board members.

4. Results of Auction for Conflicted Grazing Lease G800148 – Staffed by Neil Crescenti, Program Manager-Grazing, Ag, Conservation

DEPARTMENT RECOMMENDATION: Direct the Department to award the lease shown in Attachment 1 to the high bidder at auction, Chad Barchard.

DISCUSSION: None.

5. Approval of Minutes – October 16, 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. Pending Rule for IDAPA 20.02.01 – Idaho Forest Practices Act – Presented by Ara Andrea, Program Manager-Service/Regulatory

DEPARTMENT RECOMMENDATION: Direct the Department to submit the Pending Rule for IDAPA 20.02.01, *Rules Pertaining to the Idaho Forest Practices Act*, to the Office of the Administrative Rules Coordinator for the 2013 legislative session.

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 Attorney General Wasden that the Board approve the Department recommendation. Secretary of State Yursa seconded the motion. The motion carried on a vote of 5-0.

7. Pending Rule for IDAPA 20.03.14 – Grazing, Farming, Conservation, Noncommercial Recreation and Communication Site Leases – Presented by Neil Crescenti, Program Manager-Grazing, Ag, Conservation

DEPARTMENT RECOMMENDATION: Direct the Department to submit the Pending Rule for IDAPA 20.03.14 - *Rules Governing Grazing, Farming, Conservation, Noncommercial Recreation, and Communication Site Leases* to the Office of the Administrative Rules Coordinator for the 2013 legislative session, with changes as presented today.

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 Attorney General Wasden that the Board approve the Department recommendation, subject to modification of Rule 20.03.14.001.02 to provide for lease terms no longer than twenty (20) years as described and as proposed by the Department. Secretary of State Yursa seconded the motion. The motion carried on a vote of 5-0.

8. Pending Rule for IDAPA 20.03.15 – Issuance of Geothermal Resource Leases – Presented by Bob Pietras, Program Manager-Commercial Energy Resources

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 Office of the Administrative Rules Coordinator for the 2013 legislative session, with changes as presented today.

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 Attorney General Wasden that the Board approve the Department recommendation, subject to the inclusion of a provision recognizing that leases are subject to conflict auction in the event of two or more applicants, and modification of rule 20.03.15.070.01 clarifying that the lessee is required to acquire water rights in the name of the State. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

9. Request for Land Bank Purchase – 2012 Payette Drive, McCall, ID – Presented by Roger Titmus, Strategic Business Analyst

DEPARTMENT RECOMMENDATION: The Department recommends purchase of the personal property located at 2012 Payette Drive, McCall, ID under the terms and conditions of the attached Letter of Intent.

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 Attorney General Wasden that the Board approve the Department recommendation. Secretary of State Yursa seconded the motion. The motion carried on a vote of 5-0.

10. Request for Land Bank Purchase – 2020 Payette Drive, McCall, ID – Presented by Roger Titmus, Strategic Business Analyst

DEPARTMENT RECOMMENDATION: The Department recommends purchase of the personal property located at 2020 Payette Drive, McCall, ID under the terms and conditions of the attached Letter of Intent.

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 Attorney General Wasden that the Board approve the Department recommendation. Secretary of State Yursa seconded the motion. The motion carried on a vote of 5-0.

11. Request Approval of Land Exchange – UI Forestry Camp at McCall for Idaho Falls Property – Presented by Jane Wright, Strategic Business Analyst

DEPARTMENT RECOMMENDATION: The Department recommends that the Board approve the land exchange between the Idaho Department of Lands and IW4, LLC pursuant to the terms and conditions of the Land Exchange Agreement (Attachment 4).

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 Attorney General Wasden that the Board approve the land exchange between the Idaho Department of Lands and IW4, LLC pursuant to the terms and conditions in the Land Exchange Agreement as proposed. Secretary of State Yursa 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**

12. Lease Advertising and Application Processing – Presented by Mike Murphy, Bureau Chief-Surface, Minerals, Range

13. Cottage Site Lease Template – Summary of Comments – Presented by Sid Anderson, Program Manager-Public Trust/Residential

14. Cottage Site Plan Update – Presented by Kathy Opp, Deputy Director

At 10:52 a.m. a motion was made by Attorney General Wasden to resolve into Executive Session pursuant to Idaho Code § 67-2345(1) subsection (f) 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. Controller Woolf seconded the motion. Roll Call Vote: Aye: Yursa, 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: Payette Lake Cottage Site Plats]

At 11:49 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 11:50 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.

