



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
May 21, 2013

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, May 21, 2013 in the State Capitol Lincoln 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.

1. Director's Report

- A. Interest Rate on Department Transactions – May 2013
- B. Timber Sale Activity and Information Report – April 2013
- C. Division of Lands and Waterways Activity and Information Report – April 2013
- D. Legal Matter Summary – April 2013

DISCUSSION: Director Schultz noted that the interest rate on Department transactions is 3.25% for the month; the rate has fluctuated between 3.25 and 3.5% since the beginning of the fiscal year.

Director Schultz reported from the Timber Sale and Activity Report that the Department sold five timber sales last month, with an average 129% upbid over the advertised value. The volume under contract is just over \$86.5 million and nearly 414 MMBF. The Department's timber harvest receipts to date this year are approximately \$53 million, with an additional \$1 million anticipated in the next month; harvest volume is at 250 MMBF for the year. Both harvest receipts and harvest volume are closely tracking with FY2011. The Department has seen improvement in prices, with some in excess of \$400/MBF, twice the average over the last 4-5 years. Director Schultz commented there has been a slight decrease this month due to weather conditions. However, first quarter of 2013 the northwest log prices have reached a level not seen since 2006 indicating somewhat of a recovery. Director Schultz noted in part it is tied to the housing market; construction is expected to continue with slow but steady growth through 2013. Additionally, since the recession low in mid-2009 prices for logs in the Inland region are up by a

third. Director Schultz stated the Department is at 98% of its FY2013 target for sawlog sales and 103% for cedar poles. The Department has begun selling some sales for FY2014 and is about 21% through the FY2014 sale program.

Director Schultz mentioned most of the Lands & Waterways Division transactions, which occurred in the prior month, are leases, lease renewals and some easements that were either issued by the Department or acquired by the Department with nothing substantive to point out.

Director Schultz noted there will be some discussions later in Executive Session regarding items on the Legal Summary and asked that questions be deferred until then.

2. Endowment Fund Investment Board Manager's Report – *Presented by M. Dean Buffington, EFIB Chair, and Larry Johnson, EFIB Manager of Investments*

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

Chairman Dean Buffington introduced EFIB members present at today's semi-annual joint EFIB/Land Board meeting: Representative Neil Anderson, Senator Chuck Winder, Warren Bakes, Tom Kealey, Richelle Sugiyama, Sue Simmons and Gary Mahn; Vice Chairman Gavin Gee was unable to attend due to another commitment. Chairman Buffington mentioned that EFIB held an educational meeting on Monday evening, May 20th, for the benefit of the three new members appointed within the last year. EFIB staff, EFIB's investment consultant, Callan Associates, and Julie Weaver, Deputy Attorney General, went through a history and a purpose of the Endowment Fund.

Attorney General Wasden extended a thank you to Chairman Buffington and the Investment Board for the dedicated service that they render to the people of the state of Idaho and the effort investing these funds wisely for the purpose of serving the beneficiaries, primarily school children.

DISCUSSION: Larry Johnson stated that Fund reserves are growing and strong due to higher than expected land revenues as well as increased investment returns. There were no significant actions of the Investment Board and no concerns to report. Mr. Johnson introduced Janet Becker-Wold and Bill Howard of Callan Associates; Stephen Nimmo from Sands Capital out of Arlington, Virginia; Chris Halvorson and Andy Potter from EFIB; and Julie Weaver, EFIB's Deputy Attorney General. Mr. Johnson commented that these individuals all contribute to the positive results the Endowment Fund is experiencing.

Mr. Johnson pointed out for the month of April the Fund was up 1.6%; slightly behind benchmark but for the fiscal year to date the Fund is ahead and for the last five years active management has added about 130 basis points (1.3%) to the returns of the fund. Mr. Johnson added that the Fund thus far through May is up another 2.6% so the fiscal year to date return at this point is over 19%. All investment managers are performing as expected. Mr. Johnson called special attention to Sands Capital, noting that over the last 3 years Sands Capital had the highest return relative to its benchmark.

Mr. Johnson reported on the fiscal year to date summary from the semi-annual report: the key number for the first nine months of this year is 14%. The Fund balance increased a total of 14%, the total Fund balance earnings reserves are up 14%; receipts from endowment lands are up 14% compared to the nine month period in 2012 and the investment return of the Fund was a little over 14% over the last nine months. That was 160 basis points above benchmark and 140 basis points above benchmark for the last five years. Mr. Johnson noted the Fund reached a record level at the end of March; with another 2.6% return in April as well as some strong deposits from the Department of Lands, the Fund is now over \$1.5 billion as of today. Mr. Johnson stated the Endowment Fund continues to perform above average relative to other public funds in the nation that are tracked by Callan Associates.

Mr. Johnson summarized certain measures the Investment Board regularly evaluates. One is how land revenues are coming in relative to the forecast presented last August. That forecast is used to look at whether distributions are sustainable; much of that depends on whether land revenues come in as expected. All endowments land revenues are coming in at or above expectations thus the strong performance in terms of reserves. The Investment Board also measures reserves in terms of years of coverage; all endowments are above the 5 year target with the exception of Public Schools which has a very respectable 3.9 years coverage. Mr. Johnson commented that another indicator EFIB considers, to give an insight into what future land revenues might be, is what prices the Department of Lands' timber sale customers are getting for lumber products. Lumber prices hit their highest level in 8 1/2 years in the month of April. Prices have taken a bit of a downturn so far in May but in general this indicates customers are profitable and can afford to purchase large quantities of Department timber in the months to come.

Mr. Johnson finished with a brief update on the School Bond Credit Enhancement Program. The Investment Board currently has approximately \$498 million under guarantee; during the first nine months EFIB issued guarantees on \$65 million of school bonds. This program generated income for the Fund of about \$17,000 over that period, but perhaps more important is the value provided to the school districts. What they will save in interest costs for them and for their taxpayers was on average about 15 times the cost of that fee.

- **CONSENT**

3. 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. Goosey Bear	CR-10-0414	1,150	MBF	Bonner/Boundary	Priest Lake (Coolin)
B. Watering Hole	CR-10-0417	3,400	MBF	Bonner	Priest Lake (Coolin)
C. Trap Back	CR-10-0418	1,900	MBF	Bonner	Priest Lake (Coolin)
D. Koch Creek Commercial Ton	CR-20-0286	21,939	TON	Bonner	Pend Oreille (Sandpoint)
E. Long Bear	CR-41-0049	8,980	MBF	Clearwater	Ponderosa (Deary)
F. Cold One	CR-41-0076	6,790	MBF	Clearwater	Ponderosa (Deary)
G. Schwartz Hollow	CR-41-0077	7,265	MBF	Latah	Ponderosa (Deary)
H. Bench Rest	CR-41-0081	5,090	MBF	Latah	Ponderosa (Deary)

SOUTH OPERATIONS

					<u>COUNTY</u>	<u>AREA OFFICE</u>
I.	Kitty Litter Pulp	CR-42-5059	7,660	MBF	Clearwater	Maggie Creek (Kamiah)
J.	Burnt Grade Ton	CR-60-0180	37,682	TON	Elmore	Southwest (Boise)
K.	Warm Springs Creek Ton	CR-60-0187	38,072	TON	Boise	Southwest (Boise)

DISCUSSION: Governor Otter noticed a sizeable difference in the fire suppression rate between sales and asked the reason for the difference; for instance Sale E compared to Sale K. Director Schultz replied some sales are ton sales and some sales are per thousand board feet; it should be the same rate, but the calculation going from TON to MBF will display differently. Governor Otter inquired why the rate is not calculated by acre since that is what is being protected. State Forester David Groeschl responded the rate is based on the amount of volume removed; the hazard depends on the volume per acre that is removed and the slash that is left behind.

4. Approval of Modification #3 of the Old Style Timber Sale (TS-30-3841) – Staffed by Roger Jansson, Operations Chief-North

DEPARTMENT RECOMMENDATION: Approve Modification #3 of the Old Style timber sale, TS-30-3841.

5. Approval of Minutes – April 16, 2013 Regular Meeting (Boise)

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

● **REGULAR**

6. Pilgrim Cove Lot Solutions – Presented by Kate Langford, Strategic Business Analyst-Planning

DEPARTMENT RECOMMENDATION: The Department recommends that the Land Board approve:

1. Pilgrim Cove Lot Solutions Package
2. Direct the Department to circulate the Draft Covenants, Conditions and Restrictions for State Subdivision - Cove Replat for comment by The Cove Association membership.

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 Pilgrim Cove Lot Solutions Package as it has been described and also direct the Department to circulate the Draft Covenants, Conditions and Restrictions for this State Subdivision - Cove Replat for comment by The Cove Association membership. 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**

7. 2013 Voluntary Auction for Ownership Cycle-Payette Lake – Presented by Kate Langford, Strategic Business Analyst-Planning

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.

8. Kaseburg v. State Decision – Presented by Steve Schuster, Deputy Attorney General

At 9:55 a.m. a motion was made by Attorney General Wasden to resolve into Executive Session pursuant to Idaho Code § 67-2345(1) subsection (f) for the purpose of communicating 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 Yursa 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: Settlement of Pippenger Quiet Title Complaint]
- 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: Suci Settlement Agreement]
- 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: Cottage Site Appraisals]

At 11:45 a.m. the Board resolved out of Executive Session by unanimous consent. No action was taken by the Board during the Executive Session.

- **REGULAR**

9. Approval of Settlement of Pippenger Quiet Title Complaint – Presented by Steve Schuster, Deputy Attorney General

DEPARTMENT RECOMMENDATION: Approve the execution of the attached disclaimer of interest.

DISCUSSION: None.

BOARD ACTION: A motion was made by Attorney General Wasden to approve execution of the attached Disclaimer of Interest DI400000. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 5-0.

10. Priest Lake Plan – Presented by Kathy Opp, Deputy Director-Lands & Waterways

DEPARTMENT RECOMMENDATION: The Department recommends approval of the 2014 Cottage Site Appraisal Process as outlined in Attachment 1.

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 three part motion was made by Attorney General Wasden: 1) that the Department schedule a conflict auction for those cottage sites where a conflict application has been filed; 2) that a reappraisal be offered to any applicant that has a pending challenge to the appraised value of the cottage site; 3) that the Department proceed with the proposed lease application process described in Attachment 1. Superintendent Luna seconded the motion. The motion carried on a vote of 5-0.

At 12:19 p.m. a motion was made by Attorney General Wasden to amend the agenda for the meeting. This motion was made pursuant to Idaho Code § 67-2343(4) subsection (c) which provides that an agenda may be amended after the start of the meeting upon a motion that states the reason for the amendment and states the good faith reason the agenda item was not included in the original agenda posting. The purpose for this motion was that the matter regarding the settlement of the Kimberly Suciu and Scott Suciu matter needed to be brought before the Board; the matter was properly noticed in the Executive portion of the meeting agenda but was not included as a Regular agenda item. The good faith reason that the agenda item was not included in the original posting is because the settlement offer was still being developed yesterday – that is May 20, 2013 – at the time of the posting. Attorney General Wasden's motion therefore was to amend the agenda to include as a regular agenda item the resolution of the Kimberly Suciu and Scott Suciu matter. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

11. Suciu Settlement Agreement – Presented by Edith Pacillo, Deputy Attorney General

BOARD ACTION: A motion was made by Attorney General Wasden to authorize the Director to enter into a settlement agreement with Kimberly Suciu and Scott Suciu regarding the Department's claims for rent on 1982 Warren Wagon and 935 Chipmunk Trail in McCall, Idaho. The agreement will have the following elements: the Suciuses will pay the Department \$50,000 within two days of signing the agreement; the Suciuses will release the Department from any claims they have regarding the real property or the improvements; the Suciuses will assist with clearing title to the properties if necessary; the agreement will not prejudice the Department's claims against Richard Hoyle in bankruptcy case no. 12-06013-TLM; the Suciuses shall not take a position adverse to the Department's position in the bankruptcy case. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

DISCUSSION: Following the Attorney General's motion, Donna Jacobs, a resident at 910 Chipmunk Trail in McCall, Idaho, requested to give testimony regarding this matter. Governor Otter agreed to make an exception with the consent of the Board but stated that normally after a motion has been made and seconded only the maker of the motion and those affected in the vote are then allowed to discuss the issue. Governor Otter allowed this exception because it was an item that was brought up during Executive Session and was not published.

Ms. Jacobs commented she has no objection to the motion but explained she has had no understanding about what it entails; she resides at the property next door. At 12:23 p.m. the Board went at ease subject to call of the Chair. At 12:24 p.m. the Board resumed. Governor Otter noted that prior to going at ease the Board was discussing a motion as made by Attorney General Wasden. Governor Otter asked Deputy Attorney General Edith Pacillo to describe the settlement details. Ms. Pacillo stated in April 2013 the Department made a written demand for rent to Kimberly Suciu and Scott Suciu of 1982 Warren Wagon and 935 Chipmunk Trail. The claim is for rent that has been owed over the past few years. The proposal before the Board today relates to a settlement offer made by the Suciuses. The elements of the settlement offer are that they would pay \$50,000 to the Department within two days of signing the agreement and that the Suciuses will release the Department from any claims that they may have against the real property or the improvements; the Suciuses will assist in clearing title to the properties if that becomes necessary and the Suciuses will not prejudice the Department's claims against Richard Hoyle who the Department has a lawsuit against in the bankruptcy court. Governor Otter asked Ms. Jacobs if she had any questions. Ms. Jacobs explained she has been trying to follow that property for quite some time and wanted to get on record as having some interest in the property so that she can be notified in the future about what is happening there. Ms. Jacobs thanked the Governor for allowing her to speak. Ms. Pacillo added that it might be of benefit to Ms. Jacobs to know that the settlement agreement has nothing to do with the use that the property will be put to; that is an issue for the Department of Lands on a separate basis. Ms. Jacobs affirmed that her concern is the future use of the property and again thanked the Board for their consideration.

At 12:27 p.m. Attorney General Wasden called for the question and the Board acted upon the Attorney General's motion as described above.

