



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 15, 2013

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, October 15, 2013 in the State Capitol, Senate Hearing Room WW55, 700 West Jefferson, Boise, Idaho. The meeting began at 9:03 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 (*via teleconference*)
Honorable State Controller Brandon Woolf
Honorable Superintendent of Public Instruction Tom Luna

For the record, Governor Otter recognized the presence of all Board members with Attorney General Wasden joining the meeting via conference phone.

1. Director's Report

- A. Interest Rate on Department Transactions – October 2013
- B. Timber Sale Activity and Information Report – September 2013
- C. Division of Lands and Waterways Activity and Information Report – September 2013
- D. Legal Matter Summary – September 2013
- E. Fire Season Report – September 2013

DISCUSSION: Director Schultz reported the interest rate for Department transactions is 4.25% for October.

On the Timber Sale Activity report, Director Schultz noted the Department sold seven sales at auction last month, three of which were fire salvage sales. The average price was \$177/MBF, which is lower than typically expected for green sales, due in part to the salvage sales. The Department did receive very good prices for those salvage sales, however. Director Schultz stated the Department has 508 MMBF under contract at a value just over \$111 million. Timber harvest receipts for September were \$7.3 million, with interest over \$800,000; that is a very good month for timber receipts. The Department has a similar projection for October, over \$8 million expected in harvest receipts. Director Schultz mentioned the House of Representatives

passed HB 1526; this is an issue previously discussed, about how to increase timber harvest from federal lands. The expectation is that the Senate will probably not act on this bill but this does incorporate some of Representative Labrador's concepts about managing some of those federal lands under a trust concept. Director Schultz reported harvest volume is nearly 150 MMBF in just the first quarter of the year; the Department has sold 60% of its FY14 sale target for sawlogs (244 MMBF) and almost 30% of its sale target for cedar poles. Director Schultz showed a slide representing volume harvest and total revenue between 2004 and 2013. In 2013 total revenue was just over \$60 million, harvest levels were very high at about 325-330 MMBF harvested. Timber prices have picked up somewhat since the 2008-2009 time frame and harvest volumes have gone up as well. Director Schultz also displayed a slide of the Prairie Block salvage sale area. Governor Otter commented it appeared to be Lodgepole in the photo; Director Schultz clarified that the salvage sales were predominantly Ponderosa pine, but one sale had a predominance of Douglas fir. Governor Otter noted the Department sold 150 MMBF in the first quarter of FY14 and asked if that means a total of 600 MMBF for the year. Director Schultz replied no, projections are in the 330-350 MMBF range for FY14.

Director Schultz remarked there are quite a few residential leases on the Lands and Waterways Activity report. These were leases signed primarily at Priest Lake and some at Payette Lake for the 2014 lease cycle from lessees who accepted their value and did not contest that value through the reappraisal process. These leases are in effect from 5 years up to 10 years and are staggered; some are 5, 6, 7 years and so forth. Director Schultz also mentioned a gift deed and settlement agreement on page 3. The Burke Family Trust, a lessee at Payette Lake, donated improvements and made cash payment of \$4,000, which can either be used to improve the property or remove the improvements from the property.

On the final Fire Season report for this year, Director Schultz reported this past fire season about 738,000 acres burned statewide. The Department manages about 6% of the acres in the state of Idaho (state trust lands) and about 6% (46,000 acres) of the lands that burned this past year were also state trust lands. From a matter of perspective, Director Schultz noted that last year about 1.7 million acres burned across the state. Of those that burned on federal lands this past year, 402,000 acres were Forest Service ownership and 184,000 acres were BLM ownership. Director Schultz stated total expenditures for this last fire season are about \$24 million; the suppression account – money that is reimbursable from the federal government back to the state – will cover an estimated \$8.4 million leaving a net obligation of about \$15.6 million for this past fire season. Director Schultz mentioned fire occurrence on state trust lands was about 79% of the 20 year average while acreage burned was about 80% of the 20 year average.

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

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

DISCUSSION: Chris Halvorson, EFIB Investment Officer, reported through the end of September the Fund is up 5.9% and through yesterday is up another 1.2% making fiscal year to date return slightly more than 7%. Endowment reserves continue to be healthy; all have over 5 times coverage for FY2015 distributions with the exception of Public School which stands at 4.1 years.

Mr. Halvorson mentioned the Investment Board will present its semi-annual report at the regular Land Board meeting in November. Mr. Halvorson stated there are no issues to report; all managers are performing as expected in this environment.

- **CONSENT**

3. Timber Sales for Approval – Staffed by Eric Besaw, Regional Operations Chief-North, and Kurt Houston, Regional Operations Chief-South

<u>NORTH OPERATIONS</u>				<u>COUNTY</u>	<u>AREA OFFICE</u>
A.	Hobbit Cardiac	CR-30-0593	6,615	MBF Shoshone	St. Joe (St. Maries)
<u>SOUTH OPERATIONS</u>				<u>COUNTY</u>	<u>AREA OFFICE</u>
B.	Goldfish	CR-42-5083	950	MBF Clearwater	Maggie Creek (Kamiah)

DISCUSSION: Governor Otter commented that with winter coming on, the window for timber harvest is closing in some areas of the state. Governor Otter noted there are some existing stewardship contracts and existing federal land timber sales and asked if there has been any indication, because of the federal government shut down, that the Forest Service would allow either the state or private companies to pay for the review of those existing sales or those existing stewardship contracts. Governor Otter mentioned Governor Gary Herbert, Utah, was able to make an agreement with the federal government for the state to pay federal employees to keep parks open in Utah because of the demand on Utah tourism. Governor Otter asked if the Department has suggested that with the federal agencies regarding timber sales. Director Schultz recalled reading in the newspapers the last several days that operators around the state of Idaho and elsewhere received a letter from the Forest Service advising they had 7 days to finish up operations. Director Schultz added his understanding that Senator Risch is in consultation with Chief Tidwell on this particular issue. In addition, Director Schultz received a call from Cecilia Seesholtz, Forest Supervisor on the Boise National Forest, who intended to talk to with her regional supervisor about this issue. Director Schultz indicated the Forest Service has not addressed this with the Department directly. It would be incumbent upon the Forest Service to allow some arrangement to take place with either the state or the individual purchaser. Governor Otter reiterated the harvest window is closing and some of those existing timber sales are important to the inventory of the mills; if they don't have log piles in those mills they may be shutting down next spring. With the consent of the Board, Governor Otter requested that the Department broach the subject with the federal agencies. Director Schultz said the Department will make that contact.

4. Disclaimer of Land – Dechant/Buhler Properties, Notus, ID – Staffed by Sid Anderson, Program Manager-Public Trust

DEPARTMENT RECOMMENDATION: Direct the Department to issue a disclaimer of interest for one parcel totaling .608 acres and to require the Estates of Edwin Dechant and Wilma Jean Dechant, and Richard J. Buhler, Jr. to pay the remaining processing fee of \$300 to the Department of Lands for this transaction.

DISCUSSION: None.

5. Results of September 11 and 13, 2013 Conflicted Grazing Lease Auctions – Staffed by Diane French, Program Manager-Grazing, Agriculture and Conservation

DEPARTMENT RECOMMENDATION: Direct the Department to award grazing leases to Freemont Wool Growers Association (G800217); Brent Daling and Deloy Ward (G800230); Brent Daling (G800030); and Travis T. Williams (G700173), the high bidders of the four (4) conflict lease auctions.

DISCUSSION: None.

6. Results of August 21, 2013 Conflicted Mineral Lease Auction – Staffed by Bob Pietras, Program Manager-Commercial Energy and Minerals

DEPARTMENT RECOMMENDATION: Direct the Department to award the lease to the high bidder as identified in Attachment 1.

DISCUSSION: None.

7. Results of September 27, 2013 Conflicted Commercial Lease Auction (Snake River Canyon Jump) – Staffed by Bob Pietras, Program Manager-Commercial Energy and Minerals

DEPARTMENT RECOMMENDATION: Direct the Department to award Lease No. M700052 to Beckley Media, LLC, the high bidder at the lease conflict auction.

DISCUSSION: Director Schultz noted that it was a pretty exciting day, with visitors from New York and elsewhere around the state. Secretary of State Yursa was also in attendance. The room was full of interested participants as well as observers. Governor Otter asked if the Department had received the money; Director Schultz replied that the \$943,000 bid was received. Attorney General Wasden commented for technical clarification that the state is not earning this money; the endowment is earning the money. Secretary of State Yursa complimented Corbett Bottles on the way they conducted the auction; it was well run, professional and interesting with substantial revenue generated for the Public School endowment.

Controller Woolf asked if the Department has any updates from the city of Twin Falls on their permit process. Director Schultz replied he has not heard if Beckley Media has secured a permit. Mr. Pietras offered his understanding that the deadline for submitting permit applications to Twin Falls is this Friday, October 18th.

Superintendent Luna wondered, since the Department owns the landing site, but the city owns the launch site, what happens if Beckley Media does not obtain a permit from Twin Falls; does the Public School endowment still retain the revenue from the lease. Mr. Pietras responded the contract is written such that they have 60 days once the lease goes into effect on November 1st to secure a permit from the city, which will give them until January 1st, 2014. Mr. Pietras added that as long as they are working diligently towards getting those permits, the lease is in effect. There is nothing in the lease that requires the Department to return the successful bid of \$943,000. Superintendent Luna repeated for clarification, if for whatever reason Beckley Media

never reaches an agreement with Twin Falls and the launch never happens, the endowment still keeps the money. Mr. Pietras replied that is correct. Secretary Yursa commented there is no guarantee the landing area will ever be used, recalling that Evel Knievel landed on the same side of the canyon as the launch site. Superintendent Luna lightheartedly asked if a separate auction would be held for state trust land at the bottom of the canyon. Mr. Pietras noted it is covered in the current lease. All levity aside, Governor Otter expressed reservations about keeping the money if Beckley Media was not issued a permit by Twin Falls, but did not further discuss. Governor Otter asked Attorney General Wasden how much Twin Falls and the local area made the last time the jump was tried. Attorney General Wasden did not recall revenue figures but did remember sitting on the rooftop of his house when Evel Knievel attempted the jump.

8. Approval of Minutes – September 17, 2013 Regular Meeting (Boise)

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

- **REGULAR**

9. Southwest Payette Lake CC&Rs – Presented by Kate Langford, Bureau Chief-Strategic Business

DEPARTMENT RECOMMENDATION: The Department recommends that the Land Board approve the Covenants, Conditions and Restrictions, including revisions suggested in Attachment 4.d, for the cottage site developments in the Southwest Payette area.

DISCUSSION: A verbatim transcript is available by request to the Department of Lands, Attn: Land Board Recording Secretary, 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's recommendation with the addition that the Department be directed to prepare a report to the Board presenting options for either leasing or disposing of the five lots adjacent to Syringa Park. Secretary of State Yursa seconded the motion. The motion carried on a vote of 5-0.

10. Approval of ERC III, LLC Land Exchange – Presented by Kathy Opp, Deputy Director-Lands and Waterways

DEPARTMENT RECOMMENDATION: The Department recommends that the Board approve the land exchange between the Idaho Department of Lands and ERC III, LLC an Idaho limited liability company pursuant to the terms and conditions of the Land Exchange Agreement (Attachment 5).

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

BOARD ACTION: Board action was held pending Executive Session (see below).

11. Approval of ERC IV, LLC Land Exchange – Presented by Kathy Opp, Deputy Director-Lands and Waterways

DEPARTMENT RECOMMENDATION: The Department recommends that the Board approve the land exchange between the Idaho Department of Lands and ERC IV, LLC an Idaho limited liability company pursuant to the terms and conditions of the Land Exchange Agreement (Attachment 5).

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

BOARD ACTION: Board action was held pending Executive Session (see below).

12. Approval of EP Crossings, LLC Land Exchange – Presented by Kathy Opp, Deputy Director-Lands and Waterways

DEPARTMENT RECOMMENDATION: The Department recommends that the Board approve the land exchange between the Idaho Department of Lands and EP Crossings, LLC, an Idaho limited liability company, pursuant to the terms and conditions of the Land Exchange Agreement (Attachment 5).

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

BOARD ACTION: Board action was held pending Executive Session (see below).

• **EXECUTIVE SESSION**

At 11:42 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) to consider 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 Yursa seconded the motion. Roll Call Vote: Aye: Yursa, Wasden, Woolf, Luna, Otter; Nay: None; Absent: None.

- A. 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: ERC III, ERC IV, and EP Crossings Land Exchanges]

At 12:29 p.m. the Board resolved out of Executive Session by unanimous consent. No action was taken by the Board during the Executive Session.

- **REGULAR**

Board Action on Agenda Items 10 - 12

DISCUSSION: A verbatim transcript is available by request to the Department of Lands, Attn: Land Board Recording Secretary, 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 proposed exchanges of cottage sites for ERC III, which includes ERC 2, ERC IV and EP Crossings be put on hold pending an independent review that provides the information necessary for the Land Board to make a fully informed decision. Attorney General Wasden also requested that in the event the Land Board does not go forward with this transaction that those cottage site holders who did not have an opportunity to request a review of their appraisal values have that opportunity. Controller Woolf seconded the motion.

A substitute motion was made by Superintendent Luna to separate the Bonneville County exchanges [agenda items 10 and 11] from the Canyon County exchange [agenda item 12]. Governor Otter noted that there are now two motions and asked if the Superintendent intended to include the Attorney General's motion to allow lessees the right of a review of their appraisals, and if so, in which motion. Superintendent Luna replied it would be in both motions. Governor Otter then suggested, with the approval of Superintendent Luna, that the Bonneville County exchange be one motion, the Canyon County exchange be a second motion, and the lessees' right to request review of appraisals be a third motion. Superintendent Luna concurred. Secretary of State Ysursa seconded the substitute motion as amended by Governor Otter. Superintendent Luna then explained the reason for separating the land exchange transactions was because he intended to vote in favor of approving the Bonneville County exchange, and against approving the Canyon County exchange.

Governor Otter called for a vote on the Bonneville County exchange; Superintendent Luna reiterated his intention that this motion be a vote on approving the exchange. Attorney General Wasden stated his understanding that the motion was to postpone the exchange. Governor Otter explained that during discussion on the motion, Superintendent Luna modified the motion into one of approval or disapproval of the exchanges. Attorney General Wasden asked for final clarification on the motion; that is the motion before the Board is to approve agenda items 10 and 11. Governor Otter replied that is correct. A roll call vote was requested by Superintendent Luna. Roll Call Vote: Aye: Luna; Nay: Ysursa, Wasden, Woolf, Otter. The motion failed on a vote of 1-4.

Governor Otter called for a vote on the Canyon County exchange. Attorney General Wasden requested clarification on the motion. Governor Otter stated the motion is shall the Department recommendation which was exchange of certain lake lots for the Canyon County asset (Farm Credit building) pass. The motion failed on a vote of 0-5.

