



STATE BOARD OF LAND COMMISSIONERS

C. L. "Butch" Otter, Governor and President of the Board
Lawrence E. Denney, Secretary of State
Lawrence G. Wasden, Attorney General
Brandon D. Woolf, State Controller
Sherri Ybarra, Superintendent of Public Instruction

Tom Schultz, Secretary to the Board

FINAL Minutes
State Board of Land Commissioners Regular Meeting
September 15, 2015

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, September 15, 2015, in the State Capitol, Lincoln Auditorium (WW02), at 700 West Jefferson Street, Boise, Idaho. The meeting began at 9:09 a.m. The Honorable Governor C. L. "Butch" Otter presided. The following members were present:

Honorable Secretary of State Lawrence Denney
Honorable Attorney General Lawrence Wasden (*via teleconference*)
Honorable State Controller Brandon Woolf
Honorable Superintendent of Public Instruction Sherri Ybarra

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 – September 2015

B. Timber Sale Activity and Information Report – August 2015

DISCUSSION: Governor Otter asked how many of the companies that own mills are foreign companies. Director Schultz replied the Department will research and provide that information following the meeting. Governor Otter mentioned a salvage sale on which the Department was forced to harvest using helicopters, and inquired about the resulting lower net value of the sale due to increased costs. Director Schultz stated that sale is the Selway Salvage timber sale; salvage is needed because of the Johnson Bar fire in 2014. There is a court injunction on that sale because of litigation regarding the Department's right to use a Forest Service easement across private land. The Department worked with the purchaser and explored the option of using helicopters. Typically helicopter harvest operations are three times as expensive as traditional cable or tractor loggers. The initial bid on the Selway Salvage sale was \$2 million; with the additional cost of helicopter logging, the net value is close to \$650,000, a loss in value of about a million dollars for the Public School endowment.

C. Division of Lands and Waterways Activity and Information Report – August 2015

D. Cottage Site Voluntary Auction for Ownership Update

DISCUSSION: Governor Otter asked if the prices on the memo were the minimum bid amounts. Director Schultz responded those are the appraised values; the Department cannot accept less than the appraised value. Director Schultz noted there was no competitive bidding on any of the lots.

E. Fire Season Update

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.

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

A. Manager's Report

DISCUSSION: Mr. Johnson stated that distributions are well-secured; there were no significant actions of the Investment Board and no areas of concern to report. Mr. Johnson mentioned that the Endowment Fund Investment Board's Fiscal Year 2015 audited financial statements along with an auditor's review of some of the accounting procedures at the Department of Lands were sent to Board members. The chair of the Land Board Audit Committee will make a full report on that at the November Land Board meeting. Mr. Johnson noted that on October 9th the Investment Board will conduct interviews of real estate investment managers and discuss the strategy to place money over the next two years in private diversified U.S. commercial property funds.

B. Investment Report

DISCUSSION: Mr. Johnson reported that in August the Fund lost 4.7%, which resulted in fiscal year returns of -3.9% at the end of August. Through yesterday the Fund has lost another 60 basis points and fiscal year-to-date return is -4.6% due to weakness in the equity markets.

• **CONSENT**

3. Results of July 21, August 4, August 19 and August 20, 2015 Conflicted Grazing Lease Auctions – Staffed by Diane French, Program Manager-Grazing, Agriculture, Conservation

RECOMMENDATION: Direct the Department to award the following grazing leases to the high bidders of the six grazing conflict lease auctions: G800339 to conflicting applicant Shawn Oleson; G800328 to existing lessee Icehouse Creek Ranch, LLC; G800341 to conflicting applicant Icehouse Creek Ranch, LLC; G800315 to existing lessee Randy Pehrson; G700223 to conflicting applicant Toone Land & Livestock, LLC; and G700237 to existing lessee Ardel Wickel.

DISCUSSION: None.

4. Disclaimer of Interest, Snake River, Bingham County, Nielson – Staffed by Andrew Smyth, Program Manager-Public Trust

RECOMMENDATION: Direct the Department to issue a disclaimer of interest for one parcel of accretion land totaling 15.79 acres of the former bed of the Snake River to Steve Nielson.

DISCUSSION: None.

5. Pontarolo v. State – Staffed by Ryan Montoya, Program Manager-Real Estate

RECOMMENDATION: The Department recommends that the Land Board execute a Quitclaim Deed in the Pontarolo property. Upon execution of a quitclaim deed, Pontarolo will dismiss the action against the State.

DISCUSSION: None.

6. Bonner Lake South Conservation Easement – Staffed by Karen Sjoquist, Forest Legacy Program Coordinator

RECOMMENDATION: Authorize the Department to acquire the Bonner Lake South Conservation Easement, comprising 569 acres.

DISCUSSION: None.

7. Unleased Cottage Sites Auctions, Priest Lake and Payette Lake – Staffed by Sid Anderson, Program Manager-Residential and Other Commercial

RECOMMENDATION: 1) Direct the Department to hold auctions for the nine unleased lots at Priest Lake on September 26, 2015, in Kootenai County; 2) Direct the Department to hold auctions for the four unleased lots at Payette Lake with the VAFO cycle scheduled for November 13, 2015, in Ada County.

DISCUSSION: None.

8. Approval of Minutes – August 18, 2015 Regular Meeting (Boise)

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

- **REGULAR**

9. Commercial Real Estate Advisor – Presented by Dean Buffington, Chairman-EFIB and Chairman-Investment Subcommittee

RECOMMENDATION: Approve CenturyPacific as the Commercial Real Estate Advisor as recommended by the Investment Subcommittee and according to the terms of the contract attached hereto.

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 CenturyPacific as the Commercial Real Estate Advisor as recommended by the Investment Subcommittee in accordance to the terms of the contract attached to the agenda. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

10. Pre-Qualified Pool of Land Advisors – Presented by Dean Buffington, Chairman-EFIB and Chairman-Investment Subcommittee

RECOMMENDATION: Approve the pre-qualified pool of Land Advisors attached hereto and approve the procedures to be used for maintaining the pool of Land Advisors.

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 adopt the Department recommendation to approve the pre-qualified pool of Land Advisors that are attached to the agenda and also the procedures that are to be used for maintaining the pool of land advisors that is also attached to the agenda. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

11. Department of Lands Fiscal Year 2017 Budget – Presented by Debbie Buck, Financial Officer

RECOMMENDATION: Approve the Agency Fiscal Year 2017 Budget Request as submitted to the Division of Financial Management and the Legislative Services Office on September 1, 2015.

DISCUSSION: Controller Woolf asked for clarification on the Forest Legacy Program, that the Department is requesting ongoing Federal Fund spending authority, not additional funding authority. Ms. Buck replied that is correct. Controller Woolf inquired what prompted the Department to include this request today as opposed to last month. Ms. Buck explained that the Department is fairly confident about several projects closing in the next three years. Currently the Department has a little under \$5,000,000 of spending authority in this program. If the

\$5.5 million project closes next year, the Department does not have spending authority in its current structure to pay for that, so a request is in the Department's budget submission.

Director Schultz added that the recommended best practice from Division of Financial Management (DFM) now is to put this in the base budget. The Forest Legacy Program is not a new program; the Department has been working through projects for about 10 years. Historically the Department used a non-cognizable process but DFM's recommended practice is to put this in the base budget.

BOARD ACTION: For the record, Governor Otter stated the Chair will not vote on this item.

A motion was made by Controller Woolf to approve the agency's Fiscal Year 2017 budget request as submitted to the Division of Financial Management and Legislative Services Office on September 1, 2015. Attorney General Wasden seconded the motion. The motion carried on a vote of 4-0, with Governor Otter recused from this vote.

12. Modify Timber Sale Approval Process – Presented by David Groeschl, State Forester and Deputy Director-Forestry and Fire

RECOMMENDATION: The Department recommends that the Land Board approve modification to the timber sale approval procedures as underlined below:

1. The Department will present the Annual Timber Sale Plan to the Land Board for approval at the April Land Board meeting.
2. Except for salvage sales, the Department will present individual proposed timber sales that fall outside of established Land Board policies to the Land Board for approval such as:
 - a. Sales with clearcut silvicultural prescription units which exceed 100 acres.
 - b. Sales with development credits that exceed 50% of net appraised sale value (33% of gross sale value).
 - c. Sales to which the Department has received written public comment.
3. Fire, wind, and insect and disease salvage sales are exempt from Item 2 requirements above.
4. The Department will display names of all proposed timber sales and salvage sales for the next month in the monthly Director's Timber Sales Report.

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 adopt the Department recommendation as outlined in Item 12, page 2 of 2 (as stated above). Controller Woolf 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**

13. Dispersed Recreation on Endowment Lands – Staffed by Emily Callihan, Communications Officer

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.

For the record Attorney General Wasden noticed that the agenda identifies Idaho Code Section 67-2345(1)(f) and remarked that the code section was changed to 74-206(1)(f). Attorney General Wasden noted that the language remains essentially the same but inquired of Deputy Attorney General Clive Strong does the agenda need to be amended. Mr. Strong replied it is not necessary to amend the agenda because the section cites the operative language of the statute as a citation issue; the correct operative section is included and that is sufficient to cover open meeting notices.

At 11:02 a.m. a motion was made by Attorney General Wasden to resolve into Executive Session pursuant to Idaho Code § 74-206(1) subsection (f) to communicate with legal counsel regarding legal ramifications of and legal options for pending litigation, or controversies not yet being litigated that are 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 Denney seconded the motion. Roll Call Vote: *Aye:* Denney, Wasden, Woolf, Ybarra, 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: *Little Enterprises, Inc. v. State*, Gem County Case CV-14-798]

At 11:22 a.m. the Board resolved out of Executive Session by unanimous consent. No action was taken by the Board during the Executive Session.

- **REGULAR**

14. Resolution on Summary Judgment Decision, and Subsequent Judgment, in *Little Enterprises, Inc. v. State*, Gem County Case CV-14-798 – Presented by Steve Schuster, Deputy Attorney General

BOARD ACTION: A motion was made by Attorney General Wasden that the Board not appeal the case entitled *Little Enterprises, Inc. v. State*, Gem County Case CV-14-798. Secretary of State Denney seconded the motion. The motion carried on a vote of 5-0.

