

Board of Land Commissioners
Governor
Secretary of State
Attorney General
State Controller
Sup't of Public Instruction



Land Board Policy
Effective Date: Sept. 23, 1987
Revision Date: n/a

Deficiency Warrant Authorization for Fire Suppression Costs

This guidance document is not a new law. This is an interpretation of existing law.

Agency Contact

Bureau Chief, Fire Management

Policy

The Department seeks deficiency warrant spending authority from the Board every June and then provides fire season updates every month and a final season end update in October. These monthly updates reference approximate fire suppression spending to date.

Revision History (Board Action)

09/23/1987 Final minutes are attached.

September 23, 1987

Governor Andrus said that we need not to be looking at legal reasons for inaction, but should be looking for legal reasons to make a progressive change in those rules. He said that in the Supreme Court decision in the Alaska case, the judges were very correct in saying that they recognized that there was a valid reason to attempt the development of those resources with the state. They refer to "marketplace participation." If they had been selling sawlogs instead of standing timber they would not have been in violation. He would hope that this Board would serve notice to the world that it is looking after the Idaho's interest the best it can, within the law. He doesn't see where that added language would be at all offensive.

Jim Jones stated his disagreements, and said that if language is added, there must be particular reasons; in order to place restrictions on export of state logs, you have to have federal legislation.

Jerry Evans has seen advertisings where it is up to a Board to deem when an award of a contract is not in the best interest of the state, they have the right to reject that. He thinks there is some middle ground. While the Board works on the issue at the federal level where it really must be resolved, it seems the state could still advertise the right to reject any or all bids. The "best interest" of the state is hard to pin down, but it does give a criteria. On the question of whether logs should be processed in Idaho, he would like to have a great deal of discretion on that issue, because a lot of the north Idaho timber moves just across the state line, so perhaps we're part of a regional interest as well, and that has to at least be examined.

Jim Jones thinks there would be trouble finding a legally sufficient criteria to reject the highest bid obtained at the sale. The sale process is structured to sell to the highest bidder. He would like to get the legislation on the books to authorize that kind of rejection, and then see.

Jim Jones suggested that if the intention of the Board is to go beyond the language that says the Board can reject any and all bids that do not comply with state law or IDL timber sale policies and practices, then it should try to work up sufficient language that can be looked at in advance.

Pete Cenarrusa suggested that the Board direct staff to come up with some language. Governor Andrus suggested further that the Attorney General's office take a look at some language to help at least serve notice to the world the direction the Board is headed in and then the Board can work to bring legislation forward to provide state law that would allow the state to be a "market participant" by some criteria. By holding this over to the next meeting, he would ask that everyone understand this is not up for another lengthy debate --the Board should either pass it or not. The Board members all agreed.

Deficiency Warrant Authorization for Fire Suppression Costs

Mr. Hamilton reported that all monies available to the department for fighting forest fires has been expended at this point, and as provided by law, the department will provide the Board with a status report and seek deficiency warrant authority.

John Crumb briefed the Board. All the West went through a drought condition last winter and it continued this summer. Idaho is fortunate that it has not had a large amount of fires on the land that it protects. Because of weather conditions, there are 5-6 fires a day at the present, and the weather pattern is expected to hold for awhile. The department has paid suppression costs of \$156,000 and are obligated in the vicinity of \$118,120 additional costs which are due, including an emergency suppression bill to pay the associations. Some additional costs are anticipated. He also reported that the inmate fire crews have been used.

Jim Jones said that the Board should be notified on a monthly basis what the amount is.

Jerry Evans moved to authorize the issuance of deficiency warrants necessary to the fire suppression costs which are in excess of the appropriation for that purpose. Joe Williams seconded. The motion passed unanimously.

Fish and Game Land Sale -- Supplemental Agenda Item

Mr. Hamilton explained that some time ago the Fish and Game Commission came to the department with a proposal to declare surplus and sell property in Boise County known as the Lowman Patrol Cabin. It did go through the process and no other agency was interested; it was offered at auction and it did not sell. Subsequently, the Fish and Game Commission had it reappraised and simply re-offered it again at auction without coming back to this Board. It did sell for \$55,000 which had been dropped from the original \$65,500 appraisal. The department is asking this Board's approval to proceed with the sale with the understanding that Fish and Game did miss it.

Jim Jones said that Fish and Game has traditionally taken the position that they don't have to have Land Board approval to go ahead and make their sales; they had that same position when the Board was discussing a proposed land exchange with Burlington-Northern. The Board took the position around four years ago that the Department of Fish and Game may not sell property or exchange property without Board approval. He thinks a signal should be sent to them, perhaps not by turning down the sale, perhaps by sending a letter, that the Board doesn't expect to have future sales presented in this fashion.

Jim Jones made a motion to approve with the proviso that a "churlish-as-possible" letter be written indicating that the Board feels it has that authority that was voted on unanimously four years ago, and that the Board expects sales to be handled in that manner. Pete Cenarrusa seconded. The motion pass 4-1. Joe Williams opposed to approving the sale.