



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
February 17, 2015

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, February 17, 2015 in the second floor courtroom of the Borah Building, 304 North 8th Street, Boise. 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 Lawrence Denney
Honorable Attorney General Lawrence Wasden
Honorable State Controller Brandon Woolf
Honorable Superintendent of Public Instruction Sherri Ybarra

For the record, Governor Otter recognized the presence of all Board members. Governor Otter welcomed Secretary of State Denney and Superintendent Ybarra to their first meeting of the Land Board in their official roles as Commissioners.

1. Director's Report

A. Interest Rate on Department Transactions – February 2015

B. Timber Sale Activity and Information Report – January 2015

DISCUSSION: Governor Otter asked if the timber over 28 inches lowers the overall stumpage price; does the Department receive substantially less money for those. State Forester Groeschl replied that the Department does receive less value per thousand for the larger trees for most species, trees over about 26 to 28 inches in diameter, because there are fewer mills that can handle the large trees. Mr. Groeschl also remarked that the milling capabilities are less efficient with the larger trees. Mr. Groeschl stated newer mills can handle smaller logs much more efficiently and cost effectively so they typically pay a higher premium. The other related piece, larger trees typically have more defects associated with them so there is less recovery percentage wise versus a smaller log where the recovery is very high because there is less defect. Governor Otter asked how many mills can handle over 28 inches on the carriage. Mr. Groeschl replied there are three in Idaho and one in Oregon of which he is aware. Mr. Groeschl added that the price of pine tends to remain constant with the larger diameter logs, but all other species there is a discount of 25%-30%.

Governor Otter inquired about the status of sustainable yield, and for the benefit of new Board members remarked that at the start of his first term as Governor, the Department was about 2 billion board feet behind on sustainable cut. Director Schultz noted that at that time the Department was selling 212 million board feet and now the Department is selling 250 million board feet on an annual basis. Director Schultz commented that the harvest can fluctuate. A timber sale contract has between one and three years duration. The purchaser may harvest it in the first year, they may harvest in three years. The Department had about 350 million board feet harvested last year. Director Schultz stated the excess volume has been reduced and explained that with more harvesting and regenerating younger stands, the trees grow faster. Faster growth rates translate to constantly putting more volume on the stump as new trees are grown and planted. Director Schultz noted the Department has brought that 2 billion board feet down by approximately 150-200 million board feet, but at the same time has improved the productivity of its forest through the regeneration of harvest that has been done. Governor Otter commented this discussion relates to his earlier question: if the Department is 2 billion board feet behind, there are probably trees 28 inches and larger and continuing to grow; increased harvest is helping. Governor Otter also mentioned that younger trees sequester much more carbon.

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

DISCUSSION: Director Schultz commented on the many residential, or cottage site, leases on this month's report. Approximately 110 cottage site lessees at Priest Lake are challenging the value of the 2013 appraisals. One of the requirements for lessees to continue on and be considered for a voluntary auction is to sign a long-term lease. When those appraisal values get resolved in the next three to four months then those values will be adjusted in the lease. The high number of residential leases is because those lessees are signing cottage site leases going forward the next five to ten years.

Director Schultz next mentioned the assignments, and for historical perspective gave statistics for the past several years. In 2011 there were 18 assignments, in 2012 there were 16, in 2013 there were 18 and in 2014 there were 38 assignments. In 2015 to date the Department has processed 2 assignments. One method for individuals trying to get out of a lease is to assign the lease to another individual; the Department has seen a lot of assignment transactions occurring.

Director Schultz provided an update on cottage site defaults. The Department did have concern for potentially 25 leased lots at Priest Lake in default; there are now only 4 lots at Priest Lake that are unpaid, and one unpaid leased lot at Payette Lake that are potential defaults. Director Schultz commented that in addition to the above, 11 lessees at Priest Lake have signed permits: 9 are demolition permits which allow roughly six months for improvements to be removed and 2 are two-year land use permits. One lot at Payette Lake is under permit.

Controller Woolf asked what is the time frame and next steps for the 110 that are being challenged. Director Schultz explained the appraisals were done by Mr. Steve Hall with an effective date in October of 2013. There were initially a large number of lessees who challenged those values; 110 remain. A second appraisal was done by Vicky Mundlin at the cost of the lessee. The procedure was then if those two values were within 10%, the Department would split the difference. Only around 5 were within that range. A number of people have since signed their lease with the Hall value. Another 10 dropped out of the challenge process.

For the 110 that remain in the challenge process, a third appraiser was hired, John Frome. Mr. Frome is reviewing the Hall appraisals and Mundlin appraisals to determine if one or the other, or both, are supported according to Uniform Standards of Professional Appraisal Practice. If one is more supported, the Department would use that value. If both are equally supported then the Land Board may choose one value or the other, or split the difference. The Department expects final appraisal reviews from Mr. Frome in April.

Governor Otter asked if the appraisers are using the voluntary auctions when looking at like sales. Director Schultz replied that they have not because the appraisals were done before the auctions took place. Going forward, the auctions could be used on future appraisals; the Department will encourage the appraisers to use those values. Director Schultz commented that sometimes auctions are viewed as distressed sales in the marketplace and not used by appraisers. Governor Otter remarked that the Department by law cannot sell lots without an auction and wondered why it would not be considered a comparative. Director Schultz stated the Department will inquire more into the reason appraisers might not want to use auction sales as a comparative value. Director Schultz noted that some of the lots sold at auction will subsequently sell on the marketplace, non auction sales, which would generate more comparative sales over time through the disposition of cottage sites. Attorney General Wasden restated that the auctions have occurred after the date for which the valuations are being done so they would not be relevant to that timing. Director Schultz acknowledged the Attorney General's statement; the challenge appraisals are using an effective date of 2013. The auction values have no bearing on the challenge appraisals that are being reviewed by Mr. Frome, because the auctions occurred later. Director Schultz noted there is a subsequent set of appraisals that will be conducted this summer for the Priest Lake auction that will take place at the end of the summer; there is potential for preceding auctions to have some influence on those appraisals. The Department will ask the appraiser that question specifically, how those auction results would be used. Governor Otter inquired how many lots will be auctioned at Priest Lake and Payette Lake this year. Director Schultz replied the Department plans to auction 40 leased lots and up to 15 unleased lots at Priest Lake. In addition, there may be an additional auction for some of the 11 lots that are under permit at Priest Lake. At Payette Lake, the Department anticipates between 20 and 25 leased lots and potentially the one that is under permit.

Director Schultz reported that at the January 31st auction for Payette Lake lots, 29 leased lots and 3 unleased lots sold, and 3 unleased lots did not sell. For future auctions, prior to bringing forward unleased lots for sale, the Department would prefer to have an applicant make application and nominate a lot so the Department will not bear all the costs of taking those unleased lots through the auction process.

Also from the transaction report, Director Schultz mentioned several oil and gas leases that were assigned. Trendwell West acquired six leases from Mr. Biteman. The Department expects to see continued competition and bids for oil and gas leases; the Department will hold an oil and gas lease auction in April this year. Primarily competition has been between Alta Mesa and Trendwell West for those leases.

D. Legal Matter Summary – January 2015

E. Legislative Update

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

A. Manager’s Report

DISCUSSION: Mr. Johnson reported that reserves are in good shape and there are no compliance issues. Mr. Johnson noted the Investment Board met on Wednesday, February 11th and as part of its agenda considered Callan Associates' recommendation to look at a U.S. commercial property investment. The Investment Board approved, in concept, the idea of exploring a \$150,000,000 allocation to an open-ended diversified U. S. real estate fund. Callan and EFIB staff will research options in more detail and return to the Investment Board with the final implementation plan before November this year. Mr. Johnson will keep the Land Board updated as they proceed.

B. Investment Report

DISCUSSION: Mr. Johnson stated the Fund lost nearly 1% in January and for fiscal year to date was slightly above even. Through February 16 the Fund is up a little more than 3% which brings fiscal year to date to just over 3.5%. Mr. Johnson commented that all investment managers are performing as expected.

- CONSENT

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

NORTH OPERATIONS
NONE

COUNTY

AREA OFFICE

SOUTH OPERATIONS

A. Selway Fire CR-42-5085 6,890 MBF Idaho Maggie Creek (Kamiah)

COUNTY

AREA OFFICE

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.

4. Amendment to Dredge and Placer Mining Permit P00322, Emerald Creek Garnet– *Staffed by Eric Wilson, Program Manager-Minerals*

RECOMMENDATION: Approve issuance of the amended permit (Attachment 2) subject to adherence to the plan submitted in the application, submission of the required bond, and compliance with the Rules and Regulations Governing Dredge and Placer Mining Operations in Idaho.

DISCUSSION: None.

5. Approval of Minutes – December 15, 2014 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

6. Settlement *State of Idaho, et al v Zamzow and Sisler*, Gem County Case No. CV2013-812 – Presented by Steve Schuster, Deputy Attorney General, and Kathleen Trever, Deputy Attorney General, Idaho Department of Fish and Game

RECOMMENDATION: The Department recommends that the Board approve the settlement agreement and authorize legal counsel to dismiss the Board's and IDL's claim to title to the islands in light of the IDFG acquisition.

DISCUSSION: For the record, Deputy Attorney General Dallas Burkhalter attended the meeting on behalf of Idaho Fish and Game. Governor Otter asked for clarification on management of the lands. Mr. Schuster responded the lands would be managed by Fish and Game for fish and wildlife as part of the Payette Wildlife Management Area. Governor Otter inquired if there is access to the lands by the public. Mr. Schuster answered there is public access to the property, which is all islands; there is no legal access to the parcels, but they are accessible by wading the channel or using a boat. Mr. Schuster restated the Department is requesting approval of the settlement agreement, the result of which will be dismissal of the lawsuit and purchase of the lands by Fish and Game. Mr. Schuster added that property taxes had not been paid on these lands for a long period of time. The islands were never on the tax rolls. In about the mid 2000s, the Zamzow Trust began paying taxes on the portion of the islands that is within the original meander line from the 1868 survey. That amounts to a little less than \$200/year. Idaho Department of Fish and Game will be paying fees in lieu of taxes for the parcels in question, as well as other parcels in the Wildlife Management Area. Attorney General Wasden noted his understanding that purchase of these parcels by Fish and Game is entirely consistent with the public trust doctrine and the public values for which these properties are managed, and asked for confirmation of his understanding. Mr. Schuster replied, yes, that is the reason the Department requests approval of this. If the Department had acquired title, it would be difficult land to manage, it does not have legal access, and there is very little income potential from it. The highest and best use in the appraisal was determined to be recreational property and that use would be consistent with the public trust use.

BOARD ACTION: A motion was made by Attorney General Wasden that the Board approve the settlement agreement and authorize legal counsel to dismiss the Board's and IDL's claim to title of the islands in light of the Idaho Department of Fish and Game acquisition. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

7. Final Order Mineral Lease E500017 (Smith) – *Presented by Andrew Smyth, Program Manager-Public Trust*

RECOMMENDATION: Approve the Director’s Final Order for issuance of Riverbed Mineral Lease E500017.

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 table this matter subject to the call of the Director. Attorney General Wasden explained reasons for his motion include a desire to inspect the section of the river identified in the lease and to allow the Board sufficient opportunity to review testimony and documents submitted during this meeting as part of the Board's decision making. Attorney General Wasden also noted that determination of whether or not the applicant is subject to the requirements of federal law is not a decision that this Board can make. The Board is an executive function, and it would be a judicial function of a court to make that determination. Controller Woolf seconded the motion. Governor Otter stated his support of the motion, commenting that the applicants brought up some interesting actions that should be contemplated. Governor Otter asked Director Schultz to review the official record of this meeting and whatever other modifications the Department may make to this lease, the Governor requested that the Department make changes in terms of protecting against quagga mussels, zebra mussels or other invasive aquatic species. The motion carried on a vote of 5-0.

8. Approval to Proceed with Due Diligence for Big Creek Land Exchange Proposal – *Presented by David Groeschl, State Forester and Deputy Director-Forestry and Fire*

RECOMMENDATION: The Department recommends that the Board approve proceeding with due diligence for the Big Creek Land Exchange proposal.

DISCUSSION: Attorney General Wasden requested clarification that the proposal in this Board memo today is simply to go through the due diligence; it is not approval of the exchange itself. Mr. Groeschl replied that is correct. Attorney General Wasden expressed his understanding that the theoretical proposal here is to take an isolated parcel of endowment land and exchange it for a private parcel that is immediately adjacent to other endowment parcels. Mr. Groeschl affirmed the Attorney General's understanding.

Controller Woolf asked if the Department has an expectation of what the due diligence would cost. Mr. Groeschl responded the Department has not done an estimate of the different costs to perform due diligence; it will be roughly \$10,000. The survey work is an unknown, assessing what corners are established on the Hollibaugh parcel. The Department would not have survey work done on the Big Creek parcel until the Hollibaugh parcel is surveyed. Mr. Groeschl noted there would be savings for the Department by exchanging out of an isolated, no access parcel, that has boundary all around to maintain with private ownership. The Hollibaugh parcel would have less boundary to maintain because it is adjacent to an endowment block.

Governor Otter referenced a small endowment parcel in the upper, left-hand corner of the attached map and suggested that the Department try and trade out of that as well. Mr. Groeschl stated that the Department does look for opportunities to exchange out of isolated parcels where the Department has no access. Sometimes parcels that appear isolated on a map do have legal access and the Department is able to manage them. Governor Otter encouraged the Department to pursue every opportunity that arises to consolidate endowment ownership.

BOARD ACTION: A motion was made by Attorney General Wasden that the Board approve the Department recommendation to proceed with due diligence for the Big Creek Land Exchange proposal. Secretary of State Denney seconded the motion. The motion carried on a vote of 5-0.

9. Cottage Site Auction Plan Selection Update – *Presented by Patrick Hodges, Deputy Director-Lands and Waterways*

RECOMMENDATION: Instruct the Department to add Hunt Creek Block 1 Lot 28 and Pinto Point Block 16 Lot 1 to the 2017 VAFO cycle.

DISCUSSION: Governor Otter asked if a lessee applies for auction and then backs out, who pays those costs incurred in preparing for the auction. Mr. Hodges replied the Department has a schedule of fees that are paid by applicants at certain points in the process. Governor Otter asked if those fees are paid to the Department; Mr. Hodges said yes.

BOARD ACTION: A motion was made by Attorney General Wasden that the Board approve the Department recommendation and instruct the Department to add Hunt Creek Block 1 Lot 28 and Pinto Point Block 16 Lot 1 to the 2017 VAFO cycle. 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

10. Sage Grouse Management Plan – *Presented by Patrick Seymour, Program Manager-Endangered Species*

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.

- EXECUTIVE SESSION

NONE

There being no further business before the Board, at 11:28 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.

