

State Board of Land Commissioners Open Meeting Checklist

Meeting Date: March 19, 2019

Regular Meetings

3/11/19	Notice of Meeting posted in prominent place in IDL's Boise Headquarters office five (5) or more calendar days before meeting.
3/11/19	Notice of Meeting posted in prominent place in IDL's Coeur d'Alene Headquarters office five (5) or more calendar days before meeting.
3/11/19	Notice of Meeting posted in prominent place at meeting location five (5) or more calendar days before meeting.
3/11/19	Notice of Meeting emailed/faxed to list of media and interested citizens who have requested such notice five (5) or more calendar days before meeting.
3/11/19	Notice of Meeting posted electronically on IDL's public website www.idl.idaho.gov five (5) or more calendar days before meeting.
3/14/19	Agenda posted in prominent place in IDL's Boise Headquarters office forty-eight (48) hours before meeting.
3/14/19	Agenda posted in prominent place in IDL's Coeur d'Alene Headquarters office forty-eight (48) hours before meeting.
3/14/19	Agenda posted in prominent place at meeting location forty-eight (48) hours before meeting.
3/14/19	Agenda emailed/faxed to list of media and interested citizens who have requested such notice forty-eight (48) hours before meeting.
3/14/19	Agenda posted electronically on IDL's public website www.idl.idaho.gov forty-eight (48) hours before meeting.
12/19/18	Annual meeting schedule posted – Director's Office, Boise and Staff Office, CDA and IDL's public website www.idl.idaho.gov

Special Meetings

	Notice of Meeting and Agenda posted in a prominent place in IDL's Boise Headquarters office twenty-four (24) hours before meeting.
	Notice of Meeting and Agenda posted in a prominent place in IDL's Coeur d'Alene Headquarters office twenty-four (24) hours before meeting.
	Notice of Meeting and Agenda posted at meeting location twenty-four (24) hours before meeting.
	Notice of Meeting and Agenda emailed/faxed to list of media and interested citizens who have requested such notice twenty-four (24) hours before meeting.
	Notice of Meeting and Agenda posted electronically on IDL's public website www.idl.idaho.gov twenty-four (24) hours before meeting.
	Emergency situation exists – no advance Notice of Meeting or Agenda needed. "Emergency" defined in Idaho Code § 74-204(2).

Executive Sessions *(If only an Executive Session will be held)*

	Notice of Meeting and Agenda posted in IDL's Boise Headquarters office twenty-four (24) hours before meeting.
	Notice of Meeting and Agenda posted in IDL's Coeur d'Alene Headquarters office twenty-four (24) hours before meeting.
	Notice of Meeting and Agenda emailed/faxed to list of media and interested citizens who have requested such notice twenty-four (24) hours before meeting.
	Notice of Meeting and Agenda posted electronically on IDL's public website www.idl.idaho.gov twenty-four (24) hours before meeting.
	Notice contains reason for the executive session and the applicable provision of Idaho Code § 74-206 that authorizes the executive session.

Renee Miller

Recording Secretary

March 14, 2019

Date



Idaho State Board of Land Commissioners

Brad Little, 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
Dustin T. Miller, Secretary to the Board

NOTICE OF PUBLIC MEETING MARCH 2019

The Idaho State Board of Land Commissioners will hold a Regular Meeting on Tuesday, March 19, 2019 in the **Boise City Council Chambers, Boise City Hall, 3rd Floor, 150 N. Capitol Blvd., Boise**. The meeting is scheduled to begin at 9:00 AM (Mountain).

Please note meeting location.

Directions: Enter City Hall from Capitol Blvd.; take the Capitol Boulevard elevators to the 3rd floor; Council Chambers are directly across from the elevators.

First Notice Posted: 3/11/2019-IDL Boise; 3/11/2019-IDL CDA

This notice is published pursuant to § 74-204 Idaho Code. For additional information regarding Idaho's Open Meeting law, please see Idaho Code §§ 74-201 through 74-208.



Idaho State Board of Land Commissioners

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State Board of Land Commissioners Regular Meeting
March 19, 2019 – 9:00 AM (MT)
Final Agenda
Boise City Council Chambers, Boise City Hall, 3rd Floor, 150 N. Capitol Blvd., Boise

Please note meeting location.

Directions: Enter City Hall from Capitol Blvd.; take the Capitol Boulevard elevators to the 3rd floor; Council Chambers are directly across from the elevators

1. Department Report

Endowment Transactions

- A. Timber Sales – February 2019
- B. Leases and Permits – February 2019

Status Updates

- C. Legislative Summary
- D. VAFO Payette Lake

2. Endowment Fund Investment Board Report – *Presented by Chris Anton, EFIB Manager of Investments*

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

Consent—Action Item(s)

- 3. **Timber License Plate Fee Recommendation** – *Staffed by Betty Munis, Director, Idaho Forest Products Commission*
- 4. **Forest Practices Act Annual Assessment Increase** – *Staffed by Craig Foss, Division Administrator-Forestry and Fire*
- 5. **Approval of Minutes** – February 19, 2019 Regular Meeting (Boise)
- 6. **Approval of Minutes** – March 4, 2019 Special Meeting (Boise)

State Board of Land Commissioners
Final Agenda-v0314a
Regular Meeting (Boise) – March 19, 2019
Page 1 of 2

Regular—Action Item(s)

7. **Negotiated Rulemaking IDAPA 20.03.02, Rules Governing Exploration, Surface Mining, and Closure of Cyanidation Facilities** – *Presented by Eric Wilson, Bureau Chief-Resource Protection and Assistance*
8. **Approval to Auction Watertower Lots** – *Presented by Sid Anderson, Program Manager-Real Estate*

Executive Session

- A. Idaho Code § 74-206(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. The mere presence of legal counsel at an executive session does not satisfy this requirement. [**Topic** Lease M500031]

Regular—Action Item(s)

9. **Lease M500031**



Idaho Statutes

TITLE 74 TRANSPARENT AND ETHICAL GOVERNMENT

CHAPTER 2 OPEN MEETINGS LAW

74-206. EXECUTIVE SESSIONS -- WHEN AUTHORIZED.[EFFECTIVE UNTIL JULY 1, 2020] (1) An executive session at which members of the public are excluded may be held, but only for the purposes and only in the manner set forth in this section. The motion to go into executive session shall identify the specific subsections of this section that authorize the executive session. There shall be a roll call vote on the motion and the vote shall be recorded in the minutes. An executive session shall be authorized by a two-thirds (2/3) vote of the governing body. An executive session may be held:

(a) To consider hiring a public officer, employee, staff member or individual agent, wherein the respective qualities of individuals are to be evaluated in order to fill a particular vacancy or need. This paragraph does not apply to filling a vacancy in an elective office or deliberations about staffing needs in general;

(b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student;

(c) To acquire an interest in real property which is not owned by a public agency;

(d) To consider records that are exempt from disclosure as provided in [chapter 1, title 74](#), Idaho Code;

(e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations;

(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. The mere presence of legal counsel at an executive session does not satisfy this requirement;

(g) By the commission of pardons and parole, as provided by law;

(h) By the custody review board of the Idaho department of juvenile corrections, as provided by law;

(i) To engage in communications with a representative of the public agency's risk manager or insurance provider to discuss the adjustment of a pending claim or prevention of a claim imminently likely to be filed. The mere presence of a representative of the public agency's risk manager or insurance provider at an executive session does not satisfy this requirement; or

(j) To consider labor contract matters authorized under section 67-2345A [\[74-206A\]](#)(1)(a) and (b), Idaho Code.

(2) The exceptions to the general policy in favor of open meetings stated in this section shall be narrowly construed. It shall be a violation of this act to change the subject within the executive session to one not identified within the motion to enter the executive session or to any topic for which an executive session is not provided.

(3) No executive session may be held for the purpose of taking any final action or making any final decision.

History:

[74-206, added 2015, ch. 140, sec. 5, p. 371; am. 2015, ch. 271, sec. 1, p. 1125.]

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IDAHO DEPARTMENT OF LANDS

STATE BOARD OF LAND COMMISSIONERS

March 19, 2019

Endowment Transactions

Timber Sales

During February 2019, the Idaho Department of Lands sold two endowment timber sales at auction. The endowment net sale value represents a 4% up bid over the advertised value. The Department also sold one Good Neighbor Authority (GNA) timber sale (TS024337) on the Boise National Forest at auction for the appraised sale value.

TIMBER SALE AUCTIONS								
SALE NUMBER	SAWLOGS MBF	POLES LF	POLES MBF	CEDAR PROD MBF	PULP MBF	APPRAISED NET VALUE	SALE NET VALUE	NET \$/MBF
TS204338	2,770					\$ 593,166.00	\$ 635,943.00	\$ 229.58
TS204339	2,215					\$ 372,804.00	\$ 372,804.00	\$ 168.31
	4,985	0	0	0	0	\$ 965,970.00	\$ 1,008,747.00	\$ 202.36
TS024337*	5,392					\$ 846,176.53	\$ 846,176.53	\$ 156.93

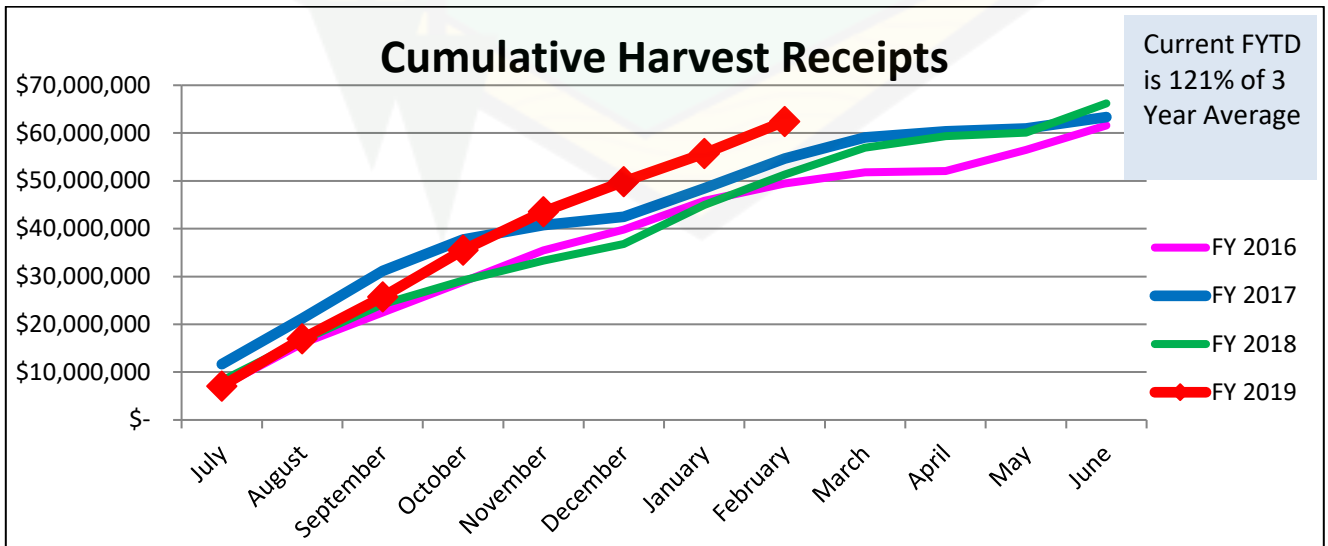
* GNA

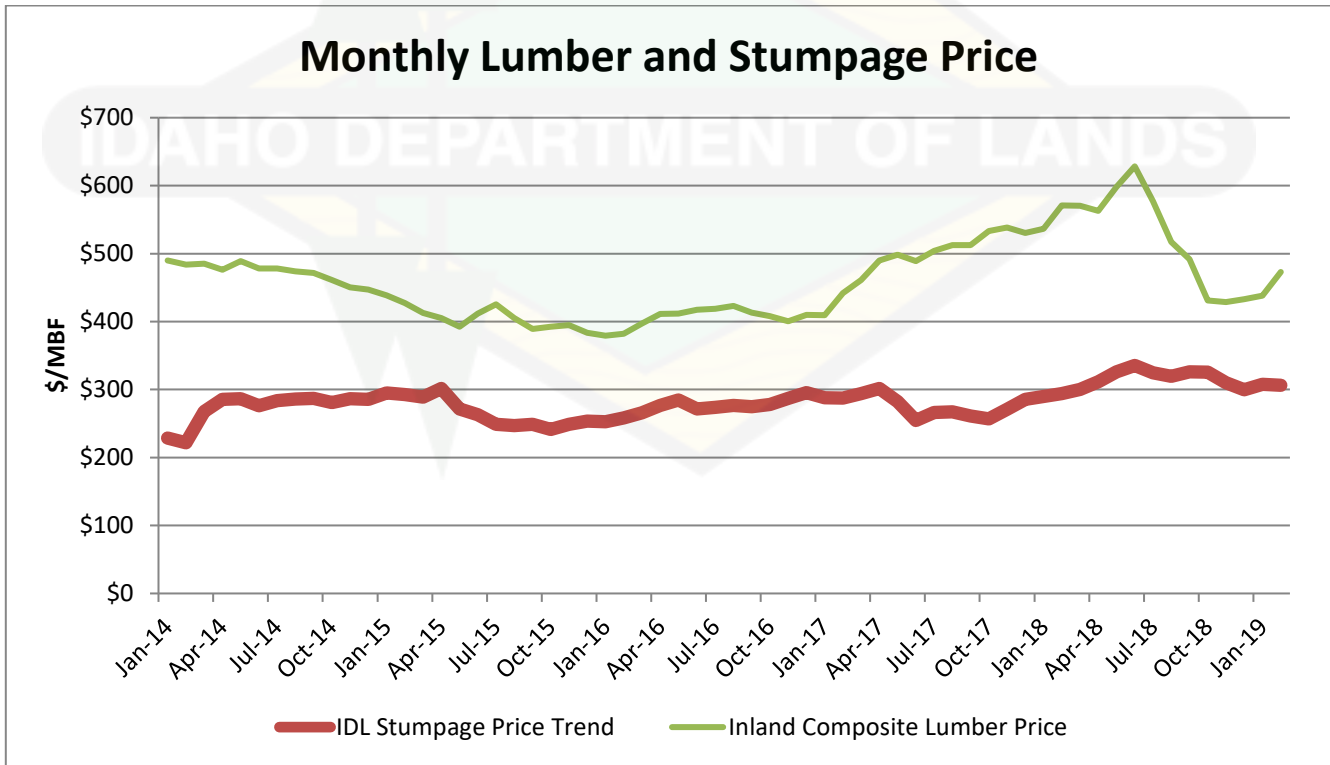
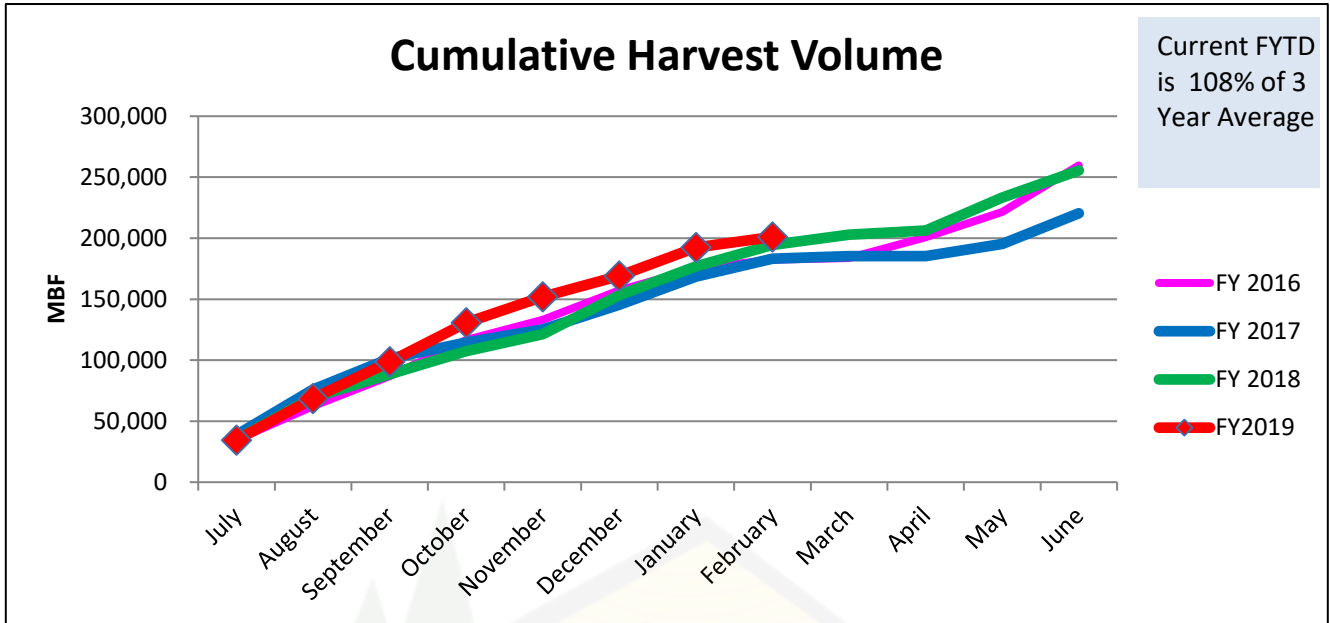
PROPOSED TIMBER SALES FOR AUCTION				
North Operations				
Sale Name	Volume MBF	Advertised Net Value	Area	Estimated Auction Date
West Rim OSR	1,050	\$ 153,531	PL	4/11/2019
Sheep to Market	3,715	\$ 556,591	POL	3/25/2019
South Operations				
Snake Face	3,785	\$ 854,045	CLW	4/12/2019
East Calhoun	3,700	\$ 837,237	CLW	4/12/2019
Backyard Seed	2,475	\$ 619,631	CLW	4/12/2019
South Mountain Ton	7,025	\$ 1,202,821	SWI	4/4/2019

VOLUME UNDER CONTRACT as of February 28, 2019			
	Total	Public School	Pooled
Active Contracts	152		
Estimated residual volume (MBF)	380,613	238,063	142,550
Estimated residual length (LF)	233,945	233,945	0
Estimated residual weight (Ton)	484,236	335,764	148,472
Total Residual MBF Equivalent	470,017	300,374	169,643
Estimated residual value	\$ 139,295,293	\$ 88,687,164	\$ 50,608,129
Residual Unit Value (\$/MBF)	\$ 296.36	\$ 295.26	\$ 298.32

TIMBER HARVEST RECEIPTS						
	February		FY to date	March Projected		
	Stumpage	Interest	Harvest Receipts	Stumpage	Interest	
Public School	\$ 2,756,180.03	\$ 309,085.64	\$ 33,640,717.01	\$ 1,420,907.37	\$ 122,106.41	
Pooled	\$ 3,309,172.90	\$ 363,637.48	\$ 28,813,778.21	\$ 1,123,856.24	\$ 121,781.99	
General Fund	\$ 0.15	\$ 0.00	\$ 690.22	\$ 0.15	\$ 0.00	
TOTALS	\$ 6,065,353.08	\$ 672,723.12	\$ 62,455,185.44	\$ 2,544,763.76	\$ 243,888.40	

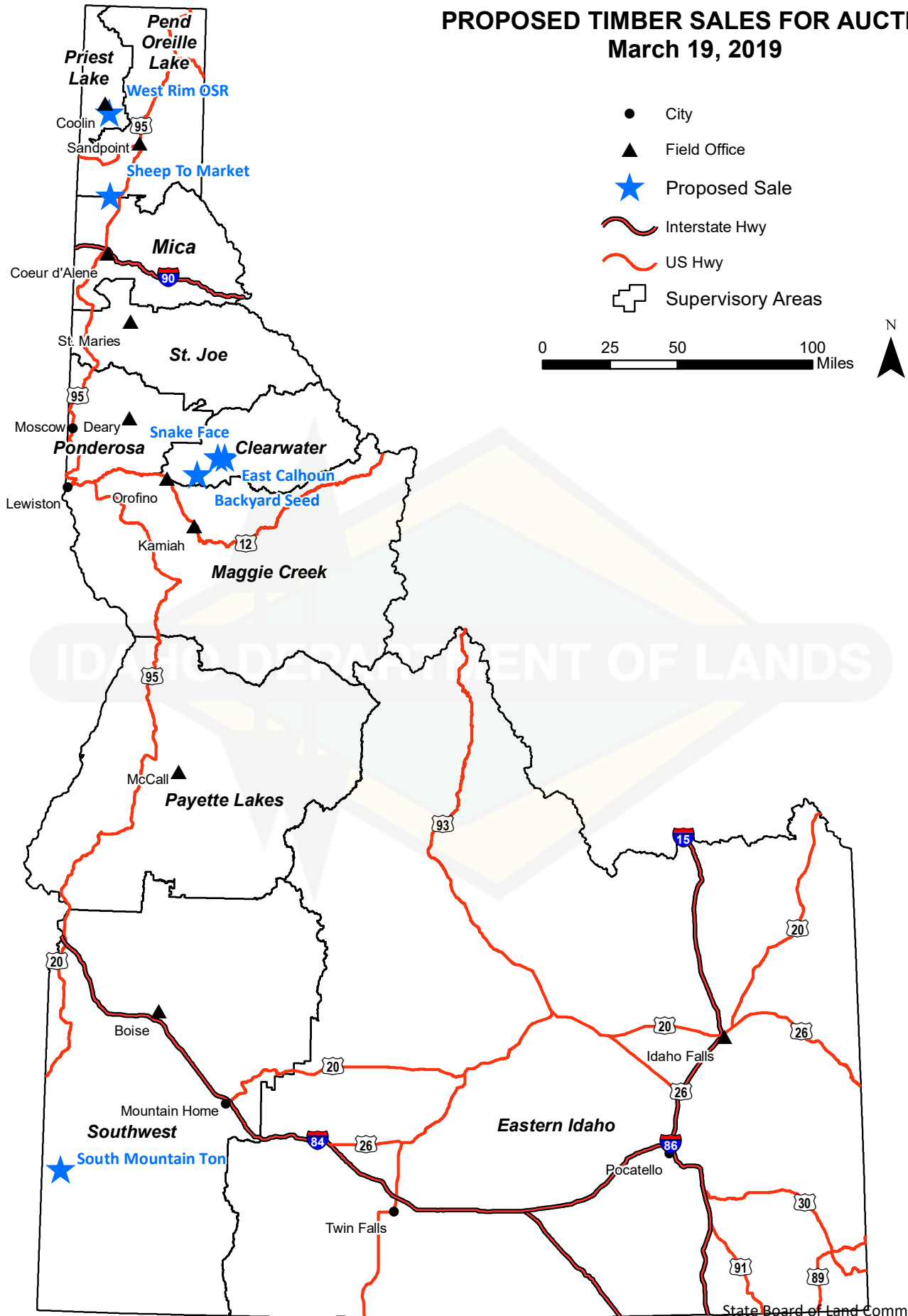
STATUS OF FY 2019 TIMBER SALE PROGRAM						
	MBF Sawlog			Number Poles		
	Public School	Pooled	All Endowments	Public School	Pooled	All Endowments
Sold as of February 28, 2019	71,340	43,649	114,988	5,191	7,947	13,138
Currently Advertised	11,790	0	11,790	0	0	0
In Review	17,211	16,434	33,645	0	3,000	3,000
Did Not Sell	9,224	7,736	16,960	0	0	0
TOTALS	109,565	67,818	177,383	5,191	10,947	16,138
FY-2019 Sales Plan			256,000			20,000
Percent to Date			69%			81%





IDL Stumpage Price Line is a 6 month rolling average of the net sale price.

PROPOSED TIMBER SALES FOR AUCTION March 19, 2019



STATE BOARD OF LAND COMMISSIONERS

March 19, 2019

Endowment Transactions

Leases and Permits

Three Land Use Permits issued in February were to 2019 Voluntary Auction for Ownership (VAFO) applicants. IDL offers a one (1) year Land Use Permit to VAFO applicants when their cottage site lease expires on December 31, prior to the following year's VAFO auction. The Land Use Permit requires payment at the normal lease rate. If the cottage site is sold during the auction, the Land Use Permit is terminated, and the Permittee receives a refund for the pro-rated rent based on the closing date of the transaction. If the cottage site is not sold during the auction, IDL then offers an application for a new lease through year 2024, which is advertised for 30 days and subject to conflict application.

FISCAL YEAR 2019 – LEASING & PERMITTING TRANSACTIONS BY MONTH – through February 28, 2019													
ACTIVITY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	YTD
SURFACE													
Agriculture	-	-	-	-	2	-	1	-					3
• <i>Assignments</i>	-	-	1	-	-	-	-	-					1
Communication Sites	1	1	1	1	-	-	-	-					4
• <i>Assignments</i>	-	1	-	1	-	-	-	-					2
Grazing	2	10	1	11	51	26	18	9					128
• <i>Assignments</i>	-	2	1	2	-	1	1	1					8
Residential	-	1	2	1	3	-	-	-					7
• <i>Assignments</i>	1	1	-	-	3	-	-	1					6
Alternative Energy	-	-	-	-	-	-	-	-					-
Industrial	-	-	-	-	1	-	-	-					1
Military	2	-	-	-	-	1	-	-					3
Office/Retail	-	-	-	-	-	-	-	-					-
• <i>Assignments</i>	1	-	-	-	-	-	-	-					1
Recreation	-	-	-	-	-	3	-	-					3
• <i>Assignments</i>	-	-	-	-	-	1	-	1					2
Conservation	1	-	-	1	-	1	-	-					3
Geothermal	-	-	-	-	-	-	-	-					-
Minerals	-	-	7	6	-	2	2	-					17
• <i>Assignments</i>	-	-	1	-	-	-	-	-					1
• <i>Exploration</i>	5	-	-	-	3	-	-	-					8
Non-Commercial Recreation	-	-	-	-	-	-	-	-					-
Oil & Gas	-	-	-	-	-	-	-	-					-
Land Use Permits	6	8	7	5	-	-	4	8					38
TOTAL INSTRUMENTS	19	24	21	28	63	35	26	20					236

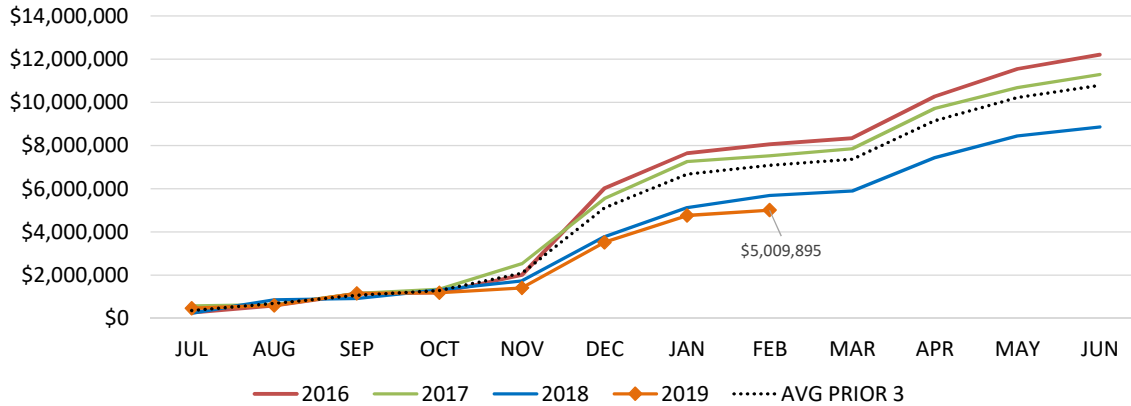
Real Estate

FISCAL YEAR 2019 – REAL ESTATE TRANSACTIONS BY MONTH – through February 28, 2019													
ACTIVITY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	YTD
Deeds Acquired	1	-	-	-	-	13	1	-					15
Deeds Granted	8	1	14	30	6	-	-	-					59
Deeds Granted - Surplus	-	-	-	-	1	-	-	-					1
Easements Acquired	-	-	2	-	-	-	-	-					2
Easements Granted	1	1	2	-	-	-	4	-					8

LANDS AND WATERWAYS DIVISION 2019 FYTD GROSS REVENUE through February 28, 2019	
ACTIVITY	REVENUE
SURFACE	
Agriculture	\$343,302
Communication Sites	\$981,946
Grazing	\$335,826
Residential	\$1,191,531
Alternative Energy	\$18,448
Industrial	\$89,334
Military	\$114,589
Office/Retail	\$835,552
Recreation	\$375,354
Conservation	\$182,307
Geothermal	\$5,120
Minerals	\$88,338
Non-Commercial Recreation	\$97,561
Oil & Gas	\$15,262
RE/Buyer's Premium	\$335,423
TOTAL FYTD REVENUE	\$5,009,895

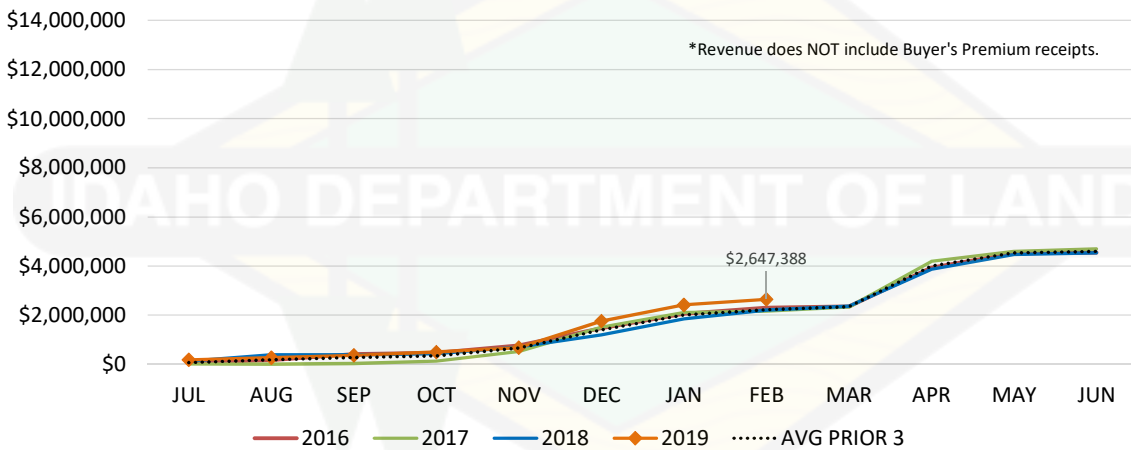
Cumulative L&W Program Receipts - Earnings Reserve
ALL PROGRAMS
FY16 - FYTD19

Current FYTD is
71% of 3 Year
Average



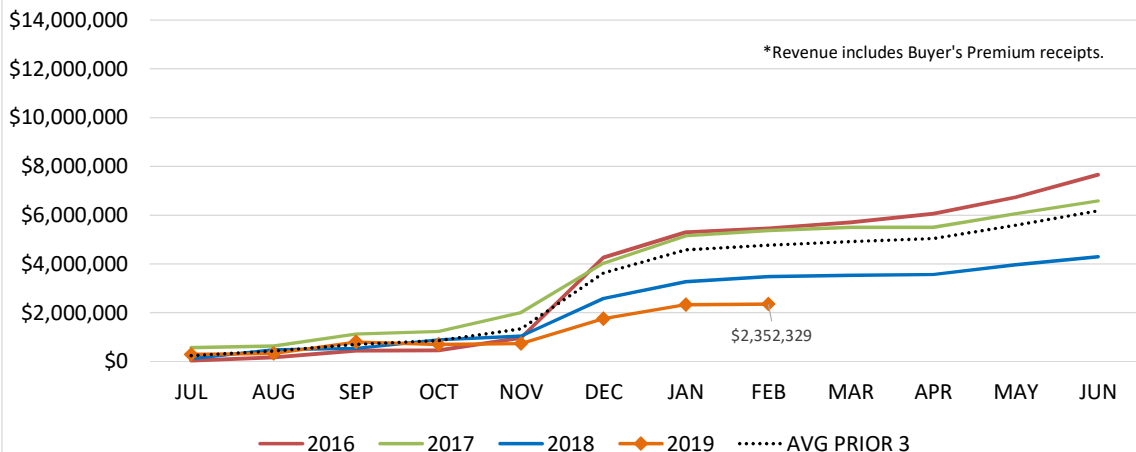
Cumulative L&W Program Receipts - Earnings Reserve
NO COMMERCIAL RETAIL OR RESIDENTIAL REVENUE* INCLUDED
FY16 - FYTD19

*Revenue does NOT include Buyer's Premium receipts.

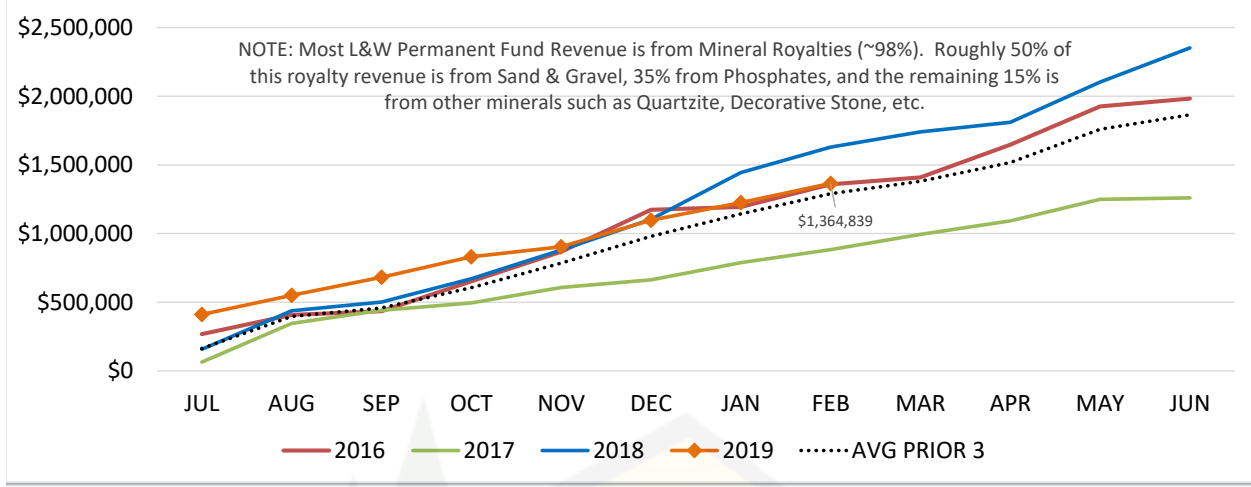


Cumulative L&W Program Receipts - Earnings Reserve
ONLY COMMERCIAL RETAIL AND RESIDENTIAL REVENUE* INCLUDED
FY16 - FYTD19

*Revenue includes Buyer's Premium receipts.



Cumulative L&W Permanent Fund Revenue/Royalties
 (Does NOT include Land Bank Revenue)
 FY16 - FYTD19



IDAHO DEPARTMENT OF LANDS

STATE BOARD OF LAND COMMISSIONERS

March 19, 2019

2019 Legislative Summary

Status of legislation monitored by the Department of Lands

IDL Pending Rules

[IDAPA 20.03.01–Dredge and Placer Mining Operations in Idaho](#). Allows submission of documents electronically; adds new abbreviations; and references water quality standards.

Status: House Resources and Conservation Committee - Approved; Senate Resources and Environment Committee - Approved.

[IDAPA 20.03.02–Rules Governing Exploration, Surface Mining, and Closure of Cyanidation Facilities](#). Deletes outdated bonding requirements; increases maximum reclamation bond amount to \$15,000 per acre to match statute; and requires operators within the 100-year floodplain to describe measures to be implemented to keep surface waters from entering mining operations.

Status: House Resources and Conservation Committee - Approved; Senate Resources and Environment Committee - Approved.

[IDAPA 20.03.04–Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho](#). Allows submission of documents electronically; allows existing permitted boat garages to be maintained or replaced at their current size and height; requires float homes to comply with the 2003 Uniform Plumbing Code and the 2008 National Electrical Code; requires that a notice of application for non-navigational encroachments be published in the local newspaper; and clarifies that the Department shall provide notice to anyone who may be in violation of the rules.

Status: House Resources and Conservation Committee - Approved; Senate Resources and Environment Committee - Approved.

[IDAPA 20.04.01–Rules Pertaining to Forest Fire Protection](#). Implements new fire protection standards for forest operation activities on forest lands to include on-site water supply, fire watch service, and operation area fire prevention practices.

Status: House Resources and Conservation Committee - Approved; Senate Resources and Environment Committee - Approved.

IDL Legislation

Budget

[H0233–Appropriations-Department of Lands](#) – Appropriation bill for fiscal year 2020, appropriating a total of \$60,255,200 and caps the number of authorized full-time positions at 323.82.

Status: House passed 61-6-3. Senate passed 35-0-0.

[S1142–Appropriations-Endowment Fund Investment Board](#) – Appropriation bill for fiscal year 2020 appropriating a total of \$745,500 and caps the number of authorized full-time equivalent positions at 4.00.

Status: Senate passed 35-0-0. House Third Reading.

Forest Practices Act

[H0044–Forest Practices Act Administration](#) – Amends existing law to increase the Forest Practices assessment cap from \$0.10 an acre per year to \$0.20 an acre per year. The assessment rate is set by the Land Board.

Status: LAW

Other Legislation Being Monitored

Administrative Rules

[H0073–Division of Financial Management](#) – Amends existing law to establish the Office of the Administrative Rules Coordinator in the Division of Financial Management.

Status: LAW

[H0100–Administrative Rules](#) – Amends existing law to require that all pending administrative rules shall be affirmatively approved by both the House of Representatives and the Senate, via a concurrent resolution.

Status: House passed 53-16-1. Senate State Affairs Committee.

[H0175–Idaho Administrative Procedures Act](#) – Repeals, amends, and adds to existing law to revise procedures for contested cases and hearing officers.

Status: House Judiciary, Rules and Administration Committee.

Off-Highway Vehicles

[H0024–Recreational Activities](#) – Amends existing law to remove weight limits on UTVs.

Status: LAW

[H0074–Recreational Activities](#) – Amends and adds to existing law to clarify that any person may obtain a certificate of number for a snowmobile or off-highway vehicle so long as the person has lawful possession of the machine; to provide that an accident occurring off-road and resulting only in property damage to the user's own property need not be reported to law enforcement; to impose a \$22.50 fee for off-highway vehicles used for commercial (rental) purposes; to allow use of motorbike funds to purchase public access recreation rights on private lands; and to allow the sale of a 2-year sticker, or certificate of number, for snowmobiles and off-highway vehicles.

Status: House passed 51-16-3. Senate failed 13-22-0.

[H0075–Recreational Activities](#) – Amends existing law to impose a \$12.00 sticker fee upon non-residents for OHV off-road travel in Idaho.

Status: LAW

[H0090–Recreational Activities](#) – Amends existing law to revise the definitions of "ATV" and "UTV."

Status: LAW

Lands

[H0092–Forest Land Annexation](#) – Amends existing law to prevent land actively devoted to forestry from being annexed without the express written permission of the owner.

Status: House Local Government Committee.

[H0104–Federal Land Rights-of-Way](#) – Amends existing law to revise provisions regarding federal land rights-of-way.

Status: House Transportation and Defense Committee.

[H0162–Federal Lands](#) – Adds to existing law to provide for the Idaho Council on Federal Lands.

Status: House passed 55-15-0. Senate 14th Order for amendment.

[HJM005–Federal Lands, Selling](#) – Stating findings of the Legislature and urging Congress to enact federal legislation to require that when private lands are exchanged, purchased, or transferred to the federal government that other federal lands within the county must be sold.

Status: House adopted 51-18-1. Senate Resources and Environment Committee hearing 3/11/19.

[S1089–Fish and Game](#) – Amends existing law to add a civil remedy to address violations of intentional access obstruction (i.e. private gates on public roads), to ensure public access while addressing law enforcement constraints.

Status: Senate Resources and Environment Committee.

Mining

[H0141–Mines](#) – Amends existing law to more accurately reflect current industry and regulatory practices, including surface impacts of underground mines and actual cost estimation of reclamation and related environmental activities. It includes updating financial assurance methods, requiring financial assurance for reclamation and long-term post closure management activities, requiring reclamation plan and financial assurance reviews, and ensuring that there will be no duplication in financial assurances between government agencies.

Status: House passed 59-11-0. Senate Second Reading.

Fire

[S1178–Exploding Targets](#) – Amends existing law to provide restrictions regarding the use of exploding targets.

Status: Senate 14th Order for amendment.

Miscellaneous

[H0142–Bear Lake](#) – Adds to existing law to provide for lands and water at Bear Lake. This would be a new section in Idaho Code 67-4313. It recognizes the Bear River Compact and the right that Idaho has to use and develop additional water from the Bear River drainage.

Status: House Resources and Conservation Committee.

[H0207–Wetlands](#) – This bill promotes the availability of all types of compensatory mitigation for project impacts to wetlands, consistent with the federal 2008 Mitigation Rule.

Status: House passed 70-0-0. Senate Second Reading.

[HCR012–Natural Resource Issues-Study](#) – Stating findings of the Legislature and authorizing the Legislative Council to appoint a committee to undertake and complete a study of natural resource issues. This legislation would authorize the Legislative Council to continue an interim committee to undertake studies of natural resource issues, particularly the water resources of the state.

Status: House adopted 68-0-2. Senate adopted by voice vote.

[S1045–Correctional Industries](#) – Amends existing law to provide for inmate trainee participation in Idaho Correctional Industries Training Programs; to provide for stipends; and to provide for contracts for agricultural training programs for inmate trainees.

Status: Senate passed 35-0-0. House Judiciary, Rules and Administration Committee.

2019 VAFO Payette Lake Appraised Values

CS Address	Subdivision	Lot	Block	Acreage	Lake Front / Non-Lake Front	2019 Overall Value	2019 Personal Property Value	2019 Land Value	2012 Land Value	Land Total Percent Change	Land Avg. Percent Change Per Year
2168 Payette Drive	SW Payette Cottage Sites	1	15	0.49	Lake-Front	\$1,645,000	\$402,000	\$1,243,000	\$1,220,000	2%	0%
2113 Payette Drive	SW Payette Cottage Sites	1	17	0.30	Non-Lake Front	\$206,000	\$123,000	\$83,000	\$47,000	77%	11%
2134 Warren Wagon Road	SW Payette Cottage Sites	2	16	0.34	Non-Lake Front	\$283,000	\$200,000	\$83,000	\$44,000	89%	13%
Totals				1.13		\$2,134,000	\$725,000	\$1,409,000	\$1,311,000	7%	1%

IDAHO DEPARTMENT OF LANDS

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IDAHO DEPARTMENT OF LANDS



M. Dean Buffington :: Chairman
Jerry F. Aldape Irving Littman
Neil A. Anderson Gary L. Mahn
Warren R. Bakes Richelle A. Sugiyama
Gavin M. Gee Chuck Winder

Chris J. Anton :: Manager of Investments

Monthly Report to the Board of Land Commissioners

Investment performance through February 28, 2019

Month: 2.3% Fiscal year: 2.2%

The positive momentum we experienced in the capital markets in January continued into February as investors welcomed the Fed's decision to delay further interest rate increases and gained confidence in a trade deal with China. Global economic growth is slowing, but there is optimism it will reaccelerate in the second half of the year due to stimulus efforts by central banks around the world.

Status of endowment fund reserves

Distributions for FY2019 and FY2020 are well secured. Estimated reserves as of January 31, 2019 were 5.8 years for public schools and 6.3 – 8.0 years for the other endowments based on anticipated FY2020 distributions.

Significant actions of the Endowment Fund Investment Board

The EFIB Board agreed to conduct a mid-cap value equity manager search at its board meeting on February 13, 2019. Interviews are anticipated in late March.

Compliance/legal issues, areas of concern

Material deviations from Investment Policy or compliance guidelines for investment managers:
None.

Material legal issues: None.

Changes in board membership or agency staffing: None.

Upcoming issues/events

None.

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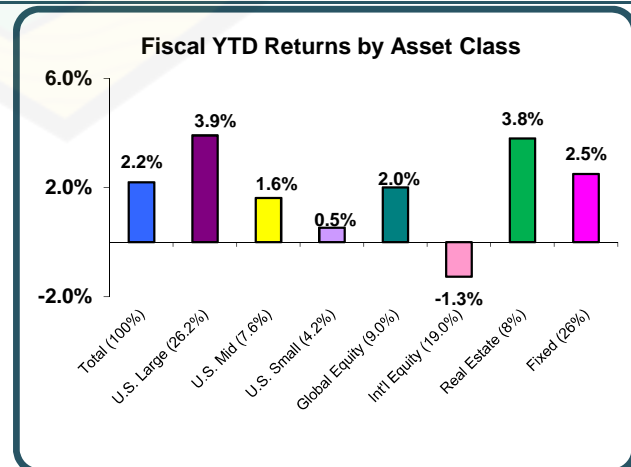
IDAHO DEPARTMENT OF LANDS

	<u>Month</u>	<u>FYTD</u>
Beginning Value of Fund	\$ 2,284,098,649	\$ 2,280,690,637
Distributions to Beneficiaries	(6,517,200)	(52,137,600)
Land Revenue net of IDL Expenses	9,244,049	40,108,942
Change in Market Value net of Investment Mgt. Expenses	<u>45,672,751</u>	<u>63,836,270</u>
Current Value of Fund	<u>\$ 2,332,498,249</u>	<u>\$ 2,332,498,249</u>

<u>Gross Returns</u>	<u>Current Month</u>	<u>Calendar Y-T-D</u>	<u>Fiscal Y-T-D</u>	<u>One Year</u>	<u>Three Year</u>	<u>Five Year</u>	<u>Ten Year</u>
Total Fund	2.3%	8.9%	2.2%	3.0%	10.8%	6.2%	12.0%
<i>Total Fund Benchmark*</i>	1.9%	7.7%	2.1%	2.3%	10.3%	6.2%	11.5%
Total Fixed	-0.1%	1.3%	2.5%	3.2%	1.8%	2.3%	3.7%
<i>85% BB Agg, 15% TIPS</i>	-0.1%	1.1%	2.3%	3.0%	1.7%	2.2%	3.7%
Total Equity	3.6%	13.0%	1.7%	2.2%	14.5%	7.6%	15.0%
<i>38% R3 19% Ax 9% AC</i>	3.0%	11.4%	1.3%	0.9%	13.9%	7.7%	14.6%
Domestic Equity	4.1%	14.5%	3.1%	5.3%	16.6%	9.7%	17.7%
<i>Russell 3000 (R3)</i>	3.5%	12.4%	3.2%	5.1%	15.5%	10.2%	16.8%
Global Equity	4.1%	12.6%	2.0%	0.5%	12.0%	4.9%	
<i>MSCI ACWI (AC)</i>	2.7%	10.8%	0.8%	-0.8%	12.9%	6.3%	
Int'l. Equity	2.5%	10.0%	-1.3%	-3.0%	11.0%	3.6%	9.0%
<i>MSCI ACWI ex-US (Ax)</i>	2.0%	9.7%	-2.2%	-6.5%	10.7%	2.5%	9.6%
Real Estate				8.4%			
				7.7%			

* Benchmark: 38% Russell 3000 19% ACWI ex-US 9% AC 26% BB Agg, 8% ODCE

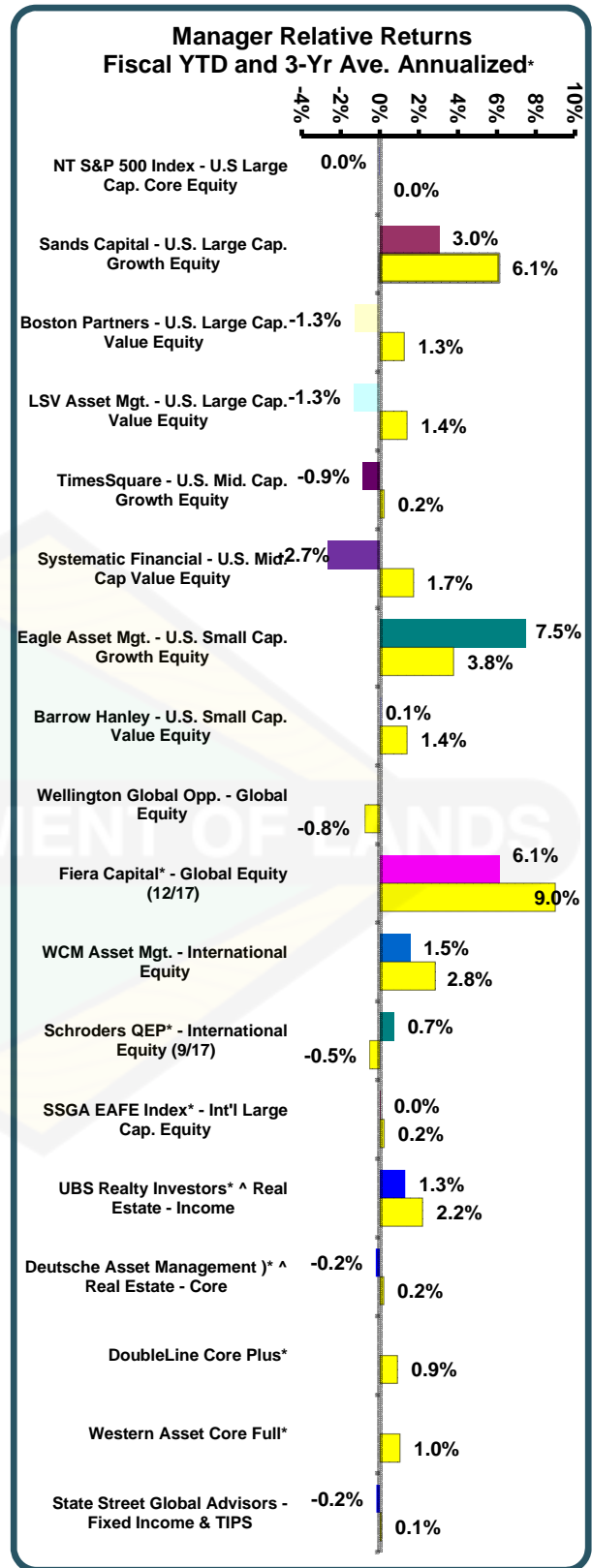
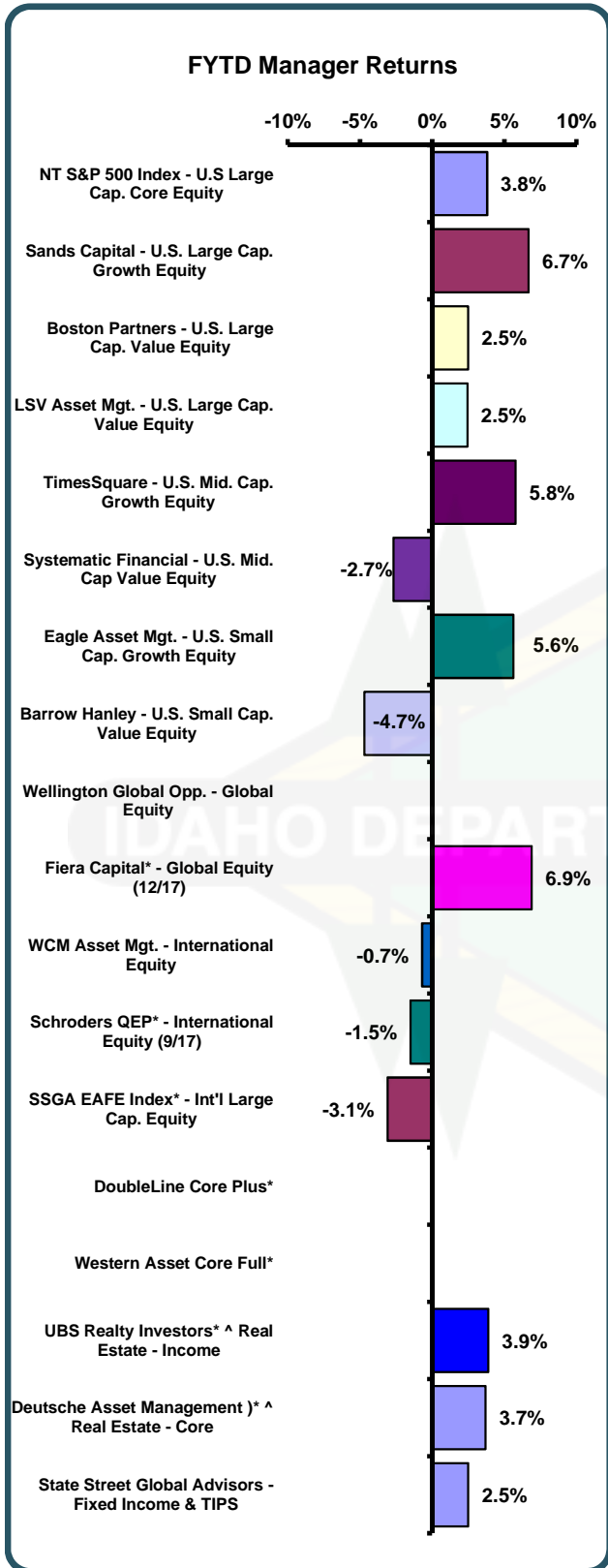
	<u>Mkt Value (\$M)</u>	<u>Allocation</u>
Domestic Equity	\$ 917.7	39.3%
Large Cap	624.6	26.8%
Mid Cap	187.0	8.0%
Small Cap	106.1	4.5%
Global Equity	216.2	9.3%
Int'l Equity	446.0	19.1%
Fixed Income	546.1	23.4%
Real Estate	195.2	8.4%
Cash	11.2	0.5%
Total Fund	<u>\$ 2,332.5</u>	<u>100.0%</u>



Endowment Fund Staff Comments:

The fund was up 2.3% for the month, 0.4% over the benchmark. The Russell 3000 index was up 3.5%, Russell Midcap up 4.3% and Russell 2000 (small cap) up 5.2%. International equities (MSCI ACWI ex-US) were up 2.0%. Growth outperformed Value, while Domestic equity outperformed International equity. Bonds, as measured by the BBC Aggregate index, were down 0.1% and TIPS were down 0.1%. 7 of 11 active equity managers beat their benchmark this month. On a FYTD basis, the fund is up 2.2%, 0.1% over benchmark, and 7 of 11 active managers beat their benchmark.

INVESTMENT REPORT



*ITD return used when manager has less than 3 years. ^ Most recent valuation.

STATE BOARD OF LAND COMMISSIONERS

March 19, 2019
Consent Agenda

Subject

Timber License Plate Fee Recommendations

Background

Idaho's timber license plate is established in Idaho Code § 49-417A, and has been available since 1997. Twenty-five dollars of each initial fee and fifteen dollars of each renewal fee are deposited in the Department of Lands fund for reforestation activities or for education. Educational efforts must help build public understanding of reforestation or the management and conservation of forest resources on public and private lands in Idaho. Such funds are to be expended as agreed by the State Board of Land Commissioners upon recommendations developed jointly by the Idaho Department of Lands (IDL) and the Idaho Forest Products Commission (IFPC).

Discussion

In calendar year 2018, a total of 2,638 timber plates were sold, transferred or renewed. As of March 5, 2019, a total of \$41,055 unobligated funds are in this account. The Department and Idaho Forest Products Commission have jointly agreed on a plan to expend \$50,000 on educational efforts for calendar year 2019 (Attachment 1). Fees from new and renewal license plates continue to accrue monthly and the Department anticipates \$50,000 will be in place by the time those funds are needed. Funds will only be withdrawn if available.

Recommendation

Direct the Department to proceed with the recommended educational projects developed jointly with the Idaho Forest Products Commission.

Board Action

Attachments

1. IDL/IFPC Recommendations

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IDAHO DEPARTMENT OF LANDS



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 email: ifpc@idahoforests.org
 plt@idahoforests.org
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**IDAHO FOREST
 PRODUCTS
 COMMISSION**

TO: State Board of Land Commissioners

Michael D. Boeck
 District 1 - (208) 437-2412

Jack A. Buell
 District 2 - (208) 245-2501

Jesse D. Short
 District 3 - (208) 848-2301

Trevor Stone
 District 4 - (208) 748-2038

Mark Mahon
 District 4 - (208) 741-9067

Betty J. Munis
 Director

Michelle Youngquist
 Education Coordinator

FROM: Betty J. Munis - Director, Idaho Forest Products Commission
 Dustin Miller – Director, Idaho Department of Lands

RE: Timber License Plate Fee Recommendations

Idaho’s timber license plate has been available since 1997. In the year 2018, a total of 2,638 timber plates were sold, transferred or renewed. Twenty-five dollars of each initial fee and fifteen dollars of each renewal fee are available for educational efforts or reforestation activities. As of March 5, 2019 there was \$41,055 of unobligated funds in this account.

The following list of educational projects is recommended by the Idaho Forest Products Commission and the Idaho Department of Lands to be supported by Timber License Plate fees as authorized in Section 49-417A, Idaho Code:

1. Arbor Day Billboard Campaign

Background: Arbor Day is a special holiday set aside to appreciate and plant trees. This project would provide an educational statewide billboard campaign in conjunction with the Arbor Day celebration. The billboards would target the general public with a positive message about Idaho forests. This campaign would be part of a statewide Arbor Day 2019 project.

Plate Fees:	\$ 17,000
Total Project Estimated Costs:	\$ 27,000

2. Seedlings

Background: This project would provide 16,000 seedlings for the Arbor Day 2019 celebration and educational expos. The seedlings are grown at the University of Idaho and packaged with information about reforestation and an educational brochure with information about Arbor Day and Idaho’s forests will also accompany seedlings. The seedlings would be available throughout the state at various points of distribution.

Amount Requested from Timber Plate Fees:	\$ 4,500
Total Project Estimated Costs:	\$ 13,750

(Over)

3. Arbor Day 2019

Background: Each year the last Friday in April is designed as Arbor Day, a special holiday celebrating trees. The Arbor Day 2019 project includes promotional materials, brochures and posters with information about Idaho's forests and reforestation, a seedling give-away, television and radio public service announcements, social media postings, a special Arbor Day t-shirt and event at the statehouse on Arbor Day. There will also be programs for Idaho educators focusing on the many things renewable trees bring to our lives and need for good forest stewardship, management and reforestation.

Amount Requested from Timber Plate Fees: \$ 2,000
Total Project Estimated Costs: \$ 10,500

4. Arbor Day Photo Contest

Background: In 2011, IFPC began a statewide photo contest providing an opportunity for Idaho students to engage in Arbor Day and consider the role trees as a renewable resource play in their daily lives. The project has been a true success with hundreds of 5th to 12th grade students participating each year. The contest was developed with input from the Idaho Department of Education and asks students to show what they see when they "Look to the Forest" through a photograph and to describe their work in an artist statement. Cash prizes are awarded to the winners of three age categories. One grand prize is honored at the state Arbor Day Celebration where a tree is planted in their honor. Winning photos are used to promote Arbor Day and forest education in Idaho.

Amount Requested from Timber Plate Fees: \$ 500
Total Project Estimated Costs: \$ 1,000

5. Arbor Day Tree Planting Effort

Background: Attached

Amount Requested from Timber Plate Fees: \$ 2,000
Total Project Estimated Costs: \$ 2,000

6. Teachers' Sustainable Forest Tour

Background: This project provides forty-three educators with an exceptional hands-on opportunity to learn about sustainable forest management and the forest products industry during a 4-day forest tour. Its goal is to provide an opportunity for educators to talk directly with the people that grow, manage, harvest and process trees into useful wood products as well as the managers who care for the air, water, soil, fish and wildlife. The 2019 Sustainable Forest Tour is scheduled for June 24-28.

Amount Requested from Timber Plate Fees: \$ 1,500
Total Project Estimated Costs: \$ 45,000

(Over)

7. Forest Tour

Background: This project provides an on-the-ground educational opportunity for Idaho leaders to learn about the forests of Idaho and gain a first-hand understanding of forest management. In the past, *Miracle at Work Forest Tours* have been conducted in central and north Idaho and feature private, state and federal forest managers and resource professionals.

Amount Requested from Timber Plate Fees: \$ 2,500
Total Project Estimated Costs: \$ 24,000

8. Project Learning Tree

Background: Project Learning Tree is a nation-wide, award winning environmental education program. PLT is based on the principles of teaching youths “how to think, not what to think” and preparing students to make wise decisions about resource use and conservation. Since 1994, over 9,600 teachers have participated in PLT workshops with the potential to reach thousands of Idaho students *each* year.

Amount Requested from Timber Plate Fees: \$ 20,000
Total Project Estimated Costs: \$ 150,000

Total License Fee Appropriation Request \$ 50,000



IDAHO DEPARTMENT OF LANDS



Coeur d'Alene Staff Headquarters
3284 W. Industrial Loop, Coeur d'Alene, ID 83815
Telephone: Ara Andrea - (208) 666-8623
Joyce S. Jowdy - (208) 666-8622
Fax No. (208) 769-1524

Memorandum

TO: Dustin T. Miller, Director, IDL
Betty Munis, Director, IFPC

FROM: Ara Andrea, Chief, Forestry Assistance Bureau *A.A.*

SUBJECT: Arbor Day Funding Request

DATE: January 7, 2019

CC: Craig Foss, Forestry & Fire Division Administrator

I am writing to request \$2,000 from the Idaho Timber Special License Plates program to assist Idaho Department of Lands area offices in promoting tree planting on public and private lands in and around Idaho communities. This funding request is for FY 2019, as Timber license plate funds are available.

The Department of Lands will use the \$2,000 to encourage IDL area field offices to help communities plan and conduct local Arbor Day celebrations. A similar project conducted in the spring of 2018 received outstanding support from IDL field offices and the communities they assisted. Funds were used to purchase trees, Arbor Day T-shirts, and other educational materials for communities throughout Idaho.

The Arbor Day project provided many opportunities for partnerships between urban and rural forestry interests. IDL foresters worked with local governments, schools, service clubs, businesses, USFS offices, and forest products companies to plan and conduct local celebrations.

Thank you for your consideration of this request. I will be glad to provide additional information as needed, and look forward to your response.

STATE BOARD OF LAND COMMISSIONERS

March 19, 2019
Consent Agenda

Subject

Forest Practices Act Annual Assessment Increase

Authority

Idaho Code § 38-134, Forest Practices Act Administration – Funding. The Idaho Forestry Act authorizes the State Board of Land Commissioners (Land Board) to set the amount of annual assessment private forest landowners pay for administration and enforcement of the Idaho Forest Practices Act (FPA).

Background

Consistent with Idaho Code § 38-1302, the Idaho Department of Lands (Department) administers the FPA and associated rules to ensure the continuous growing and harvesting of forest trees while protecting and maintaining Idaho's forest soil, water resources, wildlife and aquatic habitat. To administer the FPA, the Department relies on an annual assessment paid by private forest landowners and from ongoing general fund appropriations to cover personnel, operating, and equipment costs.

The last assessment increase was in 2003, when the FPA assessment was raised to the statutory cap of \$0.10 per acre per year. While funding has remained flat for over 15 years, expenses have increased substantially during this same period. The dedicated fund where landowner assessments are deposited will be depleted in the next fiscal year. The Department delayed increasing FPA assessment until the economy recovered by reducing staffing levels and spending down the FPA dedicated fund cash balance.

Since 2009, the economic recovery has led to a slow but steady upswing in market conditions and forest harvesting operations on all forestlands inspected under the FPA program. The number of FPA notifications and regulatory activities have doubled since 2009. An increase to the assessment rate is needed to sustain the Department's administration of the FPA program and to maintain services to all private forest landowners in Idaho.

Discussion

At the September 18, 2018 Land Board meeting, the Department received approval from the Land Board to proceed with legislation revising Idaho Code § 38-134, Forest Practices Act Administration – Funding, to increase the maximum Forest Practices assessment cap from \$0.10 an acre per year to \$0.20 an acre per year. While the statutory maximum for the assessment is set in Idaho Code, the effective rate is set by the Land Board. The 2019 Idaho

Legislature passed HB 44 which raised the cap to \$0.20 per acre per year and Governor Little signed the bill into law on February 26, 2019 (Attachment 1).

The Department is now requesting that the actual annual assessment rate be raised from \$0.10 per acre to \$0.13 per acre, effective July 1, 2019. The \$0.03 per acre assessment increase will generate an additional \$150,000 annually from private forest landowners and \$30,000 from state endowment forestlands (approximately 1 million acres of endowment forestland) for a total of \$180,000 to the FPA dedicated fund. As outlined in statute, and included in the Department's FY20 budget, a corresponding ongoing increase of \$177,000 will come from the state general fund. The combined dedicated fund and earnings reserve increases will slightly more than match the approved general fund increase, which the Department believes aligns with the direction provided in statute, and will sustain administration of the FPA regulatory program for the next 3-5 years.

The Department met with the Idaho Forest Owners Association, which represents family forest landowners, and with industrial forest landowner representatives to discuss the need for this rate increase. These forest landowner groups provided letters of support for both the assessment cap increase and the assessment rate increase (Attachment 2).

Recommendation

Approve increasing the Forest Practices annual assessment rate to \$0.13 per acre effective July 1, 2019.

Board Action

Attachments

1. Statement of Purpose and House Bill 44
2. Letters of Support
 - Bennett Lumber Products, Inc.
 - Idaho Forest Owners' Association
 - Riley Stegner and Associates

STATEMENT OF PURPOSE

RS26436

This legislation revises Section 38-134, Idaho Code, Forest Practices Act Administration - Funding to increase the maximum Forest Practices assessment from \$0.10 an acre per year to \$0.20 an acre per year. This assessment is paid by private forest owners in Idaho to help fund Forest Practices Act (FPA) administration by the Idaho Department of Lands (IDL). While the statutory maximum for the assessment is set in Idaho Code, the effective rate is set by the State Board of Land Commissioners. Funding also comes to IDL from the state General Fund, and since 2014, from the state land endowments to administer and enforce the Idaho FPA on state, private, and federal lands and ensure forest practices in Idaho maintain site productivity and protect water quality.

The FPA assessment threshold and rate were last increased from \$0.05 an acre per year to \$0.10 an acre per year in 2003. During the interim years and in response to the economic downturn, IDL worked with private forest owners to avoid increasing FPA assessments until the economy recovered. IDL reduced staffing levels and spent down the FPA Dedicated Fund cash balance.

Since 2009, economic recovery has led to an upswing in market conditions and forest harvesting operations on all forestlands inspected under the FPA program. The number of FPA notifications and regulatory activities have increased each year. In addition, rule changes and expansion of the program to state forestlands increased the time and resources needed to conduct FPA inspections and assist landowners with implementation of the shade rule. Operating, personnel, and equipment costs have also risen significantly since the last assessment increase. An increase to the FPA assessment maximum, as well as an increase to the current assessment rate set by the State Board of Land Commissioners, are needed to sustain IDL administration of the FPA regulatory program.

FISCAL NOTE

Private forest owners are currently assessed the maximum allowed FPA assessment of \$0.10 an acre per year. If this legislation is approved and the per acre maximum assessment increases to \$0.20 an acre per year, IDL will recommend the State Board of Land Commissioners approve a \$0.13 an acre per year rate or \$0.03 an acre per year increase. This rate increase would generate an additional \$150,000 annually from private forest owners. An equivalent \$.03 an acre increase would be contributed for state forestlands providing an additional \$30,000 annually to the FPA Dedicated Fund. And as outlined in statute, IDL would submit a corresponding ongoing increase of \$177,000 from the state General Fund. Collectively, if approved, these funding level increases are anticipated to be sufficient for IDL to fulfill statutory obligations and administer the Idaho FPA for the next three to five years.

Contact:

Craig Foss
Department of Lands
(208) 666-8640

DISCLAIMER: This statement of purpose and fiscal note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 44

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1
2 RELATING TO THE FOREST PRACTICES ACT ADMINISTRATION; AMENDING SECTION
3 38-134, IDAHO CODE, TO REVISE ANNUAL ASSESSMENT PROVISIONS REGARDING
4 PRIVATE OWNERS OF CERTAIN FOREST LANDS.

5 Be It Enacted by the Legislature of the State of Idaho:

6 SECTION 1. That Section 38-134, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 38-134. FOREST PRACTICES ACT ADMINISTRATION -- FUNDING. The director
9 of the department of lands is charged in section 38-1305, Idaho Code, to ad-
10 minister and enforce the forest practices act on all private forest lands
11 within the state. Funding for this activity shall come from an annual bud-
12 get request from the general fund and from an annual assessment to be paid by
13 every private owner of forest land in the state. The assessment for private
14 owners of forest lands whose total acres of forest lands are twenty-five (25)
15 acres or fewer shall be equal to the per acre cost multiplied by twenty-five
16 (25). For private owners of forest lands whose total acres of forest lands
17 are twenty-six (26) acres or more, the assessment shall be determined by the
18 state board of land commissioners not to exceed ~~ten~~ twenty cents (±20¢) an
19 acre per year. The assessment shall be collected in the same fashion and
20 at the same time as the forest protection assessment described in section
21 38-111, Idaho Code.



3759 Highway 6 P.O. Box 130 Princeton, ID 83857

Phone: (208) 875-1121

Fax: (208) 875-0191

May 2, 2018

David Groeschl
Director, Idaho Department of Lands
300 N 6th Street, Suite 103
Boise, ID 83702

David,

Please accept this letter in support of the Idaho Department of Lands proposal to increase the Idaho Forest Practices Assessment Rate. Bennett Lumber recognizes the importance of funding this program and the budgetary constraints it has and will be working under. With this understanding, Bennett Lumber Products Inc. supports a statute change to Section 38-134 to raise the Forest Practices Assessment Rate Cap to \$.20/acre. Bennett Lumber Products Inc. also supports a consequent \$.5/acre rate increase bringing the assessment rate to \$.15/acre. Your staff did a good job in describing this issue and why a fix is required. We greatly appreciate IDL's partnership and efforts.

Sincerely,

A handwritten signature in blue ink that reads "Tom Biltonen".

Tom Biltonen
Resource Manager
Bennett Lumber Products Inc.

DEPT. OF LANDS
2018 MAY 29 AM 10:58
BOISE, IDAHO



Idaho Forest Owners Association
P.O. Box 1257
Coeur d'Alene, ID 83816-1257
info@idahoforestowners.org
www.idahoforestowners.org

September 14, 2018

State Board of Land Commissioners
300 N. 6th Street, Suite 103
Boise, ID 83702

Dear Commissioners:

I am writing today as the president of the Idaho Forest Owners Association (IFOA) Board of Directors to express our support for the proposed Forest Practices Act assessment-rate cap increase and the corresponding rate increase requested by the Idaho Department of Lands. The members of the Idaho Forest Owners Association and all owners of private forest land in Idaho are beneficiaries of the numerous land owner assistance programs offered by the Department of Lands through the Forest Practices and Forest Stewardship programs.

If no increases in Forest Practices funding are approved by this Board and the Legislature, it will be IFOA members and other private forest landowners who will suffer due to decreased landowner assistance needed to complete active management funded by NRCS EQIP or Regional Conservation Partnership Program (RCPP) funds as well as a reduction in the amount of follow-up re-inspections and re-certifications of Forest Stewardship Plans and an increase in the time between re-inspections. As forest landowners, when we compare the quality of service we receive from the Idaho Department of Lands with the situation faced by landowners in neighboring states, we realize how fortunate we are.

If we want to continue to benefit from the services provided by the Idaho Department of Lands, we must be willing to pay for those services. We believe that the proposed assessment rate cap as well as the proposed rate increase is both reasonable and moderate and should be approved by the Board of Land Commissioners to go forward to the Legislature for final consideration. The future of Idaho's private forest lands and their contribution to the economic strength of Idaho are significantly impacted by the services provided by the Idaho Department of Lands. It is in the best interest of all the citizens of Idaho that we insure that IDL's Forest Practices activities continue to be funded at a healthy and sustainable level.

Sincerely,

David A. Easley
President
Idaho Forest Owners Association
PO Box 1257
Coeur d'Alene, ID 83816-1257

2018 SEP 18 AM 11:02
BOISE, IDAHO
JEP1, OF LANDS



RILEY STEGNER AND ASSOCIATES

September 17, 2018

State Board of Land Commissioners
300 N. 6th Street, Suite 103
Boise, ID 83702

RE: Comments on proposed Forest Practices Act statute change to increase assessment cap increase

Dear State Board of Land Commissioners:


We write in support of the Idaho Department of Lands' (IDL) plan to bring forward legislation to the 2019 Idaho Legislature seeking an increase of the statutory maximum Forest Practices Act (FPA) landowner assessment to \$0.20/acre from the current ceiling of \$0.10/acre. If approved by the legislature, we understand IDL will request that the State Board of Land Commissioners (Land Board) increase the FPA assessment to \$0.13/acre.

We commend IDL for working with Idaho's landowners to address increasing costs associated with implementing the FPA through the Forest Practices Act Dedicated Fund (Fund). The Fund is vital to the environmentally sustainable harvest of timber in Idaho, as it provides the resources for inspections and compliance enforcement of forest operations throughout the state.

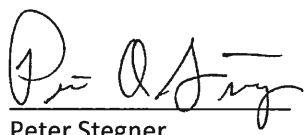
Our clients, Idaho Forest Group, Stimson Lumber Company, Molpus Timberland Group, Hancock Timber Resource Group, and Bennett Lumber Products Inc., collectively own and operate numerous sawmills in Idaho and over 400,000 acres of commercial forestland. IDL worked in a professional and productive manner with our clients and other Idaho landowners to develop their proposed statutory proposal, and we support the final product.

We appreciate the opportunity to comment and look forward to our continued involvement in the process.

Sincerely,



Jim Riley
Principal
Riley Stegner and Associates



Peter Stegner
Principal
Riley Stegner and Associates

DEPT. OF LANDS
2018 SEP 17 PM 2:21
BOISE, IDAHO

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IDAHO DEPARTMENT OF LANDS



Idaho State Board of Land Commissioners

Brad Little, 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
Dustin T. Miller, Secretary to the Board

Be it remembered, that the following proceedings were had and done by the State Board of Land Commissioners of the State of Idaho, created by Section Seven (7) of Article Nine (IX) of the Constitution.

Draft Minutes
State Board of Land Commissioners Regular Meeting
February 19, 2019

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, February 19, 2019, in the Boise City Council Chambers, Boise City Hall, 3rd Floor, 150 N. Capitol Blvd., Boise, Idaho. The meeting began at 9:00 a.m. The Honorable Governor Brad Little 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 Little recognized the presence of all Board members, and noted that Attorney General Wasden was joining via conference call.

Governor Little acknowledged that many audience members were interested in the last item on the agenda. Governor Little explained that Land Board guidelines allow for testimony from both sides on any issue, comments should be consolidated and presented by a single representative when possible, and testimony will be limited to three minutes per party. A sign-in sheet was provided for individuals wanting to provide comment.

1. Department Report

Endowment Transactions

- A. Timber Sales – December 2018/January 2019
- B. Leases and Permits – December 2018/January 2019

Discussion: None.

Status Updates

- C. Land Bank Fund
- D. Legislative Summary
- E. Resource Protection and Assistance Bureau

Discussion: None.

2. Endowment Fund Investment Board Report – *Presented by Chris Anton, EFIB Manager of Investments*

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

Discussion: Mr. Anton remarked that the portfolio experienced a significant amount of volatility in the financial market since the December Land Board meeting. Domestic and foreign markets were down in December but rebounded in January. More specifically, the endowment portfolio was down 4.8% in December and up 6.3% in January, which put the fund down slightly at -0.2% for fiscal year-to-date at the end of January. Mr. Anton indicated there have been some gains in the financial markets and through the close of the markets yesterday the portfolio was up 1.6%.

Mr. Anton noted that the December equity decline was the worst since the Great Depression, driven by concerns about trade friction with China, a moderating Chinese economy, Brexit, declining oil prices, and signs that GDP and profit growth in the U.S. were slowing. The Federal Reserve came to the rescue of financial markets when in early January it indicated postponement of future rate increases until there were signs it was really necessary; that was after nine straight interest increases. In addition to the Federal Reserve's action, the central banks in China and in Europe are both trying to stimulate their economies and there are signs for more positive growth in the second half of 2019. Mr. Anton commented that while markets are likely to experience some continued volatility, the U.S. economy remains very strong, at full employment, low inflation, and very few signs of a recession in 2019.

Mr. Anton reported that reserves were down somewhat at the end of January. Public School was at 5.5 years, below its target of 6 years, and other endowments were at 6 years or just above, slightly below their target of 7 years. Mr. Anton said markets have rebounded since the end of December, and reserves should be at target levels today. The Endowment Fund Investment Board met last week. One major item discussed was Systematic Financial, EFIB's mid-cap value manager, which recently lost its portfolio manager; the Investment Board agreed to a mid-cap value manager search and will be interviewing managers next month.

Consent—Action Item(s)

3. Proposed Stormwater Treatment Facility on City of McCall's Central Idaho Historical Museum Property – *Staffed by Ryan Montoya, Bureau Chief-Real Estate Services, and Nathan Stewart, Public Works Director, City of McCall*

Recommendation: Approve the City of McCall and St. Luke's McCall proposed stormwater treatment facility and multi-modal pathway on City-owned CHIM property.

Discussion: Governor Little asked who pays for this project. Mr. Stewart replied that St. Luke's will be paying for the infrastructure, and the City and St. Luke's will be paying for maintenance over the life of the project.

4. Hancock Easement Transaction – *Staffed by Lawson Tate, Program Manager-Right of Way*

Recommendation: Direct the Department to grant easements 1-7 to Hancock.

Discussion: Controller Woolf noted that Mr. Tate alluded to the scope of the easements in his presentation and asked that Mr. Tate talk about the recreation aspect—how does that work with the Department both selling and buying easements. Mr. Tate responded that these are not

all-lawful-purpose easements; these are specific to the activities that the Department conducts. If the Department had a lessee that was a recreational lessee, this easement would serve the lessee, but these are not public roads.

5. Approval of Minutes – December 18, 2018 Regular Meeting (Boise)

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

Regular—Action Item(s)

None

Information

Background information was provided by the presenter indicated below. No Land Board action is required on the Information Agenda.

6. Commercial Recreation Lease M500031, Request for Audience

Discussion: The Land Board heard comments from thirteen individuals:

- Travis Leonard, in support.
- Deborah Nelson, in opposition.
- Steve Millemann, in opposition.
- Brian Thom, in opposition.
- Debbie Fereday, in opposition.
- Ellen Ganz, in opposition.
- Jim Laski, in opposition.
- Jon Watson, in opposition.
- Dave Edmark, in opposition.
- Jonathan Oppenheimer, in opposition.
- Manley Briggs, in opposition.
- Kristin Hoff-Sinclair, in opposition.
- Ed Allan, in opposition.

For the record, at 9:57 a.m. Attorney General Wasden excused himself from the meeting to attend to other business.

At 10:13 a.m. a motion was made by Controller Woolf to resolve into Executive Session pursuant to Idaho Code § 74-206(1)(f) to communicate with legal counsel for the Land Board to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. Controller Woolf requested that a roll call vote be taken and that the Secretary record the vote in the minutes of the meeting. Secretary of State Denney seconded the motion. *Roll Call Vote: Aye: Denney, Woolf, Ybarra, Little; Nay: None; Absent: Wasden.*

Executive Session

- A. Idaho Code § 74-206(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:** Lease M500031]

For the record, at 10:15 a.m. Attorney General Wasden re-joined the meeting via teleconference.

At 10:34 a.m. the Board resolved out of Executive Session by unanimous consent. No action was taken by the Board during the Executive Session. For the record, equipment malfunction—meeting room doors would not close—prevented the Board from holding executive session.

Governor Little remarked that because Executive Session did not occur at today's meeting, the Land Board will schedule a special meeting, at the call of the Chair, to be briefed by legal counsel. A motion was made by Attorney General Wasden that the Land Board hold a special meeting for Executive Session, at the call of the Chair. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

There being no further business before the Board, at 10:37 a.m. a motion to adjourn was made by Attorney General Wasden. Controller Woolf seconded the motion. The motion carried on a vote of 5-0. Meeting adjourned.

IDAHO DEPARTMENT OF LANDS

DRAFT



Idaho State Board of Land Commissioners

Brad Little, 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
Dustin T. Miller, Secretary to the Board

Be it remembered, that the following proceedings were had and done by the State Board of Land Commissioners of the State of Idaho, created by Section Seven (7) of Article Nine (IX) of the Constitution.

Draft Minutes
State Board of Land Commissioners Special Meeting—Executive Session
March 4, 2019

The special-executive session meeting of the Idaho State Board of Land Commissioners was held on Monday, March 4, 2019, at Idaho Department of Lands, Garnet Conference Rooms, 300 N. 6th St., Suite 103, Boise, Idaho. The meeting began at 2:00 p.m. The Honorable Governor Brad Little 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

At 2:00 p.m. a motion was made by Attorney General Wasden to resolve into Executive Session pursuant to Idaho Code § 74-206(1)(f) to communicate with legal counsel for the Land Board to discuss the 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. Controller Woolf seconded the motion. *Roll Call Vote: Aye: Denney, Wasden, Woolf, Little; Nay: None; Absent: Ybarra.*

For the record, Superintendent Ybarra joined the meeting soon after the Board convened in Executive Session.

Executive Session

- A. Idaho Code § 74-206(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. The mere presence of legal counsel at an executive session does not satisfy this requirement. [**Topic** Lease M500031]

At 3:22 p.m. the Board resolved out of Executive Session by unanimous consent. No action was taken by the Board during the Executive Session.

There being no further business before the Board, at 3:22 p.m. a motion to adjourn was made by Attorney General Wasden. Controller Woolf seconded the motion. The motion carried on a vote of 4-0. Meeting adjourned.

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IDAHO DEPARTMENT OF LANDS

STATE BOARD OF LAND COMMISSIONERS

March 19, 2019

Regular Agenda

Subject

Negotiated and temporary rulemaking for IDAPA 20.03.02 *Rules Governing Exploration, Surface Mining, and Closure of Cyanidation Facilities*.

Background

The Idaho Department of Lands (Department) is responsible for providing regulatory oversight of surface mining activities on state, federal, and private lands in Idaho pursuant to Title 47, Chapter 15, Idaho Code, and IDAPA 20.03.02.

The legislature is currently considering House Bill 141 (Attachment 1), which would appreciably change the Idaho Surface Mining Act. This bill is sponsored by the Idaho Mining Association and would make the first significant changes to the Idaho Surface Mining Act in almost 50 years. The bill passed the House February 28, 2019, and is now being considered in the Senate. If passed by the Senate and signed by the governor, the Department is required to have a temporary rule in place by August 1, 2019.

Discussion

House Bill 141 would amend the Idaho Surface Mining Act to:

- require reclamation plans for the surface impacts of underground mines;
- allow the Department to collect reasonable fees for reclamation plans;
- expand reclamation plans to include post-closure activities such as water treatment;
- provide requirements for performing all reclamation tasks described in a plan and for submitting financial assurance that covers all tasks within a plan;
- include actual cost estimation of reclamation activities;
- add additional types of financial assurance to give operators the flexibility needed for long-term post-closure activities;
- require the Department to review plans at least once every five years; and
- require a temporary rule to be implemented by August 1, 2019.

The statutory changes outlined in House Bill 141 do not provide adequate detail to be fully implemented by the Department. The fee structure, application and plan requirements for underground mines, post-closure planning, financial assurance determination, and sideboards for providing financial assurance through corporate guarantees must be provided for in rule.

Anticipating that House Bill 141 will be approved, the Department is seeking to start the negotiated rulemaking process now to allow time for input on a temporary rule from

interested parties. The temporary rule would be presented for approval by the State Board of Land Commissioners (Land Board) in July to satisfy the August 1, 2019 deadline.

Negotiated rulemaking meetings would consider both a temporary rule (until July) and a proposed rule concurrently. The temporary rule would be in place immediately upon Land Board approval and remain in effect until a proposed rule is completed through negotiated rulemaking and approved by the Land Board and the legislature. Attachment 2 is a draft timeline for the proposed and temporary rulemakings, and Attachment 3 is a map showing where reclamation plans are located and where rulemaking meetings are planned throughout the state.

If approved by the Land Board, the Department would start negotiated rulemaking in May, post rule drafts and supporting documentation on our website to keep participants well-informed, and reach out to current and potential permittees as we develop a list of stakeholders. Entering into negotiated rulemaking in May would allow for over two months of negotiations before the temporary rule must be submitted in July.

Recommendation

Authorize the Department to proceed with negotiated rulemaking and development of a temporary rule for IDAPA 20.03.02 *Rules Governing Exploration, Surface Mining, and Closure of Cyanidation Facilities*.

Board Action

Attachments

1. House Bill 141 with Statement of Purpose and Fiscal Note
2. Rulemaking draft timeline
3. Map: Rulemaking meeting locations and reclamation plans

STATEMENT OF PURPOSE

RS26746

The Surface Mining Act was enacted in 1971 with the primary purpose to protect the taxpayers and the lands of Idaho by providing for reclamation activities and reclamation bonds for lands disturbed by surface mining activities in the state. The purpose of these proposed changes is to more accurately reflect current industry and regulatory practices. The changes include addressing the surface impacts of underground mines and providing for actual cost estimation of reclamation and related environmental activities. The legislation also includes updating financial assurance methods, requiring financial assurance for reclamation and long-term post closure management activities, requiring reclamation plan and financial assurance reviews, and ensuring that there will be no duplication in financial assurances between government agencies. Also included in the legislation is the ability for the department to require reasonable fees to pay for any additional workload associated with the proposed changes.

FISCAL NOTE

With the inclusion of fee language, the proposed amendments will have no impact to the state General Fund.

Contact:

Representative James S. Addis
(208) 332-1000
Senator James Guthrie
(208) 332-1000
Representative Dorothy Moon
(208) 332-1000

DISCLAIMER: This statement of purpose and fiscal note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 141

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO MINES; AMENDING THE HEADING FOR CHAPTER 15, TITLE 47, IDAHO CODE;
2 AMENDING SECTION 47-1501, IDAHO CODE, TO PROVIDE THAT THE PURPOSE OF
3 SPECIFIED LAW SHALL ALSO APPLY TO UNDERGROUND MINES AND TO MAKE TECH-
4 NICAL CORRECTIONS; AMENDING SECTION 47-1502, IDAHO CODE, TO REVISE A
5 SHORT TITLE, TO REVISE PROVISIONS REGARDING APPLICABILITY, AND TO MAKE
6 TECHNICAL CORRECTIONS; AMENDING SECTION 47-1503, IDAHO CODE, TO REVISE
7 DEFINITIONS, TO DEFINE TERMS, AND TO MAKE TECHNICAL CORRECTIONS; AMEND-
8 ING SECTION 47-1505, IDAHO CODE, TO REVISE THE DUTIES AND POWERS OF THE
9 BOARD OF LAND COMMISSIONERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
10 SECTION 47-1506, IDAHO CODE, TO REVISE OPERATOR DUTIES; AMENDING SEC-
11 TION 47-1507, IDAHO CODE, TO REVISE REFERENCE TO MINING OPERATIONS RE-
12 GARDING RECLAMATION PLANS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
13 SECTION 47-1508, IDAHO CODE, TO REVISE REFERENCE TO MINING OPERATIONS
14 REGARDING AMENDED AND SUPPLEMENTAL PLANS, TO PROVIDE FOR REVIEW OF
15 RECLAMATION PLANS AND PERMANENT CLOSURE PLANS, TO PROVIDE FOR FEES, TO
16 PROVIDE THAT CERTAIN DETERMINATIONS SHALL BE CONSIDERED FINAL ORDERS,
17 AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-1509, IDAHO
18 CODE, TO REVISE REFERENCE TO MINING OPERATIONS REGARDING PROCEDURES IN
19 RECLAMATION, TO REVISE SPECIFIED RECLAMATION ACTIVITIES, AND TO MAKE
20 TECHNICAL CORRECTIONS; AMENDING SECTION 47-1510, IDAHO CODE, TO REVISE
21 REFERENCE TO MINING OPERATIONS REGARDING VEGETATION PLANTING AND TO
22 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-1511, IDAHO CODE, TO
23 REVISE REFERENCE TO MINING OPERATIONS REGARDING RECLAMATION ACTIVI-
24 TIES AND TIME LIMITATIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING
25 SECTION 47-1512, IDAHO CODE, TO PROVIDE FOR FINANCIAL ASSURANCE AND
26 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-1513, IDAHO CODE,
27 TO REVISE PROVISIONS REGARDING AN OPERATOR'S FAILURE TO COMPLY AND TO
28 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-1516, IDAHO CODE, TO
29 REVISE REFERENCE TO MINED LAND REGARDING THE DEPOSIT OF FORFEITURES
30 AND DAMAGES; AMENDING SECTION 47-1517, IDAHO CODE, TO REVISE REFERENCE
31 TO MINING OPERATIONS REGARDING COMPLIANCE WITH CERTAIN STATUTES AND
32 REGULATIONS; AND AMENDING SECTION 47-1518, IDAHO CODE, TO PROVIDE AN
33 EXEMPTION FROM RECLAMATION FOR CERTAIN SURFACE MINE OPERATORS, TO PRO-
34 VIDE FOR APPLICABILITY, AND TO MAKE A TECHNICAL CORRECTION.
35

36 Be It Enacted by the Legislature of the State of Idaho:

37 SECTION 1. That the Heading for Chapter 15, Title 47, Idaho Code, be,
38 and the same is hereby amended to read as follows:

39 CHAPTER 15

40 ~~SURFACE MINING~~ MINED LAND RECLAMATION

1 SECTION 2. That Section 47-1501, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 47-1501. PURPOSE OF CHAPTER. It is the purpose of this chapter to pro-
4 vide for the protection of the public health, safety and welfare, through
5 measures to reclaim the surface of all the lands within the state disturbed
6 by exploration and surface and underground mining operations and measures
7 to assure the proper closure of cyanidation facilities and thereby conserve
8 natural resources, aid in the protection of wildlife, domestic animals, and
9 aquatic resources, and reduce soil erosion.

10 SECTION 3. That Section 47-1502, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 47-1502. SHORT TITLE. This act ~~may~~ shall be known and may be cited as
13 "the "Idaho surface mining mined land reclamation act." The reclamation pro-
14 visions of this act shall not apply to ~~surface~~ mining operations regulated by
15 the Idaho dredge and placer mining protection act, nor shall such provisions
16 apply to any workings at an underground mine below the surface.

17 SECTION 4. That Section 47-1503, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 47-1503. DEFINITIONS. Wherever used or referred to in this chapter,
20 unless a different meaning clearly appears from the context:

21 (1) "Board" means the state board of land commissioners or such depart-
22 ment, commission, or agency as may lawfully succeed to the powers and duties
23 of such board.

24 (2) "Cyanidation" means the method of extracting target precious met-
25 als from ores by treatment with cyanide solution, which is the primary leach-
26 ing agent for the extraction.

27 (3) "Cyanidation facility" means that portion of a new ore processing
28 facility, or a material modification or a material expansion of that por-
29 tion of an existing ore processing facility, that utilizes cyanidation and
30 is intended to contain, treat, or dispose of cyanide-containing materials
31 including spent ore, tailings, and process water.

32 (4) "Director" means the head of the department of lands or such officer
33 as may lawfully succeed to the powers and duties of said director.

34 (5) "Affected land" means the land area included in overburden disposal
35 areas, mined areas, mineral stockpiles, roads, tailings ponds and other ar-
36 eas disturbed ~~at~~ on the surface ~~mining operation site~~ of mining operations.

37 (6) "Mineral" ~~shall~~ means coal, clay, stone, sand, gravel, metallifer-
38 ous and nonmetalliferous type of ores, and any other similar solid material
39 or substance of commercial value to be excavated from natural deposits on or
40 in the earth.

41 (7) "~~Surface~~ Mining operations" means the activities performed on a
42 the surface of a surface or underground mine in the extraction of minerals
43 from the ground, including the excavating of pits, removal of minerals, dis-
44 posal of overburden, and the construction of haulage roads, exclusive of ex-
45 ploration operations, except that any exploration operations which, exclu-
46 sive of exploration roads, (a) result during a period of twelve (12) consec-

1 tive months in more than five (5) contiguous acres of newly affected land, or
 2 (b) which, exclusive of exploration roads, result during a period of twelve
 3 (12) consecutive months in newly affected land consisting of more than ten
 4 (10) noncontiguous acres, if such affected land constitutes more than fif-
 5 teen percent (15%) of the total area of any circular tract ~~which that~~ in-
 6 cludes such affected land, shall be deemed to be a surface mining operation
 7 for the purposes of this chapter.

8 (8) "Exploration operations" means activities performed on the surface
 9 of lands to locate mineral bodies and to determine the mineability and mer-
 10 chantability thereof.

11 (9) "Surface mine" means an area where minerals are extracted by remov-
 12 ing the overburden lying above and adjacent to natural deposits thereof and
 13 mining directly from the natural deposits thereby exposed.

14 (10) "Underground mine" means an area where minerals are extracted from
 15 beneath the surface of the ground by means of an adit, shaft, tunnel, de-
 16 cline, portal, bore hole, drill hole for solution mining, or such other means
 17 of access beneath the surface of the ground, other than a pit.

18 (11) "Mined area" means surface of land from which overburden, waste
 19 rock, or minerals have been removed other than by drilling of exploration
 20 drill holes.

21 (11~~2~~) "Overburden" or "waste rock" means material extracted by an oper-
 22 ator ~~which that~~ is not a part of the material ultimately removed from a sur-
 23 face mine or underground mine and marketed by an operator, exclusive of min-
 24 eral stockpiles.

25 (12~~3~~) "Overburden disposal area" means land surface upon which overbur-
 26 den or waste rock is piled placed or planned to be piled placed.

27 (13~~4~~) "Exploration drill holes" means holes drilled from the surface to
 28 locate mineral bodies and to determine the mineability and merchantability
 29 thereof.

30 (14~~5~~) "Exploration roads" means roads constructed to locate mineral
 31 bodies and to determine the mineability and merchantability thereof.

32 (15~~6~~) "Exploration trenches" means trenches constructed to locate min-
 33 eral bodies and to determine the mineability and merchantability thereof.

34 (16~~7~~) "Peak" means a projecting point of overburden.

35 (18) "Significant change" means, for an underground mine, a fifty per-
 36 cent (50%) increase in the areal extent of the disturbed affected land.

37 (17~~9~~) "Mine panel" means that portion of a mine designated by an opera-
 38 tor as a panel of a surface mine or the surface effects of an underground mine
 39 on the map submitted pursuant to section 47-1506, Idaho Code.

40 (18~~20~~) "Mineral stockpile" means minerals extracted during surface
 41 mining operations and retained at the surface mine for future rather than
 42 immediate use.

43 (19~~21~~) "Permanent closure plan" means a description of the procedures,
 44 methods, and schedule that will be implemented to meet the intent and pur-
 45 poses of this chapter in treating and disposing of cyanide-containing materi-
 46 als including spent ore, tailings, and process water and in controlling
 47 and monitoring discharges and potential discharges for a reasonable period
 48 of time based on site-specific conditions.

49 (20~~2~~) "Pit" means an excavation created by the extraction of minerals or
 50 overburden during at a surface mining operations mine.

1 (213) "Ridge" means a lengthened elevation of overburden.

2 (224) "Road" means a way constructed on a surface mine for the passage of
3 vehicles, including the bed, slopes and shoulders thereof.

4 (235) "Operator" means any person or persons, any partnership, limited
5 partnership, ~~or~~ corporation, or limited liability company, or any associ-
6 ation of persons, either natural or artificial, including, but not limited
7 to, every public or governmental agency engaged in surface mining operations
8 or exploration operations or in operating a cyanidation facility, whether
9 individually, jointly, or through subsidiaries, agents, employees, or con-
10 tractors, and shall mean every governmental agency owning or controlling the
11 use of any surface mine when the mineral extracted is to be used by or for the
12 benefit of such agency. It shall not include any such governmental agency
13 with respect to those surface mining or exploration operations as to which it
14 grants mineral leases or prospecting permits or similar contracts, but noth-
15 ing herein shall relieve the operator acting pursuant to a mineral lease,
16 prospecting permit or similar contract from the terms of this chapter.

17 (246) "Hearing officer" means that person selected by the board to hear
18 proceedings under section 47-1513, Idaho Code.

19 (257) "Final order of the board" means a written notice of rejection,
20 the order of a hearing officer at the conclusion of a hearing, or any other
21 order of the board where additional administrative remedies are not avail-
22 able.

23 (268) "Tailings pond" means an area on a the surface mine of a mining op-
24 eration enclosed by a man-made or natural dam onto which has been discharged
25 the waste material resulting from the primary concentration of minerals in
26 ore excavated from a surface or underground mine.

27 (29) "Financial assurance" means monetary assurances in such form and
28 amount as are necessary for the board or a third party to perform the reclama-
29 tion activities required in this chapter.

30 (30) "Post-closure" means a description of the procedures, methods,
31 and schedule for monitoring, care and maintenance, and water management that
32 will be implemented on a mine panel after cessation of mining operations for
33 a period not to exceed thirty (30) years unless the board determines a longer
34 period is necessary.

35 SECTION 5. That Section 47-1505, Idaho Code, be, and the same is hereby
36 amended to read as follows:

37 47-1505. DUTIES AND POWERS OF BOARD. In addition to the other duties
38 and powers of the board prescribed by law, the board is granted and shall be
39 entitled to exercise the following authority and powers and perform the fol-
40 lowing duties:

41 (1) To administer and enforce the provisions of this chapter and the
42 rules and orders promulgated thereunder as provided in this chapter.

43 (2) To conduct and promote the coordination and acceleration of re-
44 search, studies, surveys, experiments, demonstrations and training in
45 carrying out the provisions of this chapter. In carrying out the activities
46 authorized by this section, the board may enter into contracts with and make
47 grants to institutions, agencies, organizations and individuals, and shall
48 collect and make available any information obtained therefrom.

1 (3) To adopt and promulgate reasonable rules respecting the adminis-
 2 tration of this chapter and such rules as may be necessary to carry out the
 3 intent and purposes of this chapter, provided that no rules shall be adopted
 4 ~~which that~~ require reclamation activities in addition to those set forth in
 5 this chapter. All such rules shall be adopted in accordance with and subject
 6 to the provisions of chapter 52, title 67, Idaho Code.

7 (4) To enter upon affected lands at all reasonable times, for the pur-
 8 pose of inspection, to determine whether the provisions of this chapter have
 9 been complied with. Such inspections shall be conducted in the presence of
 10 the operator or his duly authorized employees or representatives, and the
 11 operator shall make such persons available for the purpose of inspections.

12 (5) To reclaim affected land with respect to which ~~a bond~~ financial as-
 13 urance has been forfeited, and, in the board's discretion, with the permis-
 14 sion of the landowner, to reclaim such other land ~~which that~~ becomes affected
 15 land.

16 (6) To complete closure activities with respect to a cyanidation fa-
 17 cility for which a permanent closure ~~bond~~ financial assurance has been for-
 18 feited.

19 (7) (a) Upon receipt of a ~~proposed~~ reclamation plan or permanent clo-
 20 sure plan or amended or supplemental plan required by this chapter, the
 21 director shall notify the cities and counties in which the surface min-
 22 ing operation or cyanidation facility is proposed. The notice shall in-
 23 clude the name and address of the operator and shall describe the proce-
 24 dure and the schedule by which the plan may be approved or denied. This
 25 notification requirement shall not apply to exploration operations.

26 (b) Cities and counties may review the nonconfidential portions of the
 27 plan at the department's office and may provide comments to the direc-
 28 tor concerning the plan. Nothing in this section shall extend the time
 29 limit for the board to deliver to the operator a notice of rejection or
 30 approval of the plan or affect the confidentiality provisions of sec-
 31 tion 47-1515, Idaho Code.

32 (c) No city or county shall enact or adopt any ordinance, rule or reso-
 33 lution to regulate exploration or surface mining operations or a perma-
 34 nent closure plan in this state ~~which that~~ conflicts with any provision
 35 of this chapter or the rules promulgated thereunder. This subpart shall
 36 not affect the planning and zoning authorities available to cities and
 37 counties pursuant to chapter 65, title 67, Idaho Code.

38 SECTION 6. That Section 47-1506, Idaho Code, be, and the same is hereby
 39 amended to read as follows:

40 47-1506. OPERATOR -- DUTIES PRIOR TO OPERATION -- SUBMISSION OF MAPS
 41 AND PLANS. (a) Any operator desiring to conduct surface mining operations
 42 within the state of Idaho for the purpose of immediate or ultimate sale of the
 43 minerals in either the natural or processed state shall submit to the board
 44 prior to commencing such surface mining operations a reclamation plan that
 45 contains the following:

46 (1) A map of the mine panel on which said operator desires to conduct
 47 surface mining operations, which sets forth with respect to said panel
 48 the following:

1 (i) The location of existing roads and anticipated access and
 2 main haulage roads planned to be constructed in conducting the
 3 ~~surface~~ mining operations.

4 (ii) The approximate boundaries of the lands to be utilized in the
 5 process of ~~surface~~ mining operations.

6 (iii) The approximate location and, if known, the names of all
 7 streams, creeks, or bodies of water within the area where ~~surface~~
 8 mining operations shall take place.

9 (iv) The name and address of the person to whom notices, orders,
 10 and other information required to be given to the operator pur-
 11 suant to this chapter may be sent.

12 (v) The drainage adjacent to the area where the surface is being
 13 utilized by ~~surface~~ mining operations.

14 (vi) The approximate boundaries of the lands that will become af-
 15 fected lands as a result of ~~surface~~ mining operations during the
 16 year immediately following the date that a reclamation plan is ap-
 17 proved as to said panel, together with the number of acres included
 18 within said boundaries.

19 (vii) A description of foreseeable, ~~site-specific nonpoint~~
 20 ~~sources of water quality impacts upon adjacent surface waters, and~~
 21 ~~the best management practices that will be used to control such~~
 22 ~~nonpoint source impacts from mining operations and proposed water~~
 23 management activities to comply with water quality requirements.

24 (viii) A description of foreseeable, ~~site-specific impacts from~~
 25 ~~acid rock drainage and the best management practices that will be~~
 26 ~~used to mitigate the impacts, if any, from such acid rock drainage~~
 27 post-closure activities.

28 (2) Diagrams showing the planned location of pits, mineral stockpiles,
 29 overburden piles and tailings ponds on said panel.

30 (3) A description of the action which said operator intends to take to
 31 comply with the provisions of this chapter as to the ~~surface~~ mining op-
 32 erations conducted on such mine panel.

33 (b) (1) Any operator who is not required to submit an operating plan for
 34 a ~~surface~~ mining operation to an entity of the federal government shall
 35 submit to the board, as part of the reclamation plan, an operating plan
 36 with regards to that ~~surface~~ mining operation. The operating plan shall
 37 include:

38 (i) Maps showing the location of existing roads and antici-
 39 pated access and main haulage roads planned to be constructed for
 40 ~~surface~~ mining operations.

41 (ii) The boundaries and acreage of the lands to be utilized in the
 42 process of ~~surface~~ mining operations.

43 (iii) Maps showing the planned location of pits, mineral stock-
 44 piles, overburden piles and tailings ponds for the ~~surface~~ mining
 45 operations.

46 (iv) The location and, if known, the names of all streams, creeks,
 47 or bodies of water within the area where ~~surface~~ mining operations
 48 shall take place.

49 (v) The drainage adjacent to the area where the surface is being
 50 utilized by ~~surface~~ mining operations.

1 (vi) The approximate boundaries and acreage of the lands that will
2 become affected during the first year of construction of ~~surface~~
3 mining operations.

4 (2) The board shall promulgate rules or guidelines to allow the content
5 of a nonfederal operating plan to be determined based upon the type and
6 size of the ~~surface~~ mining operation.

7 (c) No operator who is required to submit an operating plan for a
8 ~~surface~~ mining operation to an entity of the federal government shall be re-
9 quired to submit an operating plan to the board. This provision shall apply
10 to all lands, regardless of surface or mineral ownership, covered by the
11 operating plan submitted to the entity of the federal government.

12 (d) No operator shall commence ~~surface~~ mining operations on any mine
13 panel without first having a reclamation plan approved by the state board of
14 land commissioners.

15 (e) Any operator desiring to conduct exploration operations within
16 the state of Idaho using motorized earth-moving equipment in order to lo-
17 cate minerals for immediate or ultimate sale in either the natural or the
18 processed state shall notify the board in writing prior to or as soon after
19 beginning exploration operations as possible and in any event within seven
20 (7) days after beginning exploration operations. The notice shall include
21 the following:

22 (1) The name and address of the operator;

23 (2) The location of the operation and the starting date and estimated
24 completion date;

25 (3) The anticipated size of the operation, and the general method of op-
26 eration.

27 The notice shall be subject to disclosure according to chapter 1, title 74,
28 Idaho Code.

29 (f) Any operator desiring to operate a cyanidation facility within the
30 state of Idaho shall submit to the board prior to the operation of such a fa-
31 cility a permanent closure plan that contains the following:

32 (1) The name and address of the operator;

33 (2) The location of the operation;

34 (3) The objectives, methods and procedures the operator will use to at-
35 tain permanent closure;

36 (4) An estimate of the cost of attaining permanent closure as well as an
37 estimate of the costs to achieve critical phases of the closure plan;

38 (5) Any other information specified in the rules adopted to carry out
39 the intent and purposes of this chapter; and

40 (6) An operator may incorporate a description of post-closure activi-
41 ties in a permanent closure plan in lieu of inclusion in a reclamation
42 plan.

43 (g) The board may require a reasonable fee for reviewing and approving
44 a permanent closure plan or reclamation plan. The fee may include the rea-
45 sonable cost to employ a qualified independent party, acceptable to the op-
46 erator and the board, to verify the accuracy of the cost estimate required in
47 subsection (f) (4) of this section and section 47-1512 (c), Idaho Code.

48 (h) The board shall coordinate its review of activities in ~~the~~ a recla-
49 mation plan, operating plan, and permanent closure plan under statutory
50 responsibility of the department of environmental quality with that depart-

1 ment, but that coordination shall not extend the time limit in which the
2 board must act on a plan submitted.

3 (i) No operator shall commence operation of a cyanidation facility
4 without first having a permanent closure plan approved by the board.

5 SECTION 7. That Section 47-1507, Idaho Code, be, and the same is hereby
6 amended to read as follows:

7 47-1507. PLAN -- APPROVAL OR REJECTION BY BOARD -- HEARING. (a) Upon
8 determination by the board that a reclamation or permanent closure plan or
9 any amended plan submitted by an operator meets the requirements of this
10 chapter, the board shall deliver to the operator, in writing, a notice of ap-
11 proval of such plan, and thereafter said plan shall govern and determine the
12 nature and extent of the obligations of the operator for compliance with this
13 chapter, with respect to the mine panel or cyanidation facility for which the
14 plan was submitted.

15 (b) If the board determines that a reclamation or permanent closure
16 plan or amended plan fails to fulfill the requirements of this chapter, it
17 shall deliver to the operator, in writing, a notice of rejection of the plan
18 and shall set forth in said notice of rejection the reasons for such rejec-
19 tion, the factual findings upon which such rejection is based, the manner
20 in which the plan fails to fulfill said requirements, and the requirements
21 necessary to comply with this chapter. Upon receipt of said notice of rejec-
22 tion, said operator may submit amended plans. Upon further determination by
23 the board that the amended plan still does not fulfill the requirements of
24 said section, it shall deliver to the operator, in writing, a notice of re-
25 jection of the amended plan in the same form as set out ~~above~~ in this section.

26 (c) Weather permitting, the board shall deliver to the operator within
27 sixty (60) days after the receipt of any reclamation plan or amended recla-
28 mation plan, or within one hundred eighty (180) days after the receipt of any
29 permanent closure plan or amended permanent closure plan, the notice of re-
30 jection or notice of approval of said plan, as the case may be, provided, how-
31 ever, that if the board fails to deliver a notice of approval or notice of re-
32 jection within said time period, the plan submitted shall be deemed to comply
33 with this chapter, and the operator may commence and conduct his ~~surface~~
34 mining operations on the mine panel or operate the cyanidation facility covered
35 by such plan as if a notice of approval of said plan had been received from
36 the board; provided, however, that if weather conditions prevent the board
37 from inspecting the mine panel or cyanidation facility to obtain information
38 needed to approve or reject a submitted plan, it may, in writing to the oper-
39 ator, extend the time not to exceed thirty (30) days after weather conditions
40 permit such inspection.

41 (d) For the purpose of determining whether a proposed plan or amended or
42 supplemental plan complies with the requirements of this chapter, the board
43 may, in its discretion, call for a public hearing. The hearing shall be held
44 under such rules as promulgated by the board. Any interested person may ap-
45 pear at the hearing and give testimony. At the discretion of the board, the
46 director may conduct the hearing and transmit a summary thereof to the board.
47 Any hearing held shall not extend the period of time limit in which the board
48 must act on a plan submitted.

1 SECTION 8. That Section 47-1508, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 47-1508. AMENDED PLAN -- SUPPLEMENTAL PLAN -- SUBMISSION. (a) In the
4 event that a material change in circumstances arises ~~which~~ that the opera-
5 tor, or the board, believes requires a change in an approved plan, including
6 any amended plan, then the operator shall submit to the board a supplemen-
7 tal plan setting forth the proposed changes and the board shall likewise set
8 forth its proposed changes and ~~stating~~ state the reasons therefor. Upon de-
9 termination by the board that a supplemental plan or any amended supplemen-
10 tal plan submitted by the operator meets the requirements of this chapter,
11 it shall deliver to the operator, in writing, a notice of approval of said
12 supplemental plan, and thereafter said supplemental plan shall govern and
13 determine the nature and extent of the obligations of the operator for com-
14 pliance with respect to the mine panel or cyanidation facility for which the
15 plan was submitted.

16 (b) If the board determines that a supplemental plan fails to fulfill
17 the requirements of this chapter, it shall deliver to the operator, in writ-
18 ing, a notice of rejection of the supplemental plan and shall set forth in
19 said notice of rejection the manner in which said plan fails to fulfill said
20 requirements and shall stipulate the corrective requirements necessary to
21 comply with said sections. Upon receipt of said notice of rejection, the op-
22 erator may submit amended supplemental plans. Upon further determination
23 by the board that an amended supplemental plan does not fulfill the require-
24 ments of said sections, it shall deliver to the operator, in writing, a no-
25 tice of rejection of amended supplemental plan, and shall set forth in said
26 notice of rejection the manner in which such amended supplemental plan fails
27 to fulfill said requirements, and shall stipulate the requirements neces-
28 sary to comply with said sections.

29 (c) The board shall, weather permitting, deliver to the operator within
30 sixty (60) days after the receipt of any supplemental reclamation plan or
31 amended supplemental reclamation plan, or within one hundred eighty (180)
32 days after the receipt of any supplemental permanent closure plan or amended
33 supplemental permanent closure plan, the notice of rejection, setting forth
34 in detail the reasons for such rejection and the factual findings upon which
35 such rejection is based, or notice of approval of said plan, as the case may
36 be, provided, however, that if the board fails to deliver a notice of ap-
37 proval or notice of rejection within said time period, the plan submitted
38 shall be deemed to comply with this chapter and the operator may commence
39 and conduct or continue, as the case may be, his ~~surface~~ mining operations
40 or operate the cyanidation facility as if a notice of approval of said plan
41 had been received from the board. If weather conditions prevent the board
42 from inspecting the mine panel or cyanidation facility to obtain information
43 needed to approve or reject a submitted plan, it may, in writing to the oper-
44 ator, extend the time not to exceed thirty (30) days after weather conditions
45 permit such inspection.

46 (d) If an operator determines that unforeseen events or unexpected
47 conditions require immediate changes in or additions to an approved recla-
48 mation or permanent closure plan, the operator may continue operations in
49 accordance with the procedures dictated by the changed conditions, pending

1 submission and approval of a supplemental plan, even though such operations
2 do not comply with the approved plan, provided, however, that nothing herein
3 stated shall be construed to excuse the operator from complying with the
4 reclamation requirements of sections 47-1509 and 47-1510, Idaho Code, ~~of~~
5 ~~this chapter~~ or from the applicable closure requirements of a permit is-
6 sued under section 39-118A, Idaho Code. Notice of such unforeseen events
7 or unexpected conditions shall be given to the board within ten (10) days
8 after discovery thereof, and a proposed supplemental plan shall be submitted
9 within thirty (30) days after discovery thereof.

10 (e) At least once every five (5) years, the board shall review recla-
11 mation plans and revise if necessary to meet the requirements of sections
12 47-1506, 47-1509, 47-1510, and 47-1511, Idaho Code, when there is a mate-
13 rial change in the reclamation plan. As part of this review, the board shall
14 revise the amount, terms, and conditions of any financial assurance when
15 there is a material change in the reclamation plan or a material change in the
16 estimated reasonable costs of reclamation determined pursuant to section
17 47-1512, Idaho Code. Any such revision shall apply only to the affected
18 lands covered by the material change.

19 (f) For a permanent closure plan approved by the board after July 1,
20 2005, the board shall periodically review, and revise if necessary to meet
21 the requirements of this chapter, the amount, terms, and conditions of any
22 financial assurance when there is a material change in the permanent closure
23 plan or a material change in the estimated reasonable costs of permanent clo-
24 sure determined pursuant to section 47-1512, Idaho Code. The board may re-
25 quire a fee sufficient to employ a qualified independent party, acceptable
26 to the operator and the board, to verify any revised estimate of the reason-
27 able costs of permanent closure.

28 (g) Amendments and revisions are subject to the fee requirements in
29 section 47-1506(g), Idaho Code.

30 (h) Any determination by the board under this section shall be consid-
31 ered a final order pursuant to section 47-1514, Idaho Code.

32 SECTION 9. That Section 47-1509, Idaho Code, be, and the same is hereby
33 amended to read as follows:

34 47-1509. PROCEDURES IN RECLAMATION. (a) Except as otherwise provided
35 in this act, every operator who conducts exploration or ~~surface~~ mining op-
36 erations ~~which~~ that disturb two (2) or more acres within the state of Idaho
37 shall perform the following reclamation activities:

38 (1) Ridges of overburden shall be leveled in such manner as to have a
39 minimum width of ten (10) feet at the top.

40 (2) Peaks of overburden shall be leveled in such a manner as to have a
41 minimum width of fifteen (15) feet at the top.

42 (3) Overburden piles shall be reasonably prepared to control erosion.

43 ~~(4) Where water run-off from affected lands results in stream or lake~~
44 ~~siltation in excess of that which normally results from run-off, the~~
45 ~~operator shall prepare affected lands and adjacent premises under the~~
46 ~~control of the operator~~ Manage water as necessary to meet the require-
47 ments authorized under chapter 1, title 39, Idaho Code.

48 (5) Roads ~~which~~ that are abandoned shall be cross-ditched insofar as
49 necessary to avoid erosion gullies.

1 (6) Exploration drill holes shall be plugged or otherwise left so as to
2 eliminate hazards to humans or animals.

3 (7) Abandoned affected lands shall be topped to the extent that such
4 overburden is reasonably available from the pit, with that type of over-
5 burden ~~which is~~ conducive to the control of erosion or the growth of the
6 vegetation ~~which that~~ the operator elects to plant thereon.

7 (8) The operator shall conduct revegetation activities on the mined ar-
8 eas, overburden piles, and abandoned roads in accordance with the pro-
9 visions of this act.

10 (9) Tailings ponds shall be reasonably prepared in such a condition
11 that they will not constitute a hazard to human or animal life.

12 (10) Complete all other reclamation required in the approved reclama-
13 tion plan.

14 (b) The board may request, in writing, that a given road or portion
15 thereof not be cross-ditched or revegetated, and, upon such request, the
16 operator shall be excused from performing such activities as to such road or
17 portion thereof.

18 (c) Every operator who conducts exploration or ~~surface~~ mining opera-
19 tions ~~which that~~ disturb less than two (2) acres within the state of Idaho
20 shall, wherever possible, contour the lands so disturbed to approximate the
21 previous contour of the lands.

22 (d) The operator and board may agree, in writing, to do any act with re-
23 spect to reclamation above and beyond the requirements herein set forth.

24 SECTION 10. That Section 47-1510, Idaho Code, be, and the same is hereby
25 amended to read as follows:

26 47-1510. VEGETATION PLANTING. (a) Except as otherwise provided in
27 this act, an operator shall plant, on affected lands, vegetation species
28 ~~which that~~ can be expected to result in vegetation comparable to the vegeta-
29 tion ~~which that~~ was growing on the area occupied by the affected lands prior
30 to the exploration and ~~surface~~ mining operations.

31 (b) No planting shall be required on any affected lands, or portions
32 thereof, where planting would not be practicable or reasonable because the
33 soil is composed of sand, gravel, shale, stone or other material to such an
34 extent as to prohibit plant growth.

35 (c) No planting shall be required to be made with respect to any of the
36 following:

37 (1) On any mined area or overburden pile proposed to be used in the min-
38 ing operations for haulage roads, ~~so~~ as long as such roads are not aban-
39 doned.

40 (2) On any mined area or overburden pile where lakes are formed by rain-
41 fall or drainage ~~run-off~~ runoff from the adjoining lands.

42 (3) On any mineral stockpile.

43 (4) On any exploration trench ~~which that~~ will become a part of any pit or
44 overburden disposal area.

45 (5) On any road ~~which that~~ the operator intends to use in his mining op-
46 erations, ~~so~~ as long as said road has not been abandoned.

47 SECTION 11. That Section 47-1511, Idaho Code, be, and the same is hereby
48 amended to read as follows:

1 47-1511. RECLAMATION ACTIVITIES -- TIME LIMITATIONS. (a) All reclama-
2 tion activities required to be conducted under this act shall be performed
3 in a good and workmanlike manner, with all reasonable diligence, and as to a
4 given exploration drill hole, road or trench, within one (1) year after aban-
5 donment thereof.

6 (b) The reclamation activity as to a given mine panel shall be commenced
7 within one (1) year after ~~surface~~ mining operations have permanently ceased
8 as to such mine panel, provided, however, that in the event that during the
9 course of ~~surface~~ mining operations on a given mine panel, the operator
10 permanently ceases disposing of overburden on a given overburden pile, or
11 permanently ceases removing minerals from a given pit, or permanently ceases
12 using a given road or other affected land, then the reclamation activities
13 to be conducted hereunder as to such pit, road, overburden pile, or other af-
14 fected land, shall be commenced within one (1) year after such termination,
15 despite the fact that all operations as to the mine panel, which includes
16 such pit, road, overburden pile, or other affected land, have not perma-
17 nently ceased. It shall be presumed that the operator has permanently ceased
18 ~~surface~~ mining operations as to a given affected land if no substantial
19 amount of overburden has been placed on the overburden pile in question or if
20 no minerals have been removed from the pit in question, as the case may be,
21 for a period of three (3) years.

22 This presumption may be rebutted by evidencing, in writing, to the board
23 what ~~surface~~ mining operations the operator has planned on the pit, road,
24 overburden pile, or other affected land not used within a three (3) year pe-
25 riod. Should the board determine that the operator, in good faith, intends
26 to continue the ~~surface~~ mining operation within a reasonable period of time,
27 it shall, in writing, so notify the operator. Should the board determine
28 that the operation will not be continued within a reasonable period of time,
29 the board shall proceed as though the ~~surface~~ mining operation has been aban-
30 doned.

31 SECTION 12. That Section 47-1512, Idaho Code, be, and the same is hereby
32 amended to read as follows:

33 47-1512. ~~PERFORMANCE BOND FINANCIAL ASSURANCE~~ -- REQUISITES. (a)
34 Prior to conducting any ~~surface~~ mining operations on a mine panel covered by
35 an approved reclamation plan or operating a cyanidation facility covered by
36 an approved permanent closure plan, an operator shall submit to the board a
37 ~~bond~~ financial assurance meeting the requirements of this section.

38 (1) ~~The penalty of the initial reclamation bond~~ financial assurance
39 filed prior to conducting any ~~surface~~ mining operations on a mine panel
40 shall be in an amount determined by the board to be the estimated rea-
41 sonable costs of reclamation required in this chapter, in the event
42 of failure to reclaim by an operator, of affected lands proposed to be
43 mined during the next calendar year ~~plus ten percent (10%) of such costs~~
44 ~~as to the acreage of affected land~~ designated by the operator pursuant
45 to section 47-1506(a) (1) (vi), Idaho Code, and subsection (b) of this
46 section.

47 (2) ~~The penalty of the initial permanent closure bond~~ financial as-
48 surance filed prior to operating a cyanidation facility shall be in an
49 amount determined by the board to be the estimated reasonable costs to

1 complete the activities specified in the permanent closure plan re-
2 quired in this chapter, in the event of the failure of an operator to
3 complete those activities, ~~plus ten percent (10%) of such costs.~~ In
4 setting ~~the bond~~ such amount, the board shall avoid duplication with
5 ~~bonds and sureties~~ financial assurance deposited with other governmen-
6 tal agencies.

7 (3) The determination of the ~~bond~~ financial assurance amount shall con-
8 stitute a final ~~decision order~~ subject to judicial review as set forth
9 in subsection (a) of section 47-1514, Idaho Code. In lieu of any ~~bond~~
10 financial assurance required hereunder, the operator may deposit cash
11 and governmental securities with the board, in an amount equal to that
12 of the required ~~bond~~ financial assurance, on the conditions as pre-
13 scribed in this section.

14 (b) Prior to the time that lands designated to become affected lands
15 on a mine panel, in addition to those designated pursuant to section
16 47-1506(a)(1)(vi), Idaho Code, become affected land, the operator shall
17 submit to the board a ~~bond~~ financial assurance meeting the requirements of
18 section 47-1512(c), Idaho Code, ~~and the penalty of such bond which~~ shall be
19 in the amount necessary to ~~insure~~ ensure the performance of the duties of the
20 operator under this chapter as to such affected lands actually proposed to be
21 mined within the next calendar year. If additional acreage is subsequently
22 proposed to be mined by an operator, ~~the penalty of such bond~~ financial as-
23 urance shall be in an amount determined by the board to be the estimated
24 reasonable costs of reclamation required by this chapter, in the event of
25 failure to reclaim by an operator, of affected lands proposed to be mined
26 during the next calendar year ~~plus ten percent (10%) of such costs.~~

27 (c) ~~Except as provided in this subsection, no bond~~ For mining opera-
28 tions with affected land greater than five (5) acres, the financial assur-
29 ance amount shall be based on the estimated reasonable costs of completing
30 reclamation required in this chapter using standard estimating techniques,
31 including indirect costs, developed by the board. For all other mining opera-
32 tions, the financial assurance for reclamation submitted pursuant to this
33 chapter shall not exceed fifteen thousand dollars (\$15,000) for any given
34 acre of such affected land. The board may require a bond financial assur-
35 ance in excess of fifteen thousand dollars (\$15,000) for any given acre of
36 affected land only when the following conditions have been met:

37 (1) The board has determined that such ~~bond~~ financial assurance is nec-
38 essary to meet the requirements of sections 47-1506, 47-1509, 47-1510
39 and 47-1511, Idaho Code.

40 (2) The board has delivered to the operator, in writing, a notice set-
41 ting forth the reasons it believes such ~~bond~~ financial assurance is nec-
42 essary.

43 (3) The board has conducted a hearing where the operator is allowed to
44 give testimony to the board concerning the amount of the proposed ~~bond~~
45 financial assurance. The hearing shall be held under such rules as pro-
46 mulgated by the board. This requirement for a hearing may be waived, in
47 writing, by the operator. Any hearing held shall, at the discretion of
48 the director, extend the time, up to thirty (30) days, in which the board
49 must act on a plan submitted.

1 (d) ~~Except as provided in this subsection, no bond~~ For a cyanidation
2 facility with affected land greater than five (5) acres, the financial as-
3 surance amount shall be based on the estimated reasonable costs to complete
4 reclamation required under this chapter using standard estimating tech-
5 niques, including indirect costs, developed by the board. For all other
6 cyanidation facilities, the financial assurance submitted for permanent
7 closure of a cyanidation facility pursuant to this chapter shall not exceed
8 five million dollars (\$5,000,000). The board may require a ~~bond~~ financial
9 assurance in excess of five million dollars (\$5,000,000) for a cyanidation
10 facility only when the following conditions have been met:

11 (1) The board has determined that such ~~bond~~ financial assurance is nec-
12 essary to meet the requirements of this chapter.

13 (2) The board has delivered to the operator, in writing, a notice set-
14 ting forth the reasons it believes such ~~bond~~ financial assurance is nec-
15 essary.

16 (3) The board has conducted a hearing where the operator is allowed to
17 give testimony to the board concerning the amount of the proposed ~~bond~~
18 financial assurance. The hearing shall be held under such rules as pro-
19 mulgated by the board. This requirement for a hearing may be waived, in
20 writing, by the operator. Any hearing held shall, at the discretion of
21 the director, extend the time, up to sixty (60) days, in which the board
22 must act on the permanent closure plan submitted.

23 (e) Any ~~bond~~ financial assurance required under this chapter to be
24 filed and maintained with the board shall be in such form as the board pre-
25 scribes, payable to the state of Idaho, conditioned that the operator shall
26 faithfully perform all requirements of this chapter and comply with all
27 rules of the board in effect as of the date of approval of the plan in accor-
28 dance with the provisions of this chapter. An operator may at any time file
29 a single bond in lieu of separate bonds filed or to be filed pursuant to this
30 chapter, provided that the penalty of such single bond shall be equal to the
31 total of the penalties of the separate bonds being combined into a single
32 ~~bond~~. Further, any ~~bond~~ financial assurance provided to another governmen-
33 tal agency that also meets the requirements in this section shall be deemed
34 to be sufficient surety for the purposes of this chapter.

35 (f) ~~A bond~~ Financial assurance filed as ~~above~~ prescribed in this sec-
36 tion shall not be cancelled by the surety canceled, except after not less
37 than ninety (90) days' notice to the board. Upon failure of the operator to
38 make substitution of ~~surety~~ financial assurance prior to the effective date
39 of cancellation of the ~~bond~~ financial assurance or within thirty (30) days
40 following notice of cancellation by the board, whichever is later, the board
41 shall have the right to issue a cease and desist order and seek injunctive
42 relief to stop the operator from conducting operations covered by such ~~bond~~
43 financial assurance until such substitution has been made.

44 (g) If the license to do business in this state of any surety, upon a
45 bond filed with the board pursuant to this chapter, shall be suspended or re-
46 voked, the operator, within thirty (30) days after receiving notice thereof
47 from the board, shall substitute for such surety a ~~good and sufficient corpo-~~
48 rate surety licensed to do business in this state or other surety acceptable
49 to the board alternative financial assurance in accordance with this sec-
50 tion. Upon failure of the operator to make substitution of ~~surety~~ financial

1 assurance, the board shall have the right to issue a cease and desist order
2 and seek injunctive relief to stop the operator from conducting operations
3 covered by such ~~bond~~ financial assurance until such substitution has been
4 made.

5 (h) When an operator shall have completed all or a portion of recla-
6 mation requirements, or all or a portion of any post-closure activity, un-
7 der the provisions of this chapter as to any portion of affected land or any
8 post-closure activity, he ~~shall~~ may notify the board. Within thirty (30)
9 days after the receipt of such notice, the board shall notify the operator as
10 to whether or not the reclamation or post-closure activity performed meets
11 the requirements of the reclamation plan pertaining to the land in question.

12 (1) Upon the determination by the board that the requirements of the
13 reclamation plan in question have been substantially met as to said
14 lands or such activity, the amount of ~~bond~~ financial assurance in effect
15 as to such lands or such activity shall be reduced by an amount desig-
16 nated by the board to reflect the reclamation done.

17 (2) Upon a determination by the board that the requirements of the
18 reclamation plan in question have not been substantially met as to said
19 lands or such activity, it shall deliver to the operator, in writing, a
20 notice of rejection of the request for ~~bond~~ financial assurance release
21 and shall set forth in said notice the reasons for such rejection, the
22 factual findings upon which such rejection is based, the manner in which
23 the reclamation fails to fulfill the requirements of the reclamation
24 plan, and the changes necessary to comply with the requirements of the
25 reclamation plan.

26 (i) When an operator shall have completed an activity specified in an
27 approved permanent closure plan, he may notify the board. Within thirty (30)
28 days after the receipt of such notice, the board shall notify the operator as
29 to whether or not the activity performed meets the requirements of the per-
30 manent closure plan. In determining whether or not an activity under the
31 statutory responsibility of the department of environmental quality meets
32 the requirements of the permanent closure plan, the board shall consult with
33 that department.

34 (1) Upon the determination by the board that the activity meets the re-
35 quirements of the permanent closure plan, the ~~bond~~ financial assurance
36 for permanent closure shall be reduced by an amount designated by the
37 board to reflect the activity completed.

38 (2) Upon a determination by the board that the requirements of the
39 permanent closure plan in question have not been met as to said lands,
40 it shall deliver to the operator, in writing, a notice of rejection of
41 the request for ~~bond~~ financial assurance release and shall set forth in
42 said notice the reasons for such rejection, the factual findings upon
43 which such rejection is based, the manner in which the activity fails to
44 fulfill the requirements of the permanent closure plan, and the changes
45 necessary to comply with the requirements of the permanent closure
46 plan.

47 (j) An operator may withdraw any land previously designated as affected
48 land within a mine panel, provided that it is not already affected land, and
49 in such event, he shall notify the board, and the amount of the bond in effect
50 as to the lands in that mine panel shall be reduced by an amount designated

1 by the board as the amount which would have been necessary to reclaim such
2 lands.

3 (k) Proof of financial assurance may be demonstrated by surety bond,
4 corporate guarantee, letter of credit, certificate of deposit, trust fund,
5 and any combination thereof or any other proof of financial assurance ap-
6 proved by the board.

7 (1) An operator may provide proof of financial assurance by use of a
8 trust fund, provided the following conditions are met:

9 (1) The trust fund is managed by a third-party trustee;

10 (2) The trust fund names the state of Idaho as beneficiary; and

11 (3) The trust is initially funded in an amount at least equal to:

12 (i) The financial assurance amount as estimated by this section;

13 (ii) A specified schedule of payments into the fund; or

14 (iii) A pro-rata amount if used with another financial assurance
15 mechanism.

16 (4) The trustee shall invest the principal and income of the fund in
17 accordance with general investment practices. Investments can include
18 equities, bonds, and government securities.

19 (5) The operator enters into a memorandum of agreement with the board
20 that identifies the trustee, a range of investments, initial funding,
21 schedule of payments, and expected rate of return.

22 (6) The trust fund balance shall be reviewed by the board at a period
23 not to exceed once every five (5) years and adjustments to the trust fund
24 made to meet the conditions of the agreement and this chapter.

25 (m) Following the permanent cessation of a mining operation, the board
26 may determine that a post-closure period of greater than thirty (30) years is
27 necessary only when the following conditions have been met:

28 (1) The board has determined that such longer post-closure period
29 is necessary to meet the requirements of sections 47-1506, 47-1509,
30 47-1510, and 47-1511, Idaho Code;

31 (2) The board has delivered to the operator, in writing, a notice set-
32 ting forth the reasons it believes a longer post-closure period is nec-
33 essary;

34 (3) The board has conducted a hearing where the operator is allowed to
35 give testimony concerning the length of the post-closure period. The
36 hearing shall be held under such rules as promulgated by the board. The
37 requirement for a hearing may be waived by the operator; and

38 (4) Any decision by the board under this subsection shall be considered
39 a final order pursuant to section 47-1514, Idaho Code.

40 (n) Any mining operation that is addressing water management, and any
41 releases to the environment through a comprehensive environmental response,
42 compensation and liability act (CERCLA) order, including any required fi-
43 ancial assurance, shall not be required to submit financial assurance to
44 the board for any activities covered by a CERCLA order.

45 SECTION 13. That Section 47-1513, Idaho Code, be, and the same is hereby
46 amended to read as follows:

47 47-1513. OPERATOR'S FAILURE TO COMPLY -- FORFEITURE OF ~~BOND~~ FINANCIAL
48 ASSURANCE -- PENALTIES -- RECLAMATION FUND -- CYANIDATION CLOSURE FUND. (a)
49 Whenever the board determines that an operator has not complied with the pro-

1 visions of this chapter, the board may notify the operator of such noncom-
2 pliance, and may, by private conference, conciliation, and persuasion, en-
3 deavor to remedy such violation. In the event of a violation referred to
4 in subsections (d) and (e) of this section, the board may proceed without
5 an administrative action, hearing or decision to exercise the remedies set
6 forth in said subsections. Additionally, no administrative action, hear-
7 ing or decision shall be required from the Idaho board of environmental qual-
8 ity prior to the board proceeding under subsections (d) and (e) of this sec-
9 tion. In the event of the failure of any conference, conciliation and per-
10 suasion to remedy any alleged violation, the board may cause to have issued
11 and served upon the operator alleged to be committing such violation, a for-
12 mal complaint ~~which~~ that shall specify the provisions of this chapter ~~which~~
13 that the operator allegedly is violating, and a statement of the manner in
14 and the extent to which said operator is alleged to be violating the provi-
15 sions of this chapter. Such complaint may be served by certified mail, and
16 a return receipt signed by the operator, an officer of a corporate operator,
17 or the designated agent of the operator shall constitute service. The op-
18 erator shall answer the complaint and request a hearing before a designated
19 hearing officer within thirty (30) days from receipt of the complaint if mat-
20 ters asserted in the complaint are disputed. If the operator fails to answer
21 the complaint and request a hearing, the matters asserted in the complaint
22 shall be deemed admitted by the operator, and the board may proceed to can-
23 cel the reclamation or permanent closure plan and forfeit the ~~bond~~ financial
24 assurance in the amount necessary to reclaim affected lands or complete the
25 permanent closure activities. Upon request for a hearing by an operator,
26 the board shall schedule a hearing before a hearing officer appointed by the
27 board at a time not less than thirty (30) days after the date the operator
28 requests a hearing. The board shall issue subpoenas at the request of the
29 director of the department of lands and at the request of the charged op-
30 erator, and the matter shall be otherwise handled and conducted in accord-
31 dance with chapter 52, title 67, Idaho Code. The hearing officer shall, pur-
32 suant to said hearing, enter an order in accordance with chapter 52, title
33 67, Idaho Code, which, if adverse to the operator, shall designate a time pe-
34 riod within which corrective action should be taken. The time period desig-
35 nated shall be long enough to allow the operator, in the exercise of reason-
36 able diligence, to rectify any failure to comply designated in said order.
37 In the event that the operator takes such action as is necessary to comply
38 with the order within the time period designated in said order, no further
39 action shall be taken by the board to compel performance under the chapter.

40 (b) Upon request of the board, the attorney general shall institute
41 proceedings to have the ~~bond~~ financial assurance of an operator forfeited
42 for the violation by the operator of an order entered pursuant to this sec-
43 tion.

44 (c) The forfeiture of such ~~bond~~ financial assurance shall fully satisfy
45 all obligations of the operator to reclaim the affected land or complete per-
46 manent closure activities under the provisions of this chapter. If the vi-
47 olation involves an operator that has not furnished a ~~bond~~ financial assur-
48 ance required by this chapter, or an operator that is not required to furnish
49 a ~~bond~~ financial assurance pursuant to this chapter, or an operator who vio-
50 lates this chapter by performing an act not included in the original approved

1 reclamation plan or the original approved permanent closure plan, and such
2 departure from the plan is not subsequently approved, such operator shall
3 be subject to a civil penalty for his failure to comply with such order in
4 the amount determined by the board to be the anticipated cost of reasonable
5 reclamation of affected lands or permanent closure of the cyanidation facil-
6 ity. Nothing in this subsection shall relieve the operator of any obliga-
7 tion, including the obligation to complete closure requirements, pursuant
8 to a permit issued by the department of environmental quality under section
9 39-118A, Idaho Code, or limit that department's authority to require compli-
10 ance with such permit requirements.

11 (d) Notwithstanding any other provisions of this chapter, the board may
12 commence an action without ~~bond~~ financial assurance or undertaking, in the
13 name of the state of Idaho, to enjoin any operator who is conducting opera-
14 tions without an approved plan required by section 47-1506, Idaho Code, or
15 without the ~~bond~~ financial assurance required by this chapter. The court, or
16 a judge thereof at chambers, if satisfied from the complaint or by affidavits
17 that such acts have been or are being committed, shall issue a temporary re-
18 straining order without notice or bond, enjoining the defendant, his agents,
19 and employees from conducting such operations without said plan or bond.
20 Upon a showing of good cause therefor, the temporary restraining order may
21 require the defendant to perform reclamation of the mined area in conformity
22 with sections 47-1509 and 47-1510, Idaho Code, or to complete permanent
23 closure activities, pending final disposition of the action. The action
24 shall then proceed as in other cases for injunctions. If it is established
25 at trial that the defendant has operated without an approved plan or ~~bond~~
26 financial assurance, the court shall enter, in addition to any other order,
27 a decree enjoining the defendant, his agents and employees from thereafter
28 conducting such activities or similar actions in violation of this chapter.
29 The board may, in conjunction with its injunctive procedures, proceed in
30 the same or in a separate action to recover from an operator who is conduct-
31 ing ~~surface~~ mining or exploration operations or operating a cyanidation
32 facility without the required plan or ~~bond~~ financial assurance, the cost
33 of performing the reclamation activities required by sections 47-1509 and
34 47-1510, Idaho Code, or the cost of permanent closure activities from any
35 such operator who has not ~~filed a bond~~ provided financial assurance to cover
36 the cost of the required activities.

37 (e) Notwithstanding any other provision of this chapter, the board may,
38 without bond or undertaking and without any administrative action, hearing
39 or decision, commence an action in the name of the state of Idaho (1) to en-
40 join a permitted ~~surface~~ mining operation or cyanidation facility when, un-
41 der an existing approved plan, an operator violates the terms of the plan
42 and where immediate and irreparable injury, loss or damage may result to the
43 state, and (2) to recover the penalties and to collect civil damages provided
44 for by law.

45 (f) In addition to the procedures set forth in subsections (a), (d) and
46 (e) of this section, and in addition to the civil penalty provided in subsec-
47 tion (c) of this section, any operator who violates any of the provisions of
48 this chapter or rules adopted pursuant thereto, or who fails to perform the
49 duties imposed by these provisions, or who violates any determination or or-
50 der promulgated pursuant to the provisions of this chapter, shall be liable

1 to a civil penalty of not less than five hundred dollars (\$500) nor more than
2 two thousand five hundred dollars (\$2,500) for each day during which such vi-
3 olation continues, and in addition may be enjoined from continuing such vio-
4 lation. Such penalties shall be recoverable in an action brought in the name
5 of the state of Idaho by the attorney general in the district court for the
6 county where the violation, or some part thereof, occurs, or in the district
7 court for the county wherein the defendant resides.

8 (1) All sums recovered related to the reclamation provisions of this
9 chapter shall be placed in the state treasury and credited to the
10 ~~surface~~ mining reclamation fund, which is hereby created, to be used to
11 reclaim affected lands and to administer the reclamation provisions of
12 this chapter.

13 (2) All sums recovered related to the cyanidation facility closure pro-
14 visions of this chapter shall be placed in the state treasury and cred-
15 ited to the cyanidation facility closure fund, which is hereby created.
16 Moneys in the fund may be expended pursuant to appropriation and used to
17 complete permanent closure activities and to administer the permanent
18 closure provisions of this chapter.

19 (g) Any person who willfully and knowingly falsifies any records, in-
20 formation, plans, specifications, or other data required by the board or
21 willfully fails, neglects, or refuses to comply with any of the provisions of
22 this chapter shall be guilty of a misdemeanor and shall be punished by a fine
23 of not less than one thousand dollars (\$1,000) and not more than five thou-
24 sand dollars (\$5,000) or imprisonment not to exceed one (1) year, or both.

25 (h) Reclamation plans approved by the board as of ~~January 1, 1997~~ July
26 1, 2019, shall be deemed to be in full compliance with the requirements of
27 this chapter. ~~However, the board may periodically review, and revise if~~
28 ~~necessary to meet the requirements of sections 47-1506, 47-1509, 47-1510~~
29 ~~and 47-1511, Idaho Code, the amount, terms and conditions of any bond when~~
30 ~~there is a material change in the reclamation plan or a material change in the~~
31 ~~estimated reasonable costs of reclamation determined pursuant to section~~
32 ~~47-1512, Idaho Code. Any revision to the amount, terms and conditions of a~~
33 ~~bond due to a material change in the reclamation plan shall apply only to the~~
34 ~~affected lands covered by the material change in the reclamation plan.~~

35 ~~(i) A cyanidation facility with an existing permit approved by the de-~~
36 ~~partment of environmental quality under section 39-118A, Idaho Code, as of~~
37 ~~July 1, 2005, shall be deemed to be in full compliance with the requirements~~
38 ~~of this chapter. If there is a material modification or a material expansion~~
39 ~~of a cyanidation facility after July 1, 2005, the provisions of this chapter~~
40 ~~shall apply to the modification or expansion. Provided however, that recla-~~
41 ~~mation or closure related activities at a facility with an existing cyanida-~~
42 ~~tion permit that did not actively add cyanide after January 1, 2005, shall~~
43 ~~not be considered to be material modifications or a material expansion of the~~
44 ~~facility.~~

45 ~~(j) For a permanent closure plan approved by the board after July 1,~~
46 ~~2005, the board shall periodically review, and revise if necessary to meet~~
47 ~~the requirements of this chapter, the amount, terms and conditions of any~~
48 ~~bond when there is a material change in the permanent closure plan or a ma-~~
49 ~~terial change in the estimated reasonable costs of permanent closure deter-~~
50 ~~mined pursuant to section 47-1512, Idaho Code. The board may require a fee~~

1 ~~sufficient to employ a qualified independent party, acceptable to the oper-~~
2 ~~ator and the board, to verify any revised estimate of the reasonable costs of~~
3 ~~permanent closure.~~

4 SECTION 14. That Section 47-1516, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 47-1516. DEPOSIT OF FORFEITURES AND DAMAGES. All forfeitures and
7 civil damages collected under the provisions of this act shall be deposited
8 with the state treasurer in a special fund to be used by the board for ~~surface~~
9 mined land reclamation purposes.

10 SECTION 15. That Section 47-1517, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 47-1517. CONDUCT OF ACTIVITIES. (a) An operator shall conduct all ex-
13 ploration and mining operations in accordance with all applicable statutes
14 and regulations pertaining to water use and mining safety applicable to ex-
15 ploration and ~~surface~~ mining operations.

16 (b) An operator desiring to operate a cyanidation facility within the
17 state of Idaho shall conduct all related activities in accordance with all
18 applicable statutes and rules related to cyanidation including, but not lim-
19 ited to, section 39-118A, Idaho Code.

20 SECTION 16. That Section 47-1518, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 47-1518. EFFECTIVE DATE -- APPLICATION OF CHAPTER. (a) The reclama-
23 tion provisions of this chapter shall be in full force and effect on and af-
24 ter May 31, 1971. An surface mine operator shall not be required to perform
25 the reclamation activities referred to in this chapter as to any surface min-
26 ing operations performed prior to May 31, 1972, and, further, shall not be
27 required to perform such reclamation activities as to any pit or overburden
28 pile as it exists prior to May 31, 1972.

29 (b) The cyanidation provisions of this chapter shall be in full force
30 and effect on and after July 1, 2005. The board shall promulgate temporary
31 rules by August 1, 2005, to implement the provisions of this act. A cyanida-
32 tion facility with an existing permit approved by the department of environ-
33 mental quality under section 39-118A, Idaho Code, as of July 1, 2005, shall
34 be deemed to be in full compliance with the requirements of this chapter. If
35 there is a material modification or a material expansion of a cyanidation
36 facility after July 1, 2005, the provisions of this chapter shall apply to
37 the modification or expansion. Provided however, that reclamation or clo-
38 sure-related activities at a facility with an existing cyanidation permit
39 that did not actively add cyanide after January 1, 2005, shall not be consid-
40 ered to be material modifications or a material expansion of the facility.

41 (c) An underground mine operator shall not be subject to this chapter
42 for affected land disturbed by underground mine operations prior to July 1,
43 2019. If there is a significant change to affected land at an underground
44 mining operation after July 1, 2019, the provisions of this chapter shall ap-
45 ply to the significant change.

1 (d) The financial assurance and post-closure provisions of this chap-
2 ter amended in 2019 shall be in force and effect on or after July 1, 2019.
3 Provided that the financial assurance and post-closure provisions of this
4 chapter amended in 2019 shall not apply to:

5 (1) Mining operations currently permitted or authorized to commence
6 operations prior to July 1, 2019; or

7 (2) Any mining operation that has permanently ceased operations prior
8 to July 1, 2019.

9 (e) For mining operations that have submitted maps and plans to state
10 or federal agencies as required by section 47-1506, Idaho Code, but such op-
11 erations have not been approved prior to July 1, 2019, such operations shall
12 have one (1) year after operation approval to submit plans and financial as-
13 urance required by the financial assurance and post-closure provisions of
14 this chapter as amended in 2019.

15 (f) The board shall promulgate temporary rules by August 1, 2019, to im-
16 plement the 2019 amendments to this chapter.

The logo for the Idaho Department of Lands is centered at the bottom of the page. It features a stylized mountain range in shades of green and yellow, with a central diamond shape. Below the mountains is a horizontal banner with the text "IDAHO DEPARTMENT OF LANDS" in white, uppercase letters on a dark background.

IDAHO DEPARTMENT OF LANDS

20.03.02 Negotiated Rulemaking Schedule

<u>DATE</u>	<u>EVENT</u>
March 4, 2019	Submitted ARRF to Division of Financial Management
March 12, 2019	Present negotiated rulemaking request to Land Board staff
March 19, 2019	Present negotiated rulemaking request to Land Board for approval
April 5, 2019	Submit <i>Notice of Intent</i> to Office of the Administrative Rules Coordinator (OAR) for publication in May Administrative Bulletin
May 1, 2019	Bulletin publication date (draft rule text posted to IDL website)
May 9, 2019	Negotiated rulemaking meeting in Boise (with call-in line)
May 15, 2019	Negotiated rulemaking meeting in Boise (with call-in line)
May 22, 2019	Negotiated rulemaking meeting in Boise (with call-in line)
May 29, 2019	Negotiated rulemaking meeting in Boise (with call-in line)
Comment Period	
June 12, 2019	Negotiated rulemaking meeting in Pocatello (with call-in line)
June 13, 2019	Negotiated rulemaking meeting in Challis (with call-in line)
June 18, 2019	Negotiated rulemaking meeting in Coeur d'Alene (with call-in line)
June 19, 2019	Negotiated rulemaking meeting in McCall (with call-in line)
June 20, 2019	Negotiated rulemaking meeting in Boise (with call-in line)
June 27, 2019	Negotiated rulemaking meeting in Boise (with call-in line)
Comment Period	
July 11, 2019	Final negotiated rulemaking meeting in Boise (with call-in line)
July 15, 2019	Last day to submit comments prior to submittal of proposed rules
July 19, 2019	Submit proposed rule text to Division of Financial Management
August 2, 2019	Submit <i>Notice of Proposed Rule</i> to OAR for publication in September Administrative Bulletin
September 4, 2019	Proposed rule published in the Administrative Bulletin and 21-day comment period begins
September 16, 2019	Public hearing in Boise (with call-in line)
September 25, 2019	21-day comment period ends
October 8, 2019	Present pending rule to Land Board staff
October 15, 2019	Present pending rule to Land Board for approval
November 29, 2019	Submit <i>Notice of Pending Rule</i> to OAR for publication in January Administrative Bulletin and review during the 2020 legislative session

20.03.02 Temporary Rulemaking Schedule

<u>DATE</u>	<u>EVENT</u>
March 12, 2019	Present notification to Land Board staff - IDL will engage stakeholders for temporary rule to be in place by 8/1/2019
March 19, 2019	Present notification to Land Board - IDL will engage stakeholders for temporary rule to be in place by 8/1/2019
June 12, 2019	Discuss during negotiated rulemaking in Pocatello (with call-in line)
June 13, 2019	Discuss during negotiated rulemaking in Challis (with call-in line)
June 18, 2019	Discuss during negotiated rulemaking in Coeur d'Alene (with call-in line)
June 19, 2019	Discuss during negotiated rulemaking in McCall (with call-in line)
June 20, 2019	Discuss during negotiated rulemaking in Boise (with call-in line)
June 27, 2019	Discuss/finalize during negotiated rulemaking in Boise (with call-in line)
July 1, 2019	Submit ARRF and temporary rule text to Division of Financial Management
July 9, 2019	Present temporary rule to Land Board staff
July 16, 2019	Present temporary rule to Land Board for approval (temporary rule effective upon approval)
August 2, 2019	Submit <i>Notice of Temporary Rule</i> to OAR for publication in September Administrative Bulletin
September 4, 2019	Temporary rule publishes in the Administrative Bulletin

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IDAHO DEPARTMENT OF LANDS

STATE BOARD OF LAND COMMISSIONERS

March 19, 2019

Regular Agenda

Subject

Approval to offer for auction, seven commercial lots located at East Watertower Street, Meridian, Idaho.

Background

Through a land exchange in 2000 by the Idaho Department of Lands (Department), the Normal School Endowment acquired eleven vacant commercial lots on East Watertower Street in Meridian, Idaho (Watertower Lots). The Watertower Lots are on the north and south side of East Watertower Street (Attachment 1) and surrounded by retail, office, light industrial and government uses including the Idaho State Police's (ISP) training facility. The Watertower Lots are vacant, unimproved, and do not produce any income.

In 2014, the State Board of Land Commissioners (Land Board) directed the Department to offer four of the eleven Watertower Lots for auction. Those four lots were acquired at auction by ISP. In 2017, the Land Board directed the Department to offer at auction, four of the remaining seven Watertower Lots. The Department offered the four lots on the north side of the road for auction and no bids were received.

Discussion

The Land Board's Commercial Real Estate Advisor, CenturyPacific LLLP (CenturyPacific), recommended the Department offer the property for lease prior to offering it for auction in early 2019. The Department has advertised and placed leasing signs on the property. After five months of advertising, the Department has received no material interest from potential long- or short-term tenants. In accordance with CenturyPacific's recommendation, the Department is seeking to pursue the disposition of the property at auction. Should any of the properties not sell, the Department will continue to seek leasing opportunities.

Over the past year, the Department completed the necessary due diligence to take the seven remaining Watertower Lots to auction. The Department will use a broker to market the Watertower Lots as available for auction. The broker will post all due diligence materials for interested parties, including property-specific appraisals, review appraisals, environmental assessments, and preliminary title commitments. The Idaho Attorney General's Office, as a member of the disposition team, has participated in the preparation of the auction and administration documents for the sale. The culmination of the aforementioned due diligence and auction documents will be accessible through a link on the Department's website.

The Department will commence the following disposition process if any lots are nominated and may include additional lots based on broker recommendations:

- 60-day notice to Ada County
- Create due diligence portal
- Legal notice in Idaho Statesman for 5 weeks
- Auction
- Closing

The terms of the sale will include:

- Live public auction held in Ada County
- Starting bid not less than appraised value
- Bidders required to post a nonrefundable bid deposit of \$10,000, unless otherwise approved by the Department
- A buyer's premium of 5% added to the successful bid price, unless the buyer is a governmental agency then the buyer's premium will be 3%
- Buyer's agent commission of 2% will be offered, unless buyer is a governmental agency
- No contingencies
- Buyer responsible for all closing costs and title insurance
- Closing within 60 days after close of auction

Recommendation

Direct the Department to offer the seven Watertower Lots for disposition through public auction in Ada County.

Board Action

Attachments

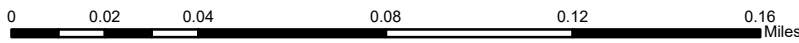
1. Watertower Lots Map



The USDA-FSA Aerial Photography Field office asks to be credited in derived products.



Watertower Lots



Legend

Watertower_Lots