

State Board of Land Commissioners Open Meeting Checklist

Meeting Date: August 20, 2024

Regular Meetings

7/30/2024	Meeting Notice posted in prominent place in IDL's Boise Director's office five (5) or more calendar days before meeting.
7/30/2024	Meeting Notice posted in prominent place in IDL's Coeur d'Alene staff office five (5) or more calendar days before meeting.
7/30/2024	Meeting Notice posted in prominent place at meeting location five (5) or more calendar days before meeting.
7/30/2024	Meeting Notice posted electronically on IDL's public website https://www.idl.idaho.gov five (5) or more calendar days before meeting.
7/30/2024	Meeting Notice published on Townhall Idaho website https://townhall.idaho.gov five (5) or more calendar days before meeting.
8/15/2024	Agenda posted in prominent place in IDL's Boise Director's office forty-eight (48) hours before meeting.
8/15/2024	Agenda posted in prominent place in IDL's Coeur d'Alene staff office forty-eight (48) hours before meeting.
8/15/2024	Agenda posted in prominent place at meeting location forty-eight (48) hours before meeting.
8/15/2024	Agenda posted electronically on IDL's public website https://www.idl.idaho.gov forty-eight (48) hours before meeting.
8/15/2024	Agenda published on Townhall Idaho website https://townhall.idaho.gov forty-eight (48) hours before meeting.
6/14/2024	Land Board annual meeting schedule posted – Boise Director's office, Coeur d'Alene staff office, and IDL's public website https://www.idl.idaho.gov .

Special Meetings

	Meeting Notice and Agenda posted in a prominent place in IDL's Boise Director's office twenty-four (24) hours before meeting.
	Meeting Notice and Agenda posted in a prominent place in IDL's Coeur d'Alene staff office twenty-four (24) hours before meeting.
	Meeting Notice and Agenda posted at meeting location twenty-four (24) hours before meeting.
	Meeting Notice and Agenda posted electronically on IDL's public website https://www.idl.idaho.gov twenty-four (24) hours before meeting.
	Meeting Notice and Agenda published on Townhall Idaho website https://townhall.idaho.gov twenty-four (24) hours before meeting.
	Emergency situation exists – no advance Meeting Notice or Agenda needed. "Emergency" defined in Idaho Code § 74-204(2).

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

	Meeting Notice and Agenda posted in IDL's Boise Director's office twenty-four (24) hours before meeting.
	Meeting Notice and Agenda posted in IDL's Coeur d'Alene staff office twenty-four (24) hours before meeting.
	Meeting Notice and Agenda posted at meeting location twenty-four (24) hours before meeting.
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	Meeting Notice and Agenda published on Townhall Idaho website https://townhall.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.



Recording Secretary

August 15, 2024

Date



Idaho State Board of Land Commissioners

Brad Little, Governor and President of the Board

Phil McGrane, Secretary of State

Raúl R. Labrador, Attorney General

Brandon D Woolf, State Controller

Debbie Critchfield, Superintendent of Public Instruction

Dustin T. Miller, Secretary to the Board

NOTICE OF PUBLIC MEETING AUGUST 2024

The Idaho State Board of Land Commissioners will hold a Regular Meeting on Tuesday, August 20, 2024 in the **State Capitol, Senate Hearing Room WW55, Lower Level, West Wing, 700 W. Jefferson St., Boise**. The meeting is scheduled to begin at 9:00 AM (Mountain).

Please note location.

The State Board of Land Commissioners will conduct this meeting in person and by virtual means. This meeting is open to the public. No public comment will be taken.

Meeting will be streamed live via IPTV: <https://www.idahoptv.org/shows/idahoinsession/>

Members of the public may register to attend the Zoom webinar through this link:
https://idl.zoom.us/webinar/register/WN_u6QJIHfS6WPYjCSBaaq6A

First Notice Posted: 7/30/2024-IDL Boise; 7/30/2024-IDL CDA

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

Idaho Department of Lands, 300 N 6th Street, Suite 103, Boise ID 83702, 208.334.0200



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State Board of Land Commissioners Regular Meeting

August 20, 2024 – 9:00 AM (MT)

Final Agenda

Capitol, Senate Hearing Room WW55, Lower Level, West Wing, 700 W. Jefferson St., Boise, Idaho

Please note location.

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This meeting is open to the public. No public comment will be taken.**

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Members of the public may register to attend the Zoom webinar through this link:
https://idl.zoom.us/webinar/register/WN_u6QJTIHfS6WPYjCSBaaq6A

1. Department Report – Presented by Dustin Miller, Director

Trust Land Revenue

- A. Timber Sales – July 2024
- B. Leases and Permits – July 2024

Status Updates

- C. Fire Season Report
- D. Land Revenue Forecast
- E. Resource Protection and Assistance Report

Consent—Action Item(s)

- 2. **Payette Readiness Center Surplus Property (Idaho Military Division)** – Presented by Zane Lathim, Section Manager-Real Estate
- 3. **Approval of Draft Minutes** – July 16, 2024 Regular Meeting (Boise)

Regular—Action Item(s)

- 4. **Endowment Fund Investment Board** – Presented by Chris Anton, EFIB Manager of Investments
 - A. Manager's Report
 - B. Investment Report
 - C. FY2026 Beneficiary Distributions and Transfers

State Board of Land Commissioners
Final Agenda
Regular Meeting – August 20, 2024
Page 1 of 2

5. **FY2026 Department of Lands Budget Enhancements** – *Presented by Dustin Miller, Director*
6. **2024 Forest Asset Management Plan** – *Presented by David Greenwood, Bureau Chief-Forest Management*
7. **Approval of Timber Sales with Clearcut Harvest Units–Westwood and Lower Eagle Cedar** – *Presented by David Greenwood, Bureau Chief-Forest Management*
8. **Adoption of Pending Rule IDAPA 20.03.13, Administration of Cottage Site Leases on State Lands** – *Presented by Roger Hall, Bureau Chief-Real Estate*
9. **Adoption of Pending Rule IDAPA 20.03.14, Rules Governing Grazing, Farming, and Conservation Leases** – *Presented by Roger Hall, Bureau Chief-Real Estate*
10. **Adoption of Pending Fee Rule 20.03.15, Rules Governing Geothermal Leasing on Idaho State Lands** – *Presented by Roger Hall, Bureau Chief-Real Estate*
11. **Adoption of Pending Fee Rule 20.03.16, Rules Governing Oil and Gas Leasing on Idaho State Lands** – *Presented by Roger Hall, Bureau Chief-Real Estate*
12. **Approval of General Counsel** – *Presented by Dustin Miller, Director*

Information

None

Executive Session

None

IDAHO DEPARTMENT OF LANDS



Idaho Statutes

Idaho Statutes are updated to the website July 1 following the legislative session.

TITLE 74
TRANSPARENT AND ETHICAL GOVERNMENT
CHAPTER 2
OPEN MEETINGS LAW

74-206. EXECUTIVE SESSIONS - WHEN AUTHORIZED. (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 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 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 chapter 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.

(4) If the governing board of a public school district, charter district, or public charter school has vacancies such that fewer than two-thirds (2/3) of board members have been seated, then the board may enter into executive session on a simple roll call majority vote.

History:

[74-206, added 2015, ch. 140, sec. 5, p. 371; am. 2015, ch. 271, sec. 1, p. 1125; am. 2018, ch. 169, sec. 25, p. 377; am. 2019, ch. 114, sec. 1, p. 439.]

STATE BOARD OF LAND COMMISSIONERS

August 20, 2024
Trust Land Revenue

Timber Sales

During July 2024, the Department of Lands sold seven endowment timber sales at auction. Five sales had competitive bidding. The net sale value represents a 7% up bid over the appraised value. Three endowment timber sales did not sell at auction. Good Neighbor Authority (GNA) sold two sales both having competitive bidding. The net sale value represents a 6% up bid over the appraised value. One GNA sale did not sell at auction.

TIMBER SALE AUCTIONS								
Sale Name	Area	Sawlog MBF	Cedar Prod MBF	Pulp MBF	Appraised Net Value	Sale Net Value	Net \$/MBF	Purchaser
Sill Creek Entirety Cedar	POND	3,675	100		\$ 930,043.50	\$ 956,825.00	\$253.46	IFG Timber LLC
Mid Olson	SJ	8,325			\$1,800,806.50	\$2,191,795.00	\$263.28	PotlatchDeltic
The Last Sand Cedar	POL	1,290	275		\$ 509,198.00	\$ 512,198.80	\$327.28	Alta Forest Products
Ridge Runner	POL	1,595			\$ 447,804.50	\$ 447,804.50	\$280.76	Jag Inc
Cocolalla Squeeze Cedar	POL	1,945			\$ 768,793.50	\$ 789,159.20	\$405.74	Alta Forest Products
Trumbull	POND	8,445			\$1,442,599.50	\$1,442,599.50	\$170.82	Stimson Lumber Co.
Twin Chilco OSR	MICA	2,870			\$ 720,688.50	\$ 746,200.00	\$260.00	IFG Timber LLC
Endowment		28,145	375	0	\$6,619,934.00	\$7,086,582.00	\$248.48	
Beauty Cedar GNA	GNA	9,515			\$1,753,115.00	\$1,817,045.80	\$190.97	Alta Forest Products
French Flats GNA Ton	GNA	3,205			\$ 233,452.20	\$ 278,065.80	\$86.76	Tamarack Mill, LLC
Non-Endowment		12,720	0	0	\$1,986,567.20	\$2,095,111.60	\$164.71	

PROPOSED TIMBER SALES FOR AUCTION				
Sale Name	Volume MBF	Advertised Net Value	Area	Estimated Auction Date
North Operations				
NOSR Delivered Products	1,850	\$ 1,512,175.00	PL	8/28/2024
Totals	1,850	\$ 1,512,175.00		
South Operations				
Round Ferry Ton	4,420	\$ 408,885.03	PAY	8/6/2024
Johnson Road	6,325	\$ 888,448.50	CLWR	8/22/2024
Benton East Salvage	7,540	\$ 610,768.50	CLWR	8/22/2024
Totals	18,285	\$ 1,908,102.03		

VOLUME UNDER CONTRACT as of July 31, 2024				
	Public School	Pooled	Total	3 Year Avg.
Active Contracts			166	180
Total Residual MBF Equivalent	371,812	156,899	528,711	552,602
Estimated residual value	\$100,486,882	\$46,849,611	\$147,336,493	\$154,996,685
Residual Value (\$/MBF)	\$270.26	\$298.60	\$278.67	\$280.49

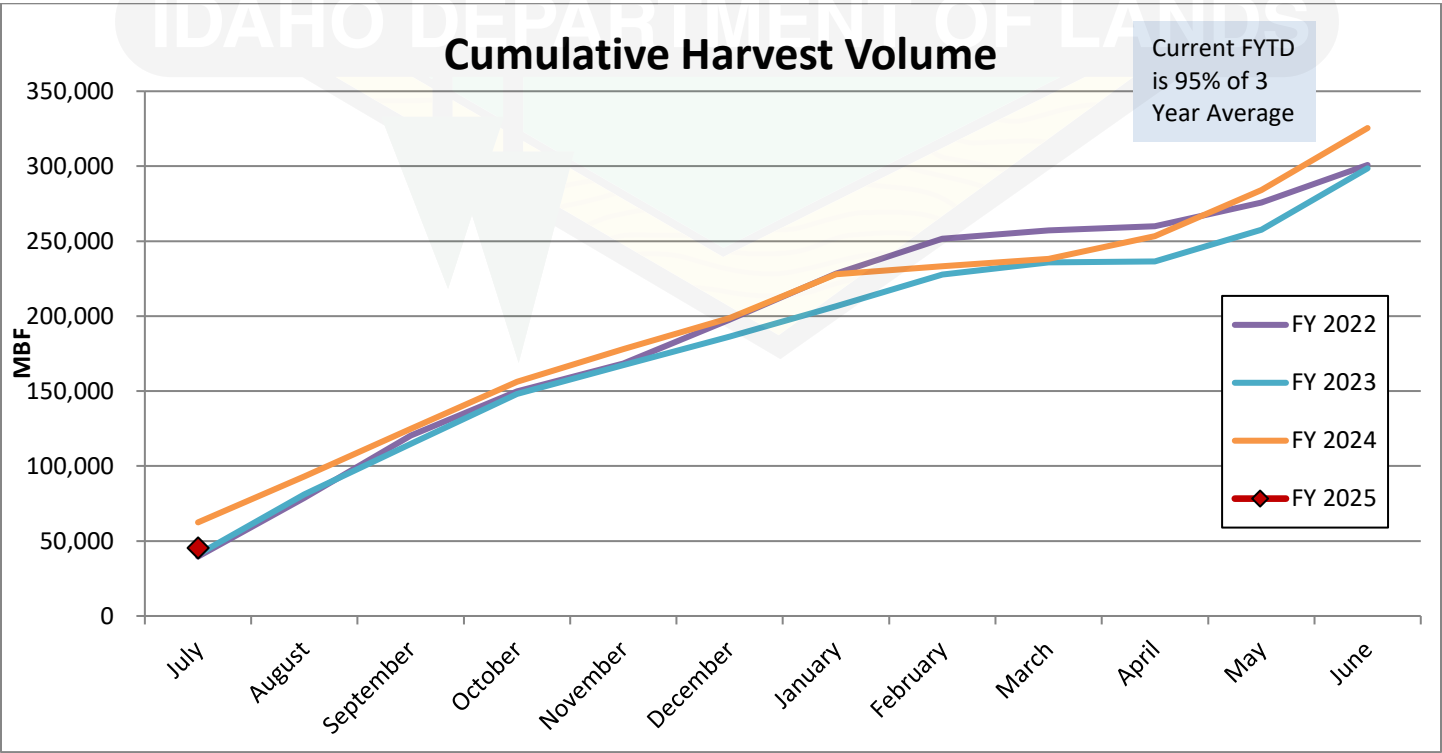
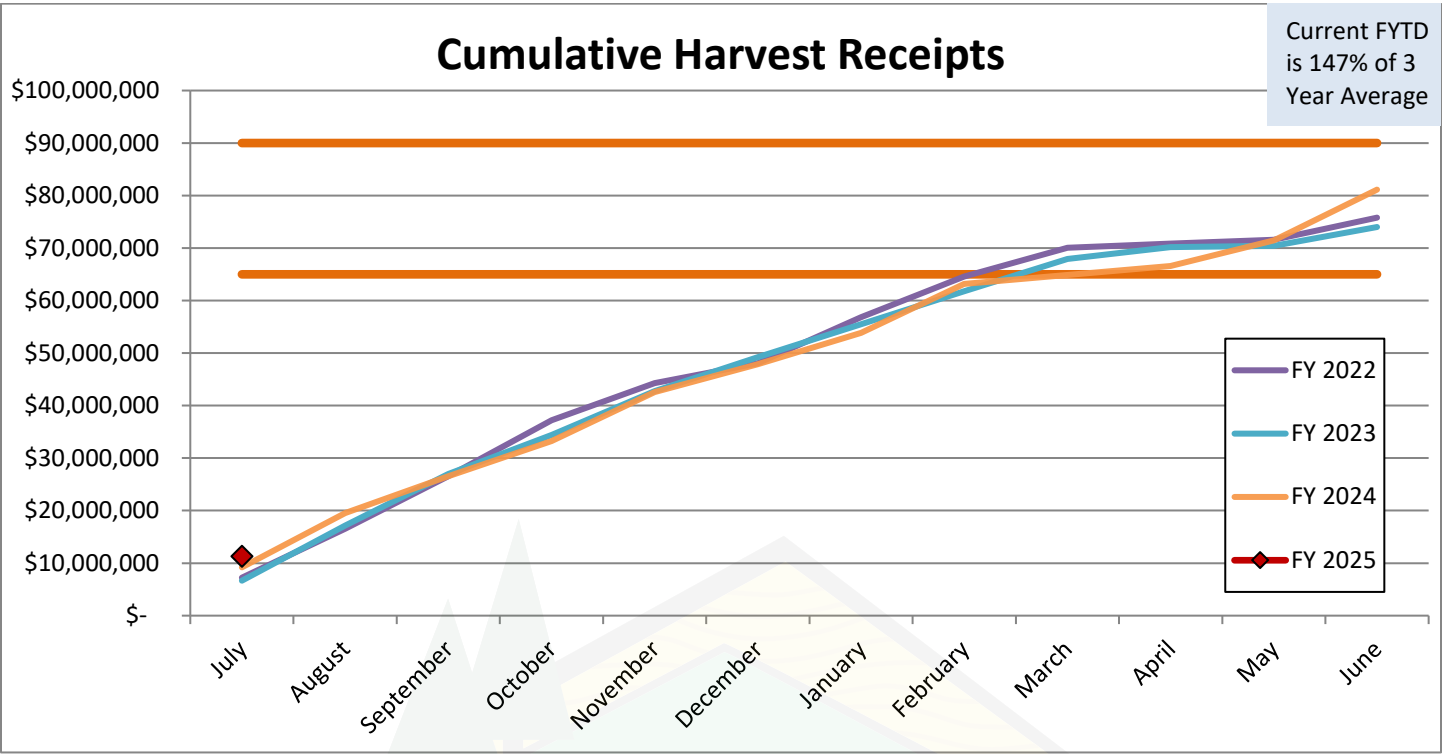
	TIMBER HARVEST RECEIPTS				
	July		FY to date	August Projected	
	Stumpage	Interest	Harvest Receipts	Stumpage	Interest
Public School	\$ 5,484,734.87	\$ 521,067.71	\$ 6,005,802.58	\$ 5,758,988.61	\$ 729,824.22
Pooled	\$ 4,638,171.56	\$ 675,585.82	\$ 5,313,757.38	\$ 5,050,730.19	\$ 782,311.81
General Fund	\$ 84.84	\$ 3.85	\$ 88.69	\$ 278.12	\$ 14.12
Totals	\$ 10,122,991.27	\$ 1,196,657.38	\$ 11,319,648.65	\$ 10,809,996.92	\$ 1,512,150.15

	Status of FY2024 Timber Sale Program					
	MBF Sawlog			Number Poles		
	Public School	Pooled	All Endowments	Public School	Pooled	All Endowments
Sold as of July 31, 2024	192,415	89,329	281,744	18,955	7,531	26,486
Currently Advertised	9,390	0	9,390	0	0	0
In Review	19,364	7,296	26,660	100	400	500
Did Not Sell*	20,075	0	20,075	2,200	0	2,200
TOTALS	241,244	96,625	337,869	21,255	7,931	29,186
FY2024 Sales Plan			328,000			20,000
Percent to Date			103%			146%

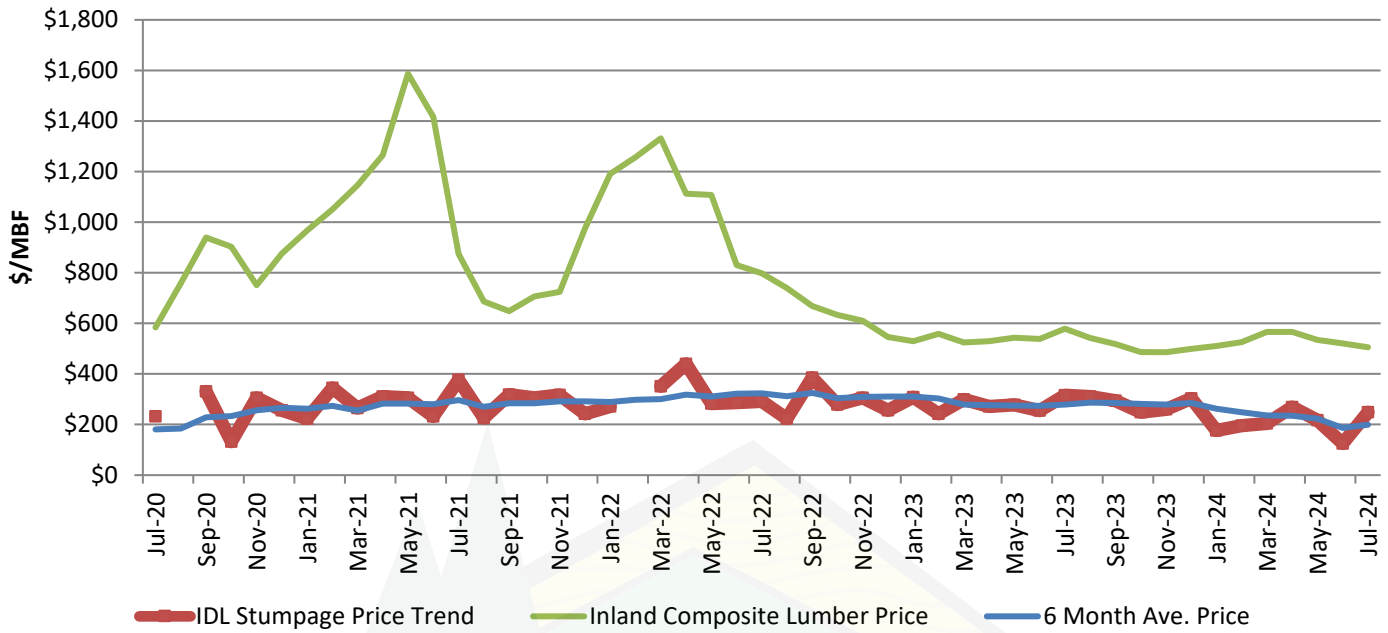
* After three attempts at auction.

	Status of FY2025 Timber Sale Program					
	MBF Sawlog			Number Poles		
	Public School	Pooled	All Endowments	Public School	Pooled	All Endowments
Sold as of July 31, 2024	4,584	8,966	13,550	352	48	400
Currently Advertised	3,295	16,255	19,550	0	2,325	2,325
In Review	12,218	7,007	19,225	2,196	2,379	4,575
Did Not Sell*	0	0	0	0	0	0
TOTALS	20,097	32,228	52,325	2,548	4,752	7,300
FY2025 Sales Plan			328,000			20,000
Percent to Date			16%			37%

* After three attempts at auction.



Monthly Lumber and Stumpage Price



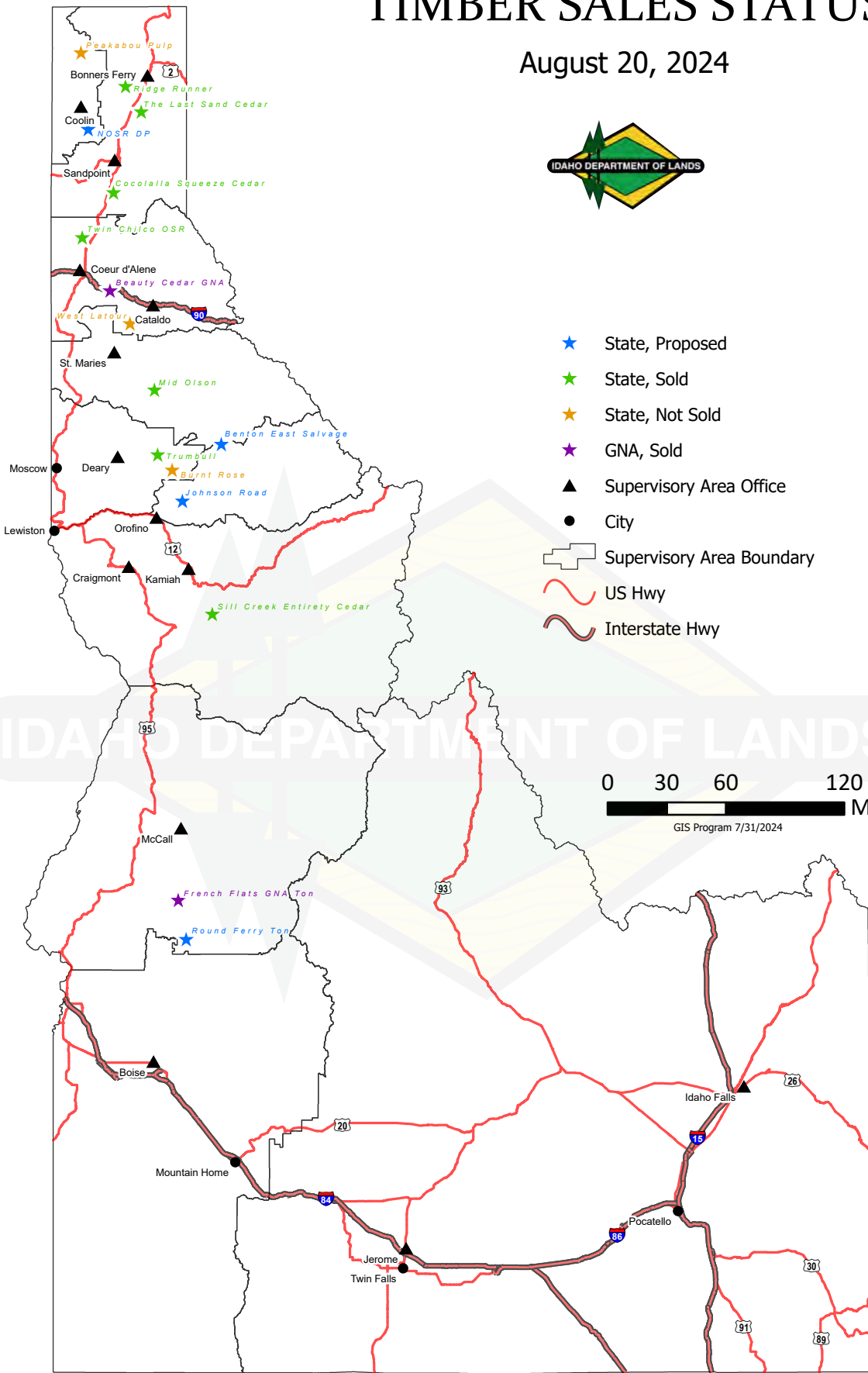
July 2024 6-month average price is \$199.96.

July 2023 6-month average price was \$279.07.

IDAHO DEPARTMENT OF LANDS

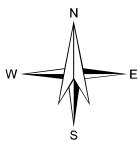
TIMBER SALES STATUS

August 20, 2024



- ★ State, Proposed
- ★ State, Sold
- ★ State, Not Sold
- ★ GNA, Sold
- ▲ Supervisory Area Office
- City
- ▭ Supervisory Area Boundary
- US Hwy
- Interstate Hwy

0 30 60 120 Miles
GIS Program 7/31/2024



STATE BOARD OF LAND COMMISSIONERS

August 20, 2024

Endowment Transactions

Leases and Permits

FISCAL YEAR 2025 – LEASING & PERMITTING TRANSACTIONS BY MONTH – through July 31, 2024													
ACTIVITY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
SURFACE													
Agriculture	-	-	-	-	-	-	-	-	-	-	-	-	0
<i>Assignments</i>	-	-	-	-	-	-	-	-	-	-	-	-	0
Communication Sites	1	-	-	-	-	-	-	-	-	-	-	-	1
<i>Assignments</i>	-	-	-	-	-	-	-	-	-	-	-	-	0
Grazing	-	-	-	-	-	-	-	-	-	-	-	-	0
<i>Assignments</i>	4	-	-	-	-	-	-	-	-	-	-	-	4
Residential	-	-	-	-	-	-	-	-	-	-	-	-	0
<i>Assignments</i>	-	-	-	-	-	-	-	-	-	-	-	-	0
COMMERCIAL													
Alternative Energy	-	-	-	-	-	-	-	-	-	-	-	-	0
Industrial	-	-	-	-	-	-	-	-	-	-	-	-	0
Military	-	-	-	-	-	-	-	-	-	-	-	-	0
Office/Retail	-	-	-	-	-	-	-	-	-	-	-	-	0
Recreation	-	-	-	-	-	-	-	-	-	-	-	-	0
<i>Assignments</i>	1	-	-	-	-	-	-	-	-	-	-	-	1
OTHER													
Conservation	-	-	-	-	-	-	-	-	-	-	-	-	0
Geothermal	-	-	-	-	-	-	-	-	-	-	-	-	0
Minerals	2	-	-	-	-	-	-	-	-	-	-	-	2
<i>Assignments</i>	-	-	-	-	-	-	-	-	-	-	-	-	0
Non-Comm Recreation	-	-	-	-	-	-	-	-	-	-	-	-	0
Oil & Gas	-	-	-	-	-	-	-	-	-	-	-	-	0
PERMITS													
Land Use Permits	9	-	-	-	-	-	-	-	-	-	-	-	9
TOTAL INSTRUMENTS	17	0	0	0	0	0	0	0	0	0	0	0	17

Real Estate

FISCAL YEAR 2025 – REAL ESTATE TRANSACTIONS BY MONTH – through July 31, 2024													
ACTIVITY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
Deeds Acquired	-	-	-	-	-	-	-	-	-	-	-	-	0
Deeds Granted	-	-	-	-	-	-	-	-	-	-	-	-	0
Deeds Granted - Surplus	-	-	-	-	-	-	-	-	-	-	-	-	0
Easements Acquired	-	-	-	-	-	-	-	-	-	-	-	-	0
Easements Granted	-	-	-	-	-	-	-	-	-	-	-	-	0
Notes :													

TRUST LAND MANAGEMENT DIVISION
FY2025 GROSS REVENUE (non-timber) - ACTUAL AND FORECASTED
through July 31, 2024

	REVENUE YTD AS OF 07.31.2024	REVENUE EXPECTED BY 07.31.2024*	REVENUE EXPECTED BY 06.30.2025
SURFACE			
AGRICULTURE	\$ -	\$ -	\$ 678,710
COMMUNICATION SITES	\$ 10,614	\$ -	\$ 1,100,000
GRAZING	\$ 8,282	\$ 11,000	\$ 2,089,000
RESIDENTIAL LEASES	\$ 8,531	\$ -	\$ 1,557,115
COMMERCIAL			
COMMERCIAL ENERGY RESOURCES	\$ -	\$ -	\$ 117,340
COMMERCIAL INDUSTRIAL	\$ 1,000	\$ -	\$ 130,000
COMMERCIAL MILITARY FACILITIES	\$ -	\$ -	\$ 150,000
COMMERCIAL OFFICE/RETAIL LEASES	\$ 59,916	\$ 40,000	\$ 950,000
COMMERCIAL RECREATION	\$ 9,605	\$ 15,000	\$ 1,150,000
OTHER			
CONSERVATION LEASES	\$ -	\$ -	\$ 73,595
GEOTHERMAL	\$ -	\$ 5,006	\$ 5,006
MINERAL LEASES	\$ 697	\$ -	\$ 110,494
OIL AND GAS LEASES	\$ -	\$ -	\$ 3,029
Sub Total	\$ 98,645	\$ 71,006	\$ 8,114,289
REAL ESTATE SERVICES (ER)	\$ -		
Grand Total - Earnings Reserve	\$ 98,645		

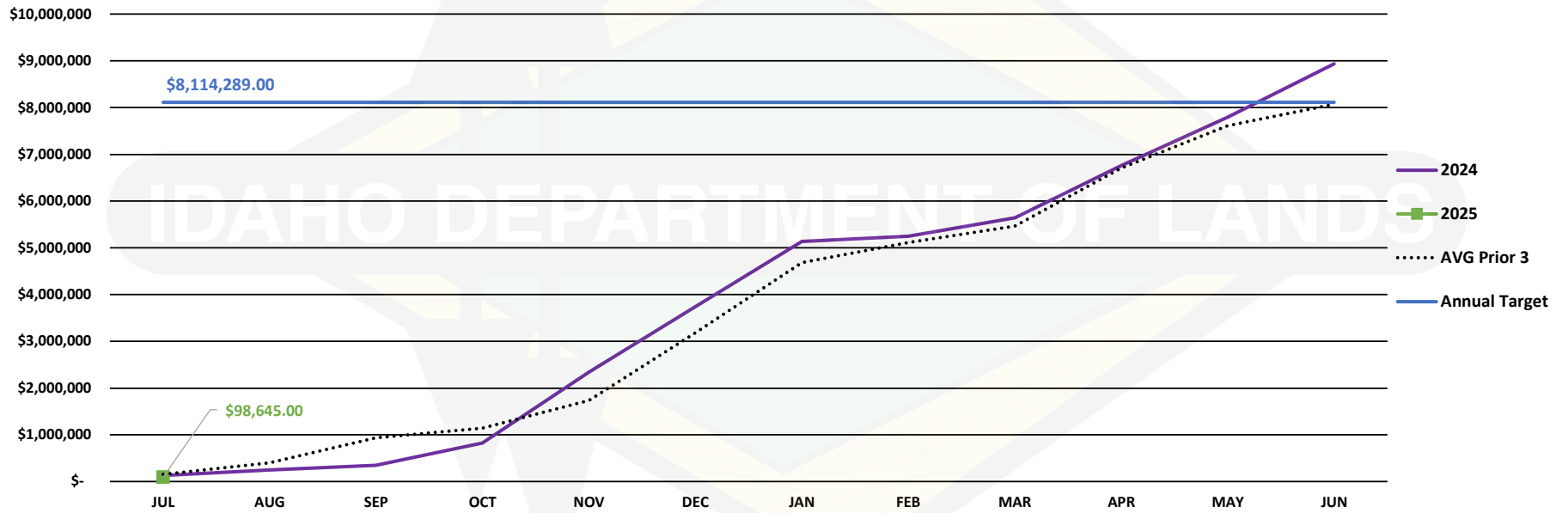
PERMANENT FUND REVENUE	
MINERALS (PF)	\$ 230,641 ***

*These figures are based on historic timing of revenue/billing as well as estimates of upcoming lease and permit revenue.

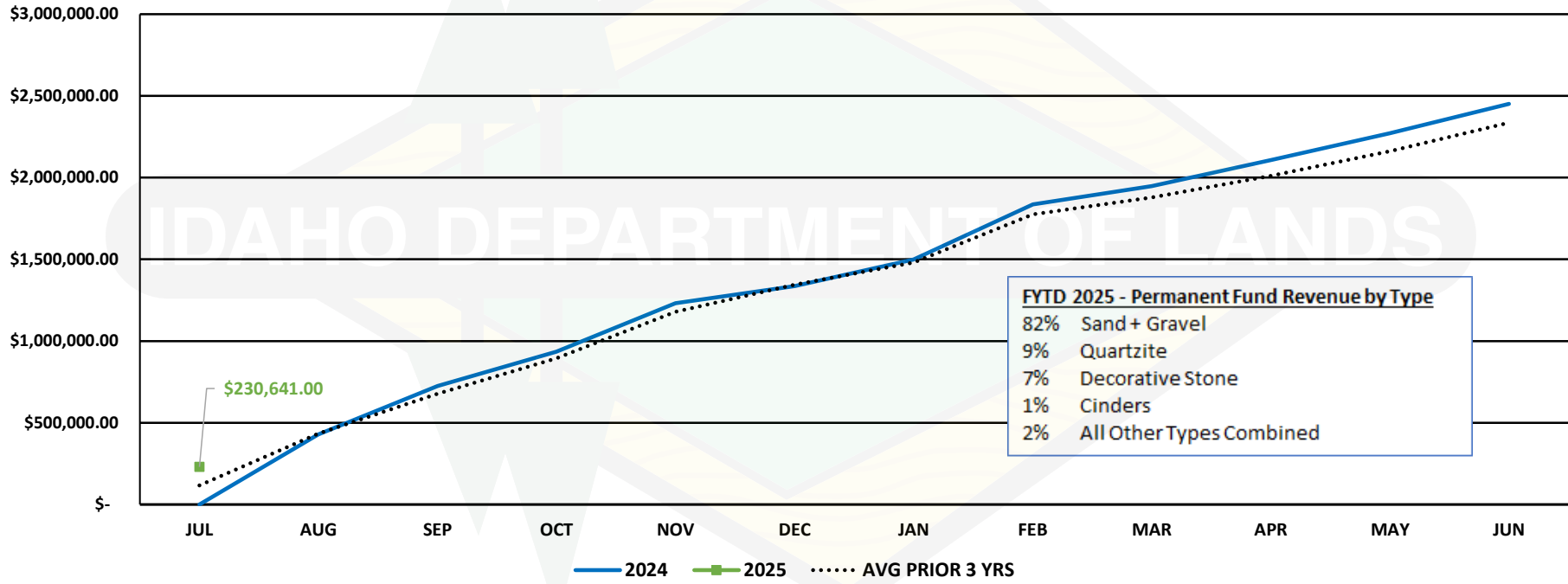
** This category is not included in the annual forecast.

***This category is not included in the annual forecast and represents minerals revenue to the permanent fund.

Cumulative Trust Land Program Receipts
Earnings Reserve - All Programs Excluding Timber
FY 2024 - FYTD 2025



Trust Land Permanent Fund Revenue & Royalties
(Excluding Land Bank and Timber Program)
FY2024 - FYTD2025



STATE BOARD OF LAND COMMISSIONERS

August 20, 2024
Department Report

Subject

Fire Season Update

Background

As of August 19, Emergency Fire Suppression expenditures are estimated to be \$29,717,500. The suppression account will recover an estimated \$2,670,000 of reimbursable costs, for a net obligation of \$27,047,500. The total obligation includes the 2024 contracted aircraft costs and prepositioned contract engines to assist with a lack of qualified engine bosses. These engines will be assigned across the state to boost initial attack resources.

Discussion

On August 5, the Flat Fire was reported eleven miles north of Idaho City. The fire has burned 3,380 acres and is 14 percent contained. The fire is being suppressed by a Great Basin Complex Incident Management Team (CIMT).

On July 25, the Rock Creek Fire started 28 miles west of Grangeville. The fire burned 677 acres and is out. The fire was suppressed by a Complex Incident Management Team (CIMT).

Fire Season Comparison to Date

Number and Size of Fires (Year to Date)				
Year	Human	Lightning	Total	Acres
2020	77	20	97	330
2021	173	109	282	115,970
2022	75	27	102	421
2023*	152	46	198	1,969
2024*	149	94	243	23,572
20 Yr. Average (2002-2022)			166	18,434

*2024 fires are calculated using the protection boundaries of the new Idaho Master Agreement which has increased the area in which IDL is the protecting agency. Therefore, there is an inconsistency between 2023/2024 numbers and 20-year averages.

July saw a strong increase in both fire size and frequency, in large part due to a very hot and dry June and July. Temperatures throughout the state were well above average and precipitation was minimal. The grasses have cured; any additional precipitation will have a short-term effect on reducing fire spread. Northern Idaho has seen some rainfall, but fire danger will quickly rebound once the warmer weather returns. Elevated fire danger is expected throughout Idaho into September.

Restrictions are present throughout the state, as shown on the attached map.

Significant Fires Outside of IDL Protection

Gwen Fire*

Agency/Management: Nez Perce Tribe

General Location: 5 miles east of Lapwai, ID

Acres burned: 28,410 acres, 85 percent contained

*This fire started on the Nez Perce Tribe protection and crossed to IDL protection and threatened the town of Julietta. The fire destroyed 143 structures and 19,713 acres of IDL assessed land. Fire acreage is not included in the IDL reported numbers because numbers are based off the original protection of the fire.

Paddock Fire

Agency/Management: Bureau of Land Management

General Location: 30 miles southwest of Cascade

Acres burned: 187,185 acres, 100 percent contained

Limepoint Fire

Agency/Management: Payette National Forest (USFS)

General Location: 24 miles northwest of Council and 3 miles southwest of Cuprum, ID

Acres burned: 31,726 acres, 51 percent contained

Wolf Creek Fire

Agency/Management: Payette National Forest (USFS)

General Location: 11 miles northwest of Cascade, ID

Acres burned: 1,154 acres, 90 percent contained

Boulder Fire

Agency/Management: Boise National Forest (USFS)

General Location: 9 miles southwest of Cascade, ID

Acres burned: 2,134 acres, 26 percent contained

Middle Fork Complex (2 fires)

Agency/Management: Boise National Forest (USFS)

General Location: 9 miles east of Garden Valley, ID

Acres burned: 15,629 acres, 5 percent contained

Snag Fire

Agency/Management: Boise National Forest (USFS)

General Location: 18 miles northeast of Cascade, ID

Acres burned: 20,948 acres, 0 percent contained

Dollar Fire

Agency/Management: Boise National Forest (USFS)

General Location: 9 miles southwest of Cascade, ID

Acres burned: 1,814 acres, 0 percent contained

Wapiti Fire

Agency/Management: Boise National Forest (USFS)

General Location: 14 miles west of Stanley, ID

Acres burned: 4,943 acres, 10 percent contained

Total Acres Burned by Ownership	
8/18/2024	
Surface Owner	Acres
Bureau of Land Management	176,588
Other Federal	5,603
Other State	2,843
Private	98,978
State Endowment	26,770
Tribal	897
U.S. Forest Service	86,563
Other	812
Total Acres	399,054

Only fires with perimeters in the Fire Enterprise Geospatial Portal have been included in the analysis.

Fire Deficiency Warrant Spending – 2024 Fire Season YTD		
Category	Estimated Costs	Notes
Aviation Resources	\$3,500,000	4 SEATS, 4 Single Engine Water Scooper (Fire Boss), 1 Type 1 UH-60 Blackhawk
Prepositioned Engines	\$787,500	5 Type 6 Exclusive Use Contract Engines
IDL Non-Team Fires	\$3,900,000	IDL/Assn fires including pre-positioning. Based on Estimates and actuals.
IDL Team Fires	\$14,540,000	Billy Creek (CIMT-CMS), Texas (CIMT-PDS), Cherry (IDL T3-CMS), Steelhead (IDL T3-CMS), Rock Creek (CIMT-CMS)
Other Suppression Non-reimbursable	\$4,320,000	Coeur d'Alene Cache, Dispatch- Estimate includes expenditures from 1/1/2024-7/1/2024
Other Suppression Reimbursable	\$2,670,000	Reimbursable (IDL and Fire Department resources supporting non-IDL fires). Based on LUMA Actuals - estimates not used.
Total Estimate YTD	\$29,717,500	Does not include Cost Share Fires which will be reported in October.

Attachments

1. Map–Significant Fires
2. Map–Fire Restrictions

2024 Wildland Fires in Idaho

8/16/2024

Fire Perimeter Categories

- Current Month
- Last Month
- Two Months Ago
- Three Months and Older

Surface Management

- Idaho Endowment Lands
- Other State
- Private
- U.S. Forest Service
- Bureau of Land Management
- Tribal Lands
- Other Federal



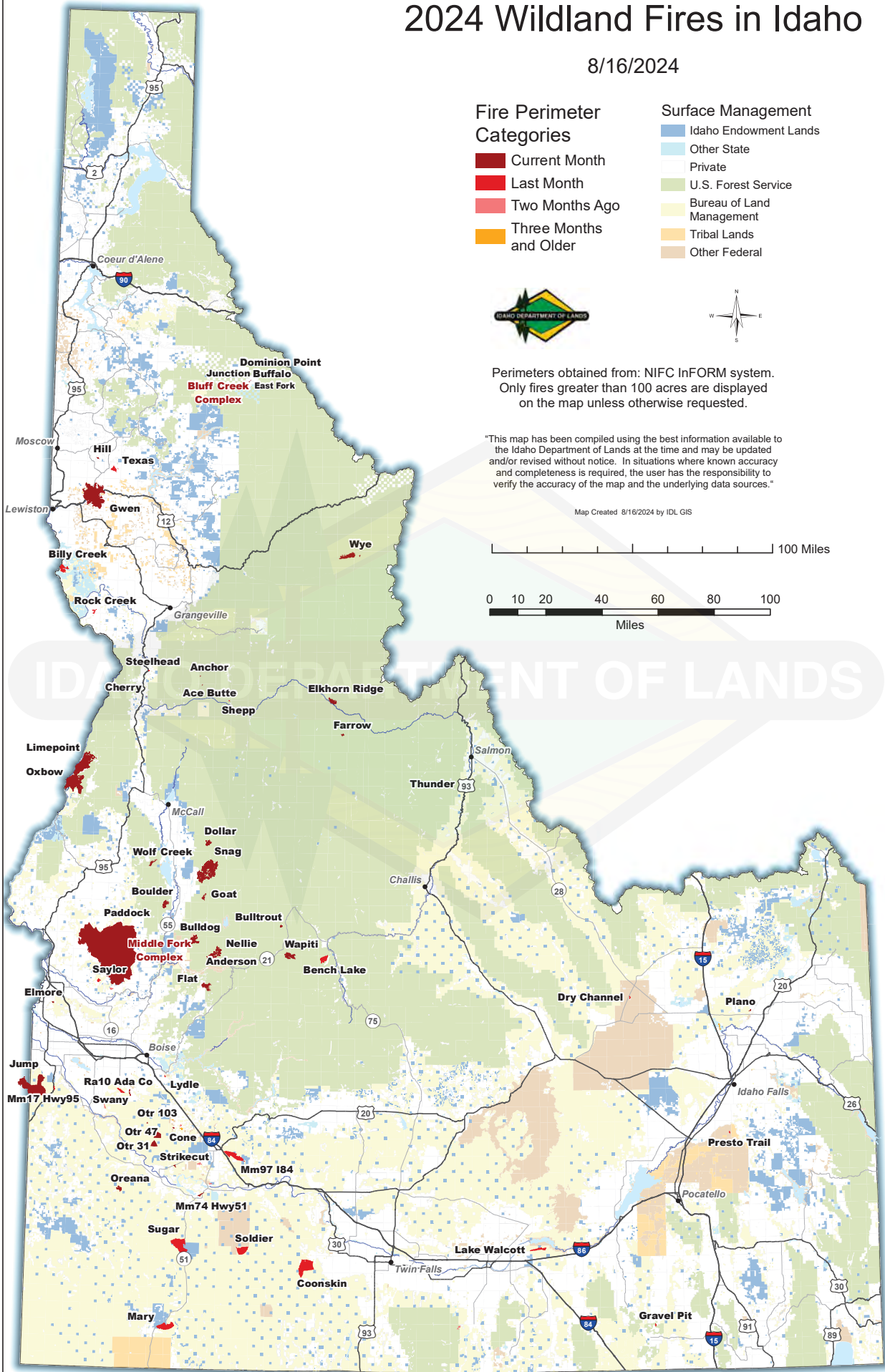
Perimeters obtained from: NIFC InFORM system.
Only fires greater than 100 acres are displayed on the map unless otherwise requested.

"This map has been compiled using the best information available to the Idaho Department of Lands at the time and may be updated and/or revised without notice. In situations where known accuracy and completeness is required, the user has the responsibility to verify the accuracy of the map and the underlying data sources."

Map Created 8/16/2024 by IDL GIS

0 10 20 40 60 80 100 Miles

0 10 20 40 60 80 100 Miles



Idaho Fire Restrictions

8/16/2024

Restriction Stage

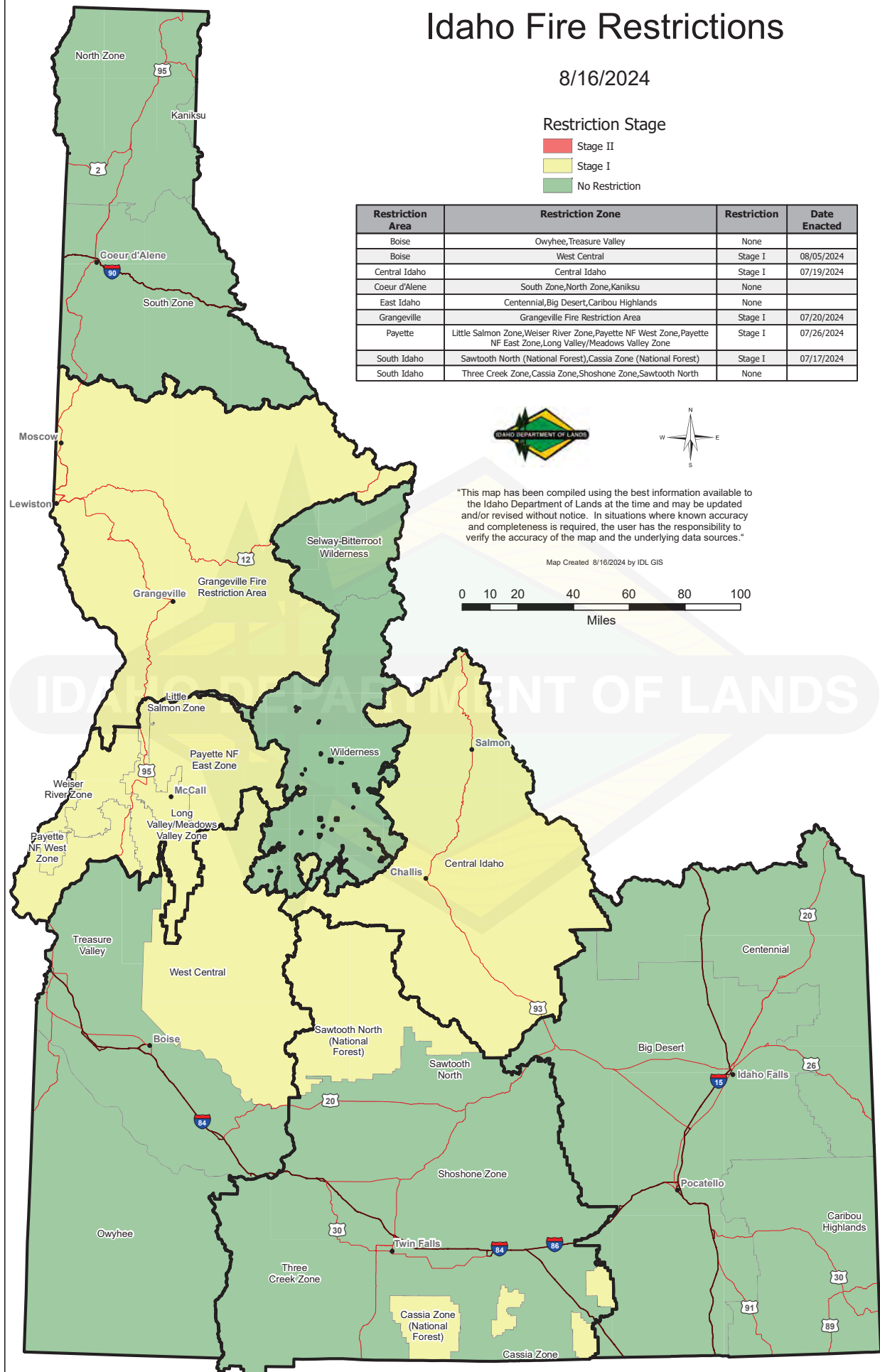
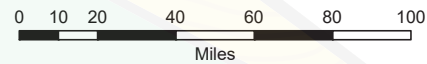
-  Stage II
 Stage I
 No Restriction

Restriction Area	Restriction Zone	Restriction	Date Enacted
Boise	Owyhee, Treasure Valley	None	
Boise	West Central	Stage I	08/05/2024
Central Idaho	Central Idaho	Stage I	07/19/2024
Coeur d'Alene	South Zone, North Zone, Kaniksu	None	
East Idaho	Centennial, Big Desert, Caribou Highlands	None	
Grangeville	Grangeville Fire Restriction Area	Stage I	07/20/2024
Payette	Little Salmon Zone, Weiser River Zone, Payette NF West Zone, Payette NF East Zone, Long Valley/Meadows Valley Zone	Stage I	07/26/2024
South Idaho	Sawtooth North (National Forest), Cassia Zone (National Forest)	Stage I	07/17/2024
South Idaho	Three Creek Zone, Cassia Zone, Shoshone Zone, Sawtooth North	None	



"This map has been compiled using the best information available to the Idaho Department of Lands at the time and may be updated and/or revised without notice. In situations where known accuracy and completeness is required, the user has the responsibility to verify the accuracy of the map and the underlying data sources."

Map Created 8/16/2024 by IDL GIS



STATE BOARD OF LAND COMMISSIONERS

August 20, 2024
Department Report

Subject

Land Revenue Forecast

Background

Each year, the Department provides a revenue forecast showing a predicted range of revenue by endowment for the next four fiscal years based on expected levels of operations, prices of existing timber sales under contract, and expected changes in lease revenues and agency expenditures. The four-year net income forecast table is provided as Attachment 1.

An income range is shown for each endowment primarily due to variability in timber markets and the duration of timber sale contracts. Most leasing returns are relatively stable from year to year; however, leasing revenue has declined in recent years due to the sale of residential and commercial real estate.

Discussion

The Department's gross land management revenue for FY2024 was \$89.97 million, approximately \$9.0 million more than FY2023 and \$9.8 million more than the 10-year average. Gross revenue forecasts compared to actual returns are provided as Attachment 2.

The Department's net land management income was over \$59.1 million in FY2024, approximately \$6.3 million more than FY2023 and \$7.1 million above than the 10-year average. Net income forecasts compared to actual returns are provided as Attachment 3.

The timberland asset class accounted for approximately 92.1% of the total gross land management revenue and about 95.2% of the total net income from land management in FY2024. Monte Carlo data analysis was used to update the timber revenue based on past ten-year stumpage price volatility and harvest levels approaching the current sale plan volume levels of 328 MMBF. Adjustments were made to leasing revenue based on dispositions, new leases that have been executed, and updated appraisal values affecting residential lease rates.

Attachments

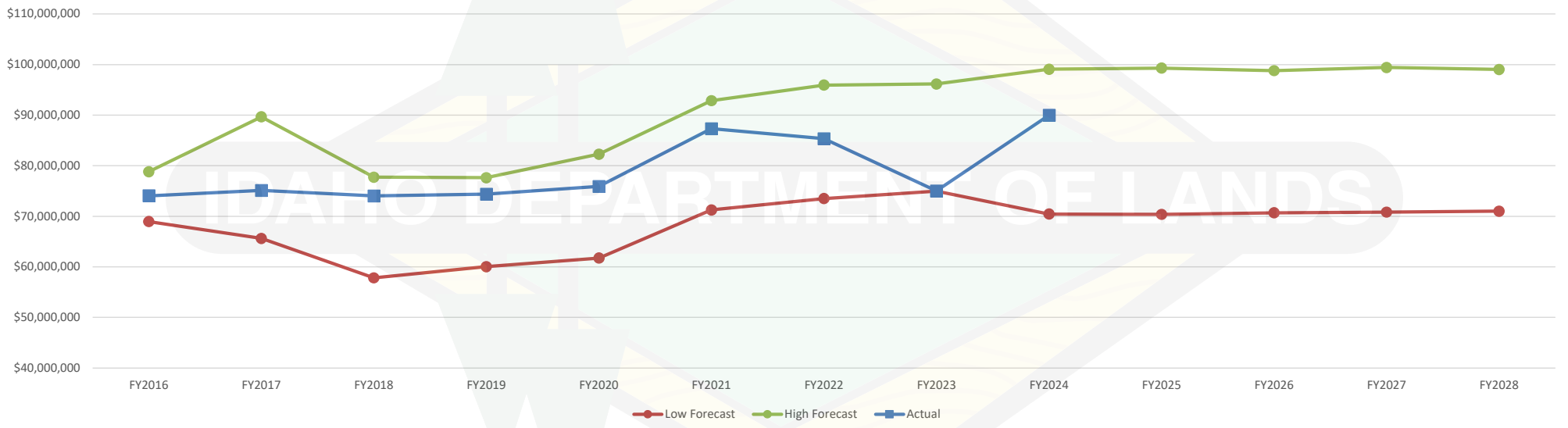
1. Four-Year Net Income Forecast Table (by Endowment)
2. Gross Revenue: Past and Four-Year Forecast Graph
3. Net Income: Past and Four-Year Forecast Graph

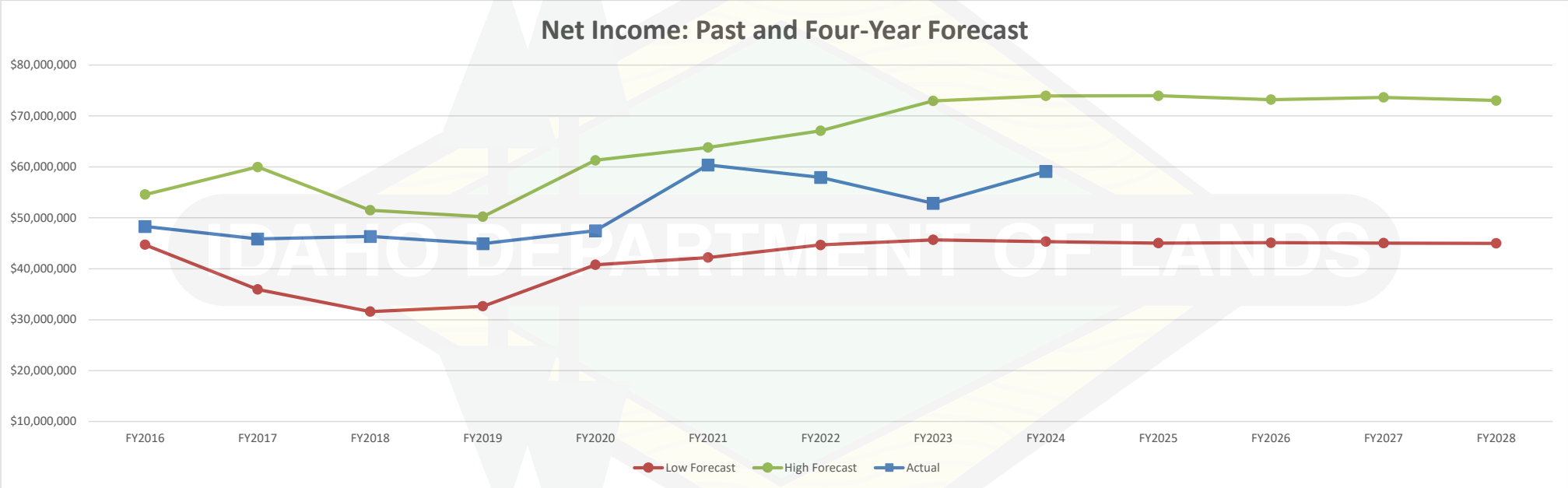
Four-Year Net Income Forecast

Fiscal Year	Net Income	Public School	Ag College	Charitable Institutions	Normal School	Penitentiary	School of Science	State Hospital South	University	Capitol*	Total
2025	Low	\$ 32,404,571	\$ 665,075	\$ 2,761,089	\$ 1,969,040	\$ 1,186,020	\$ 2,781,157	\$ 1,409,632	\$ 1,863,389	\$ (132,681)	\$ 44,907,291
	High	\$ 53,208,714	\$ 1,092,061	\$ 4,533,742	\$ 3,233,189	\$ 1,947,460	\$ 4,566,694	\$ 2,314,633	\$ 3,059,709	\$ (81,590)	\$ 73,874,611
2026	Low	\$ 32,462,763	\$ 666,269	\$ 2,766,047	\$ 1,972,576	\$ 1,188,150	\$ 2,786,151	\$ 1,412,163	\$ 1,866,736	\$ (134,008)	\$ 44,986,847
	High	\$ 52,680,664	\$ 1,081,223	\$ 4,488,749	\$ 3,201,103	\$ 1,928,133	\$ 4,521,374	\$ 2,291,662	\$ 3,029,344	\$ (82,406)	\$ 73,139,845
2027	Low	\$ 32,403,685	\$ 665,056	\$ 2,761,013	\$ 1,968,987	\$ 1,185,988	\$ 2,781,081	\$ 1,409,593	\$ 1,863,338	\$ (135,348)	\$ 44,903,393
	High	\$ 52,980,229	\$ 1,087,371	\$ 4,514,274	\$ 3,219,305	\$ 1,939,097	\$ 4,547,084	\$ 2,304,694	\$ 3,046,570	\$ (83,230)	\$ 73,555,394
2028	Low	\$ 32,376,221	\$ 664,493	\$ 2,758,673	\$ 1,967,318	\$ 1,184,982	\$ 2,778,723	\$ 1,408,399	\$ 1,861,759	\$ (136,702)	\$ 44,863,866
	High	\$ 52,534,916	\$ 1,078,232	\$ 4,476,330	\$ 3,192,246	\$ 1,939,097	\$ 4,508,865	\$ 2,285,322	\$ 3,020,963	\$ (84,062)	\$ 72,951,908

*Capitol revenue accrues to the permanent fund rather than the reserve.

Gross Income: Past and Four-Year Forecast





STATE BOARD OF LAND COMMISSIONERS

August 20, 2024
Department Report

Resource Protection and Assistance Bureau Biannual Report

The Resource Protection and Assistance (RPA) Bureau houses the non-endowment regulatory functions within the Division of Minerals, Navigable Waterways, and Oil and Gas.

Navigable Waterways Program

The Navigable Waterways Program administers encroachment permits and submerged lands leases, easements, and disclaimers of interest. The Navigable Waterways Program is self-supported through a dedicated account.

INSTRUMENT ACTIVITY - Instruments issued FY2017 through second half of FY2024:

Table 1: Navigable Waterways Historical Instrument Numbers								
Instrument Type	2017	2018	2019	2020	2021	2022	2023	2024
Encroachment Permits Issued	289	338	412	383	542	425	384	297
Active Submerged Land Leases	192	180	172	179	176	153	196	194
New Submerged Land Leases	8	36	48	24	17	6	39	14
Active Riverbed Mineral Leases	2	2	2	3	1	1	1	1
New Riverbed Mineral Leases	0	0	0	0	0	0	0	0
Active Exploration Locations	3	4	2	3	5	2	2	0
New Exploration Locations	1	2	4	0	0	1	0	0
New Submerged Land Easements	6	2	3	2	3	6	4	12
New Disclaimers of Interest	1	3	0	1	2	2	5	10

PAST 6-MONTH HIGHLIGHTS

- **Administrative Hearings.** Between January 1, 2024, and June 30, 2024, IDL ordered three public hearings on encroachment permit applications. One resulted in a partial approval, one is awaiting a decision from the Hearing Officer, and one has not yet been held.
- **Negotiated Rulemaking.** The pending rule Navigable Waterways Mineral Leasing in Idaho, IDAPA 20.03.05, was approved by the 2024 legislature.

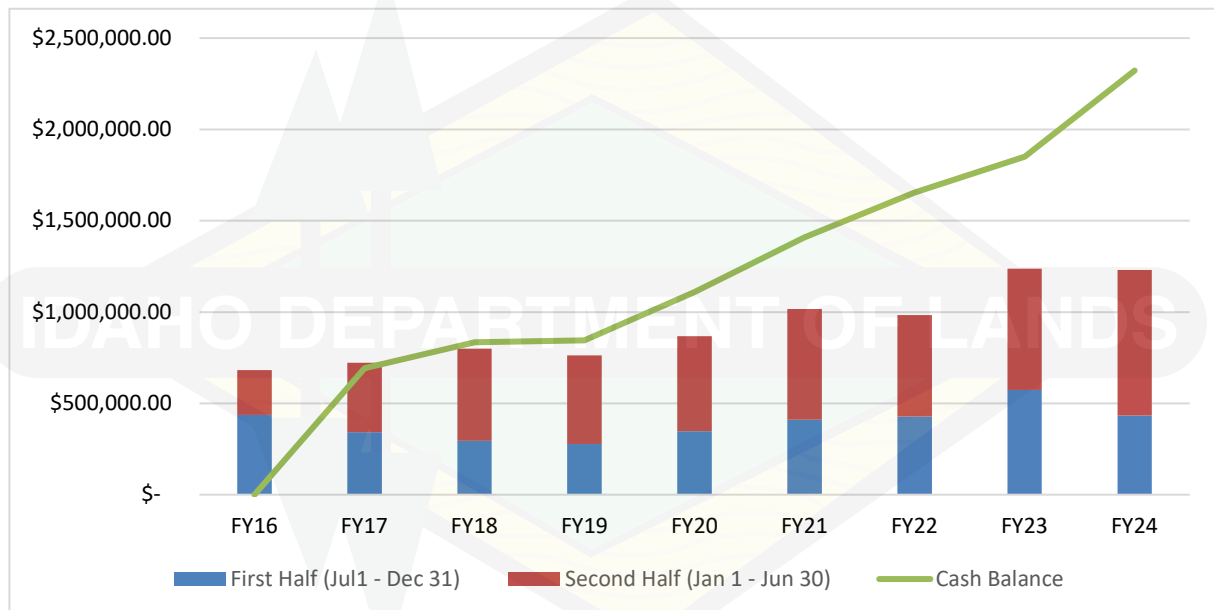
NEXT 6 MONTHS

- **Research and Negotiated Rulemaking.** Preliminary negotiated rulemaking meetings for Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho, IDAPA 20.03.04, were held across the state. Comments from those meetings are being compiled to create a new draft for public review.

FINANCIAL UPDATE

- IDL generated \$1,231,133 from navigable waterways in total for FY24. The dedicated fund for this program exceeded \$2 million as shown in Figure 1. IDL anticipates a transfer to the waterways improvement fund established pursuant to § [57-1501](#) at the end of this fiscal year.

Figure 1: Navigable Waterways Program Revenue and Cash Balance



Regulatory Minerals Program

The Regulatory Minerals Program administers surface mining reclamation plans, dredge and placer permits, and abandoned mine land projects. The Regulatory Minerals Program is supported through a mix of general fund and dedicated fund sources.

PAST 6-MONTH HIGHLIGHTS

- **Negotiated Rulemaking.** IDL began early negotiated rulemaking for Rules Governing Mined Land Reclamation, IDAPA 20.03.02, for review by the 2026 legislature. Draft Rule Text was posted online and presented to the public at six meeting locations

around the state. Comments from those meetings are being compiled to create a new draft for public review.

- **Large Metallic Mine Review**

- Perpetua Resources Stibnite Mine, Valley County: IDL continues dialogue with Perpetua Resources on review of draft Reclamation Plan components, reclamation cost estimate, and revised Cyanidation Facility Closure Plan.
- Thompson Creek Molybdenum Mine, Custer County: IDL approved the revised Phase 8 Reclamation Plan in June 2024. This approval allows Thompson Creek to move ahead with the Phase 8 mining activities. Pre-stripping activities commenced in Spring 2024, and Thompson Creek anticipates mine and mill startup in 4th Quarter 2024.
- Integra Resources DeLamar Mine, Owyhee County: In April 2024, the Bureau of Land Management issued a Completeness Letter confirming adequate baseline site characterization to start the National Environmental Policy Act (1970) (NEPA) process. IDL's effort in this step included review and approval of the soils and waste rock characterization reports.
- Liberty Gold Black Pine Mine, Cassia County: Liberty enters the preliminary stages of mine planning and is proactive in coordinating with state and federal agencies.

- **Phosphate Mine Review**

- Caldwell Canyon Mine, P4/Bayer Corp., Caribou County: Ore production from the Caldwell Canyon Mine is on indefinite hold while Bayer prepares a revised Final Environmental Impact Statement (FEIS) reflecting additional sage grouse habitat analysis. Anticipated mine startup is 2028.
- North Rassmussen Mine, Itafos, Caribou County: Mining is complete and follow-on reclamation is in the monitoring phase on an endowment land parcel that was mined and reclaimed. IDL is in negotiation with Itafos on future work and costs to complete the reclamation.

LOOKING FORWARD

- **Research and Negotiated Rulemaking.** Negotiated rulemaking will continue for Rules Governing Mined Land Reclamation, IDAPA 20.03.02, in preparation for proposed rulemaking in 2025.
- Perpetua and IDL anticipate receiving the revised FEIS and draft Record of Decision from the USFS in September 2024. IDL awaits receipt of the revised draft Cyanidation Facility Closure Plan, planned for release in late August 2024. IDL is working with Perpetua to set up a third-party review of the Closure Plan reclamation cost estimate as allowed by statute.

- Integra DeLamar plans on hosting a three-day information session on the project August 27-29th. The first two days will focus on the preliminary Mine Plan, schedule, and discipline studies, while the third day will be an all-day tour of the mine.

The Integra DeLamar NEPA work will run for 18 to 24 months. IDL will work with Integra during this period on the mine plan of operations and mining sequencing in advance of reclamation planning.

- IDL and Itafos staff are scheduled to meet at the North Rassmussen Mine in September to observe reclamation status and negotiate the amount of remaining bond funding.

TOTAL PERMITS AND BONDING

IDL currently administers 1,571¹ mine sites covered by reclamation plans and 27 covered by dredge and placer permits. The mines are presented in Table 2 by category, and Table 3 has historical plan numbers.

Table 2: Current Mine Permit Categories			
Sand and Gravel Mines (IDAPA 20.03.02.069)	Hardrock, Phosphate & Complex Industrial (IDAPA 20.03.02.070)	Cyanidation Mines (IDAPA 20.03.02.071)	Dredge and Placer Permits (IDAPA 20.03.01)
1540	32	1	27

Table 3: Regulatory Minerals Historical Instrument Numbers										
Instrument Type	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Mined Land Reclamation										
New Reclamation Plans	25	36	24	18	28	17	10	10	29	33
Retirements	14	36	15	22	9	13	7	14	20	43
Total Reclamation Plans	1,528	1,530	1,542	1,540	1,561	1,580	1,574	1,545	1,571	1,571
Dredge and Placer										
New/Amended Permits	1	3	3	1	2	0	1	2	0	0
Retirements	-	-	2	0	1	0	0	0	3	1
Total Permits	25	25	26	27	28	28	29	31	28	27

¹ The total number of active mine sites has fluctuated due to the recent correction of old data that our database held.

Mine operators are eligible to provide bonding through traditional methods or the Bond Assurance Fund (BAF). Tables 4 and 5 list the acres and bond amounts currently in place for different types of mining operations. Created in 2006, the BAF provides another reclamation bonding option for small operators on private and state lands. Table 6 has details from the FY2024 BAF billing. Figure 2 illustrates the revenue, expenditures, and balance for this fund.

Table 4: Bonding for Sand and Gravel, Simple Industrial Minerals, and Placer Permits								
	Reclamation Plans (IDAPA 20.03.02.069)				Dredge and Placer Permits (IDAPA 20.03.01)			
	Plans	Permitted Acres	Total Bond	Bond/Acre	Permits	Affected Acres	Total Bond	Bond/Acre
Traditional Bond ¹	348	44,540	\$21 Million	\$939	21	97.5	\$232K	\$2,380
Bond Assurance Fund	604	26,402	n/a	n/a	6	32	n/a	n/a

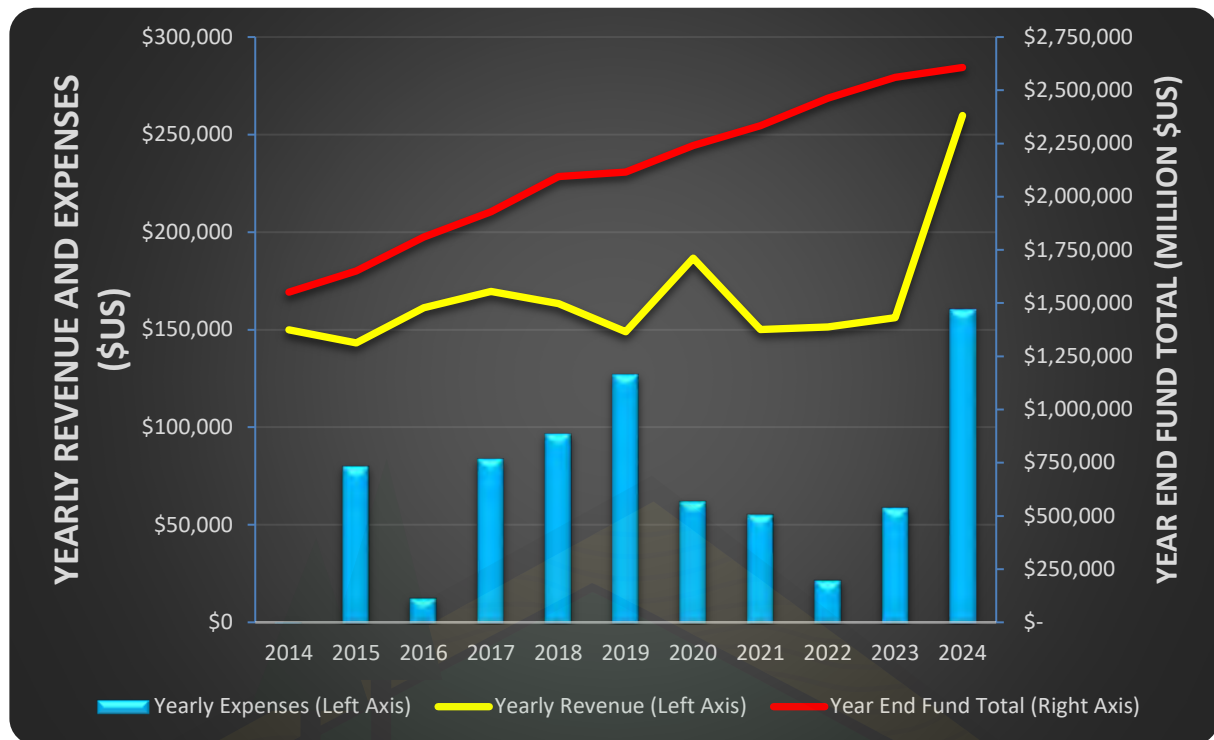
¹ Surety Bond, Letter of Credit, Certificate of Deposit, or Cash

Table 5: Bonding for Hardrock, Phosphate & Complex Industrial Minerals				
	Reclamation Plans (IDAPA 20.03.02.070)			
	Permits	Permitted Acres	Total Bond	Bond/Acre
Traditional Bond ¹	32	22,029	\$224 Million	\$10,159

¹ Surety Bond, Letter of Credit, Certificate of Deposit, or Cash

Table 6: Bond Assurance Fund Billing (For FY 2024)			
Disturbance (ACRES)	Annual Fee Schedule (\$)	Total Permits Distribution	Total Annual Fees Due (\$)
2 acres or less	\$100	148	\$14,800
> 2 acres ≤ 5 acres	\$200	148	\$29,600
> 5 acres ≤ 10 acres	\$250	138	\$34,500
> 10 acres ≤ 15 acres	\$300	53	\$15,900
> 15 acres ≤ 20 acres	\$350	40	\$14,000
> 20 acres ≤ 25 acres	\$400	27	\$10,800
> 25 acres ≤ 30 acres	\$450	23	\$10,350
> 30 acres ≤ 35 acres	\$500	7	\$3,500
> 35 acres ≤ 40 acres	\$550	20	\$11,000
TOTAL		604	\$144,450.00

Figure 2: Bond Assurance Fund - Revenue, Expenses, and Fund Balance, May 2024



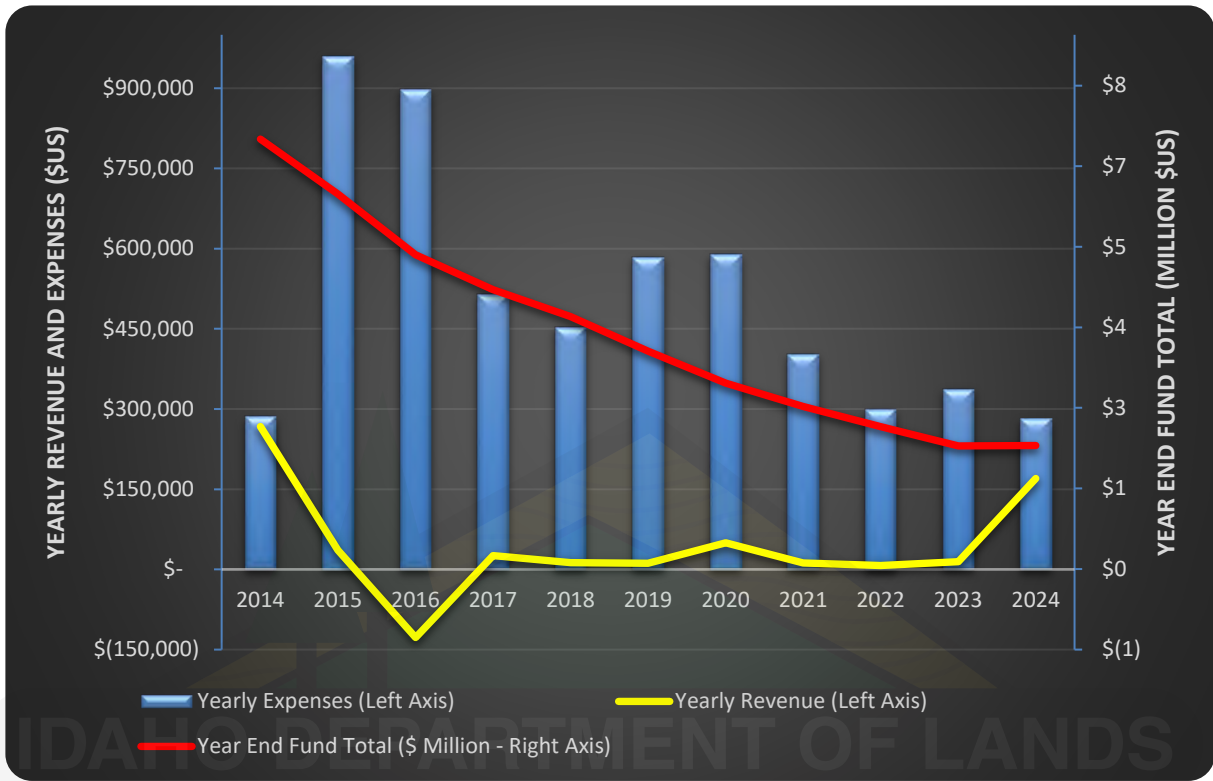
IDAHO DEPARTMENT OF LANDS

ABANDONED MINE LANDS

The abandoned mine lands (AML) program is funded through receipt of 34% of Idaho's Mine License Tax, a 1% net tax of Idaho's mining industry (excluding sand and gravel as described in Idaho Code § 47-1205). IDL's share of income for the second half of FY24 was \$156,035. Table 7 lists the projects worked on in the first half of FY2024. Figure 3 illustrates the revenue, expenditures, and balance for this fund.

Project Name	Project Description
Triumph Mine	Ground and surface water sampling, ground water modeling, mine water infiltration bed design
Idaho Geological Survey	AML information compilation and digitization.

Figure 3: AML Fund - Revenue, Expenditures, and Fund Balance, May 2024



STATE BOARD OF LAND COMMISSIONERS

August 20, 2024

Consent Agenda

Subject

Request approval to sell surplus property owned by the Idaho Military Division

Question Presented

Shall the Land Board authorize the Idaho Department of Lands (Department) to declare and dispose of the Idaho Military Division property known as the Payette Readiness Center?

Background

The State of Idaho Military Division (Military) requested approval via letter dated June 27, 2024 (Attachment 1), for the State Board of Land Commissioners (Land Board) to declare the Military's interest in the Payette Readiness Center (Property) surplus property and to dispose of the Property pursuant to the Surplus Property Act, Idaho Code §§ 58-331–335.

The Property is located at 1921 Center Avenue, approximately 0.25 miles east of US-95 in the east-central core of the City of Payette in Payette County. This is not a split estate, as is common with many of the readiness centers across the state. The property is owned entirely by the Military. A map of the Property is included as Attachment 2.

The Property to be sold consists of approximately 3.45 acres of land with improvements. The Property is rectangular in shape and has access to Center Street to the south and North 20th Street to the east. The improvements include a 10,662 square foot commercial style building, an approximately 15,000 square foot paved parking lot, and a large gravel area inside secure, chain link fencing on the south side of the parcel. The north side of the parcel consists of a dog park with grass and fencing. The record of survey is included as Attachment 3 and the building floor plan is Attachment 4.

The Military acquired the Property by Quitclaim Deed in 1945 (Attachment 5). The facility was in use from 1945 until June 2024. The Military ceased operations at the Payette Readiness Center as it is transitioning to the Readiness Center Transformation Master Plan which requires all Army units to modernize facilities and consolidate to meet relevant national training objectives. The dog park is currently being used and maintained under a memorandum of understanding between the Military and the City of Payette.

The Property was appraised in October of 2023, and has an "as is" market value of eight hundred thirty thousand dollars (\$830,000). The appraised value includes the improvements.

Discussion

Pursuant to Idaho Code § 58-331, custody and control of the property will be transferred to, and title will be vested in, the Land Board for disposition. In accordance with Idaho Code § 58-332, the Department, on behalf of the Land Board, will notify other state agencies to determine if any of the agencies are interested in purchasing the Property. If no other state agencies express interest in the Property, the Department will offer the Property to tax-supported agencies, including federal, city, and county agencies, to determine if there is any interest in purchasing it. If no tax-supported entity expresses interest, the Department will offer the Property at public auction in Payette or Ada County. If the Property does not sell at auction, the Department will advertise the Property and accept adequate and valuable consideration in a negotiated sale.

Based on conversations Department staff have had with Jennifer Riebe, Payette County Commissioner, the county is interested in acquiring the property. However, the Department must follow the Surplus Property Act, Idaho Code §§ 58-331–335, for the Property's disposition and will engage in the above-described notification process. Payette County has been advised that the Property must be offered for sale to state agencies before the county will have the opportunity to express interest in acquiring it.

Recommendation

Direct the Department to offer the Property for disposition in accordance with the Surplus Property Act, Idaho Code §§ 58-331–335; and, if public auction is ultimately necessary, authorize the Department to offer the Property at public auction in Payette or Ada County.

Board Action

Attachments

1. Military Division Surplus Request dated June 27, 2024
2. Property Map
3. Record of Survey
4. Floor Plan
5. Quitclaim Deed dated August 7, 1945



IDAHO ARMY NATIONAL GUARD
CONSTRUCTION AND FACILITIES MANAGEMENT OFFICE
4715 SOUTH BYRD STREET
BOISE, IDAHO 83705-8095



June 27, 2024

Idaho State Board of Land Commissioners
954 West Jefferson Street
P.O. Box 83720
Boise, ID 83720-0050

Dear Commissioners:

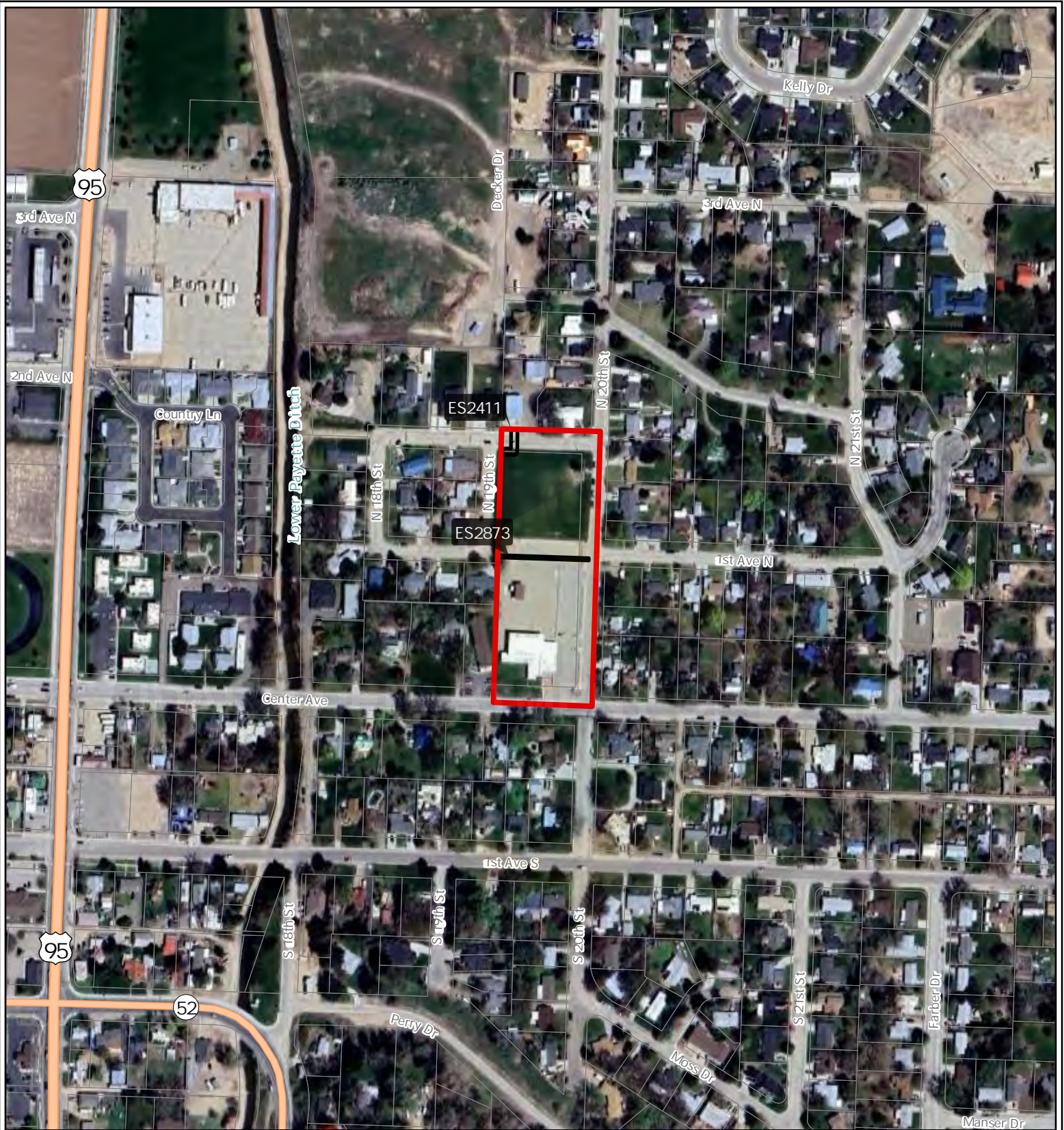
The Military Division of the State of Idaho declares as surplus to its needs of the following property: Sec 34-9-5 Tax 5, Block 11 in SWNE Armory, Payette County, Idaho.

We hereby request that the following lands described in the enclosed, property map, record of survey, floor plan, warranty deed be approved for sale. If you have any questions, please feel free to contact the POC of this action, Bryant Adleson, at 208-272-3732 or bryant.p.adleson.nfg@army.mil, or call me directly at 208-272-3561, email me at dennis.g.furrow.mil@army.mil.

Sincerely,

Dennis G. Furrow
Colonel, Idaho Army National Guard
Construction Facilities Management Officer

Enclosures



- Payette Readiness Center Parcel *
- County Tax Parcels
- Existing Easement

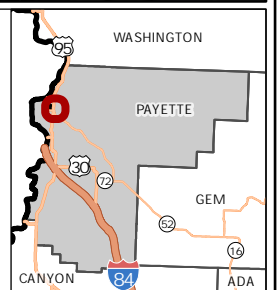
Payette Readiness Center

Surplus Property
Sec. 34, T09N R05W
Payette, Idaho
7/24/2024

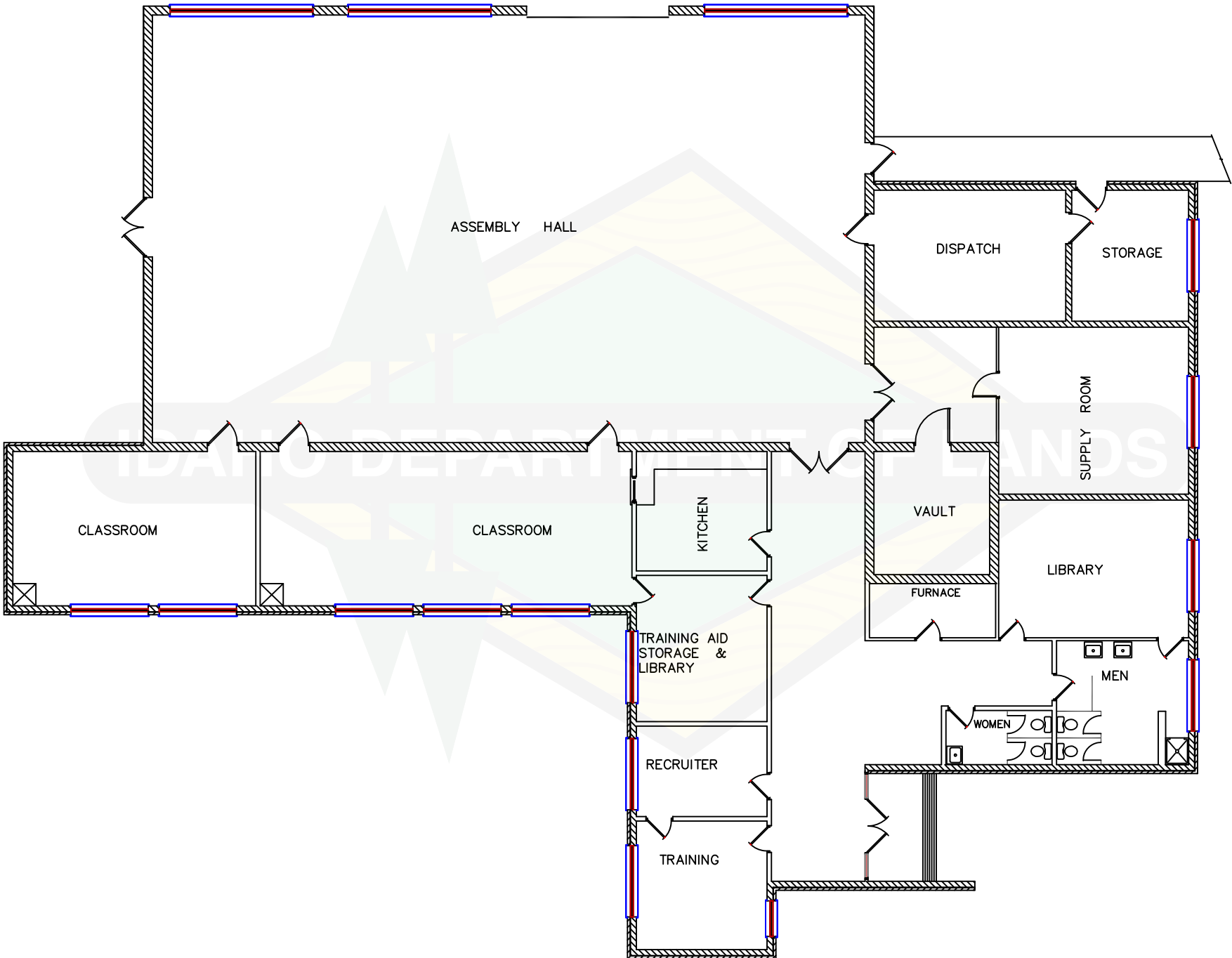


0 200 400
US Feet

Disclaimer:
This map has been compiled using the best information available to the Idaho Department of Lands at the time and may be updated and/or revised without notice. In situations where known accuracy and completeness is required, the user has the responsibility to verify the accuracy of the map and the underlying data sources.



* Readiness Center Parcel boundary is displayed based on the deed's legal description and does not exclude any right of way.



THIS INDENTURE, Made this 7th day of August in the year of our Lord one thousand nine hundred and forty-five, between John Webster Rhoads Post No. 33, The American Legion, a corporation, of Payette, County of Payette, State of Idaho, the party of the first part, and State of Idaho of _____, County of _____, State of _____, the party of the second part,

WITNESSETH, That the said party of the first part, for and in consideration of the sum of TWELVE THOUSAND DOLLARS, lawful money of the United States of America, to it in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained and sold, and by these presents does grant, bargain, sell, convey and confirm unto the said party of the second part, and to its successors and assigns forever, all of the following described real estate, situated in the _____ County of Payette, State of Idaho, to-wit:

A part of the SW¹/₄ of the NE¹/₄ of Section 34, Township 9 North, Range 5 West of the Boise Meridian, particularly described as follows, to-wit:

Beginning at the Southeast corner of the SW¹/₄ of the NE¹/₄ of said Section, Township and Range, and running thence West 250 feet, thence North and parallel with the east side line of aforesaid forty acre tract a distance of 696.96 feet, thence East 250 feet to the east side line of said forty acre tract, thence South 696.96 feet to the place of beginning, containing 4 acres, more or less;

It being expressly understood that the lands herein conveyed are conveyed subject to the rights and privileges of Arethusa Smith and C. A. Smith, her husband, relative to irrigation pipe lines, ditches and works now located on the lands herein conveyed, as set forth in Book 7 of Deeds, at page 496, records of Payette County, Idaho; and are also conveyed subject to all existing road rights-of-way.

TOGETHER, With all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all estate, right, title and interest in and to the said property, as well in law as in equity, of the said party of the first part.

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises, together with the appurtenances, unto the party of the second part, and to its successors and assigns forever and the said party of the first part, and its successors the said premises in the quiet and peaceable possession of the said party of the second part, its successors and assigns, against the said party of the first part, and its successors and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will WARRANT and by these presents forever DEFEND.

This conveyance is made pursuant to a resolution duly passed and adopted by the members of John Webster Rhoads Post No. 33, The American Legion, a corporation, at a regularly and legally called meeting of said John Webster Rhoads Post No. 33, The American Legion, a corporation, held December 7, 1942 at which meeting a quorum was present and voted.

IN WITNESS WHEREOF, the first party herein, pursuant to the foregoing resolution and by authority of its Board of Directors, has caused its corporate name to be hereunto affixed and the same to be attested by its Commander and its Adjutant.

SIGNED, SEALED AND DELIVERED	John Webster Rhoads Post No. 33 The	
IN PRESENCE OF Neil R. Fitch	American Legion, a corporation,	(Seal)
113,320 U.S.I.R. Stamps cancelled	By W. L. Stevens Commander	(Seal)
113,320-7-45 The A M Legion	W. L. Stevens	
STATE OF IDAHO,) ss.	By Lee H. Coblenz Adjutant	(Seal)
County of Payette,)	Lee H. Coblenz	(Seal)

On this 9th day of August in the year 1945, before me, Neil R. Fitch, a Notary Public in and for said State, personally appeared W. L. Stevens and Lee H. Coblenz, known to me to be the Commander and Adjutant, respectively, of the corporation that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(NEIL R. FITCH, NOTARIAL SEAL)	Neil R. Fitch
My commission expires March 10th, 1947.	Notary Public residing at Payette, Idaho.

STATE OF IDAHO,)
County of Payette) ss.
I hereby certify that this instrument was filed for record at request of John G. Walters at 25 minutes past 11 o'clock A.M., this 25 day of January, A.D. 1947 in my office, and duly recorded in Book 21 of Deeds at page 542.
Fees, I.C.A.
Lillian Wilson



Idaho State Board of Land Commissioners

Brad Little, Governor and President of the Board

Phil McGrane, Secretary of State

Raúl R. Labrador, Attorney General

Brandon D Woolf, State Controller

Debbie Critchfield, 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

July 16, 2024

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, July 16, 2024 at the State Capitol, Lincoln Auditorium (WW02), Lower Level, West Wing, 700 W. Jefferson Street, Boise, Idaho, and via webinar. The meeting began at 9:00 a.m. The Honorable Governor Brad Little presided. The following members were in attendance:

Honorable Governor Brad Little

Honorable State Controller Brandon Woolf

Honorable Superintendent of Public Instruction Debbie Critchfield

Three members constituted a quorum, and all were present at the physical location.

1. Department Report – Presented by Dustin Miller, Director

Trust Land Revenue

A. Timber Sales – June 2024

B. Leases and Permits – June 2024

Discussion: Governor Little asked if the Department knows how much lower a timber sale reappraisal will be when it does not sell. Governor Little noted the mills are losing money and wondered if there is any indication from the mills about their ability to keep purchasing if the lumber market does not turn around. Director Miller said the Department works with potential purchasers, has regular conversations with the mills, and looks at delivered log prices to ensure the Department is getting best possible value from the sales.

Prior to presenting the fire season report, Director Miller spoke about the tragedy the Department and the wildland fire community experienced last Wednesday, July 10th, when the news was shared that one of the Department's contracted aircrafts, a FireBoss 205 on loan to the Forest Service, crashed in Montana. Sadly, pilot Juliana Turchetti was killed in that crash. Director Miller noted that misfortune happens in wildland fire, but this one deeply hit Department staff. He expressed appreciation for the extensive support being provided to staff affected by the tragedy and the support offered to Juliana's family, as well as the aircraft contractor, Dauntless Aviation. Hearts are heavy in the wildland fire community, and Juliana will not be forgotten.

Josh Harvey, Fire Management Bureau Chief, extended his appreciation for Director Miller's words regarding Juliana and remarked that this last week was pretty tough for his staff. Mr. Harvey acknowledged and thanked the State of Montana and the State of Washington, both provided great assistance in backfilling aircraft, and he noted that pilots did a brief voluntary stand down the day of the accident, and they took 24 hours for themselves. Mr. Harvey commended his staff and mentioned that a couple of folks are still in Helena assisting with Dauntless and liaising as the family moves into the country to take Juliana home to Brazil.

Controller Woolf mentioned that Land Board members will send letters of condolence to Juliana's family and her colleagues.

Status Updates

- C. Fire Season Report
- D. Land Bank Aging Report

Discussion: Controller Woolf asked if the \$7 million listed in the Land Bank Aging report for Agriculture College is what is available for the University of Idaho's CAFE project in Rupert. Director Miller replied that is correct; there was initially \$23.25 million available for CAFE and the balance of \$7.2 million is what remains for the dairy facility expenditures.

2. Endowment Fund Investment Board Report – Presented by Chris Halvorson, EFIB Investment Manager

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

Discussion: Mr. Halvorson reported that the fund was up 1.1 % for June, making fiscal year return just shy of 12%, quite well for the year. To date in July the fund is up another 2.28%; some good news in the market spurred a bit of a rally early in July. For fiscal year, large cap equities led the way, up about 31%. Mr. Halvorson recalled that EFIB replaced a large cap growth manager this year; William Blair replaced Sands Capital. The narrative shows mid-cap stock were up 14.3%, small cap up 11.4%, and fixed income up 3%. Mr. Halvorson remarked that the market is still hoping for interest rate cuts, and expects those will come later this year or first thing next year. Real estate was down about 10%, but through the first calendar quarter, indications are that it will be up about 1 or 2% for this current quarter; that will be reported later in July or first part of August. Mr. Halvorson stated that the equities' themes for the year were all about artificial intelligence. Nvidia was up over 149%, Google up 30%, Microsoft up over 20%, but there are other innovators like Eli Lilly which was up over 56% with an anti-obesity drug. Banks and finance also did well, and some of the energy stocks. Controller Woolf noted that real estate declined a second year in a row and inquired about the Investment Board's direction with the real estate portfolio. Mr. Halvorson responded that it seems to be the end of the real estate markdowns. The real estate portfolio is seeing a positive return for the coming quarter report, and the Investment Board is considering adding to the real estate allocation. As the report shows, the fund is significantly underweighted in that allocation, waiting for things to calm down with real estate. Real estate in general is doing well; the office sector has been the factor that weighed on what is called the odyssey index [ODCE – Open End Diversified Core Equity].

Consent—Action Item(s)

3. Approval of Draft Minutes – June 18, 2024 Regular Meeting (Boise)

Consent Agenda Board Action: A motion was made by Superintendent Critchfield that the Land Board approve the Consent Agenda. Controller Woolf seconded the motion. The motion carried on a vote of 3-0.

Regular—Action Item(s)

None

Information

4. Forest Asset Management Plan and Timber Program Update – Presented by Jim Elbin, Division Administrator-Trust Lands

Discussion: Governor Little questioned how the Department's old modeling, going out and measuring in the field, matches up with the LiDAR. Mr. Elbin replied that the Department is moving away from continuous forest inventory but still does stand-based on the ground cruising; in hindsight had those been done as fixed radius plots they would be really useful for LiDAR. The LiDAR training plots are fixed radius. LiDAR is good and only getting better, especially at predicting species, and it provides a census versus a sample.

Superintendent Critchfield noted the model projections are in 5-year increments and inquired what is the age of a tree when it is ready to be harvested. Mr. Elbin answered that it depends on the location, but in general on the best sites it is 45-50 years, and on drier sites, in southern and eastern portions of the state, it is around 75 years. Superintendent Critchfield summarized that the modeling projections are comparing when trees are ready with how quickly the Department is cutting them down. Mr. Elbin said yes; the model is showing that if the inventory is balanced, around 220-240 MMBF is roughly what will be growing. Looking further out in the modeling, the cut goes back up, reflecting faster growth due to management strategies. Superintendent Critchfield asked if part of the overall planning, depending on the species of trees, includes what can be done with the genetics of the trees to make them faster growing. Mr. Elbin said that is correct. The Department still collects seed from its forest stands, but also participates in multiple cooperatives doing tree improvement programs through breeding, the same concept as garden plants, and results are yields of plus-10 to plus-30 percent.

Controller Woolf wondered what percentage of the 1 million acres of endowment timberland has been digitized through LiDAR. Mr. Elbin said that 85% has been flown and modeled. A few hard to get areas are being worked on and some areas were re-flown. The Department's GIS staff have done a great job with the re-flying. Originally, the goal was better mapping data of the bare ground, but LiDAR also shows the tree heights, and now having mapped sites for the second time, the height difference is plainly evident. LiDAR is a powerful tool; the Department is looking at it becoming the primary bulk data source and relying on foresters for specifics in the field.

Governor Little queried where all that data is kept and if there is capacity as LiDAR is expanded. The Governor mentioned that some commercial industrial companies are utilizing data farms, because there are so many ones and zeros in the LiDAR for that big of landscape. Mr. Elbin replied

that the Department owns and has the data; it is backed up in multiple ways. As the technology improves, the Department will have data processed faster, not just storing the bulk but keeping the data that is useful for inventory or for bare ground mapping. Governor Little asked if there is any change, from a climate standpoint, for fire resiliency. The Governor referred to the map around Payette Lakes, noting there is some timber not yet scheduled for harvest, and wondered if it is all silvicultural and industrial timber related or if some is forest health and fire related.

Mr. Elbin responded that the map is pure optimization, and foresters will weigh all of that. Those green plots are not necessarily what the sales plan will be over the next 10 years. The Department is continually trying to reduce risk. There is always going to be some risk, but managed forests have a better chance of making a stand against fire. The Department wants to make sure to look at the full landscape and not purely economics.

Controller Woolf inquired if there are opportunities with the private sector when they do LiDAR work on their parcels that neighbor endowment timberland. Mr. Elbin stated that for its first maiden flight, the Department worked with a wide variety of landowners, and it lowered the cost of the data acquisition tremendously. The Department continues to look for those opportunities.

At 9:38 a.m., a motion was made by Controller Woolf that the Land Board resolve into Executive Session pursuant to 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. Controller Woolf requested that a roll call vote be taken, and that the Secretary record the vote in the minutes of the meeting. Superintendent Critchfield seconded the motion. *Roll Call Vote: Aye: Woolf, Critchfield, Little; Nay: None; Absent: McGrane, Labrador.*

Executive Session

A. Heyburn State Park

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.

At 10:00 a.m., a motion was made by Controller Woolf that the Land Board resolve out of Executive Session and that the record reflects that no action was taken by the Land Board during Executive Session. Superintendent Critchfield seconded the motion. A roll call vote was taken. *Roll Call Vote: Aye: Woolf, Critchfield, Little; Nay: None; Absent: McGrane, Labrador.*

There being no further business before the Land Board, at 10:01 a.m. a motion to adjourn was made by Superintendent Critchfield. Controller Woolf seconded the motion. The motion carried on a vote of 3-0.



Thomas J. Wilford :: Chairman
Jerry F. Aldape Mary Pat Thompson
Robert M. Donaldson Chuck Winder
Joseph Forney Kenny Wroten
Irving Littman Brian Yeargain
Chris J. Anton :: Manager of Investments

Monthly Report to the Board of Land Commissioners

Investment performance through July 31, 2024

Month: 1.8% Fiscal year: 1.8%

The portfolio started the new fiscal year in positive territory with positive returns from both equities and fixed income. Small cap stocks had a particularly strong month. Following the Federal Open Market Committee meeting on July 31st, Fed Chair Jerome Powell highlighted the strength of U.S. economic activity, ongoing progress on inflation and labor markets that continue to move back into better balance. The Fed now appears to see the upside risks to inflation as receding and the downside risks to the labor market as increasing. The FOMC made no changes to policy rates or balance sheet runoff as anticipated but left open the possibility of an interest rate cut when they meet in September.

Status of endowment fund reserves

Distributions for FY2025 and FY2026 are well secured.

Significant actions of the Endowment Fund Investment Board

None

Compliance/legal issues, areas of concern

Material deviations from Investment Policy: None

Material legal issues: None

Changes in board membership or agency staffing: None

Upcoming issues/events

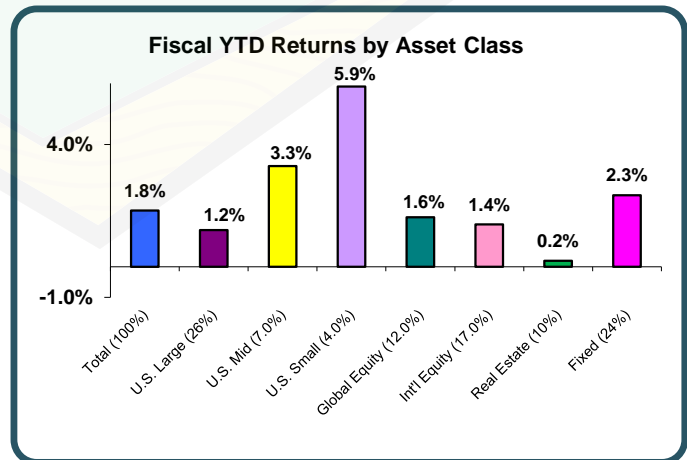
Board Meeting – November 19, 2024

	<u>Month</u>	<u>FYTD</u>
Beginning Value of Fund	3,244,363,987	\$ 3,244,363,987
Distributions to Beneficiaries	(8,601,800)	(8,601,800)
Land Revenue net of IDL Expenses	1,927,798	1,927,798
Change in Market Value net of Investment Mgt. Expenses	63,774,808	63,774,808
Current Value of Fund	\$ 3,301,464,793	\$ 3,301,464,793

<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	1.8%	8.6%	1.8%	11.4%	2.7%	8.3%	7.6%
Total Fund Benchmark*	1.8%	8.2%	1.8%	11.2%	3.6%	8.0%	7.4%
Total Fixed	2.3%	1.9%	2.3%	5.4%	-2.4%	0.6%	1.7%
BBG U.S. Agg. (Ag)	2.3%	1.6%	2.3%	5.1%	-2.4%	0.6%	1.7%
Total Equity	1.8%	13.3%	1.9%	16.7%	5.0%	12.1%	10.2%
56% R3 25.8% Ax 18.2% AC	1.9%	13.2%	1.9%	17.4%	6.1%	11.6%	9.8%
Domestic Equity	2.1%	14.9%	2.1%	19.5%	6.5%	13.6%	12.1%
Russell 3000 (R3)	1.9%	15.7%	1.9%	21.1%	8.1%	14.2%	12.6%
Global Equity	1.6%	11.5%	1.6%	14.5%	4.6%	11.9%	8.5%
MSCI ACWI (AC)	1.6%	13.1%	1.6%	17.0%	5.8%	11.0%	8.7%
Int'l. Equity	1.4%	10.8%	1.4%	12.6%	2.1%	9.3%	6.6%
MSCI ACWI ex-US (Ax)	2.3%	8.1%	2.3%	9.7%	1.8%	6.3%	4.2%
Real Estate			0.2%	-9.6%	0.6%	2.3%	
NCREIF ODCE Index			-4.9%	-12.9%	6.1%	4.7%	

* Benchmark: 37% Russell 3000 17% ACWI ex-US 12% AC 24% BB Agg. 10% OD

	<u>Mkt Value</u>	<u>Allocation</u>
Domestic Equity	\$ 1,246.0	37.7%
Large Cap	878.2	26.6%
Mid Cap	230.3	7.0%
Small Cap	137.5	4.2%
Global Equity	402.1	12.2%
Int'l Equity	555.7	16.8%
Fixed Income	804.9	24.4%
Real Estate	276.2	8.4%
Cash	15.7	0.5%
Total Fund	\$ 3,301.5	100.0%



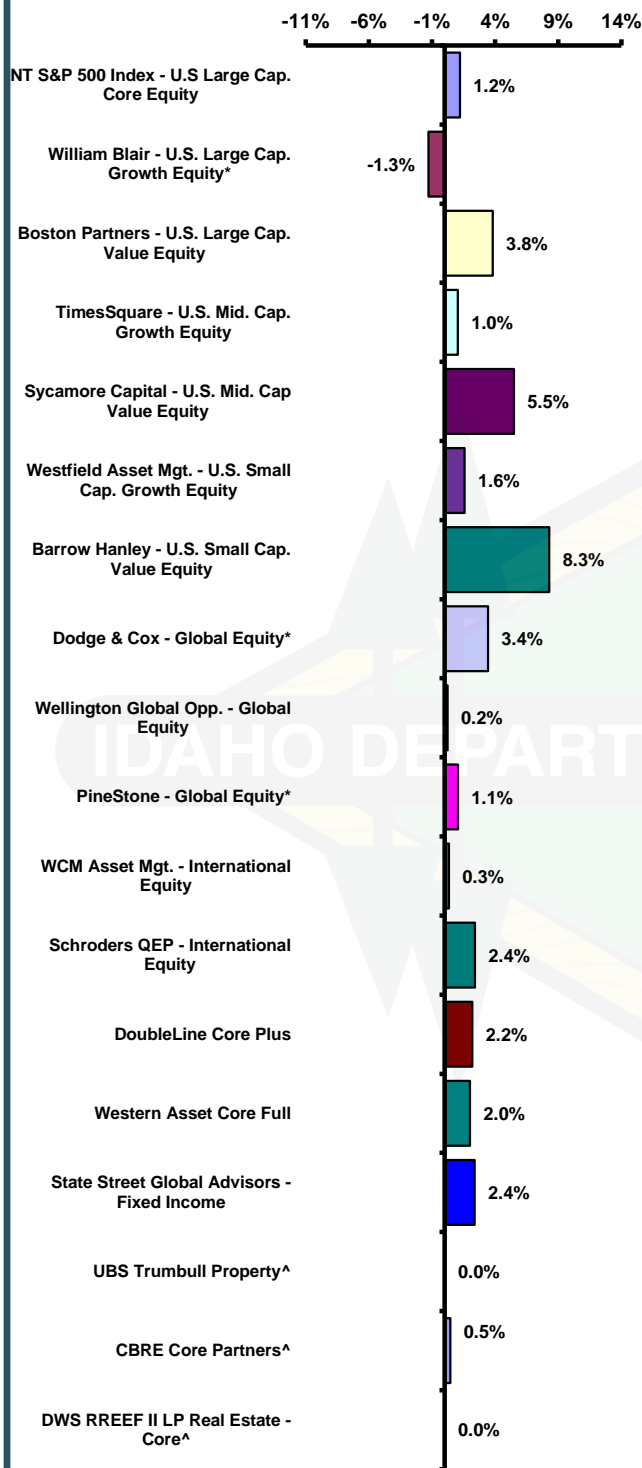
Endowment Fund Staff Comments:

The portfolio started the new fiscal year in positive territory with positive returns from both equities and fixed income. Small cap stocks had a particularly strong month. Following the Federal Open Market Committee meeting on July 31st, Fed Chair Jerome Powell highlighted the strength of U.S. economic activity, ongoing progress on inflation and labor markets that continue to move back into better balance. The Fed now appears to see the upside risks to inflation as receding and the downside risks to the labor market as increasing. The FOMC made no changes to policy rates or balance sheet runoff as anticipated but left open the possibility of an interest rate cut when they meet in September.

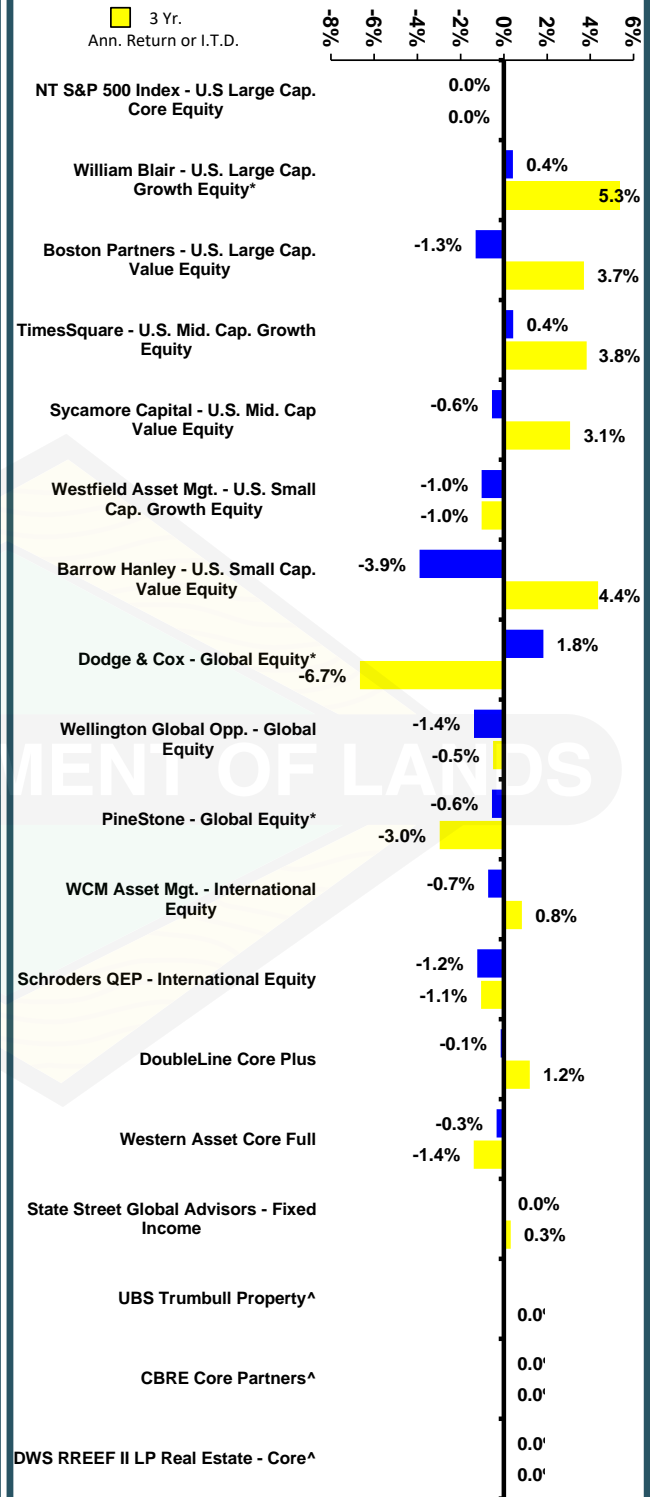
July 31, 2024

INVESTMENT REPORT

FYTD Manager Returns*



Manager Relative Returns Fiscal YTD and 3-Yr Ave*



^ Most recent valuation. * I-T-D if no FYTD or 3-yr. history

STATE BOARD OF LAND COMMISSIONERS

August 20, 2024

Regular Agenda

Subject

Fiscal Year 2026 Beneficiary Distributions and Transfers

Question Presented

Shall the Land Board approve FY2026 beneficiary distributions of \$110,371,200 and transfers to the Permanent Fund of \$134,270,000?

Discussion

The Endowment Fund generated investment returns of 12.0% (8.7% real return, net of 3.3% inflation) during fiscal year 2024. Idaho Department of Lands generated \$60.8 million in net revenue in fiscal year 2024 and \$156 million of timber was presold as of June 30, 2024. Earnings Reserves exceed target levels as of June 30, 2024.

Recommendation

The Endowment Fund Investment Board recommends that the State Board of Land Commissioners (Land Board) approve FY2026 beneficiary distributions of \$110,371,200 and transfers to the Permanent Fund of \$134,270,000. The transfers to the Permanent Fund will not be included in the Gain Benchmark.

Board Action

Attachments

1. Proposed FY2026 Distributions and Transfers

Proposed Fiscal Year 2026 Distributions and Transfers

IDAHO DEPARTMENT OF LANDS

*Land Board Meeting
August 20, 2024*



Distribution Policy Summary

The Land Board has adopted the following principles:

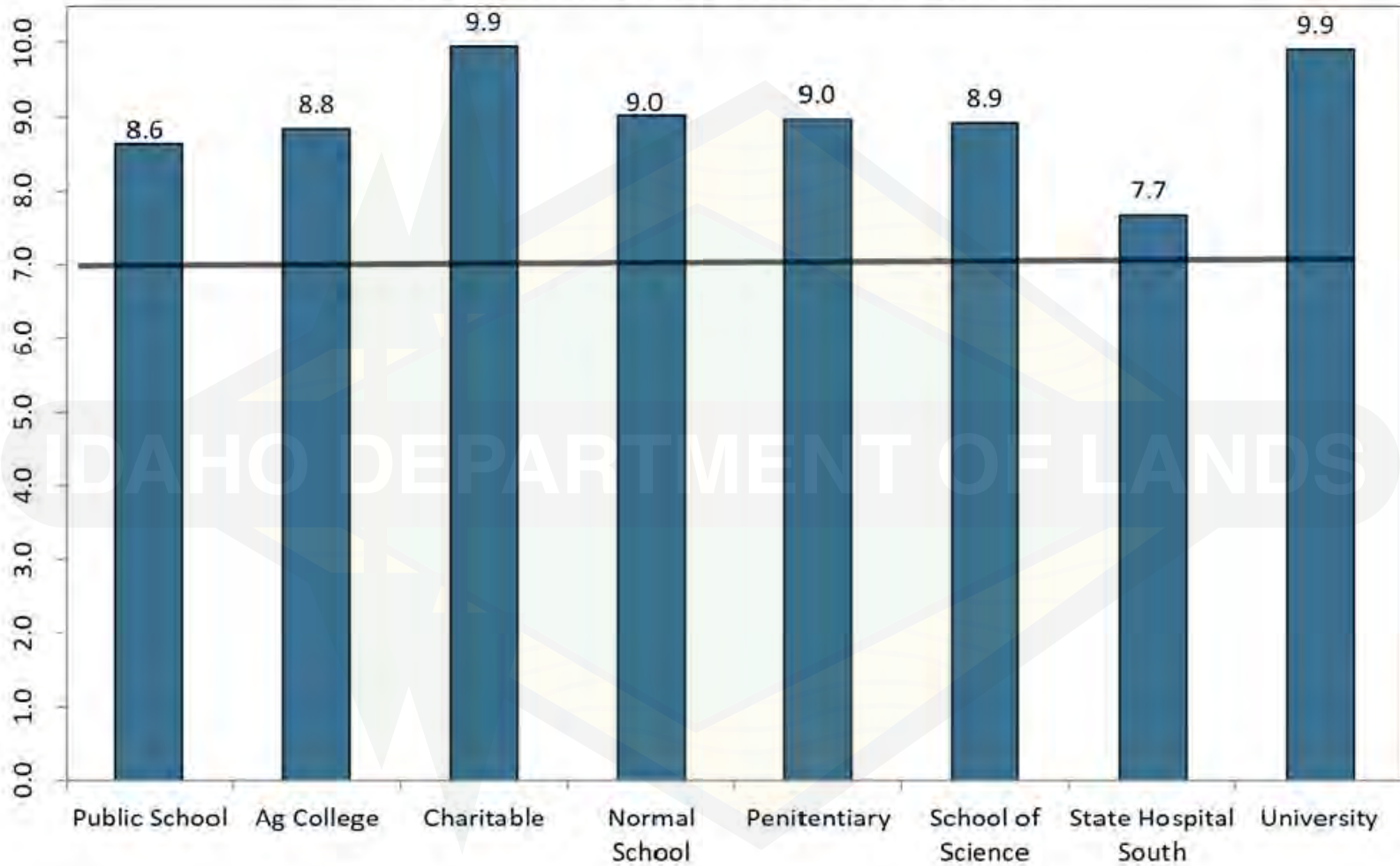
- Distribute 5% of the 3-year average value of each Permanent Fund annually
 - Adjusted for reserves, transfers and any other relevant factors
- Maintain Earnings Reserves at target levels based on years of beneficiary distributions
- Consider transferring any excess Earnings Reserves back to the Permanent Fund

Source: Land Board Investment Policy

Current Situation

- The Endowment Fund generated a 12.0% return (8.7% real return, net of 3.3% inflation) in FY 2024.
- IDL generated \$60.8 million in net revenue in FY 2024 and \$156 million of timber was presold as of June 30, 2024.
- Earnings reserve levels exceed target levels as of June 30, 2024.

Coverage Ratio June 30, 2024
Years of Distributions based on FY2025 Distributions



RECOMMENDED ENDOWMENT DISTRIBUTIONS - FY 2026

(Based On June 30, 2024 Balances - \$ Millions)

	Total	Public School	Ag College	Charitable	Normal Schools	Penitentiary	School of Science	State Hospital South	University
FY 2017 Distribution	\$ 63.2	\$ 36.7	\$ 1.3	\$ 5.5	\$ 4.3	\$ 2.0	\$ 4.7	\$ 4.6	\$ 4.0
FY 2018 Distribution	\$ 73.5	\$ 47.0	\$ 1.3	\$ 5.5	\$ 4.3	\$ 2.0	\$ 4.7	\$ 4.6	\$ 4.0
FY 2019 Distribution	\$ 78.2	\$ 50.3	\$ 1.4	\$ 5.8	\$ 4.4	\$ 2.2	\$ 4.8	\$ 5.0	\$ 4.2
FY 2020 Distribution	\$ 80.9	\$ 51.3	\$ 1.5	\$ 5.8	\$ 4.9	\$ 2.2	\$ 4.9	\$ 6.0	\$ 4.4
FY 2021 Distribution	\$ 84.5	\$ 52.6	\$ 1.6	\$ 6.0	\$ 5.3	\$ 2.5	\$ 5.4	\$ 6.4	\$ 4.8
FY 2022 Distribution	\$ 88.1	\$ 54.8	\$ 1.7	\$ 6.2	\$ 5.5	\$ 2.7	\$ 5.7	\$ 6.4	\$ 5.1
FY 2023 Distribution	\$ 100.3	\$ 61.5	\$ 1.9	\$ 7.0	\$ 6.6	\$ 3.1	\$ 6.7	\$ 7.6	\$ 5.9
FY 2024 Distribution	\$ 100.3	\$ 61.5	\$ 1.9	\$ 7.0	\$ 6.6	\$ 3.1	\$ 6.7	\$ 7.6	\$ 5.9
FY 2025 Distribution	\$ 103.2	\$ 63.0	\$ 2.0	\$ 7.1	\$ 7.3	\$ 3.2	\$ 6.7	\$ 7.8	\$ 6.1
FY 2026 Distribution	\$ 110.4	\$ 68.2	\$ 2.1	\$ 7.5	\$ 7.8	\$ 3.3	\$ 7.1	\$ 7.8	\$ 6.6

% Change: 2026 vs. 2025 Distribution	6.9%	8.2%	5.5%	5.4%	7.0%	5.3%	5.4%	0.0%	7.0%
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Earnings Reserves status (as of 6/30/24)

Earnings Reserve Policy Target (in years)	7.0	7.0	7.0	7.0	7.0	7.0	7.0	7.0	7.0
Years of reserves, before transfer	8.2	8.0	8.4	9.4	8.4	8.5	8.5	7.7	9.3
Years of reserves, after transfer	7.0	7.0	7.0	7.0	7.0	7.0	7.0	7.0	7.0

Earnings Reserve Balance (6/30/24)	\$ 906.9	\$ 544.2	\$ 17.6	\$ 70.7	\$ 65.7	\$ 28.3	\$ 59.9	\$ 59.5	\$ 60.9
Recommended Transfer to Perm Fund	\$ 134.3	\$ 66.7	\$ 2.9	\$ 18.2	\$ 11.2	\$ 5.0	\$ 10.3	\$ 5.1	\$ 14.9
Earnings Reserve Balance After Transfer	\$ 772.6	\$ 477.6	\$ 14.7	\$ 52.5	\$ 54.5	\$ 23.3	\$ 40.2	\$ 54.4	\$ 46.0

Land Board Recommendation

- Approve FY2026 beneficiary distributions of \$110,371,200 and transfers to the Permanent Fund of \$134,270,000. The transfers to the Permanent Fund will not be included in the Gain Benchmark.

	<i>Distributions To Beneficiaries</i>				<i>Transfer To Permanent Fund*</i>
	<i><u>Approved FY2025</u></i>	<i><u>Proposed FY2026</u></i>	<i><u>% Change</u></i>	<i><u>\$ Change</u></i>	
Public School	63,039,600	68,224,800	8.2%	5,185,200	66,675,000
Ag College	1,993,200	2,102,400	5.5%	109,200	2,881,000
Charitable Institution	7,116,000	7,502,400	5.4%	386,400	18,231,000
Normal School	7,273,200	7,783,200	7.0%	510,000	11,196,000
Penitentiary	3,154,800	3,322,800	5.3%	168,000	5,011,000
School of Science	6,722,400	7,084,800	5.4%	362,400	10,279,000
State Hosp. South	7,776,000	7,776,000	0.0%	-	5,103,000
University	6,146,400	6,574,800	7.0%	428,400	14,894,000
	<u>103,221,600</u>	<u>110,371,200</u>	<u>6.9%</u>	<u>7,149,600</u>	<u>134,270,000</u>

* Amount of Earnings Reserve in excess of what is deemed adequate relative to the 2026 distribution. The adequate reserve level for all endowments is set at seven years.

** The Transfer is not to be added to the Gain Benchmark.

STATE BOARD OF LAND COMMISSIONERS

August 20, 2024

Regular Agenda

Subject

Fiscal Year 2026 Department of Lands Budget Enhancements

Question Presented

Shall the Land Board direct the Department to include the enhancement requests as outlined in Attachment 1 in the Fiscal Year 2026 budget proposal due on August 30, 2024?

Background

The Idaho Department of Lands (Department) is requesting concurrence on the proposed FY2026 Enhancement Decision Units. Pursuant to Idaho Code § 67-3502, agencies must submit their budget request to the Division of Financial Management (DFM) and the Legislative Services Office (LSO) by August 30, 2024. The State Board of Land Commissioners (Land Board) briefing and meeting schedules prevent the Department from having the full budget request ready for the August meeting. The complete budget will be presented for Land Board approval at its September meeting.

Discussion

The Department is asking for consideration of the attached decision units. The proposed decision units align with the strategic goals that are detailed in the Department's strategic plan document. The strategic plan is organized around four foundational Department-wide goals: (1) Financial Stewardship – Maximize returns through prudent management of resources and funds, (2) Customer Focus – Exemplary professional service to all customers, (3) People – A high performing workforce, and (4) Process – Effective policies, procedures, and systems to drive informed decision making. Additionally, the Department has outlined six future-proofing goals to include: (1) Classification & Compensation, (2) Office Facilities, (3) Seasonal Housing Facilities, (4) Fire Program Modernization, (5) Fund Integrity, and (6) Policy & Procedures.

The Department is developing a budget submission for FY2026 that will further efforts to meet these Department goals. In Attachment 1, the Department's proposed enhancements are listed in order of priority.

The enhancements in the Department's budget request reflect the following increases over the FY2025 ongoing appropriation:

Fund Type	Increase from FY2025 Base Budget	
	All Ongoing <u>and</u> One-Time Requests Total	All Ongoing Requests Total
General Fund	\$643,500 (5.88%)	\$373,500 (3.42%)
Earnings Reserve Fund	\$337,200 (.94%)	\$36,500 (.10%)
Lands Dedicated Fund	\$1,963,700 (8.86%)	\$729,900 (3.29%)
Federal Funds	\$104,200 (.54%)	\$104,200 (.54%)

The Department has worked with the DFM Administrator and Governor's office contact in developing its budget request as outlined in the May 29, 2024 FY 2026 Budget Overview memo from DFM. As the Department moves through the rest of the budgeting submission process, staff will continue to follow DFM guidelines.

Recommendation

Direct the Department to include the enhancement requests as outlined in Attachment 1 in the Fiscal Year 2026 budget proposal due on August 30, 2024.

Board Action

Attachments

1. FY2026 Enhancement Decision Unit Requests

IDL DRAFT ENHANCEMENT BUDGET REQUESTS - FY2026

No.	Budget Unit	Enhancement Description	Amount	Object Ongoing or One-Time	Funding Source (%) GF/DED/ER/FED	FTP Requested
1	LAAD Fire	Fire Emergency Support Program Manager	\$184,400 TOTAL			
		Lands Program Manager	\$108,700	PC - Ongoing	50% GF 50% DED	1.00
		Travel, Vehicle Repair and Maintenance, and Office Supplies	\$16,000	OE - Ongoing		
		Computer Equipment + Office Setup	\$4,500	CO - One Time		
		One 1/2 Ton 4WD Pickup with Necessary Options	\$54,200	CO - One Time	100% DED	
		Vehicle Striping and Decals - IDL Standard	\$1,000	OE - One Time		
2	LAAD Fire	Fire Aviation Section Manager	\$196,100 TOTAL			
		Lands Area Section Manager	\$120,400	PC - Ongoing	50% GF 50% DED	1.00
		Travel, Vehicle Repair and Maintenance, and Office Supplies	\$16,000	OE - Ongoing		
		Computer Equipment + Office Setup	\$4,500	CO - One Time		
		One 1/2 Ton 4WD Pickup with Necessary Options	\$54,200	CO - One Time	100% DED	
		Vehicle Striping and Decals - IDL Standard	\$1,000	OE - One Time		
3	LAAD Fire	Statewide Fire Assessment Program Manager	\$196,600 TOTAL			
		Lands Program Manager	\$108,700	PC - Ongoing	100 % DED	1.00
		Travel, Training, Vehicle Repair and Maintenance, and Office Supplies	\$21,000	OE - Ongoing		
		Office Upgrades, Computer Equipment + Office Setup	\$11,700	CO - One Time		
		One 1/2 Ton 4WD Pickup with Necessary Options	\$54,200	CO - One Time		
		Vehicle Striping and Decals - IDL Standard	\$1,000	OE - One Time		
4	LAAD Fire	Fire Detection Cameras	\$458,000 TOTAL			
		15 Mountain-Top Cameras and Data Devices	\$130,000	CO - One Time	50% GF 50% DED	0.00
		Installation + Site Required Supplies	\$86,000	OE - One Time		
		Annual Hosting Fees and Site Leases	\$242,000	OE - Ongoing		
5	LAAD Fire	Fire Equipment	\$729,800 TOTAL			
		Radio Communication Dispatch Required Enhancements and Repeaters	\$454,000	CO - One Time	100% DED	0.00
		Radio Installation	\$40,000	OE - One Time		
		Radio Annual Maintenance Contract + Circuit and Lease Charges	\$120,000	OE - Ongoing		
		Helitack Service Body Build - Additional Cost	\$11,000	CO - One Time		
		One 1/2 Ton 4WD Crew Cab Pickup with Necessary Options - South Zone	\$60,200	CO - One Time		
		Vehicle Striping and Decals - IDL Standard	\$1,000	OE - One Time		
		Fuel + Vehicle Repair and Maintenance	\$6,000	OE - Ongoing		
		One Enclosed Side-by-Side UTV for MICA	\$21,600	CO - One Time		
		One UTV for Eastern	\$16,000	CO - One Time		

IDL DRAFT ENHANCEMENT BUDGET REQUESTS - FY2026

No.	Budget Unit	Enhancement Description	Amount	Object Ongoing or One-Time	Funding Source (%) GF/DED/ER/FED	FTP Requested
6	LAAD Fire	Assistant Fire Warden - Ponderosa Area	\$145,500 TOTAL			
		Lands Resource Specialist, Senior	\$85,800	PC - Ongoing	50% GF	1.00
		Computer Equipment + Office Setup	\$4,500	CO - One Time	50% DED	
		One 1/2 Ton 4WD Pickup with Necessary Options	\$54,200	CO - One Time	100% DED	
		Vehicle Striping and Decals - IDL Standard	\$1,000	OE - One Time		
7	LAAA Fiscal	Fiscal Financial Specialist	\$77,000 TOTAL			
		Financial Specialist - CDA Fiscal (Utilize Existing Vacant FTP)	\$77,000	PC - Ongoing	100% DED	0.00
8	LAAD Fire	Burn Permit Replacement	\$120,000 TOTAL			
		Ongoing Maintenance and Licensing Fees	\$20,000	OE - Ongoing	100% GF	0.00
		Software Purchase	\$100,000	OE - One Time		
9	LAAB Asst	Urban and Community Forestry Program Specialist	\$108,700 TOTAL			
		Lands Program Specialist	\$96,200	PC - Ongoing	100% FED	1.00
		Travel, Training, and Office Supplies	\$8,000	OE - Ongoing		
		Computer Equipment + Office Setup	\$4,500	CO - One Time	100% DED	
10	LAAA Ops	Statewide Office Security Upgrades	\$500,000 TOTAL			
		Subscription Fees	\$40,000	OE - Ongoing	10% GF / 40% DED 50% ER	0.00
		Equipment and Installation	\$460,000	CO - One Time		
11	LAAB SS	Shared Stewardship Funding - Supplant Expiring Federal Funds	\$52,800 TOTAL			
		35% of Shared Stewardship Coordinator Position	\$52,800	PC - Ongoing	100% GF	0.00
12	LAAA Tech Services	GIS Environment Enhancements	\$62,000 TOTAL			
		ESRI Server License	\$22,000	OE - Ongoing	10% GF / 15% DED 75% ER	0.00
		Host Server Box for GIS and Remote Sensing Programs	\$30,000	OE - One Time		
		GPU for Existing Server	\$10,000	OE - One Time		
13	LAAO Nav Waters	Navigable Waters - Boat and Trailer	\$80,000 TOTAL			
		One Boat - Jerome Field Office	\$70,000	CO - One Time	100% DED	0.00
		One Trailer - Jerome Field Office	\$10,000			

IDL DRAFT ENHANCEMENT BUDGET REQUESTS - FY2026

No.	Budget Unit	Enhancement Description	Amount	Object Ongoing or One-Time	Funding Source (%) GF/DED/ER/FED	FTP Requested
14	LAAA Ops	Fleet and Facilities Manager Vehicle	\$54,200 TOTAL			
		One 1/2 Ton 4WD Pickup with Necessary Options	\$54,200	CO - One Time	10% GF / 15% DED 75% ER	0.00
15	LAAD Fire	Timber Protective Association Assessment Funding	\$83,500 TOTAL			
		TPA Funding to Cover Assessments	\$83,500	T&B - Ongoing	100% DED	0.00
SUMMARY DATA						
			\$270,000 One Time GF Requested			
			\$373,500 Ongoing GF Requested			
			\$1,534,500 One Time "Other" Funds Requested			
			\$870,600 Ongoing "Other" Funds Requested			
			\$3,048,600 Total Requested		5.00 New FTPs	

IDAHO DEPARTMENT OF LANDS

STATE BOARD OF LAND COMMISSIONERS

August 20, 2024

Regular Agenda

Subject

Forest Asset Management Plan 2024

Questions Presented

Shall the Land Board approve harvest levels for fiscal years 2026 through 2030 to average 329 million board feet?

Discussion

The State Board of Land Commissioners (Land Board) approved the current Forest Asset management Plan (FAMP) for endowment lands in August 2019 with an annual timber sale volume of 328 million board feet (MMBF). Full implementation of the annual sale volume began in FY2024.

Since the 2019 FAMP was completed, the Idaho Department of Lands (Department) has focused on collecting inventory data, especially on younger trees. This data, combined with detailed tree information and environmental factors, has been used to fine-tune growth and yield projections for this harvest scheduling analysis. The Department collaborated with the Forest Biometrics Research Institute (FBRI) to develop growth and yield models for different site classes and to plan harvest schedules for each supervisory area.

The data indicates there are about 7.0 billion board feet of timber available. The Department's goal, both past and present, is to balance this inventory with growth and harvest rates. By reducing the amount of standing timber, the Department can maximize revenue for endowment beneficiaries, lower the risk of damage, increase growth per acre, and support the long-term health of the forest products industry. Management activities will prioritize even-aged management, leading to an increase in clearcut acres. This strategy will improve timber yields at rotation age by enhancing growth rates and stocking levels, thereby offering higher long-term returns for the beneficiaries.

Department leadership met with each supervisory area to discuss various options and set preferred volume targets. This led to an average of 329 MMBF per year for the next 5 years across the state. It is recommended to allow for an annual variance of plus or minus 5 percent of 329 MMBF to account for logistical sale layout and market conditions. The table below outlines the harvest level by supervisory area for fiscal year 2026 through fiscal year 2030.

Sale Volumes by Fiscal Year					
Area	2026	2027	2028	2029	2030
Eastern	10	10	10	10	10
Southwest	16	16	16	16	16
Payette Lakes	21	21	21	21	21
Maggie Creek	30	30	30	30	30
Clearwater	55	55	55	55	55
Ponderosa	40	30	30	30	30
St. Joe	80	80	80	80	80
Mica	18	18	18	18	18
Pend Oreille	35	35	35	35	35
Priest Lake	28	31	33	33	33
Totals	333	326	328	328	328

At the end of this 5-year period, the Department will perform another harvest schedule analysis to decide future harvest levels. According to current data, the Department can maintain the current harvest level for the next 10 years. After that, staff anticipate a reduction to approximately 230 MMBF. Please see the graph in Attachment 1 for a visual summary. The Department will keep the Land Board and industry representatives updated as more data is gathered, and models are refined.

The Department is not requesting additional resources for the implementation of the sale volume targets. Personnel and the necessary funds were secured during the last Forest Asset Management Plan and are sufficient to meet more intensive forest management.

Recommendation

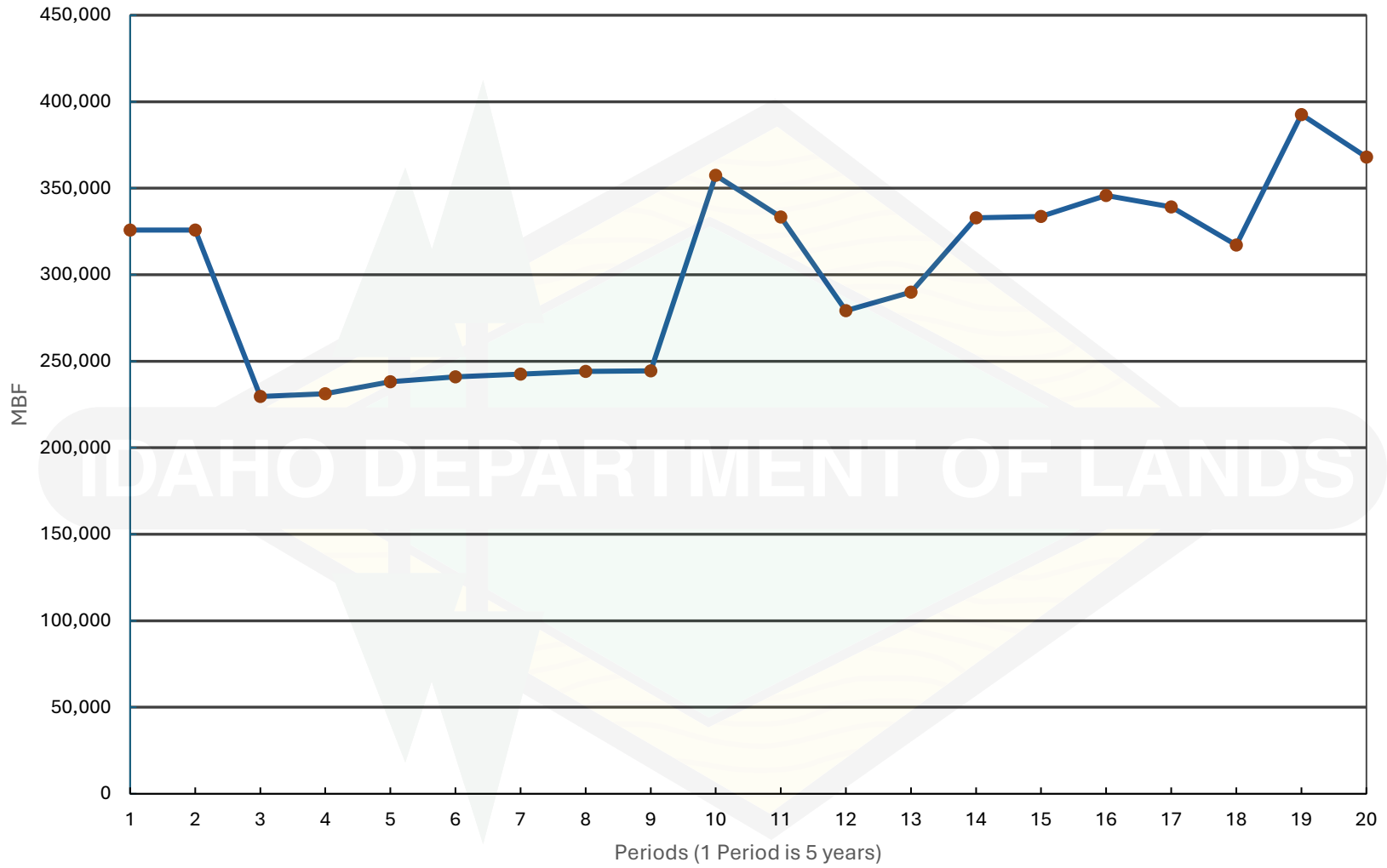
Adopt annual average harvest levels of 329 MMBF statewide with an annual allowance of plus or minus 5 percent for fiscal years 2026 through 2030.

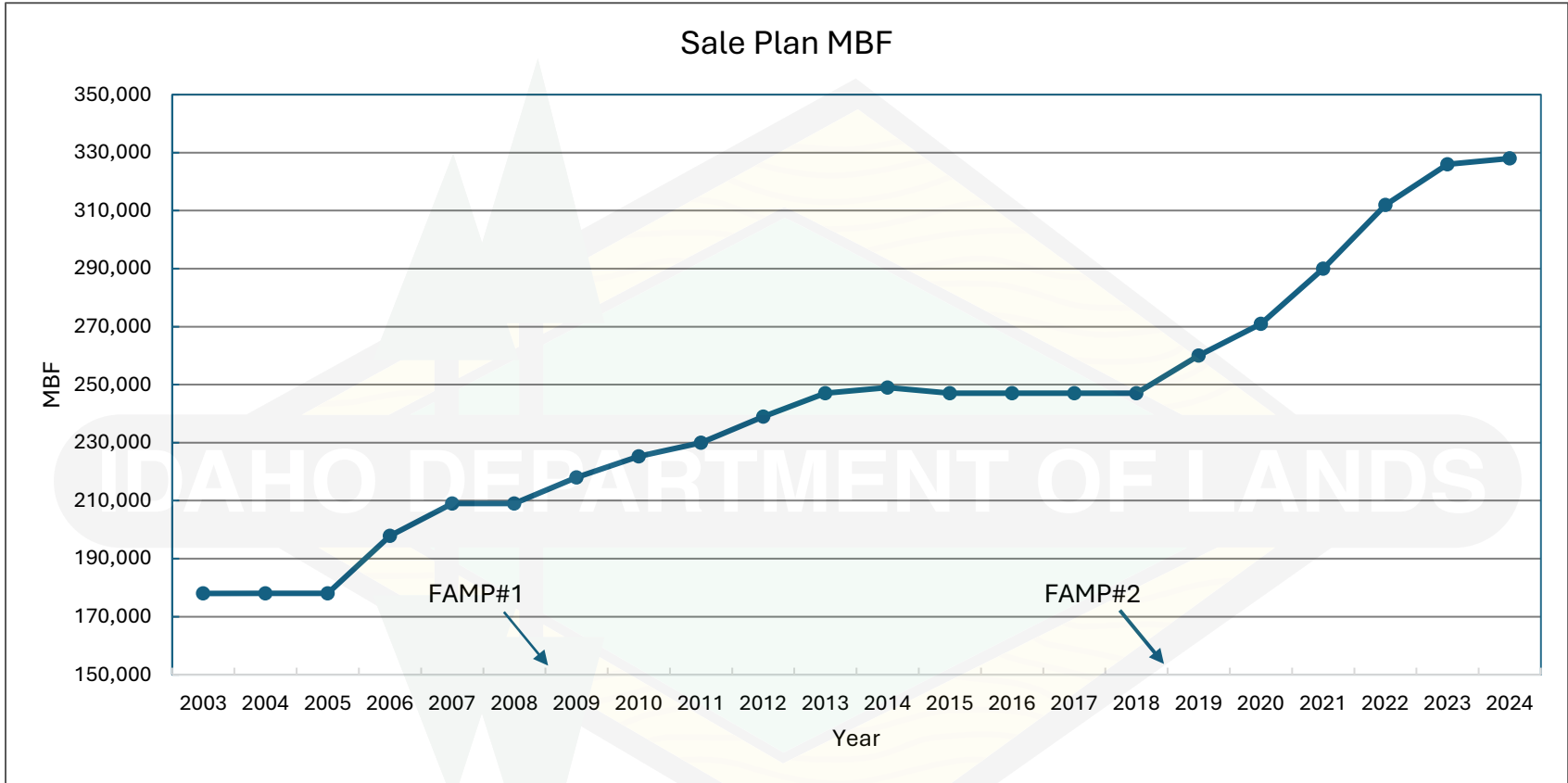
Board Action

Attachments

1. Statewide Harvest Level 100-Year Graph
2. Annual Sales Plan Volume 20-Year Graph

Statewide Harvest Levels





STATE BOARD OF LAND COMMISSIONERS

August 20, 2024

Regular Agenda

Subject

Westwood and Lower Eagle Cedar Timber Sales with clearcut harvest units exceeding 100 acres

Question Presented

Shall the Land Board approve the Westwood and Lower Eagle Cedar Timber Sales with clearcut harvest units exceeding 100 acres?

Background

At its December 15, 2015 meeting, the State Board of Land Commissioners (Land Board) adopted a timber sale governance structure whereby the Idaho Department of Lands (Department) would only present individual proposed timber sales for Land Board approval that fall outside of established Land Board policies. Timber sales with clearcut harvest units exceeding 100 acres are one type of sale to be submitted for approval.

Discussion

The Mica Supervisory Area has submitted two timber sales in the FY25 timber sales plan that each have clearcut harvest units exceeding 100 acres in size.

The Westwood timber sale area is within Department and private ownership that has been previously managed (Attachments 1 and 2). The sale area is located 2 miles north of Rathdrum, Idaho (Attachment 3).

The unit totals 132 acres in size and is described in detail in Attachment 4. Mortality continues to occur across the stand and needs immediate treatment to capture the highest value. Dense shrub and brush overstory will likely impede natural regeneration stocking resulting in underutilizing the site's potential. The site will be planted with a mix of seral species, which will be more resilient to the current insect and disease problems. The Department has successfully planted similar stands to adequate stocking to maximize return to the beneficiaries. The clearcut harvest unit is silviculturally and economically justified. The sale has been prepared to meet the Forest Practices Act and the Mica Area Forest Asset Management Plan and was approved by the Timber Management Bureau (Attachment 5).

The Lower Eagle Cedar sale area is within other Department ownership that has been previously managed (Attachments 6 and 7). The sale area is located 5 miles southwest of Rose Lake, Idaho (Attachment 8).

Unit 3 of the proposed sale is a clearcut unit of 133 acres and is described in detail in Attachment 9. It is characterized as being dominated by climax species that are not expected to regenerate the site due to their age and physical traits. Mortality continues to occur across the stand and needs immediate treatment to capture the highest value. The site will be planted with a mix of seral species, which will be more resilient to the current insect and disease problems. The Department has successfully planted similar stands to adequate stocking to maximize return to the beneficiaries. The clearcut harvest unit is silviculturally and economically justified. The sale has been prepared to meet the Forest Practices Act and the Mica Area Forest Asset Management Plan and was approved by the Timber Management Bureau (Attachment 10).

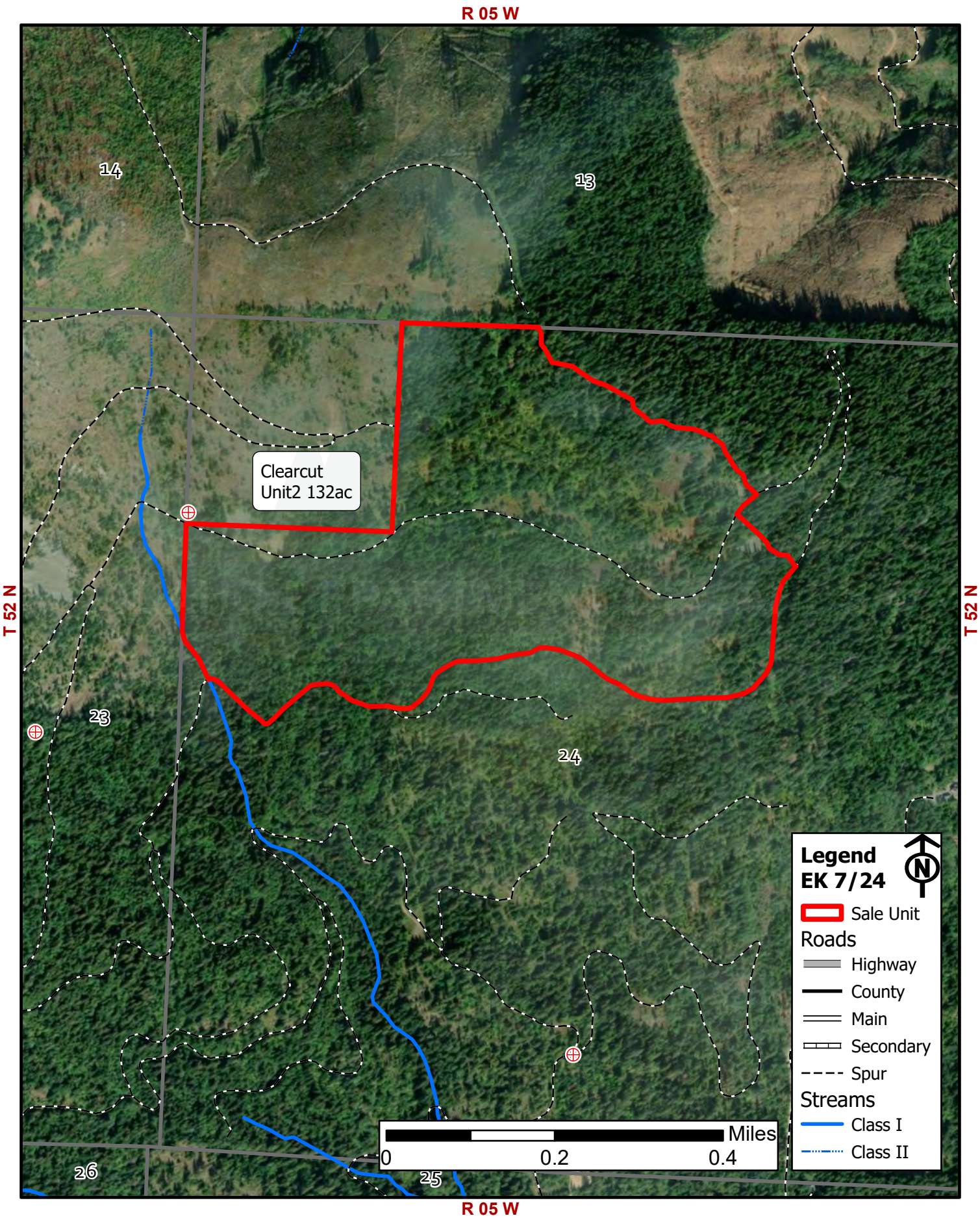
Recommendation

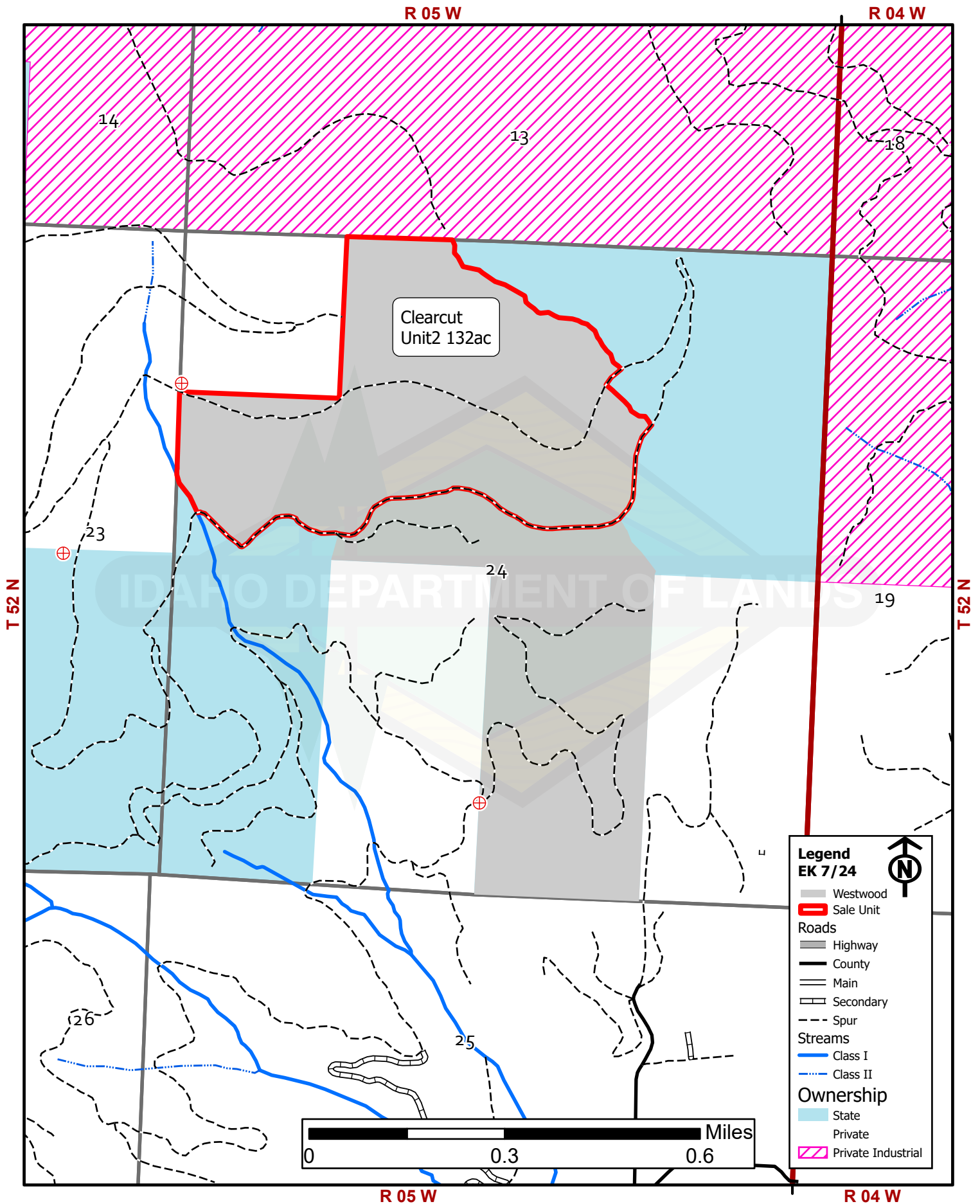
Approve the Westwood and Lower Eagle Cedar Timber Sales.

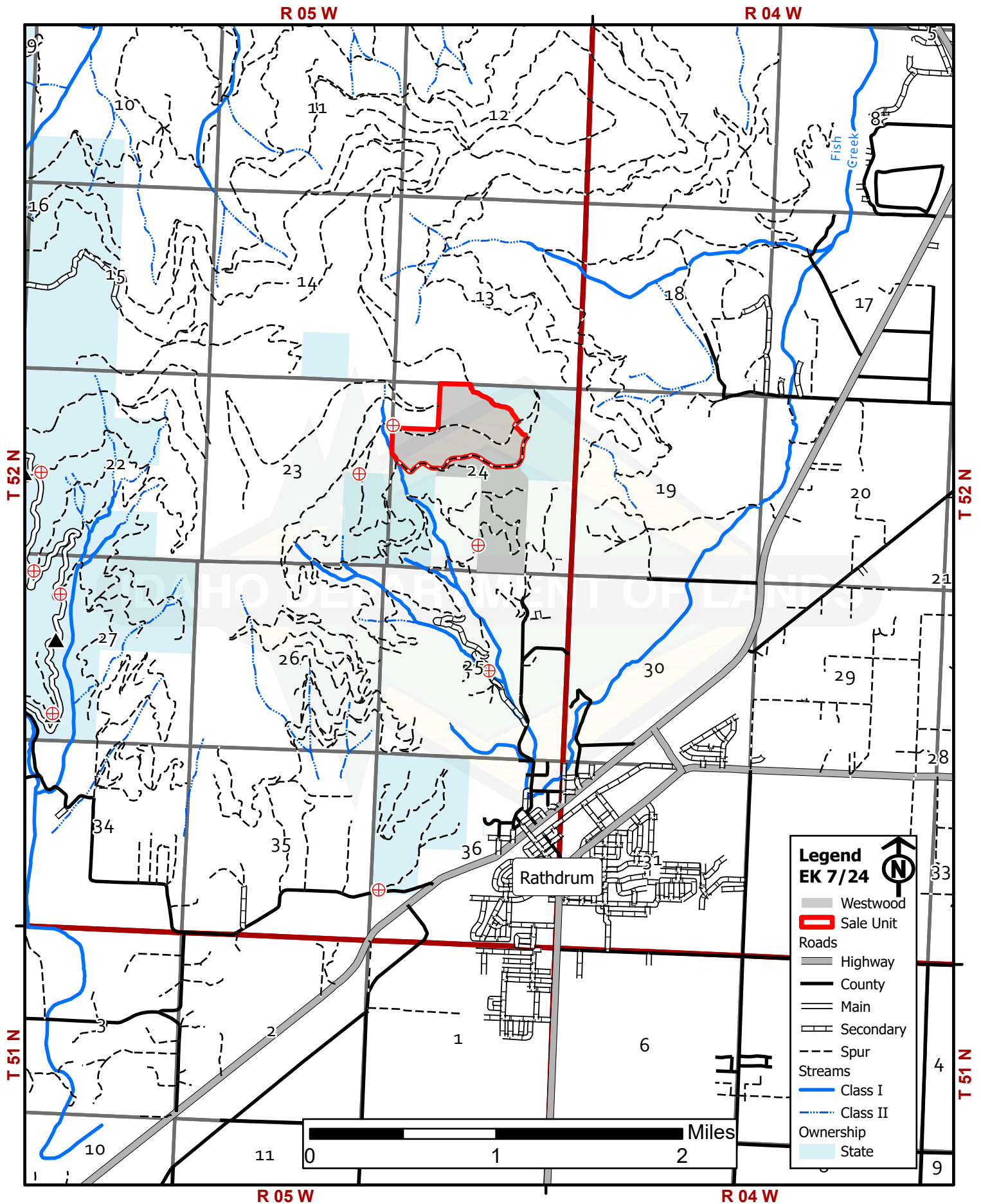
Board Action

Attachments

1. Westwood Unit Map
2. Westwood Ownership Map
3. Westwood Vicinity Map
4. Westwood Clearcut Justification
5. Westwood Timber Bureau Approval
6. Lower Eagle Ortho Map
7. Lower Eagle Ownership Map
8. Lower Eagle Vicinity Map
9. Lower Eagle Clearcut Justification
10. Lower Eagle Timber Bureau Approval







Westwood Clearcut Justification

1. Treatment Description

- a) This stand is primarily composed of overmature western redcedar. Douglas-fir, western larch, grand fir and western hemlock comprise minor components of the stand. This stand will be clearcut and planted following harvest.

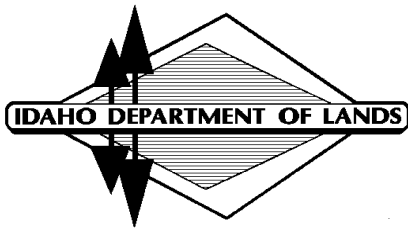
- b) Clearcut Justification:

Clearcutting will help achieve Desired Future Conditions outlined in the Mica Supervisory Area's Forest Asset Management Plan. Clearcut harvest in Unit 2 (132 ac) is silviculturally and economically justified and complies with the Idaho Forest Practices Act. A clearcut prescription will harvest the existing stand and re-establish seral and intermediate species. Natural regeneration will not accomplish this for the following reasons:

- 1) This stand is dominated by climax species including western redcedar, grand fir and western hemlock. The age of dominant trees ranges from 90 to 120 years old. Due to the age and phenotypic characteristics of the seral species on site, these trees are not expected to produce the seed necessary to fully regenerate these stands.
- 2) This unit has a significant brush component within the stand and insufficient and undesirable existing natural regeneration.
- 3) Clearcutting will minimize the number of entries into the area, reduce harvest costs and maximize revenue to the Endowments, reduce disturbance and erosion, minimize the spread of disease, and expedite regeneration through planting.

- c) Forest Improvement Activity:

This clearcut unit will require a waving wand herbicide application prior to planting. Once sprayed, the units will be planted with a mix of western larch, Douglas-fir, and western white pine at approximately 436 trees per acre.



TIMBER MANAGEMENT BUREAU

3284 W Industrial Loop
Coeur d'Alene, ID 83815
208-769-1525/FAX 208-769-1524

MEMORANDUM

TO: Eric Valiquette, Resource Supervisor

FROM: Kyle Seigley, Lands Section Manager FM Projects & Inventory

DATE: June 13, 2024

SUBJECT: Westwood (CR225031) FY 2025 Timber Sale

On June 12th, 2024, the timber bureau visited the Mica Supervisory Area to review the proposed timber sale, Westwood. The timber bureau was requested to visually review unit 1 for the proposed timber sale. The proposal would create a 132 acre clearcut.

The Westwood Timber Sale is in section 24 Township 52N Range 5W. The public school endowment owns this section of the sale area.

Timber Bureau representatives Spencer Hanson and Kyle Seigley rode along with Nick Capobianco and Eric Valiquette from the Mica Supervisory Area to the timber sale unit from Coeur d' Alene. The group parked near the southwestern corner of section 24 and continued on ATV's on an old road grade to look at the proposed clearcut in the north half of the section. Based on relic stumps and the condition of the historic road grade harvesting hasn't taken place within unit 1 for several decades.

The dominant trees within unit 1 range from 90 to 120 years of age and are experiencing mortality due to insect and disease (images 1 – 2). Grand fir (*Abies grandis*) is the dominant species throughout the proposed harvest with pockets of western redcedar in the draws and a minor component of Douglas-fir and western hemlock, a few ridgelines with shallow soils and rock outcrops contain ponderosa pine. The unit has a significant hardwood component concentrated in areas that were harvested several decades ago.

The sale is located on a productive site with an estimated Douglas-fir site index of 74 base age 50. Although the unit is predominately south aspect it is a western redcedar / wild ginger habitat type. Soils are an ashy silt loam transitioning to a gravely sandy loam over a parent material of weathered granite. Depth to restrictive feature is 39-59 inches

and available water supply in the first 60 inches is moderate at about 7.1 inches.

The stand needs a restart. It was a unanimous conclusion from the group that a clearcut harvest prescription was the best option for multiple reasons. The stand is lacking desirable leave trees both in species composition and quality. Even if adequate crop trees were present, there is an existing brush component in the understory that would be released and out compete any tree seedlings trying to establish (Image 3). Mature red alder (*Alnus rubra*) trees are present and dominate portions of the stand where past harvesting has taken place. Red alder's rapid early growth can interfere with establishment of conifer seedlings. Unfortunately, red alder is not a commercial species in Idaho.

The group discussed the silviculture plan of the site after harvest is complete. The existing hardwood vegetation competition must be treated for planted conifers to become established. All standing red alder will be treated with a hack and squirt prescription. A site prep herbicide spray targeting woody stems will mitigate the existing brush in the understory. The Area foresters plan to plant a "north Idaho mix" of western larch, Douglas-fir, and western white pine at approximately 436 trees per acre. The timber management bureau recommended planting a higher proportion of improved Douglas-fir due to the site's productivity potential and lack of animal browse risk. It was also recommended to conduct a clopyralid (transline) release spray one year following a spring planting to target pioneering forbs such as Canada thistle and spotted knapweed.

In summary, the stand has inadequate levels of desired leave trees to naturally regenerate the site. The unit has a significant woody brush component within the stand that possesses a significant risk to conifer seedling establishment. A clearcut with vegetation management prescription is the best economical decision to turn the site over for its next rotation and meet future desired stocking levels that will optimize its site potential for timber production. The timber management bureau supports the Area's decision to facilitate a clearcut prescription on the 132 acres.

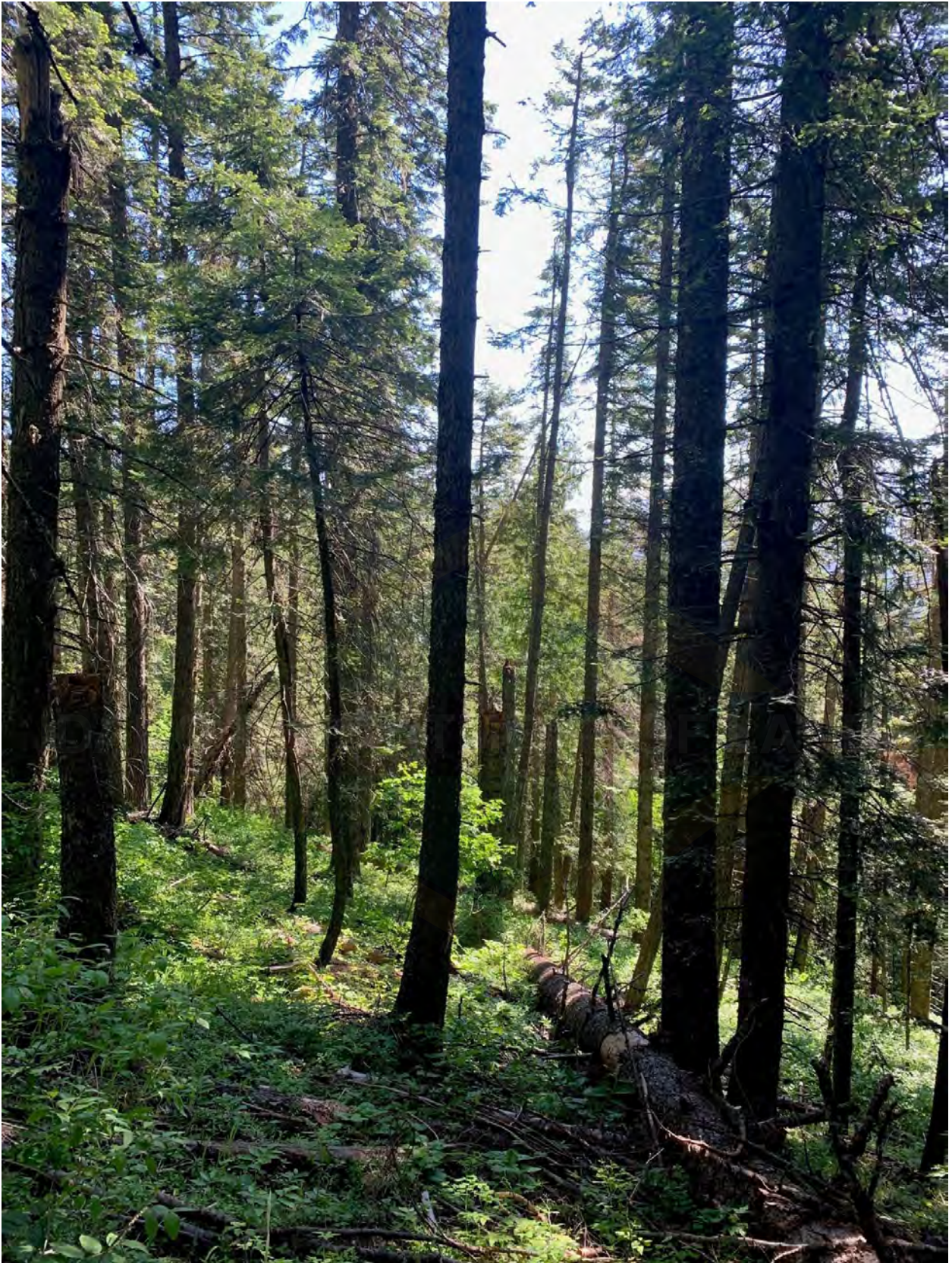


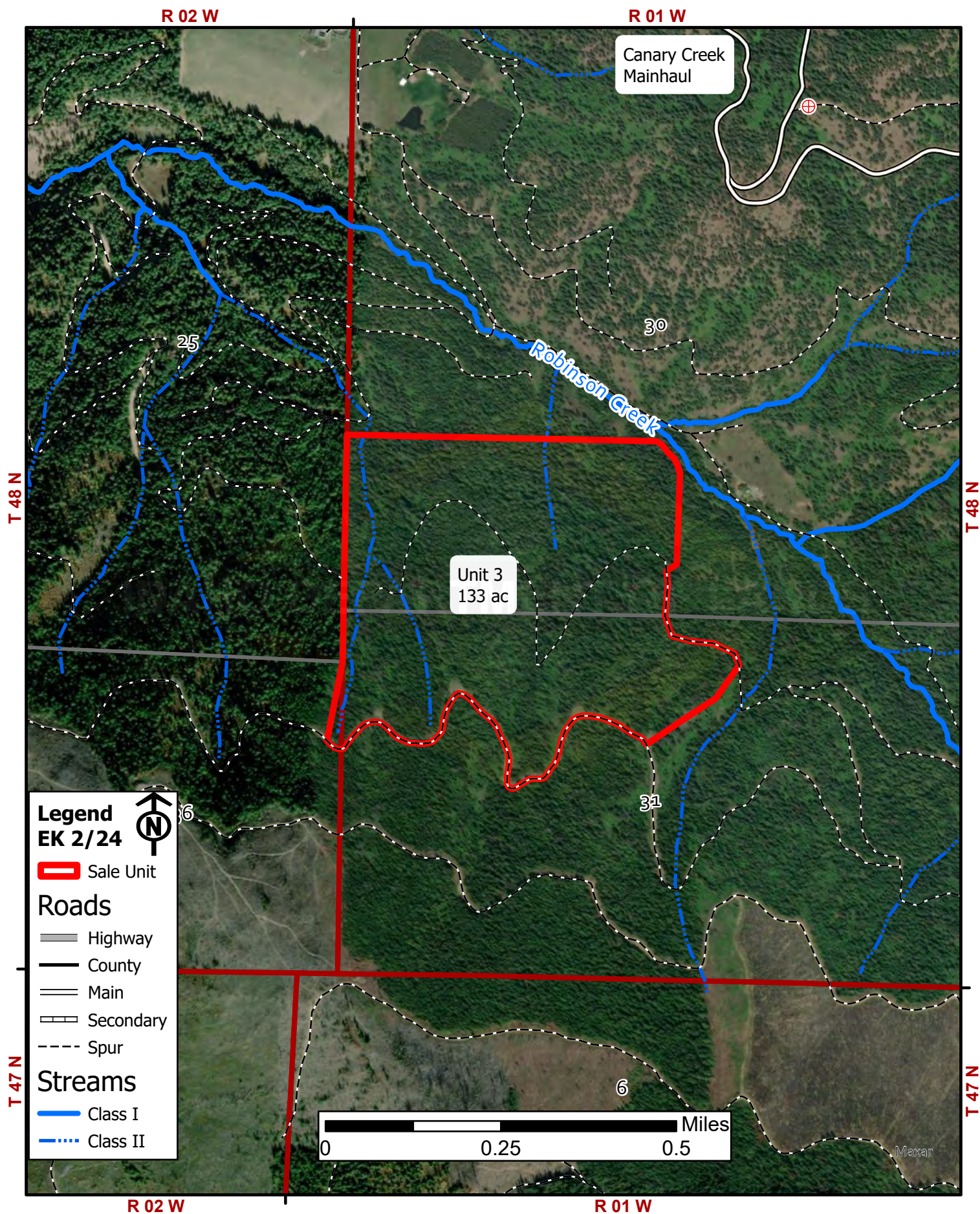
Image 1 – Mortality and disease in grand fir.

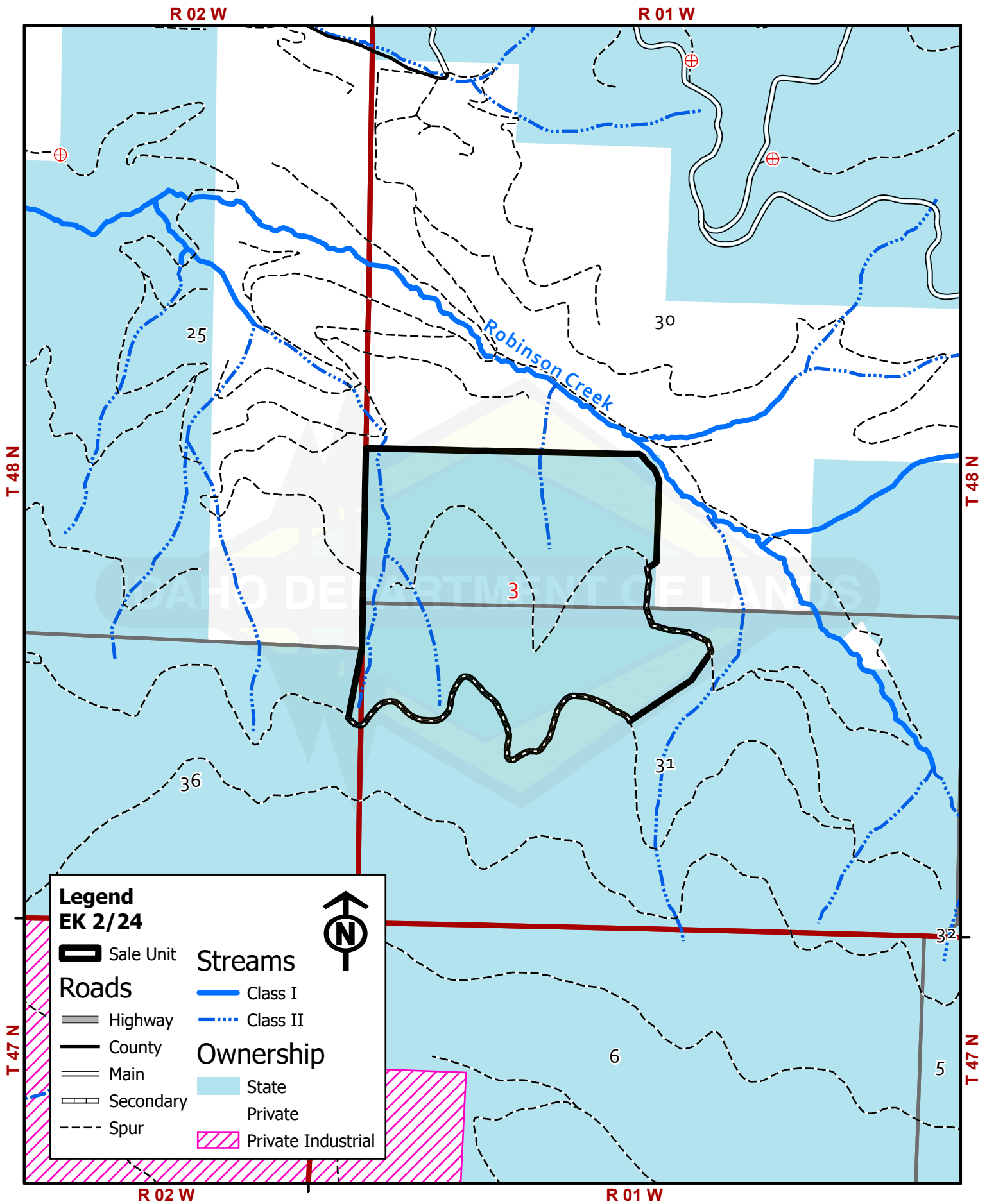


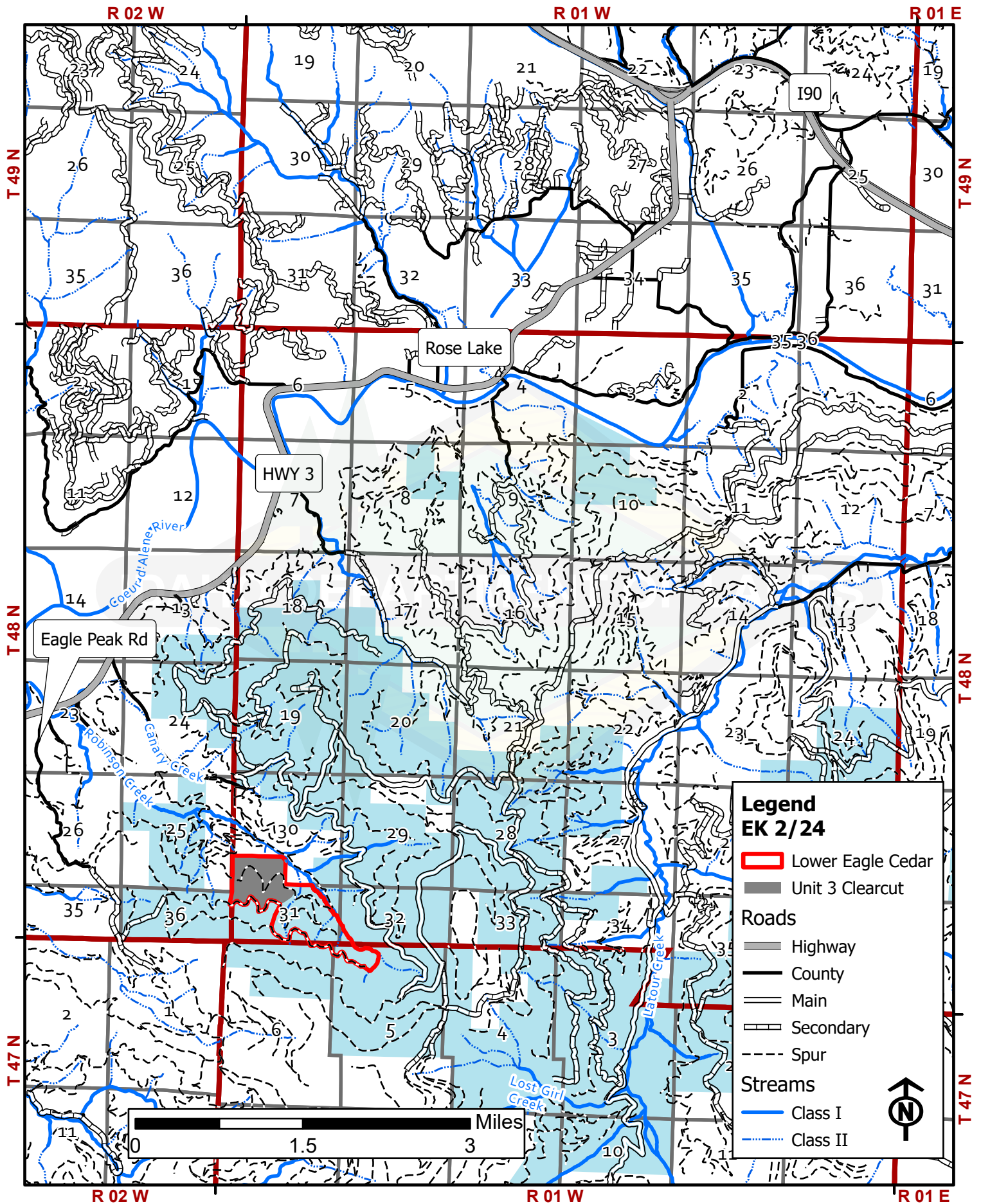
Image 2 – Douglas-fir with mistletoe witches' broom.



Image 3 – Understory woody vegetation.







Lower Eagle Cedar Clearcut Justification

1. Treatment Description:

- a) This stand is primarily composed of overmature western redcedar. Douglas-fir, western larch, grand fir and western hemlock comprise minor components of the stand. This stand will be clearcut and planted following harvest.

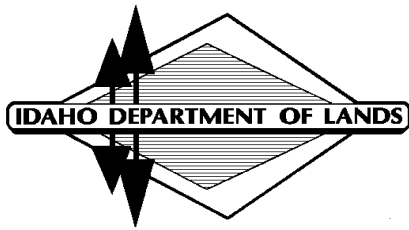
- b) Clearcut Justification:

This clearcut will help achieve Desired Future Conditions outlined in the Mica Supervisory Area's Forest Asset Management Plan. Clearcut Unit 3 (133 acres) is silviculturally and economically justified and complies with the Idaho Forest Practices Act. A clearcut prescription will be used to harvest the existing stand and re-establish seral and intermediate species on the site. Natural regeneration will not accomplish this for the following reasons:

- 1) This stand is dominated by climax species including western redcedar, grand fir and western hemlock. The age of dominant trees ranges from 90 to 120 years old. Due to the age and phenotypic characteristics of the seral species on site, these trees are not expected to produce the seed necessary to fully regenerate these stands.
- 2) Dwarf mistletoe (*Arceuthobium* spp), Schweinitzii (*Phaeolus schweinitzii*) root rot and Armillaria (*Armillaria ostoyae*) root rot are present which reduces the number of available seed trees.
- 3) Clearcutting will minimize the number of entries into the area, reduce harvest costs and maximize revenue to the Endowments, reduce disturbance and erosion, minimize the spread of disease, and expedite regeneration through planting.

- c) Forest Improvement Activity:

This clearcut unit will require a waving wand herbicide application prior to planting. Once sprayed, the units will be planted with a mix of western larch, Douglas-fir, and western white pine at approximately 436 trees per acre.



TIMBER MANAGEMENT BUREAU

3284 W Industrial Loop
Coeur d'Alene, ID 83815
208-769-1525/FAX 208-769-1524

MEMORANDUM

TO: Eric Valiquette, Lands Resource Supervisor

FROM: Jeremy Shawver, Lands Section Manager Timber Sales and Contract Admin

DATE: April 9, 2024

SUBJECT: Lower Eagle Cedar (CR225084) FY 2025 Timber Sale

On April 8th, 2024, the timber bureau visited the Mica Supervisory Area to review the proposed timber sale, Lower Eagle Cedar. The timber sale is comprised of three units. Unit 1 (clearcut – 85 acres), unit 2 (overstory removal – 100 acres), and unit 3 (clearcut – 133 acres). The timber bureau was requested to look at unit 3 of the proposed timber sale. Unit 3 of the timber sale is prescribed to facilitate a clearcut prescription. The unit is 133 acres in size which will need Land Board approval.

The timber sale is located in sections 30, 31, and 32 Township 48N Range 1W, section 36 Township 48N Range 2W, and Sections 5 and 6 of Township 47N Range 1W. The public school endowment owns these sections of the sale area.

Spencer Hanson and Jeremy Shawver, Timber Bureau Representatives met Eric Valiquette and Eric Klein, operational personnel at the Rose Lake exit along I-90. The group continued down Highway 3 to the East Eagle Peak Road which accesses the sale area. The group stopped near the middle of unit 3 and continued on foot to review the proposed clearcut over 100 acres, unit 3 (Image 1).

Unit 3 of the sale area is an overmature stand of timber that was granted to the Idaho Department of Lands (IDL) in 1981 from the Bureau of Land Management (BLM). Since it was acquired, there has been no management by IDL. There is also no sign of historic timber management before IDL took ownership in 1981. The stand shows old fire scars on relic timber from the 1910 fires. The stand ranges in age from 90 to 120 years in age with the average age of the stand being over 100 years old. This stand is in the latter stages of succession with the majority of the stand composition being shade tolerant species (Image 2).

Unit 3 is a productive site. It is a northern aspect being primarily a western hemlock/queencup beadlily habitat type. It consists of approximately 70% shade tolerant species by volume including western redcedar (45%), grand fir (15%), and western hemlock (10%). The remaining 30% of the species composition consist of Douglas-fir, western larch, and pine. These species are located in isolated pockets of the unit that are generally on west facing aspects. These aspects transition from the hemlock to a drier grand fir/twinflower habitat type. The western aspects are a minor portion of the proposed sale area.

Most of the insect and disease issues are located on the drier, west facing aspects of the unit. Dwarf mistletoe (*Arceuthobium spp.*), Schweinitzii root disease (*Phaeolus schweinitzii*), and armillaria root rot (*Armillaria ostoyae*) were noted by the forester in charge (FIC) during sale set up (Images 3 & 4). The bureau noted dwarf mistletoe, various root diseases, and fir engraver beetle (*Scolytus ventralis*) during the field tour in varying degrees (Image 5). Due to the presence of insects and disease and uneven distribution of the desired seral species, the bureau does not see natural regeneration as a viable option to fully occupy the site.

The timber bureau asked about the silviculture plan following harvest. The FIC plans to perform a waving wand herbicide application following harvest. This will prepare the site for planting western larch, Douglas-fir, and white pine. The bureau asked why more Douglas-fir is not being planted. The FIC stated there are high levels of root disease in the drainage. During the tour of the unit, the bureau noted the north and northeast aspects were relatively disease free and consisted of primarily western redcedar and grand fir. The bureau recommended planting a higher percentage of Douglas-fir on these aspects and saving the western larch for the western aspects. This would best utilize the site's potential for the next rotation.

In summary, the stand has a high level of shade tolerant species that wouldn't be suitable for regenerating the site. The desired species for seed trees have varying levels of insect or disease and are not evenly distributed across the stand to rely on natural regeneration. The timber bureau supports the Area's decision to facilitate a clearcut prescription on the 133 acre timber sale unit.



Image 1 – Stand composition and aspect driven changes.



Image 2 – Stand composition, shade tolerant species.



Images 3 and 4 – (left) mortality in Douglas-fir. (right) Dwarf mistletoe in western larch.



Image 5 – Scolytus in grand fir.

STATE BOARD OF LAND COMMISSIONERS

August 20, 2024

Regular Agenda

Subject

Adoption of Pending Rule IDAPA 20.03.13 *Administration of Cottage Site Leases on State Lands*

Question Presented

Shall the Land Board adopt the pending rule for IDAPA 20.03.13?

Background

The Idaho Department of Lands (Department) administers a residential cottage site leasing program on behalf of the State Board of Land Commissioners (Land Board) for state endowment lands, the administration of which is aided by IDAPA 20.03.13. These activities are authorized by Idaho Code Title 58, Chapter 3 – Appraisal, Lease, and Sale Of Lands. The adoption of related rules is authorized by Idaho Code 58-104.

Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled to be repealed and replaced in 2024 for review during the 2025 legislative session.

The Department received Land Board approval on January 16, 2024 to enter negotiated rulemaking.

Discussion

The Department's outreach for negotiated rulemaking included the following:

- Published the Notice of Negotiated Rulemaking in the Idaho Administrative Bulletin on March 6, 2024.
- Created a rulemaking webpage to post documents, scheduling information, and comments (<https://www.idl.idaho.gov/rulemaking/docket-20-0313-2401/>).
- Posted rulemaking notices to Townhall Idaho.
- Communicated with current cottage site lessees to invite participation in the rulemaking exercise.

Negotiated rulemaking meetings were held in Boise on March 27 and April 8, 2024. A total of two non-Department affiliated people attended these meetings, neither of them a current cottage site lessee. One written comment was received during negotiated rulemaking. A summary of the negotiated rulemaking is included as Attachment 1.

The proposed rule was published in the July 3, 2024 Idaho Administrative Bulletin (Attachment 2). No comments were received during the proposed rulemaking period, and no further changes have been made to the rule text.

The draft rule streamlines the rule language, while continuing to provide guidance for residential cottage site leasing on state lands by noting restrictions regarding assignments and describing how annual rent will be determined. The proposed rule significantly reduces regulatory volume with a 19.43 percent net reduction in word count, and a 50 percent net reduction in restrictive word count. The proposed changes seek to comply with Executive Order 2020-01.

If approved by the Land Board, the Department will submit the Notice of Adoption of Pending Rule (Attachment 3) to the Office of the Administrative Rules Coordinator for the 2025 legislative session.

Recommendation

Adopt the pending rule for IDAPA 20.03.13 *Administration of Cottage Site Leases on State Lands*.

Board Action

Attachments

1. Negotiated Rulemaking Summary
2. Notice of Rulemaking – Proposed Rule with Rule Text
3. Draft Notice of Adoption of Pending Rule

Negotiated Rulemaking Summary

IDAPA 20.03.13, Administration of Cottage Site Leases on State Lands

Docket No. 20-0313-2401

Following Executive Order 2020-01: Zero-Based Regulation, this rule chapter is scheduled for review during the 2025 legislative session.

IDAPA 20.03.13 provides guidance for residential cottage site leasing on state lands by establishing restrictions regarding assignments and describing how annual rent will be determined. The proposed changes seek to comply with Executive Order 2020-01.

Negotiated rulemaking for these rules was approved by the Land Board on January 16, 2024. The Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking was published in the Idaho Administrative Bulletin on March 6, 2024.

Stakeholder Outreach

The IDL's outreach for negotiated rulemaking included the following:

- Published the Notice of Negotiated Rulemaking in the Idaho Administrative Bulletin
- Created a rulemaking webpage to post documents, scheduling information, and comments (<https://www.idl.idaho.gov/rulemaking/docket-20-0313-2401/>)
- Posted rulemaking notices to Townhall Idaho
- Email and direct communication giving notice of negotiated rulemaking to stakeholders, including to current cottage site lessees

Negotiated Rulemaking Public Meetings

Negotiated rulemaking meetings were held on March 27 and April 8, 2024. A total of two, non-Department affiliated individuals attended both meetings. Various discussions occurred regarding updating and clarifying rule language.

Written Comments

One written comment was received from an individual. This comment has been posted for public review.

Concluding Negotiated Rulemaking

IDL concluded the negotiated rulemaking process and submitted the rule changes for publication as a proposed rule in the July 3, 2024, edition of the Idaho Administrative Bulletin. Key documents from the rulemaking record are available at <https://www.idl.idaho.gov/rulemaking/docket-20-0313-2401/>, including but not limited to the proposed rule text in strikethrough format to allow the reader to easily identify changes.

Response to Comments on Negotiated Rule

IDAPA 20.03.13, Administration of Cottage Site Leases on State Lands

Comment	Rule Section	Response
Comment Highlight: “The negotiated rulemaking has thus far been a façade. It is, rather than a negotiated rulemaking, simply a notice and opportunity to submit comments. Responses, discussions, or feedback by the IDL as part of the process are nonexistent.” Please visit rulemaking webpage for full comment.	Comment does not specify	<p>The intent of negotiated rulemaking is to facilitate a process in which all interested persons and the agency seek consensus on the content of a rule. To facilitate this process, agencies follow Idaho’s Administrative Procedures Act, Title 67, Ch. 52, Idaho Code.</p> <p>i. Per Idaho Code, agencies are required to provide a comment period of not less than twenty-one (21) days for all proposed rulemakings. I.C. § 67-5222. Interested parties can submit written or verbal comments, each carrying the same weight. Here, a public comment period ran from March 6 to April 17, 2024. Within that time IDL hosted two public meetings at which oral comment was also accepted, which is discussed below.</p> <p>ii. Agencies are also required to consider all recommendations before the adoption of a pending rule. I.C. § 67-5220(3)(d). Consideration of a written comment does not mean that the comment will necessarily cause further amendment to the proposed rule, nor must it be incorporated into the text of the pending rule unless warranted. IDL has thoroughly considered all oral and written comments submitted in this matter.</p> <p>iii. Agencies are required to respond to comments and make available to the public all comments and agency responses. I.C. § 67-5225(2)(b). IDL engaged in lengthy discussions with Mr. Smith at both public meetings, which were recorded. IDL is also responding to Mr. Smith’s written comments within this document.</p>

Comment	Rule Section	Response
		<p>iv. IDL also held two public meetings with in-person and virtual attendance options. The first took place on March 27, 2024. The second on April 8, 2024. Oral comment on the rules was accepted at both. A general overview of the meetings can be found in the “Summary of Negotiated Meetings” section or on IDL’s website under “Meeting Notes”.</p> <p>1. At the first meeting Bruce Smith expressed concerns with removing “Lessee” from the rule’s definition section. See 20.03.13.010.05. IDL representatives explained that the term has a common enough meaning that the public, and potential courts, will know what “lessee” means from the context of the provision’s sentence. Given the common understanding and E.O. 2020-01, IDL will not make Mr. Smith’s suggested change.</p> <p>2. Mr. Smith also expressed concern regarding the definition of “Board”. See 20.03.13.010.02. Originally the sentence read “The State Board of Land Commissioners.” IDL proposed adding “or its designee” to the end of the sentence. The proposed addition makes this definition consistent with other IDL rules defining “Board”, therefore the proposed addition will be kept.</p> <p>3. Randy Fox also attended and commented that he has no concerns with the proposed rule and that the proposed rule’s changes appear to be consistent with E.O. 2020-01.</p>

Comment	Rule Section	Response
<p>Comment Highlight: “Ostensibly announced as a means of complying with Executive Order 2020-1, the draft changes to the current regulations do not even attempt to comply with the order. The order requires a retrospective analysis of the current rule to ensure it is meeting its purposes. This is followed by a prospective analysis of any proposed changes or new rules to ensure the changes meet certain objectives. IDL acknowledges it did not do any retrospective analysis, and the prospective analysis form posted by IDL is anything but an analysis. IDL admits its only effort was directed towards reducing the number of words in the existing rule. IDL’s explanation? ‘We just did what DFM told us.’ It is not clear that anyone at IDL has even read the order.” Please visit rulemaking webpage for full comment.</p>	<p>Comment does not specify</p>	<p>At the first public meeting, Mr. Smith asked IDL whether a prospective and retrospective analysis had been completed as required by E.O. 2020.01. Following this, the Division of Financial Management (DFM), was contacted regarding the two analyses. It was clarified to IDL that DFM has incorporated both the retrospective and prospective analyses into one form, the “Prospective Analysis Form”, which can be found on IDL’s website (https://www.idl.idaho.gov/rulemaking/docket-20-0313-2401/).</p>

IDAPA 20 – IDAHO DEPARTMENT OF LANDS
20.03.13 – ADMINISTRATION OF COTTAGE SITE LEASES ON STATE LANDS
DOCKET NO. 20-0313-2401 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2024.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Idaho Department of Lands initiated this rulemaking in compliance with [Executive Order 2020-01: Zero-Based Regulation](#). IDAPA 20.03.13 provides guidance for residential cottage site leasing on state lands by establishing restrictions regarding assignments and describing how annual rent will be determined. It is the Department's intention to make minimal updates to the rule text.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 6, 2024 edition of the Idaho Administrative Bulletin, [Vol. 24-3, pages 14-15](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kemp Smith at 208-334-0202 or KeSmith@idl.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 3rd day of June, 2024.

Kemp Smith, Commercial and Residential Program Manager
Idaho Department of Lands
300 N. 6th Street, Suite 103
P.O. Box 83720
Boise, Idaho 83702
Phone: 208-334-0202; Fax: 208-334-3698
rulemaking@idl.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 20-0313-2401
(ZBR Chapter Rewrite.)

20.03.13 – ADMINISTRATION OF COTTAGE SITE LEASES ON STATE LANDS

000. LEGAL AUTHORITY.

The ~~State Board of Land Commissioners~~ has adopted these rules in accordance with Article IX, Section 8 of the Idaho Constitution and Sections 58-104(1) and 58-304, Idaho Code. (3-18-22)()

001. ~~TITLE AND SCOPE.~~

~~01. Title. These rules are titled IDAPA 20.03.13, "Administration of Cottage Site Leases on State Lands."~~ (3-18-22)

~~02. Scope.~~ It is the intent and express policy of the Board in administration of eCottage sSite leases located on state-owned lands administered by the Board, to provide for a reasonable rental income from those lands in accordance with the requirements of the Idaho Constitution ~~of the State of Idaho.~~ (3-18-22)()

002. -- 009. (RESERVED)

010. DEFINITIONS.

For the purposes of these rules, unless otherwise indicated by express term or by context, the term: (3-18-22)

01. Annual Rental. The rental paid on or before January 1, in advance, for the following year. (3-18-22)

02. Board. The State Board of Land Commissioners, or its designee. (3-18-22)()

03. Cottage Site. Any state-owned lot that is leased for recreational residential purposes. (3-18-22)

04. Department. The Idaho Department of Lands. (3-18-22)

~~05. Lessee. A tenant of a cottage site.~~ (3-18-22)

011. -- 019. (RESERVED)

020. SALE AND ASSIGNMENT ~~REQUIRED DOCUMENTATION.~~

01. Documentation of Sale. The Prior to the assignment of a Cottage Site Lease, the lessee must provide the Department, at their expense, the following documents concerning associated with a eCottage sSite sale ~~prior to assignment of the cottage site lease.~~ (3-18-22)()

a. The original of the current lease; or (3-18-22)

b. A signed and notarized Affidavit of Loss if the current lease has been lost. (3-18-22)

02. Assignments. A lease may ~~only~~ be assigned only to an individual or to a husband or wife. The Board will not recognize assignments to corporations, partnerships, or companies. Leases may be assigned to and held by an estate only if one (1) individual or husband or wife are designated as the sole contact for all billing and correspondence. A lessee may only hold one (1) eCottage sSite lease at a time. (3-18-22)()

021. -- 024. (RESERVED)

025. ~~LEASE RATE ANNUAL RENTAL DETERMINATION ANNUAL RENTAL.~~

Annual Rental is set by the Board ~~from time to time as deemed necessary.~~ It is the intent of the ~~State Board of Land Commissioners~~ that ~~those~~ rental rates be determined through market indicators of comparable land values. (3-18-22)()

026. -- 999. (RESERVED)

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20.03.13 – RULES GOVERNING THE ADMINISTRATION OF COTTAGE SITE LEASES ON STATE LANDS

DOCKET NO. 20-0313-2401

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and the Idaho State Board of Land Commissioners and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. The pending rule will become final and effective upon July 1, 2025, after approval.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled for a comprehensive review in 2024 with the goal of simplifying the rules for increased clarity and ease of use. The overall regulatory burden has been reduced by decreasing the total word count and number of restrictive words. The pending rule carries a 19.43 percent net reduction in word count, and a 50 percent net reduction in restrictive word count.

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 3, 2024, Idaho Administrative Bulletin, Vol. 24-7, pages 116-117.

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, this pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kemp Smith at 208-334-0202.

DATED this 30th day of August, 2024.

Kemp Smith, Commercial and Residential Program Manager
Idaho Department of Lands
300 N. 6th Street, Suite 103
P.O. Box 83720
Boise, Idaho 83702
Phone: 208-334-0202
Fax: 208-334-3698
rulemaking@idl.idaho.gov

STATE BOARD OF LAND COMMISSIONERS

August 20, 2024

Regular Agenda

Subject

Adoption of Pending Rule for IDAPA 20.03.14 *Rules Governing Grazing, Farming, and Conservation Leases*

Question Presented

Shall the Land Board adopt the pending rule for IDAPA 20.03.14?

Background

The Idaho Department of Lands (Department) administers grazing, farming, conservation, commercial recreation, and communication site leasing programs on behalf of the State Board of Land Commissioners (Land Board) for state endowment lands. These activities are authorized by Idaho Code Title 58, Chapter 1 – State Land Board – Powers and Duties. The adoption of related rules is authorized by Idaho Code § 58-104.

Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled to be repealed and replaced in 2024 for review during the 2025 legislative session.

The Department received Land Board approval on January 16, 2024 to enter negotiated rulemaking.

Discussion

The Department's outreach for negotiated rulemaking included the following:

- Published the Notice of Negotiated Rulemaking in the Idaho Administrative Bulletin.
- Created a rulemaking webpage to post documents, scheduling information, and comments (<https://www.idl.idaho.gov/rulemaking/docket-20-0314-2401/>).
- Posted Rulemaking Notice of Negotiated Rulemaking to Townhall Idaho.
- Mailed notices of the negotiated rulemaking to 904 lessees.
- Posted two draft rules in strikethrough format for public review and comment.

Through the negotiated rulemaking, the Department removed noncommercial recreation and communication site leases from the rule, eliminated two unnecessary clauses, and reduced the restrictive word count by 38% and overall word count by 10%.

The Department held two public negotiated rulemaking meetings with options for in-person or virtual participation. Six participants attended the March 27th meeting in Boise and three attended the April 4th meeting in Idaho Falls. The Department offered open comment periods for the public, consistent with recommended timelines established by the Division of

Financial Management. Four written comments were received during the negotiated rulemaking comment period; a summary of the negotiated rulemaking can be found in Attachment 1, which contains a synopsis of comments received.

The proposed rule was posted in the Administrative Bulletin on July 3, 2024 (Attachment 2). The public comment period for the proposed rule closed on July 24, 2024. No comments were received during this open comment period.

If approved by the Land Board, the Department will submit the Notice of Adoption of Pending Rule (Attachment 3) to the Office of the Administrative Rules Coordinator for the 2025 legislative session.

Recommendation

Adopt the pending rule for IDAPA 20.03.14 *Rules Governing Grazing, Farming, and Conservation Leases*.

Board Action

Attachments

1. Negotiated Rulemaking Summary
2. Notice of Rulemaking – Proposed Rule with Rule Text
3. Draft Notice of Adoption of Pending Rule

Negotiated Rulemaking Summary

IDAPA 20.03.14, Rules Governing Grazing, Farming, and Conservation Leases

Docket No. 20-0314-2401

Following Executive Order 2020-01: Zero-Based Regulation, this rule chapter is scheduled for review during the 2025 legislative session.

IDAPA 20.03.14 provides guidance for grazing, farming, conservation, noncommercial recreation, and communication site leasing on state lands. The rules include guidance regarding administrative appeals, the application process, valuation of improvements, and conflict auctions. Of particular importance are the rules regarding conflict auctions, which are typically not outlined in a lease. These rules ensure a smooth and transparent auction process and eliminate time consuming improvement valuation disputes and ensure committed parties participate at auction. Many of these rules were developed in close conjunction with, and at the request of the livestock industry.

Negotiated rulemaking for these rules was approved by the Land Board on January 16, 2024. The Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking was published in the Idaho Administrative Bulletin on March 6, 2024.

Stakeholder Outreach

The IDL's outreach for negotiated rulemaking included the following:

- Published the Notice of Negotiated Rulemaking in the Idaho Administrative Bulletin
- Created a rulemaking webpage to post documents, scheduling information, and comments (<https://www.idl.idaho.gov/rulemaking/docket-20-0314-2401/>)
- Posted rulemaking notices to Townhall Idaho
- Mailed postcards to 904 customers

Negotiated Rulemaking Public Meetings

Negotiated rulemaking meetings were held on March 27 and April 4, 2024. A total of 9 non-Department affiliated people attended these meetings.

Some discussion occurred regarding amending section 030, Change in Land Use in both meetings. Discussion revolved around extending the change in land use until the expiration of the current lease. This was proposed and supported by Idaho Cattle Association (ICA), Idaho Wool Growers Association (IWGA), and Idaho Farm Bureau (IFB). After internal consideration of the comments, IDL leadership had concerns about the proposed change and declined to update this section.

Written Comments

Four written comments were received during the open comment period. ICA, IFB and IWGA submitted similar comments requesting: "If the endowment lands are to be leased for any other use as designated by the Board or the department and the new use is incompatible with the existing lease, a change in land use can be executed at the conclusion of the existing lease term." And, "If the endowment lands are to be leased for any other use as designated by the Board or the Department and the new use is incompatible with the existing lease, then the new use may not begin until the expiration of the existing lease. No lease may be cancelled in whole or in part prior to the expiration of the existing lease."

Western Watersheds Project (WWP) submitted written comments requesting definitions for grazing, farming, and conservation. Additionally, the written comments opposed the comments made by ICA in the March 27th meeting, regarding the change in use.

These comments were posted for public review.

Concluding Negotiated Rulemaking

IDL concluded the negotiated rulemaking process and submitted the rule changes for publication as a proposed rule in the July 3, 2024, edition of the Idaho Administrative Bulletin. Key documents from the rulemaking record are available at <https://www.idl.idaho.gov/rulemaking/docket-20-0314-2401/>, including research materials, and the proposed rule text in strikethrough format to allow the reader to easily identify changes.

The logo of the Idaho Department of Lands is centered on the page. It features a stylized mountain range in the background, with a central green triangle representing a forest. Overlaid on this is a yellow diamond shape with a wavy pattern, possibly representing water or a specific land use. A horizontal grey bar with rounded ends is positioned across the middle of the logo, containing the text "IDAHO DEPARTMENT OF LANDS" in white, bold, sans-serif capital letters.

IDAHO DEPARTMENT OF LANDS

Response to Comments on Negotiated Rule

IDAPA 20.03.14, Rules Governing Grazing, Farming, and Conservation Leases

Comment	Rule Section	Response
If the endowment lands are to be leased for any other use as designated by the Board or the department and the new use is incompatible with the existing lease, a change in land use can be executed at the conclusion of the existing lease term.	050.02	Upon consideration of this comment, Idaho Department of Lands (IDL) will not make the recommended change to the rule. It is IDL's position that significant delays in the Board's ability to allow for a change in use may be in opposition to the constitutional obligation of the Board to secure the maximum long-term financial return for the endowment beneficiaries.
If the endowment lands are to be leased for any other use as designated by the Board or the department and the new use is incompatible with the existing lease, then the new use may not begin until the expiration of the existing lease. No lease may be cancelled in whole or in part prior to the expiration of the existing lease.	050.02	Upon consideration of this comment, Idaho Department of Lands (IDL) will not make the recommended change to the rule. It is IDL's position that significant delays in the Board's ability to allow for a change in use may be in opposition to the constitutional obligation of the Board to secure the maximum long-term financial return for the endowment beneficiaries.
...IDL should supplement the rule with definitions of the activities that it governs, specifically grazing, farming, and conservation. The contours of these terms are not set out in the rule, and each can mean different things to different people...	010	IDL also considered the request for the addition of definitions, however IDL will not be including definitions for grazing, farming, or conservation in IDAPA 20.03.14. These leasing programs operate well under the broad understanding of the various uses under the grazing, farming, and conservation programs and that practice has not been a limiting factor in IDL's ability to issue leases to interested parties or administer these programs.

IDAPA 20 – IDAHO DEPARTMENT OF LANDS
20.03.14 – RULES GOVERNING GRAZING, FARMING, AND CONSERVATION LEASES
DOCKET NO. 20-0314-2401 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2024.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Idaho Department of Lands initiated this rulemaking in compliance with [Executive Order 2020-01: Zero-Based Regulation](#). This rule chapter is scheduled for a comprehensive review in 2024 and legislative review in 2025 with the goal of simplifying and streamlining the rules for increased clarity and ease of use.

The regulatory burden has been reduced by decreasing both the total word count (-10.35%) and the number of restrictive words (-37.8%) in the proposed rule. No changes were made that changed the context of the previous rule.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 6, 2024, Idaho Administrative Bulletin, [Vol. 24-3, pages 16-17](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Addie Faust at (208) 334-0275 or afaust@idl.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 3rd day of June, 2024.

Addie Faust, Natural Resource Leasing Program Manager
Idaho Department of Lands
300 N 6th St. Suite 103
Boise ID, 83702
Phone: (208) 334-0275
rulemaking@idl.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 20-0314-2401
(ZBR Chapter Rewrite.)

20.03.14 – RULES GOVERNING GRAZING, FARMING, **AND** CONSERVATION, ~~NONCOMMERCIAL RECREATION, AND COMMUNICATION SITE~~ LEASES

000. LEGAL AUTHORITY.

These rules are promulgated by the ~~Idaho State Board of Land Commissioners~~ pursuant to Section 58-104, Idaho Code. (3-18-22)()

001. ~~TITLE AND SCOPE.~~

~~01. Title. These rules are titled IDAPA 20.03.14, “Rules Governing Grazing, Farming, Conservation, Noncommercial Recreation, and Communication Site Leases.” (3-18-22)~~

~~02. Scope. These rules constitute the Department’s administrative procedures for leasing of state endowment trust land (endowment lands) for grazing, farming, conservation, noncommercial recreation, communication sites and other uses that are treated similarly under the provisions of Section 58-307, Idaho Code, regarding a lease term for no longer than twenty (20) years, and under the provisions of Section 58-310, Idaho Code regarding lease auctions. These rules are to be construed in a manner consistent with the duties and responsibilities of the Idaho State Board of Land Commissioners as set forth in Title 58, Chapter 3, Idaho Code; Article 9, Sections 3, 7 and 8, of the Idaho Constitution; and Section 5 of the Idaho Admission Bill. (3-18-22)()~~

002. ADMINISTRATIVE APPEALS.

~~01. Board Appeal. All decisions of the Director are appealable to the Board. An aggrieved party desiring to make such an appeal must, within twenty (20) days after receiving by filing with the Director a written notice of the final decision being appealed or in case of a conflict auction within twenty (20) days after the auction is held, file with the Director a written notice of appeal setting forth the basis for the appeal within twenty (20) days of: ()~~

~~a. Receiving notice of the Board’s decision, which is being appealed or: ()~~

~~b. The Board has the discretion to accept or reject any timely appeal. In the event that the Board rejects hearing the appeal, the decision of the Director will be deemed final. The date that the conflict auction is held. (3-18-22)()~~

~~02. Board Decision. In the event the Board hears an appeal, it will do so at the earliest practical time or, in its discretion, appoint a Board sub-committee or a hearing officer to hear the appeal. The Board sub-committee or hearing officer will make findings and conclusions which the Board accepts, rejects or modifies. The decision of the Board after a hearing, or upon a ruling concerning the Board sub-committee or hearing officer’s findings and conclusions, are final. (3-18-22)()~~

~~03. Judicial Review. Judicial review of the final decision of the Board is in accord with the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. (3-18-22)~~

003. -- 009. (RESERVED)

010. DEFINITIONS.

~~01. Amortization. The purchase of Department authorized, lessee installed, lease improvements by~~

the Department through allowance of credit to the lessee's annual lease payments.

(3-18-22)()

02. Animal Unit Month (AUM). The amount of forage necessary to feed one (1) cow or one (1) cow with one (1) calf under six (6) months of age or one (1) bull for one (1) month. One (1) yearling is considered seven tenths (.7) of an AUM. Five (5) head of sheep, or five (5) ewes with lambs are considered one (1) AUM. One (1) horse is considered one and one-half (1 1/2) AUM.

(3-18-22)

03. Assignment. The Department approved transfer of all, or a portion of, a lessee's right to another pPerson wherein the second pPerson assumes the lLease contract with the Department.

(3-18-22)()

04. Board. The Idaho State Board of Land Commissioners, or ~~such representatives as may be designated~~ its designee.

(3-18-22)()

05. Conflict Application. An application to lLease ~~state endowment trust~~ land for grazing, farming, or conservation, ~~noncommercial recreation or communication site~~ use when one (1) or more applications have been submitted for the same parcel of ~~state endowment trust~~ land and for the same or an incompatible use.

(3-18-22)()

06. Department. The Idaho Department of Lands.

(3-18-22)

07. Director. The Director of the Idaho Department of Lands, or ~~such representative as may be designated by the Director~~ their designee.

(3-18-22)()

08. Extension. An approved delay in the due date of the rental owed on a farming lLease without risk of loss of the lLease.

(3-18-22)()

09. Improvement Credit Valuation. The process or processes of estimating the value of Department authorized improvements associated with a lLease, as defined in Section 102.

(3-18-22)()

10. Lease. A written agreement between the Department and a pPerson containing the terms and conditions upon which the pPerson will be authorized to use ~~state endowment trust~~ land.

(3-18-22)()

11. Herd Stock. Livestock leased or managed, but not owned, by the lessee.

(3-18-22)

12. Lease Application. ~~An application to lease state endowment trust land for grazing, farming, conservation, noncommercial recreation, or communication site purposes.~~

(3-18-22)

13. Manageable Unit. A unit of ~~state endowment trust~~ land designated by the Department, geographically configured and sufficiently large to achieve the proposed use.

(3-18-22)()

14. Management Plan. The signed ~~state endowment trust land lLease~~ for grazing, farming, and/or conservation, and any referenced attachments such as annual operating plans or federal allotment management plans; ~~is considered the management plan.~~

(3-18-22)()

15. Mortgage Agreement. ~~Department authorization for the lessee to obtain a mortgage on a state endowment trust land lease.~~

(3-18-22)

16. Person. An individual, partnership, limited liability company, association, trust, unincorporated organization, ~~corporation~~ or ~~any~~ other legal entity qualified to do business in the state of Idaho and any federal, state, county, or local unit of government.

(3-18-22)()

17. Proposed Management Plan. A document written and submitted by the lease applicant detailing the management objectives and strategies associated with their proposed activity.

(3-18-22)

18. Sublease. An agreement in which the ~~state endowment trust land lease holder~~ lessee conveys the right of use and occupancy of the ~~property~~ leased land to another party on a temporary basis.

(3-18-22)()

011. -- 018. (RESERVED)

019. LESSEE MAILING ADDRESS.

Unless otherwise notified by the lessee, the Department will send all lease correspondence ~~from the Department will be sent~~ to the name and address as it appears on the lease application. It is the lessee's duty to notify the Department, in writing, of any change in mailing address. (3-18-22)()

020. APPLICATIONS AND PROCESSING.

01. **Eligible Applicant.** Any person legally competent to contract may submit an application to lease state endowment ~~trust~~ land provided such person is not then in default of any contract with the Department ~~of Lands~~; provided further, that the Department may, in its discretion, exclude any person in breach of any contract with the state of Idaho or any department or agency thereof. (3-18-22)()

02. **Application Process.** ~~All lease applications must be submitted to the Department on the appropriate Department form. The applications must be signed by the applicant, must be submitted in such manner as determined by the Department, and must meet the following criteria:~~ (3-18-22)()

a. Applications. All applications must: ()

i. Be submitted to the Department on the appropriate Department form; ()

ii. Be signed by the applicant; ()

~~iii. Non-refundable Fee. Each application for a lease must b~~ Be accompanied by a non-refundable application fee in the amount specified by the Board; (3-18-22)()

~~iv. Application Deadline. The deadline to apply to lease a parcel of state endowment trust land already covered by a lease is as established by the Department for the year the existing lease expires. Applications to lease unleased-state endowment-trust land may be submitted at any time, or at such time as designated by the Department. Be accompanied with a Proposed Management Plan;~~ (3-18-22)()

~~v. Proposed Management Plan. All applicants for state grazing, farming and conservation leases must submit a proposed management plan with their application. Where If the~~ current lessee is an applicant, the Department will recognize the existing management plan, as described by the existing lease provisions, as the proposed management plan required to complete the lease application. The Department may require amendments to the proposed management plan in accordance with Subsections 020.02.e. and 020.02.f.; (3-18-22)()

vi. Include a legal description of the endowment land sought to be leased. The Department may require an amendment of the legal description of lands identified in a lease application to ensure the parcel is a Manageable Unit or for any other reason the Department deems appropriate. If the applicant fails to provide an amended application, referencing a Manageable Unit as designated by the Department, the application is considered invalid. ()

~~d. Legal Description on Application. All applications must include a legal description of the state endowment trust land applied on. The Department reserves the right to require an amendment of the legal description of state endowment trust lands identified in a lease application to ensure the parcel is a manageable unit or for any other reason deemed appropriate by the Department. If the applicant fails to provide an amended application, referencing a manageable unit as designated by the Department, the application is considered invalid.~~ (3-18-22)

eb. Nonconflicted Applications. (3-18-22)

i. If the current lessee is the only applicant and the Department does not have concerns with the lessee's current management of the leased ~~state~~ endowment ~~trust~~ land, a new lease will be issued. (3-18-22)()

ii. If the current lessee is the only applicant and the Department has concerns with the lessee's current

management of the ~~state leased~~ endowment ~~trust~~ lands, the Department will request in writing a new ~~p~~Proposed ~~m~~Management ~~p~~Plan and meet with the current lessee to develop terms and conditions of a proposed lease.

(3-18-22)()

~~f~~c. Conflicted Applications. (3-18-22)

i. All applicants submitting ~~e~~Conflict ~~a~~Applications must meet with the Department to develop the terms and conditions of a proposed lease specific to each applicant's ~~p~~Proposed ~~m~~Management ~~p~~Plan.

(3-18-22)()

ii. The Department will provide all applicants for conflicted leases with the list of criteria that will be used to develop lease provisions. Among the factors to be addressed in the criteria are the following: (3-18-22)

(1) The applicant's proposed use and the compatibility of that use of the ~~state~~ endowment ~~trust~~ land with preserving its long-term leasing viability for purposes of generating maximum return to trust beneficiaries; i.e., the impact of the proposed use and any anticipated improvements on the parcel's future utility and leasing income potential. (3-18-22)()

(2) The applicant's legal access to and/or control of land or other resources that will facilitate the proposed use and is relevant to generating maximum return to trust beneficiaries. (3-18-22)

(3) The applicant's previous management of land leases, land management plans, or other experience relevant to the proposed use or ability/willingness to retain individuals with relevant experience. (3-18-22)

(4) Potential environmental and land management constraints that may affect or be relevant to assessing the efficacy or viability of the proposed use. (3-18-22)

(5) Mitigation measures designed to address trust management concerns such as: (3-18-22)

(a) Construction of improvements at lessee's expense. (3-18-22)

(b) Payment by lessee of additional or non-standard administrative costs where the nature of the proposed use and/or the applicant's experience raises a reasonable possibility that greater monitoring or oversight by the Department than historically provided will be necessary to ensure lease-term compliance. (3-18-22)

(c) Bonding to ensure removal of any improvements installed for the lessee's benefit only and which would impair the future utility and leasing income potential of the ~~state~~ endowment ~~trust~~ land. (3-18-22)()

(d) Bonding to ensure future rental payments due under the ~~l~~Lease in cases where the lessee is determined by the Department to pose a significant financial risk because of lack of experience or uncertain financial resources. (3-18-22)()

(6) Any other factors the Department deems relevant to the management of the ~~state~~ endowment ~~trust~~ land for the proposed use. (3-18-22)()

~~g~~iii. Proposed Lease. Within ten (10) days of the final meeting with the applicant to discuss lease provisions, the Department will provide the applicant with a proposed lease containing those terms and conditions upon which it will lease the ~~state~~ endowment ~~trust~~ land. If the applicant does not accept in writing the lease as proposed by the Department within seven (7) days of receipt, the application will be rejected in writing by the Department. Within twenty (20) days of the date of mailing of the rejection notice, the applicant may appeal the Department's determination as to the lease's terms and conditions to the ~~Land~~ Board. If the appeal is denied, the applicant may continue with the auction process by accepting the lease terms and conditions initially offered by the Department. No auction may be held until the ~~Land~~ Board resolves any such appeal. (3-18-22)()

03. Expiring Leases. ~~The Department will mail l~~Lease applications ~~will be mailed by the Department~~ to all holders of expiring ~~l~~Leases ~~no less than at least~~ thirty (30) days prior to the application deadline. ~~Signed applications and the application fee must be returned to the Department by the established deadline or postmarked no~~

~~later than midnight of that date. It is the lessee's responsibility to ensure applications are delivered or postmarked by the deadline.~~ It is the lessee's responsibility to ensure that the signed applications and associated fees are delivered to the Department by the established deadline. (3-18-22)()

04. Rental Deposit. (3-18-22)

a. Existing Lessee. If the existing lessee is the sole applicant, the lessee may submit the rental deposit at the normal due date. If a ~~e~~Conflict ~~a~~Application is also filed on the expiring ~~L~~Lease and the existing lessee is awarded the lease by the ~~L~~and Board, the lessee must deposit, with the Department, the estimated first year's rental for the ~~L~~Lease at the time the ~~L~~Lease is submitted to the Department with lessee's signature. (3-18-22)()

b. New Applicants. (3-18-22)

i. Expiring Lease. New applicants for expiring ~~L~~Leases must ~~submit~~ pay the estimated first year's rental to the Department at the time ~~of~~ the application ~~s~~ is submission ted. (3-18-22)()

ii. Unleased ~~State~~ Endowment ~~Trust~~ Land. All applicants for unleased ~~state~~ endowment ~~trust~~ land are deemed new applicants. If ~~an applicant for unleased state endowment trust land is~~ a new applicant is the sole applicant, the applicant may submit the rental deposit at the normal billing cycle, unless the time of application and desired time of use do not coincide with the normal billing cycle, in which case payment must be rendered at the direction of the Department. (3-18-22)()

021. LEASE LENGTH OF LEASE.

The Department may issue a ~~L~~Lease for any period of time up to the maximum term provided by law. (3-18-22)()

022. -- 029. (RESERVED)

030. CHANGE IN LAND USE.

The Director may change the use of any ~~state~~ endowment ~~trust~~ land, in whole or in part, for other uses that will better achieve the objectives of the Board. (3-18-22)()

031. -- 039. (RESERVED)

040. RENTAL.

01. **Rental Rates.** The Board determines the methodology used to calculate rental rates ~~is determined by the Board.~~ (3-18-22)()

02. **Special Uses.** The Department determines Fees for special uses requested by the lessee and approved by the Department ~~are determined by the Department.~~ (3-18-22)()

03. **Rental Due Date.** Lease rentals are due in accordance with the terms of the ~~L~~Lease. (3-18-22)()

041. CHANGE OF RENTAL.

The Department reserves the right to increase the annual lease rental. Notice of any increase will be provided in writing to the lessee at least one hundred eighty (180) days prior to the lease rental due date. (3-18-22)

042. LATE PAYMENTS.

Rental not paid by the due date is considered late. Late payment charges from the due date forward are specified in the ~~L~~Lease. (3-18-22)()

043. -- 048. (RESERVED)

049. BREACH.

01. Non-Compliance. A lessee is in breach if the lessee's use is not in compliance with the Lease's provisions ~~of the lease~~. (3-18-22)()

02. Damages for Breach. A lessee is responsible for all damages resulting from breach and for other damages, as provided by law. (3-18-22)()

050. LEASE CANCELLATION.

Leases may be canceled by the Director for the following reasons: (3-18-22)

01. Non-Compliance. If the lessee is not complying with the Lease provisions or if resource damage attributable to the lessee's management is occurring to ~~state leased~~ endowment ~~trust~~ land ~~within a lease~~, the lessee will be provided written notification of the violation by regular and certified mail. The letter will set forth the reasons for the Department's cancellation of the Lease and provide the lessee thirty (30) days' notice of the cancellation. (3-18-22)()

02. Change in Land Use. ~~A lease may be canceled in whole or in part upon one hundred eighty (180) days written notice by the Department if the~~ state endowment ~~trust~~ lands are to be leased for any other use as designated by the Board or the Department and the new use is incompatible with the existing Lease, then a Lease may be canceled in whole or in part upon one hundred eighty (180) days written notice by the Department. In the event of early cancellation due to a change in land use, the lessee will be entitled to a prorated refund of the premium bid for a conflicted lease. (3-18-22)()

03. Land Sale. The Department reserves the right to sell ~~state~~ endowment ~~trust~~ lands covered under the Lease. The lessee will be notified that the ~~state~~ endowment ~~trust~~ lands are being considered for sale prior to submitting the sales plan to the Board for approval. The lessee will also be notified of a scheduled sale at least thirty (30) days prior to sale. In the event of early cancellation due to land sale, the lessee will be entitled to a prorated refund of the premium bid for a conflicted lease. (3-18-22)()

04. Mutual Agreement. Leases may be canceled by mutual agreement between the Department and the lessee. (3-18-22)

051. LEASE ADJUSTMENTS.

01. Department ~~Required~~ Initiated. The Department may make adjustments to the Lease for resource protection or resource improvement. (3-18-22)()

02. Lessee Requested. Lessee requested changes in Lease conditions must be submitted in writing and ~~must~~ receive written approval from the Department before implementation. (3-18-22)()

052. EXTENSIONS OF ANNUAL FARMING LEASE PAYMENT.

01. Farming Lease Extensions. An eExtension of the annual lease payment may be approved for farming leases only. Each Lease is limited to no more than two (2) successive or five (5) total eExtensions during any ten (10) year lease period. Requests for eExtensions must be submitted in writing and ~~must~~ include the extension fee, which is determined by the Board. The lessee must provide a written statement from a financial institution verifying that money is not available for the current year's farming operations. (3-18-22)()

02. Liens. When an eExtension is approved, the Department will file a lien on the lessee's pertinent crop in a manner provided by ~~Idaho Code~~ law. (3-18-22)()

03. Due Date. Rental plus interest at a rate established by the Board will be due ~~not later than~~ by November 1 of the year the eExtension is granted. (3-18-22)()

053. -- 059. (RESERVED)

060. FEES.

Fees for Lease administration ~~will be periodically set~~ are set by the Board and must be paid in full before a

transaction can occur. All ~~L~~lease administration fees are non refundable. The Board ~~has the authority to~~ may set fees related to administration of the leasing process ~~including, but not limited to the following such as:~~ lease applications; full ~~L~~lease ~~A~~assignment; partial ~~L~~lease ~~A~~assignment; ~~mortgage agreement;~~ ~~S~~ubleases; late rental payment; minimum lease fee; and lease payment ~~E~~Extension request. (3-18-22)()

061. -- 069. (RESERVED)

070. SUBLEASING.

~~A lessee may not authorize another person to use state endowment trust land without prior written approval from the Department.~~ The lessee must receive the Department's written approval before authorizing another Person to use leased endowment land. The lessee must provide the name and address of sublessee, purpose of ~~S~~ublease, and a copy of the proposed sublease agreement. Lessee controlled ~~h~~Herd ~~S~~Stock does not require ~~S~~ublease approval. (3-18-22)()

071. ASSIGNMENTS.

~~The lessee may not assign a lease, or any part thereof, without prior written approval of the Department.~~ The lessee must complete a Department assignment form and receive the Department's written approval of that form before assigning a lease form. (3-18-22)()

072. MORTGAGE AGREEMENTS.

~~The lessee may not enter into a mortgage agreement that involves state endowment trust land lease without prior written approval of the Department. The lessee must submit the required filing fee. The term of a mortgage agreement may not exceed the lease term.~~ (3-18-22)

073. -- 079. (RESERVED)

080. MANAGEMENT PLANS.

01. Federal Plan. When ~~state~~ endowment ~~trust~~ land is managed in conjunction with federal land, the management plan prepared for the federal land may be deemed by the Department, at its discretion, the ~~m~~Management ~~p~~Plan. (3-18-22)()

02. Modification of Plan. The Department may review and modify any ~~grazing m~~Management ~~p~~Plan upon changes in conditions, laws, or regulations, provided that the Department will give the lessee at least thirty (30) day's notice of any ~~such~~ modification's ~~prior to the~~ effective date ~~thereof~~. Modifications mutually agreeable to both the Department and lessee may be made at any time and may be initiated ~~by~~ at the lessee's request. (3-18-22)()

081. -- 089. (RESERVED)

090. TRESPASS.

01. Loss or Waste. The lessee must use the ~~property within the~~ leased d lands in ~~such a~~ manner ~~as that~~ will best protect the state of Idaho against loss or waste. ()

02. Trespass. Unauthorized activities occurring on ~~state~~ endowment ~~trust~~ land are considered trespass; these include dumping of garbage, constructing improvements without a permit, and other unauthorized actions. (3-18-22)()

023. Civil Action by Lessee. The lessee is encouraged to take civil action against owners of trespass livestock on ~~state~~ endowment ~~trust~~ lands to recover damages to the lessee for lost forage or other values incurred by the lessee. (3-18-22)()

034. Continuing Trespass. When continued trespass causes resource damage, the Department will initiate proceedings to restrict further trespass and recover damages as necessary. (3-18-22)

045. Trespass Claims. Trespass claims initiated by the Department will be assessed as triple the current State AUM rate for forage taken. (3-18-22)

091. -- 099. (RESERVED)

100. CONSTRUCTION AND MAINTENANCE OF IMPROVEMENTS.

01. **Prior Written Approval.** The lessee must secure the Department's written approval ~~of the Department~~ prior to constructing any improvements or buildings, or clearing any ~~state~~ endowment ~~trust~~ land. Failure to secure such approval eliminates any right to an improvement credit and may, at the Department's discretion, be deemed a material breach of the Lease and be cause for cancellation. Any arrangement for cost sharing or improvement crediting will be identified in the improvement permit. Routine farming practices identified in a farm plan will not require prior approval. (3-18-22)()

02. **Maintenance.** ~~All~~ The lessee must maintain authorized improvements ~~must be maintained in so that they are in a functional condition by the lessee.~~ The lessee may be required to remove or reconstruct improvements in poor or non-serviceable condition. Existing maintenance agreements on lands acquired from the federal government remain in effect until amended by the parties involved. If maintenance is not being accomplished, the Department will provide a certified letter to the lessee informing the lessee of the rule violation. If work is not begun within thirty (30) days of the letter being sent, the Department may contract repairs and add the amount to the annual rental. (3-18-22)()

03. **Bond.** The Department may as it deems necessary require the lessee to furnish a bond prior to constructing improvements ~~as deemed necessary~~ to protect endowment assets or to ensure performance under the Lease. (3-18-22)()

101. IMPROVEMENT CREDIT.

01. **Sale or Auction.** In the event of sale of the ~~state~~ leased endowment ~~trust~~ land ~~covered under the lease~~ or if the existing lessee is not the successful bidder at the auction of the lease, the creditable value of the authorized improvements, as determined by the Department, will be paid to the former lessee by the Department or the purchaser where a sale occurs or by the successful bidder where a new lease is issued. (3-18-22)()

02. **Exchange.** In the event of exchange of the ~~state~~ leased endowment ~~trust~~ land ~~covered under the lease~~, the creditable value of authorized improvements, as determined by the Department, will be paid to the former lessee by the acquiring party, if other than the existing lessee. (3-18-22)()

03. **Crediting.** Improvement credit may be allowed when the Department determines that such credit would further the objective of maximizing long-term financial return to trust beneficiaries and if the improvements are: (3-18-22)()

- a. Authorized in writing by the Department or lacking written authorization, but in existence prior to 1970; (3-18-22)
- b. Not expressly permitted "for lessee's benefit only"; and (3-18-22)
- c. Maintained during the Lease term. (3-18-22)()

04. **Value Only to Lessee.** Where improvements are approved, but due to their nature, are not acceptable to receive improvement credit because no value exists for a future lessee, a notation will be made in the permit, "For lessee's benefit only." If the succeeding lessee or assignee chooses not to purchase the non-creditable improvements, the former lessee will be required to remove them. (3-18-22)

05. **Maintenance Costs.** Maintenance of improvements will be considered a normal cost of doing business and no improvement credit will be allowed, except that, with prior written approval from the Department, improvement crediting may be allowed for materials used for the maintenance of Department-funded improvements. (3-18-22)

06. **Unauthorized Improvements.** No credit will be allowed for unauthorized improvements. At the

discretion of the Department, the lessee may be required to remove unauthorized improvements. (3-18-22)

07. Cost Sharing. Federal or state cost-share amounts are not included in the allowable improvement credit. (3-18-22)

102. VALUATION OF IMPROVEMENTS.

Credited improvements will be valued ~~on the basis of~~ based on replacement cost, including lessee provided labor, equipment and materials, less depreciation based on loss of utility. Improvements cannot be appraised higher than current market value, regardless of lessee's cost. Any improvement ~~with~~ without amortization or cost limitations identified by the Department will be considered in determining a final value. (3-18-22)()

01. Applicant Review of Department Improvement Credit Valuation. All applicants for a conflicted lease will be provided a copy of the Department's improvement credit valuation for review and a notice of objection form. Any applicant objecting to the appraisal will have twenty-one (21) days from the date of the valuation mailing to submit the notice of objection form to the Department. If no objections are received during the twenty-one (21) day review period, the lease auction will be scheduled and will proceed using the Department's improvement credit valuation. (3-18-22)

02. Failure to File a Timely Notice of Objection. Failure to submit a notice of objection within the specified twenty-one (21) day period will preclude any applicant from further administrative remedies ~~and the auction will proceed using the Department's improvement credit valuation.~~ (3-18-22)()

03. Notice of Objection. Any applicant objecting to the Department improvement credit valuation must submit ~~a complete and timely notice of objection form, and payment of~~ with the completed, and timely, notice of objection for a payment of two thousand five hundred dollars (\$2,500) or ten percent (10%) of the total Department improvement credit valuation whichever is greater, to pay for the services of an independent third party. Within five (5) days of receipt of the notice of objection, the Department will notify all applicants in writing that an objection has been received and provide them with a list of certified appraisers. (3-18-22)()

04. Selection of an Independent Third Party. The applicants will have twenty-one (21) days from the date of the Department's notification of an objection to select by mutual agreement, one individual from the list of certified appraisers to serve as an independent third party. If the applicants cannot agree on an independent third party within the twenty-one (21) day time period, the Department will randomly select one individual from the list to serve as the independent third party. (3-18-22)

05. Duties of the Independent Third Party. The independent third party will review the Department improvement credit valuation and alternate valuations provided by the applicants. ~~Following this review, the independent third party will select from among the Department valuation and alternate valuations, the one value that~~ (s)he from those determines ~~is to be~~ is to be the most accurate value of the improvements, ~~and will. The independent third party will~~ and will. The independent third party will notify the Department of this value in writing. (3-18-22)()

06. Notification of Final Improvement Value. Within five (5) days of receiving the independent third party's final determination of improvement credit value, the Department will mail ~~to~~ to each applicant an auction notice that will reference the independent third party's determined value of improvements. The determination by the independent third party of the improvement value will be deemed final, and the appraised value of improvements will not be allowed as a basis for appeal of the auction. (3-18-22)()

103. -- 104. (RESERVED)

105. CONFLICT AUCTIONS.

01. Two or More Applicants. When two (2) or more eligible applicants apply to lease the same ~~state~~ trust land for grazing, farming, or conservation, ~~noncommercial recreation, or communication site~~ purposes and the Department determines the proposed uses are not compatible, the Department will hold an auction. (3-18-22)()

02. Minimum Bid. Bidding begins at two hundred fifty dollars (\$250) or the cost of preparing any

required ~~improvement~~ Credit ~~Valuation~~ in connection with the expiring ~~Lease~~, whichever is greater.

(3-18-22)()

03. Auction Bidding. Each applicant who appears in person or by proxy at the time and place so designated in ~~said the auction~~ notice and bids for the lease is deemed to have participated in the auction. A proxy must be authorized by the lease applicant in writing prior to the start of the auction.

(3-18-22)()

04. Withdrawal Prior to or Failure to Participate in an Auction. Applicants who either withdraw their applications after accepting the Department offered lease ~~per Subsection 020.02 of this rule~~ and ~~prior to~~ before the auction that results in no need to schedule an auction or cancellation of a scheduled auction; or applicants who fail to participate at the auction by not submitting a bid which results in only one (1) participant at the scheduled auction, forfeit an amount equal to the ~~lesser~~ greater of the following:

(3-18-22)()

a. The Department's cost of making any required improvement credit valuation; (3-18-22)

b. For existing lessee applicants, any improvement credit payment that would otherwise be due if not awarded the lease; or (3-18-22)

c. For conflict applicants, the rental deposit made. (3-18-22)

05. High Bid Deposit. The high bidder ~~is required to~~ must submit payment in the amount of the high bid at the conclusion of the auction.

(3-18-22)()

06. Auction Procedures. The Department will prescribe the procedures for conducting conflicted lease auctions. (3-18-22)

07. Withdrawal After Auction. (3-18-22)

a. If the high bidder withdraws or refuses to accept the lease, the Department retains the high bid payment ~~will be retained by the Department~~.

(3-18-22)()

i. If the auction involved only two (2) participants, the second high bidder will be awarded the lease. (3-18-22)

ii. If the auction involved more than two (2) participants, the lease will be reaucted. (3-18-22)

b. If an auction bidder, other than the high bidder, withdraws a bid before ~~Land Board review and~~ action on the auction results, no adjustment will be made in the payment deposited by the high bidder.

(3-18-22)()

106. BOARD REVIEW OF AUCTION.

The Board will review the proposed leases and auction results and make the determination required under Section 58-310, Idaho Code, consistent with its obligations under Article ~~IX~~ 9, Section 8 of the Idaho Constitution and all relevant statutory provisions.

(3-18-22)()

107. -- 110. (RESERVED)

111. NOXIOUS WEED CONTROL.

01. Weed Control. The lessee must cooperate with the Department, or any other authorized agency, to undertake programs for control or eradication of noxious weeds on ~~state~~ endowment ~~trust~~ land. The lessee will take measures to control noxious weeds on the leased ~~state~~ endowment ~~trust~~ land in accordance with Title 22, Chapter 24, Idaho Code.

(3-18-22)()

02. Responsibility. The lessee will not be held responsible for the control of noxious weeds resulting from other land management activities such as temporary permits, easements, special leases and timber sales. Control of noxious weeds on state ~~grazing~~ lands will be shared by the lessee and Department, with the Department's share

subject to funds appropriated for that purpose.

(3-18-22)()

112. LIVESTOCK QUARANTINE.

01. Cooperation. The lessee must cooperate with the state ~~and~~ federal agency responsible for the control of livestock diseases.

(3-18-22)()

02. Non-Compliance. Non-compliance with state ~~or~~ federal regulations will be considered a ~~h~~lease violation and may result in cancellation of the ~~h~~lease.

(3-18-22)()

113. ANIMAL DAMAGE CONTROL.

The lessee may request the services of USDA Animal and Plant and Health Inspection Service-Wildlife Services to remove animals causing crop damage or harassing/killing the lessee's livestock. The Department is not liable for any consequence from any animal control actions.

(3-18-22)

~~**114. LIABILITY (INDEMNITY).**~~

~~The lessee must indemnify and hold harmless the state of Idaho, its departments, agencies and employees for any and all claims, actions, damages, costs and expenses which may arise by reason of lessee's occupation of the leased state endowment trust land, or the occupation of the leased parcel by any of the lessee's agents or by any person occupying the same with the lessee's permission.~~

~~(3-18-22)~~

~~**114. (RESERVED)**~~

115. RULES AND LAWS OF THE STATE.

The lessee must comply with all applicable rules, regulations and laws of the state of Idaho and the United States insofar as they affect the use of the state endowment trust lands described in the lease.

(3-18-22)

116. -- 999. (RESERVED)

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20.03.14 – RULES GOVERNING GRAZING, FARMING AND CONSERVATION LEASES

DOCKET NO. 20-0314-2401

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and the Idaho State Board of Land Commissioners and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. The pending rule will become final and effective upon July 1, 2025, after approval.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 58-104 of the Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled for a comprehensive review in 2024 with the goal of simplifying the rules for increased clarity and ease of use. The overall regulatory burden has been reduced by decreasing the total word count and number of restrictive words. The pending rule carries a 10 percent net reduction in word count, and a 38 percent net reduction in restrictive word count.

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 3rd, Idaho Administrative Bulletin, Vol. 24-7, pages 118-129.

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, this pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking: N/A

FISCAL IMPACT: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Addie Faust at (208) 334-0275.

DATED this 30th of August 2024.

Addie Faust, Natural Resource Leasing Program Manager
Idaho Department of Lands
300 N. 6th Street, Suite 103
P.O. Box 83720
Boise, Idaho 83702
Phone: (208) 334-0275
rulemaking@idl.idaho.gov

STATE BOARD OF LAND COMMISSIONERS

August 20, 2024

Regular Agenda

Subject

Adoption of Pending Fee Rule, IDAPA 20.03.15 *Rules Governing Geothermal Leasing on Idaho State Lands*

Question Presented

Shall the Land Board adopt the pending fee rule for IDAPA 20.03.15?

Background

The Idaho Department of Lands (Department) administers a geothermal leasing program on behalf of the State Board of Land Commissioners (Land Board) for state endowment lands and lands owned by other state agencies. These activities are authorized by Idaho Code Title 47, Chapter 16 – Geothermal Resources. The adoption of related rules is authorized by Idaho Code § 47-1603.

Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled to be repealed and replaced in 2024 for review during the 2025 legislative session.

The Department received Land Board approval on January 16, 2024 to enter negotiated rulemaking.

Discussion

The Department's outreach for negotiated rulemaking included the following:

- Published the Notice of Negotiated Rulemaking in the Idaho Administrative Bulletin.
- Created a rulemaking webpage to post documents, scheduling information, and comments (<https://www.idl.idaho.gov/rulemaking/docket-20-0315-2401/>).
- Posted rulemaking notices to Townhall Idaho.
- Provided notice of negotiated rulemaking to stakeholders through email and direct communication.

Negotiated rulemaking meetings were held on March 28 and April 10, 2024. A total of 3 non-Department affiliated people attended these meetings.

Some discussion occurred regarding the addition and clarification of certain definitions to update the rule language to reflect current industry language and practices. One written comment was received from Eavor, Inc. pointing out that some definitions may need to be reviewed and updated. Minor revisions were suggested for sections 055 and 060 of the rule.

A summary of negotiated rulemaking and submitted written comments is included as Attachment 1. No comments were received after publication of the Proposed Fee Rule (Attachment 2).

If approved by the Land Board, the Department will submit the Notice of Adoption of Pending Fee Rule (Attachment 3) to the Office of the Administrative Rules Coordinator for the 2025 legislative session.

Recommendation

Adopt the pending fee rule for IDAPA 20.03.15 *Rules Governing Geothermal Leasing on Idaho State Lands*.

Board Action

Attachments

1. Negotiated Rulemaking Summary
2. Notice of Rulemaking – Proposed Fee Rule with Rule Text
3. Draft Notice of Adoption of Pending Fee Rule



IDAHO DEPARTMENT OF LANDS

Negotiated Rulemaking Summary

IDAPA 20.03.15, Rules Governing Geothermal Leasing on Idaho State Lands

Docket No. 20-0315-2401

Following Executive Order 2020-01: Zero-Based Regulation, this rule chapter is scheduled for review during the 2025 legislative session.

IDAPA 20.03.15 provides guidance for geothermal leasing on Idaho State Lands. The proposed changes seek to comply with Executive Order 2020-01. The Idaho Department of Lands (IDL) negotiated rulemaking process, includes, but is not limited to, legal and internal reviews of the rule, as well as review with stakeholders to ensure the rules provide appropriate guidance for lessees, interested parties, and the Department.

Negotiated rulemaking for these rules was approved by the Land Board on January 16, 2024. The Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking was published in the Idaho Administrative Bulletin on March 6, 2024.

Stakeholder Outreach

The IDL's outreach for negotiated rulemaking included the following:

- Published the Notice of Negotiated Rulemaking in the Idaho Administrative Bulletin
- Created a rulemaking webpage to post documents, scheduling information, and comments (<https://www.idl.idaho.gov/rulemaking/docket-20-0315-2401/>)
- Posted rulemaking notices to Townhall Idaho
- Email and direct communication giving notice of negotiated rulemaking to stakeholders.

Negotiated Rulemaking Public Meetings

Negotiated rulemaking meetings were held on March 28 and April 10, 2024. A total of 3 non-Department affiliated people attended these meetings.

Some discussion occurred regarding the addition and clarification of certain definitions to update the rule language to reflect current industry language and practices.

Written Comments

One written comment was received from Eavor, Inc. pointing out that some definitions may need to be reviewed and updated. Minor revisions were suggested for part 055 and 060 of the rule.

These comments have been posted for public review.

Concluding Negotiated Rulemaking

IDL concluded the negotiated rulemaking process and submitted the rule changes for publication as a proposed rule in the July 3, 2024, edition of the Idaho Administrative Bulletin. Key documents from the rulemaking record are available at <https://www.idl.idaho.gov/rulemaking/docket-20-0315-2401/>, including research materials, and the proposed rule text in legislative format to allow the reader to easily identify changes.

Response to Comments on Negotiated Rule
IDAPA 20.03.15, Rules Governing Geothermal Leasing on Idaho State Lands

Comment	Rule Section	Response
03. Suggest adding an exploration definition that includes the use of drilling rigs. 04. Completion: next generation geothermal technologies will simultaneously complete wells and continue drilling at the same time. Therefore, it makes sense to remove the statement on rig removal from site to consideration geothermal wells completed. 07. Direct use: consider adding a deep direct use definition or remove industrial applications from the existing definition. 09. Field: next generation geothermal technologies do not require the use of fractured aquifers or porous or permeable zones. A field definition might include the presence of hot dry rock. 10. Geothermal Resources: next generation geothermal technologies such as advanced geothermal systems and enhanced geothermal systems do not require aquifers to produce heat from the earth into utility scale heat and power projects. Therefore, to ensure the longevity of the geothermal resource definition as technology advances a definition of geothermal should not include the term aquifer. For best practices on defining geothermal resources, please refer to NREL's 2023 rep.	010	Definitions were reviewed by IDL and many of these comments were implemented into the rule definitions.
Strike geothermal fluids and replace with geothermal resource	055.01	IDL reviewed and implemented this comment.
Drilling records: Eavor recommends that drilling records be turned over to the IDWR and be accessible to industry through a government portal.	060.01	IDL reviewed and implemented this comment, without reference to a government portal.

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20.03.15 – RULES GOVERNING GEOTHERMAL LEASING ON IDAHO STATE LANDS

DOCKET NO. 20-0315-2401 (ZBR CHAPTER REWRITE, FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17th, 2024.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Idaho Department of Lands initiated this rulemaking in compliance with [Executive Order 2020-01: Zero-Based Regulation](#) with the goal of simplifying and streamlining the rules for increased clarity and ease of use.

FEE SUMMARY: No changes have been made to any fees in this proposed rule. The application fee (\$250) and assignment fee (\$150) remain the same. Rule language regarding late payment was removed to allow the Department to be consistent with statute as to how late fees are assessed.

FISCAL IMPACT: There is no negative fiscal impact on the state General Fund resulting from this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 6, 2024, Idaho Administrative Bulletin, [Vol. 24-3, pages 18-19](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: Not Applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance with technical questions concerning the proposed rule, contact Mike Murphy at (208) 334-0290 or mmurphy@idl.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 3rd day of June, 2024.

Mike Murphy, Minerals Program Manager
Idaho Department of Lands
300 N. 6th Street, Suite 103
P.O. Box 83720 Boise, Idaho 83720-0050
Phone: (208)334-0290
Fax: (208)334-3698
rulemaking@idl.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 20-0315-2401
(ZBR Chapter Rewrite.)

20.03.15 – RULES GOVERNING GEOTHERMAL LEASING ON IDAHO STATE LANDS

000. LEGAL AUTHORITY.

This Chapter is adopted under the legal authorities of Sections 58-104(1), 58-104(6), 58-104(9), 58-105, ~~and~~ 58-127, Idaho Code; ~~and~~ Section 58-307, Idaho Code; Title 47, Chapter 7, Idaho Code; Title 47, Chapter 16, Idaho Code; and Title 67, Chapter 52, Idaho Code. (3-18-22)()

001. ~~TITLE AND~~ SCOPE.

~~01. Title.~~ These rules are titled IDAPA 20.03.15, “Rules Governing Geothermal Leasing on Idaho State Lands.” (3-18-22)

~~021. Scope.~~ These rules apply to the exploration and extraction of any ~~and all g~~ Geothermal ~~r~~Resources situated in state-owned ~~m~~Mineral ~~l~~Lands. (3-18-22)()

~~032. Other Laws.~~ In addition to these rules, the Lessee must comply with all applicable federal, state and local laws, rules and regulations. ~~The violation of~~ Violating any applicable law, rule, or regulation constitutes a breach of any ~~l~~Lease issued in accordance with these rules. (3-18-22)()

002. ADMINISTRATIVE APPEALS.

Any ~~p~~Person aggrieved by any final agency action will be entitled to judicial review pursuant to ~~the provisions of~~ Title 67, Chapter 52, Idaho Code; ~~i~~ IDAPA 20.01.01; ~~i~~ and Title 47, Chapter 16, Idaho Code. (3-18-22)()

003. -- 009. (RESERVED)

010. DEFINITIONS.

The terms Mineral Lands, Mineral Rights, and Mineral are defined in Section 47-701, Idaho Code. The term Casual Exploration and Motorized Exploration are defined in Section 47-703A, Idaho Code. The term Geothermal Resource is defined in Section 47-1602, Idaho Code. In addition to the identified definitions in Idaho Code, the following definitions apply to these rules: ()

01. Associated By-Products or By-Product: (3-18-22)

a. Any ~~m~~Mineral(s) ~~or minerals~~ (exclusive of ~~excluding~~ oil, hydrocarbon gas, any other hydrocarbon compound, and helium) that are found in solution or developed in association with ~~g~~Geothermal ~~r~~Resources; or (3-18-22)()

b. Demineralized or mineralized water found or developed in association with Geothermal Resources. (3-18-22)()

02. Board. The Idaho State Board of Land Commissioners or its designee. (3-18-22)

~~03. Casual Exploration.~~ ~~Casual exploration means entry and/or exploration that does not appreciably disturb or damage the land or resources thereon. Casual exploration includes, but is not limited to, geochemical and/or geophysical exploration techniques, sampling with hand tools, and entry using wheeled vehicles for transportation to conduct such exploration.~~ (3-18-22)

043. Completion. A well is considered to be completed thirty (30) days after drilling operations have ceased and the drill rig is removed from the premises or thirty (30) days after the initial production or injection test has been completed, whichever occurs ~~last~~ first. (3-18-22)()

054. Department. The Idaho Department of Lands ~~or its designee~~. (3-18-22)()

065. Director. The ~~d~~Director of the Idaho Department of Lands or ~~his~~ their designee. (3-18-22)()

07. Direct Use. ~~The use of geothermal resources for direct applications, including, but not limited to, road surface heating, resorts, hot spring bathing and spas, space heating of buildings, recreation, greenhouse warming, aquaculture, or industrial applications where geothermal heat is used in place of other energy inputs.~~ (3-18-22)

086. Electrical Power Generation. The use of ~~g~~Geothermal ~~r~~Resources to either directly generate electricity or to heat a secondary fluid and use it to generate electricity. (3-18-22)()

097. Field. A geographic area overlying a ~~geothermal system~~ geologic setting with ~~one (1) or more~~ ~~g~~Geothermal ~~reservoirs~~ Resource(s) or pool(s), including any porous, permeable geologic layer, that may be formed along one (1) fault or fracture, or a series of connected faults or fractures. (3-18-22)()

10. Geothermal Resources. ~~The natural heat energy of the earth, the energy, in whatever form, that may be found in any position and at any depth below the surface of the earth present in, resulting from, or created by, or that may be extracted from such natural heat, and all minerals in solution or other products obtained from the material medium of any geothermal resource. When used without restriction, it includes associated by-products.~~ (3-18-22)

108. Lease. ~~A lease covering the geothermal resources and associated by-products in state lands written agreement between the Department and a Person containing the terms and conditions upon which the Person will be authorized to use State Lands.~~ (3-18-22)()

1209. Lessee. The ~~p~~Person to whom a geothermal ~~l~~Lease has been issued and ~~his~~ their successor in interest or assignee. It also means any agent of the Lessee or an ~~o~~Operator holding authority by or through the Lessee. (3-18-22)()

130. Market Value. The most probable price at a specified date, in cash, or on terms reasonably equivalent to cash, for which the property or commodity should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. (3-18-22)

14. Motorized Earth Moving Equipment. ~~Backhoes, bulldozers, front loaders, trenchers, core drills, drill rigs, power augers, and other similar equipment.~~ (3-18-22)

151. Navigable Water Courses. ~~The state-owned beds of active lakes, rivers, and streams that do not include formerly submerged lands where the state retains ownership, excluding formerly submerged public lands.~~ (3-18-22)()

162. Operator. The ~~p~~Person having control or management of operations on the leased lands or a portion thereof. The ~~o~~Operator may be the Lessee, designated operator, or agent of the Lessee, or holder of rights under an approved operating agreement. (3-18-22)()

173. Overriding Royalty. An interest in the ~~g~~Geothermal ~~r~~Resource produced at the surface free of any cost of production. It is a royalty in addition to the royalty reserved to the ~~s~~State. (3-18-22)()

184. Person. ~~Any natural person, corporation, association, partnership, or other entity recognized and authorized to do business in Idaho, receiver, trustee, executor, administrator, guardian, fiduciary, or other representatives of any kind, and includes any government or any political subdivision of any agency thereof. The masculine gender, in referring to a person, includes the feminine and the neuter genders~~ Any individual, corporation,

partnership, limited liability company, association, trust, unincorporated organization or other legal entity qualified to do business in the state of Idaho, and any federal, state, county, or local unit of government. (3-18-22)()

195. Record Title. The publicly recorded ~~L~~ease that ~~is the~~ evidence ~~s of the~~ right that a ~~p~~Person has to the possession of the leased property. (3-18-22)()

2016. Reservoir or Pool. A porous, permeable geologic layer containing ~~g~~Geothermal ~~r~~Resources. (3-18-22)()

2417. Shut In. To close the valves at the wellhead so that the well stops flowing or producing. Also describes a well on which the valves have been closed. (3-18-22)

2218. State Lands. Without limitation, lands in which the title to the ~~m~~Mineral ~~r~~Rights are owned by the state of Idaho and are under the jurisdiction and control of the Board or ~~under the jurisdiction and control of~~ any other state body or agency, having been obtained from any source and by any means whatsoever, including the beds and banks of navigable waters of the state of Idaho. (3-18-22)()

2319. Waste. Any physical loss of ~~g~~Geothermal ~~r~~Resources including, ~~but not limited to:~~ (3-18-22)()

a. Underground loss of ~~g~~Geothermal ~~r~~Resources resulting from inefficient, excessive, or improper use, or dissipation of geothermal energy, or of any ~~g~~Geothermal ~~r~~Resource ~~p~~Pool, ~~r~~Reservoir, or other source; ~~or the locating, spacing, constructing, equipping, operating, or producing of any well in a manner that results, or tends to result in, reducing the quantity of geothermal energy to be recovered from any geothermal area in the state;~~ (3-18-22)()

b. ~~The inefficient above-ground transporting and storage of geothermal energy; and the locating, spacing, equipping, operating, or producing of any well or injection well in a manner causing or tending to cause unnecessary or excessive surface loss or destruction of geothermal energy; the escape into the open air from a well of steam or hot water in excess of what is reasonably necessary in the efficient development or production of a well.~~ Underground loss of Geothermal Resources resulting from the locating, spacing, constructing, equipping, operating, or producing of any well in a manner which results in inefficient, excessive or improper use or dissipation of the quantity of geothermal energy to be recovered; (3-18-22)()

c. The inefficient above-ground transporting or storage of geothermal energy; ()

d. The inefficient above-ground locating, spacing, equipping, operating, or producing of any well, including injection well, in a manner causing unnecessary or excessive surface loss or destruction of geothermal energy; or ()

e. The escape into the open air from a well of steam or hot water in excess of what is reasonably necessary in the efficient development of or production from a well. ()

011. ABBREVIATIONS.

01. IDWR. Idaho Department of Water Resources. (3-18-22)

012. -- 019. (RESERVED)

020. QUALIFIED APPLICANTS AND LESSEES.

Any ~~p~~Person legally competent to contract may submit an application to lease ~~s~~State ~~L~~and provided such ~~p~~Person ~~is not then in default of~~ does not have any contract in default with the state of Idaho or any department or agency thereof. (3-18-22)()

021. LEASE AWARD THROUGH AUCTION.

If more than one (1) application is received for geothermal development on the same parcel of land, a lease auction will be held. (3-18-22)

022. -- 029. (RESERVED)

030. **TERM/LEASE PROVISIONS.**

01. ~~Lease Term.~~ All leases may be for a term of up to forty-nine (49) years from the effective date of the lease. (3-18-22)()

021. **Diligence in Utilization.** Lessee will use due diligence to market or utilize ~~g~~Geothermal ~~r~~Resources in paying quantities. If leased land is capable of producing ~~g~~Geothermal ~~r~~Resources in paying quantities, but production is shut-in, the ~~H~~Lease will continue in force upon payment of rentals for the duration of the ~~H~~Lease term or two (2) years after shut-in, whichever is shorter. If the Department determines that the Lessee is proceeding diligently to acquire a contract to sell or to utilize the production or is progressing with installations needed for production, the ~~H~~Lease may continue in force for one (1) additional year if rental payments are kept current. The Department will continue to review a shut-in ~~H~~Lease every year until production and payment of royalties takes place, or the ~~H~~Lease is terminated for Lessee's lack of due diligence or surrendered by the Lessee. (3-18-22)()

032. **Yearly Reporting.** A report of all exploration, development, and production activities must be submitted to the Department at the close of each ~~H~~Lease year. (3-18-22)()

031. -- 034. (RESERVED)

035. **RENTALS.**

01. **Advance Annual Rental.** Lessee will pay ~~to~~ the Department, in advance, ~~each year an~~ yearly annual rental. The annual rental for the first year of the ~~Lease's~~ term will be ~~due and payable and will be received by the Department, paid to the Department within thirty (30) days of the date of notice of Lease approval or award.~~ Together with the payment, the Lessee must submit a lease agreement that it executed ~~by Lessee within thirty (30) days of the date of notice of approval or award.~~ Second year and subsequent rental payments must be received by the Department ~~on or before the anniversary date of the lease~~ before the Lease's anniversary date. (3-18-22)()

02. **Amount.** Annual rentals will be set by the Board through competitive bidding, negotiation, fixed amounts, formulas, or some other method of valuation that a prudent investor might reasonably apply to establish such rental amounts. (3-18-22)

036. **ROYALTIES.**

01. **Royalty Payments.** The Lessee will ~~cause to be paid to~~ pay the Department royalties on the value of geothermal production from the leased ~~premises~~ lands. The royalty rate will be established ~~by the Board based on the market value of the geothermal resources produced from the lands under lease. The royalties specified in geothermal leases will be fixed in any manner by the Board, including but not limited to competitive bidding, negotiation, fixed amounts, or formulas per Section 47-1605(2), Idaho Code.~~ Royalty rates may be adjusted through ~~out the term of the lease in order~~ the Lease's term to keep pace with ~~m~~Market ~~v~~Values. When ~~H~~Leases are issued, the following guidelines will be used for royalty rates not subject to competitive bidding: (3-18-22)()

a. A royalty of ~~between at least~~ between at least five percent (5%) ~~and twenty percent (20%)~~ of the amount or value of ~~g~~Geothermal ~~r~~Resources, or any other form of heat or energy excluding ~~e~~Electrical ~~p~~Power ~~g~~Generation, derived from production under the ~~H~~Lease and sold or utilized by the Lessee or reasonably susceptible to sale or utilization by the Lessee; (3-18-22)()

b. A royalty of ~~between at least~~ between at least two percent (2%) ~~and fifteen percent (15%)~~ of the amount or value of any ~~a~~Associated ~~b~~By-~~p~~Product derived from production under the ~~H~~Lease and sold or utilized or reasonably susceptible of sale or utilization by the Lessee, including commercially demineralized water, and; (3-18-22)()

c. A royalty of ~~between at least~~ between at least two percent (2%) ~~and five percent (5%)~~ of gross receipts for sale of electrical power. (3-18-22)()

02. Calculation of Value. The value of geothermal production from the leased ~~premises lands~~ for the purpose of computing royalties is based on a total of the following: (3-18-22)()

a. The total consideration accruing to the Lessee from the sale of ~~gGeothermal rResources~~ to another party in an arms-length transaction; and (3-18-22)()

b. The value of the end product attributable to the ~~gGeothermal rResource~~ produced from a particular ~~lLease~~ where ~~gGeothermal rResources~~ are not sold by the Lessee before being utilized, but are instead directly used in manufacturing power production, or other industrial activity; and (3-18-22)()

c. The value of all renewable energy credits or similar incentives based on a proportionate share of the leased lands in the entire project area qualifying for the credits. (3-18-22)

03. Due Date. Royalties will be due and payable monthly to the Department on or before the last day of the calendar month following the month in which the ~~gGeothermal rResources~~ and/or their ~~aAssociated bBy-pProducts~~ are produced and utilized or sold. (3-18-22)()

04. Utilization of Geothermal Resources. The Lessee, ~~within thirty (30) days of execution~~, must file with the Department ~~within thirty (30) days after execution~~ a copy of any contract for the utilization of ~~gGeothermal rResources~~ from the ~~lLease~~. ~~Unless otherwise authorized, in writing, by the Department, R~~reports of sales or utilization by Lessee and royalty for each productive ~~lLease~~ must be filed ~~each month monthly~~ once production begins, even though production may be intermittent, ~~unless otherwise authorized by the Department. The report must include T~~total volumes of ~~gGeothermal rResources~~ produced and utilized or sold, including ~~aAssociated bBy-pProduct(s)~~, the value of production, and the royalty due ~~to~~ the state of Idaho ~~must be shown. This The~~ report is due on or before the last day of the month following the month in which production was obtained and sold or utilized, together with the royalties due ~~to~~ the state of Idaho. (3-18-22)()

05. Measurement. The Lessee will measure ~~or gauge~~ all production in accordance with ~~Department approved~~ methods ~~approved by the Department~~. The quantity and quality of all production will be determined in accordance with the standard practices, procedures, and specifications generally used in industry. All measuring equipment must be tested consistent with industry practice and, if found defective, the Department will determine the quantity and quality of production from the best evidence available. (3-18-22)()

06. By-Product Testing. The Lessee ~~will periodically~~ must furnish the Department the results of periodic tests consistent with industry practice showing the content of ~~bBy-pProducts~~ in the produced ~~gGeothermal rResources~~. ~~Such tests will be taken as specified by the Department and by the method of testing approved by him, except that tests not consistent with industry practices will be conducted at the expense of the Department. The Department may require additional tests be taken at Lessee's expense. Any additional tests which are not consistent with industry practices will be conducted at the expense of the Department.~~ (3-18-22)()

07. Commingling Pooling. The Department may authorize a Lessee to ~~commingle~~ pool production from wells on ~~his their~~ State ~~lLease(s)~~ with production from non-state lands. Department approval of ~~commingling pooling~~ will not be unreasonably withheld, and will consider the following: (3-18-22)()

a. The ~~eOperator's~~ economic necessity of ~~commingling pooling~~; (3-18-22)()

b. The type of geothermal use proposed for the ~~commingled~~ pooled waters; and (3-18-22)()

c. Sufficient measurement and accounting of all the ~~commingled~~ pooled waters to ensure that the Department is appropriately compensated by royalties. (3-18-22)()

037. -- 039. (RESERVED)

040. SIZE OF A LEASABLE TRACT.

01. Surface Area. Geothermal ~~lLeases~~ are not limited in surface area. The Board will determine the surface area of a ~~lLease~~ after consultation with other state agencies and prospective Lessees. The probable extent of a

geothermal ~~R~~eservoir, the surface area needed for a viable project, and other relevant factors will be used to help determine ~~L~~ease surface area. (3-18-22)()

02. Navigable Water Courses. Geothermal ~~R~~esources ~~L~~eases may be issued for ~~S~~tate ~~L~~ands underlying ~~N~~avigable ~~W~~ater ~~C~~ourses ~~in Idaho~~. Such lands are considered "~~S~~tate ~~L~~ands" and will be leased in accordance with these rules. Operations in the beds of ~~N~~avigable ~~W~~ater ~~C~~ourses will not be authorized except in necessary circumstances and then only with the Board's express written approval ~~of the Board and~~ upon such conditions and security as the Department deems appropriate. (3-18-22)()

041. -- 049. (RESERVED)

050. LAND SURFACE USE RIGHTS AND OBLIGATIONS.

01. Use and Occupancy. (3-18-22)

a. Lessee will be entitled to use and occupy only so much of the surface of the leased lands as may be required for all purposes reasonably incident to exploration, ~~for, drilling for, production and marketing or drilling, producing, or marketing for~~ gGeothermal ~~R~~esources and ~~a~~Associated ~~b~~By-~~p~~Products produced from the leased lands, including the right to construct and maintain thereon all works, buildings, plants, waterway, roads, communication lines, pipelines, reservoirs, tanks, pumping stations or other structures necessary to the full enjoyment and development thereof, consistent with Department approved plan of operations and amendments, ~~thereto, as approved by the Department if amended.~~ (3-18-22)()

b. Uses occurring on the leased area related to exploration, development, production, or marketing of gGeothermal ~~R~~esources and ~~a~~Associated ~~b~~By-~~p~~Products ~~produced from off-lease lands may require the Lessee to pay additional rent.~~ (3-18-22)()

02. Supervision. ~~Uses of state lands within the jurisdiction and control of the Board are subject to the supervision of the Department. Other state lands are subject to the supervision of the appropriate state agency consistent with these rules.~~ (3-18-22)

032. Distance from Residence. No well may be drilled within two hundred (200) feet of any house or barn on the ~~premises~~ leased lands, without the written consent of the Department and its surface Lessees, grantees, or contract purchasers. (3-18-22)()

043. Disposal of Leased Land. The Board reserves the right to sell or otherwise dispose of the Leased Land's surface ~~of the lands embraced with a lease, insofar as said to the extent that the~~ surface is not necessary for ~~the Lessee's~~ use ~~of the Lessee~~ in the exploration, development, and production of the gGeothermal ~~R~~esources and ~~a~~Associated ~~b~~By-~~p~~Products, ~~but a~~ Any sale disposal of surface rights made subsequent to ~~execution~~ executing of a Lease will be subject to ~~all of that Lease's~~ the terms and provisions ~~of that lease during the life thereof for the Lease's duration.~~ (3-18-22)()

054. Damage. Lessee must pay ~~to~~ the Board, its surface ~~L~~essees or grantees, or contract purchasers, for any damage done to the surface of said lands and improvements thereon, including without limitation growing crops, by reason of Lessee's operations. (3-18-22)()

051. -- 053. (RESERVED)

054. EXPLORATION UNDER THE LEASE.

01. Diligent Exploration. Lessees must perform diligent exploration and development activities in the first five (5) years of the initial ~~L~~ease term or as otherwise extended by ~~L~~ease provision. Diligent exploration includes seismic, gravity, and other geophysical surveys, geothermometry studies, drilling temperature gradient wells, or similar activities that seek to determine the presence or extent of gGeothermal ~~R~~esources. This exploration may occur off ~~of~~ leased lands if it is being done on the same geothermal ~~F~~ield. Failure to perform diligent exploration as described may result in ~~L~~ease cancellation. (3-18-22)()

02. ~~Casual Exploration.~~ At any time after formal approval by the Board of a lease application, Lessee may enter upon the leased lands for casual exploration or inspection without notice to the department. ~~As an express condition of an application to lease and of the right of casual inspection without notice, Lessee agrees to the indemnity conditions provided in Section 102 of these rules without a formally executed lease.~~ (3-18-22)

032. Plan Required. Lessee must submit a Research and Analysis Plan to the Department before any exploration using motorized equipment or before otherwise engaging in operations that may lead to an appreciable disturbance or damage to lands, timber, other resources, or improvements on or adjacent to the Motorized Exploration on leased lands. The proposed activities may not start until the Department approves the plan and the applicable preconditions in Sections 100 and 101 of these rules have been satisfied. The plan of operations may be amended as needed with Department approval. The plan includes all items that the Department deems necessary or useful in managing the gGeothermal rResources including, ~~but not limited to, the following:~~ (3-18-22)()

a. A narrative statement describing all diligent exploration activities that Lessee will conducts, including the type; location; expected impact, disturbance, or damage to the land or existing natural resources; and schedule of all proposed or planned diligent exploration. ()

ab. A narrative statement describing the proposed measures to be taken for protection of the environment, including, but not limited to the prevention or control of: (3-18-22)

i. Fires; (3-18-22)

ii. Soil loss and erosion; (3-18-22)

iii. Pollution of surface and ground waters; (3-18-22)

iv. Damage to fish and wildlife or other natural resources; (3-18-22)

v. Air and noise pollution; and (3-18-22)

vi. Hazards to public health and safety during lLease activities; (3-18-22)()

bc. All pertinent information or data that the dDepartment may require to support the plan of operations for the utilization of gGeothermal rResources and the protection of the environment; (3-18-22)()

d. A proposed schedule, which includes major milestones with sufficient detail to assess progress. ()

055. DEVELOPMENT AND PRODUCTION UNDER THE LEASE.

01. Diligent Development of Lease and Production. Lessee must develop the gGeothermal rResources on their leased d-area lands for the Lease's duration and start production within the first ten (10) years of the initial lLease term or as otherwise extended by lLease provision. Development of the leased d-area lands requires drilling wells to be drilled and constructing other necessary infrastructure to be built to enable production. Production on the leased d-area lands means that gGeothermal fluids Resources are being used and royalties are being paid to the sState. Failure to develop under the lLease and start production as described may result in lLease cancellation unless the Lessee applies to the Department, for and the Department grants an extension ~~and the extension is granted.~~ (3-18-22)()

02. Best Practices. All operations will conform to the best practice and engineering principles in use in the industry. Operations must be conducted in such a manner as to: protect the natural resources on the leased lands, including without limitation gGeothermal rResources, ~~and to;~~ result in the maximum ultimate recovery of gGeothermal rResources with a minimum of minimal waste; and be consistent with the principles of the land's use ~~of the land~~ for other purposes and of the protection of the environment. Lessee must promptly remove from the leased lands or store, in an orderly manner, all scraps or other materials not in use and not reasonably incident to the operation. (3-18-22)()

03. Plans Required. Prior to development, Lessee must submit a ~~D~~development ~~P~~plan, ~~O~~operating ~~P~~plan, and ~~D~~decommissioning and ~~R~~reclamation ~~P~~plan for the leased lands. All plans must be approved by the Department, in writing, prior to Lessee beginning a phase of the ~~L~~lease in which those plans are performed or as otherwise required by the ~~L~~lease. ~~All required pPlans must include all items that the Department deems necessary or useful in managing the gGeothermal fResources, including, but not limited to, those the items referred to in Paragraphs Sections 054.03.a. and 054.03.b. of these rules.~~ (3-18-22)()

04. Waste and Damage. (3-18-22)

a. Lessee must take all reasonable precautions to prevent the following: (3-18-22)

i. Waste; (3-18-22)

ii. Damage to other natural resources; (3-18-22)

iii. Injury or damage to ~~p~~Persons, real or personal property; and (3-18-22)()

iv. Any environmental pollution or damages that may constitute a violation of state or federal laws. (3-18-22)

b. The Department may inspect Lessee's operations and issue ~~such any orders as are~~ necessary to accomplish the purposes in ~~Paragraph Section 055.04.a.~~ Any significant effect on the environment created by the Lessee's operations or failure to comply with environmental standards must be reported to the Department by Lessee within twenty-four (24) hours and confirmed in writing within thirty (30) days. (3-18-22)()

05. Notice of Production. Lessee must notify the ~~d~~Department within sixty (60) days before any ~~g~~Geothermal ~~f~~Resources are used or removed for commercial purposes. (3-18-22)()

06. Amendments. ~~Lessee may amend T~~the plan of operations ~~must be amended by the Lessee for the Department's approval and submit it to the Department for written approval~~ to reflect changes in operations on the leased lands, including the installation of works, buildings, plants, or structures for the production, marketing, or utilization of ~~g~~Geothermal ~~f~~Resources. (3-18-22)()

056. WASTE PREVENTION, DRILLING AND PRODUCTION OBLIGATIONS.

01. Waste. All ~~L~~leases are subject to the condition that the Lessee will, in conducting ~~his~~ exploration, development, and ~~producing production~~ operations, use all reasonable precautions to prevent ~~w~~Waste of ~~g~~Geothermal ~~f~~Resources and other natural resources found or developed in the leased lands. (3-18-22)()

02. Diligence. The Lessee must, subject to the right to surrender the ~~L~~lease, diligently drill and produce, or unitize such wells as are necessary to protect the Board from loss by reason of production on other properties. (3-18-22)()

03. Prevention of Waste Through Reinjection. ~~Geothermal~~ Lessees must return geothermal waters to the geothermal aquifer in a manner that supports geothermal development. (3-18-22)()

04. Additional Requirements. The selection of the types and weights of drilling fluids and provisions for controlling fluid temperatures, blowout preventers, and other surface control equipment and materials, casing and cementing programs, etc., to be used must be based on sound engineering principles and must take into account apparent geothermal gradients, depths and pressures of the various formations to be penetrated, and other pertinent geologic and engineering data and information about the area. In addition, the Lessee must ~~do the following:~~ (3-18-22)()

a. Take all necessary precautions to keep all wells under control at all times; (3-18-22)

b. Utilize trained and competent personnel; (3-18-22)

- c. Utilize properly maintained equipment and materials; and (3-18-22)
- d. Use operating practices that ensure the safety of life and property. (3-18-22)

05. Unused Wells. Except as provided in Subsection 070.02 ~~of these rules~~, the Lessee must promptly plug and abandon any unused or non-useful well on the leased land ~~that is not used or useful~~ in conformity with IDWR's regulations ~~promulgated by the IDWR~~ or its successor agency. ~~No A~~ production well ~~will may not~~ be abandoned until its lack of capacity for further profitable production of ~~g~~Geothermal ~~r~~Resources has been demonstrated to the Department's satisfaction ~~of the Department~~ and the Department has been given an opportunity to either acquire the well permit or assign it to another party. A producible well may be abandoned only after ~~receipt of written approval by the Department~~ Department's written approval. Equipment will be removed, and premises at the well site will be restored as near as reasonably possible to its original condition immediately after plugging operations are completed on any well, except as otherwise authorized by the Department in writing. Drilling equipment must not be removed from any suspended drilling well without taking adequate measures to close the well and protect subsurface resources. ~~Upon Lessee's failure of Lessee~~ to comply with any requirements under this rule, may result in the Department ~~is authorized to cause~~ causing the work to be performed at the expense of the Lessee and the surety. (3-18-22)()

057. -- 059. (RESERVED)

060. EXPLORATION AND OPERATION RECORDS, CONFIDENTIALITY.

01. Drilling Records. Lessee must keep or cause to be kept and filed, with the IDWR such careful and accurate well drilling records as are ~~now or may hereafter be~~ required by ~~that Department~~ IDWR. As an express condition of the Lease, the Department may, at any time, inspect and copy well drilling records filed with IDWR. Lessee must file with the Department such production records and exploration evidence as required by Sections 030, 036, and 055 of these rules; ~~which~~ The production records ~~will be are~~ subject to public inspection ~~by the public~~ at the Department's offices, ~~of the Department~~ during regular business hours and under such conditions as the Department deems appropriate, subject, ~~however, to exemptions from~~ except for disclosure ~~as exemptions~~ set forth in Section 74-107, Idaho Code. ~~As an express condition of the lease, the Department may inspect and copy well drilling records filed with the IDWR at any time after the records are filed.~~ (3-18-22)()

02. Continuing Obligations. Lessee's obligations under this rule will continue beyond assignment, surrender, termination, or expiration of the Lease. Unless Lessee is specifically released in writing by the Department the Department releases the Lessee, in writing, of all or any portion of its obligations under the lease upon the assignment, surrender, termination or expiration of the Lease. ~~Lessee's obligations under this rule will continue beyond assignment, surrender, termination or expiration of the lease.~~ Lessee must file all outstanding data and records required by law with the Department, within thirty (30) days after assignment, surrender, termination or expiration, or such additional time as the Department may grant, ~~file all outstanding data and records required by this rule with the Department.~~ (3-18-22)()

03. Well Logs. The confidentiality of well logs is limited to one (1) year from well eCompletion as stated in Section 42-4010(b), Idaho Code. (3-18-22)()

061. -- 064. (RESERVED)

065. LESSEE'S RECORDS, RIGHT OF INSPECTION BY DEPARTMENT.

~~Lessee will permit~~ The Department to may examine, during ~~reasonable~~ business hours, all books, records, and other documents and matters pertaining to operations under a Lease, which are in Lessee's custody or control, and ~~to may~~ make copies of and extracts therefrom. (3-18-22)()

066. -- 069. (RESERVED)

070. WATER RIGHTS.

01. Water Rights. Lessee must comply with all applicable federal and state laws, rules and regulations regarding the appropriation of public waters of Idaho to beneficial uses. The establishment of any new water rights on

~~s~~State ~~L~~ands must be by and for the Lessor and no claim thereto may be made by the Lessee. Such water rights will attach to and become appurtenant to the ~~s~~State ~~L~~ands, and the Lessor will be the owner thereof. (3-18-22)()

02. Potable Water Discovery. ~~All L~~leases ~~issued under these rules will be~~ are subject to the condition that, ~~where if~~ the Lessee finds only potable water ~~of, which has~~ no commercial value as a ~~g~~Geothermal ~~r~~Resource, in any well drilled for exploration or production of ~~g~~Geothermal ~~r~~Resources, and ~~when~~ the water is of such quality and quantity so as to be valuable and usable for agricultural, domestic, or other purpose, the Board, or where appropriate, the surface Lessee, grantee or contract purchaser, will have the right to acquire the well with whatever casing is installed ~~in the well~~ at the casing's fair ~~m~~Market ~~v~~Value ~~of the casing, and upon the assumption assuming~~ of all future liabilities and responsibilities for the well, and with the approval of ~~the IDWR's~~ director ~~of the IDWR~~. (3-18-22)()

071. -- 074. (RESERVED)

075. ASSIGNMENTS.

01. Prior Written Approval. ~~In order for Lessee to effect an assignment, Lessee must, prior to the consummation of an effective sale, transfer or assignment of the lease between Lessee and its proposed assignee, provide to the Department certain information about the proposed assignment, including identification of A Lessee must obtain the Department's written approval for an assignment to be effective. Before consummating a sale, transfer, or assignment of the Lease, Lessee must provide the Department with certain information about the proposed assignment. Such information includes identifying the proposed assignee and the general terms of the proposed assignment on Department assignment application forms provided by the Department. Any proposed total or partial assignment of a lease must be preapproved in writing by the Department prior to any proposed sale, transfer or assignment of the lease is consummated between Lessee and the proposed assignee. Approval will not be unreasonably withheld.~~ Following the Department's written preapproval of the proposed assignee and general terms of the proposed assignment, Lessee and assignee may consummate any such sale, transfer, or assignment of Lessee's leasehold interest in the ~~L~~Lease. The consummation of any assignment agreement by the Lessee without the Department's ~~prior~~ written preapproval constitutes a default of the ~~L~~Lease, and such sale, transfer, or assignment may be rejected in the Department's sole discretion; and, such assignment will only be effective if the default is expressly waived in writing by the Department. ~~In order f~~ For an assignment of Lessee's interest in the ~~L~~Lease to be acceptable for Department approval ~~by the Department~~, the consummated sale, transfer or assignment must include provisions wherein Lessee has sold, transferred, or assigned to the assignee any and all interest that Lessee has in the ~~L~~Lease together with any ~~and all~~ interest Lessee has in any ~~and all~~ improvements located upon the leased ~~premises~~ lands, and assignee must assume all liabilities of Lessee under the ~~L~~Lease together with ownership of all improvements owned by Lessee. An assignment between Lessee and its assignee will only take effect following the Department's final written approval of the assignment following receipt of copies of the final, consummated sale, transfer or assignment agreement between Lessee and assignee. (3-18-22)()

02. Full or Partial. A ~~L~~Lease may be assigned as to all or part of the acreage included therein to any qualified pPerson ~~qualified to hold a state lease~~, provided that neither the assigned nor the retained part created by the assignment contains less than forty (40) acres. ~~No An assignment cannot create an~~ undivided interest in a ~~L~~Lease of less than ten percent (10%) ~~may be created by assignment~~. (3-18-22)()

03. Overriding Royalty Disclosure. Overriding royalty interests created by an assignment are subject to the requirements in Section 080 ~~of these rules~~. (3-18-22)()

04. Responsibility. In ~~an assignment of assigning~~ a partial or complete interest in ~~all of leased~~ the lands ~~in a lease~~, the ~~assignor~~ Lessee and its surety continue to be responsible for ~~performance of any and performing~~ all obligations under the ~~L~~Lease until ~~such time as~~ the Department, in writing, releases Lessee and its surety from obligations arising under the ~~L~~Lease after the Department accepts any such assignment ~~and provides a release of any or all obligations in writing~~. After ~~the an assignment's~~ effective date ~~of any assignment~~, the assignee and its surety will be bound by the terms of the lease to the same extent as if the assignee were the original Lessee, any conditions in the assignment to the contrary notwithstanding. (3-18-22)()

05. Segregation of Assignment. An assignment of all or any portion of Lessee's ~~r~~Record ~~t~~Title of the complete interest in a portion of the leased lands ~~in a lease~~ must clearly identify and segregate the assigned and

retained portions. After the effective date, the assignor will be released and discharged from any obligations thereafter accruing with respect to the assigned portion of the leased lands. Such segregated Hleases continue in full force and effect for the primary term of the original Hlease or as further extended pursuant to the terms of these rules.

(3-18-22)()

06. Joint Principal. Where an assignment does not segregate the ~~R~~Record ~~T~~Title to the Hlease, the assignee, ~~if the assignment so provides,~~ may become a joint principal on the bond with the assignor, ~~if the assignment so provides,~~ The application must ~~also~~ be accompanied by ~~a consent of the~~ assignor's surety's written consent to remain bound under the bond of record, if the bond's ~~by its terms,~~ does not contain such consent. If a party to the assignment has previously furnished a statewide bond, no additional showing by such party is necessary as to the bond requirement.

(3-18-22)()

07. Application. The application for approval of an assignment must be on Department approved forms ~~approved by the Department.~~

(3-18-22)()

08. Denial. If the Lessee is in default of the Hlease at the time of a request for assignment approval, the Department may, ~~at in~~ its sole discretion, reject any proposed assignment until the Hlease is brought into full compliance. The approval of an assignment of a Hlease in good standing will not be unreasonably withheld, provided such consent of the Department is requested and obtained prior to any assignment.

(3-18-22)()

076. -- 079. (RESERVED)

080. OVERRIDING ROYALTY INTERESTS.

01. Statements. An overriding royalty interest, or any similar interest whereby an agreement is made to pay a percentage based on production, must be disclosed at the time of assignment or transfer by filing a statement of such interest with the Department. Assignees must meet the requirements of Section 0210 ~~of these rules.~~ All assignments of overriding royalty interests without a working interest and otherwise not contemplated by Section 075 ~~of these rules,~~ must be filed with the Department within ninety (90) days from the date of execution.

(3-18-22)()

02. Maximum Amount. No ~~o~~Overriding ~~R~~Royalty on the production of gGeothermal ~~R~~Resources created by an assignment ~~contemplated by under~~ Section 075, ~~of these rules~~ or otherwise, will exceed five percent (5%) nor will an ~~o~~Overriding ~~R~~Royalty, when added to ~~o~~Overriding ~~R~~Royalties previously created, exceed five percent (5%).

(3-18-22)()

03. Conformance with Rules. The creation of an ~~o~~Overriding ~~R~~Royalty interest that does not conform to the requirements of this rule is ~~be~~ deemed a violation of the Hlease terms, unless the agreement creating ~~o~~Overriding ~~R~~Royalties provides for a prorated reduction of all ~~o~~Overriding ~~R~~Royalties so that the aggregate rate of ~~o~~Overriding ~~R~~Royalties does not exceed five percent (5%).

(3-18-22)()

04. Director's Authority. In addition to the foregoing limitations, any agreement to create, or any assignment creating, royalties or payments out of production from the leased lands is subject to the authority of the Director, after notice and hearing, to require the proper parties thereto to suspend or modify such royalties or payments out of production in such manner as may be reasonable when and during such periods of time as they may constitute an undue economic burden upon the reasonable operations of such Hlease.

(3-18-22)()

081. -- 084. (RESERVED)

085. UNIT OR COOPERATIVE PLANS OF DEVELOPMENT OR OPERATION.

01. IDWR Approval. Nothing in this rule ~~will~~ excuses the parties to a unit agreement from procuring ~~the IDWR's~~ approval ~~of the IDWR,~~ if required, pursuant to Section 42-4013, Idaho Code, ~~if approval is required.~~

(3-18-22)()

02. Unit Plan. For the purpose of conserving the natural resources of any geothermal ~~p~~Pool, ~~f~~Field, or like area, Lessees ~~under lease issued by the Board are authorized may,~~ with the Department's written consent ~~of the~~

~~Department to~~ commit the ~~s~~State ~~L~~ands to unit, cooperative, or other plans of development or operation with other ~~s~~State ~~L~~ands, federal lands, privately-owned lands, or Indian lands. ~~The Department's~~ consent will not be unreasonably withheld. Applications to unitize, or a copy of the application filed with IDWR, ~~will must~~ be filed with the Department who will certify whether ~~such the~~ plan is necessary or advisable in the public interest. The Department may require whatever documents or data ~~that the Department~~ deemed necessary in ~~its reasonable the~~ Department's discretion. To implement such unitization, the Board may, with the consent of its Lessees, modify and change any ~~and all~~ terms of leases ~~issued by it~~ that are committed to such unit, cooperative, or other plans of development or operations. (3-18-22)()

03. Contents. The agreement must describe the separate tracts comprising the unit; disclose the apportionment of the production of royalties and costs to the several parties; ~~and disclose~~ the name of the ~~o~~Operator; and ~~must~~ contain adequate provisions for the protection of the interests of all parties, including the state of Idaho; ~~be signed by, or on behalf of all interested necessary parties, and be submitted to the Department.~~ The agreement ~~should must~~ be signed by or ~~in on~~ behalf of all interested necessary parties before being submitted to the Department. It will be effective only after written approval by the Department. The unit operator must be a ~~p~~Person, as defined by these rules and ~~must be~~ approved by the Department. (3-18-22)()

04. Lease Modification. Any modification of an approved agreement will require the Department's written approval ~~of the Department~~ under procedures similar to those ~~cited~~ in Subsection 085.02 ~~of these rules.~~ (3-18-22)()

05. Term. At the sole discretion of the Department, the term of any leases included in any cooperative or unit plan of development or operation may be extended for the term of such unit or cooperative agreement, but in no event beyond ~~that the~~ time provided in Subsection 030.01 ~~of these rules.~~ Rentals or royalties on leases so extended may be reassessed for such extended term of the lease. (3-18-22)()

06. Continuation of Lease. Any lease that will be eliminated from any such cooperative or unit plan of development or operation, or any lease that will be in effect at the termination of any such cooperative or unit plan of development or operation, unless relinquished, will continue in effect for the term of the lease. (3-18-22)

07. Evidence of Agreement. Before ~~issuance of issuing~~ a lease for lands within an approved unit agreement, the lease applicant or successful bidder ~~will be required to must~~ file evidence that they have entered into an agreement with the unit operator for the development and operation of the lands in a lease if the lease is issued to ~~him them~~ under and pursuant to the terms and provisions of the approved unit agreement, or a statement giving satisfactory reasons for the failure to enter into such agreement. If such statement is acceptable, the lease applicant or successful bidder ~~will be permitted to may~~ operate independently, but ~~will be required to must~~ perform ~~his their~~ operations in a manner that the Department deems to be consistent with the unit operations. (3-18-22)()

086. -- 094. (RESERVED)

095. SURRENDER, TERMINATION, EXPIRATION OF LEASE.

01. Procedure. A Lease, or any surveyed subdivision of the ~~area covered by such lease~~ leased lands, may be surrendered by the ~~R~~ecord ~~T~~itle holder by filing with the Department a written relinquishment on a Department form, in the office of the Department, on a form furnished by the Department, provided that a partial relinquishment ~~does can~~ not reduce the remaining acreage in the Lease to less than forty (40) acres. The minimum acreage provision of this section may be waived by the Department ~~where if~~ the Department finds such exception is justified ~~on the basis of~~ based on exploratory and development data derived from activity on the leasehold. The relinquishment must: (3-18-22)()

- a. Describe the lands to be relinquished; (3-18-22)
- b. Include a statement as to whether the relinquished lands ~~had have~~ been disturbed and, if so, whether they were restored as prescribed by the Lease's terms ~~of the lease~~; and (3-18-22)()
- c. State whether wells ~~had have~~ been drilled on the lands and, if so, whether they have been plugged and abandoned pursuant to ~~the IDWR's~~ rules ~~of the IDWR.~~ (3-18-22)()

02. Continuing Obligations. A relinquishment takes effect on the date it is filed, subject to the continued obligation of the Lessee and ~~his~~ their surety to: (3-18-22)()

- a. ~~To make~~ Make payments of all accrued rentals and royalties; (3-18-22)()
- b. ~~To place~~ Place all wells on the relinquished land ~~to be relinquished~~ in condition for suspension of operations or abandonment; (3-18-22)()
- c. ~~To restore~~ Restore the surface resources in accordance with these rules and the terms of the Lease; and (3-18-22)()
- d. ~~To comply~~ Comply with all other environmental stipulations provided for by ~~these rules or lease~~ the Lease and applicable law. (3-18-22)()

03. Failure to Pay Rental or Royalty. The Director may terminate a Lease for failure to pay rentals or royalties thirty (30) days after mailing a notice of delinquent payment. ~~However, if~~ the time for payment falls upon any day in which the ~~office of the~~ Department is not open, payment received on the next official working day will be deemed to be timely. The termination of the Lease for failure to pay the rental will be noted on the Department's official records ~~of the Department~~. Upon termination the lands included in such lease may become subject to leasing as provided by these rules. (3-18-22)()

04. Termination for Cause. A Lease may be terminated by the Department for any violation of ~~these rules, or the lease terms;~~ the Lease's terms or of applicable laws sixty (60) days after notice of the violation has been given to Lessee by personal service or certified mail, return receipt requested, to the address of record last appearing in the Department's files ~~of the Department~~, unless: (3-18-22)()

- a. The violation has been corrected; or (3-18-22)
- b. The violation is one that cannot be corrected within the notice period and the Lessee has in good faith commenced, within the notice period, ~~to correct~~ ing the violation and ~~thereafter has diligently~~ proceeded ~~diligently~~ to complete the correction. (3-18-22)()

05. Equipment Removal. Prior to the Lease's expiration, ~~of the lease, or the earlier~~ termination, or surrender ~~thereof pursuant to this rule~~, and provided the Lessee is not in default, the Lessee ~~will have the privilege at any time during the term of the lease to~~ may remove from the leased ~~premises~~ lands any materials, tools, appliances, machinery, structures, and equipment, other than improvements needed for producing wells. ~~Any materials, tools, appliances, machinery, structures and equipment~~ Anything subject to removal, but not removed ~~prior to any termination of the lease or any extension thereof that may be granted because of adverse climatic conditions during that period, will,~~ may become property of the state of Idaho, at the option of the Department, ~~become property of the state of Idaho, but the Lessee must remove any or all such property where so directed by the Department; be removed by the Department, at the Lessee's expense; or be removed by the Lessee, at the Department's request.~~ (3-18-22)()

06. Surrender After Termination. Upon the expiration or termination of a Lease, the Lessee will quietly and peaceably surrender possession of the premises to the state, and if the Lessee is surrendering the leased premises or any portion thereof, the Lessee must deliver to the state a good and sufficient release on a form furnished by the Department. (3-18-22)()

096. -- 099. (RESERVED)

100. BOND REQUIREMENTS.

01. Minimum Bond. ~~Prior to initiation of operations using motorized earth-moving equipment~~ Before using Motorized Exploration Lessee must furnish a bond. This bond will be in favor of the state of Idaho, conditioned on the payment of all damages to the land surface and all improvements thereon, including without limitation crops on the lands, whether or not the leased lands ~~under this lease~~ have been sold or leased by the Board for any other

purpose; conditioned also upon ~~compliance by Lessee of his~~ Lessee complying with their obligations under ~~this their~~ Lease and these rules. The Department may require a new bond in a greater amount at any time after operations have begun, upon a finding that such ~~action bond~~ is reasonably necessary to protect ~~s~~State resources. (3-18-22)()

02. Statewide Bond. In lieu of the aforementioned bonds, Lessee may furnish a good and sufficient “statewide” bond condition~~ed as~~ ed in Subsection 100.01. This bond will cover all Lessee’s LLeases and operations carried on under all gGeothermal rResource LLeases issued and outstanding to Lessee by the Board at any given time during the period when the “statewide” bond is in effect. The amount of such bond will be equal to the total of the requirements of the separate bonds being combined into a single bond. (3-18-22)()

03. Period of Liability. The period of liability ~~of any for a~~ for a bond will not be terminated until all LLease terms and conditions have been fulfilled and the bond is released in writing by the Department. (3-18-22)()

04. Operator Bond. ~~In the event If~~ If suit is filed to enforce the terms of any bond furnished by an eOperator in which the Lessee (if a different pPerson) is not a named party, the Department may, in its sole discretion, join the Lessee as a party to such suit. (3-18-22)()

101. LIABILITY INSURANCE.

01. Liability Insurance Required. ~~The Department will~~ Lessee is required dthe Lessee to purchase and maintain suitable insurance for the duration of the LLease. The insurance must be obtained prior to entry upon the leased lands for purposes other than eCasual eExploration or inspection ~~as contemplated by Subsection 054.02 of these rules~~. (3-18-22)()

02. Insurance Certificate Required. No work under ~~this a~~ LLease will commence prior to the Department’s receipt of a certificate, signed by a licensed insurance agent, evidencing existence of insurance as required above. ~~Further, such~~ The certificate must reflect that no change or cancellation in such coverage will become effective until after the Department receives written notice of such change or cancellation. (3-18-22)()

102. -- 104. (RESERVED)

105. TITLE.

The state of Idaho does not warrant title to the leased lands, ~~or the~~ gGeothermal rResources, ~~and nor~~ aAssociated bBy-pProducts that may be discovered thereon; ~~t~~ The LLease is issued only under such title as the state of Idaho may have as of the Lease’s effective date ~~of the lease~~ or has thereafter acquired. If the interest owned by the state in the leased lands includes less than the entire interest in the gGeothermal rResources and aAssociated bBy-pProducts for which royalty is payable, then the royalties provided for in the LLease will be paid to the state only in the proportion that its interest bears to said whole and undivided interest in said gGeothermal rResources and aAssociated bBy-pProducts for which royalty is payable; ~~provided, however, that t~~ The state is not liable for any damages sustained by the Lessee; nor is the Lessee entitled to, nor may claim any refund of rentals or royalties ~~therefore~~ paid to the state in the event that the state does not own title to said gGeothermal rResources and aAssociated bBy-pProducts, or if its title thereto is less than whole and entire. (3-18-22)()

106. -- 110. (RESERVED)

111. TAXES.

~~Lessee must pay, when due, all taxes and assessments of any kind lawfully assessed and levied against Lessee’s interests or operations under the laws of the state of Idaho.~~ (3-18-22)

112. RENTAL NOTICES.

~~Advance notice of rental due is usually sent to the Lessee by the Department, but f~~ Failure to receive such notices an advance notice of rental due does not ~~act to~~ relieve the Lessee from ~~the payment of~~ paying the rental, ~~and t~~ The LLease will be in default if such payment is not made ~~as provided in these rules~~. (3-18-22)()

113. OUTSTANDING LEASES.

No right to seek, obtain, or use gGeothermal rResources has passed, or will pass, with any existing or future license, permit, or lease of sState Llands, including without limitation, mineral leases and oil and gas development leases,

except upon ~~the issuance of~~ a ~~g~~Geothermal ~~r~~Resources ~~l~~Lease being issued. ~~(3-18-22)~~()

114. -- 119. (RESERVED)

120. FEES.

The following fees apply: (3-18-22)

01. Non-Refundable Application Fee for Lease. Two hundred fifty dollars (\$250) per application. (3-18-22)

02. Application Fee for Approval of Assignment. One hundred fifty dollars (\$150) per lease involved in the assignment. (3-18-22)

03. Late Payment Fee. The greater of the following: ~~(3-18-22)~~

~~a. Twenty-five dollars (\$25); or~~ ~~(3-18-22)~~

~~b. One percent (1%) per month (or portion thereof) on the unpaid balance.~~ ~~(3-18-22)~~

121. -- 999. (RESERVED)

IDAHO DEPARTMENT OF LANDS

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20.03.15 - RULES GOVERNING GEOTHERMAL LEASING ON IDAHO STATE LANDS

DOCKET NO. 20-0315-2401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and the Idaho State Board of Land Commissioners and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. The pending rule will become final and effective on July 1, 2025, after approval by the Legislature.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 58-104(6) and 58-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The Idaho Department of Lands initiated this rulemaking in compliance with [Executive Order 2020-01: Zero-Based Regulation](#) with the goal of simplifying and streamlining the rules for increased clarity and ease of use. There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 3, 2024, Idaho Administrative Bulletin, [Vol. 24-7, pages 130-145](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, this pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. No changes have been made to any fees in this proposed rule. The application fee (\$250) and assignment fee (\$150) remain the same. Rule language regarding late payment was removed to allow the Department to be consistent with statute as to how late fees are assessed.

FISCAL IMPACT: There is no negative fiscal impact on the state General Fund resulting from this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Mike Murphy at (208-334-0290 or mmurphy@idl.idaho.gov).

DATED this 30th day of August, 2024.

Mike Murphy, Minerals Program Manager
Idaho Department of Lands
300 N. 6th Street, Suite 103
P.O. Box 83720 Boise, Idaho 83720-0050
Phone: (208)334-0290
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STATE BOARD OF LAND COMMISSIONERS

August 20, 2024

Regular Agenda

Subject

Adoption of Pending Fee Rule, IDAPA 20.03.16 *Rules Governing Oil and Gas Leasing on Idaho State Lands*

Question Presented

Shall the Land Board adopt the pending fee rule for IDAPA 20.03.16?

Background

The Idaho Department of Lands (Department) administers an oil and gas leasing program on behalf of the State Board of Land Commissioners (Land Board) for state endowment lands and lands owned by other state agencies. These activities are authorized by Idaho Code Title 47, Chapter 8 – Oil and Gas Leases on State and School Lands. The adoption of related rules is authorized by Idaho Code § 47-802.

Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled to be repealed and replaced in 2024 for review during the 2025 legislative session.

The Department received Land Board approval on January 16, 2024 to enter negotiated rulemaking.

Discussion

The Department's outreach for negotiated rulemaking included the following:

- Published the Notice of Negotiated Rulemaking in the Idaho Administrative Bulletin.
- Created a rulemaking webpage to post documents, scheduling information, and comments (<https://www.idl.idaho.gov/rulemaking/docket-20-0316-2401/>).
- Posted rulemaking notices to Townhall Idaho.
- Provided notice of negotiated rulemaking to stakeholders through email and direct communication.

Negotiated rulemaking meetings were held on March 28 and April 10, 2024. A total of one non-Department affiliated people attended these meetings.

Some discussion occurred regarding updating and clarification of rule language to reflect current industry language and practices. Written comments were received from the Idaho Conservation League and Snake River Oil and Gas. The Idaho Conservation League expressed concerns over the removal of certain rule sections relating to lease provisions. The Department chose not to remove the sections. Snake River Oil and Gas primarily suggested

changes to rule language to better the leasing of pooled or unitized acreages. The Department agreed the changes were appropriate.

A summary of negotiated rulemaking and submitted written comments is included as Attachment 1. No comments were received after publication of the Proposed Fee Rule (Attachment 2).

If approved by the Land Board, the Department will submit the Notice of Adoption of Pending Fee Rule (Attachment 3) to the Office of the Administrative Rules Coordinator for the 2025 legislative session.

Recommendation

Adopt the pending fee rule for IDAPA 20.03.16 *Rules Governing Oil and Gas Leasing on Idaho State Lands*.

Board Action

Attachments

1. Negotiated Rulemaking Summary
2. Notice of Rulemaking – Proposed Fee Rule with Rule Text
3. Draft Notice of Adoption of Pending Fee Rule

IDAHO DEPARTMENT OF LANDS

Negotiated Rulemaking Summary

IDAPA 20.03.16, Rules Governing Oil and Gas Leasing on Idaho State Lands

Docket No. 20-0316-2401

Following Executive Order 2020-01: Zero-Based Regulation, this rule chapter is scheduled for review during the 2025 legislative session.

IDAPA 20.03.16 provides guidance for oil and gas leasing on state lands. The proposed changes seek to comply with Executive Order 2020-01. The Department will begin the negotiated rulemaking process, including, but not limited to, legal and internal review of the rule, as well as review with stakeholders to ensure the rules provide appropriate guidance for lessees, interested parties, and the Department.

Negotiated rulemaking for these rules was approved by the Land Board on January 16, 2024. The Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking was published in the Idaho Administrative Bulletin on March 6, 2024.

Stakeholder Outreach

The IDL's outreach for negotiated rulemaking included the following:

- Published the Notice of Negotiated Rulemaking in the Idaho Administrative Bulletin
- Created a rulemaking webpage to post documents, scheduling information, and comments (<https://www.idl.idaho.gov/rulemaking/docket-20-0316-2401/>)
- Posted rulemaking notices to Townhall Idaho
- Email and direct communication giving notice of negotiated rulemaking to stakeholders.

Negotiated Rulemaking Public Meetings

Negotiated rulemaking meetings were held on March 28 and April 10, 2024. A total of one, non-Department affiliated person attended these meetings.

Some discussion occurred regarding updating and clarification of rule language to reflect current industry language and practices.

Written Comments

Written comments were received from the Idaho Conservation League (ICL) and Snake River Oil and Gas. ICL expressed concerns over the removal of certain rule sections relating to lease provisions. Snake River Oil and Gas primarily suggested changes to rule language to better the leasing of pooled or unitized acreages.

These comments have been posted for public review.

Concluding Negotiated Rulemaking

IDL concluded the negotiated rulemaking process and submitted the rule changes for publication as a proposed rule in the July 3, 2024, edition of the Idaho Administrative Bulletin. Key documents from the rulemaking record are available at <https://www.idl.idaho.gov/rulemaking/docket-20-0316-2401/>, including research materials, and the proposed rule text in legislative format to allow the reader to easily identify changes.

Response to Comments on Negotiated Rule

IDAPA 20.03.16, Rules Governing Oil and Gas Leasing on Idaho State Lands

Comment	Rule Section	Response
Comment Highlight: “In order to preserve these important human health and environmental protections, we ask that Rule Subsections 58.02,03,06, and 08 be retained. Doing so retains the original intent of the Rules and avoids a scenario in which applicable Lease language is revised without public input to remove these protections.” Please visit rulemaking webpage for full comment.	50.01-04, 08-10	IDL reviewed and these sections were retained, with minor revisions for clarity.
Comment Highlight: “Rule 22.02.b and .c contain the concept of extension of the lease beyond the primary term through continuing operations or production. I think Rule 55.03.b needs to be made consistent with 22.02. The draft revised rules at 55.03.b as currently written obligate the lessee to drill continuously without reference to the primary or extended term. Continuous drilling isn't possible at the beginning of the lease, because the lessee still needs to conduct geophysical operations in order to determine where to drill. 22.02 and 55.03 also lack the concept of operations on or production from pooled or unitized acreage.” Please visit rulemaking webpage for full comment.	22.02.b,c 55.03.b	IDL reviewed and added language regarding pooled or unitized land to address this comment.

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20.03.16 – RULES GOVERNING OIL AND GAS LEASING ON IDAHO STATE LANDS

DOCKET NO. 20-0316-2401 (ZBR CHAPTER REWRITE, FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17th, 2024.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Idaho Department of Lands initiated this rulemaking in compliance with [Executive Order 2020-01: Zero-Based Regulation](#) with the goal of simplifying and streamlining the rules for increased clarity and ease of use.

FEE SUMMARY: No changes have been made to any fees in this proposed rule. The exploration permit fee remains \$100 per linear mile or a minimum of \$100 per section. Nomination fees continue to be set by the State Board of Land Commissioners (Board), which a minimum of \$250 per tract. Processing fees continue to be set by the Board at a minimum of \$100 per each document.

FISCAL IMPACT: There is no negative fiscal impact on the state General Fund resulting from this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 6, 2024 Idaho Administrative Bulletin, [Vol. 24-3, pages 20-21](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: Not Applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance with technical questions concerning the proposed rule, contact Mike Murphy at (208) 334-0290 or mmurphy@idl.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 3rd day of June, 2024.

Mike Murphy, Minerals Program Manager
Idaho Department of Lands
300 N. 6th Street, Suite 103
P.O. Box 83720 Boise, Idaho 83720-0050
Phone: (208)334-0290
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rulemaking@idl.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 20-0316-2401
(ZBR Chapter Rewrite.)

20.03.16 – RULES GOVERNING OIL AND GAS LEASING ON IDAHO STATE LANDS

000. LEGAL AUTHORITY.

This Chapter is adopted under the legal authorities of Sections 58-104(1), 58-104(6), 58-104(9), 58-105, ~~and~~ 58-127, Idaho Code, ~~and~~; Section 58-307, Idaho Code; Title 47, Chapter 7, Idaho Code; Title 47, Chapter 8, Idaho Code, ~~and~~; ~~and~~ Title 67, Chapter 52, Idaho Code. (3-18-22)()

001. TITLE AND SCOPE.

~~01. Title. These rules are titled IDAPA 20.03.16, “Rules Governing Oil and Gas Leasing on Idaho State Lands.”~~ (3-18-22)

~~02. Scope. These rules apply to the eExploration and extraction of oOil and gGas resources situated in state-owned mMineral lLands.~~ (3-18-22)()

~~03. Other Laws. In addition to these rules, the lLessee must comply with all applicable federal, state and local laws, rules, and regulations. The violation of Violating any applicable law, rule, or regulation may constitutes a breach of any violation of the lLease issued in accordance with these rules.~~ (3-18-22)()

002. ADMINISTRATIVE APPEALS.

~~01. Appeal to Board. All decisions of the Director are appealable to the Board. An aggrieved party desiring to take such an appeal must, within thirty (30) days after notice of the Director’s decision, file with the Director a written notice of appeal setting forth the basis for the appeal.~~ (3-18-22)

~~02. Hearing. The Board will hear the appeal at the earliest practical time, or in its discretion, appoint a hearing officer to hear the appeal, within sixty (60) days after filing of the notice of appeal. The hearing officer will make findings and conclusions that the Board may accept, reject or modify. The decision of the Board after hearing or upon a ruling concerning the hearing officer’s findings and conclusions is final.~~ (3-18-22)()

~~03. Judicial Review. Judicial review of the final decision of the Board will be in accord with the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, by filing a petition in the district court in Ada County, or the county where the Board heard the appeal and made its final decision, within thirty (30) days after notice of the Board’s decision. Service of the Board’s decision may be by personal service or by certified mail to the lLessee.~~ (3-18-22)()

003. -- 009. (RESERVED)

010. DEFINITIONS.

The terms Mineral Lands, Mineral, and Mineral Right are defined in Section 47-701, Idaho Code. The terms Casual Exploration and Motorized Exploration are defined in Section 47-703A, Idaho Code. The term Legal Subdivision is defined in Section 58-809, Idaho Code. In addition to the identified definitions in Idaho Code, the following definitions apply to these rules: ()

~~01. Board. The Idaho State Board of Land Commissioners or its authorized representative designee, or where appropriate, the state of Idaho.~~ (3-18-22)()

02. **Commission.** The Idaho Oil and Gas Conservation Commission. (3-18-22)
- ~~03. **Collateral Surety Bond and Corporate Surety Bond.** See Subsections 080.04.a. and 080.04.b. (3-18-22)~~
- ~~043. **Department.** The Idaho Department of Lands. (3-18-22)~~
- ~~054. **Director.** The Director of the Idaho Department of Lands or ~~his authorized representative~~ their designee. (3-18-22)()~~
- ~~06. **Discretion.** Exercising authority to make a decision, choice or judgment without being arbitrary, capricious or illegal. (3-18-22)~~
075. **Exploration.** Activities related to the various geological and geophysical methods used to detect and determine the existence and extent of hydrocarbon deposits. (3-18-22)
086. **Final Board Approval.** Approval of a HLease occurs after the HLease is signed by the Governor, ~~the~~ Secretary of State, ~~and the~~ Director, on behalf of the Board, after approval of the HLease by a majority of the Board. All approved HLeases must first be signed by the Lessee and then by the above-entitled state officials. (3-18-22)()
097. **Lease.** A written agreement between the Department and a pPerson containing the terms and conditions upon which the Person will be authorized to use sState Lands. (3-18-22)()
- ~~10. **Legal Subdivision.** See Subsection 071.04. (3-18-22)~~
- ~~1108. **Lessee.** The pPerson to whom a HLease has been issued and his successor in interest or assignee(s). More than one (1) pPerson may be entered as an applicant on the application form but only one (1) pPerson ~~shall will~~ be designated in the application for HLease or assignment as the HLessee of record with sole responsibility for the HLease under these rules. (3-18-22)()~~
- ~~1209. **Lessor.** The Board on behalf of the state of Idaho. (3-18-22)~~
- ~~13. **Motorized Exploration Equipment.** The equipment used in exploration that may appreciably disturb or damage the land or resources thereon as defined in Section 47-703(a), Idaho Code. (3-18-22)~~
140. **Natural Gas Plant Liquids.** Hydrocarbon compounds in raw gas that are separated as liquids at gas processing plants, fractionating plants, and cycling plants. Includes ethane, liquefied petroleum gases (propane and the butanes), and pentanes plus any heavier hydrocarbon compounds. Component products may be fractionated or mixed. (3-18-22)
151. **Oil and Gas.** ~~Oil and gas means o~~ Oil or gas, or both. (3-18-22)()
162. **Person.** An individual, corporation, partnership, limited liability company, association, trust, unincorporated organization or other legal entity qualified to do business in the state of Idaho, and any federal, state, county, or local unit of government. (3-18-22)()
- ~~a. **An individual of legal age;** (3-18-22)~~
- ~~b. **Any firm, association or corporation that is qualified to do business in the state of Idaho;** (3-18-22)~~
- ~~c. **Or any public agency or governmental unit, including without limitation, municipalities.** (3-18-22)~~
173. **Production in Paying Quantities.** That gross income from oil and/or gas produced and saved (after deduction of taxes and royalty) that exceeds the cost of operation. (3-18-22)

184. State Lands. Lands, including the beds of navigable waters within Idaho in which the title to ~~m~~Mineral ~~r~~Rights is owned by the state of Idaho, that are under the jurisdiction and control of the Board or any other state agency. (3-18-22)()

195. Tract. An expanse of land representing the surface expression of the underlying ~~m~~Mineral estate, which includes oil and gas rights owned by the State, that: (3-18-22)()

a. May be identified by its public land survey system of rectangular surveys that subdivides and describes land in the United States in the public domain and is regulated by the U.S. Department of the Interior, Bureau of Land Management; (3-18-22)

b. Is of no particular size; (3-18-22)

c. Is a maximum size of six hundred forty (640) acres or one section, unless otherwise determined by the Director; (3-18-22)

d. May be irregular in form; (3-18-22)

e. Is contiguous; (3-18-22)

f. May lie in more than one township or one section; (3-18-22)

g. May have a boundary defined entirely or in part by natural monuments such as streams, divides, or straight lines connecting prominent features of topography; (3-18-22)

h. May include the ~~m~~Mineral estate beneath navigable waters of the State; and (3-18-22)()

i. May be combined with other ~~t~~Tracts to form a ~~l~~Lease. (3-18-22)()

~~011. -- 014. (RESERVED)~~

015. CONTROL OF STATE LANDS.

~~The Director will regulate and supervise pursuant to law and these rules all state lands within the custody and control of the Board. State lands subject to the custody and control of other state agencies will be regulated and supervised by the respective agency in accord with state laws and rules; provided that any lease for oil and gas thereon complies with these rules.~~ (3-18-22)

016. WITHDRAWAL OF LANDS.

~~At any time prior to final Board approval of a lease, the Board reserves the right to withdraw state lands entirely from oil and gas leasing if consistent with its constitutional and statutory duties and in the state's best interests.~~ (3-18-22)

~~017. -- 019. (RESERVED)~~

020. QUALIFIED APPLICANTS AND LESSEES.

Any ~~p~~Person who ~~is not then in default of any contract~~ does not have a contract in default with the state of Idaho or any department or agency thereof is a qualified applicant and ~~l~~Lessee. ~~No member of the Board or employee of the Department~~ Neither Board members nor Department employees may take or hold such ~~l~~Lease. (3-18-22)()

021. EXPLORATION.

01. Written Permit Required. Any appreciable surface disturbing activity, including, ~~but not limited to, m~~ Motorized ~~e~~Exploration, on ~~s~~State ~~l~~Lands is prohibited, except ~~by~~ when a written exploration permit is received for exploration for a period of time as determined by the Director. This permit is in addition to any permit required by the Commission. (3-18-22)()

02. Permit Conditions. The Director will determine when the exploration permit expires. The permit ~~will~~ contains ~~such~~ conditions ~~as~~ that the Director determines will protect the existing surface uses and resources of the

~~s~~State. The permit applicant must pay ~~in advance~~ the fee required by Section 120 in advance of the permit being issued. (3-18-22)()

022. LEASE ACQUISITION PROCESS.

01. Acquiring a Lease. A ~~H~~lease may be acquired for the exclusive right and privilege to explore for and produce ~~e~~Oil and ~~g~~Gas by oral auction, online auction, or such other method of competitive bidding, which is authorized by the Board, in its and, based on the Board's discretion, determined to be in the state's best interest, of the state, and The Lease will be awarded to the winning bidder at close of auction. The winning bidder at auction will be issued the ~~H~~lease by the Department on the first day of the month following Final Board Approval. The Board and Department reserve the right to reject any or all nominations or bids, and expressly disclaim any liability for inconvenience or loss caused by errors that may occur concerning lease offerings. (3-18-22)()

02. Lease Provisions. (3-18-22)

a. Advance Annual Rental. The Lessee must pay to the state of Idaho an advance annual rental for each lease of three dollars (\$3) per acre with a minimum of two hundred fifty dollars (\$250) per ~~H~~lease. (3-18-22)()

b. Diligent Drilling. ~~Diligent and continuous drilling operations means no delay or cessation of drilling for a period greater than one hundred twenty (120) days, unless extended in writing by the Director. The Director must receive a written request for an extension at least ten (10) days prior to the expiration of the one hundred twenty (120) day period.~~ (3-18-22)

eb. Notification at End of Lease Period. The Lessee must notify the Director in writing prior to the ~~expiration of the~~ final year of his ~~H~~lease that drilling or reworking operations has commenced on the leased premises, or on lands pooled or unitized therewith, and will extend beyond the expiration date of the ~~H~~lease. Advance ~~A~~annual ~~R~~rental, ~~in the amount required by per~~ Section 022.a, for any additional and each succeeding year, must be received ~~by the Department~~ prior to the Lease's expiration date and entitles the Lessee to hold the ~~H~~lease only as long as drilling or rework operations are pursued in accord with these rules. There will be no refund of unused rental. (3-18-22)()

dc. Abandonment. During any additional or succeeding year of any ~~H~~lease, cessation of production for a period of six (6) months, or cessation of continuous operations as provided in Section 055.03.b, is considered ~~as an~~ abandonment. The ~~H~~lease will then automatically terminate at its next anniversary date unless the Director determines that such cessation of production or continuous operations is justified or the well meets the requirements of a shut in well under Subsection 022.02.ed. (3-18-22)()

e. Suspension of Production. ~~The Director may grant a suspension of production not to exceed one (1) year upon a written application showing that the lessee is unable to market oil or gas from a well located on the leased premises capable of oil and gas production in paying quantities due to a lack of suitable production facilities or a suitable market for the oil or gas and such conditions are outside the reasonable control of lessee and the lease is not being otherwise maintained in force and effect. If such well is shut in and the Director approves the application for suspension of production requirements prior to the expiration or termination of the lease, then the lease will be extended in accordance with the terms of Section 47-801, Idaho Code, for a period of one (1) year if the lessee timely submits an application in a form approved by the Director and, upon approval of said application, pays a shut-in royalty in the amount equal to double the annual rental provided for by these rules for each well capable of producing oil or gas in paying quantities. The lessee must remit the shut-in royalty payment while the lease is otherwise maintained in force and effect. Payment of shut-in royalty after the expiration or other termination of the lease will not revive or extend the lease. The Lessee may request continuation of this suspension of production, provided such request is received in writing by the Director at least thirty (30) days prior to the expiration date of the period of suspension.~~ (3-18-22)

d. Suspension of Production. The Director may grant a suspension of production after receiving a Lessee's written application. The Lessee must show: that they are unable to market Oil and Gas from a well located on the leased premises, which is capable of Oil and Gas Production in Paying Quantities, due to a lack of suitable production facilities, of a lack of a suitable market for Oil and Gas, and that such conditions are outside of the

reasonable control of the Lessee, and; that the Lease is being otherwise maintained in force and effect. The suspension of production cannot exceed one (1) year. The Lessee may request an extension of the suspension of production by submitting a written request to the Director at least thirty (30) days before the suspension period expires. If the well is shut in, and the Director approves the application for suspension of production prior to the expiration or termination of the Lease, then the Lease will be extended, per Section 47-801, Idaho Code, for a period of one (1) year if: (i) the well is shut in; (ii) the Lessee timely submits an application in a form approved by the Director, and; (iii) upon approval of said application, pays a shut-in royalty in the amount equal to double the annual rental, per Subsection 022.02.a, for each well capable of producing Oil or Gas in paying quantities. The Lessee must remit the shut-in royalty payment while the Lease is otherwise maintained in force and effect. Payment of shut-in royalty after the expiration or other termination of the Lease will not revive or extend the Lease. ()

e. Water Rights. The Lessee will comply with all state laws and rules regulating the appropriation of water rights. No water rights developed or obtained by the Lessee in conjunction with operations under a Lease may be sold, assigned, or otherwise transferred without the Director's written approval. Upon surrender, termination, or expiration of the Lease, the Lessee must take all actions required by the Director to assign to the Board all water rights, including applications and permits, subject to applicable laws regarding the transfer or assignment of permits to appropriate water. ()

03. Nominating a Tract for Auction. A ~~Tract~~ may be nominated for auction either by the Department or by application to the Department. Nomination must be made at least ninety (90) days prior to a Department-defined close of auction date, ~~or by Department nomination at least ninety (90) days prior to a Department-defined close of auction date.~~ Any qualified ~~Person~~ may nominate a ~~Tract~~ for lease auction by submitting a Department nomination form to the Department; and paying the nomination fee, in an amount which is determined by the Board, ~~during regular business hours on the Department nomination form.~~ Each nominated tract must be a maximum size of ~~six hundred forty (640) acres or one section.~~ The nominating person may propose that multiple tracts be included in a single lease. Each nomination for a ~~Tract~~ for auction is deemed an offer by the nominating ~~Person~~ to ~~Lease~~ the ~~Tract~~ for the advance annual rental amount, as defined in per Subsection 022.02.a, above. (3-18-22)()

04. Withdrawing a Tract for Auction. ~~Any person nominating a tract for auction~~ A Tract nomination may be withdrawn ~~their nomination by the nominator~~ if a written request for ~~such~~ withdrawal is received by the Department at least ten (10) business days prior to the auction's opening date ~~of auction.~~ The nomination fee will not be refunded. (3-18-22)()

05. Auction Conditions. The Department will determine the conditions associated with the auction, which may including, but not limited to, the following include: when, or if, a ~~Tract~~ will be offered for auction; whether the ~~Tract~~ is to be removed from the auction; whether multiple ~~Tracts~~ will be combined in a single ~~Lease~~ ~~at the discretion of the Department;~~ and any disclaimers, additional information, and any other such terms and conditions associated with the auction of the ~~Tracts~~. Any such terms and conditions, disclaimers, and additional information will be posted on the Department's website. (3-18-22)()

06. Lease Information for Auction. For each lease to be auctioned, the Department's website will provide ~~on the website the following:~~ a lease number designated by the Department; the legal description; the lease length; the number of acres; a minimum bid ~~per acre;~~ a lease template; any lease stipulations; any other lease information; a specific date designated for the beginning and ending dates that a bidder may conduct due diligence; and a specific date ~~designated for the opening of auction;~~ and a close of auction date, time, and location of the auction. A notice of lease auction will be published at least once per week for the four (4) consecutive weeks prior to the date of auction in a newspaper in general circulation in the county in which the nominated lease is located and in a newspaper in general circulation in Ada County. (3-18-22)()

07. Auction Procedure. The Department will determine the procedures associated with the auction, ~~including, but not limited to place of auction, time of auction, and~~ such as the bidder registration procedure. Additional auction procedures are as follows: (3-18-22)()

a. Bid Increments. The minimum bid increment is one dollar (\$1). (3-18-22)

b. Winning Bid. At close of auction, the winning bid ~~for a Lessee is the number of dollars bid multiplied by the number of acres in the lease, with fractions of an acre rounded up to the next whole acre~~ will be the

highest dollar amount offered by an auction participant. If, at close of auction, a bid for a lease has not been submitted ~~by a bidder~~, then the lease will be awarded to the nominating applicant. ~~The entry of a bid~~ Entering a bid constitutes an enforceable contractual obligation. (3-18-22)()

c. Amount Due. The amount due for a lease is the winning bid, plus the first year's annual rental amount, ~~as per Subsection 022.02.a., plus the nomination fee~~. If the nominator of the Tract(s) submits the winning bid ~~was submitted by the nominator of the tract(s), then~~ the nomination fee ~~will already have been~~ will not be included in the amount due since the fee was already submitted to the Department ~~and will not be included in the amount due~~. ~~The nominator~~ If the nominator is not the winning bidder, they will be refunded the nomination fee ~~if they are not the winning bidder~~. (3-18-22)()

d. Transfer of Funds. Unless otherwise required in the notice of auction, the winning bidder for each lease has five (5) full business days after the close of auction to complete the transfer of funds to the Department. Failure of the winning bidder to transfer funds within the specified period ~~specified~~ constitutes a breach of contract, and the state may pursue any action or remedy at law or in equity against the winning bidder. (3-18-22)()

08. Execution of Lease. The completed lease ~~will~~ must be executed by the winning bidder within thirty (30) days from the date of mailing after the close of auction, or from the date of receipt if personally delivered to the applicant or ~~his~~ their agent by the Department, ~~within thirty (30) days from the date of receipt~~. An individual who executes a lease on behalf of another Person must submit a power of attorney outlining such delegated authority. (3-18-22)()

023. -- 044. (RESERVED)

045. ROYALTIES.

01. Royalty Payments. Unless otherwise specified by the Board, the Lessee will pay to the state of Idaho, in money or in kind, ~~to the state at its option~~ a royalty of no less than twelve and one-half percent (12.5%) of the oil and/or gas or natural gas plant liquids produced and saved. The Lessee will make payments in cash unless the state sends written instructions for payment in kind ~~are received from the state~~. Royalty is due on all production from the leased premises except that which was consumed for the direct operation of the producing wells ~~and that or~~ lost through no fault of the Lessee. (3-18-22)()

02. Royalty Not Reduced. ~~Where~~ If royalties are paid in cash, then costs of marketing, transporting and processing oil and/or gas or natural gas plant liquids, or all of them produced, are borne entirely by the Lessee, and such cost will not reduce the Lessor's royalty directly or indirectly. If the Director elects to take royalty in kind, ~~the state will reimburse~~ the Lessee will be reimbursed for reasonable additional storage and transportation costs. (3-18-22)()

03. Oil, Gas, and Natural Gas Plant Liquids Royalty Calculation and Reporting. All royalty owed to the Lessor, ~~hereunder~~ and not paid in kind, ~~at the election of the lessor~~ will be paid to the Lessor in the following manner: (3-18-22)()

a. Payment of royalty on production of oil is due and must be received by the Lessor on or before the 65th day after the month of production; (3-18-22)()

b. Payment of royalty on production of gas and natural gas plant liquids is due and must be received by the lessor on or before the 95th day after the month of production; (3-18-22)()

c. All royalty payments must be completed in the form and manner approved by the Department including, ~~but not limited to~~, the gross amount and disposition of all oil, gas, and natural gas plant liquids produced and the market value of the oil, gas, and natural gas plant liquids; (3-18-22)()

d. Lessee must maintain, and make available to the Lessor upon request, copies of all documents, records or reports confirming the gross production, disposition, and market value. This including includes gas meter readings, pipeline receipts, gas line receipts, and other checks or memoranda of the amount produced and put into pipelines, tanks, ~~or~~ pools, ~~and~~ gas lines, or gas storage, and any other reports or records that the Lessor may require

to verify the gross production, disposition, and market value; and

(3-18-22)()

e. Each royalty payment must be accompanied by a check ~~stub, schedule, summary or other remittance advice showing, by the assigned lessor lease number, the amount of royalty being paid on each lease stub~~ that includes: all information required by Idaho Code § 47-332; a schedule, summary, or other remittance advice showing the Lease number; and the amount of royalty being paid on the Lease. (3-18-22)()

04. Overriding Royalty. ~~All assignments of overriding royalty without a working interest made directly by the lessee and not included with an assignment of lease must be filed with the Department with the processing fee within ninety (90) days from the date of execution; provided that it is the lessee's responsibility, and not the Department's, to process such assignments by third parties. Any assignment that creates an overriding royalty exceeds the royalty previously payable to the state by greater than five percent (5%), is deemed a violation of the terms of the lease unless such an assignment expressly provides that the obligation to pay such excess overriding royalty is suspended when the average production of oil per well per day, averaged on a monthly basis, is fifteen (15) barrels or less. Any assignment of overriding royalty without a working interest made directly by Lessee, from Lessee's working interest, and not included with an assignment of this Lease, must be filed with the Department, along with the processing fee, per Subsection 120.03, within ninety (90) calendar days from the date of execution of the valid assignment. It is Lessee's responsibility, not the Department's, to process and administer any overriding royalty. Any assignment that creates an overriding royalty that cumulatively exceeds the royalty payable to Lessor by greater than five percent (5%), is deemed a violation of this Lease, unless that assignment expressly provides that the obligation to pay the excess overriding royalty is suspended when the average production of oil per well per day, averaged on a monthly basis, is fifteen (15) barrels or less at sixty (60) °F at atmospheric pressure, or: the average Production of gas per day, averaged on a monthly basis, is 60,000 cubic feet (1,700 m³) or less at fourteen and seventy-three hundredths (14.73) pounds per square inch absolute and the standard temperature base of sixty (60) °F. A reservation or assignment of an overriding royalty will not relieve Lessee of any of Lessee's obligations for payment of Royalties to Lessor. Any reservation or assignment of overriding royalty by Lessee must terminate upon the termination of this Lease.~~ (3-18-22)()

046. -- 049. (RESERVED)

050. LAND USE, SURFACE RIGHTS AND OBLIGATIONS.

01. Use and Occupancy. ~~Notwithstanding other leases for other uses of state lands, the lessee is entitled to use and occupy as much of the surface of the leased lands as may be required for all purposes reasonably incident to exploration, drilling and production and marketing of oil and gas produced from the leased land, including the right to construct and maintain all works, buildings, plants, waterways, roads, communication lines, pipelines, reservoirs, tanks, pumping stations or other structures necessary to full enjoyment and development; provided that lessee's operation does not unreasonably interfere with or endanger operations under any lease, license, claim, permit or other authorized, lawful use.~~ (3-18-22)

021. Prevention of Injury or Damage. The Lessee, its assignees, agents, and/or contractors must take all reasonable precautions to prevent injury or damage to persons, real and personal property, and to prevent waste or damage to the oil, gas, and other surface and subsurface natural resources and the surrounding environment including ~~but not limited to~~, vegetation, livestock, fish and wildlife and their natural habitat, streams, rivers, lakes, timber, and forest and agricultural resources. The Lessee, ~~his its~~ assignees, agents, and/or contractors will compensate the Board, ~~his its~~ surface lessees, grantees, or contract purchasers for any damage resulting ~~by reason of from~~ their operations or any damage resulting from their failure to take all reasonable precautions to prevent injury or damage to persons, real and personal property, and to prevent waste or damage to the oil, gas, and other surface and subsurface natural resources and surrounding environment, as set forth above. The Lessee, its assignees, agents, and/or contractors must comply with all environmental laws, rules, and regulations as they pertain to its operation. (3-18-22)()

032. Blowout or Spill. The Lessee must report to the Director any blowout, fire, uncontrolled venting, or oil spill on the leased land within twenty-four (24) hours and confirm this report in writing within ten (10) days. (3-18-22)()

04. Fences. The lessee may not at any time fence any watering place upon leased lands where it is the only accessible and feasible watering place upon the lands within a radius of one (1) mile, without first having

~~secured the written consent of the Director.~~

~~(3-18-22)~~

053. Timber Removal. The ~~H~~Lessee may not unreasonably interfere with the removal of timber purchased prior or subsequent to the issuance of an ~~e~~Oil and ~~g~~Gas ~~H~~Lease. The ~~H~~Lessee may remove any timber required for ingress or egress or as otherwise necessary for operations. The ~~H~~Lessee must pay the current stumpage price, as determined by the Director for any timber cut or removed ~~on a current stumpage price basis as determined by the Director, and, Such proceeds therefrom accrue~~ go to the state agency that has custody and control over the leased lands.

~~(3-18-22)~~()

064. Potable Water Discovery. If the ~~H~~Lessee finds only potable water in any well drilled for ~~e~~Exploration or production of oil and gas, and the water is of such quality and quantity as to be valuable and usable for agricultural, domestic, or other purposes, the Board may acquire the well with whatever casing is installed in the well at the casing's fair market value ~~of the casing upon the assumption by its surface lessee, grantee, or contract purchaser of surface lessee, grantee, or contract purchaser assuming~~ all future liabilities and responsibilities for the well, with the approval of the ~~e~~Commission, and if such acquisition is in compliance with Section 058; provided that the surface lessee, grantee, or contract purchaser also complies with applicable laws and rules of the Department of Water Resources.

~~(3-18-22)~~()

075. Reclamation. The ~~H~~Lessee must reclaim all ~~s~~State ~~H~~Lands disturbed by its ~~e~~Exploration and operations so that they are, at least, consistent with previous use by the surface owner. This may include include segregating and protecting topsoil and regrading to approximate previous contour. If the Director has determined that substantial removal of topsoil has occurred ~~as determined by the Director,~~ the ~~H~~Lessee will replace the topsoil and revegetate to the extent necessary to minimize erosion.

~~(3-18-22)~~()

086. Entry by Director. The Director is permitted, at all reasonable times, to go in and upon the leased lands and premises to inspect the operations and ~~the~~ products obtained and to post any lawful notice. The Director may, at any time, require that reasonable tests, surveys, samples, etc., be taken to assure compliance with these rules, in accord with ~~his~~ their instruction, without cost to the state of Idaho, to assure compliance with these rules. The Director may at any reasonable time and at state expense, inspect and copy ~~at his own expense~~ all of ~~H~~Lessee's books and records pertaining to a ~~H~~Lease under these rules. ~~Upon failure of lessee If the Lessee fails~~ to take timely, corrective measures, as ordered by the Director, ~~or the Board, or the e Commission,~~ bond forfeiture may occur and the Director may shut down ~~H~~Lessee's operations if ~~he~~ the Director determines they are unsafe or are causing or may cause waste or pollution to oil, gas, or other resources, or; or the Director may terminate the ~~H~~Lease and cause damage or unsafe conditions to be repaired or corrected, at the expense of the ~~H~~Lessee ~~and forfeiture of bond in accordance with these rules.~~

~~(3-18-22)~~()

~~09. Other Uses.~~ Subject to Subsection 050.01, ~~the Director may issue leases for other uses of state lands leased under these rules. All lessees have the right of reasonable ingress and egress at all times during the term of the lease.~~

~~(3-18-22)~~

10. Disposal of Leased Lands. The Board reserves the right to sell or otherwise dispose of the surface of the leased lands; provided that any sale of surface rights made subsequent to execution of the lease is subject to all terms and provisions of the oil and gas lease during its life including extensions and continuations under Section 040.

~~(3-18-22)~~

051. DILIGENT EXPLORATION REQUIRED.

~~The lessee must perform diligent exploration during the entire term of a lease. Diligent exploration means that the lessee provides continuing efforts as a reasonably prudent operator toward achieving production, including, without limitation, performing geological and geophysical surveys and/or the drilling of a test well.~~

~~(3-18-22)~~

0521. -- 054. (RESERVED)

055. OPERATIONS UNDER THE LEASE.

01. Best Practices. The ~~H~~Lessee will, at all times, conduct exploration, development, drilling and all operations as a reasonably prudent operator and will conform to the best practice and engineering principles in use in the oil and gas industry.

~~(3-18-22)~~()

~~02. Compliance with Rules.~~ The lessee will comply with all rules of the oil and gas commission, including amendments promulgated pursuant to Title 67, Chapter 52, Idaho Code, and any violations of the commission's rules or other applicable state laws and rules may constitute a violation of the lease under these rules. (3-18-22)

~~032. Designation of Operator.~~ In all cases where A designation of operator must be submitted to the Director prior to operations commencing when the operations are not conducted by the Hessee but and are to be conducted under authority of an approved operating agreement, assignment or other arrangement, a designation of operator must be submitted to the Director prior to commencement of operations. Such a The designation authorizes the operator, or his their local representative, to act for the Hessee and to sign any papers or reports required under these rules. The Hessee must immediately report all address changes and termination of an operator's authority to the Director all changes of address and termination of the authority of the operator. (3-18-22)()

~~04. Legal Representative.~~ When required by the Director, the lessee must designate a local representative empowered to receive service of civil or criminal process and notices and orders of the Director issued pursuant to these rules. (3-18-22)

~~053. Diligence.~~ The lessee will, subject to the right to surrender the lease, diligently drill and produce such wells as are necessary to protect the Board from loss by reason of production on other properties, or with the consent of the Director, compensate the Board for failure to drill and produce any such well. All wells under lease must be drilled, maintained and operated to produce the maximum amount of oil and/or gas that can be secured without injury to the well. (3-18-22)()

a. Lessee must diligently explore for the entire Lease. Diligent exploration means that the Lessee continually provides effort, as a reasonably prudent operator would, to achieving production on the leased premises or on lands pooled or unitized therewith, such as performing geological and geophysical surveys and/or drilling a test well. ()

b. Following Lessee's diligent exploration, Lessee must engage in continuous drilling operations on the leased premises or on lands pooled or unitized therewith during the remaining Lease term or any extension of the Lease pursuant to Section 022.02.b. until Production in Paying Quantities is achieved This means there is to be no delay or cessation of drilling for more than one hundred twenty (120) days, unless an extension is granted by the Director in writing. The Director must receive a written request for the extension at least then (10) days prior to the one hundred twenty (120) day period ending. ()

c. All wells under a Lease must be drilled, maintained, and operated to produce the maximum amount of oil and/or gas possible, without injury to the well. The Lessee will, subject to the right to surrender the Lease, diligently drill and produce as many wells as necessary to protect the Board from loss resulting from production on other properties. The Lessee may, with the Director's written consent, compensate the Board for failure to drill and produce such wells. ()

~~064. Loss Through Waste or Failure to Produce.~~ The If there is loss through waste or failure to drill and produce protection wells on the leased lands, the Director will determine the value of production accruing to the Board where there is loss through waste or failure to drill and produce protection wells on the leased lands and the compensation due to the Board as reimbursement for such loss. Payment for such losses must be made within sixty (60) days after the date of billing. The value of production resulting from a loss through waste or failure to take corrective measures to protect a well is calculated at ninety percent (90%) of the last year's actual production royalty or a minimum royalty of five dollars (\$5) per acre or fraction thereof, whichever is greater. (3-18-22)()

~~075. By-Products.~~ Where production, use of conversion of eOil and gGas under a Hlease, is susceptible of producing a valuable by-product(s) or by-products, including, without limitation, commercially demineralized water, carbon dioxide, or helium, the Hessee must submit to the Director all available information concerning the potential by-product(s). The Department may conduct tests or studies, at its expense, and may issue reasonable orders to produce and preserve such by-product(s). (3-18-22)()

~~086. Geothermal Information.~~ Prior to abandoning any well, the Hessee must submit to the Director

all available information concerning geothermal resource potential. The Department may conduct tests or studies, at its expense, prior to the abandoning of any well to determine geothermal resource potential. Except as provided in Subsection ~~040.05~~ 022.02.d., the Lessee must promptly plug and abandon any well on the leased land that is not used or useful, in accord with these rules, ~~and the Commission's rules of the commission,~~ and any applicable rules and regulations of the Department of Water Resources. When drilling in a known geothermal resources area, the ~~applicant~~ Lessee may need a geothermal resource well permit from the Department of Water Resources. (3-18-22)()

056. WATER RIGHTS.

~~The lessee will comply with all state laws and rules regulating the appropriation of water rights. No water rights developed or obtained by the lessee in conjunction with operations under a lease may be sold, assigned or otherwise transferred without written approval of the Director. Upon surrender, termination or expiration of the lease, the lessee must take all actions required by the Director to assign to the Board all water rights, including applications and permits, subject to applicable laws regarding the transfer or assignment of permits to appropriate water.~~ (3-18-22)

057. -- 059. (RESERVED)

060. ASSIGNMENTS.

01. Prior Written Approval. No Lease assignment is valid ~~until unless~~ approved by the Director in writing ~~by the Director, and no.~~ The assignment does not takes effect until the first day of the month following its approval. (3-18-22)()

02. Qualified Assignee. A Lease may be assigned to any qualified person ~~qualified to hold a state lease,~~ provided that in the event an assignment partitions leased lands between two (2) or more persons, neither the assigned nor the retained part created by the assignment may contain less than forty (40) acres or a government lot, whichever is less. (3-18-22)()

03. Responsibilities. In an assignment of the complete interest of the leasehold, the assignor and ~~his~~ their surety must continue to comply with the Lease and these rules until the effective date of the assignment. After the effective date of any assignment, the assignee and ~~his~~ their surety are bound by the Lease ~~and these rules~~ to the same extent as if the assignee were the original Lessee, notwithstanding any conditions in the assignment to the contrary; however, the assignor-lessee remains liable for rentals and royalties due and damages accruing prior to the effective date of the assignment. (3-18-22)()

04. Segregation of Assignment. If an assignment partitions leased lands between two (2) or more persons, it must clearly segregate the assigned and retained portions of the leasehold. Resulting segregated Lease continue in full force and effect for the balance of the ten-year term of the original Lease or as further extended pursuant to these rules. (3-18-22)()

05. Joint Principal. Where an assignment does not segregate the record title to the Lease, the assignee, if the assignment so provides, may become a joint principal on the bond with the assignor. The application must be accompanied by a consent of assignor's surety to remain bound under the bond of record, if the bond by its terms does not contain such consent. If a party to the assignment has previously furnished a statewide bond, no additional showing by such party is necessary as to the bond requirement. (3-18-22)()

06. Form of Assignment. An assignment is a valid legal instrument, properly executed and acknowledged, setting forth the number of the Lease, a legal description of the land involved, the name and address of the assignee, the interest transferred and the consideration. A fully executed copy of the instrument of assignment must be filed with the application for approval pursuant to Subsection 060.07. An assignment may affect or concern more than one (1) Lease. (3-18-22)()

07. Application. The application for approval of an assignment must be submitted ~~in duplicate~~ on Department forms ~~of the Department or exact copies of such forms.~~ The "lessee/assignee of record" must be designated in accordance with Subsection 010.11. If payments out of production are reserved, a statement must be submitted stating the amount, method of payment, and other pertinent items. The statement must be filed with the Department no later than fifteen (15) days after the filing of the application for approval of an assignment. (3-18-22)()

08. **Denial.** The Director may deny an application for assignment if the Lessee or the assignee is delinquent in payment of rentals or royalties or ~~otherwise~~ has otherwise violated these rules. (3-18-22)()

09. **Fee.** All applications for approval of assignment must be accompanied by the fee required by Section 120. (3-18-22)

061. -- 069. (RESERVED)

070. **SURRENDER - RELINQUISHMENT.**

01. **Procedure.** The Lessee may surrender its Lease, or any surveyed subdivision of the area covered by such Lease, by filing a written relinquishment with the Department, ~~provided that a~~ A partial relinquishment ~~does~~ may not reduce the remaining acreage in the Lease to less than forty (40) acres or a government lot, whichever is less. The Director may waive the minimum acreage ~~provision of this rule~~ requirement if ~~he finds~~ it is found to be justified on the basis of exploratory and development data derived from activity on the leasehold. (3-18-22)()

02. **Effective Date.** A relinquishment takes effect thirty (30) days after it is received by the Department. ~~Thereafter~~ After effective relinquishment, the Lessee is relieved of liability under these rules except for the continued obligation of the Lessee and ~~his~~ their surety to: (3-18-22)()

- a. Make payments of all accrued rentals and royalties; (3-18-22)
- b. Place all wells on the relinquished land ~~to be relinquished~~ in a condition for suspension of operations or abandonment; (3-18-22)()
- c. Comply with all of the Commission's rules ~~of the commission~~ for plugging of abandoned wells; (3-18-22)()
- d. Comply with applicable laws and rules of the Department of Water Resources; and (3-18-22)
- e. Reclaim the surface and natural resources in accord with these rules. (3-18-22)

03. **Partial Surrender.** In the event of a partial surrender ~~of the land covered by such lease~~, the annual rental ~~thereafter payable~~ rate will be reduced proportionately. (3-18-22)()

071. **TERMINATION - CANCELLATION OF LEASE.**

01. **Cause.** Except as otherwise provided in these rules, the Director may terminate the Lease for any substantial violation of ~~these rules, the lease, or the rules of the commission, ninety (90) days after notice of the violation has been given to lessee by personal service or by certified mail to the lessee, unless~~ the Lease ninety (90) days after notice of the violation has been given to Lessee by personal service or certified mail, in which case notice is deemed served upon mailing, unless; (3-18-22)()

- a. The violation has been corrected; or (3-18-22)
- b. The violation is one that cannot be corrected within the notice period and the Lessee has in good faith commenced ~~within the notice period to~~ correcting the violation, within the notice period, and diligently proceeds diligently to complete corrective action, within ~~a~~ the time period set by the Director. ~~If sent by certified mail, such notice will be deemed served upon mailing.~~ (3-18-22)()

02. **Surrender After Termination.** Upon the expiration or termination of the Lease, the Lessee will quietly and peaceably surrender possession of the premises to the state. ~~Thereafter, lessee's obligations under these rules that have accrued prior to the date of expiration or termination continue in full force and effect. Such surrender does not relieve the Lessee of liabilities that may have accrued in connection with the Lease prior to the surrendering.~~ (3-18-22)()

03. **Other Wells.** Default by the Lessee in ~~the performance of performing~~ any of the Lease's conditions or provisions ~~of the lease~~ concerning a well(s) ~~or wells~~ on any Legal subdivision of the leasehold do not affect the right of the Lessee to continue the possession or operation of any other well(s) ~~or wells~~, that are situated upon any other Legal subdivision of the leasehold. ~~The term "legal subdivision" as herein used means a subdivision as established by the United States land survey that most nearly approximates in size the area allocated to one well under any approved well spacing program; provided that if no special program has been approved, "legal subdivision" means the parcel upon which such well is located, but in any event not less than forty (40) acres surrounding such well.~~ Where such a default involving one (1) or more well(s) results in cancellation, and the Lessee has other wells on the Lease, which are not in default, such cancellation will result in the division of the defaulting acreage from the Lease and resultant reduction in the size of the Lease held by the Lessee. (3-18-22)()

04. **Equipment Removal.** Upon the expiration of the Lease, ~~or its earlier termination~~, or surrender pursuant to these rules, the Lessee must, ~~within a period of ninety (90) days~~, remove from the premises all materials, tools, appliances, machinery, structures. The Lessee must do so within ninety (90) days or within the extension that may be granted because of adverse climatic conditions. Equipment subject to removal but not removed ~~within the ninety (90) day period or any extension that may be granted because of adverse climatic conditions during that period within the allotted time~~, may, at the option of the Director, become property of the state of Idaho, or the Director may cause the property to be removed at the Lessee's expense. (3-18-22)()

072. -- 079. (RESERVED)

080. BOND REQUIREMENTS.

01. **Minimum Bond.** Prior to ~~entry with m~~ Motorized exploration ~~equipment up~~ on leased lands, the surface of which has been sold or leased, the Lessee must submit to the Director a corporate surety bond or collateral bond in the amount of one thousand dollars (\$1,000) in favor of the state of Idaho conditioned upon the payment of all damages to the surface that result from the Lessee's operation. Prior to entry upon the leased land with drilling equipment or prior to commencing any construction in preparation for drilling upon leased lands, the Lessee must submit to the Director a corporate security bond or collateral bond in the amount of six thousand dollars (\$6,000) in favor of the state of Idaho ~~bond will be~~ conditioned upon compliance with the Lease, these rules, ~~the removal of all materials, etc. per Subsection 071.04~~, and the payment of all damages to the land surface and all improvements thereon, including crops, which result from the Lessee's operation, regardless of whether the lands under this Lease have been sold or leased by the Board for any other purpose. This bond is in addition to the drilling bond pursuant to the eCommission's rules. This rule notwithstanding, the ~~oil and gas~~ Lessee may be required, on a case-by-case basis, to post a bond ~~in excess of that exceeds~~ six thousand dollars (\$6,000) to protect a surface lessee's or surface owner's interests, pursuant to per Section 47-708, Idaho Code. (3-18-22)()

02. **Statewide Bond.** In lieu of the aforementioned bonds, the Lessee may furnish a good and sufficient "statewide" bond conditioned as above in the amount of fifty thousand dollars (\$50,000) in favor of the state of Idaho to cover all Lessee's Lease and operations carried ~~on out~~ under these rules. (3-18-22)()

03. **Period of Liability.** The period of liability of any bond is not to be terminated until all obligations under the Lease and these rules have been fulfilled and the bond is released in writing by the Director. (3-18-22)()

04. **Form of Performance Bond.** (3-18-22)

a. Corporate surety bond means an indemnity agreement executed by or for the Lessee and a corporate surety licensed to do business in the state of Idaho on an an Department ~~o~~Oil and gas Lease ~~b~~Bond form, supplied by the Department conditioned in accord with Subsection 080.01, and payable to the state of Idaho. (3-18-22)()

b. Collateral bond means an indemnity agreement executed by or for the Lessee and payable to the state of Idaho, pledging cash deposits, negotiable bonds of the United States, state or municipalities, or negotiable certificates of deposit of any bank doing business in the United States. Collateral bonds are subject to the following conditions: The Department obtains possession and deposits such with the state treasurer. The Department will value collateral at its current market value, not face value. Certificates of deposit are made payable to the "State of Idaho or

the lessee.” Amount of an individual certificate may not exceed the maximum amount insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or their successors. Banks issuing such certificates waive all rights of set-off or liens that they have of may have against such certificates. Any such certificates are automatically renewable. The certificate of deposit must be of sufficient amount to ensure that the Department would be able to liquidate such certificates prior to maturity, upon forfeiture, for the amount of the required bond including any penalty for early withdrawal. (3-18-22)()

05. Bond Cancellation. Any surety company or indemnitor canceling a bond must give the Department at least sixty-days’ (60) notice prior to cancellation. The Department will not release a surety or indemnitor from liability under existing bonds until the Lessee has submitted to the Department an acceptable replacement bond. Such replacement bond must cover any liability accrued against the bonded principal on the Lease covered by the previous bond. (3-18-22)()

06. Surety License. If the license to do business in Idaho of any surety is suspended or revoked, the Lessee must find a substitute for such surety within thirty (30) days after notice by the Department. If the lessee fails to secure a substitute surety, ~~he they~~ must cease operations ~~upon~~ under the Lease. The substitute surety must be licensed to do business in Idaho. (3-18-22)()

07. Form. All bonds furnished must be on the Department bond form ~~or exact copy of it.~~ (3-18-22)()

081. -- 089. (RESERVED)

090. UNIT OR COOPERATIVE PLANS OF DEVELOPMENT OR OPERATION.

01. Unit Plan. For the purpose of properly conserving the natural resources of any ~~o~~Oil and ~~g~~Gas pool, field, or like area, the Lessee may, with the Director’s written consent ~~of the Director~~, commit the leased lands to a unit, cooperative or other plan of development or operation with other state, federal, Indian, or privately-owned lands. (3-18-22)()

02. Contents. An agreement to unitize must: describe the separate ~~t~~Tracts comprising the unit; disclose the apportionment of the production of royalties and costs to the several parties; disclose the name of the operation; and contain adequate provisions for the protection of the interests of all parties, including the state. The agreement must: be signed by or ~~in~~ on behalf of those ~~p~~Persons ~~or entities~~ having effective control of the geologic structure; ~~be~~ submitted to the Director with the application to unitize; ~~and. The agreement is~~ effective only after approval by the Director. (3-18-22)()

03. Interested Parties. The owners of any right, title, or interest in the ~~o~~Oil and ~~g~~Gas resources to be developed or operated under an agreement may be regarded as interested parties to a proposed unitization agreement. Signature of a party with only an overriding royalty interest in unnecessary. (3-18-22)()

04. Collective Bond. In lieu of separate bonds for each Lease committed to a unit agreement, the unit operator may furnish and maintain a collective corporate surety bond or a collateral bond, conditioned upon faithful performance of the duties and obligations of the agreement, the Lease that is subject to the agreement and these rules. The liability under the bond will be for such amount the Director determines to be adequate to protect the state’s interests ~~of the state~~. If the unit operator is changed, a new bond or consent of surety to the change in principal under the existing bond must be filed within thirty (30) days of assignment. (3-18-22)()

05. Lease Modification. The terms of any Lease included in any cooperative or unit plan of development or operation may be modified by the Director with approval of the Lessee, except that a unit agreement must have final approval by the Director for a state cooperative plan or the final approval by the secretary of interior for a federal cooperative plan prior to extending any Lease into its eleventh year and each year thereafter. A Lease so extended expires two (2) years after the unit plan expires provided the Lessee continues to pay the annual rental, ~~as outlined in per~~ Subsection ~~041.03~~ 022.02.a. (3-18-22)()

06. Rentals. Rentals and royalties on Lleases so extended are at the rates specified in these rules. Advanced rental must be paid on or before the extended Lease’s anniversary date. Any unused portion of annual

rental will not be refunded.

(3-18-22)()

07. Evidence of Agreement. Before issuance of a ~~Lease~~ for lands within an approved unit agreement, the ~~Lease~~ applicant must file with the Department evidence that ~~he has~~ they have entered into an agreement with the unit operator for the development and operation of the lands in a ~~Lease~~, or a statement giving satisfactory reasons for the failure to enter into such agreement. If such statement is acceptable, the applicant will be permitted to operate independently but be required to perform its operations in a manner that the Director deems to be consistent with the unit operations.

(3-18-22)()

08. Segregation Prohibited. A ~~Lease~~ may not be segregated if any part thereof is included in a cooperative plan until the pool or field has been defined. Once defined, those areas outside the unit area or pool boundary can be surrendered as provided in Section 070.

(3-18-22)()

091. -- 094. (RESERVED)

095. LIABILITY INSURANCE; SPECIAL ENDORSEMENTS.

01. Liability Insurance Required. ~~Prior to entry upon the leased lands for any reason other than casual exploration or inspection pursuant to Section 021, the lessee must secure and maintain during the term of this lease, public liability, property damage, and products liability insurance in the sum of four hundred thousand dollars (\$400,000) for injury or death for each occurrence; in the aggregate sum of two million dollars (\$2,000,000) for injury or death; and in the sum of four hundred thousand dollars (\$400,000) for damages to property and products damages caused by any occupancy, use, operations of any other activity on leased lands carried on by the lessee, its assigns, agents, operators or contractors. The lessee must insure against explosion, blow out, collapse, fire, oil spill and underground hazards and submit evidence of such insurance to the Director. If the land surface and improvements thereon covered by the lease have been sold or leased by the state of Idaho, the owner or lessee of the surface rights and improvements will be an additional named insured. The state of Idaho is a named insured in all instances. This policy or policies of liability insurance must contain the following special endorsement:~~

~~"The state of Idaho, the Idaho State Board of Land Commissioners, the Director of the Department of Lands, the Department of Lands, (or other state agency exercising custody and control over the lands), and (herein insert name of owner or lessee of surface rights, if applicable) and the officers, employees and agents of each and every of the foregoing are additional insureds under the terms of this policy: Provided, however, these additional insureds shall not be insured hereunder for any primary negligence or misconduct on their part, but such additional insureds shall be insured hereunder for secondary negligence or misconduct, which shall be limited to failure to discover and cause to be corrected the negligence or misconduct of the lessee, its agents, operators or contractors. This insurance policy shall not be canceled without thirty (30) days prior written notice to the Idaho Department of Lands. None of the foregoing additional insureds is liable for the payment of premiums or assessments of this policy."~~

~~No cancellation provision in any insurance policy is in derogation of the continuous duty of the lessee to furnish insurance during the term of this lease. Such policy or policies must be underwritten to the satisfaction of the Director. A signed complete certificate of insurance, with the endorsement required by this paragraph, must be submitted to the Director prior to entry upon the leased land with motorized exploration equipment after award of a lease and may be required prior to such entry under Rule 021. Prior to entry upon the leased lands for purposed other than Casual Exploration or inspection, the Lessee is required to purchase and maintain suitable insurance for the duration of the Lease.~~

(3-18-22)()

02. Certificate of Insurance. ~~At least thirty (30) days prior to the expiration of any such policy, a signed complete certificate of insurance, with the endorsement required by Subsection 095.01, showing that such insurance coverage has been renewed or extended, must be filed with the Director. No work under this Lease will commence prior to the Department's receipt of a certificate, signed by a licensed insurance agent, evidencing existence of insurance as required above. Further, such certificate must reflect that no change or cancellation in such coverage will become effective until after the Department receives written notice of such change or cancellation.~~

(3-18-22)()

096. HOLD HARMLESS.

~~The state of Idaho, the Board, the Director, the Department, and any other state agency that may have custody or~~

~~control of the leased lands, and the owner of the surface rights and improvements, if not the state of Idaho, or state lessee of surface rights, if there be one, the officers, agents and employees of each of the foregoing, are free from any and all liabilities and claims for damages and/or suits for or by reason of death or injury to any person or damage of property of any kind whatsoever, caused by a negligent or otherwise wrongful act or omission of the lessee, its assigns, agents, operators, employees or contractors; and lessee covenants and agrees to indemnify and to save harmless the state of Idaho, the Board, the Director, the Department, or other state agency, or the lessee of surface rights if there be one, and their officers, agents, and employees from all liabilities, charges, expense, including attorney fees, claims, suits or losses caused by a negligent or otherwise wrongful act or omission of the lessee, its assigns, agents, operators, employees or contractors. The lessee's signature to a lease under these rules constitutes express agreement to this rule.~~ (3-18-22)

~~097~~6. -- 099. (RESERVED)

100. TITLE.

The state of Idaho does not warrant title to the leased lands or the ~~o~~Oil and ~~g~~Gas resources that may be discovered thereon; the ~~l~~Lease is issued only under such title as the state of Idaho may have as of the Lease's effective date ~~of the lease~~ or thereafter acquires. (3-18-22)()

~~**101. IMPOSSIBILITY OF PERFORMANCE.**~~

~~Whenever, as a result of any act of God, or law, order or regulation of any governmental agency, it becomes impossible for the lessee to perform or to comply with any obligation under the lease or these rules, other than payment of rentals or royalties, the Director in his discretion, may by written order excuse lessee from damages or forfeiture of the lease, and the lessee's obligations may be suspended and the term of the lease may be extended provided that the Director finds that good cause exists.~~ (3-18-22)

~~**102. TAXES.**~~

~~The lessee pays, when due, all taxes and assessments of any kind lawfully assessed and levied against the lessee's interest or operations under the laws of the state of Idaho.~~ (3-18-22)

~~103~~1. -- 119. (RESERVED)

120. FEES.

01. Exploration Permit. One hundred dollars (\$100) per linear mile or a minimum of one hundred dollars (\$100) per section. (3-18-22)

02. Nonrefundable Nomination Fee. The nomination fee is set by the Board at a minimum of two hundred fifty dollars (\$250) per ~~t~~Tract. (3-18-22)()

03. Processing Fee. The processing fee is set by the Board at a minimum of one hundred dollars (\$100) per each document. (3-18-22)

04. Fee Adjustment. The Board may annually adjust these fees without formal rulemaking procedures. (3-18-22)

121. -- 999. (RESERVED)

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20.03.16 - RULES GOVERNING OIL AND GAS LEASING ON IDAHO STATE LANDS

DOCKET NO. 20-0316-2401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and the Idaho State Board of Land Commissioners and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. The pending rule will become final and effective on July 1, 2025, after approval by the Legislature.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 47-802, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The Idaho Department of Lands initiated this rulemaking in compliance with [Executive Order 2020-01: Zero-Based Regulation](#) with the goal of simplifying and streamlining the rules for increased clarity and ease of use. There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 3, 2024 Idaho Administrative Bulletin, [Vol. 24-7, pages 146 – 161](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, this pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. No changes have been made to any fees in this proposed rule. The exploration permit fee remains \$100 per linear mile or a minimum of \$100 per section. Nomination fees continue to be set by the State Board of Land Commissioners (Land Board), at a minimum of \$250 per tract. Processing fees continue to be set by the Land Board at a minimum of \$100 per each document.

FISCAL IMPACT: There is no negative fiscal impact on the state General Fund resulting from this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Mike Murphy at (208) 334-0290 or at mmurphy@idl.idaho.gov.

DATED this 30th day of August, 2024.

Mike Murphy, Minerals Program Manager
Idaho Department of Lands
300 N. 6th Street, Suite 103
P.O. Box 83720 Boise, Idaho 83720-0050
Phone: (208)334-0290
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STATE BOARD OF LAND COMMISSIONERS

August 20, 2024

Regular Agenda

Subject

Land Board approval of General Counsel

Question Presented

Shall the Land Board approve the Director's selection of general counsel for Idaho Department of Lands?

Background

During the 2024 Idaho Legislative Session, the Idaho Legislature passed Senate Bill 1292 which amended Idaho Code § 58-120 to require the Director of the Idaho Department of Lands (Department) to hire general counsel, subject to approval by the State Board of Land Commissioners (Land Board). Under the amended statute, general counsel for the Department is to be independent of the Office of the Attorney General, but may consult with the Office of the Attorney General. The amended statute also allows for the hiring of additional counsel for the Department, or the ability to contract with the Office of the Attorney General for legal services.

Discussion

The Department advertised the general counsel position for a two-week period in May 2024. Applications and resumes were reviewed by the Department's executive and human resources staff. Director Dustin Miller and Deputy Director Bill Haagenson took the lead on conducting interviews of several applicants in June. Land Board staff members representing the Attorney General, State Controller, and Secretary of State served on the interview panel as well. Following these interviews, a decision was made to readvertise for a longer period of time and cast a broader net. In the interim, to ensure the Department was not without legal representation at the start of the new fiscal year, consistent with the revised statute, the Department hired two attorneys who will report to the general counsel. Both individuals previously supported the Department while employed by the Office of the Attorney General. In addition, the Department hired a legal assistant to support the legal team.

Following the second application period for general counsel, the panelists interviewed several candidates and agreed on a candidate to recommend that the Department hire, upon approval by the Land Board.

The Department appreciates the support of the Office of the Attorney General and the assistance of Land Board staff throughout the legal representation transition process.

Recommendation

Approve the Director's selection to serve as the Department's general counsel.

Board Action