

## State Board of Land Commissioners Open Meeting Checklist

Meeting Date: October 15, 2024

### Regular Meetings

Date	Action
9/24/2024	Meeting Notice posted in prominent place in IDL's Boise Director's office five (5) or more calendar days before meeting.
9/24/2024	Meeting Notice posted in prominent place in IDL's Coeur d'Alene staff office five (5) or more calendar days before meeting.
9/24/2024	Meeting Notice posted in prominent place at meeting location five (5) or more calendar days before meeting.
9/24/2024	Meeting Notice posted electronically on IDL's public website <a href="https://www.idl.idaho.gov">https://www.idl.idaho.gov</a> five (5) or more calendar days before meeting.
9/24/2024	Meeting Notice published on Townhall Idaho website <a href="https://townhall.idaho.gov">https://townhall.idaho.gov</a> five (5) or more calendar days before meeting.
10/9/2024	Agenda posted in prominent place in IDL's Boise Director's office forty-eight (48) hours before meeting.
10/9/2024	Agenda posted in prominent place in IDL's Coeur d'Alene staff office forty-eight (48) hours before meeting.
10/9/2024	Agenda posted in prominent place at meeting location forty-eight (48) hours before meeting.
10/9/2024	Agenda posted electronically on IDL's public website <a href="https://www.idl.idaho.gov">https://www.idl.idaho.gov</a> forty-eight (48) hours before meeting.
10/9/2024	Agenda published on Townhall Idaho website <a href="https://townhall.idaho.gov">https://townhall.idaho.gov</a> 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 <a href="https://www.idl.idaho.gov">https://www.idl.idaho.gov</a> .

### Special Meetings

Date	Action
	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 <a href="https://www.idl.idaho.gov">https://www.idl.idaho.gov</a> twenty-four (24) hours before meeting.
	Meeting Notice and Agenda published on Townhall Idaho website <a href="https://townhall.idaho.gov">https://townhall.idaho.gov</a> 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

Date	Action
	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.
	Meeting Notice and Agenda posted electronically on IDL's public website <a href="https://www.idl.idaho.gov">https://www.idl.idaho.gov</a> twenty-four (24) hours before meeting.
	Meeting Notice and Agenda published on Townhall Idaho website <a href="https://townhall.idaho.gov">https://townhall.idaho.gov</a> twenty-four (24) hours before meeting.
	Notice contains reason for the executive session and the applicable provision of Idaho Code § 74-206 that authorizes the executive session.

  
Renee Jacobsen  
Recording Secretary

October 9, 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

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## NOTICE OF PUBLIC MEETING OCTOBER 2024

The Idaho State Board of Land Commissioners will hold a Regular Meeting on Tuesday, October 15, 2024 in the **State Capitol, Lincoln Auditorium (WW02)**, Lower Level, West Wing, 700 W. Jefferson St., Boise. The meeting is scheduled to begin at 9:00 AM (Mountain).

*Please note meeting 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\\_7CaosI70T4C1kr0SI2DYjQ](https://idl.zoom.us/webinar/register/WN_7CaosI70T4C1kr0SI2DYjQ)

Notice Posted: 9/24/2024-IDL Boise; 9/24/2024-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



## Idaho State Board of Land Commissioners

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State Board of Land Commissioners Regular Meeting  
October 15, 2024 – 9:00 AM (MT)  
Final Agenda  
State Capitol, Lincoln Auditorium (WW02), Lower Level, West Wing,  
700 W. Jefferson St., Boise, Idaho

Please note meeting location.

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### Reports

1. **Department Reports** – Presented by Dustin Miller, Director
  - A. Timber Sales Revenue – September 2024
  - B. Leases/Permits Transactions and Revenue – September 2024
  - C. Fire Season
  - D. Land Bank Aging
2. **Endowment Fund Investment Board** – Presented by Chris Anton, EFIB Manager of Investments
  - A. Manager's Report
  - B. Investment Report

### Consent—Action Item(s)

3. **Forest Legacy Project—International Selkirk Loop** – Presented by Jennifer Barker, Program Manager-Forest Legacy
4. **Disclaimer of Interest Request DI600335—William C. Clayton LLC, Boise River** – Presented by Shannon Chollett, Division Administrator-Minerals, Navigable Waterways, Oil and Gas
5. **Approval of Draft Minutes** – September 17, 2024 Regular Meeting (Boise)

## **Regular—Action Item(s)**

6. **Energy Lease M800070** – Presented by Jason Laney, Section Manager-Endowment Leasing
7. **Adoption of Pending Rule IDAPA 20.04.01, Rules Pertaining to Forest Fire Protection** – Presented by Josh Harvey, Bureau Chief-Fire Management
8. **Adoption of Pending Rule IDAPA 20.04.02, Rules Pertaining to the Idaho Forestry Act and Fire Hazard Reduction Laws** – Presented by Josh Harvey, Bureau Chief-Fire Management

## **Information**

9. **White Pine Public Access Easement** – Presented by Roger Hall, Bureau Chief-Real Estate

## **Executive Session**

None

# **IDAHO DEPARTMENT OF LANDS**

This agenda is published pursuant to Idaho Code § 74-204. The agenda is subject to change by the Land Board. To arrange auxiliary aides or services for persons with disabilities, please contact Idaho Department of Lands at (208) 334-0200. Accommodation requests for auxiliary aides or services must be made no less than five working days in advance of the meeting. Agenda materials are available online at <https://www.idl.idaho.gov/>.





# 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

October 15, 2024  
Trust Land Revenue

## Timber Sales

During September 2024, the Department of Lands sold eight endowment timber sales at auction. Six sales had competitive bidding. The net sale value represents a 26% up bid over the appraised value. One endowment timber sale did not sell at auction. Good Neighbor Authority (GNA) sold three sales all with competitive bidding. The net sale value represents a 55% up bid over the appraised value.

TIMBER SALE AUCTIONS								
Sale Name	Area	Sawlog MBF	Cedar Prod MBF	Pulp MBF	Appraised Net Value	Sale Net Value	Net \$/MBF	Purchaser
West Latour	MICA	6,190	0	0	\$1,024,004.00	\$1,054,889.40	\$170.42	PotlatchDeltic
Nelson Cranberry Cedar	CLW	1,600	0	0	\$570,623.00	\$570,623.00	\$356.64	Stella-Jones Corp
Burnt Rose	PON	4,005	0	0	\$510,515.00	\$533,430.00	\$133.19	IFG Timber LLC
Lovin Lacey Cedar	MC	3,840	155	0	\$1,602,907.50	\$1,884,907.50	\$471.82	Empire Lumber Co
Gulch Island Cedar	MC	1,895	30	0	\$316,221.00	\$351,029.00	\$182.35	Clearwater Paper Corp
Lively Alderaan Cedar	SJ	3,665	0	0	\$613,911.00	\$1,040,690.00	\$283.95	Stimson Lumber Co
Finns Elk	SJ	9,885	265	0	\$1,349,452.00	\$2,349,094.60	\$231.44	Stimson Lumber Co
Roman Beak Ton	POL	4,820	0	0	\$1,039,573.27	\$1,039,573.27	\$215.68	Stimson Lumber Co
<b>Endowment</b>		<b>35,900</b>	<b>450</b>	<b>0</b>	<b>\$7,027,206.77</b>	<b>\$8,824,236.77</b>	<b>\$242.76</b>	
Long Mountain GNA Ton	IPNF	10,500	0	0	\$1,152,585.60	\$1,637,177.60	\$155.92	IFG Timber LLC
Fan Bit GNA Ton	Nez-Clear	430	0	0	\$4,776.00	\$7,164.00	\$16.66	Go West Timber Mngt
Thorn GNA Ton	Pay	5,830	0	0	\$327,142.89	\$651,011.90	\$111.67	High Country Logging
<b>Non-Endowment</b>		<b>16,760</b>	<b>0</b>	<b>0</b>	<b>\$1,484,504.49</b>	<b>\$2,295,353.50</b>	<b>\$136.95</b>	

PROPOSED TIMBER SALES FOR AUCTION				
Sale Name	Volume MBF	Advertised Net Value	Area	Estimated Auction Date
North Operations				
Lindstrom GNA	4,970	\$742,557.06	Panhandle NF-GNA	10/15/2024
Big Creek	1,575	\$129,748.50	MICA-CAT	10/16/2024
Jumpin Jack Flat	5,315	\$1,229,559.00	Priest Lake	10/23/2024
Holy Cole Cedar	7,515	\$2,216,863.00	Ponderosa	10/28/2024
<b>TOTALS</b>	<b>19,375</b>	<b>\$4,318,727.56</b>		

PROPOSED TIMBER SALES FOR AUCTION continued				
Sale Name	Volume MBF	Advertised Net Value	Area	Estimated Auction Date
South Operations				
Great Scott Ton	4,445	\$376,318.20	Payette Lakes	10/22/2024
Point Cedar OSR	3,145	\$601,093.00	Clearwater	10/24/2024
Section 36 OSR	420	\$66,011.50	Maggie Creek	10/29/2024
White Doe Cedar	1,050	\$175,339.00	Clearwater	10/31/2024
Cedar Cabin	840	\$182,423.50	Clearwater	10/31/2024
<b>TOTALS</b>	<b>9,900</b>	<b>\$1,401,185.20</b>		

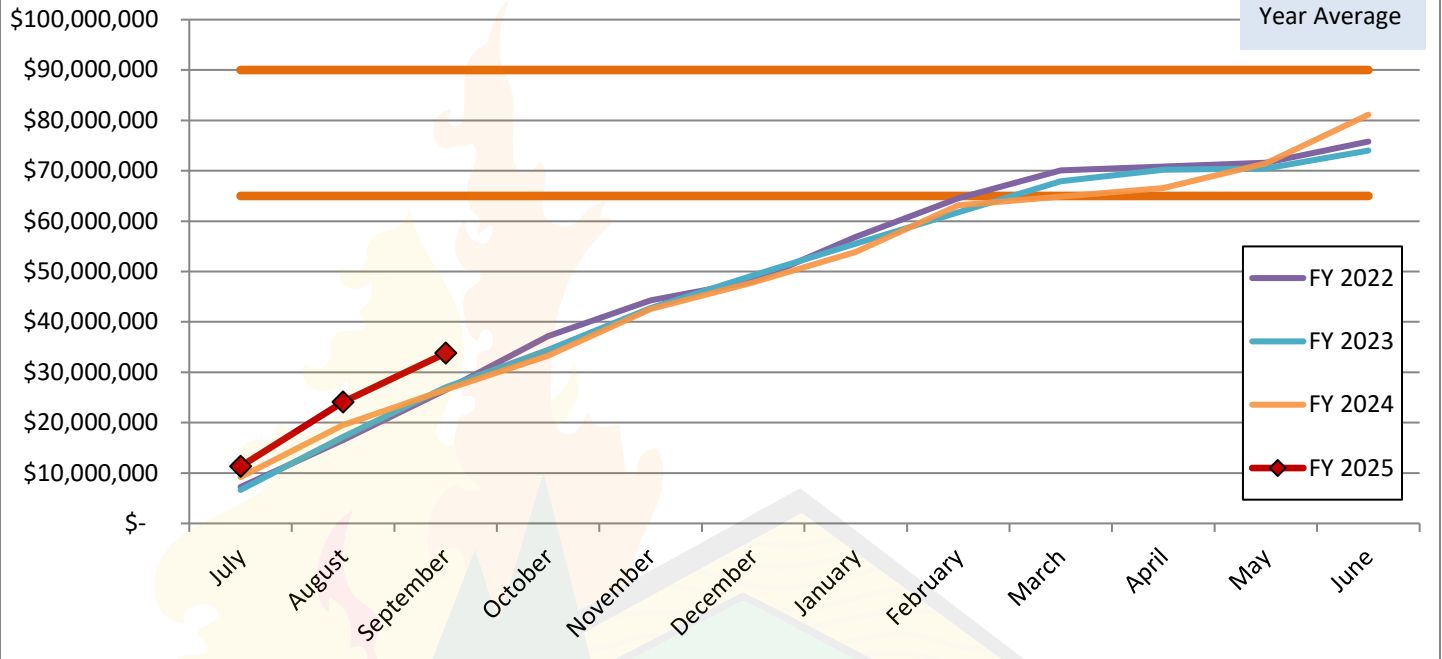
VOLUME UNDER CONTRACT as of September 30, 2024				
	Public School	Pooled	Total	3 Year Avg.
<b>Active Contracts</b>			<b>165</b>	176
<b>Total Residual MBF Equivalent</b>	334,028	163,301	<b>497,329</b>	515,122
<b>Estimated residual value</b>	\$90,874,772	\$44,836,303	<b>\$135,711,075</b>	\$147,731,334
<b>Residual Value (\$/MBF)</b>	\$272.06	\$274.56	<b>\$272.88</b>	\$286.79

	TIMBER HARVEST RECEIPTS				
	September		FY to date	October Projected	
	Stumpage	Interest	Harvest Receipts	Stumpage	Interest
<b>Public School</b>	\$ 6,405,196.41	\$ 697,812.96	\$ 19,678,411.44	\$ 4,744,877.55	\$ 503,767.18
<b>Pooled</b>	\$ 2,290,208.05	\$ 321,314.57	\$ 14,107,061.27	\$ 848,612.58	\$ 68,526.87
<b>General Fund</b>	\$ 1,155.12	\$ 70.29	\$ 1,705.91	\$ 1,932.24	\$ 117.76
<b>TOTALS</b>	<b>\$ 8,696,559.58</b>	<b>\$ 1,019,197.82</b>	<b>\$ 33,787,178.62</b>	<b>\$ 5,595,422.37</b>	<b>\$ 572,411.81</b>

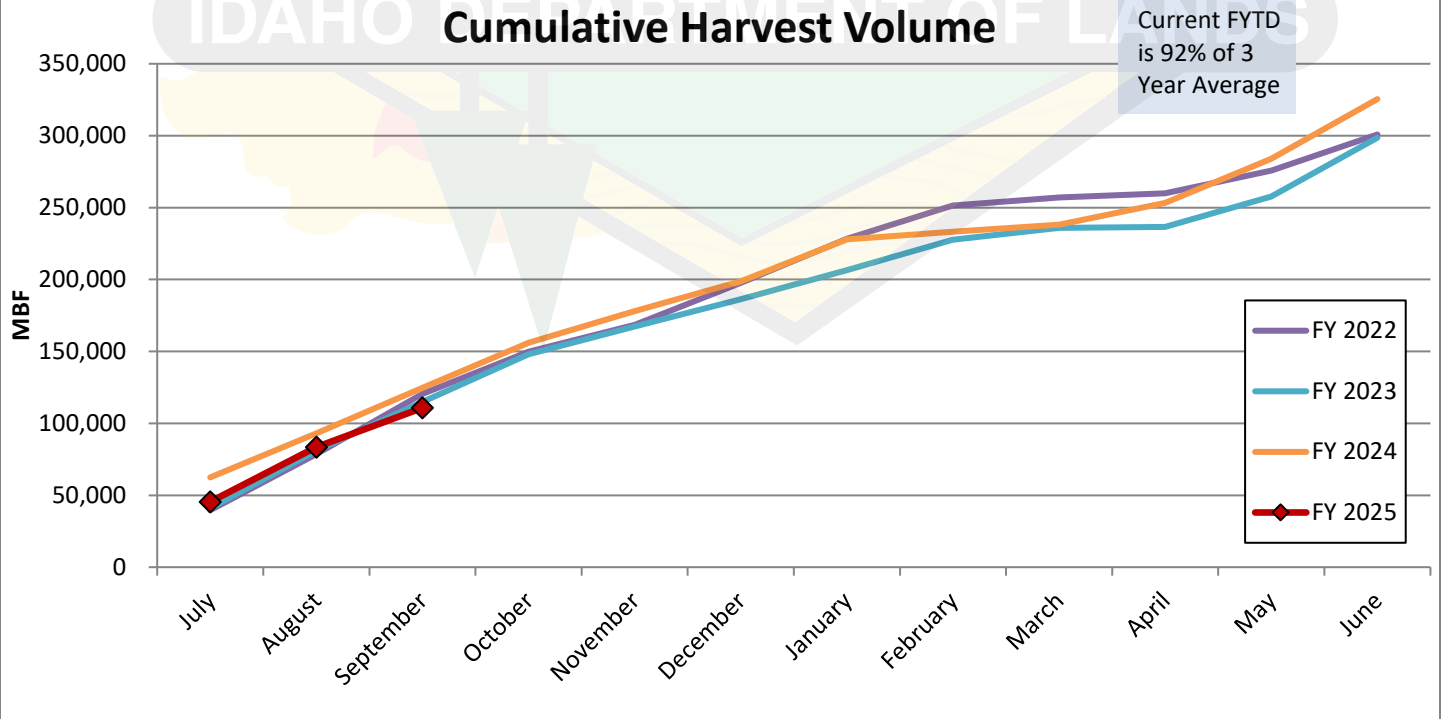
	Status of FY2025 Timber Sale Program					
	MBF Sawlog			Number Poles		
	Public School	Pooled	All Endowments	Public School	Pooled	All Endowments
Sold as of September 30, 2024	7,086	30,468	37,554	352	2,373	2,725
Currently Advertised	16,268	7,737	24,005	2,196	2,579	4,775
In Review	10,001	21,634	31,635	0	2,040	2,040
Did Not Sell*	0	0	0	0	0	0
<b>TOTALS</b>	<b>33,355</b>	<b>59,839</b>	<b>93,194</b>	<b>2,548</b>	<b>6,992</b>	<b>9,540</b>
FY2025 Sales Plan			328,000			20,000
Percent to Date			28%			48%

\* After three attempts at auction.

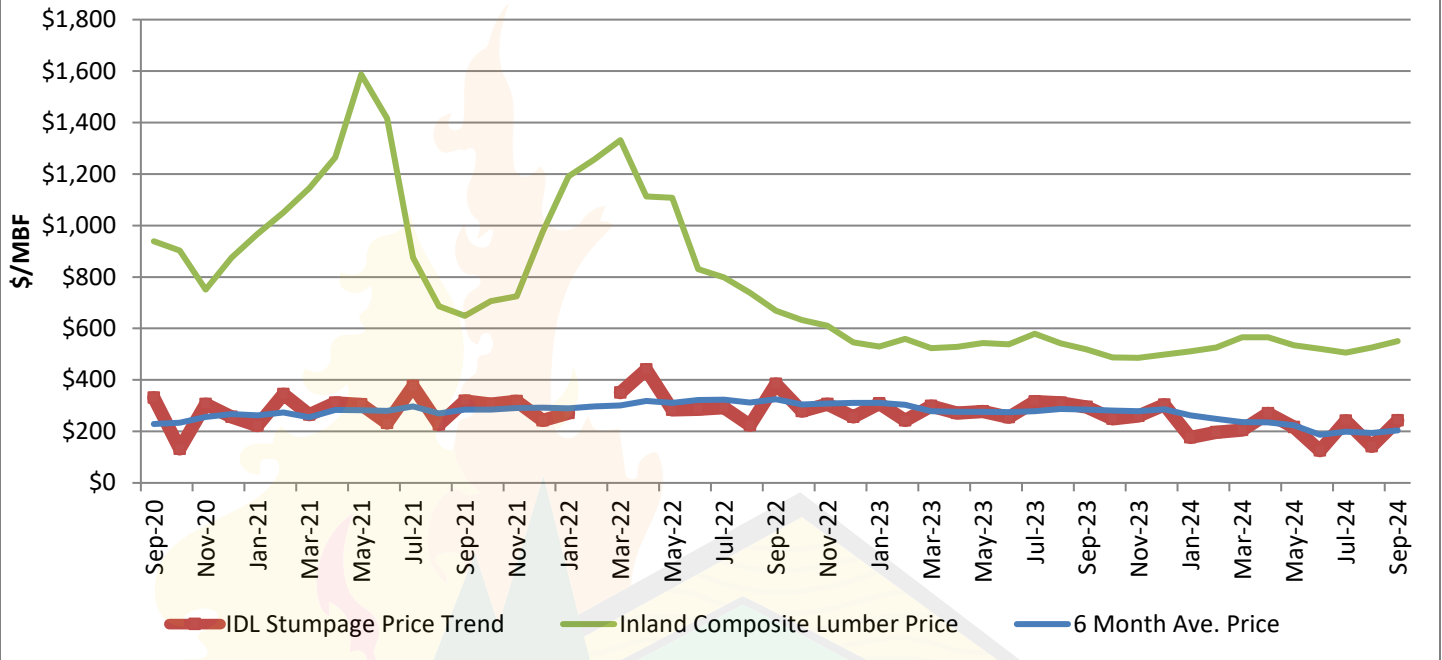
## Cumulative Harvest Receipts



## Cumulative Harvest Volume



## Monthly Lumber and Stumpage Price



September 2024 6-month average price is \$204.45.

September 2023 6-month average price was \$285.40.

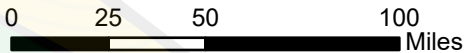
IDAHO DEPARTMENT OF LANDS

# TIMBER SALES STATUS

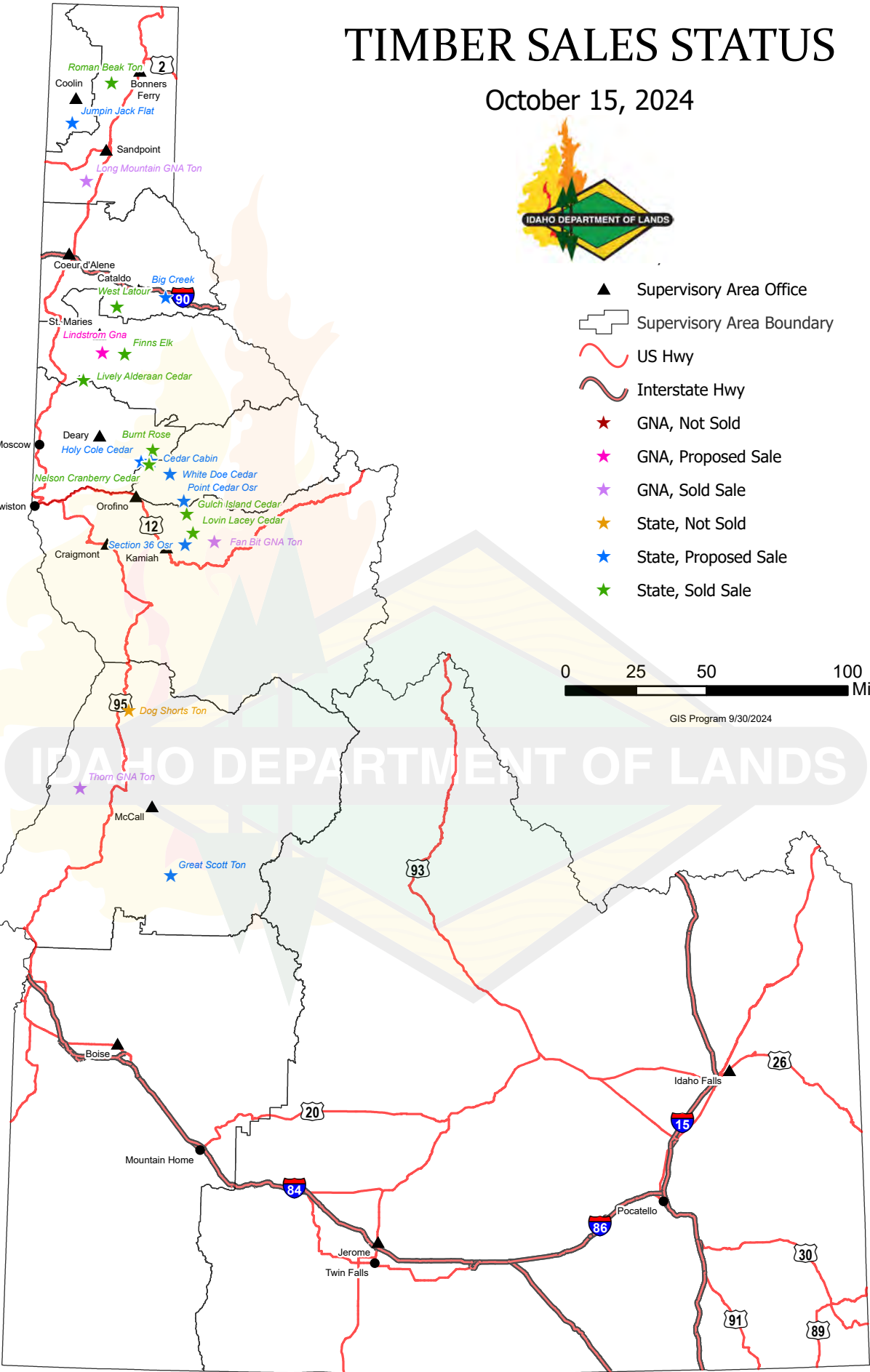
October 15, 2024



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



GIS Program 9/30/2024



# STATE BOARD OF LAND COMMISSIONERS

October 15, 2024  
Endowment Transactions

## Leases and Permits

FISCAL YEAR 2025 – LEASING & PERMITTING TRANSACTIONS BY MONTH through September 30, 2024													
ACTIVITY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
<b>SURFACE</b>													
Agriculture	-	-	-	-	-	-	-	-	-	-	-	-	0
<i>Assignments</i>	-	-	-	-	-	-	-	-	-	-	-	-	0
Communication Sites	1	-	-	-	-	-	-	-	-	-	-	-	1
<i>Assignments</i>	-	4	-	-	-	-	-	-	-	-	-	-	4
Grazing	-	3	-	-	-	-	-	-	-	-	-	-	3
<i>Assignments</i>	4	2	11	-	-	-	-	-	-	-	-	-	17
Residential	-	9	1	-	-	-	-	-	-	-	-	-	10
<i>Assignments</i>	-	2	2	-	-	-	-	-	-	-	-	-	4
<b>COMMERCIAL</b>													
Alternative Energy	-	-	-	-	-	-	-	-	-	-	-	-	0
Industrial	-	-	-	-	-	-	-	-	-	-	-	-	0
Military	-	-	-	-	-	-	-	-	-	-	-	-	0
Office/Retail	-	-	-	-	-	-	-	-	-	-	-	-	0
Recreation	-	-	-	-	-	-	-	-	-	-	-	-	0
<i>Assignments</i>	1	-	-	-	-	-	-	-	-	-	-	-	1
<b>OTHER</b>													
Conservation	-	-	-	-	-	-	-	-	-	-	-	-	0
Geothermal	-	-	-	-	-	-	-	-	-	-	-	-	0
Minerals	2	-	-	-	-	-	-	-	-	-	-	-	2
<i>Assignments</i>	-	-	-	-	-	-	-	-	-	-	-	-	0
Non-Comm Recreation	-	-	-	-	-	-	-	-	-	-	-	-	0
Oil & Gas	-	-	-	-	-	-	-	-	-	-	-	-	0
<b>PERMITS</b>													
Land Use Permits	9	11	10	-	-	-	-	-	-	-	-	-	30
<b>TOTAL INSTRUMENTS</b>	<b>17</b>	<b>31</b>	<b>24</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>72</b>

## Real Estate

FISCAL YEAR 2025 – REAL ESTATE TRANSACTIONS BY MONTH – through September 30, 2024													
ACTIVITY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
Deeds Acquired	-	1	-	-	-	-	-	-	-	-	-	-	1
Deeds Granted	-	-	-	-	-	-	-	-	-	-	-	-	0
Deeds Granted - Surplus	-	1	-	-	-	-	-	-	-	-	-	-	1
Easements Acquired	-	-	-	-	-	-	-	-	-	-	-	-	0
Easements Granted	-	-	-	-	-	-	-	-	-	-	-	-	0
<b>Notes :</b>													



**TRUST LAND MANAGEMENT DIVISION**  
**FY2025 GROSS REVENUE (non-timber) - ACTUAL AND FORECASTED**  
**through September 30, 2024**

	REVENUE YTD AS OF 09.30.2024	REVENUE EXPECTED BY 09.30.2024*	REVENUE EXPECTED BY 06.30.2025
<b>SURFACE</b>			
AGRICULTURE	\$ 64,344	\$ 63,710	\$ 678,710
COMMUNICATION SITES	\$ 2,209	\$ -	\$ 1,100,000
GRAZING	\$ 99,670	\$ 53,000	\$ 2,089,000
RESIDENTIAL LEASES	\$ 118,168	\$ -	\$ 1,557,115
<b>COMMERCIAL</b>			
COMMERCIAL ENERGY RESOURCES	\$ 1,250	\$ -	\$ 117,340
COMMERCIAL INDUSTRIAL	\$ 30,501	\$ -	\$ 130,000
COMMERCIAL MILITARY FACILITIES	\$ 68,682	\$ -	\$ 150,000
COMMERCIAL OFFICE/RETAIL LEASES	\$ 81,095	\$ 130,000	\$ 950,000
COMMERCIAL RECREATION	\$ 607,779	\$ 90,000	\$ 1,150,000
<b>OTHER</b>			
CONSERVATION LEASES	\$ -	\$ -	\$ 73,595
GEOTHERMAL	\$ -	\$ 5,006	\$ 5,006
MINERAL LEASES	\$ 46,024	\$ 2,811	\$ 110,494
OIL AND GAS LEASES	\$ 48	\$ 8	\$ 3,029
<b>Sub Total</b>	<b>\$ 1,119,769</b>	<b>\$ 344,534</b>	<b>\$ 8,114,289</b>
REAL ESTATE SERVICES (ER)	\$ -		
<b>Grand Total - Earnings Reserve</b>	<b>\$ 1,119,769</b>		

**PERMANENT FUND REVENUE**

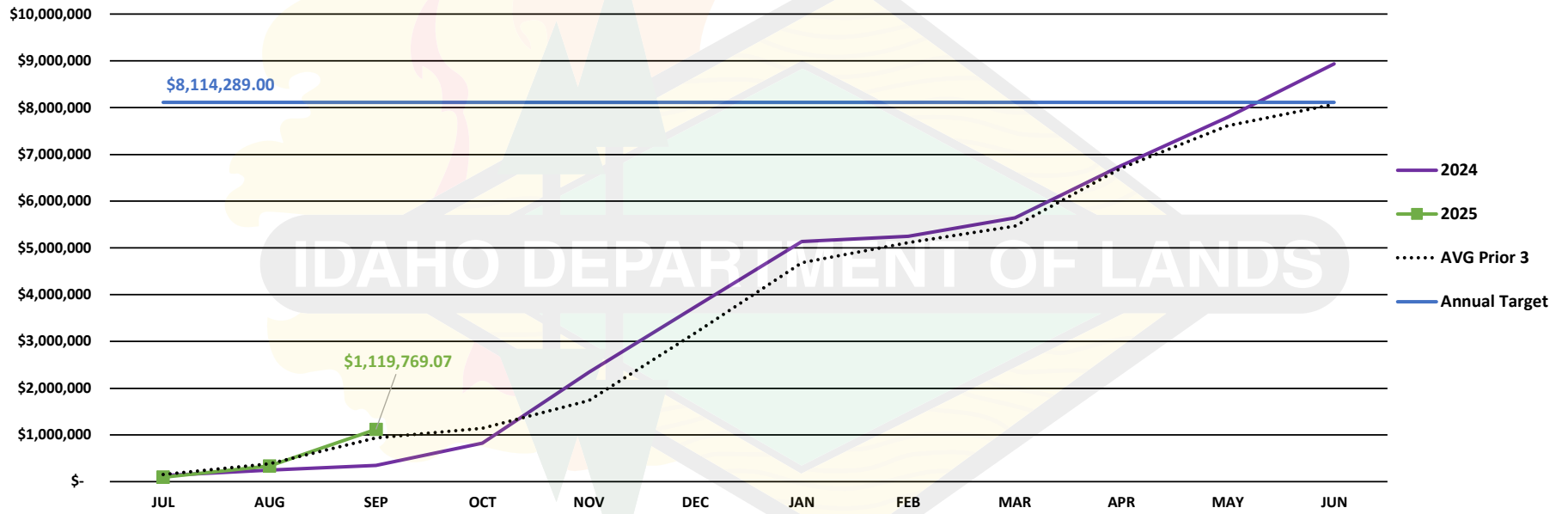
**MINERALS (PF) \$ 632,922 \*\*\***

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

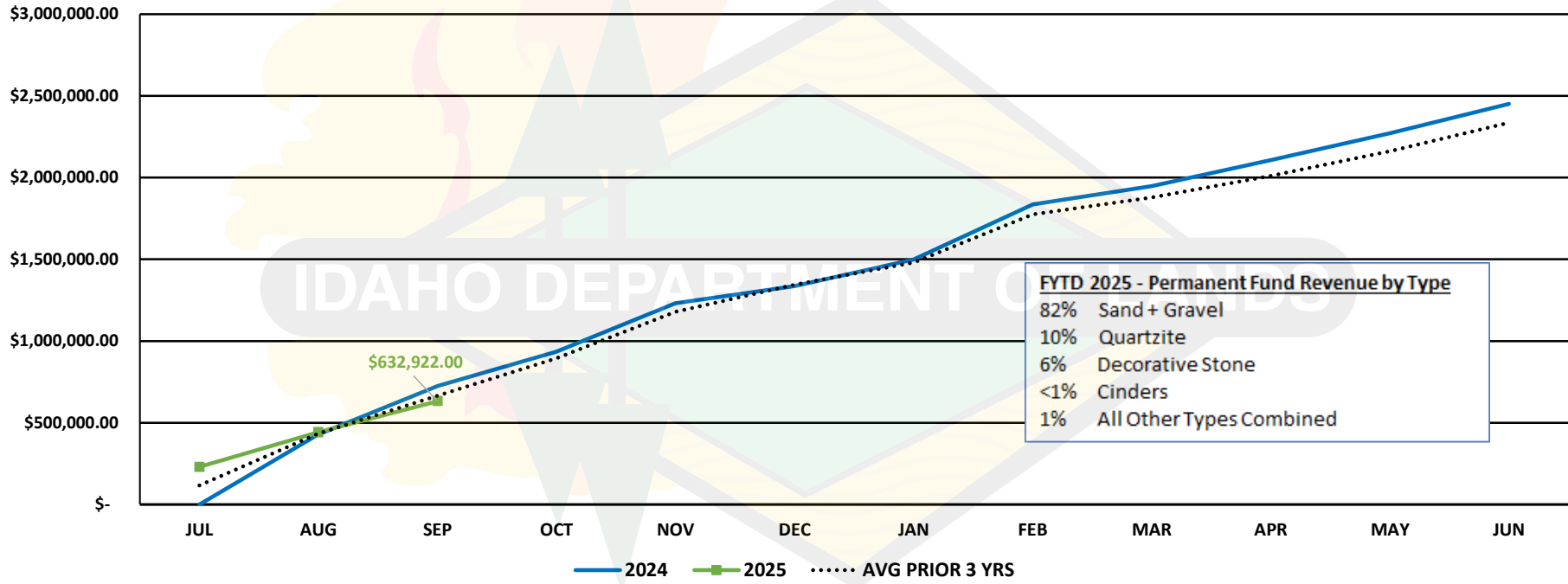
\*\* This category is not included in the annual forecast.

\*\*\*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  
FYTD 2025



Trust Land Permanent Fund Revenue & Royalties  
(Excluding Land Bank and Timber Program)  
FYTD 2025



# STATE BOARD OF LAND COMMISSIONERS

October 15, 2024

Department Report

## Subject

Fire Season Update

## Background

As of October 9, Emergency Fire Suppression expenditures are estimated to be \$62,333,500. The suppression account will recover an estimated \$10,836,000 of reimbursable costs, for a net obligation of \$51,497,500. The total obligation includes the 2024 contracted aircraft costs and prepositioned contract engines to assist with a lack of qualified engine bosses. These engines were assigned across the state to boost initial attack resources.

## Discussion

On September 2, the Chimney Fire was reported 9 miles northwest of Fairfield. The fire has burned 6,522 acres and is 80 percent contained.

On September 30, the Rosie Fire was reported 25 miles southeast of Jordan Valley, OR. The fire has burned 5,119 acres and is 15 percent contained.

On October 4, the Valley Fire was reported 1 mile east of Boise. The fire has burned 9,892 acres and is 66 percent contained.

On October 4, the Wallen Fire was reported 5 miles east of Moscow. The fire has burned 138 acres and is 100 percent contained.

## Fire Season Comparison to Date

Number and Size of Fires (Year to Date)				
Year	Human	Lightning	Total	Acres
2020	190	50	240	6,879
2021	237	154	391	141,981
2022	127	153	280	4,614
2023*	206	78	284	2,582
2024*	201	122	323	49,251
20 Yr. Average (2002-2022)			288	24,784

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

A very warm and dry fall has prolonged the fire season. Due to these conditions, closed fire season has been extended until conditions warrant. Several large fires in Idaho still require management. Continued warm and dry weather is predicted for the remainder of the

month. Longer nights and cooler temperatures will help reduce fire activity, however, there remains a considerable risk especially in areas with cured grasses and other fine fuels.

All restrictions are rescinded and burn permits are being issued where appropriate.

## Significant Fires Outside of IDL Protection

### Red Rock Fire

Agency/Management: Salmon-Challis National Forest (USFS)

General Location: 15 miles west of Salmon, ID

Acres burned: 51,873 acres, 15 percent contained

### Garden Fire

Agency/Management: Salmon-Challis National Forest (USFS)

General Location: 25 miles northwest of Salmon, ID

Acres burned: 8,379 acres, 0 percent completed

### Lava Fire

Agency/Management: Boise National Forest (USFS)

General Location: 12 miles southwest of Cascade, ID

Acres burned: 97,567 acres, 90 percent contained

### Wapiti Fire

Agency/Management: Boise National Forest (USFS)

General Location: 14 miles west of Stanley, ID

Acres burned: 127,043 acres, 80 percent completed

Total Acres Burned by Ownership	
10/9/2024	
Surface Owner	Acres
Bureau of Land Management	264,243
Other Federal	8,846
Other State	9,519
Private	133,203
State Endowment	37,572
Tribal	1,008
U.S. Forest Service	499,730
Other	846
<b>Total Acres</b>	<b>954,967</b>

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	\$9,770,000	IDL/Assn fires including pre-positioning. Based on Estimates and actuals.
IDL Team Fires	\$33,120,000	Billy Creek (CIMT-CMS), Texas (CIMT-PDS), Cherry (IDL T3-CMS), Steelhead (IDL T3-CMS), Rock Creek (CIMT-CMS), Flat (CIMT-SWS), Chimney (CIMT-EIS)
Other Suppression/Non-reimbursable	\$4,320,000	Coeur d'Alene Cache, Dispatch- Estimate includes expenditures from 1/1/2024-7/9/2024
Other Suppression/Reimbursable	\$10,836,000	Reimbursable (IDL and Fire Department resources supporting non-IDL fires). Based on LUMA Actuals- estimates not used.
<b>Total Estimate YTD</b>	<b>\$62,333,500</b>	Does not include Cost Share Fires

## Suppression Spending History

Fire Season Estimated Costs from Annual Reports			
	Idaho Fire Suppression Costs	Reimbursable	Idaho Obligation
2020	\$ 28,500,000	\$ 3,100,000	\$ 25,400,000
2021	\$ 74,600,000	\$ 7,200,000	\$ 67,400,000
2022	\$ 25,700,000	\$ 8,560,000	\$ 17,140,000
2023	\$ 22,060,500	\$ 4,683,000	\$ 17,377,500
2024	\$ 62,333,500	\$ 10,836,000	\$ 51,497,500

Numbers for 2024 are YTD.

## Attachment

1. Map—Significant Fires

# 2024 Wildland Fires in Idaho

10/10/2024

## Fire Perimeter Categories

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

## Surface Management

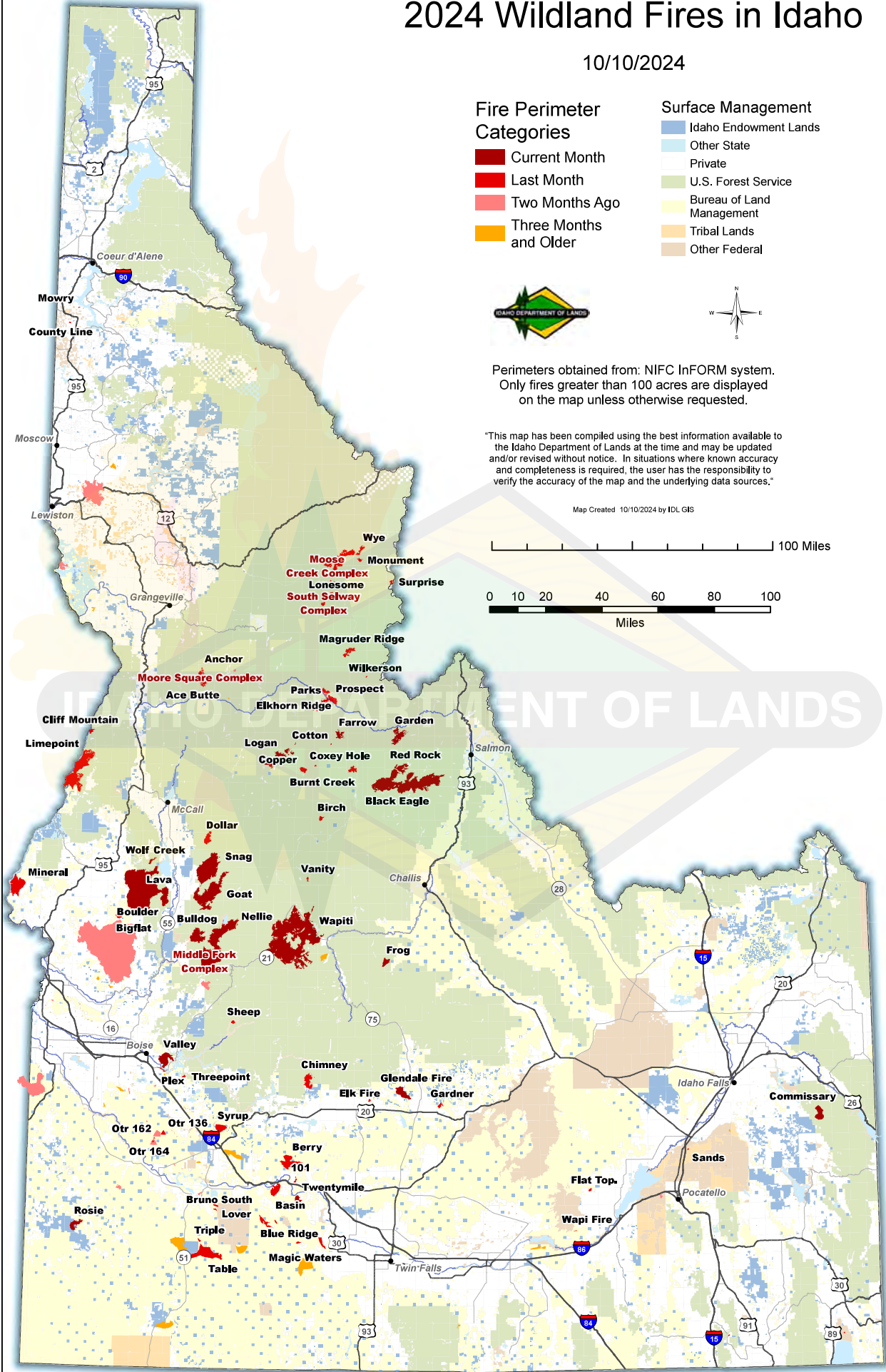
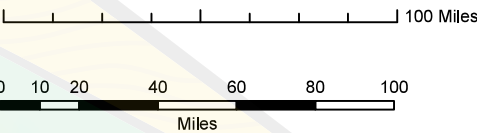
- Idaho Endowment Lands
- Other State
- Private
- U.S. Forest Service
- Bureau of Land Management
- Tribal Lands
- Other Federal



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 10/10/2024 by IDL GIS





LAND BANK AGING REPORT							
Current Remaining Principal Balance By Quarter Received - As of September 30, 2024							
FY Quarter IN	Public School	Agriculture College	Normal Schools	State Hospital South	University of Idaho	All Endowments	FY Quarter EXPIRES
2021-01	\$ 1,639,920	\$ -	\$ -	\$ -	\$ -	\$ 1,639,920	2026-01
2021-02	\$ 6,595,000	\$ -	\$ -	\$ -	\$ -	\$ 6,595,000	2026-02
2021-03	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2026-03
2021-04	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2026-04
2022-01	\$ 1,500,720	\$ -	\$ -	\$ -	\$ -	\$ 1,500,720	2027-01
2022-02	\$ 10,140,720	\$ 5,357,172	\$ -	\$ -	\$ -	\$ 15,497,892	2027-02
2022-03	\$ 9,890,500	\$ -	\$ -	\$ -	\$ -	\$ 9,890,500	2027-03
2022-04	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2027-04
2023-01	\$ 6,125,000	\$ -	\$ -	\$ -	\$ -	\$ 6,125,000	2028-01
2023-02	\$ 9,848,000	\$ -	\$ -	\$ 432,187	\$ -	\$ 10,280,187	2028-02
2023-03	\$ 9,800,000	\$ -	\$ -	\$ -	\$ -	\$ 9,800,000	2028-03
2023-04	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2028-04
2024-01	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2029-01
2024-02	\$ 6,006,000	\$ -	\$ -	\$ -	\$ -	\$ 6,006,000	2029-02
2024-03	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2029-03
2024-04	\$ 2,099,820	\$ -	\$ -	\$ -	\$ -	\$ 2,099,820	2029-04
2025-01	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2030-01
TOTAL PRINCIPAL REMAINING	\$ 63,645,680	\$ 5,357,172	\$ -	\$ 432,187	\$ -	\$ 69,435,039	
LAND BANK CASH BALANCE (with Interest)	\$ 65,560,623	\$ 6,495,851	\$ 12,379	\$ 458,653	\$ -	\$ 72,527,505	



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 September 30, 2024

**Month: 1.4%**      **Fiscal year: 5.2%**

The Federal Reserve lowered interest rates by 50 basis points, making the first rate cut since 2020. The decision was driven by continued economic growth, slowing job gains and progress toward their 2% inflation target. Recent manufacturing surveys have exhibited softness however strong retail sales suggest consumer spending remains healthy. Chinese authorities announced various fiscal and monetary measures to provide support to an economy wrestling with deflationary pressures brought on by a meltdown in the property sector and fallout from other government policies. These measures appear unlikely to spur global growth but may stem recent economic underperformance. Financial markets have largely ignored the escalation of the war in the Middle East.

### 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

Preliminary Report (Land Grant Fund)

September 30, 2024

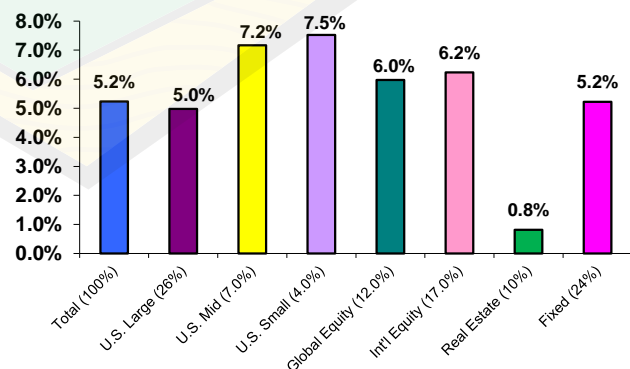
	<u>Month</u>	<u>FYTD</u>
<b>Beginning Value of Fund</b>	<b>3,363,662,817</b>	<b>\$ 3,254,002,699</b>
Distributions to Beneficiaries	(8,601,800)	(26,055,400)
Land Revenue net of IDL Expenses	(6,361,703)	7,899,275
Change in Market Value net of Investment Mgt. Expenses	60,709,318	173,562,058
<b>Current Value of Fund</b>	<b>\$ 3,409,408,631</b>	<b>\$ 3,409,408,631</b>

<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>
<b>Total Fund</b>	<b>1.4%</b>	<b>12.3%</b>	<b>5.2%</b>	<b>21.9%</b>	<b>4.3%</b>	<b>9.1%</b>	<b>8.0%</b>
Total Fund Benchmark*	1.8%	12.3%	5.6%	22.2%	5.2%	8.7%	7.7%
<b>Total Fixed</b>	<b>1.4%</b>	<b>4.9%</b>	<b>5.2%</b>	<b>12.2%</b>	<b>-1.1%</b>	<b>0.7%</b>	<b>2.0%</b>
BBG U.S. Agg. (Ag)	1.3%	4.4%	5.2%	11.6%	-1.2%	0.7%	2.0%
<b>Total Equity</b>	<b>1.5%</b>	<b>17.7%</b>	<b>5.9%</b>	<b>30.4%</b>	<b>6.9%</b>	<b>13.2%</b>	<b>10.6%</b>
56% R3 25.8% Ax 18.2% AC	2.3%	18.6%	6.8%	32.0%	8.3%	12.7%	10.3%
<b>Domestic Equity</b>	<b>1.8%</b>	<b>18.9%</b>	<b>5.6%</b>	<b>32.9%</b>	<b>8.2%</b>	<b>14.7%</b>	<b>12.3%</b>
Russell 3000 (R3)	2.1%	20.6%	6.2%	35.2%	10.3%	15.3%	12.8%
<b>Global Equity</b>	<b>1.8%</b>	<b>16.3%</b>	<b>6.0%</b>	<b>27.9%</b>	<b>7.0%</b>	<b>13.1%</b>	<b>9.1%</b>
MSCI ACWI (AC)	2.3%	18.7%	6.6%	31.8%	8.1%	12.2%	9.4%
<b>Int'l. Equity</b>	<b>0.8%</b>	<b>16.1%</b>	<b>6.2%</b>	<b>26.8%</b>	<b>4.3%</b>	<b>10.4%</b>	<b>7.5%</b>
MSCI ACWI ex-US (Ax)	2.7%	14.2%	8.1%	25.4%	4.1%	7.6%	5.2%
<b>Real Estate</b>			<b>0.8%</b>	<b>-8.3%</b>	<b>0.8%</b>	<b>2.5%</b>	
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>
<b>Domestic Equity</b>	<b>\$ 1,265.4</b>	<b>37.1%</b>
Large Cap	886.8	26.0%
Mid Cap	238.9	7.0%
Small Cap	139.6	4.1%
<b>Global Equity</b>	<b>419.6</b>	<b>12.3%</b>
<b>Int'l Equity</b>	<b>582.3</b>	<b>17.1%</b>
<b>Fixed Income</b>	<b>804.5</b>	<b>23.6%</b>
<b>Real Estate</b>	<b>323.4</b>	<b>9.5%</b>
Cash	15.7	0.5%
<b>Total Fund</b>	<b>\$ 3,409.4</b>	<b>100.0%</b>

Fiscal YTD Returns by Asset Class



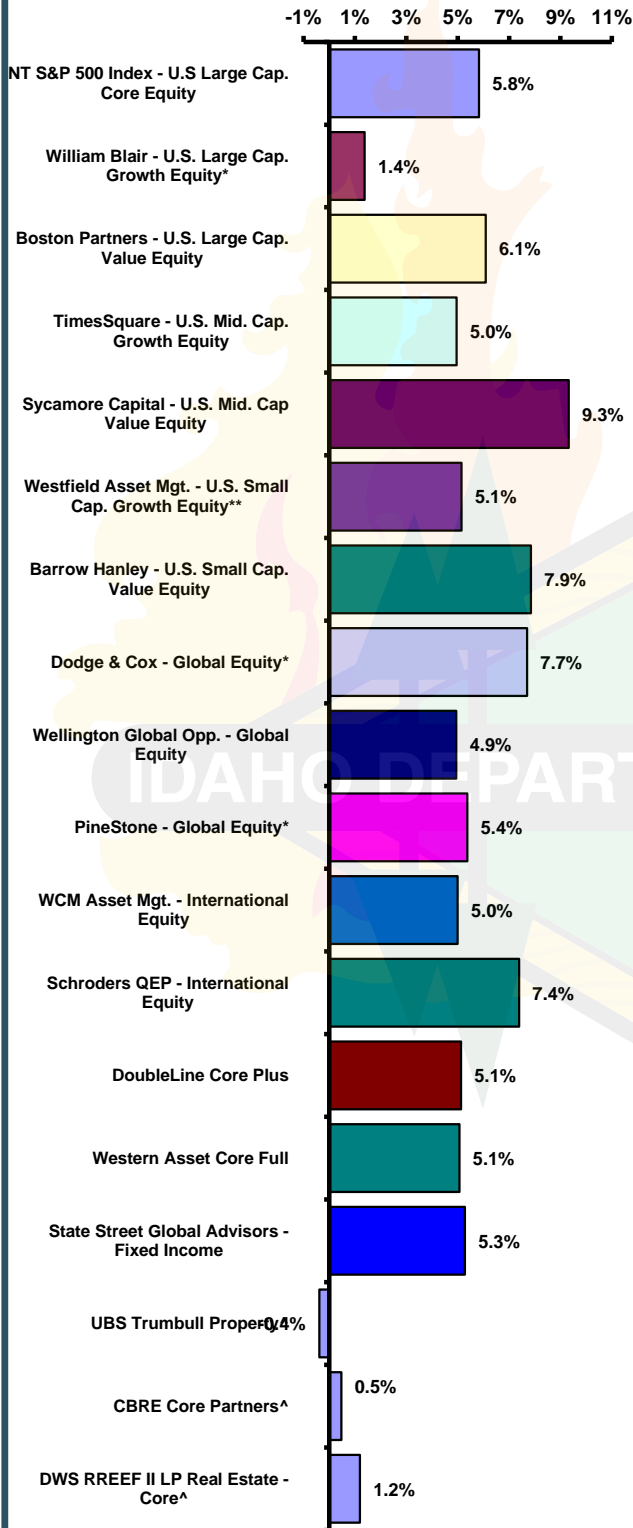
## Endowment Fund Staff Comments:

The Federal Reserve lowered interest rates by 50 basis points, making the first rate cut since 2020. The decision was driven by continued economic growth, slowing job gains and progress toward their 2% inflation target. Recent manufacturing surveys have exhibited softness however strong retail sales suggest consumer spending remains healthy. Chinese authorities announced various fiscal and monetary measures to provide support to an economy wrestling with deflationary pressures brought on by a meltdown in the property sector and fallout from other government policies. These measures appear unlikely to spur global growth but may stem recent economic underperformance. Financial markets have largely ignored the escalation of the war in the Middle East.

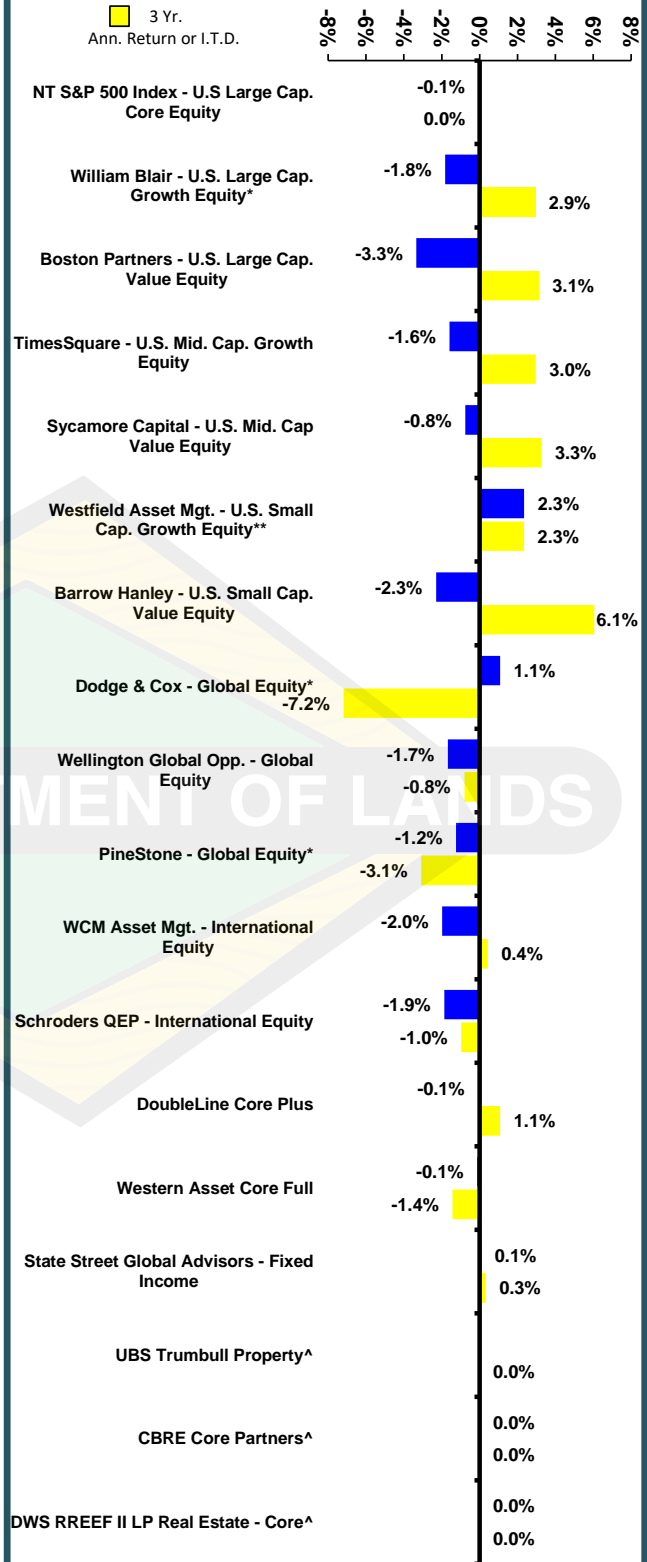
September 30, 2024

# INVESTMENT REPORT

## FYTD Manager Returns\*



## Manager Relative Returns Fiscal YTD and 3-Yr Ave\*



\*\* Westfield Start Date July 19, 2024

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

# STATE BOARD OF LAND COMMISSIONERS

October 15, 2024

Consent Agenda

## Subject

Authorization to purchase the Forest Legacy Program easement known as the International Selkirk Loop, comprising 10,847 acres of privately-owned forestland in Bonner and Boundary counties.

## Question Presented

Shall the Land Board authorize the Department to accept the International Selkirk Loop project into Idaho's Forest Legacy Program?

## Background

- The Idaho State Board of Land Commissioners (Land Board) authorizes the Idaho Department of Lands (Department) to acquire such interests by voluntary, cooperative means and to create a Forest Legacy easement pursuant to Idaho Code Title 55, Chapter 21.
- The Cooperative Forestry Assistance Act (the "Act") of 1978 (16 U.S.C. 2101 et. seq.), as amended by Section 1217 and Title XII of the Food, Agriculture, Conservation Trade Act of 1990 (16 U.S.C. 2103c), established the federal Forest Legacy Program to protect environmentally important forestlands threatened with conversion to non-forest use.
- The Forest Legacy Program is funded through congressional authorizations and offshore oil drilling royalties.

The Forest Legacy Program (FLP) is a voluntary initiative. It empowers private landowners to safeguard their forestland for perpetual timber production. Under the program, they voluntarily sell their development rights at market value, but retain land ownership, management, and revenue from their land while continuing to pay property taxes. Federal grants allow Idaho's FLP to purchase the development rights, preventing the land being converted to non-forest uses. (Attachment 1–FLP Fact Sheet).

With a growing Idaho, many large tracts of forestland are threatened by subdivision and development. Forest Legacy helps prevent sprawl into the Wildland Urban Interface or WUI, while ensuring a steady, reliable sawlog and fiber supply for industry and future mill infrastructure investments.

All properties participating in the Forest Legacy Program have a Forest Stewardship Plan, keeping the forests healthy and managed, which helps mitigate wildfire risk.

The Forest Legacy projects are not funded through Idaho's General Fund. Funding stems from congressional authorizations and offshore oil drilling royalties. Idaho competes for the money in the form of grants that are passed through the U.S. Forest Service. Participating landowners contribute a 25% match, typically via tax-deductible donations.

The International Selkirk Loop project consists of multiple parcels under the ownership of the Stimson Lumber Company, comprising a total of 10,847 acres. Attachment 2 provides a vicinity map and three detail maps. Stimson Lumber Company wishes to convey the development rights of these properties by way of a conservation easement to the Department to conserve this forestland in perpetuity, thereby protecting the economic and environmental values while keeping the property in private ownership.

This project was bestowed a grant through the Land and Water Conservation Fund, which is funded by offshore drilling royalties. The project was awarded \$7 million dollars, but it appraised almost \$20 million more than expected. Stimson Lumber Company has generously agreed to exceed the 25% non-federal match requirement for this acquisition, in the form of donated easement value, to ensure the project's completion. The Department appreciates that substantial private commitment, and is requesting any additional funding that might be available for this project from the U.S. Forest Service. At this time, the additional grant funding request is for up to 10% of the grant award, or \$700,000, to help offset the funding deficit.

Landowner	Appraised CE Value	Landowner Donation	FLP Contribution
Stimson Lumber Company	\$26,268,750	\$19,268,750	\$7,000,000
If additional funds are awarded	\$26,268,750	At min: \$18,568,750	Up to \$7,700,000

The International Selkirk Loop acquisition is consistent with the goals and objectives of Idaho's FLP and will protect the following significant conservation values:

- **Timber:** Idaho's Forest Action Plan identifies the area where the project lands are located as one of the highest priority areas for forestland protection in the state. According to Boundary County's Comprehensive Plan, the harvest of timber and other products from forestland in Boundary County is essential to the local economy. Bonner County's Comprehensive Plan states that for the last two decades, over 50% of the timber harvested in Bonner County has come from private forestlands, while only 26% of the timberlands in the county are privately owned.
- **Wildlife Habitat:** Project lands contain and connect some of the most valuable wildlife habitat in Idaho, supporting an abundant assortment of game and non-game species including federally-listed threatened species such as Canada lynx.

- **Public Recreation:** The conservation easement terms ensure that these lands will remain accessible to the general public for non-commercial, non-motorized recreational uses including hunting, trapping, fishing, biking, hiking, cross-country skiing and wildlife viewing.
- **Landscape Scale Conservation Impact:** The International Selkirk Loop Project is located in a high priority area. This project connects over 50,000 acres of previously conserved land, Idaho Panhandle National Forest land, and endowment land.

The project has garnered broad public support by various public and private entities (Attachment 3-Public Support). These forestlands have substantial and significant conservation and economic values that are of great importance to the people of Idaho. The protection of these values will yield a significant public benefit.

## **Recommendation**

Authorize the Department to accept International Selkirk Loop into the Forest Legacy Program by way of conservation easement.

## **Board Action**

## **Attachments**

1. Forest Legacy Program Fact Sheet
2. Maps
3. Public Support



# FOREST LEGACY PROGRAM (FLP)

*Helping private landowners keep their working forests working.*

**FLP, a voluntary initiative, enables landowners to safeguard their forestland for perpetual timber production, offering financial incentives similar to selling for development. Owners retain their land, pay property taxes, and manage timber harvesting.**



**FOREST LEGACY  
CONSERVATION LAND**

## **What land qualifies for the Forest Legacy Program?**

Eligible properties must be privately owned, over 5 acres, 75% forested, and within Idaho's priority landscape areas, as per the Idaho Forest Action Plan. Funding is awarded through a competitive, nationwide process.

## **Are Forest Legacy projects funded by Idaho's General Fund?**

No. Funding stems from congressional authorizations and offshore oil drilling royalties. Participating landowners contribute a 25% match, typically via tax-deductible donations.

## **Will there be more working forestlands enrolled in Forest Legacy in the future?**

Yes. Idaho's industrial forestland owners are eager to expand private land enrollment in FLP. Idaho is ready to compete for a share of the \$700 million national fund allocated for FLP projects.

## **How would a property owner start the process?**

Reach out to your local land trust, a non-profit specializing in land acquisition for public benefit, as all FLP applications need a land trust sponsor.

## **Why is Forest Legacy important?**

FLP ensures a steady supply of industry sawlogs and fiber, mitigates wildfire risks, and prevents sprawl in the Wildland Urban Interface (WUI). It bolsters local economies by safeguarding rural jobs and enhancing recreational access, while preserving wildlife habitat, water quality, and scenic landscapes.

## **How does FLP safeguard the supply of fiber for industry?**

FLP keeps working forests working, helping to ensure a reliable fiber supply for industry and future mill infrastructure investments. Together with endowment forestland, FLP helps sustain long-term fiber availability for mill operations, as well as sustaining jobs within our communities.

## **How does Forest Legacy work?**

Under FLP, forestland owners sell their development rights but retain ownership, management, and profits from their land, while reducing development in the WUI. Idaho holds these rights in trust and counties still receive tax revenues from these lands.

## **What does FLP do to help sustain wildlife habitat?**

Priority areas in FLP often overlap with crucial habitats for threatened species. Maintaining forested land supports wildlife habitats and creates corridors for movement, aiding in the recovery of species like the Bull Trout. Fewer residential structures in these areas also minimize wildlife-human conflicts.

## **What does FLP have to do with mitigating fire risk?**

FLP requires a Forest Stewardship Plan and sustainable management per Idaho's Forest Practices Act, which reduces vulnerability to catastrophic fires. By limiting WUI expansion, it helps ensure fire protection can be provided with fewer resources.

## **How does FLP improve recreational access?**

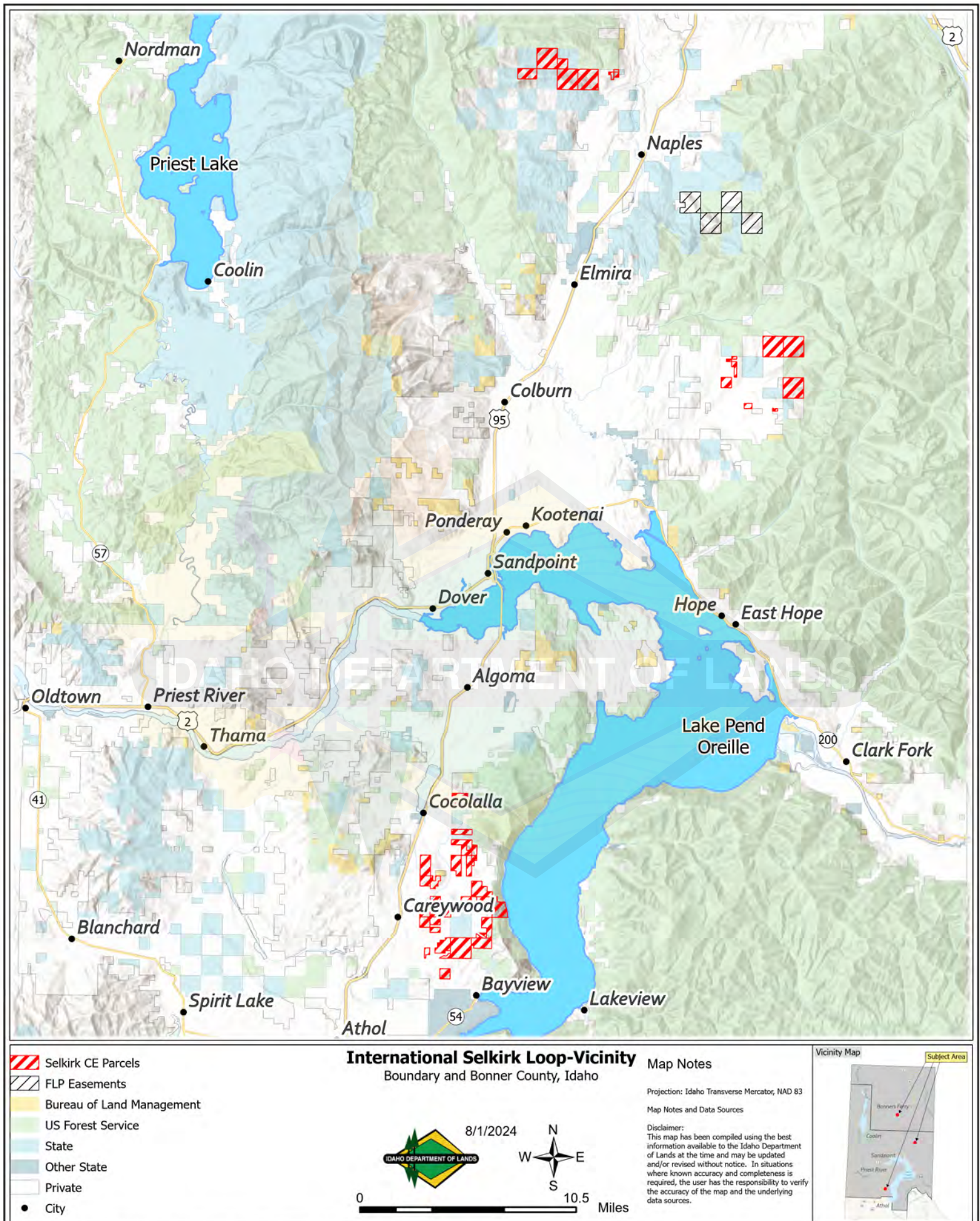
Since 2003, FLP has made 93,339 of its 103,252 timberland acres (90%) available for public recreation. As Idaho grows and demand for recreation access increases, FLP incentivizes private landowners to offer public access in line with their forest management goals.



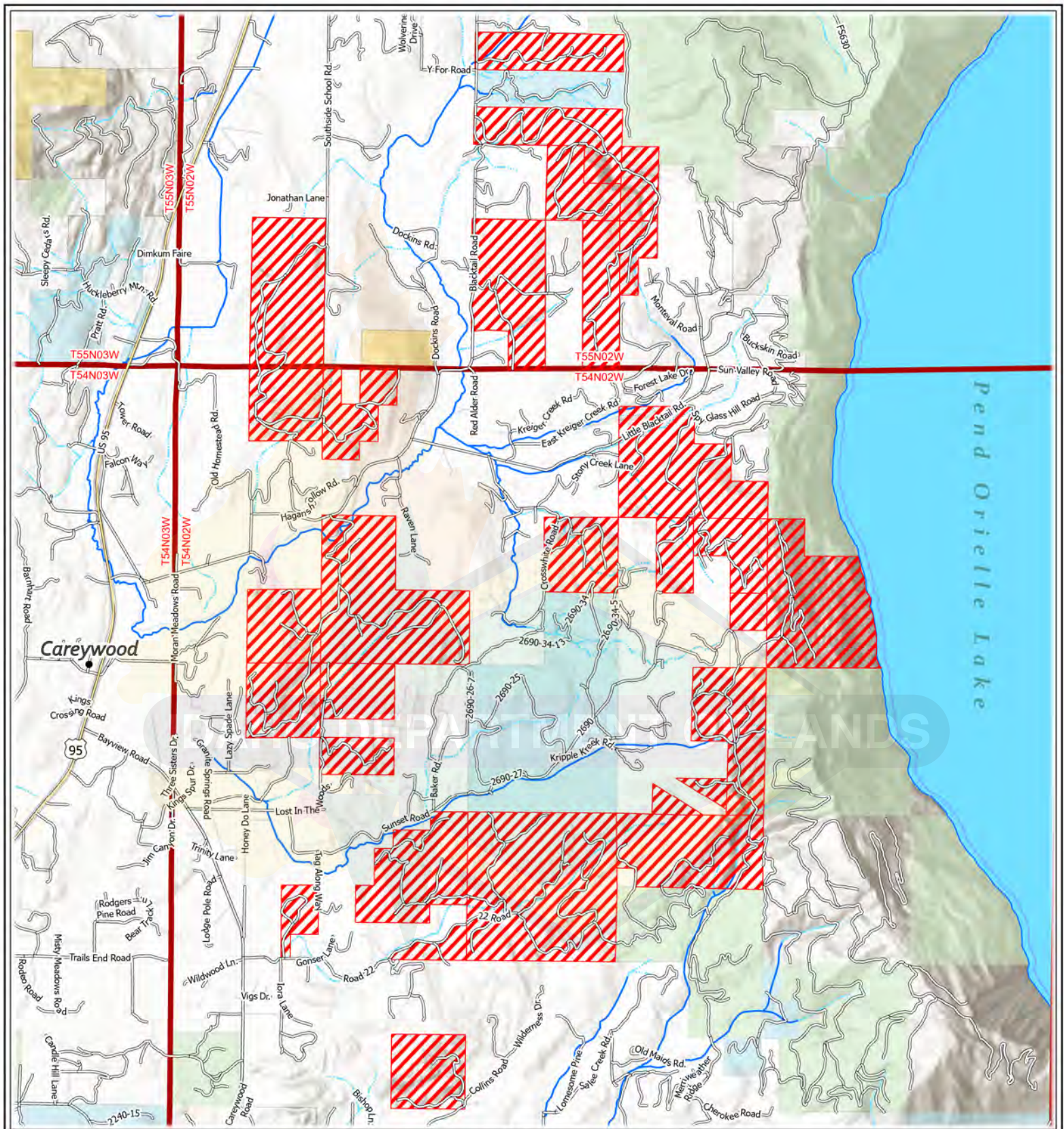
**For more info scan the code or visit**








<https://www.idl.idaho.gov/about-forestry/forest-legacy-program/>









-  Selkirk CE Parcels
-  Bureau of Land Management
-  US Forest Service
-  State
-  Private
-  City
-  Local Roads

**International Selkirk Loop-Detail 1**  
 Town 54,55N- Range 02W  
 Bonner County, Idaho



**Map Notes**

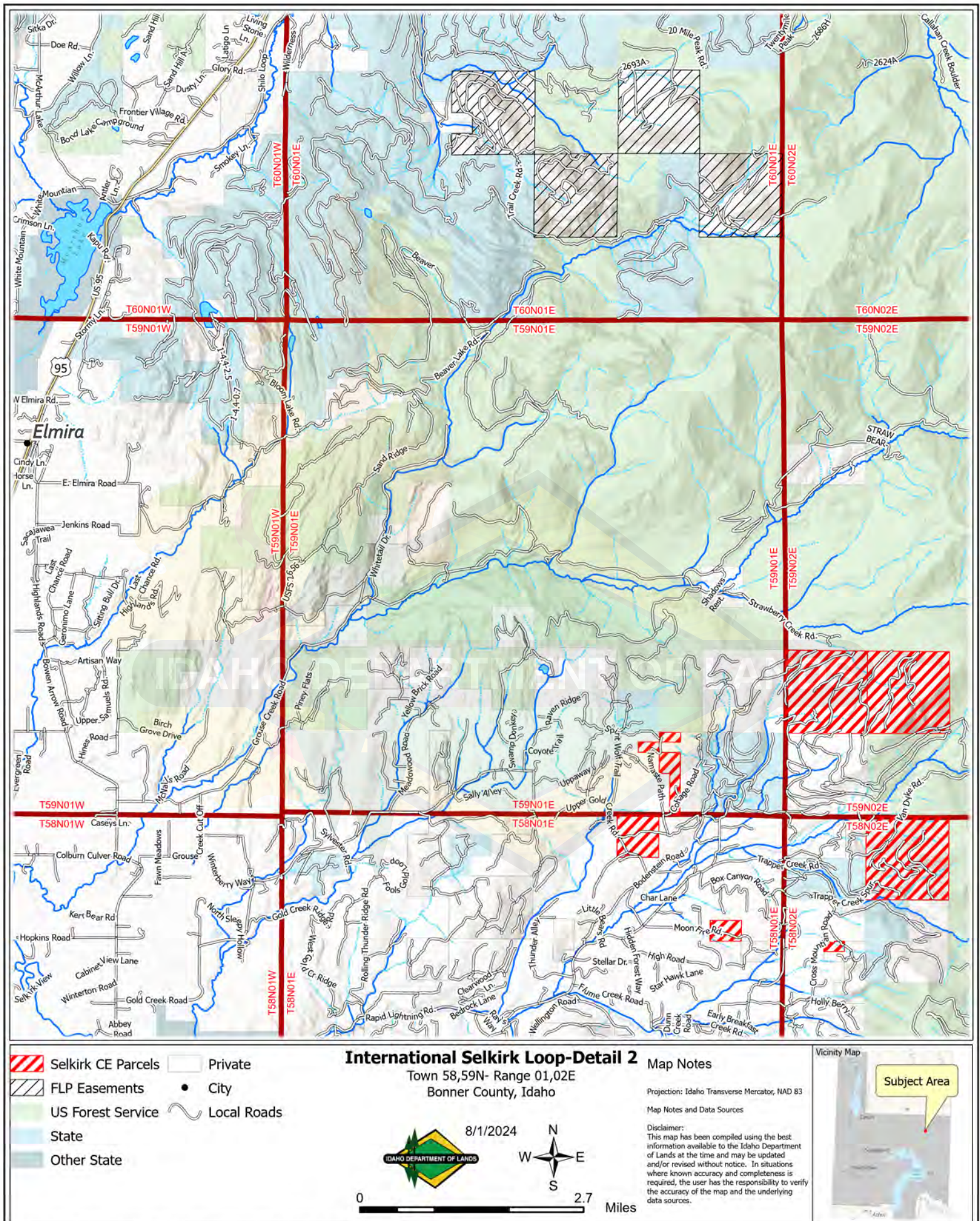
Projection: Idaho Transverse Mercator, NAD 83

Map Notes and Data Sources

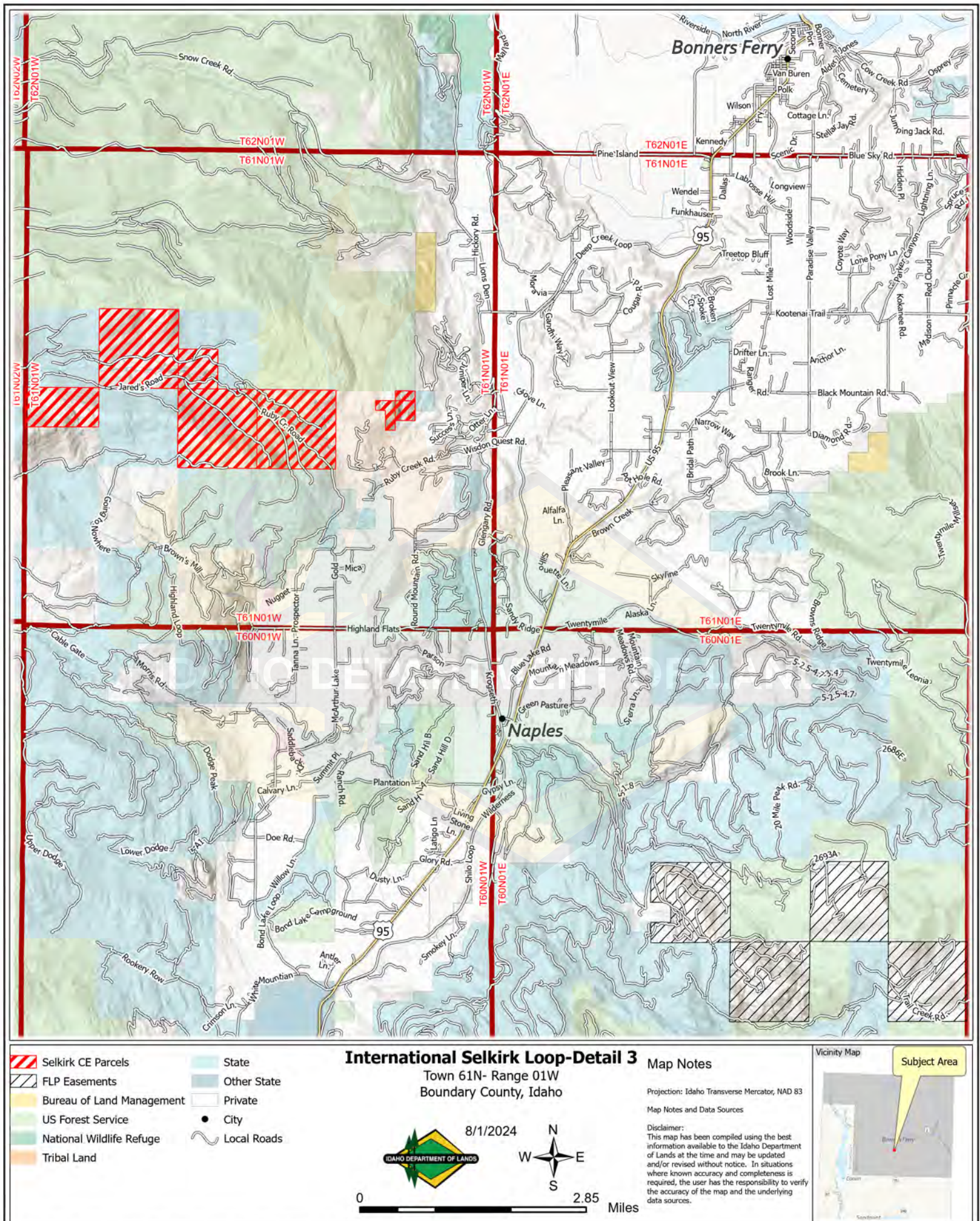
**Disclaimer:**  
 This map has been compiled using the best information available to the Idaho Department of Lands at the time and may be updated and/or revised without notice. In situations where known accuracy and completeness is required, the user has the responsibility to verify the accuracy of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













## **Public Support of the FY2023 International Selkirk Loop Project in Boundary and Bonner Counties**

The following local, state, and federal governmental agencies, conservation organizations, and recreation organizations have provided written letters in support of the purchase of the development rights, by way of conservation easement, on the International Selkirk Loop Project:

- Backcountry Hunters and Anglers
- Bonner County Board of Commissioners
- Coeur d'Alene Tribe
- Headwaters Economics
- Idaho Conservation League
- Idaho Coalition of Land Trusts
- Idaho Department of Fish and Game
- Idaho Forest Group
- Idaho Panhandle Mountain Bike Alliance
- Idaho Wildlife Federation
- Inland Northwest Land Conservancy
- Kaniksu Land Trust
- Molpus Woodlands Group
- Panhandle Forest Collaborative
- The Nature Conservancy
- Theodore Roosevelt Conservation Partnership
- US Fish and Wildlife Service
- US Forest Service – Idaho Panhandle National Forest
- Vital Ground Foundation
- Yellowstone to Yukon Conservation Initiative

## STATE BOARD OF LAND COMMISSIONERS

October 15, 2024

Consent Agenda

### Subject

DI600335, Disclaimer of Interest for the former bed of the Boise River, Canyon County, Idaho.

### Question Presented

Shall the Land Board approve Disclaimer of Interest DI600335?

### Background

Idaho holds title to the beds and banks of navigable waterways below the ordinary high water mark (OHWM). The State Board of Land Commissioners (Land Board) is the statutorily designated trustee of these lands. When a river moves due to accretion (the natural, gradual process whereby deposited material causes the river to move), title to the riverbed moves as well. These accreted lands are subject to adverse possession by the adjacent upland landowner through a quiet title action. Land Board policy directs the Idaho Department of Lands (Department) to work with these landowners and pursue disclaimers of interest for clearing title to the accreted land. This disclaimer requires Land Board approval because it exceeds 25 acres in size.

### Discussion

William C. Clayton LLC, an Idaho limited liability company, has applied for a disclaimer of interest for two parcels of accretion land totaling 78.44 acres, more or less. Parcel B is located within the original surveyed river meander lines of the Boise River adjacent to the applicant's deeded property in the Southeast Quarter of Section 14, and the Southwest Quarter of Section 13. Parcel D is located within the original surveyed river meander lines of the Boise River adjacent to the applicant's deeded property in the Southeast Quarter of Section 13, and the Northwest Quarter of the Northeast Quarter of Section 24, all in Township 4 North, Range 2 West (Attachment 1-Map).

After the applicant paid the \$300 application fee, the Department identified the OHWM on site and the applicant's licensed surveyor completed a survey. The Department reviewed the survey, deeds, and tax documents, and determined that the disclaimer was ready to move forward (Attachments 2-3).

William C. Clayton LLC will grant the State of Idaho an easement 25 feet in width for a public use right of way along, and adjacent to, the existing OHWM of the Boiser River. In addition, William C. Clayton LLC will grant the State of Idaho a disclaimer of interest for two parcels of land located below the ordinary high water mark totaling 22.39 acres.



## **Recommendation**

Direct the Department to issue a Disclaimer of Interest for two parcels totaling 78.44 acres of the former bed of the Boise River, to William C. Clayton LLC following payment to the Department of the remaining processing fee of \$300.

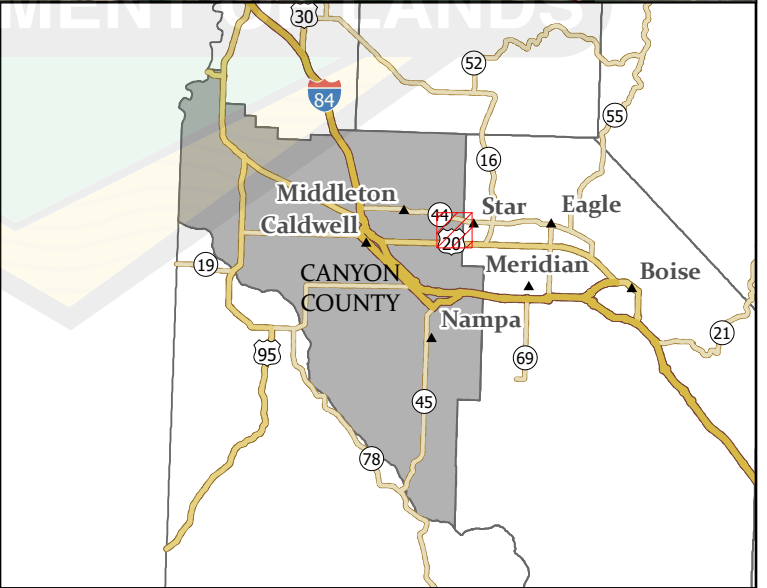
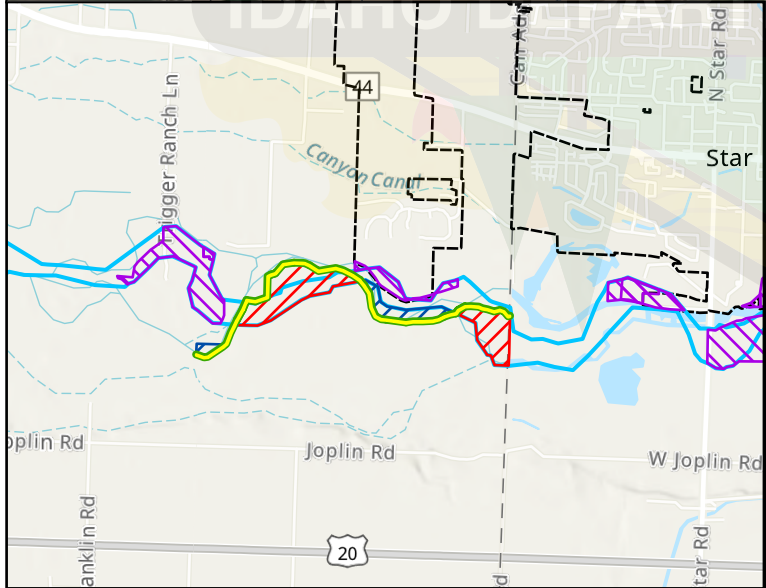
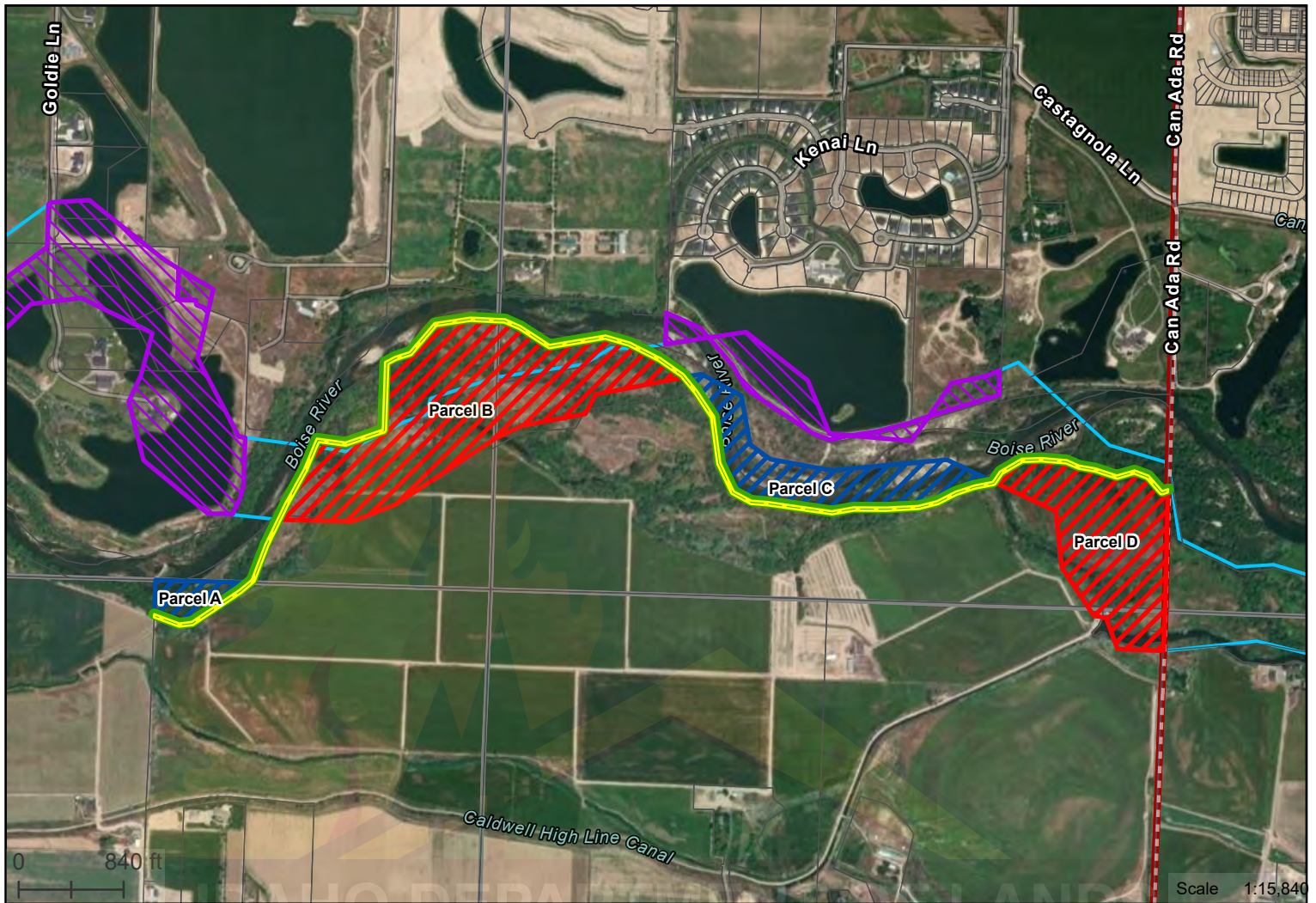
## **Board Action**

## **Attachments**

1. Map
2. Deeds
3. Tax Records



IDAHO DEPARTMENT OF LANDS



- Disclaimed TO State
- Disclaimed BY State
- Existing Disclaimer
- Access Easement
- Ordinary High Water Mark
- PLSS Township
- County Parcels

Disclaimer # DI600335

T04N R02W Sec 13, 14, 23, 24



9/12/2024

### Map Notes

Projection: Idaho Transverse Mercator, NAD 83

Map Notes and Data Sources

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.

Recording Requested By And  
When Recorded Mail To:

Darin DeAngeli  
Ahrens DeAngeli Law Group LLP  
P.O. Box 9500  
Boise, Idaho 83707-9500

**2018-025212**

RECORDED

**06/12/2018 10:25 AM**



00374427201800252120050053

CHRIS YAMAMOTO

CANYON COUNTY RECORDER

Pgs=5 SDUPUIS

\$15.00

DEED

AHRENS DEANGELI LAW

## RE-RECORDING TO CORRECT LEGAL DESCRIPTION

### Grant Deed

The Clayton Family Ranch Partnership, a Colorado limited partnership, "Grantor," for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain and convey to William C. Clayton LLC, an Idaho limited liability company, "Grantee," whose current address is P.O. Box 10, Star, Idaho 83669, the following described real property located in Canyon County, Idaho, more particularly described as follows:

The real property more particularly described on Exhibit "A," attached hereto and by this reference made a part hereof.

TOGETHER WITH all improvements, easements, hereditaments and appurtenances thereto, and all tenements, reversions, remainders, rights-of-way and water rights in anywise appertaining to the property herein described.

SUBJECT TO taxes and assessments for the year 2018 and all subsequent years, and to such rights, easements, liens, encumbrances, covenants, rights-of-way, reservations, restrictions and zoning regulations as appear of record or based upon the premises, and to any state of facts an accurate survey or inspection of the premises would show.

**2018-027680**

RECORDED

**06/26/2018 09:13 AM**



00377292201800276800060061

CHRIS YAMAMOTO

CANYON COUNTY RECORDER

Pgs=6 SDUPUIS

\$15.00

DEED

AHRENS DEANGELI LAW

Grant Deed

Page 1

Recording Requested By And  
When Recorded Mail To:

Darin DeAngeli  
Ahrens DeAngeli Law Group LLP  
P.O. Box 9500  
Boise, Idaho 83707-9500

**2018-025212**

RECORDED

**06/12/2018 10:25 AM**



00374427201800262120060053

CHRIS YAMAMOTO  
CANYON COUNTY RECORDER  
Pgs=5 SDUPUIS \$15.00  
DEED  
AHRENS DEANGELI LAW

## Grant Deed

The Clayton Family Ranch Partnership, a Colorado limited partnership, "Grantor," for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain and convey to William C. Clayton LLC, an Idaho limited liability company, "Grantee," whose current address is P.O. Box 10, Star, Idaho 83669, the following described real property located in Canyon County, Idaho, more particularly described as follows:

The real property more particularly described on Exhibit "A," attached hereto and by this reference made a part hereof.

TOGETHER WITH all improvements, easements, hereditaments and appurtenances thereto, and all tenements, reversions, remainders, rights-of-way and water rights in anywise appertaining to the property herein described.

SUBJECT TO taxes and assessments for the year 2018 and all subsequent years, and to such rights, easements, liens, encumbrances, covenants, rights-of-way, reservations, restrictions and zoning regulations as appear of record or based upon the premises, and to any state of facts an accurate survey or inspection of the premises would show.



IN WITNESS WHEREOF, the Grantor has executed this instrument on this 31<sup>st</sup> day of May, 2018.

The Clayton Family Ranch Partnership, a Colorado limited partnership

By: W C Clayton  
William C. Clayton, Manager of William C. Clayton LLC, an Idaho limited liability company, General Partner

"Grantor"

STATE OF IDAHO )  
: ss.  
COUNTY OF ADA )

On this 31<sup>st</sup> day of May, 2018, before me Darin DeAngeli, a Notary Public, personally appeared William C. Clayton, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he 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.

(SEAL)

[Signature]  
Notary Public for Idaho  
Commission expires: 11/4/21  
Darin DeAngeli  
NOTARY PUBLIC  
STATE OF IDAHO

**Exhibit "A"**

The NW1/4 and the W1/2 of the NE1/4, and the SE1/4 of the NE1/4, and Lot 1 of Section 24, and the NE1/4 of Section 23, and Lots 5, 6 and 7 of Section 13, and Lots 7 and 8 in Section 14, all in Township 4 North, Range 2 West, Boise Meridian, in Canyon County, Idaho.

**EXCEPTING:** The Northwest Quarter of Section 24, Township 4 North, Range 2 West of the Boise Meridian, Canyon County, Idaho.

**ALSO EXCEPTING:** Commencing at the SW corner of the SW1/4 of the NE1/4 of Section 23, Township 4 North, Range 2 West of the Boise Meridian, thence East along the Half section line 80 rods to the SE corner of the SW1/4 of the NE1/4 of said Section; thence North to the Highline Canal to the West line of the SW1/4 of the NE1/4 of said Section; thence South along the West line of the SW1/4 of the NE1/4 of said Section about 45 rods to the place of beginning.

**ALSO EXCEPTING** a right of way for a ditch over and across the SE1/4 of the NE1/4 of Section 23, and the SW1/4 of the NW1/4 of Section 24, all in Township 4 North, Range 2 West, Boise Meridian.

**ALSO EXCEPTING** an undivided one-half of the oil, gas and other hydrocarbons and minerals now or at any time hereafter situate therein and thereunder, including but not limited to metals, coal, stone and mineral rights, mining rights and easement rights or other matters relating thereto whether express or implied.

**ALSO EXCEPTING** part of the SW1/4 of the NE1/4 of Section 24, Township 4 North, Range 2 West, Boise Meridian, more particular described, to-wit:

Commencing at the 5/8" rebar at the SW corner of the SW1/4 of the NE1/4 of Section 24, Township 4 North, Range 2 West, Boise Meridian, in Canyon County, Idaho; thence South 89°55'30" East 152 feet, along the south line of the said SW1/4 of the NE1/4 to the INITIAL POINT of this description; thence North 9°15'22" West 333.48 feet; thence South

89°31'18" East 152.02 feet; thence South 34°51'19" East 212.14 feet; thence South 18°53'05" East 162.91 feet, to a point on the said South line; thence North 89°55'30" West 272.35 feet, along the said South line to the INITIAL POINT of this description.

SUBJECT only to the following:

- (a) Charges and assessments of the Pioneer Irrigation District;
- (b) Rights of way for Irrigation and Drainage Ditches and Canals;
- (c) Easement for Power Line dated June 11, 1941, recorded December 18, 1941, under Auditor's File No. 266325, records of Canyon County, Idaho;
- (d) Right of Way Contract recorded August 1, 1955, at 9:32 A.M., under Auditor's File No. 424599, records of Canyon County, Idaho;
- (e) Any claim arising from the difference in the mean high water line of the Boise River and the meander line as shown by the Government Survey.

ALSO EXCEPTING part of the SW1/4 of the NE1/4 of Section 24, Township 4 North, Range 2 West of the Boise Meridian, more particularly described to-wit:

Start at the SW corner of SW1/4 NE1/4 Section 24, Township 4 North, Range 2 West of the Boise Meridian, South 89°55'30" East 568.17 feet, to the point of beginning; thence North 23°55'32" West 434.08 feet; thence North 69°30'33" West 114.13 feet; thence North 66°13'03" West 172.60 feet; thence North 19°01'59" East 610.95 feet; thence South 74°34'07" East 210.59 feet; thence South 50°29'26" East 113.67 feet; thence South 51°42'13" East 86.81 feet; thence SOUTH 37°28'28" East 129.42 feet; thence South 11°32'32" West 452.27 feet; thence South 14°26'19" West 29.24 feet; thence South 50°33'45" East 58.19 feet; thence South 42°27'58" East 156.18 feet; thence South 52°48'14" East 103.42 feet; thence South 01°30'46" West 113.35 feet; thence North 89°55'30" West 327.91 feet.

ALSO EXCEPTING a part of the SE1/4 of the NE1/4 of Section 24, Township 4 North, Range 2 West of the Boise Meridian, more particularly described, to-wit:

Commencing at the SE corner of said SE1/4 of the NE1/4 of Section 24; thence North 89°55'30" West 200.00 feet, along the South line of said SE1/4 of the NW1/4 to the initial Point of this description; thence continuing North 89°55'30" West 150.00 feet; thence North 0°31' East 247.93 feet, parallel to the East line of said SE1/4 of the NW1/4; thence South 84°14' East 150.62 feet; thence South 0°31' West 233.00 feet, parallel with the East line of said SE1/4 of the NW1/4 to the Initial Point of this description.

The parcel contains 0.83 acres more or less, and is subject to a road right-of-way on the South 50 feet to all other existing rights-of-way.

ALSO EXCEPTING THEREFROM:

A parcel of land being that portion of Government Lot 7, lying North of the Boise River in Section 14, Township 4 North, Range 2 West, Boise Meridian, Canyon County, Idaho, more particularly described as follows:

BEGINNING at an iron pin marking the Northwest corner of the Southeast Quarter, Section 14, Township 4 North, Range 2 West, Boise Meridian, Canyon County, Idaho as shown on Record of Survey Instrument No. 9321201 filed for record in the Canyon County Courthouse, Caldwell, Idaho; thence

South 0° 58' 37" West 1,611.35 feet along the Westerly boundary of the Southeast Quarter, said Section 14 to a point, said point being the REAL POINT OF BEGINNING; thence continuing

South 0° 58' 37" West 441.45 feet along said Westerly boundary to a point marking the Northerly meander line of the Boise River as established by the Idaho Department of Lands, November 1992; thence leaving said Westerly boundary

North 66° 44' 15" East 146.16 feet along said meander line to an iron pin; thence

North 66° 46' 40" East 130.37 feet to an iron pin; thence

North 52° 11' 43" East 102.14 feet to an iron pin; thence

North 77° 05' 35" East 169.94 feet to an iron pin; thence

North 43° 50' 15" East 147.35 feet to an iron pin; thence

North 22° 57' 09" East 19.34 feet to a point; thence leaving said

meander line

North 69° 34' 07" West 200.08 feet to a point; thence

North 52° 29' 56" West 503.00 feet to the POINT OF BEGINNING.



**2020-079087**

RECORDED

**12/31/2020 01:57 PM**

CHRIS YAMAMOTO  
CANYON COUNTY RECORDER

Pgs=3 PBRIDGES

\$15.00

TYPE: DEED

AHRENS DEANGELI LAW GROUP LLP

ELECTRONICALLY RECORDED

Recording Requested By And  
When Recorded Mail To:

Darin DeAngeli  
Ahrens DeAngeli Law Group LLP  
P.O. Box 9500  
Boise, Idaho 83707-9500

## Grant Deed

William C. Clayton, as trustee of The William C. Clayton and Diane B. Clayton Family Trust, U/T/A dated August 7, 2006, as amended, "Grantor" for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain and convey to William C. Clayton, in his capacity as trustee of the Survivor's Trust created under The William C. Clayton and Diane B. Clayton Family Trust Agreement dated August 7, 2006, as last reformed and restated on May 31, 2018, "Grantee," whose current address is 6624 Joplin Road, Nampa, Idaho 83687, the following described real property located in Canyon County, Idaho, more particularly described as follows:

That part of the Southwest Quarter of the Northeast Quarter of Section 24, Township 4 North, Range 2 West, Boise Meridian, Canyon County, Idaho, more particularly described, to-wit:

COMMENCING at the Southwest corner of the Southwest Quarter of the Northeast Quarter, Section 24, Township 4 North, Range 2 West, Boise Meridian, Canyon County, Idaho; thence

South 89°55'30" East a distance of 568.17 feet to the POINT OF BEGINNING; thence

North 23°55'32" West a distance of 434.08 feet; thence

North 69°30'33" West a distance of 114.13 feet; thence

North 66°13'03" West a distance of 172.60 feet; thence

North 19°01'59" East a distance of 610.95 feet; thence  
South 74°34'07" East a distance of 210.59 feet; thence  
South 50°29'26" East a distance of 113.67 feet; thence  
South 51°42'13" East a distance of 86.81 feet; thence  
South 37°28'28" East a distance of 129.42 feet; thence  
South 11°32'32" West a distance of 452.27 feet; thence  
South 14°26'19" West a distance of 29.24 feet; thence  
South 50°33'45" East a distance of 58.19 feet; thence  
South 42°27'58" East a distance of 156.18 feet; thence  
South 52°48'14" East a distance of 103.42 feet; thence  
South 01°30'46" West a distance of 113.35 feet; thence  
North 89°55'30" West a distance of 327.91 feet to the POINT OF BEGINNING.

TOGETHER WITH all improvements, easements, hereditaments, and appurtenances thereto, and all tenements, reversions, remainders, rights-of-way and water rights in anywise appertaining to the property herein described.

SUBJECT TO taxes and assessments for the year 2020 and all subsequent years, and to such rights, easements, liens, encumbrances, covenants, rights-of-way, reservations, restrictions and zoning regulations as appear of record or based upon the premises, and to any state of facts an accurate survey or inspection of the premises would show.

Parcel Number: 342020110.

Commonly known as: 6412 Joplin Road  
Nampa, Idaho 83687

The Grantor executes this instrument solely in its fiduciary capacity. Any further recourse hereunder is to be only against the aforementioned trust.

IN WITNESS WHEREOF, the Grantor has executed this instrument on this 30<sup>th</sup> day of December, 2020.

The William C. Clayton and Diane B. Clayton  
Family Trust U/T/A dated August 7, 2006, as  
amended

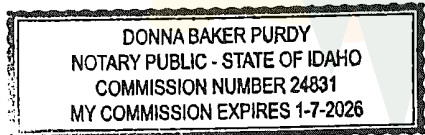
By: W C Clayton  
William C. Clayton, Trustee

“Grantor”

STATE OF IDAHO            )  
                                      : ss.  
COUNTY OF ADA         )

On this 30<sup>th</sup> day of December, 2020, before me, a Notary Public for the State of Idaho, personally appeared William C. Clayton, in his capacity as trustee of The William C. Clayton and Diane B. Clayton Family Trust, U/T/A dated August 7, 2006, as amended, known to me to be the person named in the foregoing, and acknowledged to me that he executed the same as his free act and deed, for the uses and purposes therein mentioned.

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



Donna Baker Purdy  
Notary Signature

**2020-079088**

RECORDED

**12/31/2020 01:57 PM**

CHRIS YAMAMOTO  
CANYON COUNTY RECORDER  
Pgs=2 PBRIDGES \$15.00  
TYPE: DEED  
AHRENS DEANGELI LAW GROUP LLP  
ELECTRONICALLY RECORDED

Recording Requested By And  
When Recorded Mail To:

Darin DeAngeli  
Ahrens DeAngeli Law Group LLP  
P.O. Box 9500  
Boise, Idaho 83707-9500

## Grant Deed

William C. Clayton, as trustee of The William C. Clayton and Diane B. Clayton Family Trust, U/T/A dated August 7, 2006, as amended, "Grantor" for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain and convey to William C. Clayton, in his capacity as trustee of the Survivor's Trust created under The William C. Clayton and Diane B. Clayton Family Trust Agreement dated August 7, 2006, as last reformed and restated on May 31, 2018, "Grantee," whose current address is 6624 Joplin Road, Nampa, Idaho 83687, the following described real property located in Canyon County, Idaho, more particularly described as follows:

The Northwest Quarter of Section 24 in Township 4 North, Range 2 West, Boise Meridian, Canyon County, Idaho.

TOGETHER WITH all improvements, easements, hereditaments, and appurtenances thereto, and all tenements, reversions, remainders, rights-of-way and water rights in anywise appertaining to the property herein described.

SUBJECT TO taxes and assessments for the year 2020 and all subsequent years, and to such rights, easements, liens, encumbrances, covenants, rights-of-way, reservations, restrictions and zoning regulations as appear of record or based upon the premises, and to any state of facts an accurate survey or inspection of the premises would show.

Parcel Number: 342020000.

Commonly known as: 6624 Joplin Road  
Nampa, Idaho 83687

The Grantor executes this instrument solely in its fiduciary capacity. Any further recourse hereunder is to be only against the aforementioned trust.

IN WITNESS WHEREOF, the Grantor has executed this instrument on this 30<sup>th</sup> day of December, 2020.

The William C. Clayton and Diane B. Clayton  
Family Trust U/T/A dated August 7, 2006, as  
amended

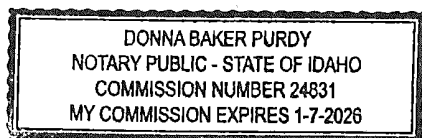
By: W C Clayton  
William C. Clayton, Trustee

“Grantor”

STATE OF IDAHO            )  
                                      : ss.  
COUNTY OF ADA         )

On this 30<sup>th</sup> day of December, 2020, before me, a Notary Public for the State of Idaho, personally appeared William C. Clayton, in his capacity as trustee of The William C. Clayton and Diane B. Clayton Family Trust, U/T/A dated August 7, 2006, as amended, known to me to be the person named in the foregoing, and acknowledged to me that he executed the same as his free act and deed, for the uses and purposes therein mentioned.

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



Donna Baker Purdy  
Notary Signature

Account Information

**PIN: 34202013 0**  
**Owner:** CLAYTON WILLIAM C AND DIANE B SURVIVORS FAMILY TRUST  
**Property Address:**  
 6624 Joplin Rd Nampa Id

**AIN: 04N02W240012**  
**TAG:** 108-00  
**Mailing Address:**  
 10 Star Id 83669

**Tax Roll:** Real Property  
**Legal Desc.:**  
 24-4N-2W NW TX 20761 IN NW 1/4

Last updated: 3/01/2024 05:47:33 PM

Tax Bills Due

Total Payable: \$1,280.06

ADD ALL TO CART

Min. Due: \$1,280.06

ADD TO CART

Pay Partial:

ADD TO CART

Bills Due

**2023 | PIN: 34202013 0 | REAL PROPERTY**  
**DUE \$1,280.06**

[Taxing District Charge Breakdown](#)

+ A partial payment is applied to the oldest due installment first. "Min. Due" is the amount due for all past due bills.

+ Tax Charge History

Payment History

Select the "Tax Year" link to **View Tax Assessment Values** for the entire tax year.

Tax Year	PIN	Date Paid	Paid By	Receipt Number	Amount Paid
<a href="#">2023</a>	34202013 0	12/6/23	Clayton William C And Diane B Survivors Family Trust	B23.26670	\$1,280.06
<a href="#">2022</a>	34202013 0	6/20/23	Clayton William C And Diane B Survivors Family Trust	U23.18323	\$1,630.23
<a href="#">2022</a>	34202013 0	12/12/22	Clayton William C And Diane B Survivors Family Trust	U22.32858	\$1,630.23
<a href="#">2021</a>	34202013 0	6/21/22	Clayton William C And Diane B Survivors Family Trust	U22.22559	\$1,662.04
<a href="#">2021</a>	34202013 0	1/7/22	William C Clayton Llc	U22.733	\$1,687.10

Account Information

**PIN: 34202011 0**  
**Owner:** CLAYTON WILLIAM C AND DIANE B FAMILY SURVIVORS TRUST  
**Property Address:**  
 6412 Joplin Rd Nampa Id

**AIN: 04N02W241645**  
**TAG:** 108-00  
**Mailing Address:**  
 10 Star Id 83669

**Tax Roll:** Real Property  
**Legal Desc.:**  
 24-4N-2W NE TAX 5 IN SWNE T71681

Last updated: 3/01/2024 05:47:33 PM

Tax Bills Due

Total Payable: \$909.01

ADD ALL TO CART

Min. Due: \$909.01

ADD TO CART

Pay Partial:

ADD TO CART

Bills Due

**2023 | PIN: 34202011 0 | REAL PROPERTY**  
**DUE \$909.01**

[Taxing District Charge Breakdown](#)

+ A partial payment is applied to the oldest due installment first. "Min. Due" is the amount due for all past due bills.

Tax Charge History

Payment History

Select the "Tax Year" link to **View Tax Assessment Values** for the entire tax year.

Tax Year	PIN	Date Paid	Paid By	Receipt Number	Amount Paid
<a href="#">2023</a>	34202011 0	12/11/23	Clayton William C And Diane B Family Survivors Trust	U23.30606	\$909.01
<a href="#">2022</a>	34202011 0	6/2/23	Clayton William C And Diane B Family Survivors Trust	B23.4172	\$949.99
<a href="#">2022</a>	34202011 0	11/29/22	Clayton William C And Diane B Family Survivors Trust	B22.17545	\$949.99
<a href="#">2021</a>	34202011 0	6/22/22	Clayton William C And Diane B Family Survivors Trust	B22.4728	\$962.24
<a href="#">2021</a>	34202011 0	12/23/21	Clayton William C And Diane B Family Survivors Trust	B21.39071	\$910.46
<a href="#">2020</a>	34202011 0	6/26/21	Clayton William C And Diane B Family Survivors Trust	B21.4066	\$910.00
<a href="#">2020</a>	34202011 0	12/21/20	Sterling Oaks Farms Llc	U20.40522	\$843.10
<a href="#">2019</a>	34202011 0	6/20/20	Clayton William C And Diane B Family Trust	U20.22219	\$852.47
<a href="#">2019</a>	34202011 0	12/20/19	Clayton William C And Diane B Family Trust	U19.39942	\$852.47
<a href="#">2018</a>	34202011 0	6/20/19	Sterling Oaks Farm Llc	U19.22320	\$843.63
<a href="#">2018</a>	34202011 0	1/31/19	Clayton Kathleen	U19.897	\$126.90
<a href="#">2018</a>	34202011 0	12/20/18	Kathleen Clayton-Wonderlich	U19.315	\$720.47
<a href="#">2017</a>	34202011 0	6/20/18	Clayton, K. Clayton	U18.19427	\$720.47
<a href="#">2017</a>	34202011 0	12/20/17	Clayton William C	B17.30859	\$720.47

Account Information

PIN: 34202012 0

Owner: WILLIAM C CLAYTON LLC

Property Address:  
6622 Joplin Rd Nampa Id

AIN: 04N02W240015

TAG: 108-00

Mailing Address:  
10 Star Id 83669

Tax Roll: Real Property

Legal Desc.:  
24-4N-2W NE LT 1 LS TX 1; W 1/2 NE LS TX 3 & TX 5; SENE LS TX 2; TX 1 OF LT 1

Last updated: 3/01/2024 05:47:33 PM

Tax Bills Due

Total Payable: \$1,399.18

ADD ALL TO CART

Min. Due: \$1,399.18

ADD TO CART

Pay Partial:

ADD TO CART

Bills Due

2023 | PIN: 34202012 0 | REAL PROPERTY

DUE \$1,399.18

[Taxing District Charge Breakdown](#)

+

A partial payment is applied to the oldest due installment first. "Min. Due" is the amount due for all past due bills.

Tax Charge History

Payment History

Select the "Tax Year" link to View Tax Assessment Values for the entire tax year.

Tax Year	PIN	Date Paid	Paid By	Receipt Number	Amount Paid
2023	34202012 0	12/12/23	William C Clayton Llc	B23.31479	\$1,399.18
2022	34202012 0	6/16/23	William C Clayton Llc	U23.16471	\$1,417.76
2022	34202012 0	12/9/22	William C Clayton Llc	B22.29650	\$1,417.76
2021	34202012 0	6/10/22	William C Clayton Llc	U22.16337	\$1,764.32
2021	34202012 0	1/11/22	William C Clayton Llc	U22.812	\$0.01
2021	34202012 0	1/7/22	William C Clayton Llc	U22.733	\$1,803.75
2020	34202012 0	6/21/21	William C Clayton Llc	U21.22563	\$1,909.63
2020	34202012 0	12/21/20	William C Clayton Llc	B20.35808	\$1,909.63
2019	34202012 0	6/20/20	Clayton William C Llc	U20.22725	\$2,016.27
2019	34202012 0	12/20/19	Clayton William C	U19.39401	\$2,016.27
2018	34202012 0	12/20/18	Clayton William C	U18.42919	\$3,268.26
2017	34202012 0	12/20/17	Clayton Family Ranch Partnership	B17.32894	\$1,546.74
2017	34202012 0	12/20/17	Clayton Family Ranch Partnership @@	U17.35535	\$1,546.74



Account Information

PIN: 34038000 0

Owner: WILLIAM C CLAYTON LLC

AIN: 04N02W138400

TAG: 108-00

Mailing Address:  
10 Star Id 83669

Tax Roll: Real Property

Legal Desc.:  
13-4N-2W SE LTS 5,6&7

Last updated: 3/01/2024 05:47:33 PM

Tax Bills Due

Total Payable: \$214.20

ADD ALL TO CART

Min. Due: \$214.20

ADD TO CART

Pay Partial:

ADD TO CART

Bills Due

2023 | PIN: 34038000 0 | REAL PROPERTY

DUE \$214.20

Taxing District Charge Breakdown

A partial payment is applied to the oldest due installment first. "Min. Due" is the amount due for all past due bills.

Tax Charge History

Payment History

Select the "Tax Year" link to View Tax Assessment Values for the entire tax year.

Tax Year	PIN	Date Paid	Paid By	Receipt Number	Amount Paid
2023	34038000 0	12/12/23	William C Clayton Llc	B23.31230	\$214.20
2022	34038000 0	6/16/23	William C Clayton Llc	U23.16471	\$197.97
2022	34038000 0	12/9/22	William C Clayton Llc	B22.29381	\$197.97
2021	34038000 0	6/10/22	William C Clayton Llc	U22.16337	\$295.75
2021	34038000 0	1/7/22	William C Clayton Llc	U22.733	\$302.35
2020	34038000 0	6/21/21	William C Clayton Llc	U21.22563	\$347.97
2020	34038000 0	12/21/20	William C Clayton Llc	B20.35473	\$347.97
2019	34038000 0	6/20/20	Clayton William C Llc	U20.22725	\$386.85
2019	34038000 0	12/20/19	Clayton William C	U19.39401	\$386.85
2018	34038000 0	12/20/18	Clayton William C	U18.42919	\$861.30
2017	34038000 0	12/20/17	Clayton Family Ranch Partnership	B17.32299	\$419.69
2017	34038000 0	12/20/17	Clayton Family Ranch Partnership @@	U17.35535	\$419.69

Account Information

PIN: 34050000 0

Owner: WILLIAM C CLAYTON LLC

AIN: 04N02W149000

TAG: 115-00

Mailing Address:

10 Star Id 83669

Tax Roll: Real Property

Legal Desc.:

14-4N-2W SE GOVT LT 7 LS TX 01588,,GOVT LT 8

Last updated: 3/01/2024 05:47:33 PM

Tax Bills Due

Total Payable: \$92.63

ADD ALL TO CART

Min. Due: \$92.63

ADD TO CART

Pay Partial:

ADD TO CART

Bills Due

2023 | PIN: 34050000 0 | REAL PROPERTY

DUE \$92.63

[Taxing District Charge Breakdown](#)

+ A partial payment is applied to the oldest due installment first. "Min. Due" is the amount due for all past due bills.

Tax Charge History

Payment History

Select the "Tax Year" link to View Tax Assessment Values for the entire tax year.

Tax Year	PIN	Date Paid	Paid By	Receipt Number	Amount Paid
<a href="#">2023</a>	34050000 0	12/12/23	William C Clayton Llc	B23.31231	\$92.63
<a href="#">2022</a>	34050000 0	6/16/23	William C Clayton Llc	U23.16471	\$85.71
<a href="#">2022</a>	34050000 0	12/9/22	William C Clayton Llc	B22.29382	\$85.71
<a href="#">2021</a>	34050000 0	6/10/22	William C Clayton Llc	U22.16337	\$128.36
<a href="#">2021</a>	34050000 0	1/7/22	William C Clayton Llc	U22.733	\$131.23
<a href="#">2020</a>	34050000 0	6/21/21	William C Clayton Llc	U21.22563	\$151.27
<a href="#">2020</a>	34050000 0	12/21/20	William C Clayton Llc	B20.35474	\$151.27
<a href="#">2019</a>	34050000 0	6/20/20	Clayton William C Llc	U20.22725	\$168.14
<a href="#">2019</a>	34050000 0	12/20/19	Clayton William C	U19.39401	\$168.14
<a href="#">2018</a>	34050000 0	12/20/18	Clayton William C	U18.42919	\$374.50
<a href="#">2017</a>	34050000 0	12/20/17	Clayton Family Ranch Partnership @@	B17.32300	\$181.97
<a href="#">2017</a>	34050000 0	12/20/17	Clayton Family Ranch Partnership @@	U17.35535	\$181.97

Account Information

PIN: 34186000 0

Owner: WILLIAM C CLAYTON LLC

AIN: 04N02W230010

TAG: 115-00

Mailing Address:

10 Star Id 83669

Tax Roll: Real Property

Legal Desc.:

23-4N-2W NE N 1/2 NE,, SENE & SWNE-N OF  
HIGHLINE CANAL

Last updated: 3/01/2024 05:47:33 PM

Tax Bills Due

Total Payable: \$444.64

ADD ALL TO CART

Min. Due: \$444.64

ADD TO CART

Pay Partial:

ADD TO CART

Bills Due

2023 | PIN: 34186000 0 | REAL PROPERTY

DUE \$444.64

Taxing District Charge Breakdown

A partial payment is applied to the oldest due installment first. "Min. Due" is the amount due for all past due bills.

Tax Charge History

Payment History

Select the "Tax Year" link to View Tax Assessment Values for the entire tax year.

Tax Year	PIN	Date Paid	Paid By	Receipt Number	Amount Paid
2023	34186000 0	12/12/23	William C Clayton Llc	B23.31235	\$444.64
2022	34186000 0	6/16/23	William C Clayton Llc	U23.16471	\$408.51
2022	34186000 0	12/9/22	William C Clayton Llc	B22.29386	\$408.51
2021	34186000 0	6/10/22	William C Clayton Llc	U22.16337	\$604.25
2021	34186000 0	1/7/22	William C Clayton Llc	U22.733	\$617.76
2020	34186000 0	6/21/21	William C Clayton Llc	U21.22563	\$706.51
2020	34186000 0	12/21/20	William C Clayton Llc	B20.35481	\$706.51
2019	34186000 0	6/20/20	Clayton William C Llc	U20.22725	\$784.70
2019	34186000 0	12/20/19	Clayton William C	U19.39401	\$784.70
2018	34186000 0	12/20/18	Clayton William C	U18.42919	\$1,744.82
2017	34186000 0	12/20/17	Clayton Family Ranch Partnership	B17.32313	\$836.95
2017	34186000 0	12/20/17	Clayton Family Ranch Partnership @@	U17.35535	\$836.95

Account Information

PIN: 34202000 0

Owner: WILLIAM C CLAYTON LLC

AIN: 04N02W240011

TAG: 108-00

Mailing Address:  
10 Star Id 83669

Tax Roll: Real Property

Legal Desc.:  
24-4N-2W NW NW 1/4 LS TX 20761

Last updated: 3/01/2024 05:47:33 PM

Tax Bills Due

Total Payable: \$1,091.08

ADD ALL TO CART

Min. Due: \$1,091.08

ADD TO CART

Pay Partial:

ADD TO CART

Bills Due

2023 | PIN: 34202000 0 | REAL PROPERTY

DUE \$1,091.08

[Taxing District Charge Breakdown](#)

+

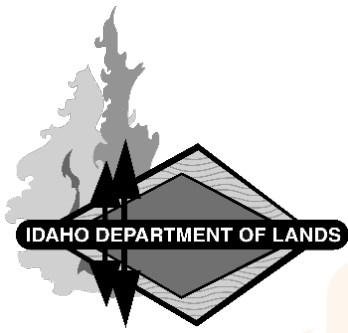
A partial payment is applied to the oldest due installment first. "Min. Due" is the amount due for all past due bills.

Tax Charge History

Payment History

Select the "Tax Year" link to View Tax Assessment Values for the entire tax year.

Tax Year	PIN	Date Paid	Paid By	Receipt Number	Amount Paid
<a href="#">2023</a>	34202000 0	12/12/23	William C Clayton Llc	B23.31236	\$1,091.08
<a href="#">2022</a>	34202000 0	6/16/23	William C Clayton Llc	U23.16471	\$1,126.97
<a href="#">2022</a>	34202000 0	12/9/22	William C Clayton Llc	B22.29387	\$1,126.97
<a href="#">2021</a>	34202000 0	6/10/22	William C Clayton Llc	U22.16337	\$1,336.85
<a href="#">2021</a>	34202000 0	1/7/22	William C Clayton Llc	U22.733	\$1,366.73
<a href="#">2020</a>	34202000 0	6/21/21	William C Clayton Llc	U21.22563	\$2,668.17
<a href="#">2020</a>	34202000 0	12/21/20	Clayton William C And Diane B Family Trust	B20.35482	\$2,668.17
<a href="#">2019</a>	34202000 0	6/20/20	Clayton William C Llc	U20.22725	\$2,844.35
<a href="#">2019</a>	34202000 0	12/20/19	Clayton William C	U19.39401	\$2,844.35
<a href="#">2018</a>	34202000 0	12/20/18	Clayton William C	U18.42919	\$5,760.44
<a href="#">2017</a>	34202000 0	12/20/17	Clayton William C	B17.32317	\$2,697.89
<a href="#">2017</a>	34202000 0	12/20/17	Clayton Family Ranch Partnership @@	U17.35535	\$2,697.89



## 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

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*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

September 17, 2024

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, September 17, 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 8:58 a.m. The Honorable Governor Brad Little presided. The following members were in attendance:

Honorable Governor Brad Little

Honorable Secretary of State Phil McGrane

Honorable Attorney General Raúl Labrador

Honorable State Controller Brandon Woolf

Honorable Superintendent of Public Instruction Debbie Critchfield

All Land Board members were present. Governor Little, Secretary of State McGrane, Controller Woolf, and Superintendent Critchfield attended at the physical location. Attorney General Labrador attended via Zoom webinar.

### Reports

#### 1. Department Reports – Presented by Dustin Miller, Director

A. Timber Sales Revenue – August 2024

B. Leases/Permits Transactions and Revenue – August 2024

C. Fire Season Report

**Discussion:** Controller Woolf mentioned the two endowment timber sales that did not sell and asked if the Department receives feedback from purchasers in those instances and what are key causes. Director Miller replied the Department has conversations with purchasers and the mills to understand why sales do not sell and that factors in when reassessing and possibly reappraising sales. Jim Elbin, Trust Land Division Administrator, remarked that main reasons are sales are farther away from markets and have higher logging costs.

Secretary of State McGrane noted the Wapiti Fire is one for which the Department has cost sharing and asked if the Department will pick up a portion of that cost while an Incident Command team remains on the fire. Director Miller answered that the Department negotiated the cost share through September 8th; any firefighting efforts beyond that date are not part of the cost share.

Controller Woolf offered kudos to the entire fire team for the work that has been done to get fires on Department's protection out and asked about ways the Land Board can partner with the Forest Service to help them knock fires down quickly before they grow to the sizes they are. Director Miller recognized the importance of partnering with the Forest Service, as a large landowner in the state, and commented that the Forest Service prioritizes firefighting where life and property are at risk, including fires that are adjacent to private lands and endowment lands. Director Miller said the Department and Land Board can continue to advocate for sound land management, more work through shared stewardship and Good Neighbor Authority, expedited NEPA processes to get more work done on federal lands to deal with fuel loading, categorical exclusions; advocating for those types of things would be welcome to help federal partners with the wildfire crisis that exists on federal lands.

Secretary of State McGrane inquired if the Department had to tap into non-fire agency staff this season, and how is it with federal resources when they are being pulled to California and many other directions. Director Miller replied that the Department is a fire organization and relies heavily on non-fire staff to jump in on fires; a lot of folks in forestry and range drop everything and willingly participate. Josh Harvey, Fire Management Bureau Chief, addressed the resource question, saying this year started off with a bang, especially in Oregon and Washington, and immediately jumped to a scenario where firefighting agencies nationally were pulling resources off the east coast – Mississippi, New Jersey – crews were coming from all over the place to support that. North Idaho started late into the fire season; the Department was already behind the curve in terms of resources, but has strong relationships with the Forest Service, neighboring state partners, and staff could reach out to their counterparts and tap into whatever was coming available. North Idaho dodged a bullet this summer as far as large fire goes. South Idaho has been very active. Active military got pulled in for federal fires down south. That is a good baseline to understand: when active military gets pulled in, there is not much left in the system. At one point 37,000 wildland firefighters were on the fire line earlier this summer.

Governor Little wondered if any of the \$7 million remaining in the suppression fund would be left after the cost share. Director Miller responded that with the cost shares and being billed by the Forest Service it will take two or three years to get those paid. The Department's current obligation is roughly \$45 million, and it is likely costs will not go past the \$68 million amount that was pre-funded. The Department welcomes a conversation about pre-funding the suppression account again ahead of the next legislative session.

Governor Little asserted the Forest Service has to do more containment and more management and described two examples: one was all the lodge pole kill at Stanley; a small mill in Idaho wanted those dead trees, and the Forest Service would not sell them. The second is what the Department did collectively for Tussock moth on endowment ground, and that huge "nuclear bomb" cloud that happened when the Lava Fire burned into all those dead Tussock moth trees that were not on endowment ground. Governor Little stated the Land Board has to make a case to the public: if they do not like smoke, and they do not like mercury in the air, and they do not like fish habitat being destroyed, the Forest Service needs to up its management, including Good Neighbor Authority and shared stewardship.



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

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

**Discussion:** Mr. Anton stated the portfolio was up 1.9% during the month of August, up 3.8% fiscal year-to-date, and through yesterday up 3.9%. Those numbers, just looking at points in time, make the market appear stable but there has been a significant amount of volatility in the financial markets. In early August financial markets sold off significantly as the data pointed to the labor markets beginning to soften. The unemployment rate ticked up from 4.1% to 4.3%; a year ago it was at 3.4%, steadily moving up as the Federal Reserve hiked interest rates. There was concern about softening labor markets, then later in the month inflation data came out: CPI rose 2.9% year over year and PCE [Personal Consumption Expenditures], the Federal Reserve's measure for inflation, rose 2.6%. This combination of softening labor markets and improving inflation positioned the Federal Reserve to think about cutting rates; when the Federal Reserve met on August 23rd in Jackson Hole, Chairman Jerome Powell gave a strong signal about beginning to cut rates. The Federal Reserve is meeting today, and the expectation is at least a 0.25% cut in interest rates. The market did come back late in August when that information came out and is hanging in there assuming rates will be cut tomorrow. The fund is in a good place, off to a good start for the new fiscal year.

Superintendent Critchfield inquired how interest rate cuts will affect the endowment portfolio. Mr. Anton explained that many things are tied to interest rates. The fund has an allocation to fixed income, the bond market, and when interest rates go down bond prices tend to go up; it is positive for bonds. When interest rates go down, equity prices tend to go up, because the cost of capital to run businesses goes down, borrowing costs go down, so lower rates are stimulative to the economy. Many financial markets are driven by the cost of money and the interest rates.

### **Consent—Action Item(s)**

## **3. Energy Lease M600099** – Presented by Jason Laney, Section Manager-Endowment Leasing

**Discussion:** Controller Woolf asked several questions: is there any solar on state endowment lands that are being leased; did the first lease for this project in November 2022 come before the Lands Board; was there ample time and notification given for the public and county to comment on the project? Mr. Laney responded that there is no solar expected on endowment lands; the first lease was not presented to Land Board because that was prior to the energy leasing policy; the Department advertised the public meeting for 45 days, area office staff spoke with adjacent landowners, and the county held a public meeting as well. Secretary of State McGrane was curious how does the energy leasing policy change the terms in this lease compared to the lease issued in November 2022. Mr. Laney said the new policy really beefs up terms and conditions when it comes to decommissioning and reclamation. The first lease has robust terms regarding decommissioning and reclamation; very little changes were needed to bring this new lease into compliance with the policy. Superintendent Critchfield noted the memo indicates no significant concerns were raised and asked if any concerns were raised. Mr. Laney replied that one person showed up at the Department's public meeting and expressed concerns, not about this project specifically, but about other energy projects going on in the state and energy in general. Attorney General Labrador wondered about the \$15,000 in revenue; is that annual revenue or total revenue? Mr. Laney answered it is annual revenue once the lease is in production phase. Controller Woolf asked if the different project phases are tied to timelines and what annual



estimated revenue is tied to those phases. Mr. Laney responded that the phases are directly related to project development. Phase 1 is the development phase, finishing up due diligence, impact studies, and determining where the wind turbines or solar fields are going to be placed and sited. Phase 2 is a construction phase, generally about 2 years, and then Phase 3 is the production phase where the bulk of the revenue is earned. Governor Little inquired how much revenue the property generates per acre now. Mr. Laney said total annual revenue is about \$243 per year.

**Recommendation:** Direct the Department to move forward with lease execution, pending update of the energy lease template.

#### **4. Approval of Draft Minutes – August 20, 2024 Regular Meeting (Boise)**

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

#### **Regular—Action Item(s)**

##### **5. FY2026 Department of Lands Budget – Presented by Dustin Miller, Director**

**Recommendation:** Approve the Department's FY2026 budget request as submitted to Division of Financial Management and Legislative Services Office on Friday, August 30, 2024.

**Discussion:** Secretary of State McGrane offered his appreciation to the Department for adding the Timber Protective Associations (TPA) in the budget. Director Miller indicated there were minimal costs this year, no equipment needs provided by the TPAs for FY26 and it was a good move to roll them into the budget. Governor Little asked if either TPA was going to raise its fees. Director Miller observed that the chief fire wardens for both TPAs were sitting in the audience and responding no to the Governor's question.

**Board Action:** A motion was made by Controller Woolf that the Land Board approve the Department's FY2026 budget request as submitted to Division of Financial Management and Legislative Services Office on Friday, August 30, 2024. Superintendent Critchfield seconded the motion. Governor Little abstained from voting. The motion carried on a vote of 4-0.

#### **Information**

##### **6. Idaho Career Ready Students: Forestry – Presented by Superintendent Debbie Critchfield**

**Discussion:** *Superintendent Critchfield's oral presentation is provided here; it is not verbatim.*

**Superintendent Critchfield:** I want to share how we came about developing the Idaho Career Ready Students Grant. A couple of years ago while visiting Twin Falls High School, I asked the principal if he would take me to his most popular elective class. He said it is welding and I visited with the welding teacher. At the time they got about 80 students through the program in a year but turned away 100 students interested in taking welding including young women. It came down to a matter of resources, not enough shop space, the electrical would not support new welding machines, the venting, all of the precautions that go with that. The next day, I toured the Chobani warehouse in Twin Falls; this Chobani location is their global center for research and

development. The plant manager was explaining the variety of positions they look to hire, from an engineer to a biologist a welder. He said they could hire all the welders they could find. Twin Falls High School is 3 miles away, they are turning away 100 kids a year that would like to be in a welding class ,and we have a business that is ready and willing to hire. The Magic Valley has manufacturing, food processing, and the needs to support all of that. Now to the Magic Valley, manufacturing is a real economic driver. As I have toured the state, in different parts of the state there are different industries that have that same story. Here is the industry in our area, here are the local schools, here are jobs, here are kids, and we have a gap there. As I traveled to schools and talked to businesses in north central Idaho and north Idaho, everyone can use welders, it was less about food processing and manufacturing as it was around logging, working in the mills, and forestry. Spending time with the Associated Logging Contractors, along with the folks involved in the forest products industry, we started talking about how we take advantage of students who are living in the communities where in their own backyards they have an opportunity to get great jobs and stay at home. Many students are not looking at industries that their families have been a part of for a long time because the opportunities to get exposure and to get skills were prioritized out of the local high school.

There are two ways that districts receive money for career technical education, one is through the federal government: it is not enough money and lots of rules. The State has an amount of money, but it is prioritized around 179 local districts and charters; it does not go far. We were finding, in addition to this gap between what industry was ready to fill and the supply of students that were there, a predominant problem in our smaller communities to develop pathways that lead to employment in their own backyards. Putting together the Career Ready Students grant, we modeled it after what we would like to see other industries do, but we were using the forest industry to get us going. This grant, the "little brother" to Idaho LAUNCH, looked to prepare our students to take advantage of opportunities, monies available for students that were not going to college but were going right into careers; we are now about a year since the monies were available, and 17 percent of the grant money has been awarded to forestry and the forest products industry in high school. We were able as of today to stand up six completely new forest and forest products programs. Six are brand new, others either were expanding a shop or needed to add equipment. What I love about this particular model, we spend so much time talking about timber, and it is not lost on me that 90% of the endowment comes from the sale of timber. As we look to how this circle comes together, we feel excited and encouraged by what we are seeing.

The model that we are looking at for forestry, we went to industry and said we are going to stand up new programs. We are going to train kids, but we do not want a disconnect. When a student graduates they believe they have what industry wants; the kids show up and say I know how to do X, but the industry needed them to know how to do Y. We went to logging, timber, forest folks around the table and said what do you want our students to know; we are putting these new programs together and this is the materials that we will provide. With a \$50,000 Wood Innovations Grant awarded to the Idaho Forest Products Commission, we are developing Idaho-specific forest and forest products curriculum. The burden is not on the district to go buy or find curriculum and we are excited about the uniformity of what our students are going to be able to use. We are also collaborating with the University of Idaho and their College of Natural Resources; they have a 2-year and a 4-year program in forestry, and we can have students leave high school in a pathway that sets them up to immediately pursue a formal certificate in forestry. An important part of what is happening with the University of Idaho specifically, they are supporting and mentoring the instructors that are at the high school level. There is also a training

facility with the university that if high schools can get to it they will be able to use. We have someone from the U of I that is going and helping these new programs get stood up so that they know what to do.

I wanted to cover what is happening at the high schools where we are seeking to create more pathways and provide more interest and exposure for our students in these fields. On the screen, this is Potlatch, you can see the Wood Mizer sawmill that arrived; they have been excitedly waiting for it. This is where having connections to the U of I is so important because then we have an instructor that can come out and side-by-side with the high school instructor help do that. Potlatch is getting the sawmill, and they will have a brand-new program in forestry and natural resources. Orofino Junior/Senior High School, part of their grant is going towards wildlife and fishery, wood, metal shop programs and they will have a new pathway for natural resources; they also will be getting a sawmill. Timberline schools are getting equipment upgrades and enhancements that will directly go towards skilled workers in ag and timber. St. Maries, we are very excited about them considering they have a mill right there in their own backyard, new equipment for a forestry program that will also include a sawmill. Council High School will get a sawmill. Priest River High School is getting a sawmill and a drone; we are excited to see what they are doing adding on to the technology side of timber with GPS and GIS drones and mapping to help students be prepared if they want to pursue great careers in those industries. Kamiah will have a sawmill along with other tools associated with shop. Grangeville High School will get a sawmill as well. Lake Pend Oreille, they got a sizable amount from the grant, they are going to build an 11,000 square foot career tech center that in their area of north Idaho other schools will be able to take advantage of it. They are also part of the new forestry and natural resources pathways. In Lewiston at their DeAtley Career Tech Center, they are able to expand the enrollment in existing programs that they had. I mentioned LAUNCH earlier, the Workforce Development Council met last week in Coeur d'Alene. One of the gaps that we heard, from the U of I and from high schools, there was not specific policies around students who were leaving with a certificate or having participated in these classes that they would be able to access LAUNCH dollars and develop that any further, whether it was get industry required specific skills training or to the U of I. Just last Wednesday, Workforce Development voted to accept a matrix that would bring the forestry careers into the in-demand categories so that students will be able to take advantage of those dollars. We are very excited about what this will mean, not only for kids and communities, but for the state, for how we are continuing to sustain and grow these industries that ultimately contribute to the endowment which goes back to the schools. I have talked with Josh Harvey a little bit; he wears another hat as a school board member in St. Maries, and I know they are excited about what they are going to do. We are also talking about how we do this with other related industries, whether it is fire or other things where we can get exposure, training, access to our students in high school; they can then take advantage of LAUNCH dollars and be employed and contribute not only to the communities but for themselves and their families. I am appreciative of the opportunity to share this with you.

**7. Energy Lease M800070 – Presented by Jason Laney, Section Manager-Endowment Leasing**

**Discussion:** Controller Woolf asked if the adjoining neighbors on private land already have turbines or solar on their lands. Mr. Laney replied that he does not believe there is infrastructure on private land at this point. Secretary of State McGrane inquired about the community engagement efforts on this lease and if the Department received any feedback. Mr. Laney indicated that the Department's public engagement was similar to that for Lease M600099. The

Department advertised the public meeting at a venue open to the public, staff met with county commissioners, and Bingham County also held public meetings. Mr. Laney noted that the County gave their support, and they intend to move forward with the projects. No negative feedback was received by the public, probably because all of the Department's lessees in this area are involved with their private lands in the project, and all adjacent landowners are involved.

**8. Memorandum of Agreement with Department of Parks and Recreation – Presented by Dustin Miller, Director**

**Discussion:** Secretary of State McGrane asked if it would be possible as this proceeds to have Director Buxton address the Land Board, noting it would not change the course of anything but might be beneficial. Director Miller remarked that this memorandum was worked on between Department staff and Director Buxton's staff. Both he and Director Buxton reviewed this document. Director Miller indicated moving forward with the Outdoor Recreation Fund Advisory Council, and the projects slated for the Department to work on with Parks and Recreation, a conversation on progress of those projects and bringing in Director Buxton would be warranted.

**Executive Session**

None

Prior to adjournment, Director Miller recognized Craig Foss, an executive team member who is leaving the Department. Craig is from North Dakota and worked in various capacities in North Dakota in forestry, as well as for the Montana DNRC. He has been at Department of Lands for 29 years in numerous roles. Most recently in 2020, he was serving as the Division Administrator for Forestry and Fire and was asked to be Idaho's State Forester. A better man could not have been envisioned to take on that role for the Department and for the state of Idaho. Craig has been a remarkable leader. He has advanced many initiatives related to forestry in Idaho, from forest health, GNA, shared stewardship, as well as fire program modernization. He cares deeply about the state, about natural resources and the people of this organization, and he will be missed. Craig Foss said it has been a pleasure serving multiple governors, multiple Land Boards, multiple directors, back to Stan Hamilton. It has been a great career; a wonderful organization supported him through a lot of phases of life that happened over the course of a career. He is grateful for everything, not going to miss it though. Craig is going into retirement fully prepared for the next stage of life with a lot of great memories and looking forward to the next thing.

Controller Woolf recognized Shawn Keough with the Associated Logging Contractors who is finishing her career as well. Her service to the timber industry and to the state as an Idaho State Senator is greatly appreciated.

There being no further business before the Land Board, at 10:06 a.m. a motion to adjourn was made by Controller Woolf. Superintendent Critchfield seconded the motion. The motion carried on a vote of 5-0.

# STATE BOARD OF LAND COMMISSIONERS

October 15, 2024

Regular Agenda

## Subject

Arco Wind and Solar Lease

## Question Presented

Shall the Land Board approve of finalizing and executing lease M800070?

## Background

In 2019, NorthRenew applied to lease endowment land in Bingham County for an energy project known as Arco Wind and Solar. Since that time, the Idaho Department of Lands (Department) has worked with NorthRenew to develop a single energy lease for both energy sources. Lease M800070 was developed, advertised, and ready for execution by the State Board of Land Commissioners (Land Board) in August of 2023, but energy leasing activities were paused to develop the Energy Leasing Policy, adopted on June 18, 2024.

## Discussion

M800070 is a wind and solar energy lease of 11,160 acres in Bingham County with a term of 49 years. Maps of lease M800070 are provided as Attachments 1 and 2. It is expected that between 10-12 turbines will be constructed on the leased premises. The initial solar footprint could encompass two to five thousand acres. Expansion and final size of the solar field is dependent on future transmission line upgrades.

The Arco Wind and Solar Project is a large energy development encompassing roughly 32,000 acres in Bingham and Fremont counties. The majority of the project is located on private lands of 15 landowners, two of which are current grazing lessees on the leased premises. Most of the project's 27,000 acres of wind turbines are on private land.

The Request for Proposal, lease development, and advertisement processes are complete and followed established leasing policy and procedure. Lease development was robust and included consultation with Bingham County Commissioners, an advertised public meeting in Bingham County, and establishment of a public comment period. No significant concerns were raised by Bingham County or the public. No comments were received by the Department during the comment period; however, a comment letter was received by the Department on October 9th (Attachment 3). Bingham and Fremont counties also held public meetings associated with the permitting process. The counties have issued permits for the wind portion of the project and are nearing completion for the solar. The transmission lines associated with the project have been permitted in both counties as well.



As part of the leasing and permitting process, the developer has been engaged in activities to mitigate impacts to habitat and wildlife. The endowment portion of the project is within General Sage-Grouse Habitat (GHZ); per the Land Board's current Greater Sage-Grouse Conservation Plan (IDL SG Plan), no conservation measures are proposed for sage-grouse. Despite that fact, the developer has conducted aerial and on-ground surveys for sage-grouse and their leks in the project area. A 3 km buffer zone for wind turbines from leks within and outside the project area was established. This provides three times the 1 km buffer zone from leks stipulated by the IDL SG Plan in Priority and Important Habitats. In addition, the developer is addressing other biological and cultural concerns by:

- Mitigating impacts to pronghorn movement and migration by minimizing fencing and ensuring wider turbine spacing (0.25 mile minimum between turbines).
- Conducting extensive acoustic bat and avian monitoring.
- Creating and implementing a Bird and Bat Conservation Strategy, shared with the counties and the Idaho Department of Fish and Game.
- Limiting construction to months with the least impact to sage-grouse and other wildlife.
- Curtailing blade spin during times of low windspeed to better protect bats and birds.
- Implementing technology (such as IdentiFlight) to reduce avian mortality.
- Developing a memorandum of understanding with The Archaeological Conservancy.
- Developing an Unanticipated Discovery Protocol with the Shoshone-Bannock Tribes.

The energy lease template has been updated to reflect the changes required by the Energy Leasing Policy and is currently under final review by the lessee (Attachment 4). Once reviewed by the lessee, the lease will be ready for execution. Though originally negotiated with NorthRenew, the project has since sold to PacifiCorp, the primary provider of electricity to eastern Idaho. NorthRenew is still involved in the transition and bringing this lease to completion. The Department expects final lease execution to occur by the end of this year.

Basic information regarding the Arco Wind and Solar Project on endowment lands is listed below.

#### **Arco Wind and Solar Lease**

Developer	NorthRenew/PacifiCorp
Location	Bingham County, Twin Buttes (SE of Arco)
Type	Wind Turbines (10-12), and Solar Panels (400MW-800MW)
Acres	11,160

#### **Estimated Annual Revenue**

Phase 1 (Development)	\$55,800
Phase 2 (Construction)	\$450,000
Phase 3 (Production)	\$1-2 million, with annual escalation
Phase 4 (Decommissioning)	\$1-2 million, with annual escalation

## **Recommendation**

Direct the Department to finalize and execute lease M800070.

## **Board Action**

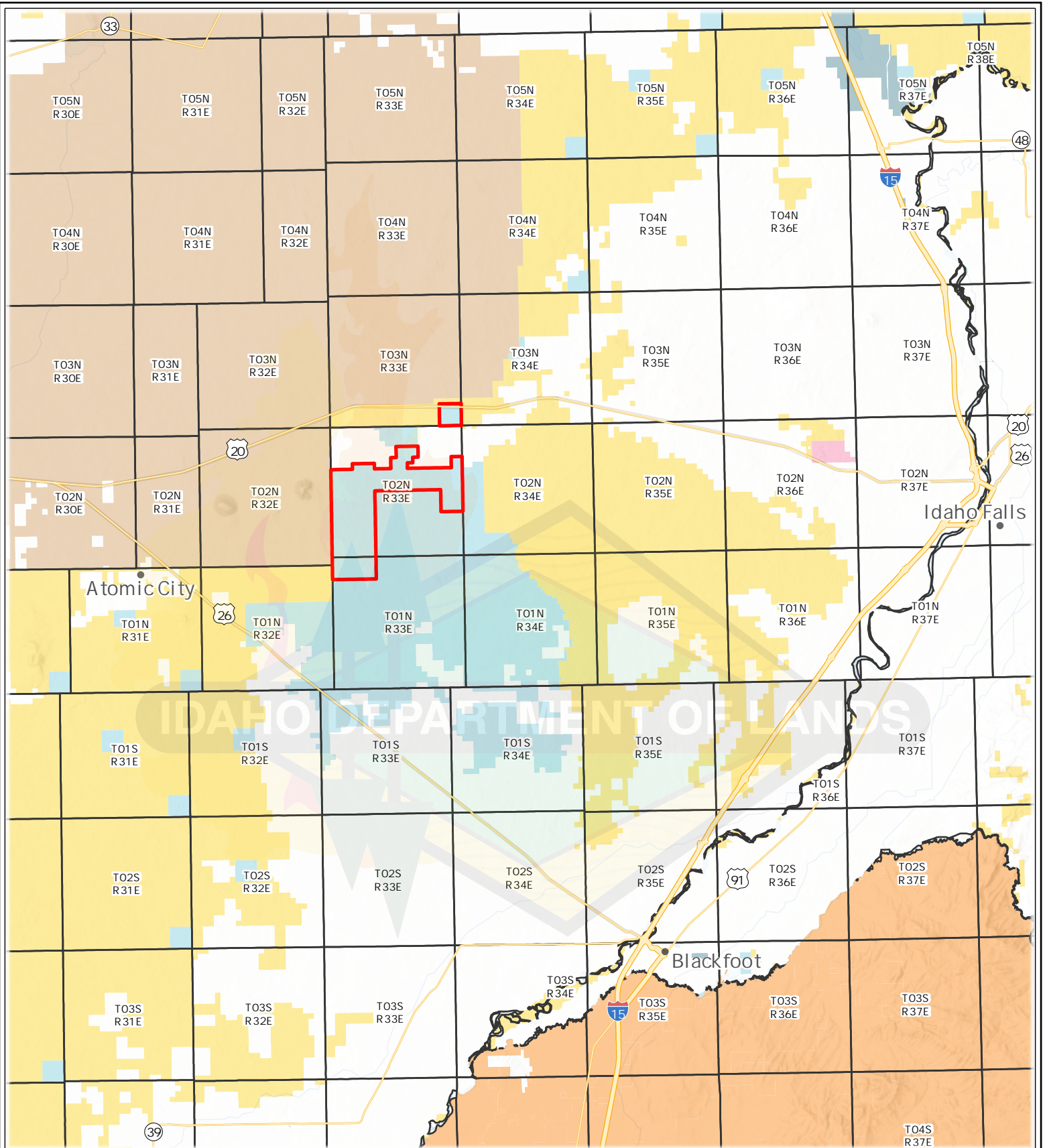
## **Attachments**

1. Overview Map
2. Detail Map
3. Letter of Support
4. Draft Lease



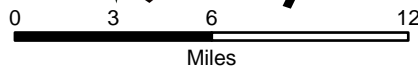
IDAHO DEPARTMENT OF LANDS





- M800070
- Bureau of Land Management
- Tribal Land
- Military Reservation/Corp of Engineers
- Other Federal
- State
- Other State
- Private

M800070  
Overview  
3/21/2023

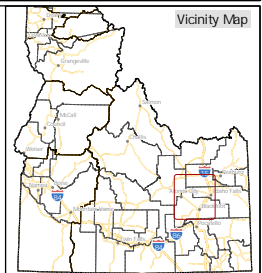


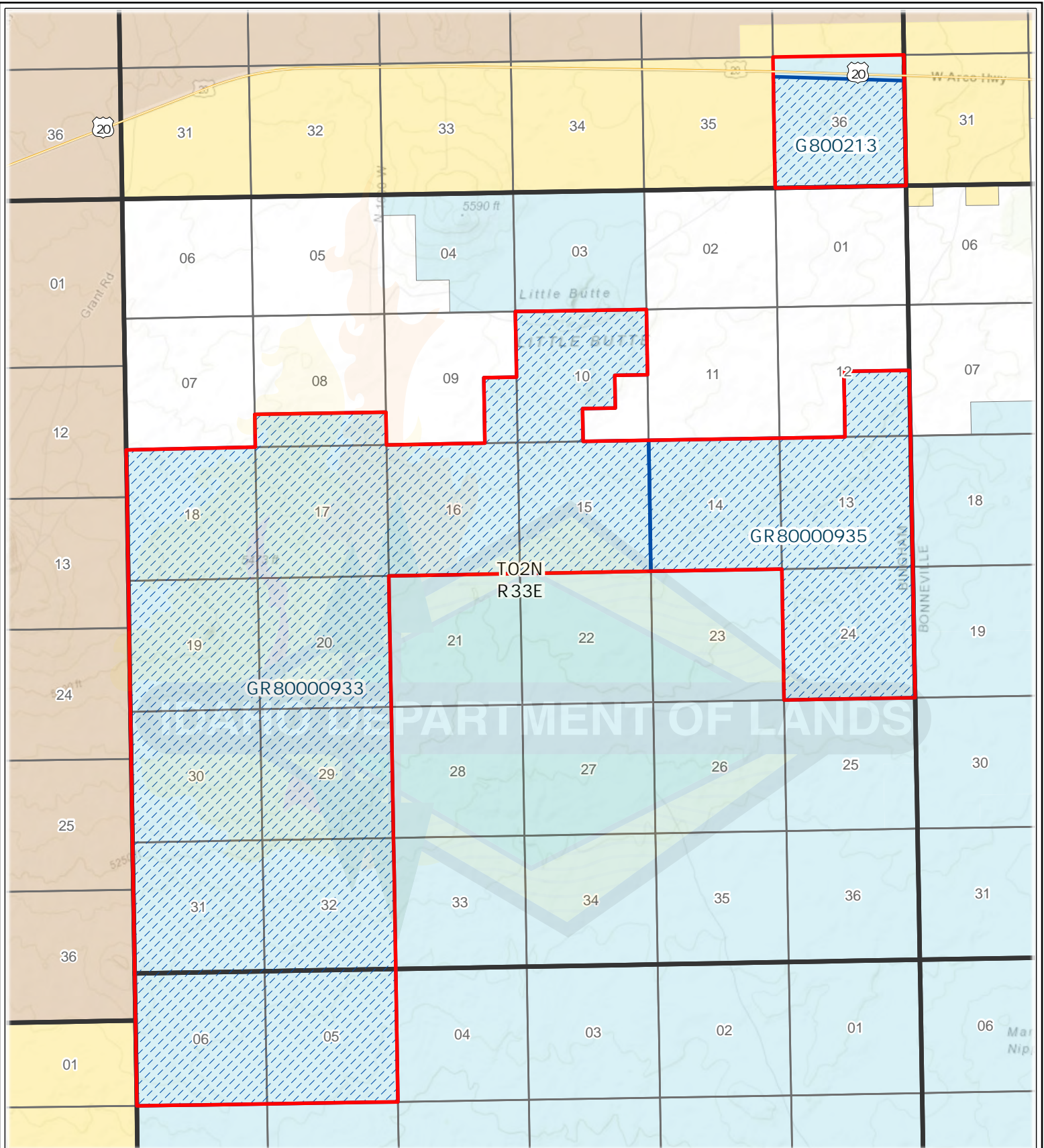
#### Map Notes

Projection: Idaho Transverse Mercator; NAD 83

Map Notes and Data Sources

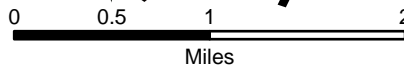
**Disclaimer:**  
This map has been compiled using the best information available to the Idaho Department of Lands at the time and may be updated and/or revised without notice. In situations where known accuracy and completeness is required, the user has the responsibility to verify the accuracy of the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





- M800070
- Active Existing Leases
- Bureau of Land Management
- Other Federal
- State
- Private

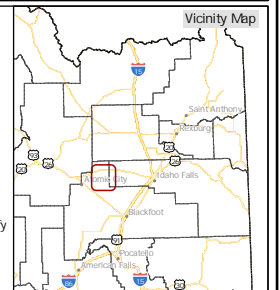
**M800070**  
 Sec. 36, T03N R33E; Sec. 8-10, 12-20, 24, 29-32,  
 T02N R33E; Sec. 5-6, T01N R33E  
 3/21/2023



#### Map Notes

Projection: Idaho Transverse Mercator, NAD 83  
 Map Notes and Data Sources

**Disclaimer:**  
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From: [BRUCE WILDING](#)  
To: [Jason Laney](#)  
Cc: [Ludwig, Ben \(PacifiCorp\)](#); [Mark Green](#)  
Subject: Arco Wind and Solar Project  
Date: Wednesday, October 09, 2024 2:48:07 PM

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**CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.**

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Jason Laney  
Leasing Section Manager  
Idaho Department of Lands  
300 N 6th St. Boise, ID 83702

Re: Arco Wind and Solar Project

Dear Mr. Laney:

I was recently informed of the upcoming review of the land lease between the Idaho Department of lands ((IDL)) and the Arco Wind and Solar Project (the Project), by the Idaho Land Board and wanted to provide you with this letter of support for the Project.

I am a participating landowner in the project and know most of the other participating landowners quite well. We have been supporting the development of this Project for over 10 years. It is my belief that the Project is ideally located, approximately 15 to 20 miles outside of Idaho Falls in a remote location beyond the view of most residences and commercial areas. The project site, both the private and public lands, while sufficient for grazing, has limited broader agricultural value due to the desert climate and limited water resources in the area. The combination makes this an excellent location for renewable energy development. In addition, grazing on the land dedicated to wind development will continue. Within the solar area, special fencing considerations are being taken to minimize any disturbance of game migration through the project site. It is my understanding that the project will be taking the extra step of incorporating radar activated lighting on the wind turbines, which will significantly lessen the potential for nighttime disturbances due to the flashing lights. I also believe that the project is engaging with the Shoshone-Bannock tribe and Archaeological Conservancy to ensure that existing cultural sites and any new sites identified during construction are protected and treated properly. I have been impressed with the work the project has undertaken to address the needs and concerns of Shoshone-Bannock and Archaeological Conservancy.



The revenue that this project will bring to the participating landowners is substantial and will help to keep these lands dedicated to ranching, agricultural, and recreational uses that they currently support. The added revenue to the Bingham and Bonneville counties, I understand will also be substantial and will help to expand and diversify the counties revenue without creating significant additional burdens on the counties.

For these reasons, I support the Arco Wind and Solar Project and any steps that can be taken to expedite its completion.

Sincerely,

Bruce Wilding

The logo of the Idaho Department of Lands is centered on the page. It features a stylized mountain range in the background with a green mountain peak and a yellow mountain peak. In the foreground, there is a green diamond shape with a yellow border. A grey banner with the text "IDAHO DEPARTMENT OF LANDS" in white capital letters is superimposed over the diamond shape.

IDAHO DEPARTMENT OF LANDS



# BINGHAM COUNTY COMMISSIONERS

Whitney Manwaring, Chairman

Eric Jackson



Lindsey Dalley, Commission Clerk  
501 N. Maple Room 204  
Blackfoot, ID 83221  
Phone (208) 782-3013  
Fax (208) 785-4131

October 11, 2024

Jason Laney  
Leasing Section Manager  
Idaho Department of Lands  
300 N 6<sup>th</sup> Street, Boise, Idaho 83720

Dear Mr. Laney:

The Bingham County Board of Commissioners would like to express support for the recently permitted Arco Wind and Solar Project within our jurisdiction. This initiative stands to bring substantial economic benefits to our county and its residents.

The development is projected to create numerous job opportunities during both the construction and operational phases, offering employment to local workers and boosting our community's economy. The influx of jobs will contribute to increased spending in local businesses, further stimulating our economy. Additionally, the project is expected to generate increased tax revenues that will be critical in funding essential services for our community, including education, infrastructure, and public safety.

We recognize the invaluable role that these types of projects play in enhancing the financial stability of our county. The revenues generated from this development will also support the Idaho Department of Lands' mission to maximize revenue for endowment beneficiaries, particularly our public schools.

By fostering a local environment that encourages these types of projects, we are committed to contributing to Idaho's broader goals of sustainability and economic resilience. This development is a significant step towards a more robust local economy while providing critical support for our public institutions.

We, the Bingham County Commissioners, fully support the Arco Wind and Solar Project and look forward to the positive impacts that it will bring to Bingham County.

Sincerely,

BOARD OF BINGHAM COUNTY COMMISSIONERS

A blue ink signature of Whitney Manwaring.  
Whitney Manwaring, Chairman

"Potato Capital"



**STATE OF IDAHO  
COMMERCIAL LEASE NO. M800070  
WIND AND SOLAR POWER PROJECT**

Lessor: STATE OF IDAHO, State Board of Land Commissioners  
c/o State of Idaho, Department of Lands  
300 N. 6<sup>th</sup> Street  
Boise, ID 83720-0050  
Phone No.: (208) 334-0200  
Facsimile No.: (208) 334-5342 or (208) 334-3698  
Email: CommercialProgram@idl.idaho.gov

Lessee: **PacifiCorp**  
c/o **Ben Ludwig**  
Phone No.:  
Facsimile No.:  
Email:

Leased Premises: See legal description and map attached as Attachments A and B, respectively.

Existing Conditions: Lease is subject to existing conditions identified in Attachment D.

Lease Term: 48 years and 6 months, as more fully described in Article 3.

Annual Rent, including Potential Royalty: Consists of Phase 1 Rent; Phase 2 Rent; Phase 3 Rent, including potential Royalty; and Phase 4 Rent, as more fully described in Article 5, herein.

Additional Payments: Meteorological Tower Rent, Power Lines Rent, Temporary Facilities Rent, and Substation, Power Storage and O&M Building Rent. as more fully described in Article 5, herein.

Required Security: Phase 1: N/A  
Phases 2 through 4 as described in Article 8, herein.

Commercial General Liability Insurance: Combined single limit per occurrence, not less than \$3,000,000;  
Each annual aggregate limit shall not be less than \$3,000,000; as more fully described in Article 9.

Index: Summary  
Commercial Lease No. M800070 Provisions  
Signature Pages  
Attachment A – Legal Description of Leased Premises  
Attachment B – Site Maps  
Attachment C – Sage Grouse and Slickspot Peppergrass Conservation Measures  
Attachment D – Existing Leases and Other Activities

**\*This Summary Page of Lease Provisions ("Summary") is for convenience and ease of review only. The information stated in the Summary is intended to be accurate and consistent with the contract terms set forth in the following Lease. In the event any information stated in the Summary is inconsistent with the Lease, the Lease will control.**

**STATE OF IDAHO  
COMMERCIAL LEASE FOR ARCO WIND AND SOLAR PROJECT  
LEASE No. M800070**

This Lease No.M800070 ("**Lease**"), is dated as of the last signature of the Parties ("**Execution Date**"), and effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 202X ("**Effective Date**"), and is made by and between the **IDAHO STATE BOARD OF LAND COMMISSIONERS**, whose administrative agency is the **IDAHO DEPARTMENT OF LANDS** ("**Lessor**"); and **ARCO WIND, LLC**, a limited liability company duly organized under the laws of Wyoming, and authorized to do business in the State of Idaho ("**Lessee**"). Lessor and Lessee are collectively referred to herein as the "**Parties**" and individually as a "**Party**".

In consideration of the Parties' covenants, the conditions contained in this Lease, and Lessee's payments of Rents and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**ARTICLE 1 - DEFINITIONS**

**1. Definitions.** Definitions in Title 58, Chapter 3, Idaho Code must be applied to and govern words and phrases used in this Lease. Where words and phrases are specifically defined within this Lease and not in statute, such words and phrases will be given the identified and defined meaning throughout this Lease.

1.1 The term "**across**" means into, on, over, across, along, above, and below the Leased Premises.

1.2 "**Affiliated Party**" means a subsidiary, parent company, or any other entity that Lessee, or an owner of Lessee, has a financial interest in, by an ownership interest of ten percent (10%) or more.

1.3 "**Board**" means the Idaho State Board of Land Commissioners or its designee, including IDL.

1.4 "**Collection Facilities**" means overhead and underground electrical distribution, collection systems, and cabling.

1.5 "**Construction Plan**" shall have the meaning and application as provided in Sections 4.2 and 6.3.

1.6 "**Decommissioning and Reclamation Plan**" shall have the meaning and application as provided in Sections 4.4 and 6.4.

1.7 "**Default Rate**" means the legal rate of interest under Idaho Code § 28-22-104(1).

1.8 "**Due Diligence Period**" shall have the meaning provided in Section 2.4.1.

1.9 "**Effective Date**" shall have the meaning stated in the Preamble.

1.10 "**Electrical Power Production**" means the generation or storage of electricity using the Energy Facilities.

1.11 "**Execution Date**" means the date of the last signature of the Parties.

1.12 "**Government Approvals**" means any authorization, approval, consent, waiver, exception, license, filing, registration, ruling, permit, tariff, certification, exemption, and any other action, omission, or requirement, including an environmental impact assessment or archeological study, for, by, or with any government authority relating to Lessee's activities pursuant to this Lease, including the construction, use, operation, placement, monitoring, replacement, removal, or decommissioning of the Renewable Energy



Facilities and Improvements, or Lessee's execution or delivery of electricity from the Renewable Energy Facilities to the transmission grid.

1.13 **"Gross Annual Revenue"** means the aggregate total revenue in money and the value of any other consideration actually received by Lessee, a sub-lessee, or Affiliated Party during a calendar year from any of the following: i) the sale, to any purchaser or Affiliated Party, of electrical energy generated by Renewable Energy Facilities on the Leased Premises; ii) the sale of credits of any kind to any purchaser or Affiliated Party, including green tags, renewable energy credits or certificates, tradable renewable certificates, greenhouse gas reduction credits, and renewable energy credits; iii) revenues resulting from Lessee's installation of low voltage ride through equipment; iv) payments received from any purchaser that are based on curtailed energy rather than sold energy; v) the gross proceeds or other cash benefits received in connection with, under, or derived from any legal agreement, contract, compromise, settlement, judgment, or arrangement for or relating to the sale, use, or other disposition of electricity generated or capable of being generated from the Leased Premises; and vi) proceeds from Lessee's business interruption insurance required under Section 9.1 of this Lease, where such proceeds represent lost income from the production or conversion of electrical energy on the Leased Premises. Gross Annual Revenue shall not include the following: i) any proceeds received from the sale, lease, financing, or other disposition of any Renewable Energy Facilities or Improvements; or ii) production tax credits, investment tax credits, and any other tax credits arising from this Lease. If Lessee provides or sells electrical energy generated by Renewable Energy Facilities on the Leased Premises to Lessee for internal uses (recognizing that electrical energy used to operate the Renewable Energy Facilities is not an internal use), or to a subsidiary, or Affiliated Party, the revenue, for the purposes of calculating Gross Annual Revenue, shall be calculated to include the greater of the actual sale price; or the published rate applicable to the Project, as approved and published by the Idaho Public Utilities Commission, or other governing public utilities commission, during the relevant Lease Year in which such Phase 3 Rent is due. All costs of any type must be borne by Lessee, and no cost, including integration charges, imbalance charges, or transmission tariffs will reduce the Gross Annual Revenue or any Rents due to Lessor, directly or indirectly.

1.14 **"Hazardous Materials and Waste Management Plan"** and **"HMWMP"** shall have the meaning as provided in Article 13.

1.15 **"Hazardous Substance"** and **"Hazardous Substances"** mean any chemicals, materials, substances, pollutants or contaminants, including petroleum, crude oil, petroleum wastes, motor fuels and lubricants, radioactive materials, hazardous wastes, toxic substances, asbestos, PCBs, lead paint, or any other material similarly defined or listed as hazardous, toxic, dangerous, or a similar term, in all applicable Environmental Laws, as identified in Section 2.2.7 and Article 13.

1.16 **"IDL"** means the Idaho Department of Lands.

1.17 **"Improvements"** means all Solar Panels, Wind Turbines, Collection Facilities, Renewable Energy Facilities, other buildings or structures, roads and access driveways, signage or advertising structures, and any other change to the Leased Premises necessary for Lessee to construct, install, use, operate, monitor, maintain, repair, replace, relocate, reconstruct, or remove Renewable Energy Facilities.

1.18 **"Including"** and **"includes"** mean including, but not limited to.

1.19 **"Lease Year"** means the period of time between midnight on the Effective Date or the anniversary of the Effective Date, and the moment immediately preceding midnight on the day before the next anniversary of the Effective Date.

1.20 **"Nameplate Capacity"** means the maximum rated output of each Solar Panel or Wind Turbine installed on the Leased Premises, expressed in megawatts ("**MW**") and assigned by the manufacturer of each Solar Panel or Wind Turbine, regardless of whether or not the Solar Panel or Wind Turbine is operating. Solar Panel Output shall be measured in MW Direct Current ("**MW<sub>dc</sub>**").

1.21 **"Mortgage"** or **"Leasehold Mortgage"** mean either, or both, a leasehold mortgage or a



security interest in personal property, as permitted under Article 10.

1.22 **"Phase 1 Report"** shall have the meaning provided in Section 2.4.1.B.

1.23 **"Production Area"** means any portion of the Leased Premises associated with the Renewable Energy Facilities specified in the Construction Plan, described in Section 6.3, as directly engaged in Electrical Power Production.

1.24 **"Project"** means the **Arco Wind and Solar Project** to be located in Bingham and Bonneville Counties, Idaho.

1.25 **"Prorate"** **"prorated"** and **"proration"** mean apportionment of any specific amount paid based upon the percentage of the Lease Year remaining before the next anniversary of the Effective Date, or the partial acreage utilized pursuant to Sections 5.6.3 or 5.6.4.

1.26 **"Renewable Energy"** refers to the definitions of both Solar Energy and Wind Energy as defined herein.

1.27 **"Renewable Energy Facilities"** refers to both Solar Energy Facilities and Wind Energy Facilities as defined herein.

1.28 **"Renewable Energy Purposes"** refers to both Lessee's Solar Energy Purposes and Wind Energy Purposes as defined herein.

1.29 **"Rent"** and **"Rents"** mean all of the amounts to be paid by Lessee to Lessor, individually and collectively, in accordance with Article 5.

1.30 **"Research and Analysis Plan"** shall have the meaning provided in Sections 4.1 and 6.2.

1.31 **"Royalty"** and **"Royalties"** mean Lessor's share of all Gross Annual Revenue from the Leased Premises, free of any and all of Lessee's costs, either direct or indirect, and in accordance with Article 5.

1.32 **"State"** means the State of Idaho and its departments, boards, commissions, agencies and employees.

1.33 **"Solar Energy"** means conversion of radiant light and heat from the sun into electrical energy, or electricity, by the Solar Energy Facilities.

1.34 **"Solar Energy Facilities"** means improvements owned, controlled, operated, or managed in connection with or to facilitate Electrical Power Production, including: (i) solar electric power generation facilities; (ii) power collection facilities, including distribution and collection lines, wires and cables, conduit, footings, foundations, vaults, junction boxes, switching facilities, transformers, and above-ground transformers; (iii) control, communications and radio relay systems and telecommunications equipment, including fiber, wires, cables, conduit and poles; (iv) roads, culverts and erosion control facilities; (v) utility installations; (vi) laydown areas, crane pads and staging areas reasonably necessary for the installation and maintenance of the solar generation facilities; (vii) signs; (viii) fences, gates and other safety and protection facilities; and (ix) other improvements, facilities, appliances, machinery and equipment in any way related to or associated with converting solar energy into electrical energy and transmitting the same.

1.35 **"Solar Energy Purposes"** means Lessee's acts under this Lease to determine the feasibility of converting solar energy to electrical energy or electricity; constructing, installing, using, replacing, relocating, maintaining, updating, and removing Solar Energy Facilities and other Improvements; creating, collecting, and transmitting electrical energy converted from Solar Energy on the Leased Premises; and administrative purposes necessarily related to the foregoing activities.

1.36 **"Solar Panel(s)"** means any and all solar-powered electric generating facilities, including but not limited to modules, inverters, cables, foundations, panels, mounting units and all necessary ancillary improvements and equipment providing support or otherwise associated therewith; and photovoltaic and concentrating solar power generating equipment or such other solar-powered generating equipment needed to capture and convert solar radiation to produce electrical energy or electricity.

1.37 **"Supporting Area"** means any portion of the Leased Premises specified in the Construction Plan, required by Article 6, as supporting Lessee's activities on the Leased Premises, but not any portion of the Leased Premises identified as a Production Area in the Construction Plan.

1.38 **"Use Agreement(s)"** means (i) any power purchase agreement or any contract to sell electrical energy converted from Solar Energy or Wind Energy from the Leased Premises to an electric utility, power system operator, or third party; (ii) any agreement for the distribution of Solar Energy or Wind Energy from the Leased Premises through a federal power marketing agency, or to a utility regulated by a state agency; and (iii) any agreement or plan to use the Solar Energy or Wind Energy on the Leased Premises for internal purposes of Lessee or an Affiliated Party.

1.39 **"Unreasonably interfere"** means an action or decision that will impair the ability to operate the Renewable Energy Facilities or will result in the loss of generation capacity of the Renewable Energy Facilities.

1.40 **"Wind Energy"** means the conversion of kinetic energy in the wind into electrical energy, or electricity, by the Wind Energy Facilities.

1.41 **"Wind Energy Facilities"** means Improvements owned, controlled, operated, or managed in connection with or to facilitate Electrical Power Production, including: (i) Wind Turbines; (ii) Collection Facilities; (iii) electrical distribution and transmission lines, electric transformers and substations, power generation facilities, conduits, footing, foundations, towers, poles and substations, interconnector and switching facilities; (iv) telecommunications equipment, communication lines, Supervisory Control and Data Acquisition ("SCADA") system lines or wireless networks; (v) meteorological ("MET") towers and wind measurement equipment; (vi) batteries, battery management systems, power storage facilities and equipment of any kind; (vii) maintenance yards, lay-down yards, pads and related facilities and equipment; (viii) temporary construction-related equipment, including a concrete batch plant, and other directly related equipment and facilities; and (ix) other buildings or systems operated in conjunction with converting Wind Energy into electrical energy for sale or use off of the Leased Premises.

1.42 **"Wind Energy Purposes"** means Lessee's acts under this Lease to determine the feasibility of converting the wind's kinetic energy to electrical energy; constructing, installing, using, replacing, relocating, maintaining, updating, and removing Wind Energy Facilities and other Improvements; creating, collecting, and transmitting electrical energy converted from Wind Energy on the Leased Premises; and administrative purposes necessarily related to the foregoing activities.

1.43 **"Wind Turbines"** and **"Wind Turbine"** mean any and all wind power generating machines or systems of any kind, including supporting towers, foundations, blades, internal systems including the nacelle, generators, and controls, the pad transformer, and any other associated equipment or structures needed to capture and convert the wind's kinetic energy into electricity.

## **ARTICLE 2 - LEASED PREMISES; GRANTS; RESERVATIONS**

### **2.1. Lessor's Grant of Rights to Lessee.**

2.1.1. Grant. Lessor hereby grants to Lessee the exclusive right and privilege to engage in or direct development activities and use the surface and subsurface of specific lands located in Bingham County, State of Idaho, containing 11,160 acres, more or less, and more particularly described in

Attachment A ("**Leased Premises**"), together with the rights and privileges for the use and occupancy, as provided for or limited in Sections 2.1 and 2.2 of this Lease.

A. *Supplemental Legal Description.* Lessee may provide Lessor with a supplemental description of the Leased Premises with a metes and bounds description of the Leased Premises prepared by Lessee's surveyor. Following Lessor's review of the supplemental description, the Parties will include it as part of Attachment A without requiring a written modification of this Lease pursuant to Section 15.12. Following Lessor's review of the supplemental description, Lessee may record a notice of said description with the real property records of Bingham County. Lessee will promptly provide Lessor a copy of any such recorded document.

B. *Exclusivity.* By Lessor's grant of the, above, exclusive right and privilege, Lessee holds the rights and opportunities (1) to convert, maintain, and capture the flow of wind and wind resources across the Leased Premises, and (2) to convert, maintain, and capture the solar energy and solar resources across the Leased Premises, all to the exclusion of any person other than Lessee, and Lessee's successors or assignees. Lessee's exclusivity will not be construed as precluding Lessor's grant of other, non-Renewable Energy leases and uses that do not conflict or interfere with Lessee's rights under this Lease.

C. *Grants to Other Users.* Lessor shall not permit any activities on the Leased Premises that will unreasonably interfere with Lessee's authorized uses of the Leased Premises, as stated in this Lease.

2.1.2. Conditions of Grant. Lessor's grant is made subject to Lessor's reservations set forth in Section 2.3, below, and the following conditions:

A. Lessee agrees to take the Leased Premises as is, and subject to all existing encumbrances or conditions affecting the Leased Premises, including those listed on Attachment D, and any other easements, leases, permits, licenses, and prior encumbrance or other contract from Lessor, of any kind whatsoever.

B. Lessee agrees to take the Leased Premises subject to any geological deficiencies or limitations that a survey, physical inspection, or exploration might show; and all conditions, restrictions, and limitations appearing of public record.

C. Lessee's performance of and compliance with all the terms and conditions contained in this Lease.

D. Lessee's compliance with and performance of all Environmental Laws and other applicable Government Approvals relating to, or imposing liability or standards of conduct, presently in effect or that may be promulgated or amended in the future, concerning the Renewable Energy Purposes, all Improvements, and any resulting or related Hazardous Substances.

2.1.3. Title; No Warranty.

A. Lessee acknowledges that Lessor does not warrant title to the Leased Premises for the Renewable Energy that may be discovered there. This Lease is issued only under such title as the State may have as of the Effective Date or as may be subsequently acquired. Lessee shall be solely responsible for satisfying itself with respect to the ownership of the Leased Premises. If Lessor is subsequently divested of said title, no liability shall be incurred by Lessor by virtue of this Lease for any loss or damage to Lessee. Nor shall any claim for refund of any bonus bid, Rent, or Royalty paid to Lessor be made by Lessee, its successors or assignees.

B. Lessee acknowledges that neither Lessor, nor any agent or representative of Lessor or of the State, has made any representation or warranty whatsoever, express or implied, with respect to the title, merchantability, or fitness of the Leased Premises for any particular purpose or use, including specifically the use for which this Lease is granted. Lessee accepts the Leased Premises in its

“as is” condition. In entering this Lease, Lessee relies solely upon Lessee’s own inspection of, and due diligence regarding, the Leased Premises.

C. The provisions of this Section 2.1.3 will survive the termination of this Lease.

2.1.4. Lessee’s Costs. Lessee acknowledges that all costs, of any kind, to develop, construct, operate on, decommission, and reclaim the Leased Premises related to Lessee’s intended uses are the responsibility of Lessee. Lessor will not financially contribute to Lessee’s costs for any reason.

## **2.2. Lessee’s Use of the Leased Premises.**

2.2.1. Permitted Uses. Lessee is entitled to use and occupy so much of the Leased Premises as may be required for all purposes reasonably incident to Renewable Energy Purposes, subject to Lessor’s reservations in Section 2.3, including the following:

A. Determining the feasibility of Wind Energy and power generation on the Leased Premises, including studies of wind speed, wind direction, and other meteorological data and geotechnical and environmental studies, including: extracting soil samples; performing avian, flora and fauna, endangered species, and habitat studies; performing archaeological studies; performing studies of jurisdictional waters; performing aerial mapping; performing field and ALTA surveys; and other related activities, studies or testing as Lessee reasonably determines are necessary, useful, or appropriate, and whether performed by Lessee or a third party authorized by Lessee.

B. Determining the feasibility of Solar Energy and power generation on the Leased Premises, including studies of solar radiation, meteorological data and geotechnical and environmental studies, including: extracting soil samples; performing avian, flora and fauna, endangered species, and habitat studies; performing archaeological studies; performing studies of jurisdictional waters; performing aerial mapping; performing field and ALTA surveys; and other related activities, studies or testing as Lessee reasonably determines are necessary, useful, or appropriate, and whether performed by Lessee or a third party authorized by Lessee.

C. Constructing, installing, using, replacing, relocating, reconstructing, removing from time to time, monitoring, maintaining, repairing, operating, decommissioning, and reclamation of Improvements, Production Areas, and Supporting Areas.

D. Converting Wind Energy into electrical energy and collecting, storing and transmitting the electrical energy so converted; and deriving all revenues, profits, and benefits therefrom, subject to payment of Rents to Lessor.

E. Converting Solar Energy into electrical energy and collecting, storing and transmitting the electrical energy so converting; and deriving all revenues, profits, and benefits therefrom, subject to payment of Rents to Lessor.

F. The right of ingress and egress for the Leased Premises over State-owned land at all times during the Lease Term. Issuance by Lessor to Lessee of any necessary use permit for any road not owned by the State, but for which Lessor holds an easement.

G. Capturing, using, and converting the unobstructed and open wind resources across the Leased Premises. By the grant of this permitted use, Lessor shall not permit any other use of the Leased Premises that may result in construction of any obstruction to the open and unobstructed access to the wind throughout the entire Leased Premises, including to and for the benefit of the area existing horizontally three hundred and sixty degrees (360°) from any point where any Wind Energy Facility is or may be located at any time, from time to time, and for a distance from each Wind Energy Facility location to the boundaries of the Leased Premises, together vertically through all space located above the surface of the Leased Premises, that is, one hundred eighty degrees (180°) or such greater number or numbers of degrees as may be necessary to extend from each point on and along a line drawn along the surface from



each point along the exterior boundary of the Leased Premises through such location to each point and on and along such line to the opposite exterior boundary of the Leased Premises.

H. Capturing, using, and converting the unobstructed and open solar resources across the Leased Premises. By the grant of this permitted use, Lessor shall not permit any other use of the Leased Premises that may result in construction of any obstruction to the open and unobstructed access to sunlight, solar radiation, light, air or heat over and across the entire Leased Premises, including but not limited to the construction of any structures, or the growth of non-naturally occurring foliage. Lessor acknowledges and agrees that access to sunlight is essential to the value to Lessee of the rights granted in this Lease and is a material inducement to Lessee in entering into this Lease. If Lessor becomes aware of any potential activity on the Leased Premises or any adjacent property that could diminish the access to sunlight at the Leased Premises, Lessor shall use its best efforts to timely advise Lessee of such information and to reasonably cooperate with Lessee in taking measures to preserve the levels of sunlight at the Leased Premises which exist as of the date of this Lease. Lessee shall be entitled to seek all remedies available at law and in equity, including but not limited to, specific performance, to compel compliance with this section.

I. The installation, use, repair, replacement, and removal of underground and above-ground wires and cables used for the transmission of electrical energy or for communication purposes for the Project. The installation, use, repair, replacement, and removal of all necessary appliances and fixtures for use in connection with said wires and cables; this clause applies to both the Project-related and non-Project-related transmission facilities.

J. Permitting the Solar Panels and Wind Turbines located on the Leased Premises to create or emit onto the Leased Premises any audio, visual, view, light, shadow, noise, vibration, air turbulence, wake, flicker, electromagnetic, radio, or other effect of any kind or nature whatsoever resulting, directly or indirectly, from the Renewable Energy Facilities, the Project, or any development activities.

2.2.2. Not Self-Executing. These use and occupancy rights are not self-executing. Lessee must inform Lessor of upcoming development activities prior to beginning work on any Improvements, Production Areas, or Supporting Areas.

2.2.3. Dwelling Rights. Lessee may not establish any permanent residence, dwelling, or place of abode of any type, on the Leased Premises without the express prior permission from Lessor in a separate written contract that will govern any such additional use of the Leased Premises. For purposes of this Lease provision, a permanent residence is any structure that any person will use for shelter, sleep, or to keep personal property for a timeframe of three (3) months or longer, irrespective of occasional absences.

2.2.4. Overhang. Lessor grants to Lessee the right to permit the rotors of Wind Turbines owned by Lessee located on adjacent properties, not owned by Lessor, to overhang the Leased Premises. Lessee's location of Wind Turbines on the Leased Premises, including at or near the property lines, shall be mutually agreed upon by Lessee and Lessor. Lessor's agreement to the location of the Wind Turbines shall not be unreasonably conditioned, withheld, or delayed. However, Lessee shall not permit the rotors of any Wind Turbines owned by Lessee located on the Leased Premises to overhang any adjacent property, whether owned by Lessor or any third-party owner, without the express written permission of such affected property owner. Lessee shall provide Lessor with a copy of all written permissions from any such third-party owner.

2.2.5. Ownership of Improvements; Exception. Throughout the Lease Term, and separate from any option of Lessor, Lessor shall have no ownership or other interest in any Improvements, other than roads and appurtenances thereto. Lessee may remove any or all such Improvements, but not roads or appurtenances thereto, at any time in accordance with the terms of this Lease, including Sections 2.3.4 and 7.2.

2.2.6. No Waste or Nuisance.

A. Lessee shall not use the Leased Premises in any manner that would constitute

waste or create a nuisance; nor shall Lessee allow any of the same to be committed on the Leased Premises.

B. Lessee shall not excavate or remove material, including sand, gravel, or other aggregate, from the Leased Premises, nor deposit material upon the Leased Premises other than as is necessary for the construction of Renewable Energy Facilities and Improvements according to the Construction Plan required in Section 6.3. The natural characteristics of the Leased Premises, including the topographical, hydrological, and natural drainage must be considered and preserved to the greatest extent possible when Lessor determines that such consideration and preservation is in the best interest of the Leased Premises. Excavation or deposit of material for construction of Renewable Energy Facilities or Improvements on the Leased Premises must be limited to excavation or deposit at the location of the Renewable Energy Facilities or Improvements, and only such excavation or deposit necessary to prepare the location for placing the Renewable Energy Facilities or Improvements thereon will be allowed. Only clean, non-contaminated, natural fill materials, free of weed seed, may be brought onto the Leased Premises. Lessee must address disposition of material excavated from the Leased Premises in the Construction Plan.

#### 2.2.7. Compliance with Environmental Laws and Government Approvals.

A. Lessee shall, at all times, comply with the following environmental laws and any other Government Approvals relating to or imposing liability or standards of conduct concerning Hazardous Substances (collectively “**Environmental Laws**”) presently in effect or that may be passed or amended in the future, which now or at any time in the future may be applicable to the Project:

- i. Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901, *et seq.*;
- ii. Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601, *et seq.*;
- iii. Clean Air Act, 42 U.S.C. § 7401, *et seq.*;
- iv. Federal Water Pollution Control Act (Clean Water Act of 1977), 33 U.S.C. § 1251, *et seq.*;
- v. Federal Insecticide, Fungicide, and Rodenticide Act (Federal Pesticide Act of 1978), 7 U.S.C. § 136, *et seq.*;
- vi. Toxic Substances Control Act, 15 U.S.C. § 2601, *et seq.*;
- vii. Safe Drinking Water Act, 42 U.S.C. § 300f, *et seq.*; and
- viii. Hazardous Materials Transportation Act, 49 U.S.C. § 1801, *et seq.*

B. Lessee shall, at all times, comply with all other applicable Government Approvals relating to or imposing liability or standards of conduct for the Project, the Leased Premises or any part thereof, or to any adjoining waterways, roads, sidewalks, streets, or walkways to the extent applicable to Lessee or Lessee’s activities, or to any material use or condition of the Leased Premises or any part thereof.

C. In accordance with Idaho Code § 58-307(4), Lessee and Lessor will consult with the county commissioners of Bingham County before the Effective Date regarding local planning and zoning ordinances, to assist Lessee’s uses of the Leased Premises, subject of this Lease, to be consistent with the local planning and zoning ordinances insofar as is reasonable and practicable.

2.2.8. Use of Leased Premises Mineral Deposits. Lessee shall not extract for use off the Leased Premises, or for use on the Leased Premises other than to backfill excavated locations, any minerals from the Leased Premises, including sand, gravel, or other aggregate without first entering into a separate written contract, including a royalty schedule, which will govern such additional use of resources from the Leased Premises. Mineral extraction operations and reclamation may be included in the Construction Plan required in Section 6.3, or may be specified through a separate reclamation plan.

**2.3. Lessor’s Reservation of Rights.** Lessor expressly reserves and excepts the following rights from this Lease:

2.3.1. Right of Entry. Lessor retains the right to enter upon the Leased Premises at any time during the Lease Term for any purpose. Lessor retains the right to inspect the Leased Premises, including any Production Area, Supporting Area, or Improvements upon reasonable notice to Lessee.

2.3.2. Resources and Fee Title. Lessor retains all rights to all water, timber, oil and gas, minerals, solar, geothermal, easements and rights-of-way, and fee title to the Leased Premises. Notwithstanding the foregoing, Lessee has the right to use sand, gravel, or other aggregate located on the Leased Premises in accordance with Section 2.2.8.

2.3.3. Grant of Easements, Licenses, Permits, Leases, and Other Leased Premises Interests. Subject to the prohibition on Lessor to permit obstructions, Lessor retains the right to grant and issue easements, licenses, permits, leases, and any other property interest across the Leased Premises, provided said easements, licenses, permits, and leases do not unreasonably interfere with Lessee's use pursuant to this Lease, or with the permitted Improvements installed, maintained, or operated by Lessee upon the Leased Premises. Lessor must notify and consult with Lessee before, in Lessor's discretion, granting or issuing any new easement, license, permit, or lease on the Leased Premises.

A. It shall be Lessee's duty to "fence out" or otherwise preclude entrance to any Production Area, Supporting Area, or Improvements that either Party reasonably determines is necessary to preclude access by other users. Any fence or other method of preclusion must first be approved by Lessor, which approval shall not be unreasonably withheld, conditioned, or delayed.

B. Subject to Article 5 and Section 6.1 of this Lease, Lessor shall retain the right to use that portion of the Leased Premises not occupied by Renewable Energy Facilities or unoccupied air space needed for the generation of Renewable Energy as provided in this Lease, for any other use, including farming, grazing, timber harvesting, hunting, conservation, recreational activities, mineral development, or other similar purposes; and Lessor shall be entitled to use any private road constructed by Lessee on the Leased Premises and located outside of fenced solar energy facility areas for access to the balance of the Leased Premises; provided, however, that Lessor's activities on the Leased Premises shall not unreasonably interfere with: (i) the development, construction, maintenance, or operation of the Renewable Energy Facilities; (ii) the capture, use or conversion of wind resources; (iii) the capture, use or conversion of solar resources; (iv) the open and unobstructed access to the wind across the Leased Premises, as reasonably determined by Lessee; or (v) the open and unobstructed access to sunlight across the Leased Premises, as reasonably determined by Lessee.

2.3.4. Ownership of Roads and Appurtenances. Upon termination of this Lease for any reason, all interests of Lessee in all roads and appurtenances shall terminate and Lessor will be the sole owner of all roads and appurtenances thereto constructed by or for Lessee across the Leased Premises; provided however, that if Lessor determines, in its sole discretion, that any road or appurtenance thereto constructed by Lessee should be removed and the land reclaimed, then Lessee must remove any such roads and appurtenances, and reclaim the land pursuant to the Decommissioning and Reclamation Plan, or as directed by Lessor.

2.3.5. Changes in Use for the Protection of Health and Safety. Lessor retains the right to require changes to Lessee's Construction Plan for the protection of public health and safety, or preservation of the Leased Premises or its environmental characteristics.

2.3.6. Reservation of Water Rights and Use. Lessor reserves as its sole property any and all water from any source arising on, or placed in beneficial use on, the Leased Premises and to hold all water rights for any beneficial use that may develop as a result of this Lease. However, Lessee shall have use of such water, if approved in the Construction Plan, during the term of this Lease and without cost.

2.3.7. Right of Ingress and Egress. Lessor reserves the right of access, and ingress and egress across the Leased Premises including by way of any existing road or any road constructed by or for Lessee during the Lease Term. Use of any such road by Lessor or its agent must not unreasonably interfere with Lessee's activities with regard to the Leased Premises.

2.3.8. Closure of Roads. Lessor reserves the right to close Lessor's roads to or within the Leased Premises for any period reasonably necessary for road protection, fire suppression, public safety, water quality protection, wildlife and fish critical habitat protection, or administrative purposes deemed necessary by Lessor. If possible, Lessor will give Lessee notice of any planned road closure at least sixty (60) days in advance of any such closure. Lessor must make reasonable efforts to limit the term of any emergency road closures to the period necessary to resolve the emergency.

2.3.9. Closure of Operations. Lessor reserves the right, in situations of imminent danger to life or property, upon such notice as is reasonable in the circumstances, to require Lessee to cease operations on the Leased Premises, without compensation to Lessee. Closure of operations may be determined by IDL, or in coordination with another government agency, to protect public safety, the environment, or endowment assets, including for fire suppression on the Leased Premises or adjacent lands.

2.3.10. Sale or Exchange of Leased Premises.

A. Lessor may sell or exchange title in all or any portion of the Leased Premises during the Lease Term. In the event of such sale or exchange, this Lease shall not terminate. Lessor shall assign to the purchaser all of Lessor's rights, title, interests, and obligations under this Lease. Lessor's assignee shall assume full performance of Lessor's obligations for the remaining duration of the Lease Term, and any that survive termination of this Lease.

B. If Lessor sells or exchanges title in less than the entire Leased Premises, and such portion, or portions, are not material to Lessee's Renewable Energy Purposes, the Parties may agree to modify this Lease and remove such portion, or portions, from the Leased Premises; thereby, precluding the need of assignment to the purchaser.

C. Lessor will notify Lessee that the Leased Premises is being considered for disposition at least one hundred eighty (180) calendar days in advance of any auction or any exchange closing.

2.3.11. Public Use. Lessee must allow the general public the right to use the Leased Premises located outside of fenced solar energy facility areas for any lawful use authorized by the Board for lands owned by the State, except for any such use which is incompatible with Lessee's uses under this Lease, and further excepting exclusive use areas approved by Lessor pursuant to Section 6.3.2. However, nothing in this Lease authorizes or purports to authorize trespass on private lands to reach State-owned lands. Lessee shall not restrict public use of State lands authorized by the Board without prior written approval of Lessor. Nothing in this Lease shall be deemed a limitation on Lessor's authority to control public use of the Leased Premises where such use is authorized by the Board. This Lease is not an exclusive control lease as described under Idaho Code § 36-1603(b).

2.3.12. Harvest of Seed. Lessor reserves the right to harvest seed from plants on the Leased Premises. Lessor shall coordinate the harvesting activities with Lessee at the earliest reasonable time to minimize impacts on Lessee's operations.

2.3.13. Rights Not Expressly Granted. Lessor reserves all rights and privileges of every kind and nature, except as specifically granted in this Lease.

**2.4. Lessee's Due Diligence.**

2.4.1. Due Diligence Period. Lessee shall have a period of one hundred and eighty (180) calendar days after the Execution Date ("**Due Diligence Period**") to complete the due diligence items described below in this Subsection 2.4.1. During such period Lessee shall obtain and review, or waive its right to obtain and review, the following:



A. A survey of the Leased Premises prepared by a licensed land surveyor satisfactory to Lessee ("**Survey**"). Lessor shall receive a copy of any Survey prepared by Lessee, or on its behalf. Lessee shall pay the cost of the Survey.

B. A Phase I environmental site assessment of the Leased Premises (the "**Phase 1 Report**"). Lessor shall receive a copy of any Phase 1 Report prepared by or on behalf of Lessee. The cost of the Phase 1 Report shall be paid by Lessee.

2.4.2. Right of Review and Termination. Prior to the expiration of the Due Diligence Period, and subject to Section 2.1.3, Lessee shall give Lessor written notice of any objection of Lessee to any matter disclosed by the Survey, or the Phase 1 Report to which Lessee objects ("**Disapproved Matters**"). If Lessee does not object to a matter disclosed within the Due Diligence Period, such matter shall be deemed to have been approved by Lessee. If Lessee gives notice of objection as to any such matter within the Due Diligence Period, Lessor shall have the option, but not any obligation, to cure the Disapproved Matters. If Lessor elects to cure the Disapproved Matters, Lessor will take reasonable actions to attempt to eliminate, cure, or otherwise remediate the Disapproved Matters, at Lessor's cost, within ninety (90) calendar days ("**Cure Period**"). Notice of Lessor's election to attempt to cure shall be given to Lessee within fifteen (15) calendar days following receipt of Lessee's notice of objection. If Lessor does not eliminate, cure, or otherwise remediate such Disapproved Matters within the Cure Period, Lessee's sole and exclusive remedies shall be to i) terminate this Lease by giving written notice to Lessor on or before thirty (30) days after expiration of the Cure Period; ii) attempt to remedy such Disapproved Matters itself; or iii) waive any such Disapproved Matters and proceed. If Lessee does not elect to terminate on or before thirty (30) days after expiration of the Cure Period, Lessee shall be deemed to have elected to waive any uncured Disapproved Matters, and this Lease shall continue in full force and effect.

2.4.3. Limitation on Activities. Until the end of the Due Diligence Period, Lessee's actions on the Leased Premises shall be limited to those necessary to complete Lessee's due diligence items and as allowed in Section 4.1.

### ARTICLE 3 – TERMS OF LEASE; TERMINATION

3.1. **Term of Lease.** Subject to the other provisions of this Lease, the term of this Lease shall be for a period of forty-eight (48) years and six (6) months, beginning on the Effective Date and ending at 11:59 p.m. on December 31, 2071 ("**Lease Term**").

3.2. **New Lease.** If Lessee has fully complied with the terms and conditions of this Lease, and is not in default, then Lessee may apply for a new lease by filing an application with Lessor prior to April 30 of the year in which the Lease Term ends, in accordance with Idaho Code § 58-307(8). Lessee understands that the terms and conditions of any new lease are in Lessor's sole discretion and may be materially different than the terms and conditions of this Lease. A new lease is subject to the auction requirement of Article IX, § 8 of the Idaho Constitution and the conflict auction provisions of Title 58, Chapter 3, Idaho Code, and any applicable rules promulgated thereunder. Lessor will value the creditable Improvements prior to any conflict auction for a new lease in accordance with any then-existing applicable statute or rule. If Lessee is not the successful lessee of a new lease, then Lessee shall, prior to the termination of this Lease, vacate the Leased Premises, and Lessee shall be paid the value of the approved Lessee-owned Improvements by the successful new lessee.

3.3. **Use of Phases.** The Lease Term will be separated into phases, more particularly described in Article 4. The phases may vary in time or occur simultaneously for different portions of the Leased Premises, as is more particularly described in the Construction Plan required under Section 6.3. If different phases occur simultaneously, Rent shall be apportioned as set forth in Section 5.7.

3.4. **Maximum Phase Term.** The timeframe of any phase must not exceed the applicable period(s) set forth in Article 4.

### 3.5. Termination.

#### 3.5.1. Termination by Lessee.

A. During Phase 1 of this Lease, as described in Sections 4.1 and 6.2, and provided Lessee is not then in default, Lessee may terminate this Lease by giving Lessor sixty (60) calendar days' prior written notice of termination. Lessee shall restore the Leased Premises to its natural contour and vegetative state, as existed immediately preceding Lessee's activity on the Leased Premises and pursuant to the Decommissioning and Reclamation Plan.

B. During Phase 2 of this Lease, as described in Sections 4.2 and 6.3, and provided Lessee is not then in default, Lessee may terminate this Lease by giving Lessor ninety (90) calendar days' prior written notice of termination. Lessee shall complete all obligations under the Decommissioning and Reclamation Plan; termination will not be deemed complete until such obligations are fulfilled.

C. During Phase 3 of this Lease, as described in Sections 4.3 and 6.4, and provided Lessee is not then in default, Lessee may terminate this Lease by giving Lessor one hundred eighty (180) calendar days' prior written notice of termination. Lessee shall complete all obligations under the Decommissioning and Reclamation Plan; termination will not be deemed complete until such obligations are fulfilled.

D. Upon termination during any phase, Lessee's actions on the Leased Premises shall be limited to those necessary for completion of its obligations under the Decommissioning and Reclamation Plan.

E. If different phases are occurring simultaneously, then the termination provisions applicable to the most advanced phase shall apply and must be completed by Lessee.

3.5.2. No Refund of Rents. Under no circumstances will Lessor refund to Lessee any amount or portion of Rent in the event of Lessee's termination during any phase.

#### 3.5.3. Termination by Lessor for Lessee's Default and Failure to Cure.

A. *Events of Default.* Lessor will provide Lessee with a written notice of default in the event any of the following events of default occur ("**Notice of Default**"). Lessee shall be in default of this Lease if any one or more of the following occurs:

- i. Lessee fails to pay Lessor the applicable, annual Phase Rent amount when due;
- ii. Lessee fails to pay any other Rents in accordance with Article 5, performance security in accordance with Article 8, or other payment or amount to Lessor when due;
- iii. Lessee fails to pay, or contest in compliance with Section 11.2, any tax assessment, or other government fee when due;
- iv. Lessee fails to complete a phase prior to the conclusion of its maximum period, as more particularly described in Article 4, without the prior written approval of Lessor;
- v. Lessee fails to observe or perform any other obligation, covenant, condition, or undertaking set forth in this Lease;
- vi. Lessee fails to obtain any Government Approvals necessary for activities during, and upon completion of, any phase described in Article 4;
- vii. Lessee violates any applicable Environmental Laws or Government Approvals;

- viii. Lessee makes an assignment or other transfer for the benefit of its creditors in anticipation of or preparation for commencing a proceeding in bankruptcy;
- ix. Lessee becomes insolvent, or proceedings in bankruptcy or for liquidation, reorganization, or rearrangement of Lessee's affairs are instituted by or against Lessee;
- x. A receiver or trustee is appointed for all or substantially all of Lessee's business or assets;
- xi. A trustee is appointed for Lessee after a petition has been filed for Lessee's reorganization under the United States Bankruptcy Code, or if this Lease has been rejected under § 365 of the United States Bankruptcy Code;
- xii. Lessee makes an assignment, sublease, novation, or other transfer of this lease in any manner contrary to Article 10 or Article 14; or
- xiii. Lessee allows or causes a lien or encumbrance of any kind to be placed, filed, or recorded against the Leased Premises in any manner contrary to Article 12.

B. *Duty to Cure.* Lessee shall cure every default set forth in the Notice of Default within the following timeframes:

- i. In the event of Lessee's failure to pay any amount due to Lessor, such as the events of default at Subsection 3.4.2.A.i and ii above, Lessee shall cure any such default, including payment of any and all late charges and interest, within thirty (30) calendar days from the date of the Notice of Default. In the event of bankruptcy or receivership that is the result of an action brought against Lessee and without Lessee's concurrence, Lessee shall have ninety (90) calendar days from the commencement of the proceeding, to have the same dismissed and any receiver or trustee appointed therein discharged.
- ii. In the event of Lessee's violation of, or failure to obtain, any Government Approvals necessary for any activity during any phase of this lease, Lessee shall have ninety (90) calendar days from the date of the Notice of Default to demonstrate that such Government Approvals have been obtained, are not necessary, or to seek such Government Approvals. If such Government Approvals are necessary for Lessee's activities and are not obtained, then Lessor shall have the right, without limitation, to require Lessee to cease activities related to the satisfaction of Lessor, in its reasonable direction.
- iii. Except as otherwise stated in this Lease, Lessee shall cure every default set forth in the Notice of Default within sixty (60) calendar days from the date of the Notice of Default. If Lessee has, within the cure period, diligently and in good faith worked to correct the default, then Lessor shall extend the cure period for a length of time that Lessor believes to be reasonably necessary to complete the cure. Any such extension will be contingent upon Lessee's continued diligence toward a cure throughout the cure period.
- iv. All cure periods shall run concurrently and not consecutively.

C. *Failure to Cure.* In the event of any default by Lessee, which is not cured within the applicable cure period, if any, and subject to the terms of Article 10, Lessor may terminate this Lease; may enforce any or all violations against Lessee; may seek resolution by judicial action or otherwise; and may seek any single, combination of, or any and all remedies available at law or in equity. Lessor's pursuit

of any particular right or remedy for a failure to cure, and any resulting breach of this Lease, shall not, in and of itself, constitute a waiver or relinquishment of any other claim or remedy against Lessee. Lessor may, in its sole discretion, pursue any, all, or none of the following:

- i. Terminate this Lease and re-enter upon all or any part of the Leased Premises, either with or without process of law, Lessee hereby waiving any demand for possession, and remove Lessee and any persons or property from the Leased Premises, with all such costs becoming the sole obligation of Lessee;
- ii. Re-lease the whole, or any part or parts of the Leased Premises, either in the name of Lessor or otherwise, for less than or the balance of the Lease Term, and grant concessions or charge a higher Rent than that in this Lease.
- iii. Remit payment on any tax, assessment, or other government fee due by Lessee. In that event, Lessee shall, upon Lessor's demand repay to Lessor the amounts so paid, reasonable attorney fees and all other court costs, and any other expenses incurred because of or in connection with such payments, together with interest at the Default Rate until paid in full;
- iv. Pursue judicial action to collect from Lessee damages incurred by or resulting to Lessor from Lessee's failure to observe and perform any term, condition, covenant, duty, or obligation of this Lease;
- v. Allow the Lease to remain in full force and effect while enforcing any or all of Lessor's rights and remedies; or
- vi. Remove any or all of Lessee's property or Improvements and store the same at Lessee's expense or require Lessee to remove the same.

**D. Liability for Damages.** The failure of Lessor to re-lease the Leased Premises or any part or parts of it shall not release or affect Lessee's obligations under this Lease or liability for damages. In computing such damages, there shall be added to the amount due any expenses incurred by Lessor in connection with re-leasing, including: legal expenses, reasonable attorney fees, brokerage fees, advertising costs, cost to keep the Leased Premises or Improvements in good order, or for preparing the Leased Premises or Improvements for re-leasing. Any such costs shall be considered and included as Rents to be paid by Lessee. Any judicial action brought to collect the amount of the deficiency for any period shall not prejudice in any way the rights of Lessor to collect the deficiency for any subsequent period by a similar proceeding. Lessor, in putting the Leased Premises in good order or preparing the same for re-leasing may, at Lessor's option, make such alterations, repairs, or replacements to the Leased Premises or Improvements as Lessor, in Lessor's sole discretion, considers advisable and necessary for the purpose of re-leasing the Leased Premises. The making of such alterations, repairs, or replacements shall not operate or be construed to release Lessee from liability pursuant to this Lease. Lessor shall in no event be liable in any way whatsoever for failure to re-lease the Leased Premises; or in the event that the Leased Premises are re-leased, for failure to collect the Rent due by Lessee under such re-lease contract; and in no event shall Lessee be entitled to receive any excess, if any, of such net Rents collected over the sums payable by Lessee to Lessor. In the event of a breach or threatened breach by Lessee of any of the covenants or provisions of this Lease, Lessor shall have the right of injunction and the right to invoke any remedy allowed at law or in equity as if re-entry, summary proceedings, and other remedies were not herein provided for. The mention in this Lease of any particular remedy shall not preclude Lessor from any other remedy, in law or in equity. Lessee hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event Lessee is evicted or dispossessed for any cause, or in the event Lessor obtains possession of the Leased Premises, by reason of a default and failure by Lessee to cure any of the covenants and conditions of this Lease, or otherwise.

**3.5.4. Surrender by Lessee Upon Termination.** Upon termination of this Lease for any reason, Lessee must quietly and peaceably surrender possession of the Leased Premises to Lessor. Within ninety



(90) calendar days of termination, unless otherwise set forth in Section 6.4.3, Lessee must remove from the Leased Premises all materials, tools and machines, Wind Energy Facilities and other Improvements, with the exception of any roads or appurtenances that Lessor determines will remain. Anything subject to removal, but not removed, will be deemed abandoned and, at Lessor's option, will be deemed transferred to, and shall become, the property of the State by operation of law without any further action required by Lessor; or Lessor may require Lessee to remove it; or Lessor may cause the same to be removed at Lessee's sole cost and expense.

**3.5.5. Reclamation of Leased Premises.** Prior to or upon termination of this Lease, Lessee shall complete reclamation of the Leased Premises in accordance with the provisions of this Lease, including Article 4, and the Decommissioning and Reclamation Plan accepted by Lessor as provided in Article 6.

**3.5.6. Holding Over.** If Lessee, or any successor-in-interest, should remain in possession of the Leased Premises after termination of this Lease, for any reason, such holding over shall be construed as a tenancy from month-to-month, subject to all the covenants, terms, provisions and obligations of this Lease, except that the reasonable rent, due on the first day of each month of the holdover period, shall be two times the monthly Rent payable immediately preceding the first day of the holdover period. Nothing contained herein shall be construed as Lessor's permission for Lessee to hold over, or as limiting Lessor's remedies at law or in equity against Lessee. If the Leased Premises are not surrendered at the end of the Lease Term, Lessee shall indemnify Lessor for, from, and against any loss or liability resulting from the delay by Lessee in so surrendering the Leased Premises, including any claims made by any succeeding lessee based on such delay.

**3.6. Lessee's Continuing Obligations.** All obligations of Lessee and any surety of Lessee pursuant to this Lease, which accrue during the Lease Term, or which accrue upon the termination of this Lease, shall survive the termination of this Lease.

**3.7. All Rights Return to Lessor.** Upon termination of this Lease for any reason, all rights granted to Lessee will return to Lessor.

## ARTICLE 4 – LEASE PHASES

### 4.1. Phase 1 – Research and Analysis.

**4.1.1. Term of Phase 1.** Phase 1 will begin on the Execution Date, will run simultaneously with the Due Diligence Period, and will continue for up to forty-eight (48) months from the Effective Date, except as provided in Section 4.1.3.

**4.1.2. Phase 1 Activity.** During Phase 1, Lessee shall engage in the activities and submit all the requirements set forth in this Subsection 4.1.2. All such activities shall be described in the Research and Analysis Plan, more particularly described in Section 6.2, to be developed by Lessee and provided to Lessor before Lessee commences any surface-disturbing Phase 1 activities. All such activities and requirements shall be conducted at Lessee's sole cost and expense.

A. Lessee shall conduct all studies necessary for the development of Renewable Energy Facilities on the Leased Premises. These studies may occur off the Leased Premises in the same general geographic location if the studies can be reasonably extrapolated to the Leased Premises. Studies may include, but are not limited to, the installation of wind measurement equipment.

B. Lessee may complete the title report and the Phase 1 Report, and must conduct any other environmental studies required to obtain Government Approvals for subsequent phases, including, if required, avian interaction and migration pattern studies.

C. Lessee shall obtain all required Government Approvals for subsequent phases, and shall submit to Lessor an Opinion Letter, prepared and signed by a law firm that includes attorneys

admitted to practice and in good standing in the state of Idaho (“**Opinion Letter**”), providing a legal opinion regarding and including the following: whether all Government Approvals necessary for Lessee's commencement of Phase 2 have been obtained; whether the operation of the Renewable Energy Facilities are legally and validly permitted by issuance of requisite Government Approvals; whether the Renewable Energy Facilities are held in the name of Lessee or Lessee's anticipated assignee; and whether Lessee is in substantial compliance with all requisite Government Approvals as of the date of the Opinion Letter. Copies of all reviewed or referenced Government Approvals must be enclosed with the Opinion Letter.

D. Lessee shall provide to Lessor evidence of any and all, but at least one existing Use Agreement that is valid and enforceable by Lessee, which may be in redacted form consistent with Title 74, Chapter 1, Idaho Code. Lessor's acceptance of a partial copy or a redacted copy of a Use Agreement, does not limit Lessor's ability to request and be provided with a full and unredacted copy, subject to confirmation that all confidential provisions in the Use Agreement, as designated by Lessee pursuant to Section 15.2, will remain confidential and not be publicly disclosed, except as required by the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code, as set forth in Section 15.2, or any subpoena or court order.

E. Lessee shall provide to Lessor the Construction Plan and proof of the related requisite security, as more particularly described in Section 6.3.

F. Lessee shall provide to Lessor the Decommissioning and Reclamation Plan and proof of the related requisite security, as more particularly described in Section 6.4.

G. Lessee shall provide to Lessor the Hazardous Materials and Waste Management Plan, more particularly described in Section 13.1. Included in the HMWMP shall be a list of hazardous materials used or stored on the Leased Premises. Material Safety Data Sheets (“MSDS”) for all hazardous materials used or stored on the Leased Premises shall be provided to Lessor upon request.

H. Within thirty (30) calendar days of Lessor's receipt of the Opinion Letter, or any plan, or other document required to be provided by Lessee, Lessor may request additional information from Lessee, or provide written comments and recommendations, or provide in writing required changes to any plan. The Parties will discuss Lessor's recommended or required changes at either Party's request.

4.1.3. Conclusion of Phase 1. Phase 1 shall conclude at the earlier of the following circumstances: i) thirty-one (31) calendar days following Lessor's receipt of the Opinion Letter and all required plans and other documents; or ii) if, after receipt of the Opinion Letter and all required plans and other documents, Lessor has no recommendations or required changes and provides written notice of the same to Lessee.

4.1.4. Maximum Phase 1 Length. Unless extended by Lessor in writing, Phase 1 of this Lease shall not extend longer than forty-eight (48) months from the Effective Date. Lessee must submit the written request for extension to Lessor at least thirty (30) calendar days prior to the end of Phase 1.

#### **4.2. Phase 2 – Construction.**

4.2.1. Term of Phase 2. Phase 2 will begin at the conclusion of Phase 1, and will continue for up to thirty-six (36) months from the conclusion of Phase 1, except as provided in Section 4.2.5.

4.2.2. Phase 2 Activities. During Phase 2, Lessee shall engage in and complete construction of the Renewable Energy Facilities and related Improvements on the Leased Premises, as more particularly described in the Construction Plan. All Phase 2 activities and requirements shall be conducted at Lessee's sole cost and expense.

4.2.3. Conclusion of Phase 2. Phase 2 of this Lease shall conclude upon the completion of all of the following:

A. Lessor's acknowledgement of receipt, which will be timely provided, of complete and correct copies of all easements, or other types of access or right-of-way agreements, held by Lessee, or made for Lessee's benefit, relating to all connecting lines and pipelines, transmission lines, substations, and other facilities outside the Leased Premises that are necessary to operate and maintain the Renewable Energy Facilities, or to carry out the Renewable Energy Purposes.

B. Lessor's acknowledgement of receipt, which will be timely provided, of "as built" drawings showing the exact location of all constructed Renewable Energy Facilities and other Improvements on the Leased Premises.

C. Lessor's acknowledgement of receipt, which will be timely provided, of all additional or amended Use Agreements that are valid and enforceable by Lessee, entered into after Lessee's disclosure under Subsection 4.1.2.D, which may be in redacted form consistent with Title 74, Chapter 1, Idaho Code. Lessor's acceptance of a redacted copy of a Use Agreement, does not limit Lessor's ability to request and be provided with a full and unredacted copy, subject to confirmation that all confidential provisions in the Use Agreements, as designated by Lessee pursuant to Section 15.2, will remain confidential and not be publicly disclosed, except as required by the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code, as further set forth in Section 15.2, or any subpoena or court order.

D. Any changes to the Construction Plan, HMWMP, or the Decommissioning and Reclamation Plan must be submitted by Lessee during the review period pursuant to Section 6.5. Lessor will evaluate the proposed changes pursuant to Section 4.3.3, to determine whether the changes will be considered a material modification. Within thirty (30) calendar days of Lessor's receipt of any such changes, Lessor may request additional information from Lessee, or provide written comments and recommendations, or provide in writing additional required changes to any such plan. The Parties will discuss Lessor's recommended or required changes at either Party's request. If the Parties cannot agree on any term or condition, Lessor may terminate the Lease in its sole discretion pursuant to Section 6.1.

4.2.4. Partial Transition to Phase 3. Lessee may submit the items required in Subsection 4.2.3 for the conclusion of Phase 2 for individual Renewable Energy Facilities, or groupings of Renewable Energy Facilities; provided, that conclusion of Phase 2 for such individual or groupings of Renewable Energy Facilities is consistent with all related Use Agreements.

4.2.5. Maximum Phase 2 Length. Unless extended by Lessor in writing, Phase 2 of this Lease shall not extend longer than thirty-six (36) months from the commencement of Phase 2. Lessee must submit the written request for extension to Lessor at least thirty (30) calendar days prior to the end of the thirty-six month period.

### **4.3. Phase 3 - Operation.**

4.3.1. Term of Phase 3. Phase 3 will begin upon the whole conclusion, or partial transition from Phase 2, and may continue for the remainder of the Lease Term, except as otherwise provided in Section 4.3.5.

4.3.2. Phase 3 Activities. During Phase 3, Lessee shall engage in Renewable Energy Purposes and Electrical Power Production from Renewable Energy converted on the Leased Premises for utilization and sale pursuant to all applicable Use Agreements. All such activities and requirements shall be conducted at Lessee's sole cost and expense. Within thirty (30) calendar days of its execution or issuance, Lessee will provide Lessor a complete and correct copy of every new or amended Use Agreement that is valid and enforceable by Lessee, which may be in redacted form consistent with Title 74, Chapter 1, Idaho Code. Lessor's acceptance of a redacted copy of a Use Agreement does not limit Lessor's ability to request and be provided with a full and unredacted copy, subject to confirmation that all confidential provisions in the Use Agreement, as designated by Lessee pursuant to Section 15.2, will remain confidential and not be publicly disclosed, except as required by the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code, as further set forth in Section 15.2, or any subpoena or court order.

#### 4.3.3. Material Modifications to Improvements in Phase 3.

A. Lessee must submit to Lessor any proposed material modifications to any Improvements, and changes to the Construction Plan, HMWMP, or the Decommissioning and Reclamation Plan that Lessee deems necessary during Phase 3. Within thirty (30) calendar days of Lessor's receipt of any such proposed modifications or changes, Lessor may request additional information from Lessee, or provide written comments and recommendations, or provide in writing additional required changes to any such proposal. The Parties will discuss Lessor's recommended or required changes at either Party's request.

B. Lessee shall submit a revised Construction Plan to Lessor prior to modifying any of the Improvements. Modifications to any Improvements shall not remove the Production Areas subject to such modifications from the requirements of this Lease, including the payment of Rent, applicable to Phase 3. Lessee shall provide Lessor with complete and correct updated drawings showing all modifications to the Renewable Energy Facilities and Improvements on the Leased Premises as such modifications are completed.

C. For purposes of this Section 4.3, "**material modifications**" means any of the following circumstances: i) an increase or decrease in the Project's Nameplate Capacity by fifteen percent (15%) or more; ii) addition or removal of any permanent Improvement; iii) a significant change in the location of any permanent Improvement; or iv) a change that results in an increase of decommissioning and reclamation costs by fifteen percent (15%) or more.

4.3.4. Conclusion of Phase 3. Phase 3 of this Lease shall conclude upon the occurrence of either or both, of the following:

A. Written notice of termination of this Lease by either Party, and as more particularly set forth in Section 3.5, subject to and in accordance with the provisions of Article 10.

B. At the end of the Lease Term, and conclusion of an auction of the new lease as described in Section 3.2.

4.3.5. Maximum Phase 3 Length. Unless extended by Lessor in writing and based upon the anticipated execution of a new lease with Lessee as described in Section 3.2, Phase 3 of this Lease shall not extend longer than the end of the Lease Term.

#### 4.4. **Phase 4 - Decommissioning and Reclamation.**

4.4.1. Term of Phase 4. Phase 4 will begin upon Lessor's written confirmation that all Phase 3 requirements have been fulfilled to Lessor's satisfaction, or upon an earlier termination as more particularly described in Section 3.5. Lessee's obligations relative to the Decommissioning and Reclamation Plan shall survive the termination of this Lease.

4.4.2. Conclusion of Phase 4. Phase 4 shall conclude upon Lessor's written confirmation that all Phase 4 requirements have been fulfilled to Lessor's satisfaction; such confirmation shall not be unreasonably withheld, conditioned, or delayed.

4.5. **Transition of Supporting Areas.** Supporting Areas shall be transitioned into Phase 2 and Phase 3 concurrently with the first Production Area transitioning to such phase. Supporting Areas shall be transitioned into Phase 4 concurrent with the last Production Area transitioning to such phase. A Production Area may not be transitioned or converted to a Supporting Area without the prior written permission of Lessor, which shall not be unreasonably withheld, conditioned, or delayed.

4.6. **Annual Activities Report.** Throughout the Lease Term, and before the last business day of each Lease Year, Lessee must provide to Lessor a report of all Renewable Energy Purposes activities that occurred on the Leased Premises during that Lease Year.



**4.7. Subcontractors.** At least fifteen (15) calendar days prior to any contractor or subcontractor entering upon the Leased Premises, Lessee must provide to Lessor a list of all contractors and subcontractors that will be present on the Leased Premises, including any subcontractor that may be assigned to manage or oversee the day-to-day operations at the Leased Premises. Lessee must obtain Lessor's prior written approval of contractors and subcontractors assigned to manage or oversee the day-to-day operations, which approval will not be unreasonably withheld, conditioned, or delayed.

**4.8. Key Employees.** As soon as practicable after initiating each phase, Lessee must provide a list of key employees assigned to oversee as many of the following responsibilities as apply for all operations on the Leased Premises, including the following: resource assessment and energy projections; financing; design, engineering, procurement, and construction specifications; interconnection and substation design; environmental assessments; community liaison; permits and related approvals; regulatory compliance; construction; commissioning potential; decommissioning and reclamation; risk management; insurance; bonding; operations; and maintenance. Lessee must update this list of key employees at the start of each new phase, and notify Lessor of all changes to any key employees within ten (10) business days of the change. Lessee must provide at least one point of contact in the event of an emergency who will be available twenty-four (24) hours a day, three hundred sixty-five (365) days a year.

## **ARTICLE 5 – ANNUAL RENT; ROYALTY; ADDITIONAL PAYMENTS**

**5.1. Effective Date Fee.** Within five (5) business days of the Execution Date, Lessee shall pay Lessor Two Thousand Five Hundred Dollars (\$2,500.00) (the "**Execution Date Fee**"). The Execution Date Fee shall be non-refundable.

### **5.2. Phase 1 Rent.**

5.2.1. Throughout Phase 1, Lessee shall pay an annual rental amount equal to Five Dollars (\$5.00) per acre, multiplied by the total acreage of the Leased Premises as set forth in Attachment A ("**Phase 1 Rent**"), with the first such annual rent payment being due and payable in advance on or before the Effective Date. Beginning in the second Phase 1 year and continuing each year thereafter for the remainder of the Lease Term, as may be applicable, the Phase 1 Rent shall increase at a rate of three five percent (3%) annually. Each annual Phase 1 Rent amount shall be paid to Lessor, in advance, on or before each subsequent anniversary of the Effective Date.

5.2.2. In no event shall any Phase 1 Rent be less than Five Dollars (\$5.00) per acre, times the total acreage of the Leased Premises as set forth in Attachment B.

5.2.3. Under no condition will Lessee receive any refund of any portion of Phase 1 Rent during Phase 1.

### **5.3. Phase 2 Rent.**

5.3.1 During Phase 2, Lessee shall pay an annual rental amount equal to i) for Wind Energy Facilities, One Thousand Dollars (\$1,000.00) times the total number of MW of expected wind Nameplate Capacity and ii) for Solar Energy Facilities, Three Hundred Dollars (\$300.00) times the total MWdc of expected solar Nameplate Capacity to be installed on the Leased Premises ("**Phase 2 Rent**") as presented to Lessor in the Construction Plan. Beginning in the second Phase 2 year, the Phase 2 Rent shall increase annually at a rate of three percent (3%) . Each annual Phase 2 Rent amount shall be paid to Lessor, in advance, on or before each subsequent anniversary of the Effective Date.

5.3.2. At no time during the Lease Term will Phase 2 Rent be less than the most recent, full Lease Year amount of Phase 1 Rent, with a 3% annual increase. If applicable, the difference between Phase 2 Rent paid and the applicable Phase 1 Rent will be paid to Lessor within thirty (30) calendar days of the end of each Lease Year during Phase 2.

5.3.3. Lessee shall not receive any refund of Phase 2 Rent at termination of this Lease. If Lessee proceeds to Phase 3 prior to the expiration of a full Lease Year, Lessee shall be entitled to a credit in the amount of the prorated portion of that Lease Year's Phase 2 Rent, which will be applied by Lessor toward the first payment of Phase 3 Rent. Lessee shall not be entitled to proration of any applicable Phase 1 Rent.

#### 5.4. Phase 3 Rent.

5.4.1. During Phase 3, Lessee shall pay to Lessor, in advance, an amount equal to the greater of the amounts set forth in (A) or (B) below ("**Phase 3 Rent**"), to be trued-up at the end of each Lease Year:

A. Regardless of whether any Wind Turbine is operating on the Leased Premises, an amount equal to the applicable amount set forth in the following schedule, multiplied by the total Nameplate Wind Capacity (MW) installed on the Leased Premises ("**Wind Capacity Fee**"), on or before the Effective Date anniversary in each applicable Phase 3 Lease Year:

Years 1 to 10:	\$4,000.00
Years 11 to 20:	\$4,500.00
Years 21 to 30:	\$5,000.00
Years 31 to 49:	\$6,000.00

For Solar Equipment, a minimum annual rent equal to six hundred dollars (\$600.00) per acre of Leased Premises upon which solar equipment is located ("**Solar Capacity Fee**"), which shall increase annually at the rate of three percent (3%).

OR

B. The following percentage of Gross Annual Revenue for the applicable Lease Years during Phase 3 from the sale of Renewable Energy generated by the Solar Panels or Wind Turbines located on the Leased Premises ("**Royalty**"):

Years 1 to 10:	3.50%
Years 11 to 20:	4.00%
Years 21 to 30:	4.50%
Years 31 to 49:	5.50%

If applicable, the difference between the combined Wind Capacity Fee and Solar Capacity Fee ("**Renewable Capacity Fee**") paid and the Royalty will be paid to Lessor within thirty (30) calendar days of the end of each Lease Year during Phase 3.

5.4.2. At no time during the Lease Term will Phase 3 Rent be less than the most recent, full Lease Year amount of Phase 1 Rent, with a three percent (3%) annual increase. If applicable, the difference between Phase 3 Rent paid and the applicable Phase 1 Rent will be paid to Lessor within thirty (30) calendar days of the end of each Lease Year during Phase 3.

5.4.3. In the event the installed MW capacity of any Solar Panel or Wind Turbine increases during the Lease Term as a result of any repowering effort, the Renewable Capacity Fee shall likewise increase by substituting the increased installed Solar Panel or Wind Turbine MW capacity for the former Nameplate Capacity. The Renewable Capacity Fee shall be prorated for partial years.

5.4.4. The Renewable Capacity Fee shall be paid each year, in advance, on or before the anniversary of the Effective Date. The Royalty for each such year shall be paid in arrears, if, to the extent, and in the amount that the Royalty is greater than the Renewable Capacity Fee.

5.4.5. In connection with each Phase 3 Rent payment, at the end of the Lease Year, Lessee shall provide to Lessor a signed statement setting forth the amount of Gross Annual Revenue received by Lessee

during such Lease Year, and the applicable Royalty calculation. Every Royalty payment shall be paid within thirty (30) calendar days following each anniversary of the Effective Date; provided however, that if Phase 3 initially begins on a date other than the anniversary of the Effective Date, Rent for the initial period shall be prorated.

5.4.6. Phase 3 Rent shall not be prorated if Lessee proceeds to Phase 4 prior to the expiration of a full Lease Year, and Lessee shall not be entitled to a credit against Phase 4 Rent or a refund of any Phase 4 Rent paid for such Lease Year.

5.4.7. Each payment to Lessor under this Section 5.4 will include a summary of the method of calculation of the payment, including the applicable percentage of Gross Annual Revenue for the applicable Lease Year.

5.4.8. Lessee shall submit to Lessor quarterly net metering reports on the first business day of each January, April, July, and October during Phase 3 for verification of the prior quarter's Electrical Power Production. If Lessor requires a different format for, and other information to be included in, the content of the net metering report, Lessor will provide those requirements to Lessee.

5.4.9. Lessor shall not be entitled to any form of tax benefits, payments or credits derived from any federal, state or local tax credit or incentive program, including the federal production tax credit or federal investment tax credit.

## **5.5. Phase 4 Rent.**

5.5.1. During Phase 4, Lessee shall pay the Renewable Capacity Fee, as last paid during Phase 3, in advance annually, on each anniversary of the Effective Date ("**Phase 4 Rent**").

5.5.2. At no time during the Lease Term will Phase 4 Rent be less than the most recent, full Lease Year amount of Phase 1 Rent, with a three percent (3%) annual increase. If applicable, the difference between Phase 4 Rent paid and the applicable Phase 1 Rent will be paid to Lessor within thirty (30) days of the end of each Lease Year during Phase 4.

5.5.3. Phase 4 Rent shall be prorated if Lessee completes Phase 4 prior to the expiration of a full Lease Year, and Lessee shall be entitled to a refund of prorated Phase 4 Rent paid for such year, and not subject to Section 3.5.2. Completion of Phase 4, for the purpose of such proration, shall occur on the date of Lessor's written confirmation that all Phase 4 requirements have been fulfilled to Lessor's satisfaction; such confirmation shall not be unreasonably withheld, conditioned, or delayed.

## **5.6. Additional Payments.**

5.6.1. Meteorological Tower Rent. Should Lessee install on the Leased Premises one or more meteorological towers, Lessee will pay Lessor an annual sum of \$3,000.00 on a prorated basis per tower or device and be responsible for installation and removal of the tower(s) and related device(s) ("**Meteorological Tower Rent**"). The first installment of the Meteorological Tower Rent shall be paid by Lessee to Lessor within thirty (30) calendar days after the completion of the tower's installation, and subsequent installments shall be due and payable within thirty (30) calendar days of each anniversary of the completion of the tower's installation while meteorological tower(s), related devices, and other supporting structures, are in place. For avoidance of doubt, no Meteorological Tower Rent shall be due for any remote monitoring devices such as SoDAR or LiDAR equipment. Beginning in the second Phase 3 Lease Year and continuing each year thereafter for the remainder of the Lease Term, the Meteorological Tower Rent shall increase annually at a rate of three percent (3%).

5.6.2. Power Line Payments. If Lessee installs any electrical, communication or Collection Facilities (collectively "**Power Lines**") that are buried on the Leased Premises, but Lessee does not install at least seven (7) Wind Turbines on the Leased Premises, then Lessee will pay Lessor \$1.00 per linear foot of trench Lessee locates on the Leased Premises ("**Underground Transmission Payment**"). Lessee will

pay Lessor \$4.00 per linear foot for any above-ground Power Lines that Lessee installs on the Leased Premises ("**Above-ground Transmission Payment**"), in the event that Lessee does not install at least seven (7) Wind Turbines on the Leased Premises. Lessee will pay the Underground Transmission Payment and Aboveground Transmission Payment to Lessor within sixty (60) calendar days after the commencement of Phase 3 and in advance, on or before the Effective Date anniversary in each applicable Lease Year thereafter. Beginning in the second Phase 3 Lease Year and continuing each year thereafter until the end of the Lease Term, both the Underground Transmission Payment amount and the Aboveground Transmission Payment amount shall be adjusted, upward, by 3% each year.

5.6.3. **Temporary Facilities Payments.** Lessee may erect or create temporary storage yards, laydown areas, construction compounds, concrete batch plants or similar temporary facilities ("**Temporary Facilities**") on the Leased Premises. If Lessee elects to place Temporary Facilities on the Leased Premises, Lessee shall pay Lessor a one-time payment of \$5,000.00, assuming the total footprint of the Temporary Facilities does not exceed five (5) acres. Lessee will pay Lessor an additional one-time payment of \$2,000.00 per acre (prorated for partial acreage) for Temporary Facilities that exceed five (5) acres in total land area. The Temporary Facilities Payment shall be paid by Lessee to Lessor within sixty (60) calendar days after the completion of the installation of the Temporary Facilities.

5.6.4. **Substation, Power Storage, O&M Building Rent.** For each substation, power storage, or operations and maintenance ("**O&M**") facility to be constructed on the Leased Premises, Lessee will pay Lessor annual rent equal to \$25,000.00 per substation or power storage facility, and \$15,000.00 per O&M facility, including any parking lot and fenced area, assuming the total footprint of each substation or power storage facility does not exceed five (5) acres and the total footprint of any O&M facility does not exceed three (3) acres in total land area. Lessee will pay Lessor an additional annual rent of \$2,500.00 per acre (prorated for partial acreage) for each substation or power storage facility that exceeds five (5) acres, or O&M facility exceeding three (3) acres in total land area (collectively, "**Facilities Rent**"). The Facilities Rent amount shall be paid annually. The first annual Facilities Rent amount shall be paid by Lessee to Lessor within sixty (60) days following the commencement of Phase 3, and subsequent annual payments shall be due and payable within sixty (60) days after the Effective Date of each Lease Year through the Lease Term. The Facilities Rent for any partial calendar year shall be prorated, as applicable. Beginning in the second Phase 3 Lease Year and continuing each year thereafter to the end of the Lease Term, the Facilities Rent amount shall be adjusted, upward, by three percent (3%) each year.

5.7. **Apportionment of Rent During Simultaneous Phases.** If different phases are occurring simultaneously, then all Rent applicable to the most advanced phase shall apply.

5.8. **Lessee's Records.** Lessee shall keep full, complete, and proper books, records and accounts of Gross Annual Revenue according to generally accepted accounting principles as would be normally examined and required to be kept by an independent accountant when performing an audit of Lessee's business to verify the accuracy of Lessee's statements of Gross Annual Revenue. All such books, records, and accounts shall be kept for a period of at least seven (7) years following the end of each Lease Year. Within three (3) years after the end of any Lease Year, Lessor, its agents and employees, upon at least seven (7) business days' prior written notice, may examine and inspect all of the books and records relating to the Leased Premises, including relevant income tax returns, for the purpose of investigating and verifying the accuracy of any prior statement of Gross Annual Revenue. During the Lease Term, Lessee may mark any records provided under this section as trade secrets, proprietary information, or by such other designation as Lessee believes applicable to exempt such documents from public disclosure pursuant to the Idaho Public Records Law (Idaho Code §§ 74-101 through 74-126), and Lessor shall treat the information as confidential as set forth in Section 15.2. If the results of the audit show that Lessee's statement or statements of Gross Annual Revenue for any period has been understated, then, within ten (10) business days of the receipt of notice of the determination of such deficiency, Lessee shall pay any applicable deficiency to Lessor, together with interest thereon at the Default Rate, from the date such payment should originally have been made until the date actually paid in full; provided however, this provision for payment of a deficiency shall not be deemed a waiver of any default remedies available to Lessor as a result of such deficiency. If the results of the audit show that Gross Annual Revenue for the audit period have been understated by five percent (5%) or more, Lessee shall also pay Lessor the cost of



the audit.

**5.9. Late Payment Charges; Notice.** In the event any Rent payment or other financial obligation due by Lessee to Lessor under this Lease are not paid in full when due, Lessee shall also pay: 1) interest accruing thereon at the statutory rate of interest (12% per annum) as provided by law until payment is made in full; and 2) a late charge which shall accrue in full as of the first day of each and every calendar month of any such delinquency, until payment is made in full, in the amount of Twenty-Five Dollars (\$25.00) or an amount equal to one percent (1%) of the unpaid principal obligation(s), whichever is greater. All payments shall be applied first to the payment of accrued interest and to accrued late charges, and then to the reduction of unpaid principal. There shall be no compounding of accrued interest or late charges. The Parties acknowledge and agree that the late charge described herein is a reasonable attempt to estimate and to compensate Lessor for higher administration costs associated with administering late payments, and is not intended as a penalty. By assessing interest and late charges, Lessor does not waive any right to declare a breach, or to pursue any right or remedy available to Lessor by reason of such breach available at law or in equity, after the expiration of any applicable notice or cure period.

**5.10. Most Favored Nation.**

5.10.1. Lessee represents that, as of the Execution Date, the terms of Rent contained in Sections 5.2, 5.3 and 5.4 of this Lease are as favorable as, or more favorable than, other then-existing leases with any landowners whose property constitutes a portion of the Project (each a **"Project Lease"**). Lessee further represents and warrants that Lessee shall not renegotiate any Project Lease or negotiate any new lease within the Project that contains more favorable payment terms than the Rent contained in this Lease unless Lessee discloses and offers such payment terms to Lessor. If Lessor accepts such payment terms, the Parties shall enter into an amendment to this Lease adopting such as amended Rent terms.

5.10.2. If Lessee executes additional Project Leases, and if any Project Lease contains Phase 3 Rent amounts, whether or not called Phase 3 Rent, that are more favorable than those contained in Section 5.4 of this Lease, then Lessee shall offer to Lessor to amend Article 5 of this Lease to match such more-favorable Phase 3 Rent amounts contained in such Project Lease (as applicable, a **"Rent Increase"**). Lessor shall not be entitled to receive a Rent Increase if Lessor fails or refuses to execute a Rent Increase amendment, which will be negotiated by the Parties, within ninety (90) calendar days after Lessee delivers written notice of the requisite Rent Increase; provided however, that the Rent Increase agreement shall not add any new provision to or modify any provision of this Lease other than those related to Phase 3 Rent.

5.10.3. Lessee shall be under no obligation to disclose any confidential information from a Project Lease, including any financial provisions or rent amounts, *provided however*, subject to the receipt of consent to disclose by Lessee from the lessors under the Project Leases, Lessor shall have the right, at any time during the Lease Term, to request and receive a written summary of Project Lease financial provisions for such Phase 3 Rents, whether or not called Phase 3 Rents, which summary shall be verified or notarized as providing correct and complete information. Lessor reserves the right to adjust the Phase 3 Rent rates under this Lease to reflect any greater rates paid by Lessee on any other Project Lease. Such adjustments may occur upon ninety (90) calendar days' written notice to Lessee.

## **ARTICLE 6 – PLANS**

**6.1. Plans Generally.** Lessee shall provide a Research and Analysis Plan, the Construction Plan, a Decommissioning and Reclamation Plan, and the HMWMP, as more particularly set forth, below, and in accordance with Article 4 and Article 13. The Construction Plan, HMWMP, and the Decommissioning and Reclamation Plan may be submitted as a single plan with the information required by this Lease, or as separate plans. All plans must be submitted to Lessor for approval. Lessor may terminate the lease if any term or condition of any plan required by this Lease, or any subsequent modification or addendum to this Lease, cannot be agreed upon.

6.1.1. Information in All Plans. All plans must provide information or data on all items that are necessary or useful in effectuating and managing the Renewable Energy Purposes, including the following:

A. A statement describing the proposed measures Lessee will take for the protection of the environment, including the prevention or control of fires; soil loss and erosion; pollution of surface and ground waters; damage to wildlife and other natural resources; air and noise pollution; and hazards to public health and safety during any activities under this Lease.

B. All pertinent information and data required to support the plan of operations for the utilization of Renewable Energy.

6.1.2. Schedule of Activities. Each plan must include a detailed schedule of known and anticipated activities, organized in a practical and understandable format. The schedule must include critical path and major milestones with sufficient detail to assess the Project's progress. Updates to the schedule must be provided to Lessor on a quarterly basis. Lessor's review or approval of such plans will be in accordance with Article 4.

6.1.3. Lease Governs. Notwithstanding Lessor's receipt or approval of any plan, the terms and conditions of any required plan shall not be inconsistent with, alter, or amend any of the terms and conditions of this Lease without the Parties modifying this Lease, as provided in Section 15.12. In the event of any inconsistency between any plan and this Lease, the terms and conditions of this Lease shall govern.

**6.2. Research and Analysis Plan.** The Research and Analysis Plan shall describe all due diligence and exploratory activities, as described below, that have been conducted as of the date of the plan, or will be conducted on the Leased Premises during Phase 1; and that are necessary to complete or obtain all studies, surveys, reports, and Government Approvals required for commencement of construction under Phase 2 of this Lease.

6.2.1. Exploratory Activities. The type, location, and schedule of all exploratory activities which have or will occur on the Leased Premises, including soil testing, surveys, wind and solar resource assessment activities, and all reports and studies including seismic, environmental and aviary studies.

6.2.2. Requirements for Development and Production. Lessee must include a list of all information, data, and Government Approvals that Lessee knows or anticipates will be required to support Lessee's Construction Plan, HMWMP, and Decommissioning and Reclamation Plan.

**6.3. Construction Plan.** The Construction Plan shall describe all Renewable Energy Facilities and Improvements to be constructed on the Leased Premises, and all activities to be conducted on the Leased Premises. The Construction Plan shall include the following components:

6.3.1. Facilities and Improvements. Maps and other information sufficient to locate the proposed locations and specifications of all Renewable Energy Facilities and Improvements on the Leased Premises. Information concerning Renewable Energy Facilities shall include numbers, type, size, manufacturer, model, and foundation design of any surface area that may be disturbed with the placement of proposed Renewable Energy Facilities and Improvements. Information concerning the construction of roads on the Leased Premises shall identify all gates, culverts, and road construction materials, including those materials, if any, proposed to be acquired from the Leased Premises in accordance with Section 2.2.8. Information concerning the construction of pipes, pipelines, transmission lines, and any other items to be placed above or below the surface of the Leased Premises, if applicable, shall identify where any such items are to be installed on the surface or buried and how they cross existing or planned roads.

6.3.2. Areas of Exclusive Lessee Use. The portion(s) of the Leased Premises that Lessee proposes to hold for its exclusive use and to exclude the public and other lessees of Lessor from accessing. Lessee shall describe the basis for excluding the public and other lessees of Lessor from such portions of the Leased Premises.

6.3.3. Construction Schedule. The schedule of construction and development on the Leased Premises. If Lessee anticipates partial transitions of the Leased Premises to phases of this Lease, the Construction Plan shall set forth the portions of the Leased Premises to be transitioned separately; the Electrical Power Production projected for each phase; the planned schedule for the partial transitions; and the contingencies and factors that determine the timing of each transition. Lessee shall further include a pictorial and numerical apportionment of the Leased Premises into Production Areas, including those to be transitioned separately, and Supporting Areas.

6.3.4. Government Approvals. A complete and accurate list of all Government Approvals that are known or reasonably believed to be necessary for the commencement of construction under Phase 2 and for operation under Phase 3, including the Opinion Letter required pursuant to Section 4.1.2.C. In the event that additional Government Approvals, necessary for the commencement of construction under Phase 2 or operation under Phase 3, come to the attention of either Party, that Party shall immediately notify the other Party in writing and the Construction Plan shall be amended accordingly by Lessee.

6.3.5. Vegetation and Soil Management. A description of the means whereby Lessee will maintain the natural vegetation, control erosion, and control noxious weeds on the Leased Premises. The description shall also include the means whereby Lessee will ensure that Lessee's activities on the Leased Premises do not adversely impact the waters on or adjoining the Leased Premises. The description shall also address any overburden or stockpile areas for material excavated from the Leased Premises.

6.3.6. Surveys. A list of all environmental, biological, habitat, and cultural resources survey data, including archeological and historic surveys, concerning the Leased Premises conducted by or on behalf of Lessee. Lessee shall provide copies of such surveys to Lessor. The surveys submitted to Lessor must include the study protocol, survey locations, and complete results.

6.3.7. Operations Requirements. A description of Electrical Power Production operations that conforms to the best practices and engineering principles in use in the industry. Operations shall be conducted in such manner as to protect the natural resources on the Leased Premises, and to result in the maximum ultimate recovery of Renewable Energy with a minimum of waste.

6.3.8. Security Requirements. An estimate of the dollar amounts required for Construction Security, Operating Security, and Decommissioning and Reclamation Security under Article 8.

6.3.9. Administrative Information. The names and mailing addresses of Lessee's primary Construction Plan supervisors and operators; the names and mailing addresses of any company providing project services to Lessee, and the names of each company's contact person; and any other contract operators who will be involved in the construction on the Leased Premises.

**6.4. Decommissioning and Reclamation Plan.** The Decommissioning and Reclamation Plan shall set forth the means whereby Lessee shall restore the Leased Premises to its prior, natural contour and vegetative state following the construction or modification of Renewable Energy Facilities and Improvements, and upon termination of this Lease and removal of all Improvements.

6.4.1. Prerequisite to Construction. No construction of any Renewable Energy Facilities or Improvements, no alteration of the Leased Premises, nor any change in such construction or alteration plans may occur until Lessor has accepted, in writing, the Decommissioning and Reclamation Plan. Lessor shall complete its review of the Decommissioning and Reclamation Plan, and issue an approval or request additional information or revisions, within sixty (60) days of receipt from Lessee. If Lessor fails to issue an approval or request additional information or revisions within sixty (60) days of receipt, the Decommissioning and Reclamation Plan shall be deemed approved. Lessor may select a third-party expert to review the Decommissioning and Reclamation Plan for recommendations regarding the adequacy, feasibility, projected cost, and implementation of the Decommissioning and Reclamation Plan and any updates thereto during the term of the Lease. Any and all costs associated with the third-party review shall be paid by Lessee. IDL's approval shall be subject to receipt and review of third-party report.

6.4.2. Information Required. The Decommissioning and Reclamation Plan shall describe the method and manner for decommissioning all Renewable Energy Facilities and Improvements, and reclamation of all planned construction, and known alterations, of any Improvements on the Leased Premises. The Decommissioning and Reclamation Plan shall include a complete and accurate list of all Government Approvals that are known or reasonably believed to be necessary for the activities under such plan; which must also be addressed by the Opinion Letter. In the event that additional Government Approvals necessary for the activities under the Decommissioning and Reclamation Plan come to the attention of either Party, that Party shall immediately notify the other Party in writing and the Decommissioning and Reclamation Plan shall be amended accordingly by Lessee.

6.4.3. Minimum Reclamation Required. Both before and after submission of the Decommissioning and Reclamation Plan to Lessor, Lessee agrees to the following minimum restoration measures following construction, modification, decommissioning, or removal of the Renewable Energy Facilities and Improvements, and upon termination of this Lease:

- A. Disturbed areas will be contoured to closely match a pre-disturbance state;
- B. Rock base and geo-technical material will be excavated from all roads and removed from the Leased Premises. Roads will then be ripped, covered with a minimum 12 inches of topsoil, and revegetated;
- C. Foundations will be removed to a depth of a minimum of 48 inches and backfilled with topsoil to a natural contour, and revegetated;
- D. Revegetation measures will utilize a seed mix approved by Lessor. Revegetation will not be considered complete until establishment of perennial vegetative cover; and
- E. Lessee posts the Decommissioning and Reclamation Security in a form acceptable to the Lessor.

6.4.4. Disposal of Waste. The Decommissioning and Reclamation Plan shall address the disposal of any known or identified Hazardous Substances that may be stored or located on the Leased Premises at the termination of this Lease.

**6.5. Plan Reviews.** In Lessor's discretion, all plans must undergo an annual operating review during which time Lessee shall disclose to Lessor any construction or alteration of the Leased Premises planned by Lessee during the upcoming year. Lessor may present reasonable modifications to any previously approved plan to ensure that the plan, and the corresponding amount of Lessee's security, adequately addresses such planned construction or alteration. In any event, Lessor may review any plan required under this Lease on an annual basis and present reasonable modifications to any such plan which may be reasonably necessary to protect the Leased Premises or the Renewable Energy resources, including taking into account the nature and extent of Lessee's use or alteration of the Leased Premises and the work reasonably necessary to restore the Leased Premises to its natural, pre-lease, state. If the Parties cannot agree on any term or condition of any plan for any reason, Lessor may terminate the Lease in its sole discretion.

6.5.1. A third-party expert, selected by the Department, will review, and offer recommendations regarding the adequacy, feasibility, projected cost, and implementation of the Decommissioning and Reclamation Plan and any updates thereto during the term of the lease. The costs of the third-party evaluation shall be paid for by Lessee.

6.5.2. Lessor, in its sole discretion, may terminate the Lease if the terms and conditions of any plan required by the Lease, or material to the project as determined by Lessor, in Lessor's sole discretion, or any subsequent update of such plan, cannot be agreed upon.



## **ARTICLE 7 – TITLE TO IMPROVEMENTS; USE; REQUIRED MAINTENANCE; REMOVAL**

### **7.1. Title to Improvements.**

7.1.1. Title During Lease Term and Upon Early Termination. Title to all Improvements constructed by or at the request of Lessee shall remain in Lessee during the Lease Term. Upon the termination of this Lease, all Improvements shall be removed by Lessee and the Leased Premises restored by Lessee pursuant to the approved Decommissioning and Reclamation Plan, unless Lessor exercises its option to acquire title pursuant to Sections 2.3.4 or 7.1.2.

7.1.2. Title Upon Termination for Uncured Default. Upon the termination of this Lease for Lessee's uncured default, as provided herein, and at Lessor's sole option, title to the Improvements shall vest in Lessor by operation of law without any further action required by Lessor if Lessee has not removed all Improvements within nine (9) months of such termination, weather permitting, and completed the requirements of the Decommissioning and Reclamation Plan. Lessee, or Lessee's successor-in-interest, shall prepare and record any documents that Lessor may require to evidence such ownership in Lessor. Any security interest in the personal property constituting the Improvements is subject to the terms of this Article 7.

7.1.3. Further Disposition of Title. In the event Lessor leases the Leased Premises to a new lessee for continued Renewable Energy Purposes following the termination of this Lease for uncured default, Lessor shall sell the Improvements to the new lessee. Lessor shall apply the proceeds of such sale first to any Rents due and owing from Lessee at the time of the sale, next to reimbursement for all costs related to such sale, and last will pay the remainder, if any, to Lessee, or Lessee's successor-in-interest. Upon payment to Lessor, title to such Improvements shall vest in the new lessee and be subject to the terms of the State's lease with the new lessee. The value of the Improvements shall be as agreed between Lessor and Lessee, or Lessee's successor-in-interest; provided however, that if the Parties are unable to agree, the value shall be determined through an independent appraisal that determines the current market value of the Improvements. Lessee, or Lessee's successor-in-interest, and Lessor shall each be responsible for one-half (1/2) of the cost of such appraisal, which may be recovered by Lessor as a cost of sale.

**7.2. Removal.** Lessee must not remove Improvements from the Leased Premises without Lessor's prior written approval, which will not be unreasonably withheld or conditioned, other than as is necessary for modification or replacement of such Improvements, as is routine in Lessee's ordinary course of business. Lessee must continue to maintain and restore or replace Improvements on the Leased Premises sufficient to maintain the operations for Electrical Power Production. Any Renewable Energy Facilities and Improvements at or near the end of their useful life, which are not necessary for operations, may be removed by Lessee in accordance with the Decommissioning and Reclamation Plan or as approved by Lessor.

**7.3. Use and Operation of Renewable Energy Facilities and Improvements.** Use and operation of the Renewable Energy Facilities and Improvements on the Leased Premises shall be in conformance with the terms of this Lease and shall comply with all applicable federal, state and local laws and rules, and safety standards whether currently existing, amended, or enacted during the term of this Lease, including Environmental Laws.

**7.4. Maintenance of Renewable Energy Facilities and Improvements.** During the Lease Term, Lessee, at its sole expense, shall keep and maintain all of the Renewable Energy Facilities and Improvements in good condition and repair; and shall make all necessary repairs, replacements, and renewals, whether structural or nonstructural, foreseen or unforeseen, ordinary or extraordinary, in order to maintain such state of repair and condition within 180 days of the discovery of the need for repair, replacement, or renewal, unless other timeframe is approved by Lessor in writing. It is the intention of the Parties that Lessor shall have no liability for any of the foregoing. Lessee will not be required to restore, repair, or replace any Renewable Energy Facilities or Improvements that are at or near the end of their

useful life unless it is necessary to maintain the operations for Electrical Power Production. Lessee, at Lessee's expense, shall be responsible for all Improvements, additions, alterations, maintenance, and repairs necessary or appropriate such that the Leased Premises and all Renewable Energy Facilities and Improvements are in compliance with applicable law. Lessee waives any provisions of applicable law that may require any duty of repair by Lessor, or permit Lessee to make repairs at the expense of Lessor.

#### **7.5. Repair and Replacement: Damaged Renewable Energy Facilities and Improvements.**

7.5.1. Continuation of Lease. Except as provided in Section 15.5, no loss or damage by fire or any other cause resulting in either partial or total destruction of the Leased Premises, or of any Renewable Energy Facilities or Improvements now or hereafter located in or on the Leased Premises, or any fixtures, equipment, or machinery used, or intended to be used, in connection with the Leased Premises or the Renewable Energy Facilities or Improvements thereon, may operate to terminate this Lease or to relieve or discharge Lessee from the payment of any Rents due or payable under this Lease, or from the performance and observance of any of the agreements, covenants and conditions contained in this Lease to be performed and observed by Lessee. Nothing in Section 7.5.1 shall limit Lessee's right to terminate under Section 3.5.1.

7.5.2. Restoration. In the event of any damage by fire or any other cause resulting in either the partial or total destruction of any Renewable Energy Facilities or Improvements now or hereafter located in or on the Leased Premises, or any fixtures, equipment, or machinery used, or intended to be used, in connection with the Leased Premises or the Renewable Energy Facilities or Improvements, Lessee shall, at its sole expense and whether or not the insurance proceeds, if any, on account of such damage or destruction shall be sufficient for the purpose, promptly commence and complete the restoration, replacement, or rebuilding of the Renewable Energy Facilities and Improvements, fixtures, equipment, or machinery, as nearly as possible to its value, condition, and character immediately prior to such damage or destruction. Nothing in Section 7.5.2 shall limit Lessee's right to terminate under Section 3.5.1.

7.5.3. Application of Insurance Proceeds. Insurance proceeds paid on account of any damage to or destruction of the Leased Premises, or any Renewable Energy Facilities, shall be applied first to restoration of the Renewable Energy Facilities, and any associated, material fixtures, equipment, or machinery. Lessor may elect to require that such insurance proceeds be paid into a depository chosen by Lessor and held pending payment of costs and expenses of restoration of both the Leased Premises and the Renewable Energy Facilities. Nothing in Section 7.5.3 shall limit Lessee's right to terminate under Section 3.5.1.

**7.6. Cooperation with Government Agencies and Third Parties.** As provided in this Lease, Lessor shall timely act in its review of, or response to, information or requests for information related to the Project. An authorized representative of IDL will participate in meetings with government agencies or other third parties regarding the Project, at Lessee's request, or when otherwise deemed appropriate by IDL. Lessor will assist in the provision of public records that may relate to the Leased Premises or the Project, at Lessee's request, or when otherwise deemed appropriate by IDL.

**7.7. Cooperation with Lenders.** Within thirty (30) calendar days of receipt of request from Lessee, or from any existing or proposed lender of Lessee, Lessor shall execute an estoppel certificate i) certifying that this Lease is in full force and effect and has not been modified, or, if the same is not true, stating the current status of this Lease; ii) certifying to the best of Lessor's knowledge there are no uncured events of default under this Lease, or, if any uncured events of default exist, stating with particularity the nature thereof; and iii) containing any other certifications as may be requested. Any such statements may be conclusively relied upon by Lessee or any existing or proposed lender.

### **ARTICLE 8 – PERFORMANCE SECURITY**

#### **8.1. Performance Security Generally.**

8.1.1. Acceptable Types of Security. Acceptable types of security under this Lease include bonds, irrevocable letters of credit ("**Letters of Credit**"), cash bonds, or cash (collectively or individually "**security**"). All security must be in a form acceptable to, and approved by, Lessor and conditioned on Lessee's compliance with the following: all laws and rules of the State, all provisions of this Lease, and any terms or conditions imposed by any State agency. All bonds must be issued by an Idaho qualified U.S. Bonding Corporation, and any Letters of Credit must be issued by an FDIC insured bank located in the state of Idaho or with an approved intermediary facilitating bank located in Idaho for purposes of presentation and payment on the Letters of Credit in Idaho. Any bond or Letters of Credit shall be subject to Lessor's approval. Any bond or Letters of Credit shall provide for notice to Lessor prior to any cancellation or lapse thereof. The approved security shall be in place prior to and throughout each applicable phase of the lease through the life of the lease.

8.1.2. Procurement and Maintenance of Security; Breach. Upon the failure of Lessee to procure and maintain any required security during the Lease Term, Lessor may terminate this Lease after Notice of Default and Lessee's failure to cure within the time set forth in the Notice of Default. A substitute bond or Letters of Credit, or an extension of the expiration date of any existing bond or Letters of Credit must be received by Lessor no later than one hundred twenty (120) calendar days before the expiration or termination of the bond or Letters of Credit. Failure to provide notice of such replacement or extension one hundred twenty (120) days prior to the expiration or termination will constitute a material breach of this Lease and will be grounds for Lessor to terminate this Lease, or to pursue any other remedy at law or in equity, including presenting any such Letters of Credit for payment, or to make demand under any such bond. Presentation of any such bond or Letters of Credit, or the demand and payment under any such bond or Letters of Credit or forfeiture of cash, will in no way limit the liability or obligations of Lessee, or the rights and remedies of Lessor under this Lease. The form of any bond or Letters of Credit must be presented to Lessor for acceptance in writing by Lessor prior to the issuance of the bond or Letters of Credit. The bond or Letters of Credit may be rejected as insufficient in Lessor's discretion, or may be modified or amended as required by Lessor.

8.1.3. Lessor Determined Security. The amount of bond or Letters of Credit to be obtained by Lessee, or cash from Lessee, for each phase of Lessee's operations described in this Lease, including Sections 8.2, 8.3, and 8.4 and any adjustment under Section 8.1.4, will be determined in writing by Lessor and will be based on the then-current cost as determined by Lessee and reviewed by Lessor, plus fifteen percent (15%) (including, but not limited to, costs to transport and deposit all materials to a recycling or disposal facility, net of salvage value), of a third-party contractor's completion of the Decommissioning and Reclamation Plan as may be required for each phase and as provided by Lessee, or as otherwise determined by Lessor. In the alternative, and at Lessee's sole cost, the Parties may hire a mutually agreeable third party to estimate and recommend appropriate amount of security for each phase under this Lease. In addition to the financial assurances and/or security referenced in Sections 8.2, 8.3, and 8.4 and any adjustment under Section 8.1.4, a bond shall be in place sufficient to cover two years' rent extending through the complete reclamation upon termination, should operations cease for any reason, including through the complete reclamation of the Leased Premises in accordance with the terms and conditions of the Lease.

8.1.4. Adjustment of Security Amount. At intervals of not less than five (5) years, and after approval of the Construction Plan and the Decommissioning and Reclamation Plan, Lessor may, following consultation with Lessee, require Lessee to revise the construction or reclamation cost estimate to reflect then-current third-party costs for the work and materials necessary to complete the Construction Plan or the Decommissioning and Reclamation Plan. Within thirty (30) calendar days of receipt of such revised estimate, Lessee shall cause the existing security to be adjusted to reflect the amount of the revised estimate.

**8.2. Research and Analysis Security.** Lessee shall furnish the requisite security within sixty (60) calendar days of Lessor's receipt of the Research and Analysis Plan, pursuant to Sections 4.1 and 6.2. Said security must be in favor of Lessor to protect Lessor against any and all loss due to Lessee's failure to reclaim areas disturbed by the Research and Analysis activities; payment of any amount of Rent that is

past due and owing to Lessor pursuant to this Lease; or, if security remains following reclamation and payment of owed Rent, Lessee's failure to pay contractors, subcontractors, and others who provided goods and services to Lessee in relation to the Leased Premises. The period of liability of the Phase 1 security shall not be terminated until the completion of the Phase 1 activities and satisfactory reclamation of all affected areas, if required; the expiration of the timeframe under applicable law for filing of lien claims with respect to any work on the Leased Premises performed during Phase 1; written notice by Lessee to Lessor certifying the satisfaction of such events; and the written consent of Lessor regarding release of such security, which consent will not be unreasonably withheld. Following the period of liability of the Phase 1 security, the applicable security will be released by Lessor.

**8.3. Construction Security.** Prior to the commencement of Phase 2, Lessee shall furnish the requisite security. Said security must be in favor of Lessor to protect Lessor against any and all loss due to Lessee's failure to complete construction in accordance with the Construction Plan; payment of any amount of Rent that is past due and owing to Lessor pursuant to this Lease; or, if security remains following reclamation and payment of owed Rent, Lessee's failure to pay contractors, subcontractors, or others who provided goods and services to Lessee in relation to the Leased Premises. The period of liability of the Phase 2 security shall not be terminated until the completion of construction of all Improvements to be constructed, and any other work to be performed on the Leased Premises under the Construction Plan, or completion of reclamation of all affected areas; the expiration of the timeframe under applicable law for filing of lien claims with respect to such construction; written notice by Lessee to Lessor certifying the satisfaction of such events; and the written consent of Lessor regarding release of such security, which consent will not be unreasonably withheld. Following the period of liability of the Phase 2 security, the applicable security will be released by Lessor.

**8.4. Operating and Reclamation Security.** Prior to the commencement of Phase 3, Lessee shall furnish the requisite security. Said security must be in favor of Lessor to protect Lessor against any and all loss due to Lessee's failure to complete reclamation of all affected area pursuant to the Decommissioning and Reclamation Plan; payment of any amount of Rent that is past due and owing to Lessor pursuant to this Lease; or, if security remains following reclamation and payment of owed Rent, Lessee's failure to pay contractors, subcontractors, or other who provided goods and services to Lessee in relation to the Leased Premises. Security for the Decommissioning and Reclamation Plan shall be based on the cost for completion of the Decommissioning and Reclamation Plan, as agreed upon by the Parties or mutually agreed third party, determined at the execution of the Lease, plus fifteen percent (15%) including, but not limited to, costs to transport and deposit all materials to a recycling or disposal facility, net of salvage value) or as other requested by Lessor. The period of liability of said Phase 3 and Phase 4 security shall not terminate until all terms and conditions of the approved Decommissioning and Reclamation Plan have been completed in accordance with Sections 4.4 and 6.4; any amount of Rent that is past due and owing to Lessor is paid; the expiration of the timeframe under applicable law for filing of lien claims; written notice by Lessee to Lessor certifying the satisfaction of such events; and the written consent of Lessor regarding release of such security, which consent will not be unreasonably withheld. Following the period of liability of such security, the applicable security will be released by Lessor.

## **ARTICLE 9 - INSURANCE AND INDEMNIFICATION**

**9.1. Required Insurance; Special Endorsements.** For the duration of this Lease and until all activity in accordance with this Lease is completed, Lessee shall have and maintain, at Lessee's sole expense, the policies of insurance set forth below. Lessee must comply with all terms and conditions of such insurance, and must require all of its contractors and subcontractors to maintain the same types of insurance and limits. By requiring the insurance policies, Lessor does not represent that coverage and limits will be adequate to protect Lessee; and such coverage and limits will not be deemed as a limitation on Lessee's liability to Lessor or under any obligations or indemnities granted to Lessor in this Lease.

**9.1.1. Commercial General Liability.** Lessee shall maintain commercial general liability ("CGL") with a combined limit of not less than Three Million Dollars (\$3,000,000) per each occurrence. If such CGL insurance, or any umbrella policy, contains a general aggregate limit, it must apply separately to the Leased



Premises, must not be less than Three Million Dollars (\$3,000,000), and must provide that defense costs will be and remain outside policy limits. Lessee waives all rights against Lessor and any additional insured for recovery of damages to the extent these damages are covered by the CGL or commercial umbrella liability insurance maintained pursuant to this Lease. CGL insurance and any umbrella policy shall:

A. Be in a form and from an insurance company satisfactory to Lessor and must cover liability for bodily injury, property damage, personal and advertising injury, and completed operations arising from Lessee's use or occupation of the Leased Premises including, without limitation, operations, independent contractors, products, completed operations, personal injury, advertising injury, and liability assumed under an insured contract, including the tort liability of another assumed in a business contract.

B. Include a waiver of subrogation in favor of the State, the Board, and IDL, as further described in Section 9.1.11.

C. Include the State, the Board, IDL, and all their officers, agents, and employees as additional insureds with respect to Lessee's activities to be performed under this Lease. Such status as additional insureds must be evidenced by an endorsement acceptable to Lessor.

D. Include liability and property damage coverage that will protect Lessee and the State, the Board, and IDL from claims for damages for bodily injury, including accidental death, as well as for claims for property damages, which may arise from operations under this Lease.

E. Not contain exclusions related to any equipment and operations for the Project, explosion, fire, collapse, or property damage hazards.

9.1.2. Builders Risk/Installation Floater Insurance. During the course of any construction or alteration of Renewable Energy Facilities or Improvements on the Leased Premises by Lessee, Lessee must maintain in force, at its own expense, Builders Risk/Installation Floater Insurance, including soft costs and any offsite locations, on an all risk of direct physical loss form, including earthquake and flood, for an amount proportionate to the amount of the construction contracts performed on the Leased Premises. Any deductible amount must not exceed Two Hundred Fifty Thousand Dollars (\$250,000) for each loss, except earthquake and flood deductibles which must not exceed two percent (2%) of the value at risk at the time of each loss or Two Hundred Fifty Thousand Dollars (\$250,000) for each loss, whichever is more. Alternatively, Lessee may provide a complete copy of Builders Risk/Installation Floater Insurance coverage held by Lessee's contractor, which provides at least equivalent coverage, for the entire project of which the Renewable Energy Facilities and Improvements to be constructed pursuant to this Lease are a part.

9.1.3. Property Insurance for Leased Premises. Lessee must, throughout the Lease Term, at Lessee's expense, keep and maintain in full force and effect commercial property insurance covering the Renewable Energy Facilities and Improvements located on the Leased Premises. Commercial property insurance must, at a minimum, cover all perils insured under the ISO Special Causes of Loss Form and loss from earthquake and flood, as required in the Builders Risk Insurance. The amount insured must equal the full estimated replacement cost of the property insured. Any coinsurance requirement in the policy must be eliminated through the attachment of an agreed amount endorsement, the activation of an agreed value option, or as otherwise appropriate under the particular policy form. Lessor must be included as a loss payee under the commercial property insurance, and such status as an additional insured must be evidenced by an endorsement acceptable to Lessor. During Phase 3 of this Lease, Lessee must purchase, as part of Lessee's property insurance, business income, business interruption, extra expense or similar coverage, for actual loss sustained. In no event will Lessor be liable for any business interruption or other consequential loss sustained by Lessee.

9.1.4. Automobile and Umbrella Liability Insurance. Lessee must maintain during the Lease Term, at Lessee's expense, business automobile liability coverage and, if necessary, a commercial umbrella liability insurance with a limit of not less than One Million Dollars (\$1,000,000) each accident. Such insurance must cover liability arising out of any automobile used on or in relation to the Leased Premises, including owned, hired, and non-owned automobiles.

9.1.5. Workers Compensation and Employers' Liability Insurance. Lessee shall maintain workers compensation and employer's liability insurance in accordance with all state and federal law requirements. The employer's liability shall have limits not less than One Million Dollars (\$1,000,000) per occurrence for bodily insurance by accident, Five Hundred Thousand Dollars (\$500,000) disease policy limit, and Five Hundred Thousand Dollars (\$500,000) disease, per each employee. Lessee is responsible for workers compensation insurance for contractors and subcontractors who provide services under this Lease. Lessee must provide either a certificate of workers compensation insurance issued by a surety licensed to write workers compensation insurance in the state of Idaho, as evidence that the Lessee has in effect a current Idaho workers compensation insurance policy; or an extraterritorial certificate approved by the Idaho Industrial Commission from a state that has a current reciprocity agreement with the Idaho Industrial Commission.

9.1.6. Aviation Liability Insurance. If Lessee or its contractors or subcontractors utilize drones or other aviation equipment in relation to any activity on the Leased Premises, and if such insurance described in this Section 9.1.6 is available and is not part of Lessee's Commercial General Liability insurance, or is not provided by Lessee's contractors or subcontractors, Lessee or its contractors or subcontractors, as the case may be, must, prior to such use, procure and maintain for the duration of the drone usage on the Leased Premises aviation liability insurance against claims for injuries to persons or damage to property which may arise from or in connection with the ownership, maintenance or use of the Unmanned Aerial Vehicle, a.k.a. drone. The aviation liability insurance must have products and completed operations, property damage, and bodily injury limits no less than one million dollars (\$1,000,000) per occurrence, and two million dollars (\$2,000,000) aggregate.

9.1.7. Certificates of Insurance. Lessee shall furnish certificates of insurance to Lessor before Lessee commences any work. Each of Lessee's contractors and subcontractors shall provide certificates of insurance to Lessor prior to the start of the contractor's or subcontractor's work related to this Lease. Every certificate or endorsement must show the policy number and the policy effective dates. Failure of Lessor to demand every certificate or other evidence of full compliance with these insurance requirements, or failure of Lessor to identify a deficiency in coverage shall not be construed as a waiver of Lessee's obligation to maintain such insurance. If Lessee's liability policies do not contain the standard ISO separation of insured provision, or a substantially similar clause, they will be endorsed to provide cross-liability coverage.

9.1.8. Subject to Approval. Within thirty (30) calendar days of Lessor's receipt of any certificate of insurance, Lessor may request additional information from Lessee, or provide written comments and recommendations, or provide in writing required changes to the insurance coverage if such coverage is not compliant with the requirements of this Article 9. The Parties will discuss Lessor's recommended or required changes at either Party's request.

9.1.9. Primary Basis. Lessee's insurance must be issued on a primary basis, non-contributory with any other insurance coverages or self-insurance programs afforded to, and non-contributory with, any additional insured, or carried by the State.

9.1.10. Acceptable Insurer's Qualifications; Deductibles. Insurance coverage required under this Lease shall be obtained from insurers rated A-VII or greater in the latest AM Best Rating Guide and in good standing and authorized to transact business in Idaho. Lessee shall be financially responsible for all deductibles. The coverage provided by all required policies will be primary to any coverage of the State on or related to this Lease and shall provide that the insurance afforded applies separately to each insured against whom a claim is made, except with respect to the limitation of liability.

9.1.11. Waiver of Subrogation. All policies listed above shall contain waivers of subrogation. Lessee waives all rights against the State, the Board, IDL, and all officers, employees, and agents for recovery of damages to the extent these damages are covered by the required policies. Policies may contain deductibles, but such deductibles will not be deducted from any claim payment or damages due to Lessor. Lessee agrees to obtain any endorsement that may be necessary to effectuate this waiver of

subrogation; but, this provision applies regardless of whether Lessor has received such endorsement from the insurer.

9.1.12. Advance Notice. Lessee must provide a minimum of thirty (30) calendar days' advance written notice of cancellation, material change, or nonrenewal of policies required under this Lease. If the insurance carrier refuses to provide notice to Lessor, Lessee must notify Lessor in writing of any cancellation or reduction in coverage or limits of any insurance within seven (7) calendar days of receipt of insurer's notification to that effect. Lessee shall ensure that should any of the above-described policies be cancelled before the expiration date, or if there is a material change, potential exhaustion of aggregate limits or intent not to renew insurance coverage, that written notice will be delivered to Lessor in accordance with this Lease.

9.1.13 Environmental Impairment and Pollution Liability Insurance. Lessee shall maintain during the term of this Lease, at Lessee's expense, Environmental Impairment and Pollution Liability (EIPL) insurance with a limit of not less than five million dollars (\$5,000,000) per pollution condition, and with a limit of not less than five million dollars (\$5,000,000) annual aggregate, with coverage for the following: (1) bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death; (2) property damage including physical injury to or destruction of real or personal property including the resulting loss of use of the Leased Premises and other property, cleanup costs, removal, storage, disposal and the loss of use of real or personal property that has not been physically injured or destroyed; (3) disposal of, or pollution from, Hazardous Substances off-lease, in an authorized unit, or at non-owned sites; (4) defense costs, including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages. Such limits must apply separately to the Leased Premises and must provide that defense costs will be and remain outside policy limits.

Coverage must apply to sudden and non-sudden pollution conditions including the discharge, dispersal, release or escape of smoke, vapors, steam, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere, ground water, or any watercourse or body of water, which results in bodily injury or property damage. Lessor, its officials and employees must be covered as additional insureds as with respect to liability arising out of activities performed by or on behalf of Lessee. The coverage must contain no special limitations on the scope of protection afforded to Lessor, its officials or employees. If Lessee is responsible for removing any pollutants from the Leased Premises, then Lessee's automobile liability insurance should be endorsed to include the required auto pollution endorsements MCS-90 and the CA-9948 endorsement.

Lessee's EIPL policy must provide policy limits on a per incident basis. The policy must be maintained for the length of the Lease with the retroactive date being the date the Lease is signed. Multi-year policy terms are acceptable. Lessee warrants that continuous coverage will be maintained and evidence of such insurance must be provided for at least five (5) years after termination of lease. If coverage, once required, is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the date of the Lease or the beginning of such work activities, the contractor must purchase "extended reporting" coverage for a minimum of five (5) years after the termination of the Lease. For any claim related to this Lease, Lessee's insurance coverage must be primary insurance with respect to Lessor, its officials and employees. Any insurance or self-insurance maintained by Lessor will be excess of Lessee's insurance and will be noncontributing. Lessee's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

**9.2. Payment of Premiums – Policy Renewals – Lessor's Right to Purchase.** Lessee shall pay all premiums and be responsible for all deductibles for all of the insurance policies it is required to carry under the terms of this Lease. Lessee shall deliver evidence of such payments to Lessor. Lessee shall renew all expiring policies, and shall furnish Lessor with certificates showing such renewed policies at least ten (10) business days before the policy's expiration date. If Lessee fails to maintain any insurance policy required under this Article 9, then such failure will be an event of default under this Lease, and Lessor shall have the right, but not the obligation, to purchase said insurance at Lessee's expense, in addition to any other remedy available under this Lease, or at law or in equity. Lessor's election to pay any such insurance obligation shall not act as a waiver or release of Lessee's default. In the event of Lessor's election to pay, Lessee shall, upon Lessor's demand, repay to Lessor the amounts so paid, including reasonable attorney fees and

all other court costs and expenses reasonably incurred because of or in connection with such payments, together with interest thereon at the Default Rate. Lessor may collect or enforce any such payment in the same manner as though it were an installment of Rent to be paid by Lessee. As Rent, such payment shall be due on the day when Lessor demands repayment of or reimbursement therefor.

**9.3. Indemnification by Lessee.** During the Lease Term, Lessee shall indemnify and hold harmless Lessor, including Lessor's officers, agents, and employees against any and all losses, claims, actions, debts, demands, obligations, judgments for damages or injury to persons or property, which may be made against Lessor, or against its title in the Leased Premises, arising out of, or in connection with, any alleged act or omission of Lessee or any person claiming under, by, or through Lessee. If it becomes necessary for Lessor to defend any action seeking to impose any such liability, Lessee shall pay Lessor all costs of court, litigation expenses, and attorney fees incurred by Lessor in effecting such defense, in addition to all other sums that Lessor may be called upon to pay by reason of the default or the entry of a judgment against it in the litigation in which such claim is asserted. Without limiting the survival of any other provision of this Lease, this Section 9.3 shall survive the termination of this Lease and any cause of action to enforce it shall not accrue until Lessor's discovery of such losses, claims, actions, debts, demands, obligations, or judgments.

## **ARTICLE 10 – PERMITTED LEASEHOLD MORTGAGES**

### **10.1. Lessee's Right to Mortgage.**

10.1.1. Mortgage Right. Upon Lessor's prior written consent, which consent will not be unreasonably conditioned, withheld or delayed, with Lessor using best efforts to respond to such consent request review within ten (10) business days, and provided Lessee is not in default under the Lease, Lessee may encumber or hypothecate its interest in the leasehold estate created by this Lease by one or more mortgage, deed of trust, collateral assignment, or security agreement in this Lease or the Renewable Energy Facilities to a Lender, as defined below, or related to an approved assignment of Lessee's interest in this Lease together with an assignment of Lessee's interest in any Renewable Energy Facilities (individually and collectively "**Leasehold Mortgage**" or "**Mortgage**"), and in connection with any secured or unsecured financing or tax equity investment with any financial institution, person, or other entity that, from time to time, provides secured financing or tax equity for, or otherwise encumbers all, or part, of Lessee's interest in this Lease, the Renewable Energy Facilities, or the Project, collectively, with any security or collateral agent, indenture trustee, loan trustee or participating or syndicated lender involved in whole or in part in such financing, and their respective representatives, successors, or assigns (individually and collectively "**Lender**" or "**Mortgagee**"). Any mortgage or security interest created without Lessor's prior written consent shall be void.

A. No Lender will have any rights or obligations under this Lease until such time as it acquires Lessee's interests subject to the lien of Lender's mortgage by foreclosure, deed in lieu of foreclosure, or otherwise assumes the obligations of Lessee directly, as allowed under this Lease.

B. No Mortgage shall be valid or enforceable until written consent of the same is provided.

10.1.2. Lease Terms. Any Leasehold Mortgage and all rights acquired thereunder shall be subject and subordinate to all rights and interests of Lessor under this Lease, and any Mortgages shall be subject to each, and all of the covenants, conditions, and restrictions stated in this Lease. The length of any Leasehold Mortgage shall not exceed the Lease Term of this Lease. The encumbrance of this Lease through any Mortgage shall terminate if this Lease is terminated for any reason provided for in this Lease.

10.1.3. Notice to Lessor. Regardless of any other form of notice, actual or constructive, no Mortgagee of a Leasehold Mortgage on this Lease shall have the rights or benefits set forth in this Article 10, nor shall any of the provisions of this Article 10 be binding upon Lessor, unless and until a complete and correct copy of the fully executed note, or other tax equity or lending agreement, and any assignment thereof, shall have been delivered to Lessor. Lessee shall promptly provide Lessor with a copy of any



amendment, other modification, or supplement to such documents. In the event of a default on the Mortgage by Lessee, either or both Mortgagee and Lessee shall mail a copy of all related default notices to Lessor.

10.1.4. No Attachment to Fee Interest. Any mortgage or security interest shall secure only Lessee's leasehold interest and improvements owned by Lessee. Every Mortgage shall contain a statement which disclaims any interest or lien against Lessor's fee interest in the Leased Premises and provides that Lessor shall have no liability whatsoever in connection with any such Mortgage, or the instruments or obligations secured thereby.

10.1.5. Modification. Lessor and Lessee agree that, once all or any part of Lessee's interests in the Lease are mortgaged or assigned to a Lender, they will not modify this Lease without prior written consent of the Lender as set forth in this Lease. The Lender's consent will not be unreasonably conditioned, withheld or delayed, with the Lender using best efforts to respond to such consent request review within ten (10) business days.

10.1.6. Mortgagee Assignment. Any such Mortgage shall provide that, in the event of any assignment of the Mortgage, or in the event of a change of address of the interested party named in the Mortgage, notice of the new name and address shall be provided in writing to Lessor.

**10.2. Mortgage Protection.** If any Mortgage is entered into by Lessee, then any Mortgagee will, for so long as its Mortgage is in existence and until the lien thereof has been extinguished, be entitled to the protections set forth in this Article 10. Lessee will send written notice to Lessor of the name and address of any such Mortgagee or include such name and address in an estoppel certificate to be executed by Lessor. Failure of Lessee to give notice of any such Mortgagee will not invalidate such Mortgage.

**10.3. Mortgagee's Right to Possession; Right to Acquire; and Right to Assign.** A Mortgagee will have the right, subject to timely payment of all Rents due pursuant to Article 5 and to Lessor's consent, as applicable: (a) to assign its security interest; (b) to enforce its lien and acquire title to the leasehold estate by any lawful means; (c) to take possession of and operate the Renewable Energy Facilities or any portion thereof and to perform all obligations to be performed by Lessee hereunder, or to cause a receiver to be appointed to do so; and (d) to acquire the leasehold estate by foreclosure or by an assignment in lieu of foreclosure and thereafter to assign or transfer the leasehold estate to a third party. As applicable, Lessor's prior written consent will be required for the acquisition of the encumbered leasehold estate by a third party who is authorized to contract with the State of Idaho and acquires the same by foreclosure or assignment in lieu of foreclosure.

**10.4 Notice of Default; Opportunity to Cure.** Lessor will use best efforts to contemporaneously deliver a copy of any Notice of Default to each Mortgagee for which Lessor has received advanced written notice of such Mortgagee's interest, concurrently with delivery of such Notice of Default to Lessee. Failure of Lessor to give any such notice to each Mortgagee will not invalidate the Notice of Default. Any best effort by Lessor to provide such notice shall not minimize or replace any separate obligation of Lessee to provide any Mortgagee with any notice including a Notice of Default issued by Lessor.

10.4.1 Mortgagee Composition. To the extent that a Mortgagee may consist of more than one persons or entities, notice from Lessor to any one will be deemed notice to all constituting the Mortgagee. If there are multiple people or entities constituting said Mortgagee, then Mortgagee may identify which one person or entity shall be provided any and all notices from Lessor for all constituting the Mortgagee.

10.4.2. Default Period. The Mortgagee will have the same period after receipt of the Notice of Default to remedy the default, or cause the same to be remedied, as is given to Lessee under Section 3.5.3. In an event of default other than non-payment of Rents, and upon written notice of its election to cure under this Section 10.4.2, the Mortgagee will have an additional ninety (90) calendar days to cure the default. If Lessee or the Mortgagee has, within the applicable cure period, diligently and in good faith worked to correct the default, then Lessor shall extend the cure period for a length of time that Lessor believes to be reasonably necessary to complete the cure.

A. If the Mortgagee elects to substitute itself for Lessee and perform the duties of Lessee under this Lease for purposes of curing such defaults, the Mortgagee must advise Lessor, in writing, of its election.

B. Lessor hereby consents to such substitution, agrees to accept such performance, and authorizes the Mortgagee (or its employees, agents, representatives, or contractors) to enter upon the Leased Premises to complete such performance with all the rights, privileges, and obligations of the Lessee, including identification of subcontractors and key employees pursuant to Sections 4.7 and 4.8. Lessor will not exercise its rights to terminate this Lease prior to the expiration of the applicable cure period or extension of a cure period.

10.4.3. Payment of Rents. Prior to any period of possession of the Leased Premises, the Mortgagee shall remit to Lessor all Rents due and owing pursuant to Article 5. During any period of possession of the Leased Premises, and its corresponding rights, privileges and obligations, by a Mortgagee (or a receiver requested by such Mortgagee) and during the pendency of any foreclosure proceedings instituted by a Mortgagee, the Mortgagee shall pay or cause to be paid to Lessor all Rents including Royalty payments and all other monetary charges payable by Lessee under this Lease that have accrued and are unpaid at the beginning of said period and those accruing thereafter during said period. Following acquisition of Lessee's leasehold estate by the Mortgagee, or its assignee or designee as a result of either foreclosure or acceptance of an assignment in lieu of foreclosure, or by a purchaser at a foreclosure sale who is qualified to contract with the State of Idaho and perform under this Lease, this Lease will continue in full force and effect and the Mortgagee or party acquiring title to Lessee's leasehold estate will, as promptly as reasonably possible, commence the cure of all remaining defaults reasonably susceptible of being cured by the Mortgagee or party acquiring title hereunder, and thereafter will diligently process such cure to completion, whereupon such Events of Default will be deemed cured upon review and approval by Lessor.

10.4.4. Performance of Obligations. A Mortgagee who acquires Lessee's leasehold interest pursuant to foreclosure or assignment in lieu of foreclosure will be liable to perform the obligations of Lessee as established by this Lease so long as such Mortgagee has control or ownership of the leasehold estate, or control or possession of the Leased Premises.

10.4.5. Exception to Event of Default by Lessee's Bankruptcy or Insolvency. Neither the bankruptcy nor the insolvency of Lessee will be grounds for terminating this Lease as long as all obligations of Lessee under this Lease are performed by the Mortgagee. Lessee shall not make an assignment for the benefit of creditors without Lessor's prior written consent and shall not convey any title to any real or personal property in lieu of foreclosure without Lessor's prior written consent; and, pursuant to any such assignment for benefit of creditors or deed in lieu of foreclosure, the benefiting creditor or grantee under a deed in lieu of foreclosure shall continue the obligations of Lessee therefor, or the Lease may be terminated in Lessor's sole discretion.

10.4.6. Default Cured. Subject to the provisions of this Lease that survive its termination, nothing in this Article 10 will be construed to extend this Lease beyond the Lease Term or to require a Mortgagee to continue foreclosure proceedings after every Event of Default has been cured. If every Event of Default is cured and the Mortgagee discontinues foreclosure proceedings, then this Lease will continue in full force and effect.

10.4.7 Foreclosure. If the holder of a mortgage, security interest or mortgagee successfully forecloses against Lessee for default under the mortgage or security interest while the Lease remains in effect, and the holder of the mortgage or security interest or mortgagee sells or otherwise transfers or assigns the foreclosed interest to a successor, Lessor's prior written approval of such successor must be obtained before the transfer or assignment is effective. Prior to assuming the rights of a successor lessee under the Lease, the proposed purchaser or assignee of the foreclosed interest must first be approved in writing by Lessor, which approval shall be in Lessor's sole discretion and subject to the same qualifications and requirements as a valid assignee subject to Lessor's approval. Lessee shall not make an assignment for the benefit of creditors or issue a deed in lieu of foreclosure to any real or personal property without Lessor's prior written approval and subject to the terms of this Lease.

**10.5 Refinancing.** Lessee may refinance a Mortgage periodically provided that all of the following conditions are met:

10.5.1. The holder or Mortgagee of the new mortgage must be an institutional lender such as a bank, trust company, savings and loan association, insurance company, title insurance company, or other commercial business authorized and licensed to make mortgage loans in Idaho and in the county in which the Leased Premises are located;

10.5.2. The new mortgage given for refinancing shall comply with all of the provisions this Lease.

10.5.3. If the new Mortgage complies with the above-conditions, Lessee may execute, acknowledge, and deliver the new mortgage as a permitted Mortgage for the purpose of subjecting Lessee's respective interests in the Wind Energy Facilities and other Improvements to the lien thereof, and the new mortgage shall cover and be a lien on the Wind Energy Facilities or other Improvements, subject to the terms and conditions of this Lease.

**10.6 Mortgagee's Consent to Amendment, Termination, or Surrender.** Notwithstanding any provision of this Lease to the contrary, so long as there exists an unpaid Mortgage that Lessor has written notice of, Lessor will not accept a voluntary surrender of the Leased Premises or any part thereof or a voluntary termination, or a voluntary release of this Lease from Lessee prior to expiration of the Lease Term without the prior written consent of the Mortgagee. This provision is for the express benefit of and will be enforceable by such Mortgagee. Upon termination of the Lease for any reason, all mortgages and security interests shall also automatically terminate.

**10.7 No Waiver.** No payment made to Lessor by a Mortgagee will constitute an agreement that such payment was, in fact, due under this Lease, and a Mortgagee, having made any payment to Lessor pursuant to Lessor's incorrect or mistaken notice or demand will be entitled to the return of any such payment, as required by Idaho law.

**10.8 Estoppel Certificates.** Upon at least thirty (30) calendar days' prior written notice from the other Party, the responding Party shall execute, acknowledge, and deliver to the requesting Party, or any third party specified, a statement certifying that this Lease is unmodified, and in full force and effect, or if there have been modifications, that this Lease is in full force and effect as modified and stating the modifications; the dates to which the Rents payable under this Lease have been paid; and stating whether or not, to the best knowledge of and based upon current information available to the signer of the certificate, the requesting Party is in default in the performance of any covenant, agreement, or condition contained in this Lease and, if so, specifying each such default of which the signer may have knowledge, and further certifying as to such other matters relating to this Lease as may be reasonably requested. It being the Parties' intent that any such statement delivered pursuant to this section may be reasonably relied on by any prospective purchaser or assignee of either Party's interest in the Leased Premises, or by either Party; provided however, that any such notices between the Parties shall not be deemed a waiver of any actual default or breach of any provision of this Lease.

## **ARTICLE 11 – PAYMENT OF EXPENSES, UTILITIES AND TAXES**

**11.1. Lessee's Obligation.** On or before any due date, Lessee agrees to pay any and all real or personal property taxes, assessments, or fees of any nature that may be legally assessed or levied against Lessee or the Leased Premises, or any portion of the Leased Premises, or on any Improvements. Lessee shall make such payment directly to the taxing authority and hold Lessor harmless from any such tax, assessment, or fee.

**11.2. Contesting Taxes.** Lessee may contest the validity of any tax, assessment, or fee for which Lessee is responsible under this Lease, as long as such contest is pursued in good faith and with due diligence, and Lessee has paid the obligation in question or posted the financial assurance, discussed

below, in the event of an adverse determination. Lessee will not be in default of Section 11.1, provided that written notice is given to Lessor of Lessee's intention to contest the tax, assessment, or fee; and, provided that Lessee furnishes Lessor with a bond made by a surety company qualified to do business in the state of Idaho, or pays cash to a recognized escrow agent in the County in which the Leased Premises are located, or as otherwise agreed in writing by Lessor, equal to one hundred and ten percent (110%) of the amount of the tax or obligation Lessee intends to contest, conditioned on payment when the validity of such tax or obligation has been determined. Lessee shall give Lessor written notice and post the financial assurance not later than sixty (60) calendar days before the contested tax, assessment, or fee is due.

**11.3. Triple Net Lease; Lessor Obligations Not Altered.** This Lease is intended to be an absolute triple net lease, and Lessor shall not be required to make any expenditure, incur any obligation, or incur any liability of any kind whatsoever in connection with the ownership, construction, operation, maintenance, repair, or reconstruction of the Renewable Energy Facilities or other Improvements. Lessee understands that Lessor is exempt from payment of any federal, state, or local taxes.

## **ARTICLE 12 – LIENS AND ENCUMBRANCES**

**12.1 No Lien.** Lessee shall not cause, permit, or suffer any lien or encumbrance of any kind or nature to be placed on or enforced against Lessor's fee interest. Lessee shall not cause, permit, or suffer any lien or encumbrance of any kind or nature to be placed on or enforced against the Leased Premises, or Lessee's leasehold interest, or on or against any of the Renewable Energy Facilities or other Improvements without the written consent of Lessor, as set forth in Article 10. Lessee shall ensure that full payment is made for all labor performed for Lessee and for any and all materials joined or affixed to the Leased Premises, including any Improvements.

### **12.2 Release of Lien.**

12.2.1. If any claim of lien or encumbrance, other than as allowed in Article 10, is claimed on or filed against either Lessor's or Lessee's interest in this Lease, or any portion of or interest in the Leased Premises, then Lessee shall cause any such claim of lien or encumbrance to be released upon the earliest of the following periods: i) within thirty (30) calendar days after Lessee is given written notice of such claim or encumbrance; ii) within thirty (30) calendar days of a claim or encumbrance being filed or recorded; or iii) within thirty (30) calendar days after Lessor is given written notice of any such claim or encumbrance, and transmits written notice of the same to Lessee. Lessee must cause the release of any lien or encumbrance by: i) paying the lien or encumbrance holder; ii) paying to the court the amount necessary to relieve and release any such lien or encumbrance; or iii) any other manner that, as a matter of law, will result in the release of any such lien or encumbrance on or against any portion of, or interest in this Lease, the Leased Premises, the Renewable Energy Facilities or other Improvements, or Lessor's title.

12.2.2. Lessor will not allow any liens or encumbrances, arising out of work done or services performed on behalf of Lessor, to be placed on any Improvements unless such work or services are directly for or on the Renewable Energy Facilities or other Improvements and an event of uncured default by Lessee has occurred, or as otherwise allowed for in this Lease. If a lien is filed against any Improvement, arising out of any work done or services performed on behalf of Lessor unrelated to this Lease, Lessor will, at its own expense, take whatever action is needed to remove such lien within thirty (30) calendar days of when the Lessor receives written notice of the existence of such lien.

**12.3 Improvements Are Not Fixtures.** Lessor and Lessee agree that none of the Renewable Energy Facilities or other Improvements installed by Lessee shall constitute fixtures regardless of the manner in which such Improvements are attached to or installed on the Leased Premises.

## **ARTICLE 13 – HAZARDOUS MATERIALS**

### **13.1 Hazardous Substances.**



13.1.1. Lessee shall not cause or permit any Hazardous Substance to be brought upon, kept, used or generated by Lessee, its agents, employees, contractors, subcontractors, or invitees on the Leased Premises, unless the use or generation of the Hazardous Substance is necessary for the prudent generation, conversion, or transmission of Renewable Energy on the Leased Premises; or during the construction or preparation of the Leased Premises for the construction of the Renewable Energy Facilities or other Improvements; or for the maintenance of the Renewable Energy Facilities or other Improvements, and only if no functional and reasonably economic nonhazardous substance or process, which does not generate Hazardous Substances, can be used in place of the Hazardous Substance or the process which generates the Hazardous Substance. Other than for maintenance of inventories necessary for the prudent generation, conversion, or transmission of Renewable Energy on the Leased Premises, Lessee shall not cause or permit long-term storage of any Hazardous Substance on the Leased Premises.

13.1.2. In the event that Lessee must utilize Hazardous Substances for the prudent generation, conversion, or transmission of Renewable Energy on the Leased Premises, or the construction or preparation of the Leased Premises for the construction of the Renewable Energy Facilities or other Improvements, or the maintenance of the Renewable Energy Facilities or other Improvements, Lessee must provide to Lessor, prior to Phase 2, an HMWMP. The HMWMP must include, at a minimum, the following information: i) a detailed map indicating the planned location of all Hazardous Substance storage areas on the Leased Premises; ii) the location of spill containment and cleanup materials; iii) the location of drains in the storage areas and destination of those drains; iv) and the location of fire suppression equipment. The HMWMP shall include a detailed Spill Prevention Plan that includes information regarding the handling of Hazardous Substances and the procedures to be followed in the case of any spill.

13.1.3. All Hazardous Substances shall be marked in accordance with National Institute for Occupational Safety and Health (**NIOSH**) standards, and storage facilities will be marked in accordance with National Fire Protection Association (**NFPA**) 704 Hazardous Material Information System approved markings.

**13.2 Environmental Laws.** Lessee shall at all times and in all respects comply with all applicable Environmental Laws. Lessee's duty of compliance with such Environmental Laws includes the duty to undertake the following specific actions:

13.2.1. Lessee must, at its own expense, procure, maintain in effect, and comply with all conditions of any and all Government Approvals required by all applicable Environmental Laws, including permits required for discharge of appropriately treated Hazardous Substances into the ambient air, or any sanitary sewers serving operations on the Leased Premises; and

13.2.2. Except as discharged into the ambient air or a sanitary sewer in strict compliance with all applicable Environmental Laws, any and all Hazardous Substances to be treated or disposed by Lessee from the Leased Premises shall be removed and transported solely by duly licensed transporters to a duly licensed treatment or disposal facility for final treatment or disposal.

## **ARTICLE 14 – ASSIGNMENT; SUBLEASING**

### **14.1. Assignment.**

14.1.1. This Lease shall not be assigned to any other party without Lessor's prior written consent.

14.1.2. The Parties understand and acknowledge that Lessee, does intend on effectuating an assignment of this Lease during Phase 1. Such Lessee may receive pre-approval by Lessor of such assignment before or after this Lease is fully executed and effective, and before the requisite copies of final documents are filed with IDL, under Sections 14.3 and 14.5. Such pre-approval shall be provided by Lessor in which such assignment is to a "**Qualified Assignee**" that meets the following qualifications: i) an entity or individual that controls, is under the control of, or is under common control with Lessee, is at least as

financially capable as Lessee, is capable to fulfilling the obligations of Lessee, and assumes in writing the obligations of Lessee under this Lease; or ii) an entity or individual that is at least as financially capable as Lessee to perform the obligations of Lessee under this Lease, and is experienced, and has expertise acceptable to Lessor, in the ownership and operation of projects of like size, cost, and kind, or who has engaged a third party that is experienced in the ownership and operation of like size and kind to manage the Project, and assumes in writing the obligations of Lessee under this Lease. Lessor's approval of a Qualified Assignee may not be unreasonably delayed or withheld, provided however, without limiting Lessor's discretion, Lessor will have thirty (30) calendar days following Lessor's receipt of the proposed assignment form and supporting information, to request additional information, or provide written comments or concerns regarding Lessee's proposed Qualified Assignee. The Parties will discuss Lessor's comments or concerns at either Party's request. Upon Lessor's approval of a Qualified Assignee and provided that such Qualified Assignee has assumed in writing all of Lessee's duties and obligation under this Lease, such Lessee shall be relieved of all of its obligations arising under this Lease, from and after the effective date of assignment to a Qualified Assignee. Such Lessee shall deliver to Lessor complete and correct copies of the requisite documents, under Sections 14.3 and 14.5, within a reasonable amount of time of the effective date of the assignment, not to exceed ninety (90) calendar days.

**14.2. Responsibilities.** Except as stated in Section 14.1.2, any assignor and its surety shall continue to comply with this Lease and all Government Approvals until the effective date of the pre-approved assignment. After the effective date of such assignment, the assignee and its surety shall be bound by this Lease and all applicable Government Approvals to the same extent as if the assignee were the original lessee, irrespective of any conditions in the assignment to the contrary. The assignor shall remain liable for all Rents due and any damages accruing prior to the effective date of the assignment, and any provisions of this Lease that survive termination unless a written release is subsequently granted and executed by Lessor, which release shall be in Lessor's sole discretion.

**14.3. Overriding Royalty.** This Lease may be assigned with an overriding royalty interest. Any assignment that creates an overriding royalty that exceeds five percent (5%) of Gross Annual Revenue in any Lease Year during which the overriding royalty exists will be deemed a violation of this Lease. Lessee or any assignor-lessee must state whether it intends to grant overriding royalties in the application for lease assignment submitted to IDL. Lessor may suspend or terminate any overriding royalty if it affects the economic viability of Electrical Power Production or Renewable Energy Purposes. A reservation or assignment of an overriding royalty will not relieve any assignor-lessee of any obligations for payment of Rents to Lessor. Any reservation or assignment of overriding royalty by Lessee or any assignor-lessee must terminate upon the termination of this Lease.

**14.4. Sublease.** No part of Lessee's interest may be sublet without Lessor's express prior written consent. Any sublease must be expressly subject to all terms and conditions of this Lease, and shall provide no greater interest in the Leased Premises than Lessee has through this Lease. A correct and complete executed copy of the sublease agreement must be provided to Lessor prior to the effectiveness of any such sublease or Lessor's written approval thereof. If Lessor allows the sublease of the Lease, the following continuing obligations shall apply: i) Lessee shall remain liable to Lessor for the full performance of all obligations under this Lease; ii) the sublessee of Lessee, by accepting the sublease of this Lease, shall and does agree to abide by all terms of this Lease; and iii) such sublease shall be subject to all terms and conditions of this Lease, and to such other terms and conditions as Lessor may reasonably require. Any approved sublease will terminate upon termination of the Lease for any reason.

**14.5. Form of Assignment or Sublease.** An approved assignment or sublease must be a valid legal instrument, properly executed and acknowledged, stating the number of this Lease, a legal description of the Leased Premises, the name and address of the assignee-lessee or sublessee, the interest transferred, and the consideration. A fully executed copy of the instrument of assignment or sublease must be filed with IDL along with IDL's application of approval of an assignment form, and any processing fees. If an instrument of assignment or sublease partitions the Leased Premises between two or more assignees or sublessees, a separate application for assignment and filing fee must be filed for each assignee or sublessee and for each lease assigned.

**14.6. Limited Consent.** Any consent by Lessor, herein contained or hereafter given, to any act or assignment shall be held to apply only to the specific transaction, hereby or thereby approved. Such consent shall not be construed as a waiver of any duty of Lessee, or its successors or assigns, including Lessee's obligation to obtain Lessor's prior written consent to any other or subsequent assignment, sublease, mortgage, encumbrance, or as a modification or limitation of any right of Lessor.

## **ARTICLE 15 – ADDITIONAL LEASE PROVISIONS**

### **15.1. Hold Harmless; Indemnification.**

15.1.1. In no event shall any official, officer, employee, or agent of Lessor, or of the State, be in any way personally liable or personally responsible for any covenant or obligation contained in this Lease, whether expressed or implied, nor for any statement, representation, or warranty made by Lessor in connection with this Lease. In particular, and without limitation of the foregoing, no full-time or part-time agent or employee of Lessor shall have any personal liability or personal responsibility under this Lease, and the sole responsibility and liability for the performance of this Lease and all of the provisions and covenants herein contained pertaining to Lessor shall rest in, and be vested with, the State.

15.1.2. Lessee shall indemnify, defend, and save harmless Lessor, the State of Idaho, its officers, agents, employees, and volunteers from and against any and all liability, claims, damages, losses, expenses, actions, settlements, attorney fees, and suits whatsoever caused by, arising out of, or in connection with Lessee's acts or omissions under this Lease, or Lessee's failure to comply with any applicable state, local, or federal statute, law, regulation, rule, or ordinance.

15.1.3. Upon the receipt by Lessee of Lessor's or the State of Idaho's tender of indemnity and defense, Lessee shall immediately take all reasonable actions necessary, including providing a legal defense for Lessor and the State of Idaho, and to begin fulfilling its obligation to indemnify, defend, and save harmless Lessor and the State of Idaho. Lessee's indemnification and defense liabilities described herein shall apply regardless of any allegations that a claim or suit is attributable in whole or in part to any act or omission of Lessor under this Lease. However, if it is determined by a final judgment that Lessor's negligent act or omission is the sole proximate cause of a suit or claim, neither Lessor nor the State of Idaho shall be entitled to indemnification from Lessee with respect to such suit or claim, and Lessor and the State of Idaho in its discretion, may reimburse Lessee for reasonable defense costs attributable to the defense provided by any Special Deputy Attorney General appointed pursuant to Subsection 15.1.4.

15.1.4. Any legal defense provided by Lessee to Lessor and the State of Idaho under this section must be free of any conflicts of interest, even if retention of separate legal counsel for Lessee and, Lessor and the State of Idaho, is necessary. Any attorney appointed to represent Lessor or the State of Idaho must first qualify as and be appointed by the Attorney General of the State of Idaho as a Special Deputy Attorney General pursuant to Idaho Code §§ 67-1401(13) and 67-1409(1).

15.1.5. Without limiting the survival of any other provision of this Lease, this Section 15.1 will survive the termination of this Lease, and any cause of action to enforce this Lease will not accrue until Lessor and the State's discovery of such losses, claims, actions, debts, demands, obligations, or judgments.

**15.2. Public Records.** Pursuant to Idaho Code §§ 74-101 *et seq.*, information or documents received from Lessee may be open to public inspection and copying unless specifically exempt from disclosure. Lessee shall clearly designate individual documents as "exempt" on each page of such documents and shall indicate the statutory basis for such exemption. Lessor will not accept the marking of an entire document as exempt. In addition, Lessor will not accept a legend or statement on one (1) page that all, or substantially all, of the document is exempt from disclosure. Lessee shall indemnify and defend Lessor against all liability, claims, damages, losses, expenses, actions, attorney fees, and suits whatsoever for honoring any designation by Lessee, or for Lessee's failure to designate individual documents as

exempt. Lessee's failure to designate as exempt any document or portion of a document that is released by Lessor shall constitute a complete waiver of any and all claims for damages caused by any such release.

**15.3. Timber Removal.** Lessee will not interfere with the removal of timber purchased by a third party prior to or subsequent to the issuance of this Lease. The cutting or removal of timber is prohibited, other than that expressly permitted and authorized by Lessor, which approval will not be unreasonably withheld, conditioned, or delayed. Prior to Lessee cutting or removing timber from the Leased Premises, Lessor must be given written notice at least three (3) months in advance of the intended cutting or clearing operation. Lessee will reimburse Lessor for the value of any merchantable timber and pre-merchantable timber cut or cleared from the Leased Premises. The value for such timber will be established by Lessor using accepted fair market value appraisal techniques. Upon payment to Lessor, title to the timber shall pass to Lessee.

**15.4. Noxious Weed Control.**

15.4.1. Cooperation and Costs. Lessee shall cooperate with Lessor or any other agency authorized to undertake programs for control or eradication of noxious weeds. As may be necessary, Lessee shall take measures to control noxious weeds on the Leased Premises, except those resulting from activities beyond Lessee's control. Costs for control of noxious weeds on the Leased Premises shall be the responsibility of Lessee.

15.4.2. Weed Free. Prior to moving equipment onto the Leased Premises, Lessee shall use reasonable efforts to ensure that all equipment is free of noxious weeds and their seeds as defined by the Idaho Department of Agriculture and any local Coordinated Weed Management Area. Cleaning of contaminated equipment and vehicles shall not take place on the Leased Premises.

**15.5. Force Majeure.** If Lessor or Lessee is delayed, hindered, or prevented from performing any act required hereunder by reason of any act of God; strike; lockout; labor trouble; inability to procure materials; failure of power; restrictive government laws or regulations enacted after the Effective Date, which preclude activities that are the subject of this Lease; riot; insurrection; war; escalation of hostilities; or other reason beyond the Party's control making performance impossible, then performance of that act, and that act only, shall be excused for the reasonable period of the delay upon proper and satisfactory proof presented to Lessor. Notwithstanding the foregoing, the time for commencement of Phase 3 will not be extended unless the force majeure event impacts the entire Production Area. Lessor must be notified within fifteen (15) calendar days of any force majeure event. For that event, the period for the performance of the act shall be extended for a reasonable period equivalent to the period of the delay. Lessee shall work diligently to eliminate the delay and immediately notify Lessor when the reason for the force majeure event has ceased. Neither Lessee's financial condition nor the failure of any of Lessee's contractors or subcontractors or any other party with whom Lessee contracts shall be an event of force majeure excusing the performance of any act. The reduction or cessation of wind on the Leased Premises is not a force majeure event.

**15.6. Taxes.** Lessee shall pay when due any and all taxes lawfully assessed and levied under the laws of the State of Idaho upon Lessee's interest in the Leased Premises, including Renewable Energy produced under this Lease, and upon Improvements constructed, used, or maintained by Lessee on the Leased Premises.

**15.7. Time of Essence.** Time is expressly declared to be of the essence of each and every term, covenant, condition, duty, and obligation of this Lease.

**15.8. Promotion.** Except as allowed by Lessor's prior written approval, Lessee shall not use the name of Lessor, including the State Board of Land Commissioners, Idaho Department of Lands, State of Idaho, or any agency thereof; or the fact that any of Lessee's operations are conducted in whole, or in part, on State Endowment Trust Lands, in any advertisement or prospectus promoting the sale of stock. The reflection of this Lease as an asset of Lessee on the accountings, financial records and statements of Lessee shall not constitute a breach of this paragraph.

**15.9. Relationship of Parties.** Nothing contained in this Lease shall be construed as creating any



relationship between the Parties other than that of landlord and tenant; and nothing contained in this Lease shall be construed to create any other relationship between the Parties, including any relationship of principal-agent, master-servant, employer-employee, partnership or joint venture.

**15.10. No Waiver.** A waiver by Lessor of any breach of any term, covenant, or condition of this Lease shall not be deemed to be a waiver of any past, present, or future breach of the same or any other term, covenant, or condition of this Lease. The acceptance of Rent by Lessor hereunder shall not be construed to be a waiver of any violation of any terms or conditions of this Lease. No payment by Lessee of a lesser amount than is due according to the terms of this Lease shall be deemed or construed to be anything other than a partial payment on account of the most recent Rent payment due, nor shall any endorsement or statement on any check or letter accompanying any payment be deemed to create an accord and satisfaction.

**15.11. Entire Agreement.** This Lease (comprised of the Summary, the Lease provisions, Signature Page, and all Attachments, which are incorporated herein by reference, including any Special Terms and Conditions, as amended) contains the entire agreement between the Parties concerning the subject matter hereof and supersedes any and all prior agreements. The execution of this Lease has not been induced by either Party, or any agent of either Party, by representations, promises, or undertakings not expressed herein and, further, there are no collateral agreements, stipulations, covenants, promises, inducements, or undertakings whatsoever between the respective parties concerning this Lease except those which are expressly contained herein.

**15.12. Written Modifications.** Except as provided herein, no modification, extension, assignment, release, discharge, change, or waiver of any provision of this Lease shall be of any force, effect, or value unless signed in writing by Lessor, or its duly authorized agent.

**15.13. Severability.** In the event any provision of this Lease shall be held invalid or unenforceable under applicable Idaho law, the validity, legality, or enforceability of the remaining provisions, and the application thereof, shall not in any way be affected or impaired. In such event, the remaining provisions of this Lease shall be interpreted as closely as possible to provisions held invalid or unenforceable.

**15.14. Notices.** All notices between the Parties in connection with this Lease shall be in accordance with terms of this Lease. Any notice given in connection with this Lease shall be in writing and shall be delivered to the other Party by hand; by certified mail, postage prepaid, return receipt requested; or by email transmittal (provided receipt of the email is confirmed by a reply email or by telephone), as indicated below. Notice shall be deemed delivered immediately upon personal service, email transmission, or forty-eight hours after depositing notice in the United States mail. If any type of "undeliverable" message is received by the Party transmitting an email, delivery shall be presumed to not have occurred. If a Party shows that the person assigned to an email address was no longer employed by the Party at the time of transmittal, delivery shall be presumed to not have occurred. The notices shall be sent to the addresses stated on the Summary. Either Party may change the place for giving notice by written notice to the other Party.

**15.15. Joint Liability.** If Lessee consists of more than one person or entity, such persons and entities shall be jointly and severally liable for each term, condition, covenant, duty and obligation of this Lease.

**15.16. Cumulative Remedies.** Arising from this Lease, Lessor shall have all rights and remedies which this Lease and the laws of the State of Idaho may provide, in law or in equity. All rights and remedies accruing to Lessor shall be cumulative; that is, Lessor may pursue all rights that the law and this Lease afford to it, in whatever order Lessor desires and the law permits, without being compelled to resort to any one remedy in advance of any other.

**15.17. Survival.** Any provision of this Lease that expressly or by implication comes into or remains in force following the termination of this Lease shall survive the termination of this Lease for the period set forth in such provision, or if no period is set forth in such provision, for the period that is coextensive with the applicable statute of limitations. Notwithstanding anything to the contrary in this Lease, any indemnification obligations shall survive the termination of this Lease.

**15.18. Governing Law and Forum.** This Lease shall be construed in accordance with and governed by the laws of the State of Idaho. Each Party expressly consents to the jurisdiction and venue of the Idaho State District Court located in Ada County in the event of any dispute with respect to this Lease or the Leased Premises.

**15.19. Legal Fees.** In the event either Party initiates a legal proceeding under this Lease, the prevailing party in that legal proceeding shall be entitled to such additional sums as the court may award for reasonable attorney fees (including fees from the Office of the Attorney General of the State of Idaho) and costs (including appraisal fees and expert fees) incurred in such proceeding.

**15.20. Headings.** Headings in this Lease are for convenience and reference only and shall not be used to interpret or construe any term of this Lease.

**15.21. Counterparts.** This Lease may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.

[The remainder of this page is intentionally left blank]



IDAHO DEPARTMENT OF LANDS

IN WITNESS WHEREOF, the Lessor has executed this instrument as set forth below.

STATE BOARD OF LAND COMMISSIONERS

\_\_\_\_\_  
President of the State Board of Land Commissioners  
and Governor of the State of Idaho

Countersigned:

\_\_\_\_\_  
Secretary of State of Idaho

\_\_\_\_\_  
Director of the Idaho Department of Lands

STATE OF IDAHO     )  
                                  )ss.  
COUNTY OF ADA    )

On this \_\_\_\_ day of \_\_\_\_\_, 2024, before me, a Notary Public in and for said State, personally appeared BRAD LITTLE, as the President of the State Board of Land Commissioners and Governor of the State of Idaho, that executed the within instrument, and acknowledged to me that he executed the same as said President and Governor, and that the State Board of Land Commissioners and the State of Idaho executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.

(seal)

\_\_\_\_\_  
Notary Public for State of Idaho  
My Commission Expires: \_\_\_\_\_

STATE OF IDAHO     )  
                                  )ss.  
COUNTY OF ADA    )

On this \_\_\_\_ day of \_\_\_\_\_, 2024, before me, a Notary Public in and for said State, personally appeared PHIL MCGRANE, as Secretary of State of Idaho, that executed the within instrument, and acknowledged to me that he executed the within instrument as said Secretary of State and that the State Board of Land Commissioners and the State of Idaho executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.

(seal)

\_\_\_\_\_  
Notary Public for State of Idaho  
My Commission Expires: \_\_\_\_\_

STATE OF IDAHO        )  
                                  )ss.  
COUNTY OF ADA        )

On this \_\_\_\_ day of \_\_\_\_\_, 2024, before me, a Notary Public in and for said State, personally appeared DUSTIN T. MILLER, the Director of the Idaho Department of Lands and Secretary of the State Board of Land Commissioners, and acknowledged to me that he executed the within instrument as said Director and Secretary, and that the State Board of Land Commissioners and the State of Idaho executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.

(seal)

\_\_\_\_\_  
Notary Public for State of Idaho  
My Commission Expires: \_\_\_\_\_

IDAHO DEPARTMENT OF LANDS



IN WITNESS WHEREOF, the Lessee has executed this instrument as set forth below.

Arco Wind, LLC, a Wyoming limited liability company, whose mailing address is 31 Rosner Lane, Becket, Massachusetts 01223-3288.

Arco Wind, LLC,  
a Wyoming limited liability company

Date: \_\_\_\_\_

J. Garth Klimchuk, Manager

STATE OF MASSACHUSETTS )  
 )  
 ) :SS  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 2023, before me a notary public in and for said state, personally appeared **J. Garth Klimchuk**, known or identified to me to be an authorized manager of **Arco Wind, LLC**, a **Wyoming** limited liability company, the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such company executed the same.

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

(seal)

Notary Public  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

# ATTACHMENT A

## LEGAL DESCRIPTION OF LEASED PREMISES

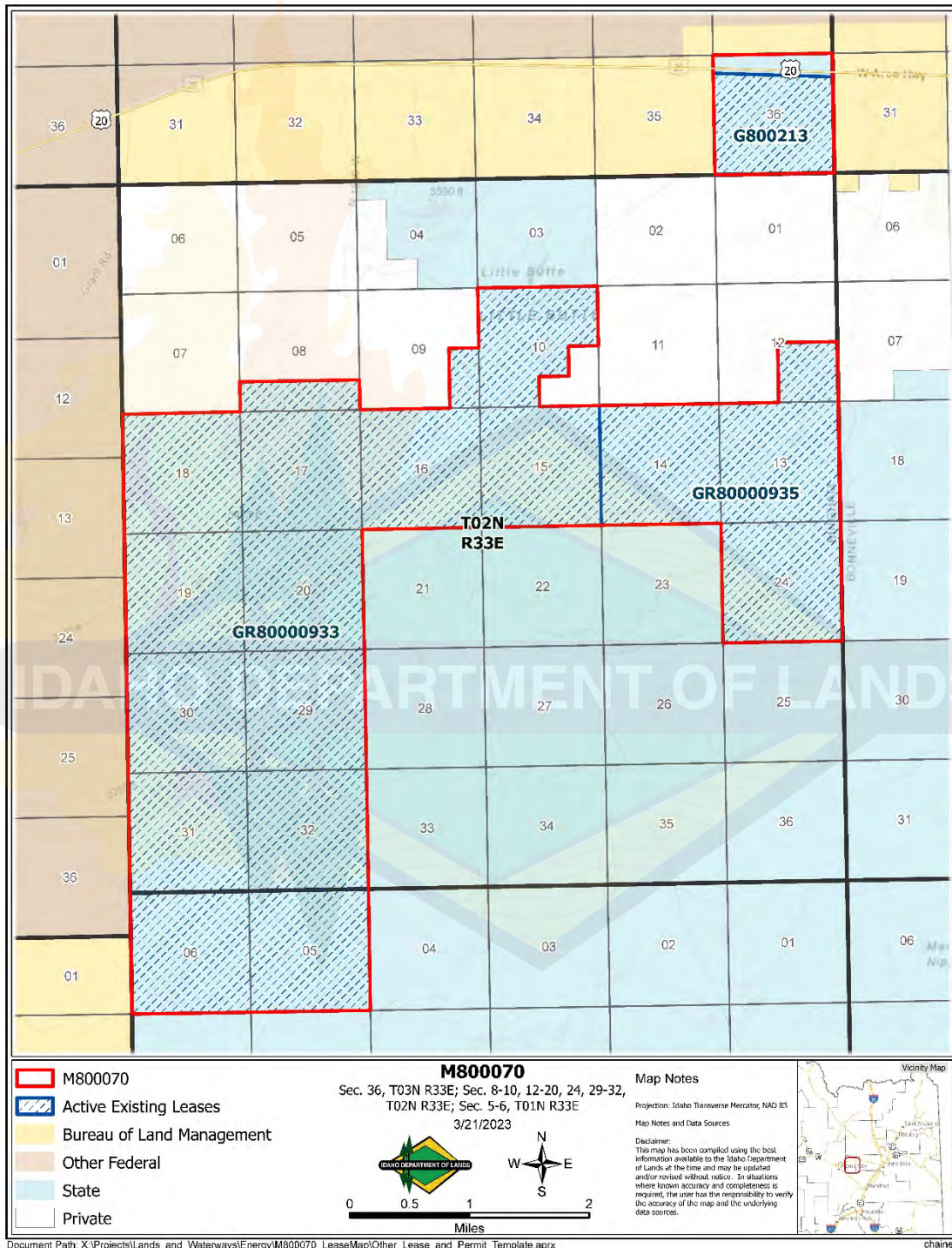
All, section 36, Township 3 North, Range 33 East, B.M., Bingham County, Idaho.  
S1/2S1/2, section 8; E1/2SE1/4, section 9; NW1/4NW1/4, NE1/4NW1/4, NW1/4NE1/4, NE1/4NE1/4,  
SW1/4NW1/4, SE1/4NW1/4, SW1/4NE1/4, SE1/4NE1/4, NW1/4SW1/4, NE1/4SW1/4, NW1/4SE1/4,  
SW1/4SW1/4, SE1/4SW1/4, section 10; SE1/4, section 12; All, section 13; All, section 14; All, section 15;  
All, section 16; All, section 17; All, section 18; All, section 19; All, section 20; All, section 24; All, section 29;  
All, section 30; All, section 31; All, section 32; Township 2 North, Range 33 East, B.M., Bingham County,  
Idaho,  
All, section 5; All, section 6; Township 1 North, Range 33 East, B.M., Bingham County, Idaho.

The following table is for IDL internal purposes only and is not intended to be part of the legal description.

Lease	TWN	RNG	SEC	Legal Description	County	Endow	Acres	PHMA	IHMA
M800070	03N	33E	36	ALL	Bingham	PS	640.00	0.00	0.00
M800070	02N	33E	8	S2S2	Bingham	PS	160.00	0.00	0.00
M800070	02N	33E	10	NWNW, NENW, NWNE, NENE, SWNW, SENW, SWNE, SENE, NWSW, NESW, NWSE, SWSW, SESW	Bingham	PS	520.00	0.00	0.00
M800070	02N	33E	13	ALL	Bingham	PS	640.00	0.00	0.00
M800070	02N	33E	14	ALL	Bingham	PS	640.00	0.00	0.00
M800070	02N	33E	15	ALL	Bingham	PS	640.00	0.00	0.00
M800070	02N	33E	16	ALL	Bingham	PS	640.00	0.00	0.00
M800070	02N	33E	17	ALL	Bingham	PS	640.00	0.00	0.00
M800070	02N	33E	18	ALL	Bingham	PS	640.00	0.00	0.00
M800070	02N	33E	19	ALL	Bingham	PS	640.00	0.00	0.00
M800070	02N	33E	20	ALL	Bingham	PS	640.00	0.00	0.00
M800070	02N	33E	24	ALL	Bingham	PS	640.00	0.00	0.00
M800070	02N	33E	29	ALL	Bingham	PS	640.00	0.00	0.00
M800070	02N	33E	30	ALL	Bingham	PS	640.00	0.00	0.00
M800070	02N	33E	31	ALL	Bingham	PS	640.00	0.00	0.00
M800070	02N	33E	32	ALL	Bingham	PS	640.00	0.00	0.00
M800070	01N	33E	05	ALL	Bingham	PS	640.00	0.00	0.00
M800070	01N	33E	06	ALL	Bingham	PS	640.00	0.00	0.00
M800070	02N	33E	9	E2SE4	Bingham	PS	80.00	0.00	0.00
M800070	02N	33E	12	SE4	Bingham	PS	160.00	0.00	0.00
							11,160.00	0.00	0.00

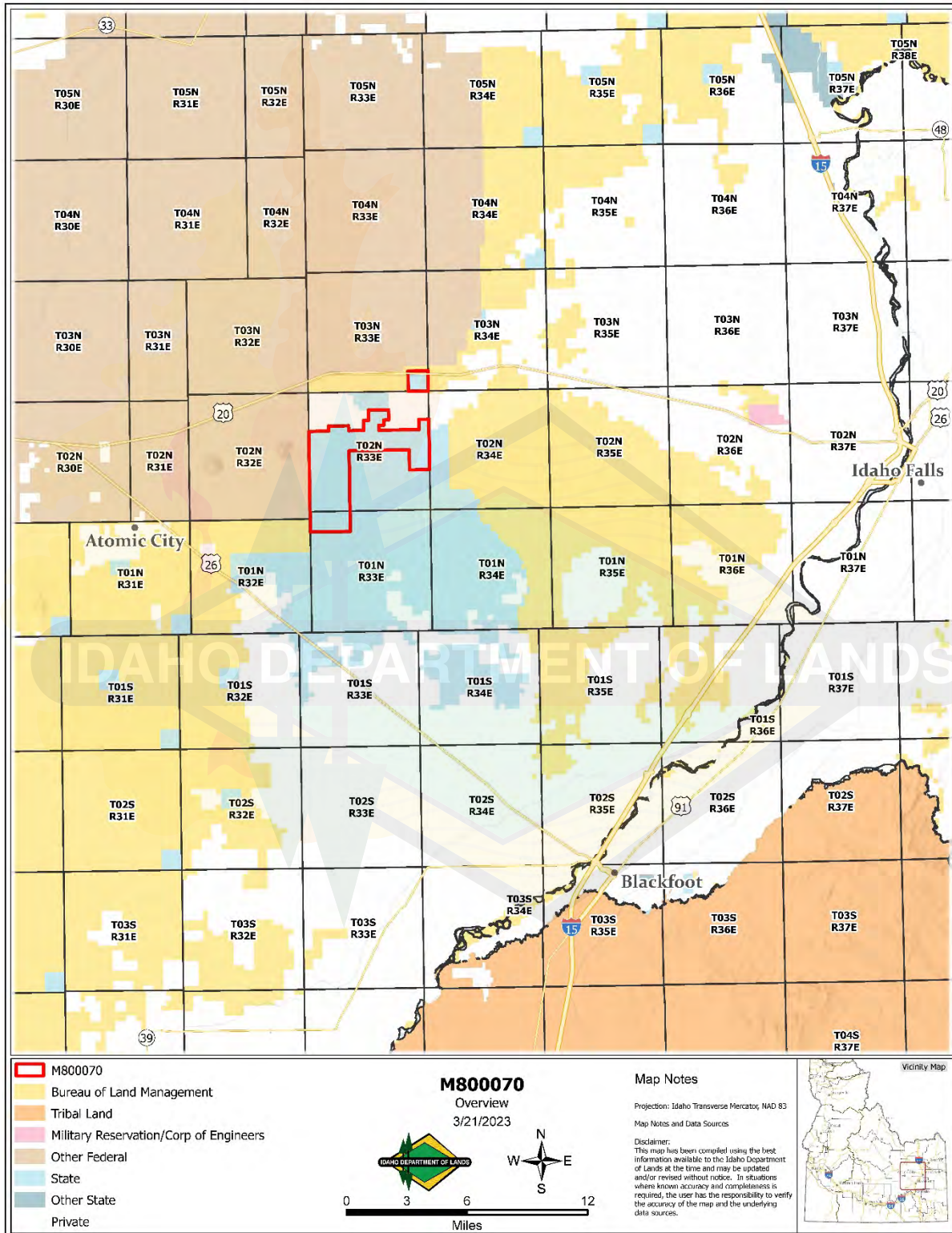
# ATTACHMENT B

## SITE MAP #1





## DETAIL MAP #2



Document Path: X:\Projects\Lands\_and\_Waterways\Energy\M800070\_LeaseMap\Other\_Lease\_and\_Permit\_Template.aprx

chains



## ATTACHMENT C

### Special Terms and Conditions

#### SAGE GROUSE and SLICKSPOT PEPPERGRASS CONSERVATION MEASURES

In accordance with Executive Order No. 2015-04 and the Idaho State Board of Land Commissioners Greater Sage-Grouse Conservation Plan ("LB SG Plan"), the following conservation measures ("CMs") will apply to all lands within the Leased Premises which are within sage-grouse Priority Habitat Management Areas ("PHMAs") or Important Habitat Management Areas ("IHMAs") as identified in the LB SG Plan, as may be amended from time to time. In the event of a conflict between the location of the PHMAs and IHMAs identified in the LB SG Plan and Exhibit C to this Lease, the LB SG Plan shall control. The most recent version of the LB SG Plan can be found at IDL's website.

For proposed activities by third parties on state endowment trust lands in PHMA and IHMA, IDL will implement CMs as enforceable stipulations in authorizing documents such as leases. With the high diversity of terrain and vegetation types within the sage-grouse region of Idaho, it is difficult to design a "one size fits all" set of CMs. Science and technology also change over time and new options or alternatives may be proposed as part of a site-specific management plan. Site-specific management plans submitted by Lessee should provide equal or better results than the CMs described below. IDL and Lessee agree to cooperate in the development of site-specific management plans, including but not limited to vegetative fuels control, range improvement construction, and sage-grouse conservation projects. Site-specific management plans will be reviewed and approved by the appropriate IDL staff. When anticipated results are uncertain, IDL will confer with the Idaho Department of Fish and Game ("IDFG") prior to approving any site-specific management plan.

#### I. Improvement, Construction, and Conservation Projects

- A. Consistent with this Lease, all improvement and construction projects will require written authorization from IDL prior to installation. Project proposals must be submitted to IDL for consideration and may be subject to a habitat analysis by the IDFG. Upon written authorization by IDL, project installation and construction will require full compliance with conservation measures identified in the LB SG Plan.
- B. Existing Improvements: If improvements in existence at the time this Lease is executed are identified by IDL, IDFG, or Lessee within PHMAs and IHMAs that are not in compliance with the LB SG Plan, IDL will assess the impact of the improvements on a case-by-case basis. When needed IDL will consult with IDFG to determine what, if any, mitigation is necessary based on the specific circumstances of the site.
- C. Conservation Projects within PHMAs: Because PHMAs include characteristics such as existing high-quality sagebrush habitat; highest sage-grouse breeding densities; have been identified as essential to conservation and persistence of the species; and are of importance to the conservation of the species range-wide, these lands will be prioritized by IDL for management and conservation actions. Such actions could include, but are not limited to, a review and subsequent amendment of the existing management plan that is part of this Lease; analysis and mitigation of existing improvements; and priority consideration for conservation projects that provide landscape-level enhancements to habitat.

#### II. Fuels Management

IDL and Lessee agree to communicate and work together to develop written fuels management plans, implement fuels reduction projects, and use sound treatment(s) to reduce vegetative fire fuels, reduce annual grass densities, and to enhance and protect PHMAs and IHMAs, when appropriate.

### **III. Invasive Plant Species**

- A. Vehicles and equipment operated by Lessee that will travel off approved or designated transportation routes will be inspected and cleaned of seeds and propagules by Lessee or Lessee-directed personnel to prevent the spread of invasive and noxious plant species.
- B. Lessee and Lessee-directed personnel will inventory and monitor invasive and noxious plant species throughout the Lease Term and report such activities to IDL.
- C. Reclamation activities conducted by or directed by Lessee will include the use of certified weed-free seed mixes approved by IDL. All materials used for reclamation (e.g. mulch, straw, etc.) will be certified weed-free by the appropriate federal or State of Idaho agency.
- D. Lessee will use best management practices and appropriate treatments including chemical, mechanical and biological to treat invasive and state-listed noxious plant species, in accordance with this Lease.

### **IV. Alternative Energy Projects**

#### **A. Surface Use and Timing.**

- 1. No surface occupancy is allowed within 1 km (0.62 mi.) of an occupied lek within PHMAs and IHMAs.
- 2. Lessee will use construction methods that will minimize surface disturbance. This could include utility placement through borings instead of trenches.
- 3. Lessee will place infrastructure in already-disturbed locations, as feasible, where habitat has not been established. Surface disturbances will be clustered by Lessee in order to limit surface occupancy. Lessee will use maps, lek routes, and other relevant local information to identify leks and avoid project activities or related activities near active leks (within 1km/0.62 miles) so as not to disturb displaying birds. Dates of concern are from March 15 through May 1 in lower elevation habitats, and March 25 through May 15 in higher elevation habitats.
- 4. Unless approved by IDL, major construction and maintenance activities by Lessee shall be avoided in sage-grouse winter range (winter concentration areas) from December 1 to February 15.
- 5. Lessee will limit noise levels from discretionary activities within PHMAs and IHMAs to not more than 10 decibels above ambient sound levels (typically 20-24 dBA) at occupied leks from two hours before sunset to two hours after sunrise during breeding season. Ambient noise levels shall be determined by measurements taken at the perimeter of an occupied lek at sunrise.

#### **B. Placement of fences and other structures.**

- 1. All fencing and other infrastructure placement and construction and any movement of existing fencing or other infrastructure within PHMAs and IHMAs requires IDL written approval and may be subject to IDFG analysis prior to such written approval.
- 2. Lessee shall use USDA-NRCS Fence Collision Risk Tool data, as amended from time to time, and local knowledge to determine low, medium, or high risk levels around occupied leks. Lessee shall flag new and existing wire fence segments in high risk areas, at a minimum, with collision diverter markers as defined by USDA-NRCS design practice specifications. Examples of high risk areas include fencing with characteristics such as evidence of grouse fence strikes, gentle topography near a lek or fences that bisect winter concentration area. Lessee shall flag fences in riparian areas, near lek locations and other sensitive areas specifically identified by either IDL or IDFG.
- 3. In addition to the requirements of this Lease, IDL will consider the impacts on sage-grouse when determining whether to authorize the placement of new fences and structures. Notwithstanding the foregoing, IDL will not approve construction of fencing and other

structures with a height over 5 feet within 1 km (0.62 mi) of occupied leks, as determined by IDFG, unless authorized in writing by IDFG, Lessee shall place tall structures including but not limited to corrals, loading facilities, water storage tanks, windmills, etc., as far as possible from occupied leks to reduce opportunities for perching raptors. Careful consideration, based on local conditions, will also be given by IDL when authorizing the placement of new fences or structures near other important seasonal habitats (e.g., winter-use areas, movement corridors, etc.). In order to reduce potential impacts, fence markers will be used to mitigate mortality within areas identified by IDL, IDFG or Lessee.

C. No design and placement of water developments is required for or planned for this Lease.

D. Site Reclamation

Lessee will complete any required site reclamation as soon as phases of operation or construction are completed. Site reclamation will stabilize the site with plant species that are suitable to the site and include sage brush and native forb species; provide the opportunity for sage-grouse habitat to develop over time; and prevent non-native invasive species from occupying the site. Lessee will irrigate or mulch the site, as necessary, to establish seedlings more quickly.

**V. Slickspot Peppergrass (*Lepidium papilliferum*), AKA LEPA) Conservation Measures**

- A. No ground disturbance of any type will be allowed near known *lepidium papilliferum* ("LEPA") occurrences. Ground disturbance buffers will be determined by Lessor, and may be subject to consultation with IDFG and/or the United States Fish and Wildlife Service ("USFWS").
- B. Lessee will operate motorized vehicles only on existing roads and two track trails, and will not drive off-road over area with LEPA occurrences, unless approved, in advance, by Lessor. When needed, Lessor will consult with IDFG and/or USFWS regarding Lessor approved exceptions.
- C. Environmental analyses conducted by Lessee will include potential impacts to LEPA, as applicable.

## ATTACHMENT D

### Existing Leases and Other Activities

The following Lessor-authorized instruments affecting all or any portion of the Leased Premises, include but are not limited to, the following:

Grazing Lease – G800213

Grazing Lease – GR80000933

Grazing Lease – GR80000935

Easement – ES1008

Easement – ES979



IDAHO DEPARTMENT OF LANDS



# STATE BOARD OF LAND COMMISSIONERS

October 15, 2024

Regular Agenda

## Subject

Adoption of Pending Rule, IDAPA 20.04.01 *Rules Pertaining to Forest Fire Protection*

## Question Presented

Shall the Land Board adopt the pending rule IDAPA 20.04.01?

## Background

The Idaho Department of Lands (Department) is responsible for fire suppression on all private timber lands and endowment timber and rangelands. IDAPA 20.04.01 identifies the persons responsible for and staffing for forest protective districts, as well as enforcement authorities for those individuals. The Forest Fire Protection rules also identify assessment rates levied on timber lands to fund forest protective district personnel and equipment. Furthermore, they provide rules related to the use of deficiency warrants as well as guidance for entering into fire protection agreements with other fire suppression entities.

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 State Board of Land Commissioners (Land Board) approval on August 15, 2023 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.
- Posted meeting information on social media.
- Posted rulemaking notices to Townhall Idaho.
- Emailed draft rules to 197 interested members of the public.
- Posted two draft rules in strikethrough format with reasonable periods of time for public comment.
- Engaged in discussions with Associated Logging Contractors, Idaho Department of Environmental Quality, Idaho Forest Owners Association, and Idaho Forest Industry group members.

The Department held two public negotiated rulemaking meetings with options for in person or virtual participation. Three participants attended the October 10, 2023 meeting in Coeur d'Alene; no members of the public attended the October 11, 2023 meeting in McCall. There were no public comments provided during the meetings. The comment period ended April 17, 2024. Written comments were received from PotlatchDeltic, the Associated Logging Contractors, Inc., and the Department of Environmental Quality. All comments were addressed with changes to the rule text consistent with statutes and other Department regulations. There are no unresolved issues from the negotiated rulemaking process.

The Notice of Proposed Rulemaking was published in the Idaho Administrative Bulletin, Vol. 24-7 on July 3, 2024 (Attachment 1). No public hearings were requested or held. There was one written supportive comment from PotlatchDeltic.

If approved by the Land Board, the Department will submit the Notice of Adoption of Pending Rule (Attachment 2) to the Office of the Administrative Rules Coordinator for the 2025 legislative session.

### **Recommendation**

Adopt the pending rule for IDAPA 20.04.01 *Rules Pertaining to Forest Fire Protection*.

### **Board Action**

### **Attachments**

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

**IDAPA 20 – IDAHO DEPARTMENT OF LANDS**  
**20.04.01 – RULES PERTAINING TO FOREST FIRE PROTECTION**  
**DOCKET NO. 20-0401-2301 (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 rule provides standards for forest fire protection, non-fee, burn permitting, and for firefighting water supply and tool requirements for Forest Operations.

**FEE SUMMARY:** N/A

**FISCAL IMPACT:** None.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted and concluded February 22, 2024. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the October 4, 2023 Idaho Administrative Bulletin, [Vol. 23-10, page 512](#).

**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:

The San Dimas Technology & Development Center (SDTDC) Spark Arrestor Guide is a US Forest Service standard applied to spark arrestors for internal combustion engines used on lands administered by the Forest Service, other Federal agencies and most States and municipalities.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Brooke Heasty at [bheasty@idl.idaho.gov](mailto:bheasty@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.

Joshua J. Harvey  
Fire Management Chief  
Forestry and Fire Division  
Idaho Department of Lands  
3284 W Industrial Loop  
Coeur d'Alene, Idaho, 83815  
Phone: (208) 666-8650, Fax: (208) 769-1524

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 20-0401-2401  
(ZBR Chapter Rewrite.)

20.04.01 – RULES PERTAINING TO FOREST FIRE PROTECTION

000. AUTHORITY.

This chapter is adopted under the legal authority of Sections 38-115, 38-132, 38-402, 58-104(6), 58-105, and 67-5201 et seq., Idaho Code. (3-31-22)

001. TITLE AND SCOPE.

~~01. Title.~~ These rules are titled IDAPA 20.04.01, “Rules Pertaining to Forest Fire Protection,” and implement the provisions of Title 38 Chapter 1, Idaho Code. They provide (3-31-22)

~~02. Scope.~~ These rules govern requirements standards pertaining to for forest fire protection, permitting, and for firefighting water supply and tool requirements for Forest Operations. (3-31-22)( )

002. INCORPORATION BY REFERENCE.

01. **Incorporated Document.** IDAPA 20.04.01 adopts and incorporates by reference the full text of the following documents published by the San Dimas Technology & Development Center (SDTDC). (3-31-22)

a. Spark Arrester Guide – General Purpose and Locomotive (GP/Loco), Volume 1, September 2012, 1251 1809-SDTDC. (3-31-22)

b. Spark Arrester Guide – Multiposition Small Engine (MSE), Volume 2, August 2012, 1251 1808-SDTDC. (3-31-22)

c. Spark Arrester Guide – Off- Highway Vehicles (OHV), Volume 3, April 2012, 1251 1805-SDTDC. (3-31-22)

02. **Printed and Bound Copies.** Printed copies or bound copies may be viewed at any District Office or requested through SDTDC, 444 E. Bonita Ave, San Dimas, 91773. (3-31-22)

003. -- 009. (RESERVED)

010. DEFINITIONS.

The terms Fire Warden, Forest Land, Forest Products, Person, Range Land, Slash, and State are defined in Section 38-101, Idaho Code. In addition to the definitions set forth in the Idaho Forestry Act, the following definitions apply to these rules: ( )

01. **Block.** A piece of logging equipment where steel rope or cable ~~is actively turning~~ turns the block’s pulley ~~and used~~ as part of a cable logging ~~yarding~~ system. ~~for the specific purposes of establishing~~ It is used to install tail hold anchor points, intermediate support of main lines, or carriage haul-back capability ~~for the purposes of for~~ yarding or hauling ~~of trees or~~ logs to a ~~log~~ landing ~~for transportation to a mill or processing facility.~~ (3-31-22)( )

02. **Cable or Cable Assisted Logging.** A harvest system for felling or yarding ~~of forest product materials consisting of the use of~~ trees or logs for transport to a landing using a cable assisted harvester or ~~the use of~~ a yarder, spar tree, or intermediate support with a motorized or non-motorized carriage ~~to transport logs to the landing for further processing purposes.~~ (3-31-22)( )

03. **Closed Fire Season.** The calendar period from May 10 to October 20, ~~inclusive, of each year~~ or as



designated by the Director, due to conditions of unusual fire danger ~~pursuant to~~, when a permit is required to burn under Section 38-115, Idaho Code. (3-31-22)( )

**04. Department.** The Idaho Department of Lands. (3-31-22)

**05. Director.** The ~~d~~Director of the Idaho Department of Lands ~~or his authorized representative or their designee.~~ (3-31-22)( )

**06. District.** A designated forest protective district under Section 38-110, Idaho Code. (3-31-22)( )

**07. Fire Warden.** ~~A duly appointed fire warden or deputy.~~ (3-31-22)

**08. Forest Land.** ~~Any land which has upon it sufficient brush or flammable forest growth of any kind or size, living or dead, standing or down, including debris or growth following a fire or removal of forest products, to constitute a fire menace to life (including animal) or property.~~ (3-31-22)

**097. Forest Operation.** An activity or service conducted on ~~f~~Forest ~~l~~Lands involving any of the operations as described below where a Certificate of Compliance ~~is required pursuant to Section 38-122, Idaho Code.~~ Fire Hazard Management Agreement and/or Forest Practice Notification are required under Sections 38-122, 38-404, and 38-1306, Idaho Code: (3-31-22)( )

**a.** The harvesting of trees ~~using equipment that includes, but is not limited to,~~ including felling, bucking, yarding, delimbing, and decking ~~operations;~~ (3-31-22)( )

**b.** Thinning or mastication operations for stand improvement, stand density management or fuel reduction ~~purposes;~~ (3-31-22)( )

**c.** Road construction or reconstruction ~~of existing roads~~ including installation or improvement of bridges, culverts, or structures; ~~and or~~ (3-31-22)( )

**d.** Slash management including chipping, grinding, or other mechanized reduction activities. (3-31-22)

**1008. Metal-Tracked Harvester.** Any machine with metal tracks used to fall, bunch, or process trees ~~into forest products~~ at the stump. (3-31-22)( )

**1109. Operator.** A ~~p~~Person who conducts a ~~f~~Forest ~~e~~Operation. (3-31-22)( )

**120. Operating Area.** ~~That~~ The area where a ~~f~~Forest ~~e~~Operation ~~is taking place~~ occurs. (3-31-22)( )

**13. Person.** ~~Includes any person or persons, and any corporation, firm or other entity.~~ (3-31-22)

**14. Range Land.** ~~Any land that is not cultivated and that has upon it native grasses or other forage plants making it best suited for grazing of domestic and wild animals and which land is adjacent to or intermingled with forest land.~~ (3-31-22)

**15. Slash.** ~~Brush, severed limbs, poles, tops and/or other waste material incident to such cutting or to the clearing of land that are four (4) inches and under in diameter.~~ (3-31-22)

**16. State.** State of Idaho. (3-31-22)

## **011. SPARK ARRESTER REQUIREMENTS AND EXEMPTIONS.**

**01. Requirements.** The steam or internal combustion engines referred to in Section 38-121, Idaho Code, must be equipped with properly installed, maintained, and effectively working spark arresters that comply with

the standards set forth in the San Dimas Technology and Development Center's "Spark Arrester Guide(s)." ( )

**02.** Exemptions. The following are exempt from the requirements of the rule: ( )

**a.** Turbo-charged internal combustion engines in which one hundred percent (100%) of the combustion gases exhaust through the turbo-charger; ( )

**b.** Engines of passenger-carrying vehicles and light trucks, kept in good repair, equipped with baffle-type muffler and tailpipe which exhaust all combustion gases; ( )

**c.** Engines of heavy-duty trucks equipped with a vertical exhaust stack and muffler extending above the cab of the vehicle; ( )

**d.** Engines of water pumping equipment used in firefighting; and ( )

**e.** Engines of helicopters and other aircraft. ( )

**014. -- 019.** (RESERVED)

**020. VARIANCE FROM RULE FOR ALTERNATE PRACTICES.**

~~If conditions or activities require the application of~~ To apply practices that differ from ~~those prescribed in~~ these rules, the Operator must first obtain a variance ~~prior to employing any of those differing practices.~~ (3-31-22)( )

**01.** **Obtaining a Variance.** ~~In order to obtain a variance, t~~ The Operator ~~must~~ submit a written request for a variance to the ~~local~~ District Fire Warden. ~~The request must include, which includes~~ the following: (3-31-22)( )

**a.** A description of the specific Operating Area where the variance ~~is being requested~~ applies; (3-31-22)( )

**b.** The ~~particular~~ conditions that necessitate a variance; (3-31-22)( )

**c.** A detailed description of the alternative practice; and (3-31-22)( )

**d.** A detailed description of how the alternate practice, ~~if applied, will~~ provides fire protection that is ~~equal to or greater~~ no less than the ~~fire~~ protection provided by the standards ~~set forth~~ in these rules. (3-31-22)( )

**02.** **Department Response to Request for Variance.** Within five (5) business days from receipt of the variance request, the Department will evaluate the request and notify the Operator in writing of ~~the Department's determination to allow or disallow the variance request~~ its decision. (3-31-22)( )

**021. -- 029.** (RESERVED)

**030. STANDARDS FOR FIRE PROTECTION BY INDIVIDUALS.**

The following rules and standards ~~for apply to~~ protection by owners of ~~F~~ Forest ~~L~~ and who have elected to provide their own protection ~~as provided by~~ under Section 38-111, Idaho Code, ~~apply:~~ (3-31-22)( )

**01.** **Fire Plans.** ~~Each owner Before April 1 of each year, Forest Land owners~~ must submit a written fire plan to the ~~d~~Director ~~for approval, through the (through the district f~~ Fire ~~w~~Warden ~~in charge~~ of the ~~d~~District in which ~~the such f~~ Forest ~~L~~and ~~lies, before April 1, of each year, a written fire plan that includes, but is not limited to~~ lies ~~that includes:~~ (3-31-22)( )

**a.** A map, ~~with (on a scale of two (2) inches to the mile), revealing showing~~ section, township, and range lines, ~~of the forest land involved and showing thereon~~ roads, streams, trails, and the location of protection facilities ~~for such land of the Forest Land involved;~~ (3-31-22)( )

**b.** A description of the system for discovering and reporting ~~any and~~ all fires originating on or

spreading to the ~~f~~Forest ~~l~~Land involved; (3-31-22)( )

c. ~~As~~Statements ~~showing~~ describing the following: ( )

i. ~~t~~The number of firefighters and their sources of additional firefighter manpower available for immediate action to suppress any fire on the ~~f~~Forest ~~l~~Land; ~~and further, their sources of additional manpower available as firefighters;~~ (3-31-22)( )

dii. ~~A statement showing t~~The type and amount of ~~firefighting~~ equipment in serviceable condition including, ~~but not limited to,~~ fire hose, fire engines, portable pumps, dozers, and mobile ~~equipment for the transportation of men and equipment for firefighting equipment and manpower.~~ (3-31-22)( )

eiii. ~~A statement as to t~~The location of fire-tool caches and the number and kind of serviceable hand tools in each cache ~~kept available for immediate use in firefighting,~~ (including shovels, hoes, axes, and fire-pump cans) kept available for immediate firefighting use; (3-31-22)( )

iv. For protection facilities, the name, address, and telephone number of the person in charge and obligated to carry out the provisions of the fire plan; ( )

f. ~~The name, address, and telephone number of the person who is in charge of the protection facilities and obligated to carry out the provisions of the fire plan.~~ (3-31-22)

02. **Approval of Fire Plan Required.** ~~No~~ Only plans approved by the Director ~~will become~~ are effective ~~unless approved by the director.~~ (3-31-22)( )

031. -- 039. (RESERVED)

040. **COSTS OF FIRE SUPPRESSION AND PROTECTION FOR WILLFULL OR NEGLIGENT FIRES.**

~~Whenever the state incurs costs in controlling or extinguishing a fire that any person willfully or is negligently responsible for, such costs include all actual costs to the state, including wages of full-time personnel and use of equipment of the forest protective district or districts where the fire originated or burned~~ Costs, which are incurred by the State or its authorized agencies to control or extinguish a fire that any Person is willfully or negligently responsible for, are all actual costs including wages of personnel and use of equipment. (3-31-22)( )

041. -- 049. (RESERVED)

050. **BURNERS REFUSE WOOD BURNING NEAR FOREST LAND.**

Any saw mill, planing mill, shingle mill, or other woodworking ~~plant,~~ or plant wood product manufacturing ~~wood products plant,~~ operating in or within five hundred (500) feet of ~~f~~Forest ~~l~~Land; and burning refuse wood material outside of and/or adjacent to ~~such the~~ mill or plant, will must meet the terms of Section 38-108, Idaho Code and other applicable state and local laws and regulations. (3-31-22)( )

051. -- 059. (RESERVED)

060. **BURNING PERMITS DURING CLOSED FIRE SEASON.**

The burning permit ~~specified in under~~ Section 38-115, Idaho Code, ~~is used to~~ protect s public health, safety, and welfare. ~~The permit and~~ is subject to the following conditions: (3-31-22)( )

01. **When Permit Required.** Permits issued for open fires are required from May 10 ~~to~~ through October 20 ~~inclusive, of~~ each year and are limited to ~~that the~~ period of time needed to accomplish the permitted burning; provided, ~~however, in that~~ no event will such permit will be issued to cover a period of more than ten (10) days. (3-31-22)( )

02. **Permit Conditions.** Each permit contains ~~all~~ the terms and conditions deemed necessary by the ~~d~~Director for ~~such~~ burning; ~~which~~ Such terms and conditions remain effective for the entire period of the permit. (3-31-22)( )

061. -- 069. (RESERVED)

**070. PERMIT TO ENTER AREAS CLOSED-DUE TO FIRE HAZARD.**

~~Pursuant to Under~~ Section 38-115, Idaho Code, the ~~dDirector, because of critical fire hazard,~~ may close specified areas to entry by any ~~pPerson or party, because of critical fire hazard.~~ (3-31-22)( )

01. **Notice of Closure.** Notice of closure to specified areas ~~will be~~ is by Director proclamation ~~of the director and will be published at least once in a newspaper of general circulation and is communicated to the Fire Wardens of the affected Districts and the public~~ throughout the county or counties affected in the most effective way available. ~~Such proclamation will immediately be mailed to the fire wardens of the affected districts.~~ (3-31-22)( )

02. **Fire Warden Permits.** The ~~fFire w~~Warden-in charge of the ~~forest protective d~~ District-in which ~~such areas are located~~ with a closed area may, ~~in his~~ at their discretion, issue permits to ~~individuals~~ a Person to enter ~~such~~ closed areas. The permittee ~~is required to~~ must carry a copy of the permit ~~at all times~~ while in the closed area. (3-31-22)( )

071. -- 079. (RESERVED)

**080. SPARK ARRESTERS-SMOKING PROHIBITIONS IN THE WOODS.**

01. **RequirementsSmoking.** The steam or internal combustion engines referred to in Section 38-121, Idaho Code, must be equipped with properly installed, maintained, and effectively working spark arresters that comply with the standards set forth in the San Dimas Technology and Development Center's "Spark Arrester Guide(s)." Smoking is prohibited on Forest or Range Land during periods of critical fire danger as proclaimed by the Director. Logging Operators must post conspicuous "NO SMOKING" signs in their camps and Operating Areas during these periods. (3-31-22)( )

02. **ExemptionsDesignating Smoking Areas.** The following are exempt from the requirements of the rule: Fire Wardens may designate areas where the Director may allow smoking. (3-31-22)( )

a. Turbo-charged internal combustion engines in which one hundred percent (100%) of the exhaust gases pass through the turbo-charger. (3-31-22)

b. Engines of passenger-carrying vehicles and light trucks, equipped with baffle-type muffler and tailpipe through which all exhaust gasses pass, that are kept in good repair. (3-31-22)

c. Engines of heavy duty trucks equipped with a vertical exhaust stack and muffler extending above the cab of the vehicle. (3-31-22)

d. Engines of water pumping equipment used in firefighting. (3-31-22)

e. Engines of helicopters and other aircraft. (3-31-22)

081. -- 089. (RESERVED)

**090. SMOKING IN THE WOODSRESTRICTED ACTIVITIES DURING PROCLAIMED CRITICAL FIRE DANGER.**

01. **Smoking ProhibitedCritical Fire Danger.** ~~Smoking is prohibited on forest or range lands of the state during periods of critical fire danger as designated by the director. Logging operators must post "NO SMOKING" signs conspicuously in their camps and operating areas when such periods of critical fire danger have been declared~~ During periods and in areas of critical fire danger as proclaimed by the Director, any Person engaged in any activities in forest areas of the State may have those activities restricted to the least dangerous periods of the day. (3-31-22)( )



02. ~~Designated Smoking Areas~~ **Notice.** ~~Fire wardens may designate those areas where smoking may be permitted upon approval of the director. Notice of restricted activities is by Director proclamation and is communicated to the Fire Wardens of the affected Districts and the public throughout the county or counties affected in the most effective way available.~~ (3-31-22)( )

**091. FIRE WATCH SERVICE IN STAGE TWO (2) PROCLAMATION AREAS.**

~~Every Operator engaged in a Forest Operation within a Stage Two (2) proclamation area must provide fire watch service in the Operating Area.~~ ( )

01. **Duties and Requirements.** Fire watch service consists of at least one (1) person who: ( )

a. Is constantly on duty for three (3) hours after all power-operated equipment has been shut down for the day; ( )

b. Visually observes the Operating Area where activity occurred during the day; ( )

c. Has adequate equipment for transportation and communication to summon timely fire-fighting assistance; and ( )

d. Immediately responds to any fire in the Operating Area by initiating fire suppression actions within the scope of their knowledge, skills, and abilities. ( )

02. **Fire Watch Service Exemption.** A Forest Operation conducted under an Option 1 Certificate of Compliance is exempt from Section 091.01. ( )

~~091.2.~~ -- 099. (RESERVED)

**100. FIRE TOOLS AND FIRE EXTINGUISHERS REQUIREMENTS DURING CLOSED FIRE SEASON.**

~~During eClosed fFire sSeason the following fire tool requirements apply:~~ (3-31-22)( )

01. **Basic Fire Cache.** Every Operator engaged in any Forest Operation on Forest Lands must have available for firefighting ~~purposes~~ the number of tools and tool boxes ~~set forth listed~~ in Table 1. A Forest Operation having more than ten (10) people must use multiples of ~~any of the values in a column~~ ~~in the table~~ to arrive at a tool distribution ~~equal to or in excess of~~ no less than the number of people in the Forest Operation.

TABLE 1			
People in Operation	2 - 5	6 - 8	9 - 10
Tool <del>B</del> ox	1	1	1
Shovels	2	4	5
Pulaskis	2	4	4
5 gallon <del>p</del> ump <del>e</del> Cans or <del>b</del> ladder <del>b</del> ags	1	1	2

(3-31-22)( )

a. The tool boxes ~~required by this rule~~ must be clearly marked "FOR FIRE USE ONLY"; ~~and~~ (3-31-22)( )

b. The tools ~~required by Subsection 100.01~~ must be in a location immediately accessible for firefighting ~~purposes~~, maintained in a serviceable condition, ~~and be~~ fully functional at the time of deployment. (3-31-22)( )

**02. Warming Fires or Campfires.** Except when in designated, developed campgrounds, or when traveling as a pedestrian, all ~~pPersons or parties~~ igniting warming fires or campfires must be equipped with the following: (3-31-22)( )

a. One (1) serviceable shovel at least twenty-four (24) inches in ~~overall~~ length with at least a six (6) inch ~~or~~ wider blade. (3-31-22)( )

b. One (1) water container, capacity one (1) gallon or more. (3-31-22)

**03. Power Equipment.** Each unit of mobile or stationary power equipment operating on Forest Land, other than portable power saws, trail bikes, motorcycles, all-terrain ~~vehicles~~ and similar type vehicles, operating on forest lands of the state must be equipped with a minimum of one (1) chemical fire extinguisher rated by the Underwriters Laboratory as ~~not~~ less than 4-BC. (3-31-22)( )

**04. Portable Power Saw.** Any ~~pPerson~~ using a portable power saw on ~~fForest L~~and ~~in the state~~ must have the following immediately available for ~~the fire~~ prevention and suppression ~~of fire~~: (3-31-22)( )

a. A fully charged operable fire extinguisher of at least eight (8) ounce ~~minimum~~ capacity. (3-31-22)( )

b. A serviceable round-pointed size zero (0) or larger shovel. (3-31-22)

101. -- 109. (RESERVED)

**110. FIRE CREWS DURING CLOSED FIRE SEASON.**

When engaged in a Forest Operation on Forest Lands during ~~eClosed fFire sSeason~~, the ~~pPerson~~ responsible for the Forest Operation must designate a fire crew and a fire foreman; ~~(with powers to act for their employer);~~ to Without compromising the safety of the crew, the firefighters must take immediate, initial reasonable action within the scope of their knowledge, skills, and abilities ~~and make a reasonable effort~~ to suppress any fire starting on the Operating Area ~~without compromising the safety of the crew.~~ (3-31-22)( )

~~111. -- 119.~~ (RESERVED)

**120. RESTRICTED ACTIVITIES.**

~~01. Critical Fire Danger.~~ During periods of critical fire danger, as determined by the director, all persons engaged in any activities in forest areas of the state, determined to be critical, may have those activities restricted to the least dangerous periods of the day. (3-31-22)

~~02. Notice.~~ Notification of such restriction will be by proclamation of the director and will be published at least once in a newspaper of general circulation throughout the county or counties affected. (3-31-22)

~~121. -- 129.~~ (RESERVED)

**130. WATER SUPPLY AND EQUIPMENT OPERATING AREA SEASONAL FIRE PREVENTION REQUIREMENTS.**

~~Every Operator conducting a Forest Operation using a cable logging system or a metal tracked harvester during the period of July 1st through September 30th annually must provide the following water supply and fire suppression equipment in the Operating Area.~~ To prevent the spread of fire in or from an Operating Area, every Operator conducting a Forest Operation using a Cable Logging System or a Metal-Tracked Harvester during the calendar period of July 1st through September 30th must comply with the following precautions: (3-31-22)( )

**01. Water Supply, Water Delivery, and Readiness.** (3-31-22)( )

a. The water supply ~~must~~ will consist of a self-propelled motor vehicle or trailer equipped with a water tank containing ~~not~~ less than two hundred (200) gallons of water. (3-31-22)

~~b.~~ Trailers used for ~~this purpose~~ water tanks must be equipped with will have a functional hitch attachment and have a serviceable tow vehicle immediately available ~~to provide~~ for timely ~~fire suppression~~ response. (3-31-22)( )

b. For water delivery, there will be a water pump, hose, and a nozzle. ( )

~~02. Water Delivery:~~ (3-31-22)

ai. ~~Water pump.~~ The size and capacity of the water pump must be of sufficient capacity to provide ~~a discharge of not less than~~ at least twenty (20) gallons per minute when ~~pumping~~ discharged at pump level through fifty (50) feet of ~~hose of not less than~~ at least three quarter (¾) inch inside diameter hose with an adjustable nozzle ~~at pump level~~. (3-31-22)( )

bii. ~~Hose and nozzle.~~ The Operator ~~There~~ must ~~have~~ be at least five hundred (500) feet of serviceable hose of ~~not less than~~ at least three quarter (¾) inch inside diameter and a nozzle. (3-31-22)( )

~~03. Readiness:~~ (3-31-22)

ac. To ensure readiness: ( )

i. All hose, motor vehicles, trailers, tanks, nozzles, and pumps ~~must~~ will be kept ready for immediate use during active operations, including the fire watch service ~~as set forth~~ described in Section ~~140~~ 091 ~~of these rules~~. (3-31-22)( )

bii. The water supply, pump, ~~a minimum of~~ at least two hundred (200) feet of immediately deployable hose ~~packaged in a suitable manner for immediate deployment~~, and the nozzle ~~must~~ will be maintained as a connected, operating unit ready for immediate use. (3-31-22)( )

02. Additional Seasonal Requirements for Cable or Cable-Assisted Logging. When conducting a Cable or Cable Assisted Logging operation on Forest Land the Operator must: ( )

a. Clear the ground of all flammable debris for at least (10) feet slope distance from the point directly below any Block; ( )

b. Prevent moving lines from rubbing on rock or woody material that could create sparks or sufficient heat that may ignite fuel; and ( )

c. Provide at each Block; ( )

i. One (1) pump equipped can or bladder containing no less than five (5) gallons of water; and ( )

ii. One (1) round pointed size zero (0) or larger shovel in a serviceable condition. ( )

~~043.~~ Water Supply and Equipment Exemption. A Forest Operation conducted under an Option 1 Certificate of Compliance is exempt from the ~~water supply and equipment~~ requirements of ~~Subsection 130~~ 120.01. (3-31-22)( )

~~131. 139.~~ (RESERVED)

**140. FIRE WATCH SERVICE.**

Every Operator engaged in a Forest Operation within a Stage 2 proclamation area must provide Fire Watch Service in the Operating Area. (3-31-22)

01. Duties and Requirements. Fire Watch Service must consist of at least one (1) person who: (3-31-22)

- ~~a.~~ Is constantly on duty for three (3) hours after all power-operated equipment has been shut down for the day. (3-31-22)
- ~~b.~~ Visually observes the Operating Area where activity occurred during the day. (3-31-22)
- ~~c.~~ Has adequate equipment for transportation and communications to summon fire-fighting assistance in a timely manner; and (3-31-22)
- ~~d.~~ Immediately responds to any fire in the Operating Area to initiate such fire suppression actions to suppress the fire within the scope of their knowledge, skills and abilities. (3-31-22)

~~02.~~ **Fire Watch Service Exemption.** A Forest Operation conducted under an Option 1 Certificate of Compliance is exempt from the fire watch service requirements of Section 140. (3-31-22)

~~141. — 149.~~ (RESERVED)

**150. OPERATION AREA FIRE PREVENTION:**

To prevent the spread of fire on or from an Operating Area, every Operator conducting a Forest Operation during the period of July 1st through September 30th, annually, must comply with the following precautions: (3-31-22)

~~01.~~ **Cable or Cable Assisted Logging.** The following practices and equipment are required by the operator when conducting a cable logging operation on forest land. (3-31-22)

~~a.~~ Clear the ground of all flammable debris for not less than ten (10) feet slope distance from the point directly below any block. (3-31-22)

~~b.~~ Prevent moving lines from rubbing on rock or woody material in such a way to cause sparks or sufficient heat that may cause fuel ignition. (3-31-22)

~~c.~~ Provide a water supply that complies with the capacity, pump, hose, nozzle and readiness requirements set forth in Section 130 of these rules. (3-31-22)

~~d.~~ Provide at each Block: (3-31-22)

~~i.~~ One (1) pump equipped can or bladder containing not less than five (5) gallons of water; and (3-31-22)

~~ii.~~ One (1) round pointed size zero (0) or larger shovel in a serviceable condition. (3-31-22)

~~151-21.~~ -- 999. (RESERVED)



**IDAPA 20 – IDAHO DEPARTMENT OF LANDS**  
**20.04.01 - RULES PERTAINING TO FOREST FIRE PROTECTION**  
**DOCKET NO. 20-0401-2301**  
**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 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:

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 162-171](#).

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Brooke Heasty at [bheasty@idl.idaho.gov](mailto:bheasty@idl.idaho.gov).

DATED this 15th day of October, 2024.

Joshua J. Harvey  
Fire Management Chief  
Forestry and Fire Division  
Idaho Department of Lands  
3284 W Industrial Loop  
Coeur d'Alene, Idaho, 83815  
Phone: (208) 666-8650, Fax: (208) 769-1524

# STATE BOARD OF LAND COMMISSIONERS

October 15, 2024

Regular Agenda

## Subject

Adoption of Pending Rule, IDAPA 20.04.02 *Rules Pertaining to the Idaho Forestry Act and Fire Hazard Reduction Laws*

## Question Presented

Shall the Land Board adopt the pending rule with changes to the proposed rule text for IDAPA 20.04.02?

## Background

The Idaho Department of Lands (Department) is responsible for ensuring the reduction of hazardous wildland fuels created by forest products removal. IDAPA 20.04.02 establishes a consistent process for completing and assessing the reduction of hazardous fuels; it also sets bond rates for ensuring hazard reduction and penalties for non-compliant contractors.

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 State Board of Land Commissioners (Land Board) approval on August 15, 2023 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.
- Posted meeting information on social media.
- Posted rulemaking notices to Townhall Idaho.
- Emailed draft rules to 197 interested members of the public.
- Posted three draft rules in strikethrough format with reasonable periods of time for public comment.
- Engaged in discussions with Associated Logging Contractors, Idaho Department of Environmental Quality, Idaho Forest Owners Association, and Idaho Forest Industry group members.

The Department held two public negotiated rulemaking meetings with options for in person or virtual participation. Three participants attended the October 10, 2023 meeting in

Coeur d'Alene and no members of the public attended the October 11, 2023 meeting in McCall. There were no public comments provided during the meetings. The comment period ended April 17, 2024. Written comments were received from PotlatchDeltic, the Associated Logging Contractors, Inc., the Department of Environmental Quality, and Riley Stegner and Associates. All comments were addressed with changes to the rule text consistent with statutes and other Department regulations. There are no unresolved issues from the negotiated rulemaking process.

The Notice of Proposed Rulemaking was published in the Idaho Administrative Bulletin, Vol. 24-7 on July 3, 2024. No public hearings were requested or held. There was one written supportive comment from PotlatchDeltic with suggested changes to the rule text. A summary of this comment is included as Attachment 1. Several edits were made to the proposed rule based on the comment received (Attachment 2).

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 with changes to the proposed rule text for IDAPA 20.04.02 *Rules Pertaining to the Idaho Forestry Act and Fire Hazard Reduction Laws*.

### **Board Action**

**IDAHO DEPARTMENT OF LANDS**

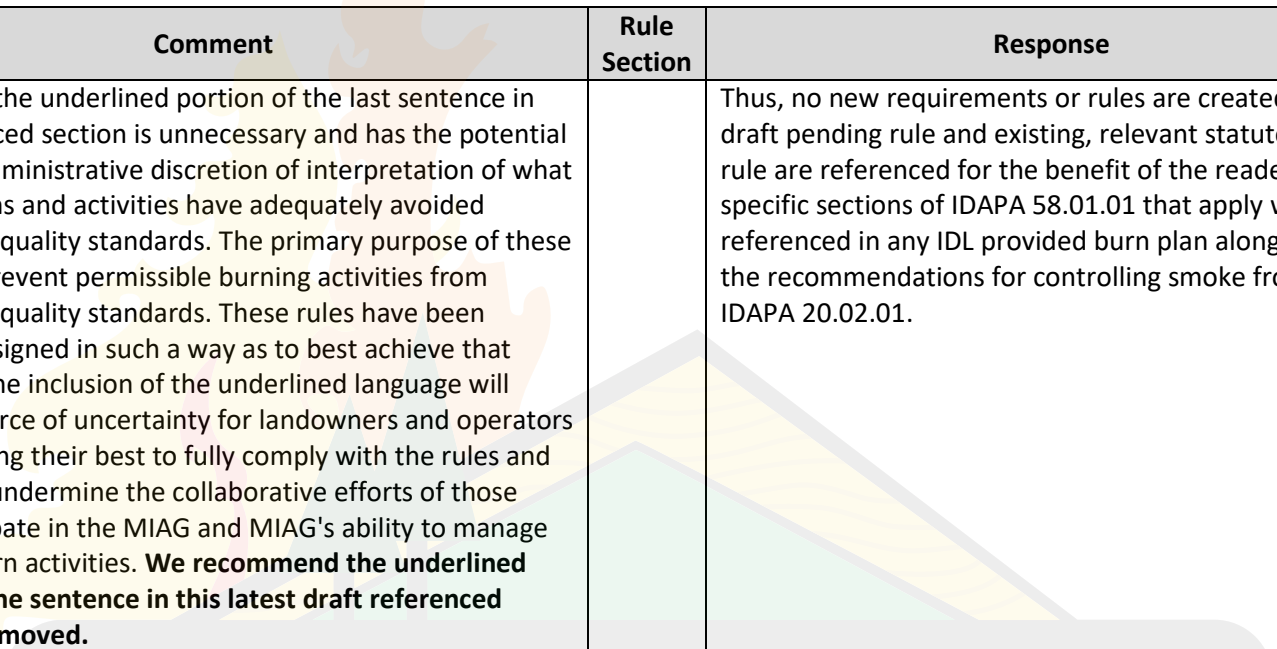
### **Attachments**

1. Summary of Comments on Proposed Rule
2. Pending Rule Text with changes to Proposed Rule
3. Draft Notice of Adoption of Pending Rule with changes

Summary Response to Comments on Proposed Rule  
IDAPA 20.04.02, Rules Pertaining to Forest Fire Protection

Comment	Rule Section	Response
<p>PotlatchDeltic appreciates the opportunity to provide comments on the IDL's proposed zero-based regulation negotiated rulemaking documents IDAPA 20.04.01 and IDAPA 20.04.02 pertaining to Forest Fire Protection and the Idaho Forestry Act and Fire Hazard Reduction laws as published in the Idaho Administrative Bulletin on July 3, 2024, Vol. 24-7.</p> <p>In short, we applaud the efforts by IDL staff to thoughtfully consider the public comments received on earlier drafts of these dockets and incorporating that feedback into these latest versions. We believe they largely capture the spirit and intent of the zero-based regulations negotiated rulemaking process and result in a pragmatic product that will provide clear and reasonable guidance for forest landowners and operators.</p> <p>In this latest draft we have one remaining significant concern that we would like to express and remedy. It pertains to language in IDAPA 20.04.02, section 110.01, which currently states:</p> <p>1. <b><i>Burning.</i></b> <i>Burning for Forest Operations must be planned, prepared, and executed in a way that protects forest resources and maintains air quality (Title 38, Chapter 13 Idaho Code and IDAPA 20.02.01), provides adequate control of smoke (IDAPA 58.01.01) and avoids violating air quality standards.</i></p>	110.	<p>IDL, in consultation with DEQ, has carefully evaluated this comment and concurs with PotlatchDeltic this portion of both the current and proposed rule verbiage creates uncertainty primarily because of the use of the term "standard." IDL believes the intent of this part of the rule was always to make burners aware that such standards exist and of the potential for their exceedance when burning occurs. The methods for determining relevant air quality values do not support determining if an individual burner has exceeded air quality standards. The relevant air quality parameters referenced in IDAPA 58.01.01 are time-averaged particulate densities that include contributions from all burning in a monitored locale. Exceedance of these standards can trigger a declared air quality advisory. Under an air quality advisory IDAPA 58.01.01 implements stricter requirements for open burning. To retain the original intent of this part of rule, the draft pending rule verbiage has been corrected to state:</p> <p><b>01. Burning.</b> <u>Burning for Forest Operations must be planned, prepared, and executed in a way that protects forest resources and maintains air quality (Title 38, Chapter 13 Idaho Code and IDAPA 20.02.01), controls smoke, and complies with air quality requirements (IDAPA 58.01.01).</u></p>





Comment	Rule Section	Response
We believe the underlined portion of the last sentence in this referenced section is unnecessary and has the potential for broad administrative discretion of interpretation of what burning plans and activities have adequately avoided violating air quality standards. The primary purpose of these rules is to prevent permissible burning activities from violating air quality standards. These rules have been carefully designed in such a way as to best achieve that objective. The inclusion of the underlined language will create a source of uncertainty for landowners and operators who are doing their best to fully comply with the rules and potentially undermine the collaborative efforts of those who participate in the MIAG and MIAG's ability to manage member burn activities. <b>We recommend the underlined portion of the sentence in this latest draft referenced above be removed.</b>		Thus, no new requirements or rules are created by the draft pending rule and existing, relevant statute and rule are referenced for the benefit of the reader. The specific sections of IDAPA 58.01.01 that apply will be referenced in any IDL provided burn plan along with the recommendations for controlling smoke from IDAPA 20.02.01.

## 20.04.02 – RULES PERTAINING TO THE IDAHO FORESTRY ACT AND FIRE HAZARD REDUCTION LAWS

### 000. LEGAL AUTHORITY.

~~These rules are~~ This chapter is adopted ~~pursuant to~~under the ~~rulemaking~~legal authority ~~granted in~~of Sections 38-132, ~~and~~ 38-402, ~~58-105, and 67-5201 et seq.,~~ Idaho Code.

(3-18-22)( )

### 001. TITLE AND SCOPE.

~~01. Title.~~ These rules are titled IDAPA 20.04.02, “Rules Pertaining to the Idaho Forestry Act and Fire Hazard Reduction Laws.” and implement the provisions of Title 38, Chapters 1 and 4, Idaho Code. They provide for Hazard Management Agreements and eContracts and provide for burning requirements and Slash Hazard Reduction standards associated with cutting timber or other Forest Products. They also provide for release or continuation of Contractor liability for wildfire suppression costs for commercial forest products.

(3-18-22)( )

~~02. Scope.~~ These rules implement the provisions of the Idaho Forestry Act and Fire Hazard Reduction Laws.

(3-18-22)

### 002. -- 009. (RESERVED)

### 010. DEFINITIONS.

The terms Fire Warden, Forest Land, Forest Products, Person, and State are defined in Section 38-101, Idaho Code. In addition to the definitions set forth in the Idaho Forestry Act and IDAPA 20.04.01, the following definitions apply to these rules:

Unless otherwise required by context, as used in these rules: (3-18-22)( )

~~01. Agreement.~~ The Certificate of Compliance-Fire Hazard Management Agreement ~~(Department of Lands Form 715) required by~~under Section 38-122, Idaho Code (Fire Management Handbook 715 Att. 1).

(3-18-22)( )

~~02. Clearance.~~ The Certificate of Clearance (Fire Management Handbook 760 Att. 1), required by law, which states the Contractor has met the terms of Section 38-122, Idaho Code.

( )

~~03. Contract.~~ An optional Hazard Management Contract entered into with the Director by any landowner or Operator, under Section 38-404, where the Department assumes the responsibility for management of the fire hazard in exchange for a fee.

( )

~~0204. Contract Area.~~ The legal description of the land given on the ~~a~~Agreement or Contract.(3-18-22)( )

~~0305. Contractor.~~ The ~~p~~Person who enters into the ~~Certificate of Compliance Fire Hazard Management Agreement.~~

(3-18-22)( )

~~0406. Department.~~ The Idaho Department of Lands.

(3-18-22)( )

~~0507. Director.~~ The Director of the Idaho Department of Lands or ~~his authorized representative~~their designee.

(3-18-22)( )

~~0608. District.~~ A designated forest protective district under Section 38-110 Idaho Code. (3-18-22)( )

~~0709. Fire Line.~~ A ~~line break in Fuel scraped or~~ dug to mineral soil ~~which is intended~~ to control a fire.( )

~~0810.~~ **Fire Warden Management Handbook.** A ~~duly appointed fire warden or deputy~~ policy document which describes procedures and forms the Department uses to administer these rules. (3-18-22)( )

~~0911.~~ **Fuel.** Any ~~slash~~ Slash or woody debris that ~~will~~ contributes to the spread or intensity of a wildfire. (3-18-22)( )

~~1012.~~ **Fuel Break.** An area in which all ~~slash and dead woody debris have been~~ Fuel is removed or piled and burned. (3-18-22)( )

~~1113.~~ **Hazard Points.** A metric used by the Department to compute the fire hazard rating for Slashing Areas based on Hazard Reduction, site characteristics, and other protective measures that may reduce the spread or intensity of a wildfire. ( )

~~12.~~ **Hazard Reduction.** The burning or physical reduction of fire hazards by treatment ~~in a manner that to will~~ reduce the spread or intensity ~~and/or spread~~ of a wildfire ~~after treatment is completed.~~ (3-18-22)( )

~~1315.~~ **Initial Purchaser or Purchaser.** The first ~~p~~Person, company, partnership, corporation, or association of whatever nature who to purchases a ~~forest~~ Forest ~~p~~Product after it is harvested. (3-18-22)( )

~~1316.~~ **Operational Period.** A standard twelve (12) hour fire control shift. (3-18-22)( )

~~17.~~ **Prescribed Fire.** The controlled application of fire to wildland fuels, in either their natural or modified state, under conditions of weather, fuel moisture, and soil moisture, that allow the fire to be confined to a predetermined area while producing the intensity of heat and rate of spread required to meet planned objectives. ( )

~~1418.~~ **Slash or Slashing.** Brush, severed limbs, poles, tops and/or other waste material incident to such cutting or ~~to the~~ clearing of land, which are four (4) inches and under in diameter. However, ~~for the purpose of these rules and~~ to correspond with standard fire classifications, for these rules, sSlash ~~will~~ only includes ~~material less than or equal to~~ three (3) inches or less in diameter. (3-18-22)( )

~~18.~~ **Slashing Areas.** Areas where sufficient flammable material to constitute a menace to life or property remains on the ground after cutting trees or brush preparatory to clearing, or after cutting Forest Products. ( )

~~1520.~~ **Slash Load.** Slash resulting from timber harvesting ~~that has occurred~~ under a current ~~a~~Agreement, exclusive of natural mortality. (3-18-22)( )

~~16.~~ **State.** The state of Idaho. (3-18-22)

## 011. ABBREVIATIONS.

~~01.~~ **FMH.** Fire Management Handbook. ( )

~~012.~~ -- 029. (RESERVED)

## 030. CERTIFICATE OF COMPLIANCE-FIRE HAZARD MANAGEMENT AGREEMENT.

~~01.~~ **Contents.** A Certificate of Compliance-Fire Hazard Management Agreement must be obtained ~~by anyone who conducts an operation involving the before any Person may~~ harvesting ~~of forest~~ Forest products ~~Products~~ or potential ~~forest~~ Forest products ~~Products~~. ~~Such~~ The Agreement provides ~~the options of to entering into~~ enter into a ~~contract~~ Contract as provided ~~in under~~ Section 38-404, Idaho Code, ~~or for~~ posting ~~of~~ a cash or surety

bond to the State. The ~~Certificate of Compliance required by Section 38-122, Idaho Code, must be in substantially the same form as Department of Lands Form No. 715 — “Certificate of Compliance Fire Hazard Management Agreement.”~~ Agreement is described in FMH 715.

(3-18-22)( )

**02. Period of Time.** The period ~~set forth within~~ defined by the Agreement is based ~~upon such considerations as~~ on the size of the ~~eContract~~ aArea, the volume of the timber to be harvested, ~~and or~~ the silvicultural objectives of the landowner. ~~However, i~~ In no case may a single Agreement exceed a period of twenty-four (24) months unless the ~~eContractor~~ submits, and the ~~fFire wWarden~~ mutually approves, ~~agree upon a~~ written hazard management plan for the timely abatement of the hazard during a longer period ~~that may exceed twenty-four (24) months.~~ (3-18-22)( )

**03. Extensions.** If ~~the a~~ eContractor cannot meet the standard required to obtain a ~~eClearance~~ eClearance within the period specified ~~above in the Agreement~~, they ~~contractor~~ may apply to the ~~fFire wWarden~~ Fire wWarden for an extension. The application must be in writing, received at the Fire district-District office thirty (30) working days before the Agreement expires, and show good reason as to other than financial hardship, why an extension ~~should be given is necessary (other than financial hardship).~~ Prior to the Agreement’s expiration date, The the fFire wWarden will acknowledge receipt of grant or deny the request prior to the expiration of the Agreement with a form from FMH 715. (3-18-22)( )

**04. Responsibility.** The ~~eContractor~~ eContractor named in the Agreement ~~will be is~~ responsible for managing the fire hazard created by the harvesting and will receive the ~~eClearance~~ eClearance if the ~~slash treatment meets standards~~ requirements of Section 120 are met or will carry the liability for suppressing wildfire for five (5) full years following the expiration of the Agreement. (3-18-22)( )

**031. -- 039. (RESERVED)**

**040. ADDENDUM TO ~~CERTIFICATE OF COMPLIANCE FIRE HAZARD MANAGEMENT AGREEMENT~~ AGREEMENT FOR PARTIAL HAZARD REDUCTION.**

~~In those instances where~~ When a ~~eContractor~~ eContractor ~~indicates an intent intends~~ to only accomplish only the ~~pile, ing~~ portion of the total ~~but not burn~~ dispose of or physically treat the s ~~Slash hazard reduction job~~ Load, an addendum to the Agreement must be executed that precisely specifies ying precisely the portion of ~~slash withholding hazard reduction~~ monieys that will be to be refunded. The addendum ~~must be is~~ in substantially the same form as one ~~executed with a form in forms provided by the Department~~ FMH 715-Att. 4. of Lands Form No. 715.1 — “Addendum to Certificate of Compliance Fire Hazard Management Agreement.” (3-18-22)( )

**041. -- 049. (RESERVED)**

**050. BOND.**

**01. Amount of Bond.** The bond specified in Section 38-122 ~~and Section 38-404~~, Idaho Code, ~~must will~~ be in the amount of four dollars (\$4) per thousand board feet (MBF), or equivalent measure as shown in Table I below, of ~~forest Forest products-Products~~ harvested, and may ~~take the form of be:~~ cash, i surety bond; or irrevocable letter of credit. Surety bonds must be ~~in substantially the same form as~~ on forms provided by the Department of ~~Lands Form No. 707 — “Bond.”~~ (3-18-22)( )

**02. Rates.** Rates and amounts listed in Table I ~~will be are~~ used as a minimum in calculating hazard reduction bonds for ~~Forest products-Products~~ cut from all state and private lands in Idaho.

TABLE I	
PRODUCT	BOND RATE



(1) MBF Measurement	
All Products	\$4.00 MBF
<b>OR</b>	
(2) Other Measurement	
Green pulp, stud timber, etc.	\$2.00 Cord
Lineal Foot Measure	
Utility poles and pilings, all species	\$.014 LF
Stulls, corral poles, cellar timbers, fence rails, round posts	\$.01 LF
Piece Measure	
100 inch bolt material	\$.08 ea.
Split posts	\$.02 ea.
Tree stakes	\$.02 ea.
Shake boards	\$.02 ea.
Ton Measurement	
Green or Dead Pulp, Chips, etc.	\$.70 Ton

(3-18-22)( )

**03. Exceeding Minimum Bond.** The minimum bond rate ~~will is~~ only ~~be~~ exceeded when the landowner or ~~e~~Operator requests that higher rate to accomplish additional ~~hazard~~ Hazard Reduction. (3-18-22)( )

**051. -- 059. (RESERVED)**

**060. CONTRACTS WITH FOREST LANDOWNERS OR OPERATORS FOR ASSUMPTION OF HAZARD REDUCTION MANAGEMENT RESPONSIBILITY.**

Forest landowners and ~~e~~Operators who engage in ~~commercial timber harvesting operations~~ Forest Operations may enter into an optional ~~eContract Agreement with the Director as provided in Section 38-404, Idaho Code.~~ Under the terms of ~~such an optional the eContract Agreement,~~ the Director may assume all responsibility for the management and reduction of fire hazards ~~to be~~ created in return for a stipulated amount to be paid to the Director ~~by the landowner or operator.~~ ~~Such Any optional eContract Agreement must be in substantially the same form as on forms provided by the~~ Department of Lands Form No. 720 "Contract for Management, Reduction and/or Removal of Fire Hazards Created by the Harvesting of Timber Within the State of Idaho," or Department of Lands Form No 725 "Contract for Management of Fire Hazards Created By the Harvesting of Timber Within the State of Idaho." (3-18-22)( )

**061. -- 069. (RESERVED)**

**070. CONTRACTOR CASH BOND RELEASE TO THE DIRECTOR.**

Contractors ~~that who~~ elect, under Section 38-122, Idaho Code, to have hazard reduction money withheld, but ~~who~~ do not intend to dispose of the hazard themselves, must release the withheld monies to the Director ~~of the~~

Department of Lands. ~~Such-The~~ release ~~must be in substantially the same form as~~ is on a form in FMH 761-Att. 1.  
~~Department of Lands Form No. 761 "Release of Cash Bond Withheld to Assure Slash Disposal."~~ (3-18-22)( )

071. -- 079. (RESERVED)

**080. ADDED PROTECTION IN LIEU OF HAZARD REDUCTION.**

~~As provided in Section 38-401, Idaho Code, F~~ire hazard management methods may include ~~or be limited to the~~  
~~taking of~~ additional protective measures in lieu of actual disposal of the ~~slash-Slash~~ hazard. Any funds coming into  
~~district-District~~ hazard management accounts through ~~contract-Contract~~, cash bond release, or forfeiture, may be used  
for added protection provided that the expenditure meets specifications outlined in Section 38-401, Idaho Code. ~~(3-18-22)( )~~

081. -- 089. (RESERVED)

**090. DUTIES OF THE INITIAL PURCHASER REQUIREMENTS OF FOREST PRODUCTS.**

**01. Initial Purchaser.** Initial ~~purchasers-Purchasers~~ of forest-~~Forest products-Products~~, in accordance  
~~with Section 38-122, Idaho Code,~~ must withhold, and remit to the State, ~~slash management-hazard reduction~~ monies  
~~as appropriate for according to the slash management-hazard~~ option chosen by the ~~e~~Contractor in the Agreement.  
~~Such-The~~ option must be clearly identified on the ~~purchaser's-Purchaser's~~ copy of the Agreement. ~~Slash-Hazard~~  
~~reduction~~ monies withheld in any one (1) calendar month must be remitted to the Director on or before the end of  
the next calendar month. ~~Such-The~~ remittance ~~must may~~ be ~~in-on~~ substantially the same form as Department of  
Lands ~~Form No. 740 "Hazard Reduction Payment Record (FMH 705-Att. 2) or in a report with the same~~  
~~information.~~ " ~~(3-18-22)( )~~

**02. Duty of Initial Purchaser.** Initial ~~purchasers-Purchasers~~ of forest-~~Forest products-Products~~ must  
make certain that all ~~e~~Contractors from whom they purchase ~~forest-Forest products-Products~~ have obtained a proper  
Agreement. ~~(3-18-22)( )~~

091. -- 099. (RESERVED)

**100. INJUNCTION AGAINST FURTHER CUTTING WITHOUT AN AGREEMENT.**

Any ~~p~~Person who cuts timber or other ~~forest-Forest products-Products~~ of any kind, without ~~having~~ first ~~secured~~  
~~obtaining~~ an Agreement, ~~in accordance with Section 38-122, Idaho Code,~~ may be enjoined from ~~continuing~~  
~~such further~~ cutting and will be required to immediately dispose of all ~~slash-Slash~~ created. If the ~~p~~Person ~~responsible~~  
fails to properly dispose of the ~~s~~Slash within thirty (30) days after ~~being notified to do so~~ receiving notification, the  
State may dispose of the ~~s~~Slash and ~~such-the~~ costs of disposal, plus twenty percent (20%) as a penalty, may be  
collected as a prior lien against the ~~Forest products-Products~~ harvested. ~~(3-18-22)( )~~

101. -- 109. (RESERVED)

**110. REQUIREMENTS FOR PRESCRIBED FIRE IN FOREST LAND BURNING OF SLASH.**

**01. Burning.** Burning for Forest Operations must be planned, prepared, and executed in a way that  
protects forest resources and maintains air quality (Title 38, Chapter 13 Idaho Code and IDAPA 20.02.01), controls  
smoke, and complies with air quality requirements (IDAPA 58.01.01). ( )

**02. Burn Plans.** Burning within specifically designated blocks or areas of Forest Land at any time  
must be conducted under a prescribed burn plan approved by the ~~Fire Warden of the District's~~ Fire Warden in which  
the burn occurs. ( )

a. For piled Slash burning, the District Fire Warden will provide a burn plan with the Agreement. ( )

b. For other burning, the Contractor must submit to the District Fire Warden a detailed prescription  
for executing the burn. ( )

~~01. Permits. Any burning operation conducted for the purpose of hazard reduction must be in accordance with the law requiring burning permits during the closed fire season.~~

~~03. Burn Crew. A~~ Persons conducting burning operations must have a permit, when required, and sufficient men~~people~~, tools, and equipment on hand to immediately stop the uncontrolled spread of any fire. Burning operations must be planned, prepared and executed in such a manner that forest resources are not damaged and air quality standards are met. (3-18-22)( )

~~02. Burn Plan. Burning of specifically designated blocks or areas of forest land for any purpose must be conducted in accordance with a prescribed burn plan approved by the fire warden in whose area of responsibility the burn occurs.~~ (3-18-22)

111. -- 119. (RESERVED)

120. STANDARDS ~~TREATMENT OF~~ FOR HAZARD REDUCTION.

01. Purpose. It is the policy of the State that the fire hazard created by commercial timber harvest be reduced by Slash disposal or physical treatment. This Section provides standards for hHazard rReductionand the release of liability for the contractor who is working under a valid Agreement with the State. (3-18-22)( )

02. Reduction of Total Hazard Points. The eContractor's -Forest Operation must achieve a reduce the total hazard Hazard points Point total charged against the contract area to of five (5) points or less (see Table H)through disposal, treatment and other protective measures on or before the expiration date on the Agreement's expiration date to receive a release of liability against any fires that originate in or pass through any contractSlashing aArea andin order to receive a refund of slash-hazard reduction monies withheld (less three (3) percent for the fire suppression fund, ref. Rule150) or, to clear any demands that might be made against the surety bond -and to receive a release of liability against any fires that start on or pass through the contract area(as stipulated in Sections 130 and 150). The Fire Warden of the District's Fire Warden, where the Slashing Areas are located, will use Hazard Point values from the Hazard Reduction, site characteristics, and other protective measures tables shown below to compute the Hazard Rating. If the Operating Area has more than one Slashing Area and the Slashing Areas are topographically unique or separated by uncut timber, each Slashing Area may be audited independently. Detailed example Slash Loads and computations are provided in FMH 760. ( )

a. Slash Load Technical Specifications. ( )

<u>TABLE II – SLASH LOAD TECHNICAL SPECIFICATIONS</u>	
<u>HAZARD RATING (POINTS)</u>	<u>SLASH LOAD</u>
<u>LOW (0-5)</u>	<u>Slash Load does not exceed three (3) ton per acre.</u>
<u>MODERATE (6-10)</u>	<u>Slash Load is between three (3) ton per acre and six (6) ton per acre.</u>
<u>HIGH (11-15)</u>	<u>Slash Load is between six (6) ton per acre and twelve (12) ton per acre.</u>
<u>EXTREME (16-20)</u>	<u>Slash Load is greater than twelve (12) ton per acre.</u>

Slash Loads can be determined by using any standard photo series appropriate for the habitat type represented by the Slashing Area or by using USDA Forest Service General Technical Report INT-16, 1974 (HANDBOOK FOR INVENTORYING DOWNED WOODY MATERIAL). If the Contractor insists upon the latter, sampling intensity will be one (1) sample per two (2) acres through the Slashing Areas in question. The inventory cost is paid by the Contractor. All Slash resulting from the current harvest is included in the inventory except Slash piled and burned by the Contractor before the expiration date of the Agreement or granted extension. ( )

**b. Contractor Hazard Reduction Methods.**

Hazard Point deductions can be assigned proportionate to the acreage completed using the table below. Fire Lines are a minimum width of eighteen (18) inches for hand constructed and ten (10) feet for machine constructed. Machine constructed lines should not exceed twelve (12) feet width. Clear all Fuels for a minimum of eight (8) feet adjacent to handlines. Displace soil to one side and all vegetative debris to the other for machine lines. Place Fuel Breaks and Fire Lines to take advantage of terrain (ridgelines, swales, etc.), manmade or natural barriers (roads, skid trails, escarpments, etc.), and provide optimum fire control effect. Tie lines to an anchor point except through a riparian management zone. ( )

<u>Method</u>	<u>DESCRIPTION</u>	<u>HAZARD POINT RANGE</u>
<u>Disposal</u>	<u>Remove, pile and burn, or broadcast burn Slash.</u>	<u>0 to 42</u>
<u>Chipping</u>	<u>Chip Slash with a stationary or mobile chipper.</u>	<u>0 to 42</u>
<u>Crushing or Mastication</u>	<u>Crush Slash with repeated passes of heavy equipment or a mobile masticator. Residual Fuel must not exceed the height and diameter limits for lopping.</u>	<u>0 to 20</u>
<u>Lopping</u>	<u>Cut all material less than three (3) inches in diameter so it does not extend more than twenty (20) inches of the mean height above the ground. Sever all boles greater than three (3) inches in diameter that intersect another bole.</u>	<u>0 to 10</u>
<u>Single Fuel Break</u>	<u>Remove, pile and burn or treat sufficiently all Slash and woody debris for a minimum width of one chain (66 feet).</u>	<u>1 to 5</u>
<u>Single Fire Line</u>	<u>Remove all vegetative material to expose mineral soil.</u>	<u>1</u>
<u>Isolation</u>	<u>Install Fuel Breaks and Fire Lines to divide or isolate Slashing Areas. (See Sub-section 04.a.)</u>	<u>1 to 25</u>

**03. Site Characteristics.** The Fire Warden will audit the Forest Operation and assign Hazard Points for site characteristics that increase risk of forest damage or threats to life or property. ( )

**a. Slashing Area Size.** Large Slashing Areas will be assigned up to five (5) Hazard Points using the table below. ( )

<u>ACRES</u>	<u>&lt;40</u>	<u>40-160</u>	<u>161-320</u>	<u>321-480</u>	<u>481-640</u>	<u>&gt;640</u>
<u>PT VALUE</u>	<u>0</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>

<u>TABLE II - HAZARD CHARACTERISTICS AND OFFSET SLASH LOAD MAXIMUM 20 POINTSRATING-TECHNICAL SPECIFICATIONS</u>	
<u>RATING (POINTS)</u>	<u>ADJECTIVE DESCRIPTIONSLASH LOAD</u>



LOW (0-5)	<del>Slash Load does not exceed three (3) ton per acre. Associated with low harvest volumes per acre such as selection cutting, light commercial thinning, sanitation/salvage operations, tree length skidding with tops and limbs and little or no breakage. Slash is broken up; slash is in many islands over the operating area.</del>
MODERATE (6-10)	<del>Slash Load is greater than three (3) ton per acre but less than six (6) ton per acre. Rating can be lowered by Fire Warden determination. Operation types similar to those listed above except that harvest volume per acre is higher or utilization standards are lower, or timber has higher proportion of unusable top and crown (commonly associated with partial cutting in second growth stands of mixed timber). Most diameter limit cutting falls in this category. Slash is distributed with some clear or very light areas intermingled with heavy islands of slash over the operating area, slash is not continuous.</del>
HIGH (11-15)	<del>Slash Load is greater than six (6) ton per acre but less than twelve (12) ton per acre. Rating can be lowered by Fire Warden determination. Usually associated with regeneration harvest methods such as shelterwood, seed tree and most clearcuts, or any partial cut with a high harvest volume per acre. Slash is nearly continuous through the operating area frequently with heavier islands intermingled with light continuous slash.</del>
EXTREME (16-20)	<del>Slash Load is greater than twelve (12) ton per acre. Rating can be lowered by Fire Warden determination. Any operation with very high cut volume, and/or low utilization standards, and/or many slashed or broken stems. Slash is continuous over the operating area with few light areas.</del>
TECHNICAL SPECIFICATIONS	
LOW (0-5)	<del>Slash load less than or equal to 3 inch diameter materials not to exceed 3.0 tons/acre.</del>
MODERATE (6-10)	<del>Slash load less than or equal to 3 inch diameter materials greater than 3.0 tons/acre but less than 6.0 tons/acre.</del>
HIGH (11-15)	<del>Slash load less than or equal to 3 inch diameter materials greater than 6.0 tons/acre but less than 12.0 tons/acre.</del>
EXTREME (16-20)	<del>Slash load less than or equal to 3 inch diameter materials exceeds 12.0 tons/acre.</del>

**b. Slashing Area Aspect and Slope.** The Fire Warden will determine the predominant aspect and slope of each Slashing Area and assign up to ten (10) Hazard Points using the table below. ( )

<u>ASPECT</u>	<u>PERCENT SLOPE</u>					
	<u>0-10</u>	<u>11-20</u>	<u>21-30</u>	<u>31-40</u>	<u>41-50</u>	<u>&gt;50</u>
<u>N to NE</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>2</u>	<u>4</u>	<u>5</u>
<u>E or NW</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>3</u>	<u>6</u>	<u>7</u>
<u>W or SE</u>	<u>0</u>	<u>1</u>	<u>2</u>	<u>5</u>	<u>8</u>	<u>9</u>
<u>S to SW</u>	<u>1</u>	<u>2</u>	<u>4</u>	<u>7</u>	<u>9</u>	<u>10</u>

**c. Pre-existing Slash.** Any Slashing Area that has Slash from a previous operation, which has occurred within in the last five (5) years, will be assigned up to two (2) Hazard Points. ( )

**d. Location.** A Slashing Area's proximity to structures, highways, and recreational areas will be assigned up to five (5) Hazard Points using the table below. ( )

<u>PROXIMITY</u>	
<u>330 feet</u>	<u>5</u>
<u>660 feet</u>	<u>4</u>
<u>990 feet</u>	<u>3</u>
<u>1320 feet</u>	<u>2</u>
<u>2640 feet</u>	<u>1</u>

**04. Other Protective Measures.** The Fire Warden can consider other protective measures associated with a Forest Operation by reducing Hazard Points for division or isolation of Slashing Areas, access control, and availability of water for firefighting as follows: ( )

**a. Isolation.** The Fire Warden can reduce Hazard Points using the table below if Fuel Breaks or Fire Lines are used to subdivide Slashing Areas into smaller areas and/or isolate Slashing Areas from other forest stands; the maximum deduction is twenty-five (25) Hazard Points. ( )

<u>ACTIVITY</u>	<u>FUEL BREAK ONLY</u>	<u>FIRE LINE ONLY</u>	<u>BOTH</u>
<u>Slashing Areas are subdivided:</u>			
<u>A. Partial division of Slashing Area</u>	<u>1-5</u>	<u>1</u>	<u>1-6</u>
<u>B. Slashing Area divided into 2 areas</u>	<u>6-10</u>	<u>2</u>	<u>6-12</u>
<u>C. Slashing Area divided into 3 to 5 areas</u>	<u>11-15</u>	<u>3</u>	<u>11-18</u>
<u>D. Slashing Area divided into 6 or more areas</u>	<u>16-20</u>	<u>4</u>	<u>16-25</u>
<u>OR</u>			
<u>Slashing Areas are isolated from adjacent stands:</u>			
<u>A. One third of Slashing Area boundaries isolated</u>	<u>1-5</u>	<u>1</u>	<u>1-6</u>
<u>B. Two thirds of Slashing Area boundaries isolated</u>	<u>6-10</u>	<u>2</u>	<u>6-12</u>
<u>C. All Slashing Area boundaries isolated</u>	<u>11-15</u>	<u>3</u>	<u>11-18</u>

**b. Access Control.** The Fire Warden can deduct from the Hazard Point sum for each Slashing Area One (1) Hazard Point if a locked gate system controls road access on all secondary roads to the Operating Area and the Slash on the main road is disposed of or treated. Two (2) Hazard Points can be deducted if -the system controls all roads into the Operating Area. ( )

**c. Water Supply.** The Fire Warden can deduct Hazard Points from the Hazard Point sum for each Slashing Area for water availability. The supply must provide at least ten thousand (10,000) gallons in any one (1) Operational Period during the fire season. Water supplies accessible to fire engines within one (1) road mile or to helicopter buckets within three (3) air miles are eligible. ( )

**i.** One (1) Hazard Point can be deducted for availability to engines only or to helicopters only. ( )

**ii.** Two (2) Hazard Points can be deducted for availability to engines and helicopters. ( )

**iii.** Two (2) Hazard Points can be deducted for availability to engines or helicopters and the supply self-replenishes every Operational Period. ( )

**iv.** Three (3) Hazard Points can be deducted for availability to engines and helicopters and the supply self-replenishes every Operational Period. ( )

Slash loads can be determined by using any standard photo series appropriate for the habitat type represented by the contract area, or by using USDA Forest Service General Technical Report INT 16, 1974 (HANDBOOK FOR INVENTORING DOWNED WOODY MATERIAL). If the contractor insists upon the latter, sampling intensity will be one (1) point per two (2) acres through the area in question. The inventory cost is paid by the contractor. All slash made available as a result of the current harvest will be included in the inventory except that slash that has been piled and will be burned by the contractor before the expiration date on the Agreement or such extensions granted by the fire warden.

SITE FACTORS—MAXIMUM 10 POINTS						
ASPECT	PERCENT SLOPE					
	0-10	11-20	21-30	31-40	41-50	>50
N-NE	0	0	1	2	4	5
E,NW	0	0	1	3	6	7
W,SE	0	1	2	5	8	9
S-SW	1	2	4	7	9	10

UNIT SIZE—MAXIMUM 5 POINTS						
ACRES	<40	40-160	161-320	321-480	481-640	>640
PT VALUE	0	1	2	3	4	5

OTHER FACTORS—MAXIMUM 7 POINTS	
Pre-existing slash from operations in the past five years	0-2
Proximity to structures, highways and recreational areas (e.g., parks, established campgrounds, etc.).	Add Points

330 feet	5
660 feet	4
990 feet	3
1320 feet	2
2640 feet	1

In applying offset points to large, complex contract areas, or contract areas with highly variable hazard characteristics, hazard offset techniques must first be applied toward that portion of the contract area which will do the most to reduce the hazard by optimizing fire control effects.

<b>HAZARD OFFSETS <u>REDUCTION (ALL POINTS ARE DEDUCTIONS)</u></b>		
<b>ALL POINTS ARE DEDUCTIONS</b>		
<b>DISPOSAL</b>	Piling and Burning, Broadcast-Burning, etc.	0-42
If disposal reduces slash load in the contract area to <3 tons, deduct hazard points to five (5) or less. If disposal does not reduce slash load to that level, points should be <u>assigned as a proportion of the proportionate to area treated</u> . For example, if twenty-five percent (25%) of the area is dozer piled and the piles burned, but the slash load in the contract area still exceeds three (3) tons, twenty-five percent (25%) of the total points charged against the job should be deducted. However, if the disposal effectively isolates the untreated portion of the slash or is otherwise placed to optimize fire control effects the proportion of points deducted may be increased to an amount to be determined by the district fire warden.		
<b>MODIFICATION:</b>	Chipping	0-42
	Crushing	0-20
	Lopping	0-10
Lopping standards: All material less than three (3) inches in diameter will be cut so that it does not extend more than twenty (20) inches of the mean height above the ground. In addition, all boles greater than three (3) inches in diameter intersecting another bole will be completely severed. <u>Points are assigned proportionate to area treated.</u>		
Assign points as a proportion of the contract area treated.		
<b>ISOLATION</b>	Fuel Breaks	0-20
To qualify as a fuel break, all slash and available fuels (Ref. Subsection 010.10) must be removed, or piled and burned, or treated sufficiently to prevent a fire from carrying through the area, for a minimum width of one chain (66 feet). In addition, the <u>Pbreaks must be placed to take advantage of terrain, manmade or natural barriers and to provide for optimum fire control effect.</u>		
	Fire Lines	0-5



All vegetative material must be removed to expose mineral soil. Minimum width of dozer ~~All excavated lines must be the width of the dozer blade with~~ have all dirt soil pushed in one direction displaced to one side and all vegetative debris to the other. Handlines must be eighteen (18) inches wide; additionally, all fuels must be cleared for eight (8) feet. Lines must be tied to an anchor point except that they are not required to be built through a riparian management zone. In addition, the lines must be placed to take advantage of terrain, manmade or natural barriers, and to provide for optimum fire control effect. Maximum points allowed only if combined with an approved fuel break.

#### ASSIGNING POINTS FOR ISOLATION

~~Isolation techniques will usually be used to break the area into subunits or isolate the area from adjacent stands. Hazard offsets can be deducted for both if, in the opinion of the fire warden, both objectives are met, and the total isolation points do not exceed 25 offset points.~~

ACTIVITY	FUEL BREAK- ONLY	FIRE LINE- ONLY	BOTH
<del>Isolates contract area into subunits:</del>			
<del>_____ A. _____</del> Partial isolation or incomplete units	1-5	1	1-6
<del>_____ B. _____</del> Complete isolation of area into 1 to 2 subunits	6-10	2	6-12
<del>_____ C. _____</del> Complete isolation of area into 3 to 5 subunits	11-15	3	11-18
<del>_____ D. _____</del> Complete isolation of area into 6 or more subunits	16-20	4	16-25
<del>OR</del>			
<del>Isolates contract area from adjacent stands:</del>			
<del>_____ A. _____</del> One third of the contract area boundary isolated	1-5	1	1-6
<del>_____ B. _____</del> Two thirds of the contract area boundary isolated	6-10	2	6-12
<del>_____ C. _____</del> Entire contract area boundary isolated	11-15	3	11-18
ACCESS CONTROL	0-2		
<del>Locked gate system controls access on all secondary roads with slash treated on main road</del>			1
<del>Locked gate system controls all road access into unit</del>			2
AVAILABILITY OF WATER			0-3
<del>The water supply must provide water availability for engines within one road mile of operating area or within three air miles for helicopter bucket use. The water supply must be sufficient to supply 10,000 gallons in an operational period during the fire season.</del>			
<del>Water supply for engine only or helicopter only (capacity 10,000 gallons during fire season).</del>			1
<del>Water supply for engine and helicopter (capacity 10,000 gallons) or; for engine or helicopter and which replenishes itself every operational period.</del>			2

~~Water supply for engine and helicopter which replenishes itself every operational period.~~

3

(3-18-22)

121. -- 129. (RESERVED)

**130. LIABILITY FOR THE COST OF FIRE SUPPRESSION.**

**01. State Liability.** ~~With the exception of~~ Except for cases of negligence on the part of the landowner, ~~e~~Operator, or their agents, liability for the cost of suppressing fires that originate ~~on-in~~ or pass through a ~~s~~Slashing ~~a~~Area remains with the State if the Contractor executes one of the following alternatives ~~is executed by the contractor:~~ (3-18-22)( )

a. The ~~contract~~ ~~Slashing a~~Areas ~~is-are~~ covered by a Certificate of Compliance-Fire Hazard Management Agreement and all hazard reduction money payments are current or a proper bond is in place. (3-18-22)( )

b. The ~~e~~ Contractor treats the ~~s~~Slash in accordance with the standards outlined in ~~the~~Section 120; ~~Table H~~ within the ~~time period~~period specified ~~on-in~~ the Agreement or approved extensions. (3-18-22)( )

c. The landowner or ~~e~~Operator elects to enter into a ~~contract~~Contract with the State for management of the ~~s~~Slash and release from liability ~~of for~~ fire suppression costs as described in Section 060. ~~in accordance with Section 38-404, Idaho Code.~~ (3-18-22)( )

**02. Contractor Liability.** Should the ~~e~~Contractor choose ~~not to~~ not treat the ~~s~~Slash or not enter into a ~~contract~~Contract with the State in accordance with ~~Subsection 130.01~~Section 060, the ~~contractor, in addition to forfeiting any applicable bond,~~ Contractor is liable for fire suppression costs for all fires that originate ~~on-in~~ or pass through the ~~e~~Contractor's ~~s~~Slashing ~~a~~Areas and must forfeit any applicable bond. The ~~e~~Contractor retains the full liability for five (5) years from the time the Agreement or any extension ~~thereof~~ expires, unless a ~~e~~Clearance has been issued. (3-18-22)( )

**03. Failure to Treat.** Any ~~e~~Contractor who ~~fails to treat the fire hazard as outlined in~~ is liable under Subsection 130.02, is liable for the actual costs of suppressing any wildfire that ~~may occur~~ originates on-in or passes through ~~the the~~ ~~Slashing a~~Areas covered by their ~~individual or separate~~ Agreements for an amount up to two hundred fifty thousand dollars (\$250,000) per Agreement, but no more than one million dollars (\$1,000,000); for separate Agreements with different liable Contractors, the actual costs of suppression up to one million dollars (\$1,000,000) will be shared by the Contractors prorated on the Contract Area acreage of those Agreements. ~~If the same wildfire occurs on or passes through several areas covered by separate agreements or if several Agreements cover the same area, the contractor is liable for the actual cost of suppression up to one million dollars (\$1,000,000). If a wildfire occurs on or passes through an area covered by separate Agreements with different contractors, the actual cost of suppression up to one million dollars (\$1,000,000) will be shared by the contractors prorated on acreage included in their Agreements.~~ (3-18-22)( )

**04. Fees.** Upon payment of the fees ~~set forth~~ listed in Table III, the State will assume liability for the cost of suppressing fires that originate ~~on-in~~ or pass through the ~~C~~contract ~~A~~Area.

TABLE III - ADDITIONAL FEE TO TRANSFER LIABILITY BY HAZARD POINTS	
POINTS	RATE
6-10	\$1.00/MBF

11-20	\$2.00/MBF
21-30	\$3.00/MBF
>30	\$4.00/MBF

~~Additional fee~~ rates for measurement units other than the board foot measurement unit are available upon request from any Department of Lands office. (3-18-22)( )

**05. Additional Fee.** If the ~~e~~Contractor is unable to reduce the ~~h~~Hazard ~~p~~Points on a ~~C~~contract ~~A~~area to the standards required for a ~~e~~Clearance, but has completed some ~~h~~Hazard ~~r~~Reduction work, ~~that the e~~Contractor can discharge the remainder of ~~his-the~~ hazard obligation by returning a portion of ~~his-the~~ bond to the ~~Fire district~~ District and paying an additional fee to transfer liability. Use the following formula: [One (1) minus (the ~~acceptable low hazard point rating or of five (5)~~ divided by the residual, or untreated ~~hazard-Hazard pointsPoints~~)] times the ~~bond rate~~ multiply that ratio times the slash rate. This dollar amount ~~should is~~be multiplied by the total volume removed from the ~~C~~contract ~~A~~area: ~~and A~~added to ~~that the total volume times~~ the additional fee to transfer liability (from Table III (for the untreated hazard) points, from Table III) times the total volume. When this amount is paid to the State the ~~Agreement contract area~~ can be cleared. ~~Which can also be~~This computation is expressed as:

$(1-(5/U)) * B * V + (A*V) =$  Formula to transfer liability for a partially completed job.

Where:

U = Untreated or residual hazard points

B = Bond rate (usually \$4.00 MBF) Ref. Section 050, Table I

A = Additional fee to transfer liability, Table III

V = Total volume removed from the ~~e~~Contract ~~a~~Areas

131. -- 139. (RESERVED)

#### 140. CERTIFICATE OF CLEARANCE.

~~Anyone who has entered into an Agreement must apply in writing to the Director for a Clearance. The Certificate of Clearance is the instrument used to certify~~es that one (1) of the following situations exists: ( )

01. ~~that h~~Hazard ~~r~~Reduction ~~has been was~~ accomplished ~~in accordance with~~to the standards in Section 120; ( )

02. An additional fee was paid per Subsection 130.05; or ( )

03. The Contractor entered into a ~~e~~Contract with the Director per Section 060 to ensure hazard management. ( )

~~For Subsections 140.01 and 140.02, a contract entered into with the Director to ensure hazard management, or an additional fee has been paid. Anyone who has been issued an Agreement for the cutting of any forest product or potential forest product and who has met standards outlined in Section 120, or has made payment for hazard reduction under a contract with the Director, as provided in Section 38-404, Idaho Code, or has paid an additional fee in accordance with Section 38-122, Idaho Code, must apply in writing to the Director for a Certificate of Clearance. W~~within thirty (30) days ~~after of~~ receipt of ~~such written~~the request ~~for a Certificate of Clearance, the~~ Director will ~~cause inspect~~ the ~~requested area and issue the Clearance if the applicable requirements were met covered by the request to be inspected. If it is found that the fire hazard has been properly disposed of, the Director will issue a Certificate of Clearance. The Certificate of Clearance must be substantially the same form as Department of Lands Form No. 760 "Certificate of Clearance."~~ (3-18-22)( )

141. -- 149. (RESERVED)

150. FIRE SUPPRESSION AND FOREST PRACTICES ASSESSMENT.

01. ~~Withholding~~**Withheld Hazard Reduction Money.** An amount of three percent (3%) of the ~~slash management bond~~ rate (twelve cents (\$.12)/MBF) ~~will be~~**is withheld from** ~~assessed against~~ all ~~slash management monies~~**hazard reduction money** received and dedicated to suppression of wildfires on ~~f Forest l~~**L**ands. For harvest from private land, an additional amount not to exceed three percent (3%) of the ~~slash management bond~~ rate (twelve cents (\$.12)/MBF) ~~can be~~**is withheld from** ~~assessed against slash management monies~~**hazard reduction money** received and ~~will be~~**is** dedicated to Forest Practices support on ~~forest~~**Forest lands****Lands**. (3-18-22)( )

02. ~~Assessment Costs~~**Surety Bond or Credit.** ~~Fire suppression assessment~~**Assessment** costs on ~~Forest o~~**Operations** covered by surety bond or irrevocable letter of credit or other form of bond is paid at the rate specified in Subsection 150.01. (3-18-22)( )

151. -- 159. (RESERVED)

160. PRELOGGING CONFERENCE AND ~~AGREEMENT~~**HAZARD REDUCTION****MANAGEMENT CONTRACT.**

Pre-logging conferences ~~and hazard reduction agreements~~ are encouraged. ~~however, t~~**The** ~~hazard~~**Hazard reduction**~~Management agreements~~**Contract** will be canceled or modified if significant operational changes occur during the **Forest Operation** ~~harvesting of forest products or potential forest products~~. (3-18-22)( )

161. -- 999. (RESERVED)

IDAHO DEPARTMENT OF LANDS



**IDAPA 20 – IDAHO DEPARTMENT OF LANDS**  
**20.04.02 - RULES PERTAINING TO THE IDAHO FORESTRY ACT AND FIRE HAZARD**  
**REDUCTION LAWS**

**DOCKET NO. 20-0402-2301**  
**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 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:

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the July 3, 2024 [Idaho Administrative Bulletin, Vol. 24-7, pages 172-186](#).

**110. REQUIREMENTS FOR PRESCRIBED FIRE IN FOREST LAND ~~Burning Of Slash.~~**

**01. Burning.** Burning for Forest Operations must be planned, prepared, and executed in a way that protects forest resources and maintains air quality (Title 38, Chapter 13 Idaho Code and IDAPA 20.02.01), controls smoke, and complies with air quality requirements (IDAPA 58.01.01).

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Brooke Heasty at [bheasty@idl.idaho.gov](mailto:bheasty@idl.idaho.gov).

DATED this 15th day of October, 2024.

Joshua J. Harvey  
Fire Management Chief  
Forestry and Fire Division  
Idaho Department of Lands  
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# STATE BOARD OF LAND COMMISSIONERS

October 15, 2024  
Information Agenda

## Subject

White Pine Public Access Easement

## Background

Idaho has always been an outdoor recreation destination, but in recent years the state has seen a substantial surge in outdoor recreational activities by both a growing resident population and non-resident visitors. The demand for access and opportunity on public lands, endowment lands, state parks, and in some instances private lands for hunting, fishing, trail riding, camping, and whitewater sports has risen significantly in recent years. This growth has placed strain on local communities that may not have the resources to accommodate the increasing demand.

To help alleviate the pressure of a surge in outdoor recreational activities, in 2023 Governor Little created the Outdoor Recreation Fund Advisory Council (ORFAC) through Executive Order 2023-03, to expand recreational access and opportunity on state lands and other public lands in Idaho. The Executive Order directs ORFAC to recommend outdoor recreation projects to the Governor and the Idaho Parks and Recreation Board (Parks Board) to be funded from \$5 million allocated through the FY2024 Idaho Department of Parks and Recreation budget. In addition, the State Board of Land Commissioners (Land Board) has directed the Idaho Department of Lands (Department) to work across different agencies to identify opportunities to expand access to public lands and recreational activities.

## Discussion

ORFAC met several times in late 2023 to evaluate proposals from various organizations to help expand recreational access and opportunity in Idaho. ORFAC provided its recommendations to the Governor for consideration, who then submitted his comments and final recommendations to the Parks Board for approval. One of the recommended projects to include state endowment lands is a trail to provide access to Ponderosa State Park for both the public and potential future occupants of the White Pine Heights and Lick Creek endowment land parcels. Given the difficulty of meeting the hurdle rate for timber on these properties, these parcels have been identified for possible reclass and disposal through the Payette Endowment Lands Strategy (PELS). The trail would cross a portion of each parcel, which are surrounded by Ponderosa State Park and private development. This project would generate revenue for the Department through the sale of a public right-of-way easement across the two properties to allow for improved public access to Ponderosa State Park.

The Real Estate Bureau has evaluated, through consultation with third party experts, this easement per IDAPA 20.03.08 to determine the appropriate consideration for the easement, as well as the long-term impact to the value of the endowment lands. The Department believes the encumbrance will have little impact to the value to White Pine Heights and Lick Creek (the trail to the park may have an appreciating impact to the remaining lands). An internal appraiser for the Department determined that the appropriate consideration for this easement is \$289,000. The purchase will be executed using the Director's authority, as the consideration falls within limits per Land Board policy.

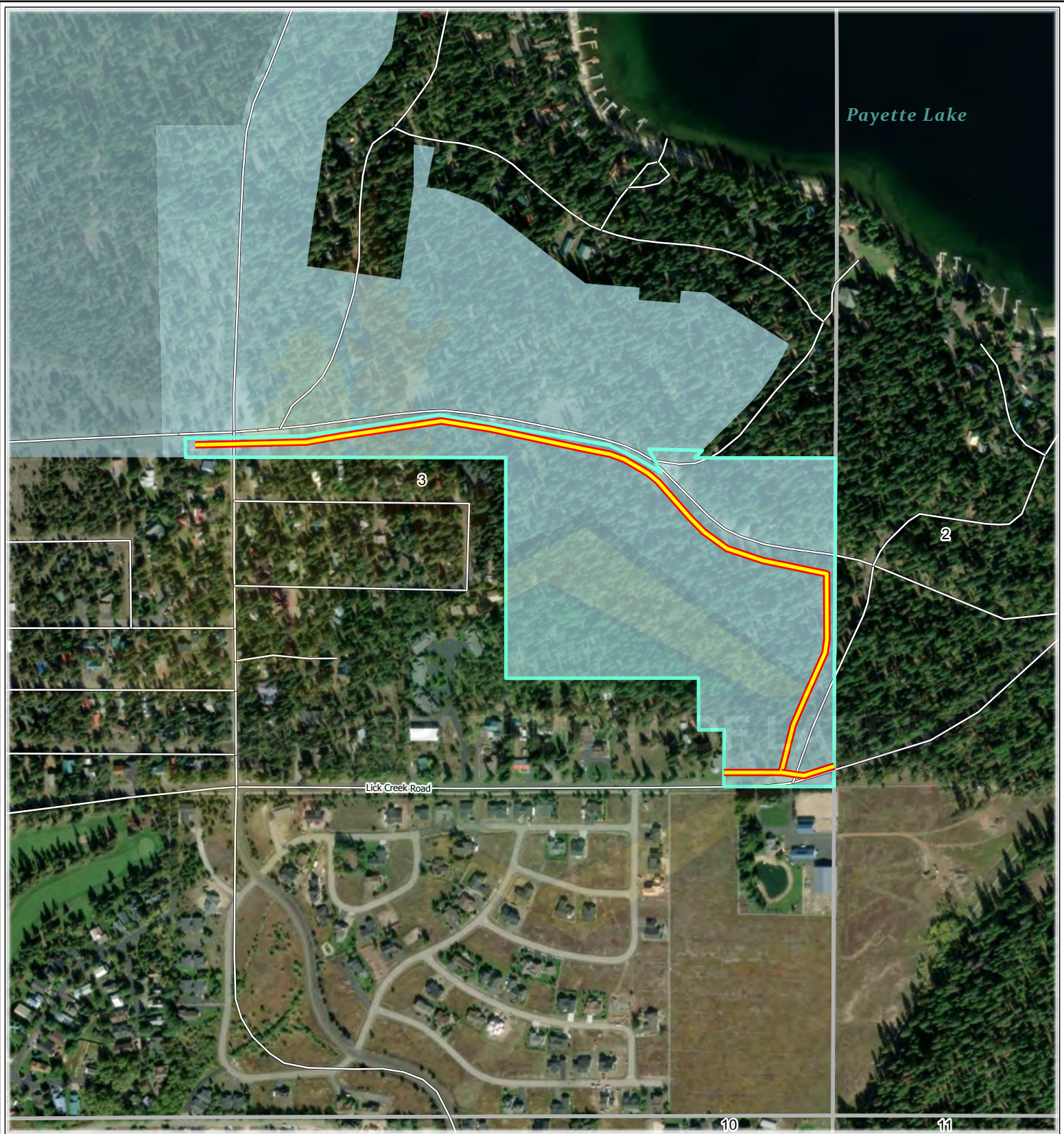
### **Attachments**

1. Proposed Trail Map
2. Appraiser Letter



IDAHO DEPARTMENT OF LANDS





- State
- Other State
- PLSS Section
- Local Roads
- Lick Creek Subject Area
- White Pine Public Access Easement

### White Pine Public Access Easement

T18N03E Sec 3

10/1/2024

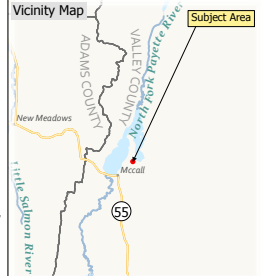


#### Map Notes

Projection: Idaho Transverse Mercator, NAD 83

Map Notes and Data Sources

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.







September 23, 2024

Roger Hall, Real Estate Bureau Chief  
300 N 6<sup>th</sup> Street, Suite 103  
Boise, ID 83702

Re: Restricted Appraisal Report: Payette Land Trust Trail/Pathway Easement (TBD ES5000XX). Appraisal of property owned by the Idaho Department of Lands and located in a portion of land located in Section 3, Township 18 North, Range 3 East, and a portion of Section 34, Township 19 North, Range 3 East, Boise Meridian, Valley County, Idaho and Lot 16, Block 1, State Subdivision-White Pine Heights, Valley County, Idaho.

Mr. Hall:

At your request to provide an opinion of market value for the proposed trail/pathway easement and the impacts upon state endowment, the following report is provided. The total compensation will be used to negotiate a perpetual easement for the non-exclusive use of state endowment lands. The intended use of this appraisal is to determine the market value and to establish the consideration to the endowment.

The market value opinion will be premised on the **hypothetical condition** that IDL has granted an easement over and across the identified trail/pathway segment in the after condition. The use of extraordinary assumptions and hypothetical conditions within the report should be viewed within context that their use might have affected the assignment results.

It is an extraordinary assumption that the proposed trail easement will “hug” the property line boundaries and there would not be a buffer or gap between the property line and will have a 20’ easement width (10’ offset from centerline). If any portion of the easement area changes before, during, or after construction, the appraisal results could change. Additionally, it is an extraordinary assumption that there will be a provision in the easement agreement that trail maintenance will be provided by the Grantees. Furthermore, if the contractor cuts down any trees within the proposed right of way, all merchantable timber will be cut and stacked at locations IDL agrees upon. The information provided by Payette Land Trust estimated 23 MBF x \$430 = \$9,890 (\$10,000 rounded). I did not value the cost of cut timber as a result of the easement. Lastly, there is a communication site lease (M500025) located in the southeast corner of the Lick Creek Subdivision and it is assumed that an easement could be granted over and across the leased area.

There are (3) three different and unique larger parcels as part of this appraisal assignment. The proposed trail/pathway impacts each differently and I have determined values to the endowments for each scenario.



RIGHT OF WAY CONCLUSIONS: (based on the hypothetical conditions and extraordinary assumptions):

White Pine easement value (RE Zoning)							
Fee simple value/acre		Property Rights %		Adj. Value/acre	Easement Impact Area (acre)	Market Value	Consideration
\$58,000	X	90%	X	\$52,200	0.81	\$42,282	<b>\$42,000 Rounded</b>

Lot16, Block 1 additional future path easement value							
Fee simple value/acre		Property Rights %		Adj. Value/SF	Easement Impact Area (SF)	Market Value	Consideration
\$10.60	X	90%	X	\$9.54	2319	\$22,123	<b>\$22,000 Rounded</b>

RIGHT OF WAY DAMAGE CONCLUSIONS: (based on the hypothetical conditions and extraordinary assumptions):

Lick Creek Damages (Loss of (4) residential lots)					
Average Lot Price	Loss of Gross Lot Proceeds	Total Expenses	Discount Rate	Present Market Value	Consideration
\$200,000	\$ (836,000)	\$ 168,472	10.00%	\$224,674	<b>\$225,000 Rounded</b>

Lot 16, Block 1 full triangle easement (Damage of (1) ½-acre residential lot)					
Fee simple value	Property Rights %	Adj. Value/SF	Full Damage	Market Value	Consideration
\$240,000	X	100%	X	\$10.60	\$240,000
					<b>\$240,000 Rounded</b>

**ORIGINAL TRAIL/PATHWAY ROW CONSIDERATION: \$267,000**

**ORIGINAL TRAIL/PATHWAY ROW CONSIDERATION + ALTERNATIVE FUTURE PATH: \$289,000**

**ORIGINAL TRAIL/PATHWAY ROW CONSIDERATION + ALL OF LOT 16, BLOCK 1: \$507,000**

Sincerely,



Kevin Graham, CGA-2836  
Idaho Certified General Appraiser  
Number CGA-2836 Expires 05-11-2025