



Idaho State Board of Land Commissioners

Brad Little, Governor and President of the Board
Phil McGrane, Secretary of State
Raúl R. Labrador, Attorney General
Brandon D Woolf, State Controller
Debbie Critchfield, Superintendent of Public Instruction
Dustin T. Miller, Secretary to the Board

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

Final Minutes
State Board of Land Commissioners Regular Meeting
October 15, 2024

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, October 15, 2024 at the State Capitol, Lincoln Auditorium (WW02), Lower Level, West Wing, 700 W. Jefferson Street, Boise, Idaho, and via webinar. The meeting began at 9:00 a.m. The Honorable Secretary of State Phil McGrane presided in place of Governor Brad Little who was administering other matters of state. The following members were in attendance:

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 at the physical location.

Reports

1. **Department Reports**—Presented by Dustin Miller, Director
 - A. Timber Sales Revenue – September 2024
 - B. Leases/Permits Transactions and Revenue – September 2024

Discussion: None.

- C. Fire Season

Discussion: Attorney General Labrador noted that fire protection boundaries changed with the new master agreement and asked if the number of fires increased within the Department's protection, or if the boundaries expanded but the number of fires remained about the same for the last two fire seasons. Director Miller replied that the main focus of the master agreement is for the respective agencies that are party to the agreement to protect more of their own acres. For the Department, it is more of the industrial timberlands, the endowment timberlands, and more wildland urban interface private land acres. Josh Harvey explained that two years' worth of

data is not sufficient to tell that there has been an impact in the number of fires one way or another. There is a slightly elevated number of fires that the Department is responding to with this boundary change, but a better dataset would be five years' worth of data to see if it averages out across the board. The Department took on much more of the wildland urban interface and human caused fires are going to have much more of an impact on these statistics than would have historically.

Attorney General Labrador commented that the federal government is just letting fires burn more now and inquired if there has been a change in their firefighting methodology and what is the reason they prevent private citizens from helping when fires are small. Director Miller stated this much fire on the landscape has not been seen in southern Idaho for some time. There is an issue of resource availability when sending resources all over the place. The magnitude of the federal estate is more than the Department's areas of focus for fire, and federal agencies prioritize where they move resources, focusing on areas where human life and private property are at risk. Consequently, there will be bigger fires. When it comes to private landowners or citizens engaging in fire on federal land, there are liability issues associated with that. The Rangeland Fire Protection Associations (RFPAs) in southern Idaho have been a critical tool. Through training, and resources like radios and personal protective equipment (PPE), provided by the Department and the Bureau of Land Management (BLM), ranchers are able to staff engines and provide initial attack on federal fires on rangelands. Mr. Harvey described that several other western states have agreements in place with large forest owners, Forest Capital, Potlatch, through the National Alliance of Forest Owners (NAFO) group. In Oregon it is very predominant where those companies, under agreement through the state, provide fire response on federal lands. The challenge with federal lands is for a private individual to do work on federal land, they must have an agreement in place and some level of recognized training. The Department is currently working with Forest Service partners to get this NAFO agreement stood up. It will look similar to RFA agreements. RFPAs work closely with the BLM; this NAFO agreement is going to allow Idaho's forest owners and their contractors to work and fight fire on federal lands. Mr. Harvey addressed the Attorney General's question about fire management, explaining that all of the western states are experiencing similar situations. Access is a challenge when it comes to fighting fire on federal land. At the Western State Fire Managers' conference last week this was a big topic of discussion; all of the states are experiencing more pressure from the Forest Service partners to share in costs on wildfires that start or pass through Forest Service lands and threaten private lands. The Department will continue working on this issue over the winter.

Secretary of State McGrane remarked there were concerns at the beginning of fire season that federal partners raised firefighter pay and gave one-time bonuses which made it difficult to compete for staffing. One of the fire crew alluded that federal agencies were robbing Peter to pay Paul. Here at the tail end of a large fire season that concern is coming to a head, where everyone received a pay increase, but now federal agencies cannot afford the aircraft, the supplies, all of the other things that go into fighting fires. Is that a safe assessment? Their pot did not grow, they just reallocated it and now they are feeling the pain of that reallocation. Mr. Harvey allowed that is a fairly accurate statement. The specifics as to where and which programs within the Forest Service are getting funding pulled are not known, but

facilities maintenance, leasing, those funds have been utilized to keep firefighters on. There are rumors that the Forest Service is facing significant challenges going into next year, from a staffing standpoint.

Superintendent Critchfield inquired about plans for the fire suppression budget, recognizing the Department cannot control weather nor partner agencies. Director Miller replied that with support from the Land Board and the Legislature prefunding the suppression account, there has been enough money to cover costs. A recommendation will be made in the next legislative session; the Department is optimistic there will be money available to tuck into the suppression account. Mr. Harvey stated the Department's fire program is unique and strong because staff has flexibility in the springtime. Staff meets with partners and looks closely at outlooks for the summer, the weather, the predicted precipitation, combining all of those metrics together, then comes before the Land Board in the spring with a fire season forecast. The Department's biggest strength as a state fire program is that based on those analytics, staff has the ability to make good calls before fire season and has flexibility going into fire season if something changes, like bringing on contract resources, crews, engines, and adjusting the aircraft fleet. Superintendent Critchfield voiced her understanding that the Department will not have a final suppression cost until the snow flies, see what had been appropriated and then go to the Legislature during the session. Director Miller recollected the suppression account was funded with about \$68 million; to date the Department has over \$50 million in expenditures. That will change as fire season is not over yet. The Governor is looking at the statewide budget; the Department is hopeful there will be money to prefund the account again. Secretary of State McGrane observed that total estimated costs are \$62 million and \$10 million of that is reimbursable, and asked if that includes any reimbursements the Department owes to federal partners. Mr. Harvey responded that any costs owed by the Department, that will be charged to the deficiency warrant, are accounted for in the report.

Attorney General Labrador wondered what happens when a private company is found responsible for a fire, as occurred with the Valley Fire. Mr. Harvey answered the Department in the past worked directly with deputies attorney general on determining whether or not a fire was billable. It is clear in code: negligence or a willful act; the attorneys determine what negligence means. If the Department has built a case based on the facts that negligence was present then that fire will be a billable fire, and suppression costs alone are billed, as code allows. The Department has an extensive history of collecting, whether it is power line fires, railroad fires, a private citizen doing something negligent and causing a fire. It comes down to the facts of what actually occurred and was the individual or entity responsible in some way for preventing that, or could it have been prevented, and did they or did they not take steps to ensure everything was done to prevent that incident.

Controller Woolf circled back to the Attorney General's question about private citizens being able to assist, noting Mr. Harvey mentioned the work done on the RFPA side. Controller Woolf recalled past discussions about the opportunity of training, certification, equipment for those individuals that are in the woods to be able to quickly react and asked if the NAFO agreement gets that possibility closer. Mr. Harvey said it is a step in the right direction. There has been a lot of frustration from

contractors out in the woods working on productive forest ground, being able to look across the draw, see a fire occur, and not be able to do something about it, because there is a boundary line in place. The intent is to put them in a position to legally, with training and under the right circumstances, go fight those fires. There is a process that will be required; contractors can initial attack a fire, but they need to let the appropriate jurisdictional agency know that there is a fire on the ground. Controller Woolf supposed that the \$62 million cost does not include all of the Valley Fire expenses, with the number of planes and equipment and work that took place to do a wonderful job of protecting all the structures here in the valley. Controller Woolf inquired what the normal timeframe is to receive the receipts on a fire. Mr. Harvey replied that the Department will have some estimates within a few months, but it could take a couple of years to get the hard bill from federal partners. Director Miller added on the topic of forest landowners, the recommendation to work with the National Alliance of Forest Owners was made by Governor Little in his wildfire report that came out in August. The Department will work closely with NAFO to assist them with PPE and training to ensure that more private parties and forest landowners are brought into the mix when it comes to wildland fire suppression. Controller Woolf requested that the Department provide all Land Board members with a map of the protection areas in the master fire agreement, numbers of acres, not only what is endowment and other Department protection, but what is the Forest Service and BLM, too. That would be a helpful reference.

Secretary of State McGrane commented that just shy of 50,000 endowment acres burned, a mix of grassland and timberland. The timber program is evaluating the monetary loss of the timber that burned, and many times the Department has looked at salvage sales and other things it was able to recoup, but talking about these expenses related to fire, what are endowment losses in terms of that timber piece. Secretary of State McGrane remarked that it would be good to get an estimate, knowing what acreage was productive; he is curious about the approach in terms of calculations, looking from the endowment side not necessarily the fire protection side, trying to give an economic impact to the Land Board. Director Miller indicated staff would compile those numbers; he mentioned there are about 450 acres of salvage, approximately 3.5 million board feet. Secretary of State McGrane appreciated knowing the value of that; he also wanted to know non-salvage. Break down the 50,000 acres: how much is grazing, rangeland, or non-productive land versus what was the total productive land, include the 450 acres of salvage, and how does that all come together.

Director Miller relayed a different mission that occurred last week helping out Department of Agriculture on the Quagga mussel project. A week prior, Director Miller called Mr. Harvey and asked about using the Department's Type 1 helicopter to move boats and equipment for the project. The fire team pulled together to make this happen, especially Aviation Program Manager, Corrie Ivey. The Type 1 helicopter was helping on the Valley Fire; that resource was quickly released from that fire, then moved down to Twin Falls. Deputy Chief-Fire Operations, Julia Sullen, helped with those logistics, getting the helicopter on location to move boats and huge chemical totes, and helicopter crew members came to assist. It was an all hands event and an ideal opportunity to get fire staff involved in all hazards type training. Mr. Harvey also acknowledged the substantial effort by Corrie and Julia.

D. Land Bank Aging

Discussion: Secretary of State McGrane requested a report about potential projects being evaluated for acquisition. Director Miller offered to provide information at a future Land Board meeting.

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

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

Discussion: Mr. Anton reported September was a solid month, both stocks and bonds were up. The portfolio was up 1.4% and is up 5.2% fiscal year-to-date. Momentum was driven by the change in Federal Reserve policy. Coming out of Covid, the Federal Reserve's rate was basically zero; as inflation took off and the labor market overheated, the Federal Reserve hiked interest rates to between 5.25 and 5.5%. The Federal Reserve started bringing rates down as inflation approached target, and as labor markets came more into balance, cutting 50 basis points during September. Hopefully, the Federal Reserve will continue to bring rates down which will keep the economy healthy. During September, Chinese authorities finally began to stimulate their economy, both with fiscal and monetary policies, by cutting mortgage rates and providing more money to banks for lending. The Chinese have an excess supply in the real estate market; real estate prices have been under pressure. Consumers have been reluctant to spend coming out of the Chinese Zero-Covid policy, and the West has put pressure on their government due to some policies and human rights issues, and has added tariffs, which makes exports more difficult. This stimulus will not boost the global economy, but will keep Chinese markets strong enough to not detract from the global economy. Somewhat surprisingly, with U.S. elections in a few weeks, and with the conflicts in the Middle East and in Ukraine, the markets have not responded that much. There may be some volatility in the next few weeks, but financial markets have been very steady.

Consent—Action Item(s)

3. **Forest Legacy Project—International Selkirk Loop**—Presented by Jennifer Barker, Program Manager-Forest Legacy

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

Discussion: None.

4. **Disclaimer of Interest Request DI600335—William C. Clayton LLC, Boise River**—Presented by Shannon Chollett, Division Administrator-Minerals, Navigable Waterways, Oil and Gas

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.

Discussion: None.

5. Approval of Draft Minutes—September 17, 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. Superintendent Critchfield seconded the motion. The motion carried on a vote of 4-0.

Regular—Action Item(s)

6. Energy Lease M800070—Presented by Jason Laney, Section Manager-Endowment Leasing

Recommendation: Direct the Department to finalize and execute lease M800070.

Discussion: Attorney General Labrador stated that he continues to be troubled by some of these projects. The projects sound really good, sound like they will bring extra money to the state, but in Las Vegas, for example, there was a huge solar project with many promises to the public and the project went into bankruptcy. The federal government is poised to lose up to \$225 million on that solar project. Attorney General Labrador remarked projects appear good in the beginning, but seem to be failing time and time again. Attorney General Labrador asked what the potential costs to the state are; what happens on a 49-year lease, if in five years, 10 years, this company or the project goes bankrupt, how will the Department mitigate that. Mr. Laney described a few protections built into this leasing process. This lease is structured in several phases. First is a development phase that allows the developer to move through all of the due diligence, make sure all their financing is in place, prior to starting construction. If anything goes wrong in that phase, there are options for the Department to pull out of this lease; that is a benefit, because the Department will be receiving revenue, substantially more than for the current use, while the developer is doing due diligence and not impacting the land. Mr. Laney noted that is the biggest safeguard. If construction happens and there is equipment on the ground, the Land Board energy leasing policy provides very robust decommissioning and reclamation terms, and bonding is in place in each phase of the lease. If something were to happen during those phases, the state endowment lands would be covered. The Department would have earned revenue for the first several years of the project and would also be sure the project will be mitigated and decommissioned successfully. Attorney General Labrador inquired if the Department is ensuring that the bond amounts will mitigate fully the cost to remove all wind turbines and solar panels and make the land whole. Mr. Laney said that is correct.

Superintendent Critchfield asked if this is the first with this type of project, the energy lease. Mr. Laney answered the Department has executed a wind lease that is slated for 10-12 turbines, but this is the first solar lease. Superintendent Critchfield questioned what the process was for determining the lease agreement as far as the revenue to be generated, assuming the Department looked at other states. Mr. Laney responded that the Department went through quite a process while negotiating lease terms. Staff consulted with other western states. Several states are ahead of Idaho and have various leases in place; the Department was able to get a solid understanding of those states' lease rates. The Department contacted folks in the industry that were willing to provide some ranges of rents. In addition to those efforts in researching the market prices at the time, to ensure that the Department could

capture maximum rent if the market changed down the road, a clause was built in for most-favored nations. Essentially, if the developer enters into other agreements within the same project, and those agreements are offering higher rents to the landowner, the developer is obligated to match that for endowment lands. There is also a component of the rent that states if a specified percentage of gross receipts from the power being sold through the developer's power purchase agreement is exceeding the base rent outlined in the lease, the Department will receive the greater of those two amounts. Those two terms will help to capture market value.

Controller Woolf commented that the Land Board on occasion seeks consultants to help make sure a transaction or project is sound. With this being the first major energy lease, the Land Board looks forward to the opportunity of having consultants ensure this is a direction the Land Board should continue to go, with expert advice and input. Secretary of State McGrane supported that comment, to make sure the Department is getting the right price and to ensure that if any of the project goes belly up that the Department is able to recoup costs of rehabilitating the land. Director Miller commended Mr. Laney and the leasing team for all that went into building this lease, working closely with the project proponent, the county, sister agencies, and Land Board staff members, then hitting pause until the energy leasing policy was completed.

Controller Woolf asked how many wind turbines will be on the private land and if it is all one project. Regarding the potential for something to go wrong, is it one big project or is it broken up in those phases, something different on endowment land versus private land. Mr. Laney did not have exact numbers of the turbines on private land, but explained the developer is expecting close to 400 megawatts of wind energy; the turbines will be from 3-4 megawatts per turbine. There are 10 or 12 planned on endowment land, so likely dozens on private land. Mr. Laney also indicated it is all under one project umbrella. Attorney General Labrador wondered where the energy produced will be going. Mr. Laney answered that PacifiCorp purchased the project and will be distributing that power. The need is increasing in eastern Idaho and to PacifiCorp customers; early discussions have suggested that a good chunk of that power will be in Idaho for PacifiCorp customers. Director Miller added that the Department worked closely with the Office of Energy and Mineral Resources. The administrator, Rich Stover, did a lot of research on this, working with both North Renew and PacifiCorp to understand where the energy was going to be used, and the vast majority of that power will be used in eastern Idaho: Idaho Falls, Pocatello area, and some may be used in northern Utah.

Board Action: A motion was made by Controller Woolf that the Land Board direct the Department to finalize and execute lease M800070. Superintendent Critchfield seconded the motion. The motion carried on a vote of 3-1, with Attorney General Labrador voting against the motion.

7. Adoption of Pending Rule IDAPA 20.04.01, Rules Pertaining to Forest Fire Protection—Presented by Josh Harvey, Bureau Chief-Fire Management

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

Discussion: None.

Board Action: A motion was made by Controller Woolf that the Land Board adopt the pending rule for IDAPA 20.04.01 *Rules Pertaining to Forest Fire Protection*. Superintendent Critchfield seconded the motion. The motion carried on a vote of 4-0.

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

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*.

Discussion: None.

Board Action: A motion was made by Superintendent Critchfield that the Land Board 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*. Attorney General Labrador and Controller Woolf both seconded the motion. The motion carried on a vote of 4-0.

Information

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

Discussion: Secretary of State McGrane mentioned these parcels have been discussed in a couple of different ways over time, because of where they are located, and inquired if there are concerns that these easements will interfere with other opportunities in the future. Mr. Hall responded there is some consideration that easements may enhance this property to provide access if the Land Board ends up disposing of it and it becomes a residential development; the residents would have easier access to the park. There is a school of thought that there could be some impact with the driveway configurations, with so many driveways crossing an easement. The Department thinks it is more likely that the residents, should that turn into a private development, would appreciate having a trail and access to the park and the lake. Secretary of State McGrane observed in the inverse, if the property were retained, in theory the Department at some point would be harvesting timber from that property.

Executive Session

None

There being no further business before the Land Board, at 10:18 a.m. a motion to adjourn was made by Superintendent Critchfield. Attorney General Labrador seconded the motion. The motion carried on a vote of 4-0.

Idaho State Board of Land Commissioners

/s/ Brad Little

Brad Little
President, State Board of Land Commissioners and
Governor of the State of Idaho

/s/ Phil McGrane

Phil McGrane
Secretary of State

/s/ Dustin T. Miller

Dustin T. Miller
Director

The above-listed final minutes were approved by the State Board of Land Commissioners at the December 17, 2024 Land Board meeting.