

Idaho State Board of Land Commissioners

Open Meeting Checklist

Meeting Date: July 15, 2025

Regular Meetings

Date	Action
6/27/2025	Meeting Notice posted in Idaho Department of Lands (IDL) Boise Director's office five (5) or more calendar days before meeting.
6/27/2025	Meeting Notice posted in IDL Coeur d'Alene staff office five (5) or more calendar days before meeting.
6/27/2025	Meeting Notice posted at meeting location five (5) or more calendar days before meeting.
6/27/2025	Meeting Notice posted electronically on IDL website (https://www.idl.idaho.gov) five (5) or more calendar days before meeting.
6/27/2025	Meeting Notice published on Townhall Idaho website (https://townhall.idaho.gov) five (5) or more calendar days before meeting.
7/10/2025	Agenda posted in IDL Boise Director's office forty-eight (48) hours before meeting.
7/10/2025	Agenda posted in IDL Coeur d'Alene staff office forty-eight (48) hours before meeting.
7/10/2025	Agenda posted at meeting location forty-eight (48) hours before meeting.
7/10/2025	Agenda posted electronically on IDL website (https://www.idl.idaho.gov) forty-eight (48) hours before meeting.
7/10/2025	Agenda published on Townhall Idaho website (https://townhall.idaho.gov) forty-eight (48) hours before meeting.
2/27/2025	Revised Land Board annual meeting schedule posted—Boise Director's office, Coeur d'Alene staff office, and IDL website (https://www.idl.idaho.gov).

Certification

/s/ Renée Jacobsen

Recording Secretary

July 10, 2025

Date



Idaho State Board of Land Commissioners

Brad Little, Governor and President of the Board

Phil McGrane, Secretary of State

Raúl R. Labrador, Attorney General

Brandon D Woolf, State Controller

Debbie Critchfield, Superintendent of Public Instruction

Dustin T. Miller, Secretary to the Board

NOTICE OF PUBLIC MEETING JULY 2025

The Idaho State Board of Land Commissioners will hold a Regular Meeting on Tuesday, July 15, 2025 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 (MT).

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.

[Live streaming via IPTV](https://www.idahoptv.org/shows/idahoinsession/ww02) <https://www.idahoptv.org/shows/idahoinsession/ww02>

[Register to attend the Zoom webinar](https://idl.zoom.us/webinar/register/WN_7GOOnWoGT5WcnQUNh-XzIw)

https://idl.zoom.us/webinar/register/WN_7GOOnWoGT5WcnQUNh-XzIw

Notice Posted: 6/27/2025 Boise; 6/27/2025 Coeur d'Alene

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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Final Agenda

State Board of Land Commissioners Regular Meeting

July 15, 2025—9:00 AM (MT)

State Capitol, Lincoln Auditorium (WW02), Lower Level, West Wing,
700 W. Jefferson St., Boise, Idaho

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[Meeting will be streamed live via IPTV:](https://www.idahoptv.org/shows/idahoinsession/ww02)

<https://www.idahoptv.org/shows/idahoinsession/ww02>

[Register to attend the Zoom webinar:](https://idl.zoom.us/webinar/register/WN_7GOOnWoGT5WcnQUNh-XzIw)

https://idl.zoom.us/webinar/register/WN_7GOOnWoGT5WcnQUNh-XzIw

Reports

1. Department Reports—presented by Dustin Miller, Director
 - A. Timber Sales Revenue—June 2025
 - B. Leases/Permits Transactions and Revenue—June 2025
 - C. Fire Season Update
 - D. Land Bank Aging Report
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. Approval of Draft Minutes—June 17, 2025 Regular Meeting

Regular—Action Item(s)

4. Proposed Legislation 2026 Session—presented by Bill Haagenson, Deputy Director-Resource Management
5. Endowment Land Exchange: Benewah County—presented by Zane Lathim, Section Manager-Real Estate

6. Disposition of Driggs 160 Endowment Parcel—presented by Roger Hall, Bureau Chief-Real Estate

Information

7. Proposed Rule IDAPA 20.03.04, Rules for the Regulation of Beds, Water, and Airspace Over Navigable Lakes in Idaho—presented by Marde Mensinger, Program Manager-Navigable Waters

Executive Session

None

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



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

July 15, 2025
Trust Land Revenue

Timber Sales

During June 2025, the Idaho Department of Lands (IDL) sold eight endowment timber sales at auction. All endowment sales had competitive bidding. The net sale value represents a 67% increase over the appraised price. Two endowment timber sales did not sell at auction. Good Neighbor Authority (GNA) sold one sale at auction with competitive bidding. The net sale value represents a 95% increase over the appraised price.

TIMBER SALE AUCTIONS

Sale Name	Area	Sawlog MBF	Cedar Prod MBF	Pulp MBF	Appraised Net Value	Sale Net Value	Net \$/MBF	Purchaser
Bodie Lookout Cedar	POL	1,410	0	0	\$490,206.00	\$871,314.00	\$617.95	Foresight Forestry
North Skern Ton	PAY	3,515	0	0	\$427,584.85	\$511,143.85	\$145.42	IFG Timber LLC
Leberite 40	SJ	11,650	0	0	\$1,327,255.00	\$2,240,331.00	\$192.30	Stimson Lumber Company
Spiked Out	SJ	10,440	0	0	\$1,514,412.00	\$2,620,500.25	\$251.01	Stimson Lumber Company
Caldwell Cedar	CLW	1,220	0	0	\$412,042.50	\$478,863.85	\$392.51	Alta Forest Products LLC
Rogue One Cedar	SJ	2,865	0	0	\$674,301.50	\$1,357,582.10	\$473.85	Alta Forest Products LLC
Mid Pierce Cedar	SJ	5,305	150	0	\$1,456,212.00	\$2,795,160.00	\$512.40	Alta Forest Products LLC
Boyds Bugle Cedar	PLK	3,250	0	0	\$598,738.00	\$632,360.00	\$194.57	IFG Timber LLC
Endowment		39,655	150	0	\$6,900,751.85	\$11,507,255.05	\$289.09	
Black Pine GNA Ton	IPNF	3,925	0	0	\$351,580.72	\$686,558.80	\$174.92	Stimson Lumber Company
Non-Endowment		3,925	0	0	\$351,580.72	\$686,558.80	\$174.92	

PROPOSED TIMBER SALES FOR AUCTION

Sale Name	Volume MBF	Advertised Net Value	Area	Scheduled Auction Date
North Operations				
Rising Sun Cedar	2,370	\$723,800.00	SJ	7/9/2025
Deer Haven	7,780	\$1,514,580.50	SJ	7/9/2025
Never Summer	5,695	\$1,090,179.50	POL	7/16/2025
Southern Leonia Cedar	4,290	\$2,238,757.00	POL	7/16/2025
U2 Cedar	2,930	\$762,236.50	PL	7/17/2025
Totals	23,065	\$6,329,553.50		
South Operations				
Benton Corner Cedar Salvage	2,230	\$930,512.50	CLWR	7/10/2025
Fangorn Forest Cedar	5,275	\$2,443,745.50	MC	7/15/2025
Totals	7,505	\$3,374,258.00		

VOLUME UNDER CONTRACT as of JUNE 30, 2025

	Public School	Pooled	Total	3 Year Avg.
Active Contracts			169	171
Total Residual MBF Equivalent	324,462	169,374	493,836	558,086
Estimated residual value	\$91,235,384	\$50,737,766	\$141,973,150	\$161,702,822
Residual Value (\$/MBF)	\$281.19	\$299.56	\$287.49	\$289.75

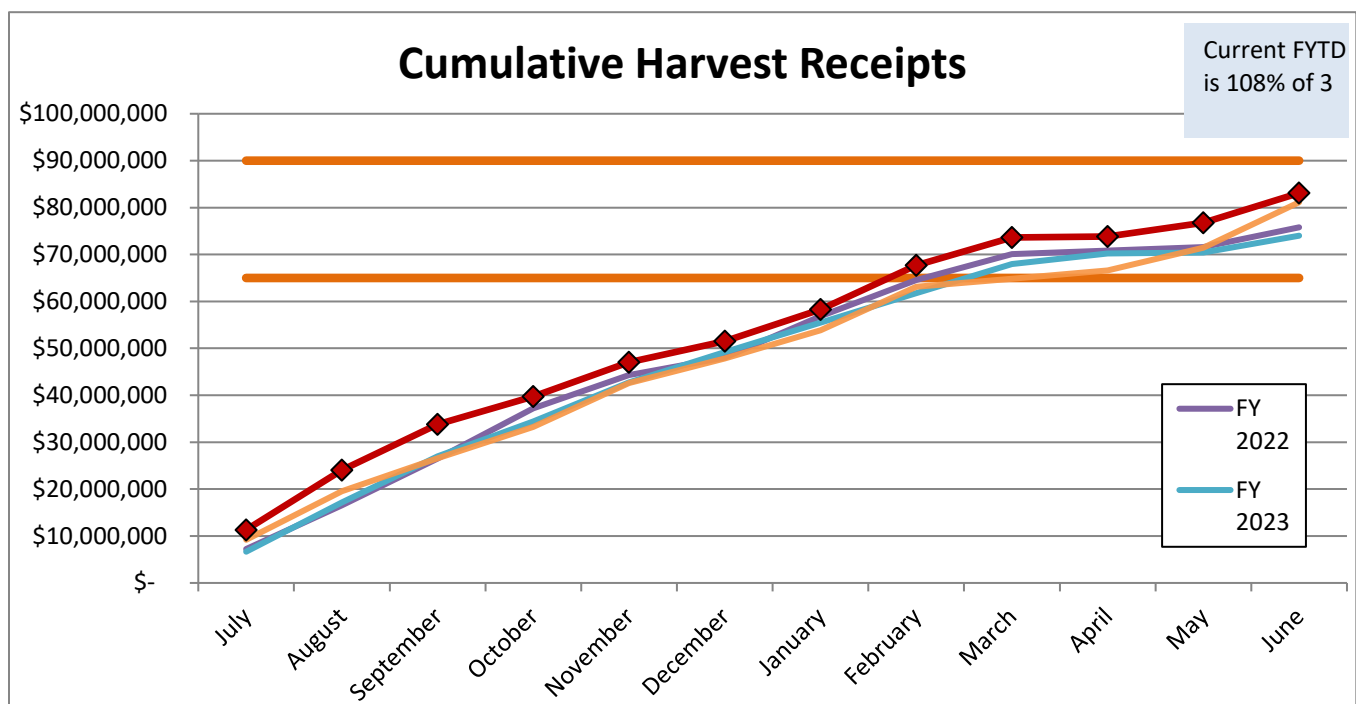
TIMBER HARVEST RECEIPTS

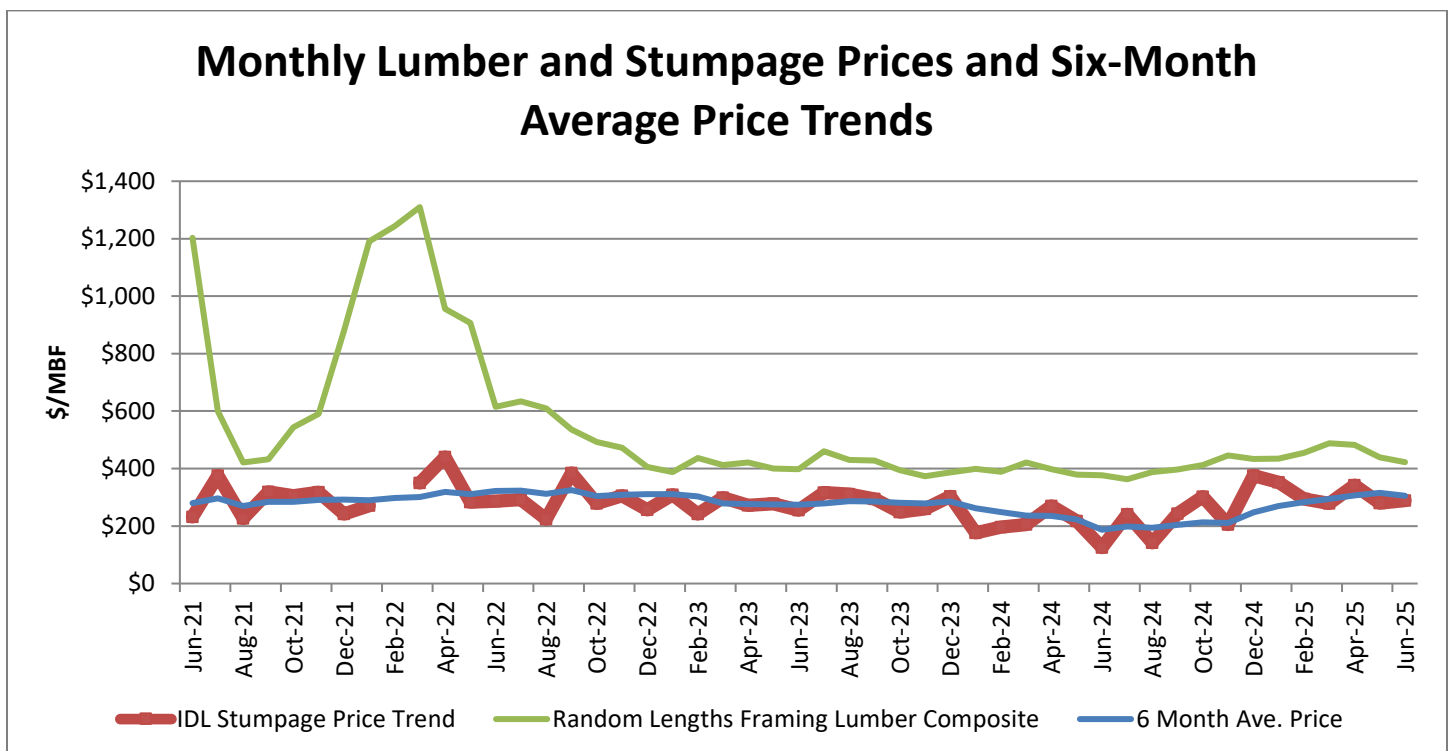
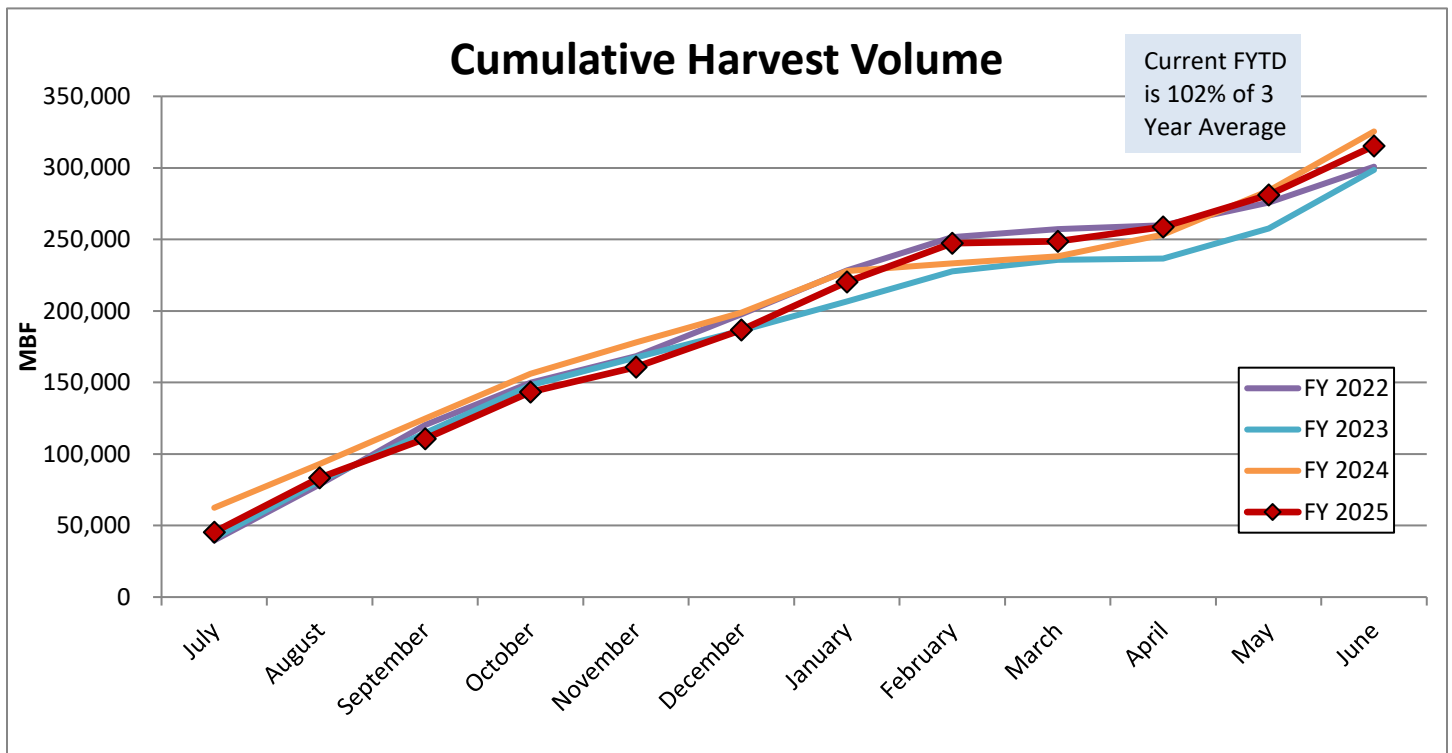
	JUNE		FY TO DATE	JULY PROJECTED	
	Stumpage	Interest	Harvest Receipts	Stumpage	Interest
Public School	\$3,082,153.90	\$346,768.99	\$51,969,321.70	\$5,110,992.33	\$642,666.78
Pooled	\$2,637,652.28	\$257,532.18	\$31,385,841.44	\$2,693,312.45	\$279,676.97
General Fund	\$ -	\$ -	\$4,164.13	\$ -	\$ -
Totals	\$5,719,806.18	\$604,301.17	\$83,359,327.27	\$7,804,304.78	\$922,343.75

STATUS OF FY2025 TIMBER SALE PROGRAM

	MBF Sawlog			Number Poles		
	Public School	Pooled	All Endowments	Public School	Pooled	All Endowments
Sold as of June 30, 2025	131,738	122,001	253,739	14,752	12,338	27,090
Currently Advertised	24,653	10,887	35,540	1,682	2,883	4,565
In Review	25,889	8,366	34,255	0	0	0
Did Not Sell*	4,775	0	4,775	0	0	0
TOTALS	187,055	141,254	328,309	16,434	15,221	31,655
FY2025 Sales Plan			328,000			20,000
Percent to Date			100%			158%

* After three attempts at auction.

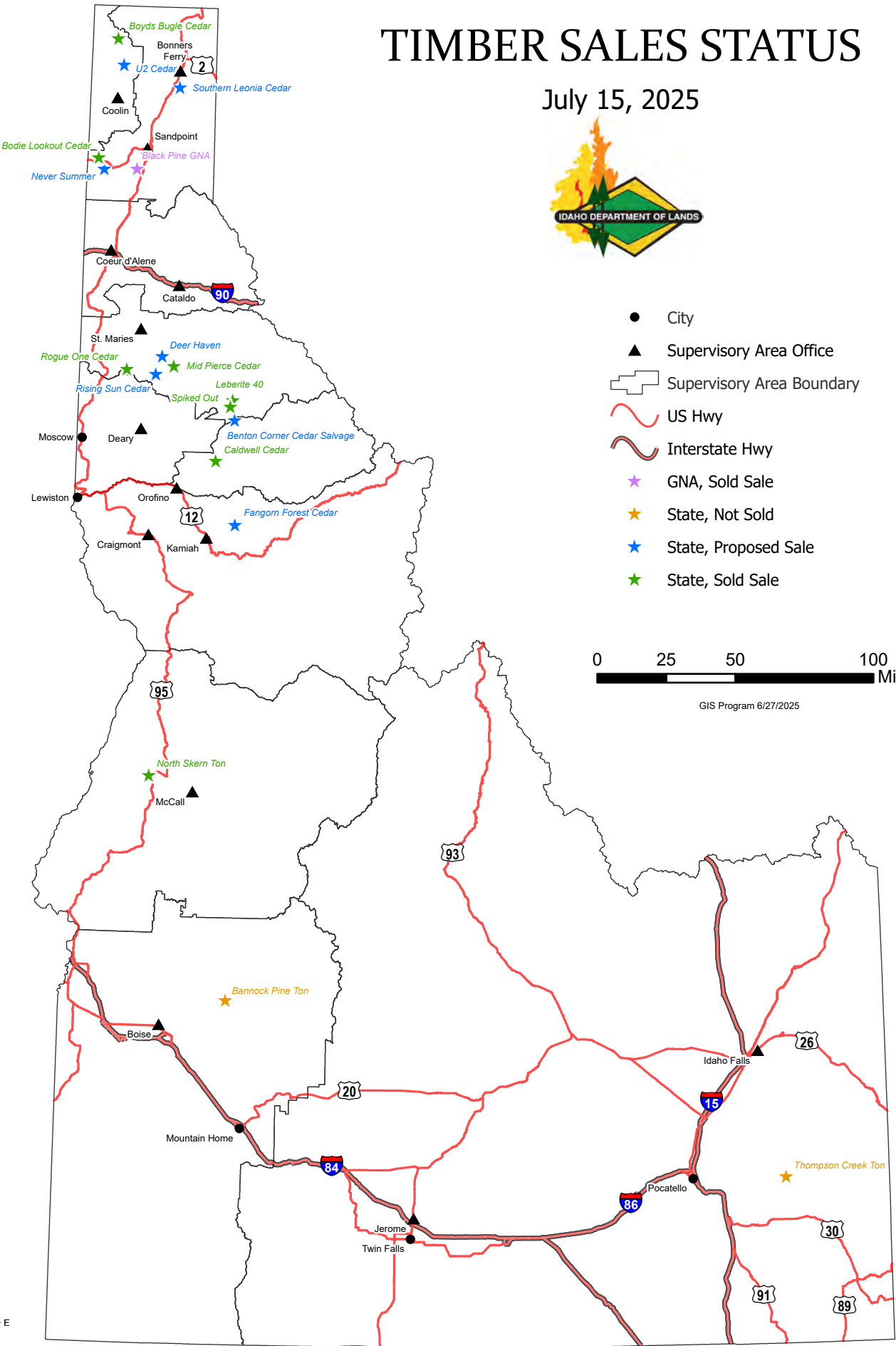




June 2025 6-month average price is \$305.78.
 June 2024 6-month average price was \$187.07.

TIMBER SALES STATUS

July 15, 2025



STATE BOARD OF LAND COMMISSIONERS

July 15, 2025
Endowment Transactions

Leases and Permits

FISCAL YEAR 2025 – LEASING & PERMITTING TRANSACTIONS BY MONTH through June 30, 2025													
ACTIVITY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
SURFACE													
Agriculture	-	-	-	-	-	-	-	-	-	-	-	-	0
<i>Assignments</i>	-	-	-	-	-	-	1	-	-	-	-	-	1
Communication Sites	1	-	-	-	-	-	-	1	-	1	-	-	3
<i>Assignments</i>	-	4	-	-	-	-	-	-	-	-	-	-	4
Grazing	-	3	-	2	-	-	-	-	2	-	-	1	8
<i>Assignments</i>	4	2	11	2	3	-	1	1	2	11	-	4	41
Residential	-	9	1	8	3	6	4	1	-	2	-	-	34
<i>Assignments</i>	-	2	2	1	-	1	-	-	-	-	-	-	6
COMMERCIAL													
Alternative Energy	-	-	-	-	-	-	2	-	-	-	1	-	3
Industrial	-	-	-	-	-	-	-	-	-	-	1	-	1
<i>Assignments</i>	-	-	-	-	-	-	1	-	-	-	-	-	1
Military	-	-	-	-	-	-	-	-	-	-	-	-	0
Office/Retail	-	-	-	-	-	-	-	-	-	-	1	-	1
Recreation	-	-	-	1	-	-	-	-	-	-	-	-	1
<i>Assignments</i>	1	-	-	-	-	-	-	-	-	-	-	-	1
OTHER													
Conservation	-	-	-	-	-	-	-	-	-	-	-	-	0
Geothermal	-	-	-	-	-	-	-	-	-	-	-	-	0
Minerals	2	-	-	2	-	1	-	-	2	1	-	-	8
<i>Assignments</i>	-	-	-	-	-	-	4	-	-	-	-	-	4
Non-Comm Recreation	-	-	-	-	-	-	-	-	-	-	-	-	0
Oil & Gas	-	-	-	-	-	-	-	-	-	-	-	-	0
PERMITS													
Land Use Permits	9	11	10	7	2	7	11	11	4	3	-	8	83
TOTAL INSTRUMENTS	17	31	24	23	8	15	24	14	10	18	3	13	200

Real Estate

FISCAL YEAR 2025 – REAL ESTATE TRANSACTIONS BY MONTH through June 30, 2025													
ACTIVITY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
Deeds Acquired	-	1	-	-	-	-	-	1	-	-	2	1	5
Deeds Granted	-	-	-	4	8	-	-	-	-	1	-	1	14
Deeds Granted-Surplus	-	1	-	2	-	-	-	-	-	-	-	-	3
Easements Acquired	-	-	-	1	-	1	-	1	-	-	-	-	3
Easements Granted	-	-	-	-	1	-	1	-	-	-	2	1	5
Notes : -AD538 and SD14410 are State of Idaho, State Board of Land Commissioners. This is an IDFG/USFS Title cleanup. No fees involved. -ES5000075 Easement for Road Use granted to Payette Land Trust, Inc. with a \$289,000.00 consideration fee.													

TRUST LAND MANAGEMENT DIVISION
FY2025 GROSS REVENUE (non-timber) - ACTUAL AND FORECASTED
through June 30, 2025

	REVENUE YTD AS OF 06.30.2025	REVENUE EXPECTED BY 06.30.2025
SURFACE		
AGRICULTURE	\$ 483,796	\$ 678,710
COMMUNICATION SITES	\$ 1,074,566	\$ 1,100,000
GRAZING	\$ 2,179,509	\$ 2,089,000
RESIDENTIAL LEASES	\$ 1,693,907	\$ 1,557,115
COMMERCIAL		
COMMERCIAL ENERGY RESOURCES	\$ 131,139	\$ 117,340
COMMERCIAL INDUSTRIAL	\$ 291,386	\$ 130,000
COMMERCIAL MILITARY FACILITIES	\$ 111,775	\$ 150,000
COMMERCIAL OFFICE/RETAIL LEASES	\$ 1,059,413	\$ 950,000
COMMERCIAL RECREATION	\$ 1,331,495	\$ 1,120,000
OTHER		
CONSERVATION LEASES	\$ 102,661	\$ 73,595
GEO THERMAL	\$ -	\$ 5,006
MINERAL LEASES	\$ 284,612	\$ 110,494
OIL AND GAS LEASES	\$ 6,278	\$ 3,029
Sub Total	\$ 8,750,537	\$ 8,084,289
REAL ESTATE SERVICES (ER)	\$ -	
Grand Total - Earnings Reserve	\$ 8,750,537	

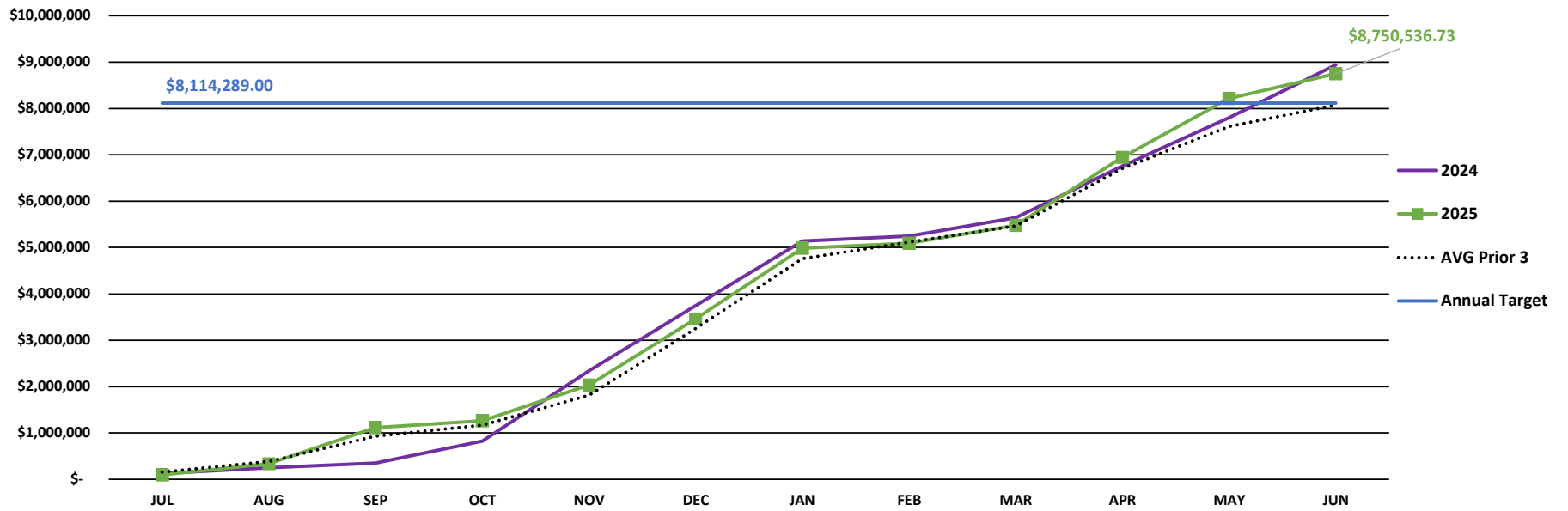
PERMANENT FUND REVENUE	
MINERALS (PF)	\$ 2,690,139

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

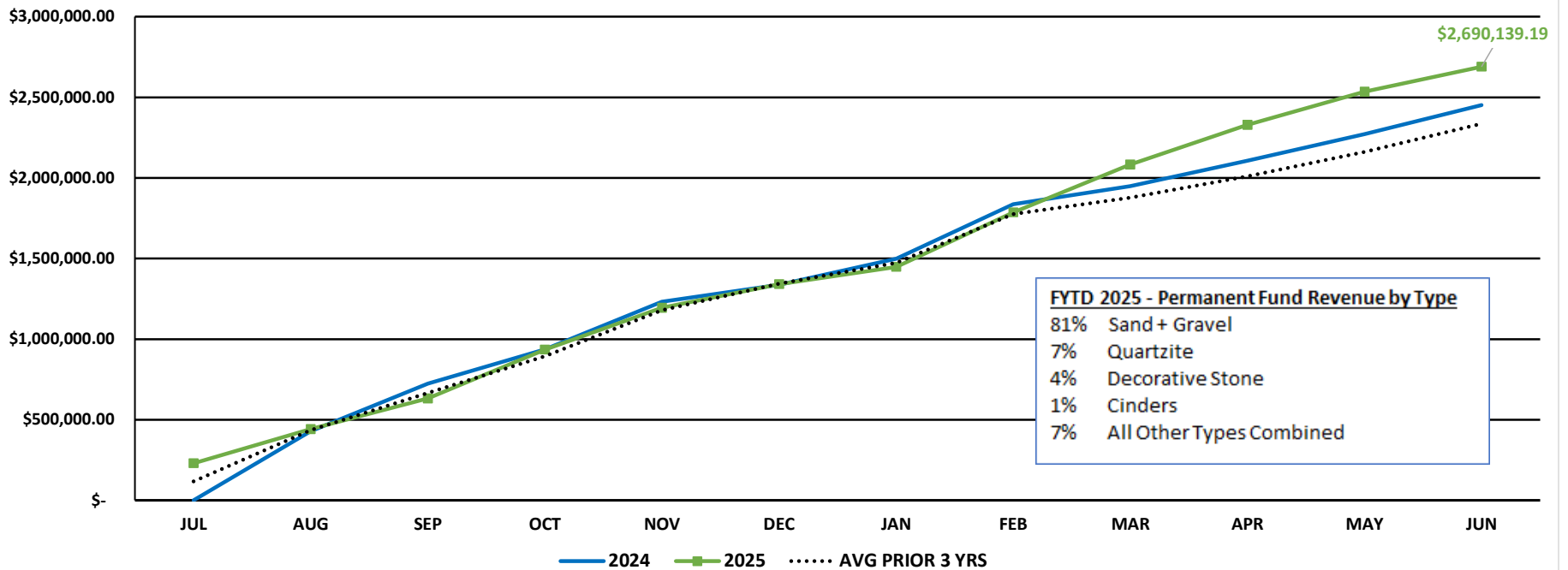
** This category is not included in the annual forecast.

***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

July 15, 2025
Department Report

Subject

Fire Season Update

Background

As of June 30, Emergency Fire Suppression expenditures are estimated to be \$9,182,500. The Suppression Account will recover an estimated \$1,940,000 of reimbursable costs, for a net obligation of \$7,242,500. The total obligation includes the 2025 contracted aircraft costs and prepositioned contract engines to assist with a lack of qualified engine bosses. These engines will be assigned across the state to boost initial attack resources.

Discussion

On June 26, the Old Greer incident started 8 miles south of Orofino and is being managed as a Type 3 by the local district. The fire is currently 78 acres and 100% contained.

The Nettleton Gulch fire started on June 29 in Coeur d'Alene. As of July 6, it was turned back to the district. It is 23 acres and 50% contained.

Fire Season Comparison to Date

Number and Size of Fires (Year to Date)

Year	Human	Lightning	Total	Acres
2021	123	32	155	732
2022	19	8	27	40
2023*	80	23	103	495
2024*	86	17	103	3,339
2025*	125	14	139	765
20-Yr. Average (2002-2022)			63	700

*2024 and 2025 fires are calculated using the protection boundaries of the new Idaho Master Agreement which has increased the area in which IDL is the protecting agency. Therefore, there is an inconsistency between earlier numbers and 20-year averages.

April, May, and June have seen above average temperatures and below average precipitation. July is forecasted to have above average temperatures and below average precipitation. The Significant Wildland Fire Potential Outlook for July through September shows above normal fire potential for most of Idaho.

There are no fire restrictions in place.

Significant Fires Outside of IDL Protection

There are no significant fires in Idaho outside of IDL protection.

Total Acres Burned by Ownership as of 7/8/2025

Surface Owner	Acres
Bureau of Land Management	7,767
U.S. Forest Service	355
Other Federal	3,505
Tribal	0
Private	1,164
State Endowment	854
Other State	118
Total Acres	13,763

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

Fire Deficiency Warrant Spending—2025 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
Preposition Engines	\$1,012,500	5 Type 6 Exclusive Use Contract Engines July 14-Sept. 15 (45 days guaranteed)
IDL Non-Team Fires	\$504,000	IDL/Assn fires including pre-positioning. Based on estimates and actuals.
IDL Team Fires	\$2,100,000	Old Greer (T3@MCS), Nettleton Gulch (T3@MIS)
Other Suppression/Non-reimbursable	\$126,000	Coeur d'Alene Cache: incoming and outgoing supplies not yet billed; Dispatch/Bureau cost when supporting multiple incidents.
Other Suppression/Reimbursable	\$1,940,000	Reimbursable—IDL and Fire Department resources supporting non-IDL fires.
Total Estimate YTD	\$9,182,500	Awaiting Aviation update, this may change

Attachments

1. Map—Wildland Fires

2025 Wildland Fires in Idaho

7/4/2025

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



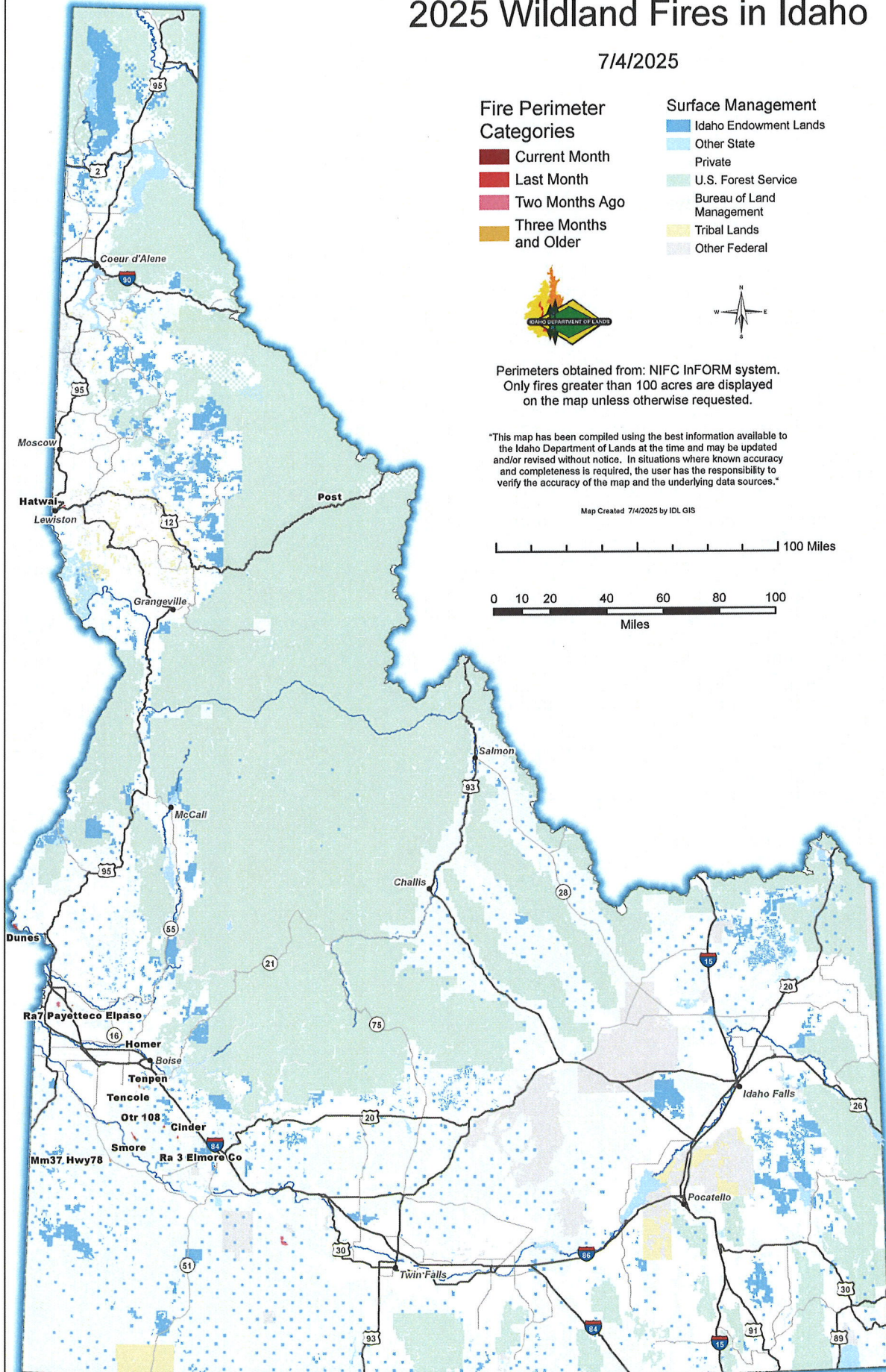
Perimeters obtained from: NIFC InFORM system.
Only fires greater than 100 acres are displayed on the map unless otherwise requested.

"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 7/4/2025 by IDL GIS

0 10 20 40 60 80 100 Miles

0 10 20 40 60 80 100 Miles



LAND BANK AGING REPORT							
Current Remaining Principal Balance By Quarter Receipted - As of June 30, 2025							
FY Quarter IN	Public School	Agriculture College	Normal Schools	State Hospital South	University of Idaho	All Endowments	FY Quarter EXPIRES
2022-01	\$ 784,215	\$ -	\$ -	\$ -	\$ -	\$ 784,215	2027-01
2022-02	\$ 10,140,720	\$ -	\$ -	\$ -	\$ -	\$ 10,140,720	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
2025-02	\$ 10,249,720	\$ -	\$ 450,000	\$ 5,563,000	\$ -	\$ 16,262,720	2030-02
2025-03	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2030-03
2025-04	\$ 1,155,000	\$ -	\$ -	\$ -	\$ -	\$ 1,155,000	2030-04
TOTAL PRINCIPAL REMAINING	\$ 66,098,975	\$ -	\$ 450,000	\$ 5,995,187	\$ -	\$ 72,544,162	
LAND BANK CASH BALANCE (with Interest)	\$ 69,379,202	\$ -	\$ 473,442	\$ 6,166,714	\$ -	\$ 76,019,358	



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 June 30, 2025

Month: 3.4% Fiscal year: 11.7%

Financial markets experienced a strong rally in June with the DJIA, S&P500 and Nasdaq all reaching record highs. The surge was driven by progress on the “One Big Beautiful Bill”, positive developments with tariff negotiations and the bold move by President Trump to join Israel in the bombing of Iran’s nuclear sites. U.S. Treasury yields decreased due to slightly cooler than expected inflation which came in at 2.4%, softening labor markets and declining consumer spending. The Fed held interest rates steady during its June meeting to better understand how inflation and the broader economy will evolve with looming tariffs.

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 – August 18, 2025

Preliminary Report (Land Grant Fund)

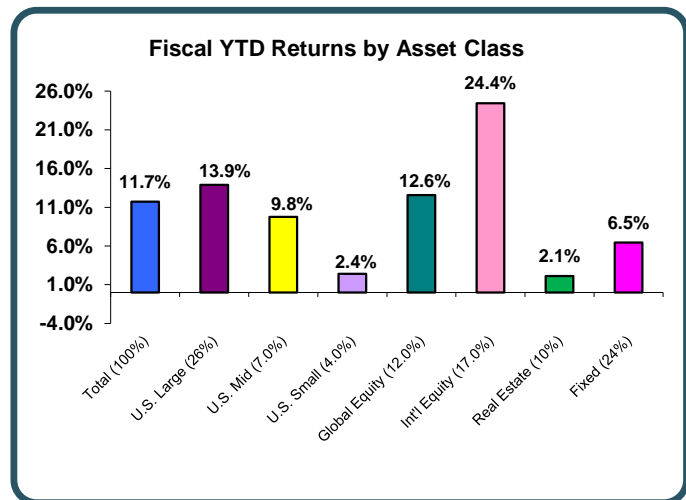
June 30, 2025

	<u>Month</u>	<u>FYTD</u>
Beginning Value of Fund	3,469,116,285	\$ 3,254,002,699
Distributions to Beneficiaries	(8,601,800)	(103,471,600)
Land Revenue net of IDL Expenses	6,952,596	73,309,271
Change in Market Value net of Investment Mgt. Expenses	118,211,511	361,838,222
Current Value of Fund	\$ 3,585,678,592	\$ 3,585,678,592

<u>Gross Returns</u>	<u>Current Month</u>	<u>Calendar Y-T-D</u>	<u>Fiscal Y-T-D</u>	<u>One Year</u>	<u>Three Year</u>	<u>Five Year</u>	<u>Ten Year</u>
Total Fund	3.4%	8.2%	11.7%	11.7%	11.6%	9.4%	8.2%
Total Fund Benchmark*	3.4%	7.5%	12.3%	12.3%	11.6%	9.2%	8.0%
Total Fixed	1.6%	4.2%	6.5%	6.5%	3.0%	0.1%	2.0%
BBG U.S. Agg. (Ag)	1.5%	4.0%	6.1%	6.1%	2.5%	-0.3%	1.9%
Total Equity	4.5%	10.8%	15.2%	15.2%	17.3%	14.1%	11.0%
56% R3 25.8% Ax 18.2% AC	4.5%	9.6%	16.2%	16.2%	17.5%	14.1%	10.7%
Domestic Equity	5.0%	4.9%	11.8%	11.8%	17.3%	14.8%	12.2%
Russell 3000 (R3)	5.1%	5.8%	15.3%	15.3%	19.1%	16.0%	13.0%
Global Equity	3.6%	9.7%	12.6%	12.6%	16.4%	13.0%	9.8%
MSCI ACWI (AC)	4.5%	10.0%	16.2%	16.2%	17.3%	13.7%	10.0%
Int'l. Equity	4.1%	25.4%	24.4%	24.4%	18.0%	13.2%	9.0%
MSCI ACWI ex-US (Ax)	3.4%	17.9%	17.7%	17.7%	14.0%	10.1%	6.1%
Real Estate	0.0%	1.6%	2.1%	2.1%	-4.5%	1.9%	
NCREIF ODCE Index		2.2%	2.0%	2.0%	-4.3%	2.9%	

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

	<u>Mkt Value</u>	<u>Allocation</u>
Domestic Equity	\$ 1,302.2	36.3%
Large Cap	923.7	25.8%
Mid Cap	245.2	6.8%
Small Cap	133.2	3.7%
Global Equity	437.1	12.2%
Int'l Equity	632.2	17.6%
Fixed Income	845.6	23.6%
Real Estate	353.5	9.9%
Cash	15.7	0.4%
Total Fund	\$ 3,585.7	100.0%



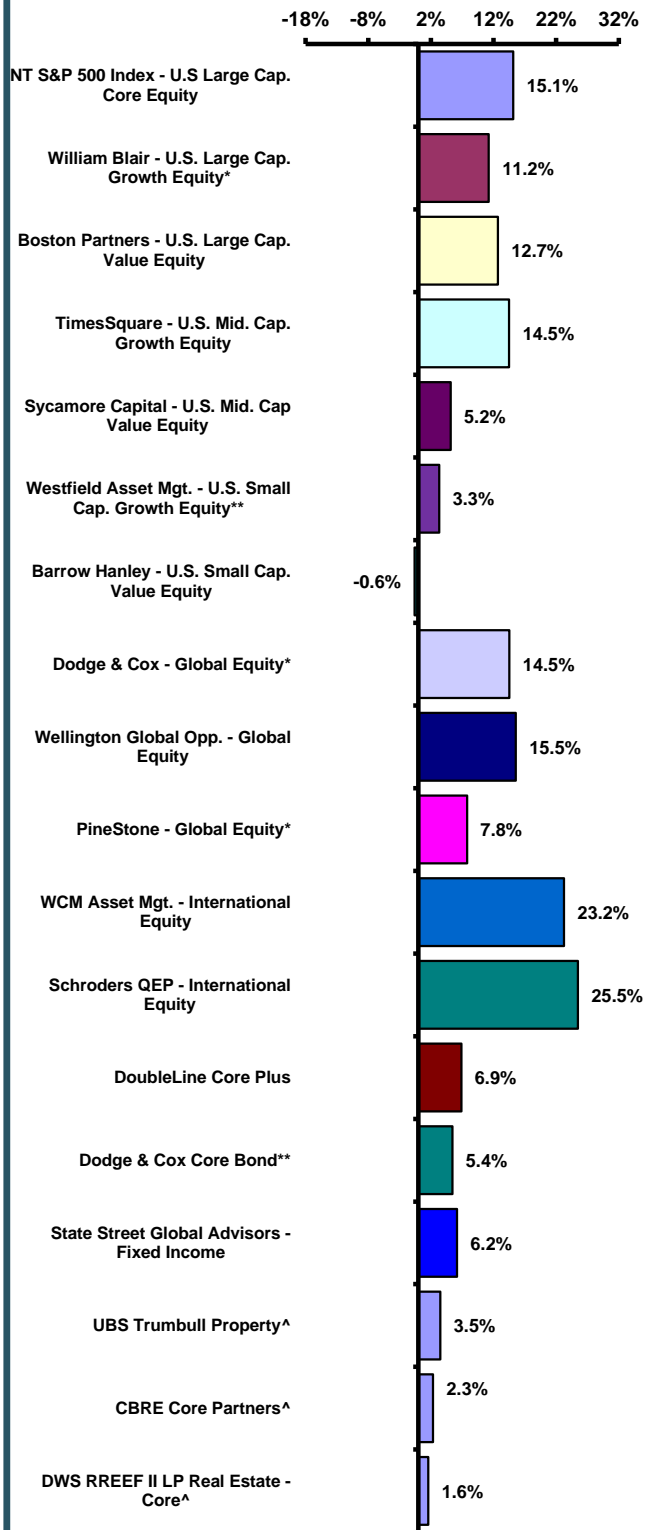
Endowment Fund Staff Comments:

Financial markets experienced a strong rally in June with the DJIA, S&P500 and Nasdaq all reaching record highs. The surge was driven by progress on the "One Big Beautiful Bill", positive developments with tariff negotiations and the bold move by President Trump to join Israel in the bombing of Iran's nuclear sites. U.S. Treasury yields decreased due to slightly cooler than expected inflation which came in at 2.4%, softening labor markets and declining consumer spending. The Fed held interest rates steady during its June meeting to better understand how inflation and the broader economy will evolve with looming tariffs.

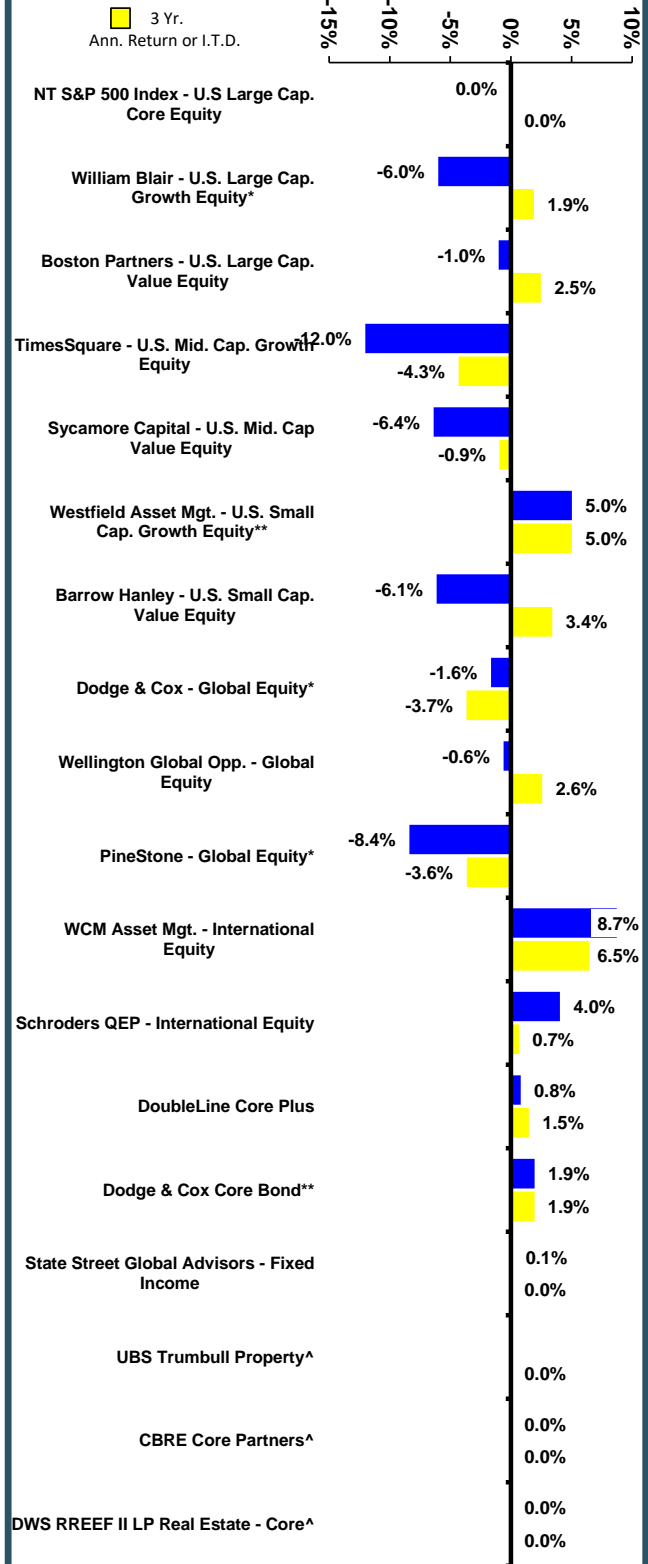
June 30, 2025

INVESTMENT REPORT

FYTD Manager Returns*



Manager Relative Returns Fiscal YTD and 3-Yr Ave*



** Westfield Started 7/19/24, Dodge & Cox 2/1/25

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



Idaho State Board of Land Commissioners

Brad Little, Governor and President of the Board

Phil McGrane, Secretary of State

Raúl R. Labrador, Attorney General

Brandon D Woolf, State Controller

Debbie Critchfield, Superintendent of Public Instruction

Dustin T. Miller, Secretary to the Board

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

Draft Minutes

State Board of Land Commissioners Regular Meeting

June 17, 2025

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, June 17, 2025 at the State Capitol, Lincoln Auditorium (WW02), Lower Level, West Wing, 700 W. Jefferson St., Boise, Idaho, and via webinar. The meeting began at 9:00 a.m. The Honorable Governor Brad Little presided. The following members were in attendance:

Honorable Governor Brad Little

Honorable Secretary of State Phil McGrane

Honorable Attorney General Raúl Labrador

Honorable State Controller Brandon Woolf

Honorable Superintendent of Public Instruction Debbie Critchfield

Four Land Board members were present at the physical location; Superintendent Critchfield joined via Zoom.

Reports

1. Department Reports—presented by Dustin Miller, Director

A. Timber Sales Revenue—May 2025

B. Leases/Permits Transactions and Revenue—May 2025

Discussion: Controller Woolf referred to the Lewiston Seed Orchard transaction and asked if it was complete and all pending items addressed. Director Miller replied that water rights questions from the Attorney General's office were resolved, and the acquisition closed in May. Director Miller mentioned the Department is sustainably cutting 330 million board feet annually, and having that capacity to grow a lot of seed is critical for the Department's continued work on behalf of the endowments.

2. Endowment Fund Investment Board—presented by Chris Anton, EFIB Manager of Investments
 - A. Manager's Report
 - B. Investment Report

Discussion: Mr. Anton reported that the portfolio had strong performance during the month of May, mostly driven by some easing of tariff restrictions. In early May the U.S. and China agreed to temporarily reduce the tariff rates from 145% to 30% and significant progress was made with the European Union on the tariff front. Investors perceived that the excessive tariff rates initially put in place were coming down to a more reasonable level and the markets rebounded; there was also a sharp rebound in consumer confidence. The portfolio was up 4% during the month of May and 8.1% fiscal year-to-date. Through yesterday, the fund was up 9.7% fiscal year-to-date, so the rallies continued into June. A lot of discussion in May was President Trump's "one big, beautiful bill" that passed the House of Representatives and is currently under review by the Senate. The bill seeks to make permanent tax cuts that were established in the Tax Cuts and Jobs Act of 2017, increase the deductions for state and local taxes, and increase spending on border security and military expansion. It is anticipated that the bill will continue to increase the deficit, which has adversely affected the bond market. Long-term rates moved up because that additional deficit spending will have to be financed. The equity markets think it is a great deal because it is stimulative to the economy and will create jobs. Overall, it has been a strong period of performance; hopefully the fiscal year will have a strong end.

Consent—Action Item(s)

3. Strategic Plan FY2026-FY2029—presented by Dustin Miller, Director

Recommendation: Direct the Department to submit its FY2026-FY2029 Strategic Plan to the Division of Financial Management by July 1, 2025.

Discussion: Secretary of State McGrane commented the current strategic plan does not seem to reflect recent federal leadership changes or opportunities arising from them. The Governor has met with federal partners like Tom Schultz and issued executive orders (Make Forests Healthy Again Act) aligned with increasing federal timber harvests and forest management. Secretary of State McGrane said he would like to see the Department's plan better align with these federal and state-level efforts and partnerships. This is more than a routine planning exercise—there are timely opportunities with Idahoans in federal positions. Director Miller stated the strategic plan remains grounded in the Department's dual mission: managing endowments and providing regulatory/assistance functions. Though not explicit in the plan, current efforts support federal initiatives (Trump administration executive orders) to increase forest output and health through partnerships like Good Neighbor Authority (GNA). The Governor's act complements these efforts, aiming to improve forest resilience and reduce fire risk. Fire management is a key focus under "Future Proofing Goal 4," emphasizing federal and local partnerships and increased self-sufficiency. Director Miller committed to integrating more of these initiatives into the strategic plan and will discuss leveraging federal-level Idaho connections in upcoming staff meetings.

4. State Membership in Timber Protective Associations—presented by Dustin Miller, Director

Recommendation: Authorize state participation as a member of the Clearwater-Potlatch Timber Protective Association and Southern Idaho Timber Protective Association.

Discussion: None.

5. Deficiency Warrant Authority for FY2026 Fire Suppression—presented by Dustin Miller, Director

Recommendation: Authorize issuance of deficiency warrants to pay the fire suppression costs in FY2026.

Discussion: Attorney General Labrador commented the statute says the Land Board may authorize deficiency warrants if the actual cost for suppression exceeds moneys available and asked if costs have already exceeded the available funds. Director Miller answered no; the Department typically requests authorization early in the season because most years suppression costs exceed the funds. Attorney General Labrador asserted the statute does not say if and when costs are exceeded; he remarked that it would be against the statute for the Land Board to approve deficiency warrants today and suggested asking the legislature to revise the statute. Governor Little stated the budget proposal requested keeping a bigger fund available, but the legislature approved a smaller amount. Fixed annual fire costs are \$15–18 million, but in heavy fire years, costs can reach \$40 million or more. Previously, fire suppression was pre-funded, but that policy has changed, forcing a return to using deficiency warrants. The legislature enacted several places in code where deficiency warrants are used. Other states have to hold a special session of the legislature to appropriate the money, like Oregon did last year.

6. Approval of Draft Minutes—May 20, 2025 Regular Meeting

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

Information

7. Proposed Rule IDAPA 20.03.08, Easements on State-Owned Lands—presented by Roger Hall, Bureau Chief-Real Estate

Discussion: Governor Little asked about the fiscal impact of eliminating the fees. Mr. Hall replied that eliminating the fees reduces some upfront revenues, but the overall compensation of the easements covers the loss of removing fees. Governor Little summarized that fees are not covering the Department's administration costs, but appraisals are the biggest expense, and applicants are already paying for those. Mr. Hall voiced agreement.

8. Pre-Season Fire Forecast and Update—introduction by Julia Lauch, State Forester/Division Administrator-Forestry and Fire
 - A. Predictive Services Forecast—Jim Wallmann, Meteorologist, BLM
 - B. Resource Readiness—Josh Harvey, Bureau Chief-Fire Management
 - C. Rangeland Fire Protection Associations—Josh Harvey, Bureau Chief-Fire Management

Discussion: Secretary of State McGrane asked what lessons were learned from last year's major fire season and how the Department is adapting. He noted changes in the landscape (e.g., Wapiti Fire area) and questioned how planning is evolving. Secretary of State McGrane commended the Department's initial attack efforts and highlighted aviation resources as costly but critical tools for early fire suppression. He raised concerns about staffing, housing, and recruiting challenges in the fire service. He asked how the Department is evaluating resource allocation, stating bulldozers and helicopters may be more effective than multiple hand crews.

Mr. Harvey indicated that the Department has improved communication and coordination with federal and state partners. Dispatch processes have been refined to improve accuracy and response time. New interagency efforts and MOUs aim to build stronger Type 3 incident teams across Idaho. Mr. Harvey stated the Department has shifted from a "one-size-fits-all" staffing model to a more strategic, location-based deployment of crews and equipment. Aircraft are staged statewide based on housing availability and rapid deployment needs. The Department is analyzing current and future aircraft needs; a new Type 1 helicopter is being added this year. Staffing limitations affect the ability to expand aviation resources—trained leadership is required to manage them safely. Mr. Harvey said the Department maintains pride in fast, aggressive initial attacks but acknowledges operational constraints.

Secretary of State McGrane asked how the Land Board can better support staffing and resource needs, especially with worsening fire outlooks. He emphasized the need for early intervention in large fires and suggested it is time to rethink wildfire response using new technology (e.g., cameras), observing that generational changes have made fire jobs less appealing. Secretary of State McGrane questioned the effectiveness of gas station fire prevention ads, noting that he has not seen any, and suggested reviewing their impact.

Mr. Harvey acknowledged that it is impossible to fully staff for worst-case scenarios, so the focus is on efficient baseline staffing with flexible, scalable support. He recognized the value of the Land Board's support in enabling rapid decisions and resource deployment during emergencies and stressed the importance of interagency cooperation and readiness to activate additional resources when needed. Mr. Harvey remarked that the gas station ads are part of a broader interagency fire prevention campaign targeting high-traffic corridors and noted that he saw ads at stations in McCall last year. Mr. Harvey reinforced the importance of public awareness in fire prevention, using examples like the danger of dragging chains.

Controller Woolf inquired about the term of the current master agreement (expires in 2027). He highlighted past efforts training ranchers and expressed interest in continuing partnerships with the Associated Logging Contractors (ALC) for training and collaboration. Controller Woolf asked about Department efforts to educate the growing population on preventing human-caused fires.

Mr. Harvey identified the ALC and loggers as key partners, often first on scene for initial attack; maintaining close communication and making equipment signup easy are ongoing priorities. Training and collaboration with contractors are regular and continuous to ensure rapid response capability. The Department runs educational programs targeting all ages, uses federal grants for outreach, and utilizes reader boards to spread prevention messages. Mr. Harvey mentioned that despite prevention efforts, human-caused fires persist; legal action and billing for fire costs serve as a strong deterrent and final enforcement tool. He stressed education is primary, but enforcement remains necessary to hold negligent individuals accountable.

Director Miller thanked Ms. Lauch, Mr. Wallmann, and Mr. Harvey for their presentations, and expressed the Department's top priority is firefighter safety.

9. Fire Strategic Plan—presented by Dustin Miller, Director

Discussion: Controller Woolf asked if there are opportunities to expand partnerships with external agencies (Forest Service, local communities, firefighting organizations) before finalizing fire plans. Director Miller strongly emphasized the importance of interagency partnerships—local, federal, and interstate (e.g., Northwest Compact). He called attention to the goal of building more in-state Type 3 incident management teams to increase Idaho's self-sufficiency. He pointed out that relationships with groups like the Idaho Fire Chiefs Association and the Idaho Office of Emergency Management (IOEM) are stronger than ever and will remain a top priority. Director Miller reaffirmed that collaboration is essential for managing wildfires, especially in the wildland-urban interface.

Secretary McGrane echoed Controller Woolf's call for broader stakeholder input on the fire strategic plan—similar to public rulemaking processes. He emphasized the value of feedback from logging contractors and other key partners to ensure the plan evolves with changing conditions. Director Miller confirmed that partner discussions are already underway with fire chiefs and IOEM. He said the plan is still open for refinement through summer and fall, despite challenges during fire season, and he recognized the importance of continuing the dialogue and soliciting strategic feedback.

Governor Little raised concern about delays in federal reimbursement to contractors, like the loggers, due to shortages of federal procurement officers and warned that if the Forest Service and BLM cannot process payments, it may discourage participation and disrupt large-scale fire responses. He suggested Idaho explore ways to support or supplement federal procurement efforts, possibly through Good Neighbor Authority (GNA). Governor Little requested specific advice and questions from the Department to raise with federal officials, emphasizing the need to act early before major fires erupt. Director Miller agreed to provide targeted recommendations and talking points for federal engagement, leveraging existing strong relationships with national leaders.

Regular—Action Item(s)

10. Legal Representation Policy—presented by Dustin Miller, Director

Recommendation: The Department recommends that the Land Board adopt the Legal Representation Policy.

Discussion: Attorney General Labrador opposed the policy, declaring it is unconstitutional and contrary to state law. He asserted that the Department of Lands is an instrumentality of the Land Board—subordinate, not independent. The Attorney General emphasized that legal representation of the Land Board is constitutionally assigned to the Attorney General, not separate Department attorneys, and claimed only the Department of Lands is exempted in statute to have its own attorneys, and even then, only to represent the Department, not the Land Board. Attorney General Labrador announced he would vote no and criticized the policy's presentation to the Land Board.

Governor Little stated that the policy aligns with Senate Bill 1292. He argued that a shared legal counsel for the Land Board is necessary to fulfill their fiduciary duty to beneficiaries under the trust doctrine. The Governor acknowledged that Land Board members may have separate legal counsel for their own departments, but stressed the need for unified counsel when acting collectively as the Land Board.

Board Action: A motion was made by Governor Little that the Land Board adopt the governance policy as prepared and presented by the Director. Controller Woolf seconded the motion. The motion carried on a vote of 4-1, with Attorney General Labrador voting in opposition.

At 10:21 a.m., a motion was made by Controller Woolf that the Land Board resolve into Executive Session pursuant to Idaho Code § 74-206(1)(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. Controller Woolf requested that a roll call vote be taken and that the Secretary record the vote in the minutes of the meeting. Secretary of State McGrane seconded the motion. Roll Call Vote: Aye: McGrane, Labrador, Woolf, Critchfield, Little; Nay: None; Absent: None.

Executive Session (Room WW17)

- A. Performance Evaluation—Director, Department of Lands
Idaho Code § 74-206(1)(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.

At 10:38 a.m., a motion was made by Controller Woolf that the Land Board resolve out of Executive Session and let the record reflect that no action was taken by the Land Board during Executive Session. Governor Little seconded the motion. Without objection, the Land Board resolved out of Executive Session.

Governor Little noted that Superintendent Critchfield participated in the Executive Session and excused herself at its conclusion to attend to other constitutional obligations.

Regular—Action Item(s)

11. Personnel Matter—*No Board Materials*

Board Action: A motion was made by Controller Woolf that the Land Board increase Director Dustin Miller's pay rate by \$1.30 per hour, from \$76.38 to \$77.68 per hour, effective June 8, 2025 for the July 3, 2025 pay date. Governor Little seconded the motion. The motion carried on a vote of 4-0.

There being no further business before the Land Board, at 10:40 a.m. a motion to adjourn was made by Controller Woolf. The motion carried on a vote of 4-0.

DRAFT

STATE BOARD OF LAND COMMISSIONERS

July 15, 2025
Regular Agenda

Subject

Proposed Legislation for the 2026 Legislative Session

Question Presented

Shall the Land Board approve the Department's three 2026 legislative proposals?

Background

The Idaho Department of Lands (Department) seeks State Board of Land Commissioners' (Land Board) approval of its three legislative proposals. Per direction from the Governor's Division of Financial Management, these legislative ideas have been submitted through the Executive Agency Legislative System for consideration during the 2026 legislative session.

Discussion

Forest Fire Protection Assessment Structure Surcharge

Idaho Code § 38-111 states:

"For private owners of forest lands whose total acres of forest lands are twenty-six (26) acres or more, the state board of land commissioners shall establish this cost not to exceed sixty-five cents (\$0.65) an acre per year. For private owners of forest lands whose total acres of forest lands are twenty-five (25) acres or fewer, the minimum assessment per year shall be equal to the per acre cost multiplied by twenty-five (25).

In addition to any other assessment prescribed in this chapter, the state board of land commissioners shall establish a surcharge to be levied and assessed in an amount not to exceed forty dollars (\$40.00) for each improved lot or parcel to offset costs associated with wildfire preparedness."

In 2008, the Land Board directed the Department to raise the forest protection assessment to sixty cents (\$0.60) an acre per year. The Land Board also directed the Department to seek statute changes to raise the per acre cap to sixty-five cents (\$0.65) an acre per year and raise the improved parcel (structure) surcharge from \$20 to \$40. The statute was amended in the 2009 legislative session, and the improved lot surcharge was last increased by the Land Board in 2009 to \$40.

The current annual rate of forty dollars (\$40) per improved lot is not sufficient to support the fire protection program. Fund expenditures exceed revenues and will lead to a fire preparedness funding shortfall in about 2031.

Structures in the forest complicate and increase wildfire suppression efforts and costs. Over the past 10 years, the extent of the wildland urban interface (WUI) has expanded in Idaho. Additionally, the number of forested parcels with residences has increased. According to the Federal Emergency Management Agency (FEMA), 30.1-40% of houses in Idaho are in the WUI. This has also resulted in more human-caused fire starts and acres burned in the WUI.

Preparedness costs have increased due to the complications presented by the WUI. Due to the increased values at risk (human life and structures) in the WUI, fires in these areas generally require additional ground and aerial resources, which increases firefighting costs and diverts limited resources away from wildland fires. The Department expects to need additional staffing and equipment to be adequately prepared for wildfire as Idaho continues to grow.

The Department proposes changing the improved parcel surcharge from \$40 to \$100 (Attachment 1). This change is needed to ensure funding into the future for the State's wildland fire protection program.

Endowment Land Commercial Lease Term

Idaho Code § 58-307(5) states:

"Notwithstanding any other provisions of law, all state endowment trust lands may be leased for a period of up to forty-nine (49) years for commercial purposes under such terms and conditions as may be set by the board, provided that, for such leases in excess of twenty (20) years, the board consults with the county commissioners of the county in which the lands are located before leasing the lands, and the use for which the land is leased shall be consistent with the local planning and zoning ordinances insofar as is reasonable and practicable. For each lease in excess of twenty (20) years, the department shall hold a hearing in the county in which the parcel is located. Grazing leases shall be excluded from the hearing requirement."

The 49-year term for commercial leases does not align with industry norms and discourages commercial developers from pursuing commercial ground leases on state endowment land.

The Department proposes to change the language for the commercial lease term from "up to 49 years" to "up to 99 years" (Attachment 2). This change is needed to encourage commercial ground leasing opportunities and increase endowment land asset portfolio revenues.

All Hazard Incident Response

The Department, the Idaho Office of Emergency Management, and the Idaho Fire Chiefs Association are collaborating to develop a statewide memorandum of understanding between firefighting entities at the local, state, and federal level to ensure capacity, coordination, and mutual aid response during wildfire events. This includes engaging their membership(s) in enhanced Type 3 Incident Management Team (IMT) capabilities. Type 3 IMTs are an extended attack coordination module for managing wildfire events and can be adapted for broader emergency management, including natural disasters like hurricanes, tornadoes, and floods (All-Hazard).

Currently the Department lacks the authority to mobilize Fire Service Organizations, pay overtime to Department staff, and have sufficient spending authority to cover reimbursable costs to effectively mobilize resources for All-Hazard response.

The Department proposes adding a new section 38-131C to Idaho Code title 38, chapter 1 to authorize the Department to use deficiency warrants for All-Hazard assignments in Idaho and nationally (Attachment 3). Costs associated with these events would be reimbursable to the State of Idaho. Idaho Code § 38-131 has similar language regarding deficiency warrants (Attachment 4).

Recommendation

Approve the Department's 2026 legislative proposals with the potential for further revisions and withdrawals.

Board Action

Attachments

1. Proposed text change to Idaho Code § 38-111, Idaho Forestry Act
2. Proposed text change to Idaho Code § 58-307, Appraisalment, Lease, and Sale of Lands
3. Proposed new section 38-131C of Idaho Code title 38, chapter 1, Idaho Forestry Act
4. Idaho Code § 38-131, Deficiency Warrants for Excess Costs of Fire Suppression

TITLE 38
FORESTRY, FOREST PRODUCTS AND STUMPAGE DISTRICTS
CHAPTER 1
IDAHO FORESTRY ACT

38-111. PROTECTION BY OWNER — ASSESSMENTS — BUDGET OF PROTECTIVE DISTRICTS.

Every owner of forest lands in the state shall furnish or provide therefor, throughout the closed season, protection against the starting, existence or spread of fires thereon, or therefrom, in conformity with reasonable rules and standards for adequate protection, to be established by the state board of land commissioners. An owner of forest lands who maintains a membership in good standing in a forest protective association operating under agreement with the state board of land commissioners, which association maintains a standard of protection approved by said board and who pays the assessments to the association in the amounts required in this section, shall be deemed to have fully complied herewith. In the event the owner of any forest land shall neglect or fail to furnish the protection required in this section, the director of the department of lands shall provide such patrol and protection therefor at actual cost to the owner of forest lands. For private owners of forest lands whose total acres of forest lands are twenty-six (26) acres or more, the state board of land commissioners shall establish this cost not to exceed sixty-five cents (65¢) an acre per year. For private owners of forest lands whose total acres of forest lands are twenty-five (25) acres or fewer, the minimum assessment per year shall be equal to the per acre cost multiplied by twenty-five (25).

In addition to any other assessment prescribed in this chapter, the state board of land commissioners shall establish a surcharge to be levied and assessed in an amount not to exceed ~~forty-one hundred~~ dollars (~~\$40.00~~100.00) for each improved lot or parcel to offset costs associated with wildfire preparedness.

There is hereby established in the state treasury a wildfire equipment replacement fund for the replacement of capital wildfire equipment. The department of lands shall determine reimbursement rates for all capital fire equipment used for activities other than fire preparedness. Reimbursement revenues shall be deposited in the wildfire equipment replacement fund. Additional moneys may be deposited into the wildfire equipment replacement fund from any other source.

In the event an assessment is made in an amount less than the maximum hereinbefore provided, and an actual loss occurs which exceeds the amount budgeted and for which assessments have been made, the director of the department of lands, with the approval of the board, may require an additional assessment to be made and paid, which together with the original assessment shall not exceed the maximum assessment set forth in this section. Such additional assessment shall be levied and collected in the same manner as herein

provided for the collection of such original assessments. The liability provided in this section shall be calculated for each forest protection district or association separately, and shall be calculated solely upon the charges assignable to fire control or presuppression of fires within each district or association.

Each forest protective association actively engaged in forest protection under agreement with the state board of land commissioners shall each year prepare in detail, a budget of all estimated operating costs for the next fiscal year and shall submit this budget to the board for approval before August 31 of the current year.

Except for the provisions of section 38-122, Idaho Code, and cases of proven negligence by the landowner or his agent, no other charges or assessments for fire protection shall be made or assessed or collected from those forest landowners participating as provided herein.

**TITLE 58
PUBLIC LANDS
CHAPTER 3
APPRAISEMENT, LEASE, AND SALE OF LANDS**

58-307. TERM OF LEASE — APPLICATION FOR RENEWAL — ALLOWANCE FOR IMPROVEMENTS. (1) No lease of state trust lands shall be for a longer term than twenty (20) years.

(2) Notwithstanding any other provisions of law, all state lands may be leased for a period of up to twenty-five (25) years to the federal government, to federal agencies, state agencies, counties, or cities, school districts or political subdivisions when leased for public purposes. Such leases for public purposes may be entered into by negotiation and shall secure a rental amount based on the fair market value of the state land.

(3) Notwithstanding any other provisions of law, all state endowment trust lands may be leased for a period of up to thirty-five (35) years for residential purposes as determined by the state board of land commissioners including, but not limited to, single family, recreational cottage site and homesite leases.

(4) Notwithstanding any other provision of law to the contrary, all state lands may be leased for a period of up to forty (40) years for grazing leases.

(5) Notwithstanding any other provisions of law, all state endowment trust lands may be leased for a period of up to ~~fortyninety~~-nine (~~49~~~~99~~) years for commercial purposes under such terms and conditions as may be set by the board, provided that, for such leases in excess of twenty (20) years, the board consults with the county commissioners of the county in which the lands are located before leasing the lands, and the use for which the land is leased shall be consistent with the local planning and zoning ordinances insofar as is reasonable and practicable. For each lease in excess of twenty (20) years, the department shall hold a hearing in the county in which the parcel is located. Grazing leases shall be excluded from the hearing requirement.

(6) The term "commercial purposes" means fuel cells, low impact hydro, wind, geothermal resources, biomass, cogeneration, sun or landfill gas as the principal source of power with a facility capable of generating not less than twenty-five (25) kilowatts of electricity, industrial enterprises, retail sales outlets, business and professional office buildings, hospitality enterprises, commercial recreational activities, multifamily residential developments and other similar businesses. For purposes of this section, farming leases, grazing leases, conservation leases including lands enrolled in federal conservation programs such as the conservation reserve enhancement program (CREP), noncommercial recreation leases, oil and gas leases, mineral leases, communication site leases, single family, recreational cottage site and homesite leases, and leases for other similar uses, are not considered leases for commercial purposes. The terms fuel cells, low impact hydro, wind, geothermal resources, biomass, cogeneration, sun or landfill gas shall have the same definitions as provided in section 63-3622QQ, Idaho Code.

(7) The board may require that all fixed improvements constructed upon land leased for commercial purposes be removed or become the property of the state upon termination of the lease, and that any heirs, encumbrances or claims of third parties with respect to any improvements shall be expressly subordinate and subject to the rights of the state under this section.

(8) Except for oil and gas, mineral and commercial leases, the lease year shall run from January 1 through December 31, and all leases shall expire on December 31 of the year of expiration.

(9) All applications to lease or to renew an existing lease which expires December 31 of any year, shall be filed in the office of the director of the department of lands by the thirtieth day of April preceding the date of such expiration. Such applications will be considered by the state land board and be disposed of in the manner provided by law; except that the board may reject conflicting applications for a lease for commercial purposes if the lessee exercises the preference right to renew clause, and provided such right is specified in the lease.

(10) Where conflicts appear upon leases, except for mineral leases which, pursuant to chapter 7, title 47, Idaho Code, contain a preferential right to renew clause, such applications shall be considered as having been filed simultaneously. However, nothing herein shall be construed to prevent the state board of land commissioners from accepting and considering applications for new leases at any time.

(11) In case improvements have been made on land while under lease which is expiring, and the former lessee is not the successful bidder, but the land is leased to another, the amount of such improvements shall be paid to the former lessee. The following shall be considered improvements: plowing done within one (1) year, provided no crop has been raised on the plowed land after such plowing, fencing, buildings, cisterns, wells, growing crops and any other asset which shall be considered an improvement by the director.

(12) Commercial leases of the state lands shall not be subject to the conflict auction provisions of section 58-310, Idaho Code. The board may, at its discretion, consider individual applications or call for proposals and sealed bids by public advertisement, and may evaluate said proposals and award the lease to the bidder whose proposal achieves the highest return over the term of the lease and who is capable of meeting such terms and conditions as may be set by the board; in the alternative, the board may call for lease applications by public advertisement and if more than one (1) person files an application to hold an auction in the same manner as provided in section 58-310, Idaho Code. In all cases, the board must obtain a reasonable rental, based upon fair market value of the state land, throughout the duration of the lease. The board may reject any or all proposals and any or all bids, and may reoffer the lease at a later date if the board determines that the proposals or bids do not achieve the highest and best use of the land at market rental.

TITLE 38
FORESTRY, FOREST PRODUCTS AND STUMPAGE DISTRICTS
CHAPTER 1
IDAHO FORESTRY ACT

38-131C. DEFICIENCY WARRANTS FOR COSTS OF PROVIDING EMERGENCY RESPONSE ASSISTANCE TO STATE AND FEDERAL ALL HAZARD INCIDENTS. The state board of land commissioners may authorize the issuance of deficiency warrants for the purpose of paying the costs of providing emergency response support for all hazard incident response including fuels reduction in support of mitigating wildfire risk. When so authorized, the state controller shall draw deficiency warrants against the general fund.

**TITLE 38
FORESTRY, FOREST PRODUCTS AND STUMPAGE DISTRICTS
CHAPTER 1
IDAHO FORESTRY ACT**

38-131. DEFICIENCY WARRANTS FOR EXCESS COSTS OF FIRE

SUPPRESSION. In event the actual cost for the control or suppression of forest fires in any forest protective district exceeds in any one (1) year the maximum moneys available for forest protection in that district from the forest protection fund or any other special or general fund provided for that purpose, the state board of land commissioners may authorize the issuance of deficiency warrants for the purpose of defraying such excess costs and when so authorized the state controller shall draw deficiency warrants against the general fund.

DRAFT

STATE BOARD OF LAND COMMISSIONERS

July 15, 2025
Regular Agenda

Subject

Final Approval of the Benewah County Land Exchange

Question Presented

Shall the Land Board authorize the Department to complete the land exchange with Benewah County and approve the use of Earnings Reserve funds to offset the difference in value?

Background

In February 2022, the Idaho Department of Lands (Department) received an application for a land exchange from Benewah County (County), submitted by County Commissioner Bob Short. The original proposal involved exchanging approximately 120 acres of County-owned timberlands for approximately 60 acres of endowment land, all located within Benewah County.

On March 21, 2023, the State Board of Land Commissioners (Land Board) approved the Department to proceed with due diligence on the proposed exchange by unanimous vote (Attachment 1).

Following Land Board approval, the Department initiated due diligence, including appraisals of the originally proposed parcels. These appraisals revealed a value imbalance in favor of the County—specifically, the 120 acres of County land was appraised at nearly \$200,000 more than the 60 acres of endowment land.

The Department informed the County Commissioners of the imbalance during their October 10, 2023, meeting. In response, Commissioner Short requested that additional state land, which the County was also interested in acquiring, be added to the exchange to better balance the values.

The Department agreed to include more endowment land contiguous with the originally proposed parcel. The revised exchange now includes 120 acres of County land and 103 acres of endowment land (Attachments 2 and 3). A survey of the expanded endowment parcel was completed in October 2024. Certified letters were sent to all adjoining property owners to solicit comments; no responses were received.

With the properties and boundaries finalized, the Department proceeded with comprehensive due diligence, including:

- Financial analysis
- Encumbrance review

- Environmental Site Assessment
- Member of the Appraisal Institute (MAI)-certified appraisals
- MAI-certified appraisal reviews
- Third-party review by timberland advisor Vaden Bloch of Northwest Management, Inc. (Attachment 4)

Mr. Bloch's analysis highlighted several benefits: future timber revenue potential, consolidation of endowment lands, elimination of inholdings, and improved management efficiency. He concluded, "I recommend that the Land Board approve the proposed land exchange."

Discussion

Existing Endowment Land

The 103.35-acre parcel of endowment land proposed for exchange belongs to the School of Science and the Capitol Permanent Fund Endowments (Attachment 5). While it contains some timber, its primary features are a rodeo arena and a gravel pit.

There are two leases on this parcel:

1. A mineral lease on the gravel pit, held by Benewah County. This lease will terminate if the County assumes ownership.
2. A recreational lease for the rodeo arena, held by the Upriver Saddle Club, which hosts community events. The club supports the exchange and will continue to use the arena under an agreement with the County.

Gem Valley Appraisal Services (Ruby M. Stroschein, MAI) appraised the endowment land at \$641,000. The highest and best use was determined to be an operating quarry, with potential for building sites and timber harvest depending on parcel location.

Benewah County Land

The County land proposed for exchange totals 120 acres across two parcels, both of which are inholdings within a larger endowment block (Attachment 6). Access is via existing roads across state land. The property contains mature, merchantable timber ready for harvest, providing near-term revenue potential for endowment beneficiaries. There are no leases on this land.

The County land was appraised at \$732,000 by the same appraiser, with the highest and best use cited as periodic timber harvest, plantations, and regeneration.

Although the revised land configuration reduced the value gap, a discrepancy of \$91,000 remains in favor of the County. The Department proposes using Earnings Reserve funds to offset this difference at closing, as neither of the two

endowments having ownership of the parcel involved in the exchange have funds in the Land Bank. The Capitol Permanent Fund does not have an Earnings Reserve balance, so the difference in values will be paid for by the School of Science Earnings Reserve funds.

Benefits to the Endowment

This proposed land exchange would improve the long-term value to the endowment and help block up existing endowment timberland.

Specific benefits of the exchange include:

- Return on Asset (ROA): The long-term ROA for the Benewah County property as timberland will be higher than the lease revenue on the endowment land.
- The proposed land exchange will improve legal and physical access to existing endowment land in the Tyson Creek drainage.
- The proposed land exchange will block up existing endowment lands which will provide increased efficiency with regard to forest management and timber harvest activities.

The proposed land exchange will also eliminate inholdings in endowment land which leads to increased management efficiency and eliminates the uncertainty of incompatible land uses.

The County and the Department are in principal agreement regarding the terms and conditions outlined in the draft Land Exchange Agreement (Attachment 7).

Recommendation

Approve the exchange and direct the Department to complete and close the as-proposed Benewah County land exchange, including using Earnings Reserve funds to offset the difference in values.

Board Action

Attachments

1. March 21, 2023 Approved Memo
2. Vicinity Map—Initially Proposed Parcels
3. Vicinity Map—Revised Proposed Parcels
4. Northwest Management Review
5. Map—Endowment Land
6. Map—Benewah County Land
7. Draft Land Exchange Agreement

STATE BOARD OF LAND COMMISSIONERS

March 21, 2023

Regular Agenda

Subject

Request approval to proceed with due diligence for Benewah County land exchange

Question Presented

Shall the Land Board authorize the Department to proceed with due diligence for the Benewah County land exchange?

Background

In February 2022, the Idaho Department of Lands (Department) received an application for a land exchange from Benewah County (County), care of County Commissioner Bob Short (Attachment 1). The proposed exchange would trade approximately 120 acres of County owned timberland for approximately 60 acres of endowment land. All lands involved in this proposed exchange are located in Benewah County. An overview map of the project is included as Attachment 2.

The County's parcels are 15 miles south of St. Maries in Benewah County, in the Tyson Creek drainage where the Department manages 9,000 acres of core endowment timberland. The Benewah County land is surrounded on all sides by existing endowment timberland. A map of the Benewah County parcels is included as Attachment 3.

The approximately 60 acres of School of Science endowment land are located 9 miles south of St. Maries, in Benewah County. The endowment land involved in this exchange is not contiguous. The property includes a 20-acre parcel fronting State Highway 3, commonly known as the Rodeo Grounds, and a nearby 40-acre parcel containing 35 acres of regenerative young timber and a 5-acre rock quarry. There are currently three leases on the endowment land involved in the exchange. The Department will work with the lessees to ensure they are treated fairly throughout the land exchange process. A map of the endowment land is included as Attachment 4.

A meeting was held between the Department and Benewah County Commissioners on February 13, 2023. All three Benewah County Commissioners are supportive of the land exchange and have agreed to split the cost of due diligence evenly with the Department. Both parties desire an equal value exchange, with a maximum of ten percent (10%) difference in land values. This may require some "balancing" during the due diligence process, whereby more or less land than has been previously stated may ultimately be exchanged by either party. Any necessary balancing of the land involved in this proposed land exchange will take place during the appraisal process.

Discussion

This proposed land exchange would improve the long-term value to the endowment and help block up existing endowment timberland.

Specific benefits of the exchange include:

- Return on Asset: While a return on asset (ROA) cannot be finalized until due diligence work is completed, it is anticipated that the long-term ROA for the Benewah County property as timberland will be higher than the lease revenue on the endowment land.
- The proposed land exchange will improve legal and physical access to existing endowment land in the Tyson Creek drainage.
- The proposed land exchange will block up existing endowment land which will provide increased efficiency with regard to forest management and timber harvest activities.

Upon Land Board approval, the next steps for the land exchange would be for the Department to perform due diligence consistent with the following and Attachment 5:

- Order a preliminary title report to review the legal descriptions and the current exceptions to title on the properties.
- Complete a Phase 1 Environmental Site Assessment to review the environmental history of the property. The report is intended to identify actual and potential problems based on a review of historical documentation, regulatory agency databases, and a physical on-site investigation.
- Verify the properties have legal access.
- The properties with merchantable timber will require a timber cruise to determine the species, quality, and quantity of harvestable timber. Sufficient data must be obtained to create a statistically reliable sample for the timber modeling.
- Review the existence of any endangered species at the site. The presence of threatened/endangered species can significantly reduce the value of a property.
- A real estate appraisal will be completed by a Member of the Appraisal Institute (MAI) appraiser to determine the market value for the property. Appraisals will be reviewed by a second MAI appraiser to verify the report meets Uniform Standards of Professional Appraisal Practice (USPAP).
- Review the recorded surveys, verify survey pins are placed at the corners, and determine if there is a need to order a survey.

Based on the review of the due diligence, Department leadership will approve or terminate the land exchange for further consideration. If Department leadership approves, it will be brought back to the Land Board for final approval to complete the transaction.

Recommendation

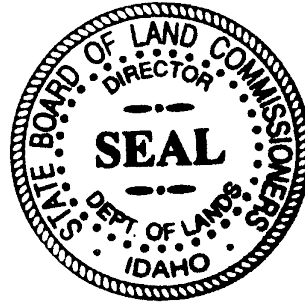
Approve proceeding with due diligence for the Benewah County land exchange proposal.

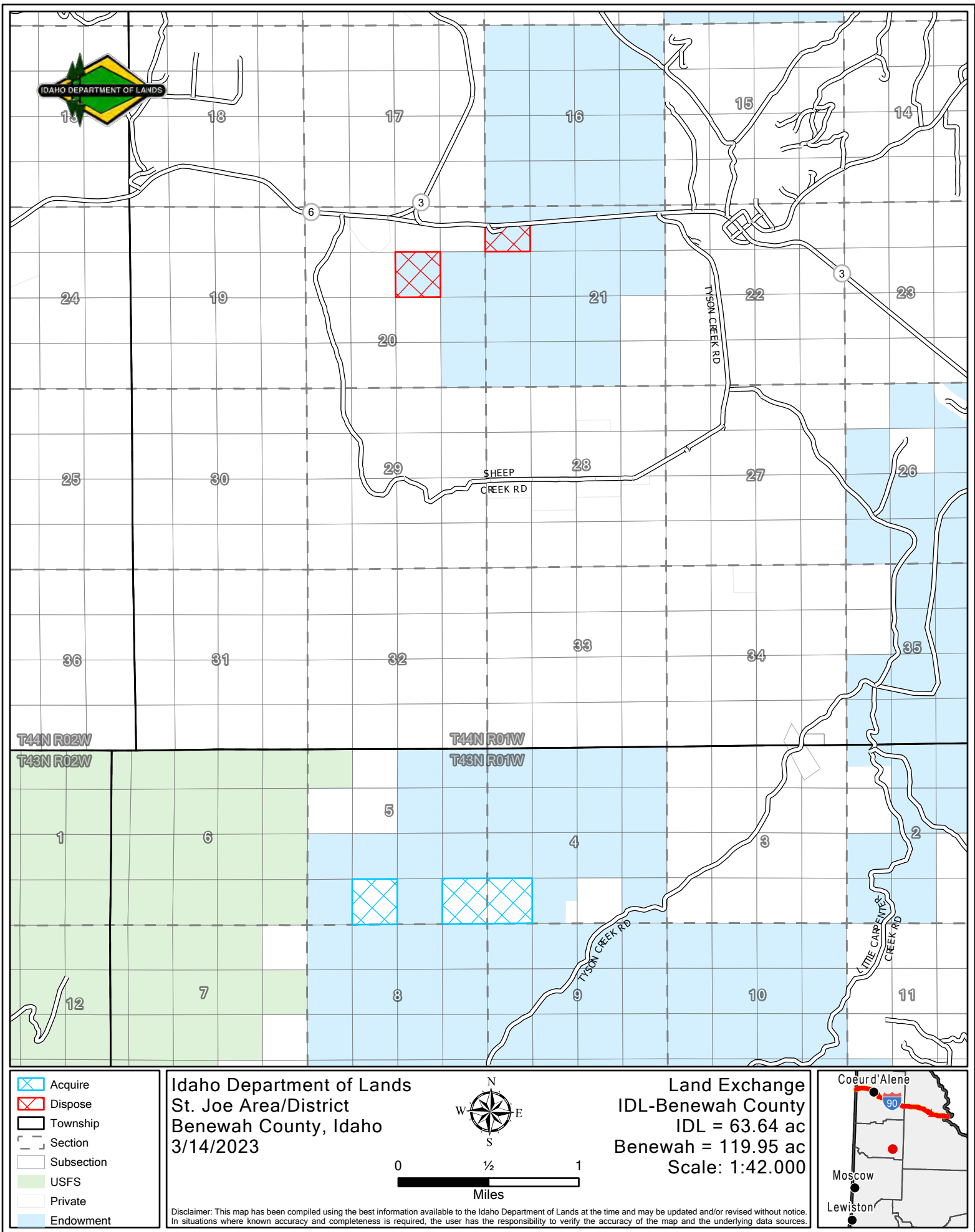
Board Action

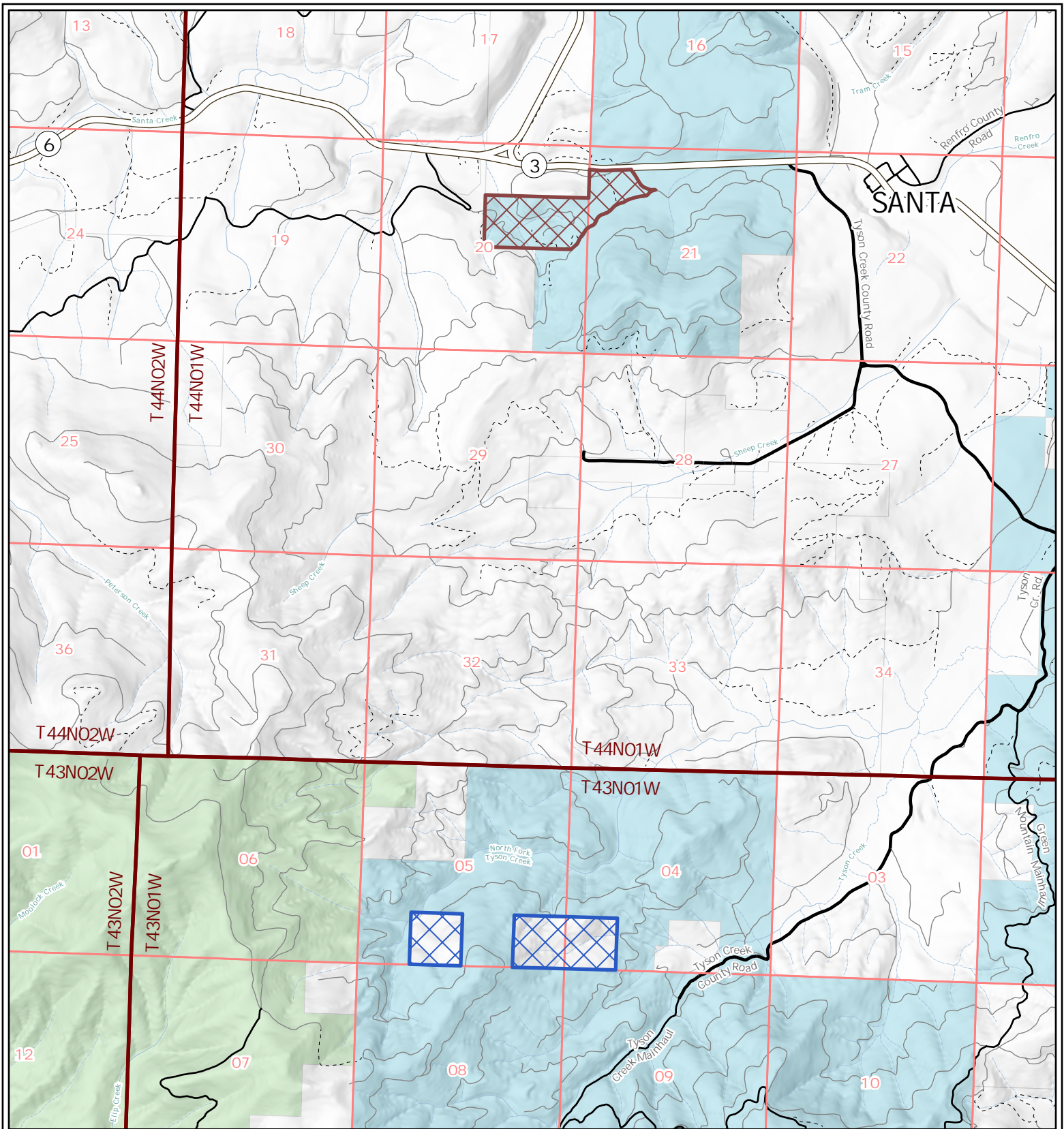
A motion was made by Secretary of State McGrane that the Land Board authorize the Department to proceed with due diligence on the Benewah County land exchange. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

Attachments

1. Benewah County LEX Application
2. Overview Map
3. Benewah County Parcel Map
4. Endowment Land Parcel Map
5. Due Diligence Checklist







IDL - Benewah County LEX

Land Exchange Parcels

St. Joe Supervisory Area

T43N - R01W & T44N - R01W

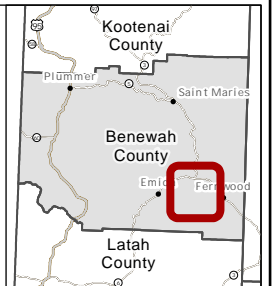
8/15/2024



0 0.5 1 Miles

- To Be Acquired
- To Be Disposed
- County Road
- Main Road
- Secondary Road
- Spur Road
- US Forest Service
- State
- Private

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.





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MEMORANDUM

DATE: May 28, 2025

TO: Idaho Department of Lands Real Estate Services Bureau

FROM: Vaiden Bloch, Timberland Advisor, Northwest Management Inc.

SUBJECT: Due diligence package review for a potential land exchange of the IDL-owned 103.359 AC Santa Property and the Benewah County-owned ~120 AC Tyson Peak Property.

At your request, I have reviewed the due diligence package that has been evaluated and approved by the Idaho Department of Lands (IDL). Based on my review, I find the information to be comprehensive and well-supported.

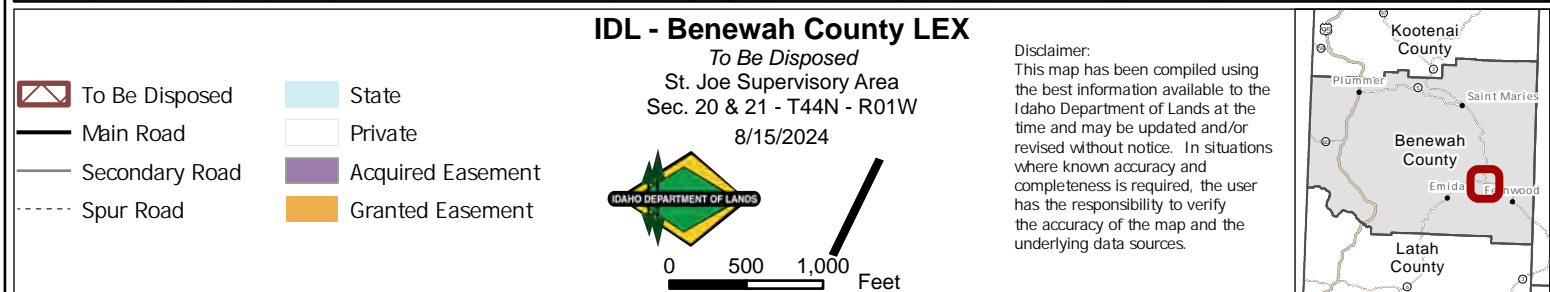
Key considerations for the proposed land exchange include:

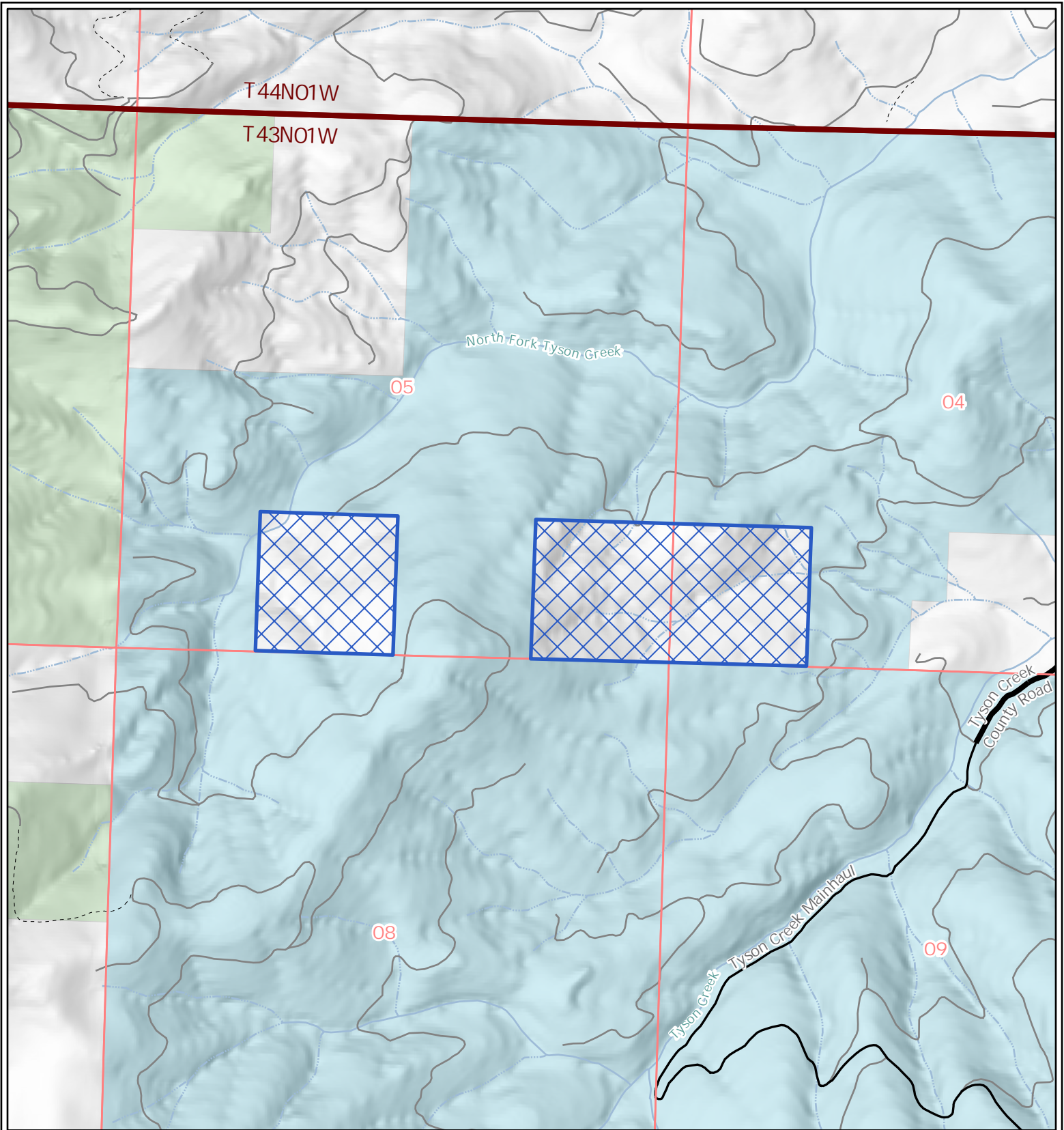
- **Timber Revenue Potential:** The proposed Tyson Peak property contains approximately 3,800 MBF of merchantable timber across 120 acres. If acquired, this property presents a future opportunity for timber harvest revenue benefiting the endowment.
- **Land Consolidation Benefits:** The 120-acre Tyson Peak parcels are entirely surrounded by existing IDL-managed land. Acquiring these parcels would consolidate endowment lands, eliminate in-holdings, and improve management efficiency.
- **Forest Management Advantages:** The IDL employs active forest management to promote forest health, reduce wildfire risk, and enhance ecosystem resilience. Key practices include timber harvesting, stand improvement, and reforestation. Acquiring the Tyson Peak parcels will provide full management control over a continuous block of land, allowing for more consistent and effective forest management. This consolidation reduces the risks associated with fragmented ownership and supports long-term revenue generation for the endowment.
- **Compliance with Statutory Requirements:** Under Idaho Code 58-138(5), all state endowment land exchanges must be supported by both an appraisal and a review appraisal conducted by certified appraisers who hold the MAI designation and comply with USPAP standards. For this proposed exchange, Ruby Miles Stroschein, MAI, of Gem Valley Appraisal Services, completed the appraisals in full accordance with professional standards and USPAP guidelines. The review appraisal was performed by Sam Langston, MAI, of Langston & Associates, Inc., following USPAP Standards Rules 3 and 4, which govern appraisal review reporting. These evaluations fully satisfy the statutory requirements for the proposed exchange.

Recommendation: I recommend that the Land Board approve the proposed land exchange.

Vaiden Bloch

Timberland Advisor, Northwest Management Inc.






IDL - Benewah County LEX

To Be Acquired

St. Joe Supervisory Area









Sec. 04 & 05 - T43N - R01W

8/15/2024



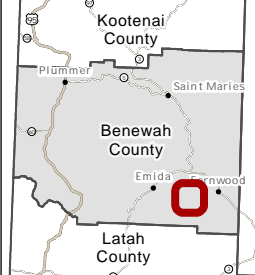
0 500 1,000 Feet

Legend:

 To Be Acquired	 Spur Road
 County Road	 US Forest Service
 Main Road	 State
 Secondary Road	 Private

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.



**LAND EXCHANGE AGREEMENT
BENEWAH COUNTY LAND EXCHANGE**

This Land Exchange Agreement ("Agreement") is entered this ____ day of ____, 2025, by and among the **STATE BOARD OF LAND COMMISSIONERS**, acting by and through the **IDAHO DEPARTMENT OF LANDS** (the "Department"), and **BENEWAH COUNTY**, a body politic in the state of Idaho ("The County"). The Department and the County are sometimes collectively referred to herein as the "Party" or "Parties", as the context may require.

WHEREAS, the Department currently manages on behalf of the State Board of Land Commissioners (the "Land Board") certain parcels of State endowment land, some of which are the subject of the exchange set forth in this Agreement. A list of State endowment land parcels to be exchanged in this transaction is more particularly described in **Exhibit A**, attached hereto and incorporated herein by reference ("Endowment Land"); and

WHEREAS, it is the desire of the Department and the Land Board to exchange the Endowment Land for other suitable property of substantially equal value, in this case timberland. The properties acquired will add to the forestland portfolio and improve management efficiency, increase the primary timber base, and achieve a rate of return consistent with the required return identified for the asset type; and

WHEREAS, The County is currently the owner of certain real property more particularly described in **Exhibit B**, attached hereto and incorporated herein by reference ("The County Property"); and

WHEREAS, the Endowment Land has an appraised value, as if vacant and unimproved, of Six Hundred Forty-One Thousand Dollars (\$641,000); and

WHEREAS, The County Property has an appraised value, as if vacant and unimproved, of Seven Hundred Thirty-Two Thousand Dollars (\$732,000); and

WHEREAS, The County desires to exchange The County Property for the Endowment Land, and the Department desires to exchange the Endowment Land for The County Property.

NOW THEREFORE, for and in consideration of the mutual promises, covenants and conditions set forth herein, the Parties agree as follows:

1. The above recitals are incorporated into this Agreement as if fully set forth herein, and are contractual in nature and not mere recitals.
2. Equal Value Exchange.
 - a. The intent of each of the Parties to this Agreement is to exchange real property of relatively equal value in order for the State of Idaho to meet its constitutional and statutory duties for an exchange.
 - b. The County is not an agent of the Department.

- c. The appraised value of The County Property in the Amended Appraisal Report performed by Ruby Stroschein, MAI of Gem Valley Appraisal effective September 10, 2023, will be the value used for the purposes of this exchange.
 - d. The appraised value of the Endowment Land in the Amended Appraisal Report performed by Ruby Stroschein, MAI of Gem Valley Appraisal effective September 10, 2023 will be the value used for the purposes of this exchange.
3. As the appraised value of the County Property exceeds the appraised value of the Endowment Land by Ninety-One Thousand Dollars (\$91,000), the Parties agree that the Department shall pay the difference in the amount of \$91,000 to the County at closing to equalize the exchange.
4. Due Diligence and Expenses. This Agreement is contingent upon the Department's acceptance of studies, reports, and other items related to the Department's due diligence, which may include, but is not limited to, Phase I Environmental Site Assessment, timber cruise, appraisal, and property boundary survey (the "Due Diligence Items").
5. The Parties have previously entered into a due diligence cost sharing agreement dated May 10, 2023 (**Exhibit C**). The costs of the due diligence will be divided between the parties as follows:
 - i. The total cost of the Appraisal Reports dated September 10 and September 22, 2023 and amendment dated December 11, 2024 and January 21, 2024, prepared by Ruby Stroschein, MAI of Gem Valley Appraisal for the Endowment Land and The County Property was Ten Thousand Three Hundred Dollars (\$10,300). The County paid the appraisal fee in full at the time of service. As per the due diligence cost share agreement, the Department will be debited half that amount, Five Thousand One Hundred Fifty Dollars (\$5,150) at closing for the appraisals.
 - ii. The total cost of the Review Appraisal Reports dated January 15, 2025, and amendments, prepared by Sam Langston, MAI of Langston & Associates Inc. for the Endowment Land and The County Property was Seven Thousand Dollars (\$7,000). The County paid the appraisal review fee in full at the time of service. As per the due diligence cost share agreement, the Department will be debited half that amount, Three Thousand Five Hundred Dollars (\$3,500.00) at closing for the appraisals.
 - iii. The total cost of the survey performed by HMM Engineering, dated October 14, 2024 was Twenty Thousand Dollars (\$20,000). The survey fee was paid in full by the Department at the time of service. As per the due diligence cost share agreement, the County will be debited half that amount, Ten Thousand Dollars (\$10,000) at closing for the survey.
 - iv. The total cost of the Environmental Assessment, Phase 1 report prepared by 191 North for the Endowment Land; dated August 2, 2023 was Two Thousand Three Hundred Dollars (\$2,300). The Department paid in full for the survey at the time of service. As per the due diligence cost share agreement, the County will be debited half that amount, One Thousand One Hundred Fifty Dollars (\$1,150) at closing for the appraisals.

4. Due Diligence and Expenses. This Agreement is contingent upon the County's written approval before Closing of studies, reports, and other items related to the County's due diligence investigation of the Endowment Land, which may include the same investigations as the Due Diligence Items defined above.
5. Lease Terminations. The Endowment Land is currently the subject of one state mineral lease and one recreational lease. This Agreement is contingent upon the execution prior to or at Closing by the Department and the lessees of the Endowment Land of an agreement for cancellation of state lease due to land exchange terminating such lease in the forms attached hereto as **Exhibit D**. The County Property is not subject to any lease.
6. Access and Inspections. The Department hereby authorizes the County and its agents, access to the Endowment Land; and, The County hereby authorizes the Department and its agents, access to The County Property, each for all reasonable inspections related to the Due Diligence Items.
7. "AS-IS" Exchange. With the exception of any covenant or warranty in any deed of the Endowment Land to the County, the County hereby specifically agrees to take and accept the Endowment Land "AS IS", subject to its written approval before Closing of its due diligence investigation as described above. With the exception of any covenant or warranty in any deed of The County Property to the Department, the Department hereby specifically agrees to take and accept The County Property "AS IS", subject to its written approval before Closing of its due diligence investigation as described above.
8. Termination for Hazardous Material. Prior to Closing, either Party may terminate this Agreement following the completion of any inspection if either Party determines there is an unacceptable level of risk for hazardous material or solid waste present upon any portion of any property which is the subject of this exchange demonstrated by any such inspection or test.
9. Legal Access. The County Property shall have legal access for the purpose of resource management.
10. Appurtenances and Water Rights Generally. Water rights, water right permits, claims to water rights and all other appurtenances associated with The County Property shall be transferred to the State of Idaho. All water rights, water right permits, claims to water rights and all other appurtenances associated with the Endowment Land shall be transferred to The County.
11. Mineral rights. Mineral rights, permits, and claims to mineral rights associated with The County Property shall be transferred to the Department, and all mineral rights associated with the Endowment Land shall be transferred to The County.
12. Title Commitment. Each party may obtain at any time a preliminary title commitment relating to the real property it will acquire in this transaction and may request at any time before Closing that the other party cause the applicable title insurance company to modify or remove any of the title exceptions disclosed therein, which request the other party may comply with or not, in its sole discretion.
13. Title Insurance. Each party may obtain at its sole cost any title insurance policy it desires at or after closing, in such form and subject to such exceptions as it may approve; provided however, that neither party shall be obligated to remove any

- exceptions from its respective real property before Closing except leases and mortgages; and, provided further, that Closing is contingent upon each parties acceptance of the status of title and encumbrances which may appear of record. Before Closing, each party shall execute and deliver to any title insurance company that has issued a preliminary title commitment relating to the real property that such party is exchanging to the other party an owner's affidavit and other instruments to the extent requested or required by the title insurance company in order for it to issue a title insurance policy to the other party at Closing without including exceptions for mechanics' liens and rights of parties in possession.
14. Documents Transferring Title. The County shall transfer title to The County Property to the Department via Warranty Deed in the form of **Exhibit E**, attached hereto. The Department shall transfer title to the Endowment Land to the County via State of Idaho Deed in the form of **Exhibit F**, attached hereto. The County shall bear the costs to record the deeds of the Endowment Land in the County in which such property is located. The Department is exempt from paying any cost to record the deed to the County Property in the County in which such property is located.
 15. Real Estate Commissions. Each party represents and warrants that it has not contracted with, or otherwise engaged, any broker, agent, or finder to act in their behalf in connection with this transaction.
 16. Representation and Warranties. Each Party warrants and represents it is the owner of the respective property which is the subject of this exchange and has full power and authority to enter into this exchange transaction and to transfer title to the respective properties. The County is not aware of any encroachment, adverse interest or prescriptive easement claimed by any person or entity on any portion of the County Property. The person or persons executing this Agreement on behalf of each Party has full power to execute all related instruments and to perform all obligations of each Party under this Agreement.
 17. Ad Valorem Taxes and Assessments. The County shall be responsible for, and shall pay all real property ad valorem taxes; any taxes or deferred taxes by virtue of the designation of The County Property, or any portion thereof, as Forest Lands as provided by Idaho Code § 63-1701; and assessments, if any, accrued on The County Property up to the date of Closing.
 18. Prorations. Taxes and assessments for the current year; collected rents; interest; prepaid premiums for insurance to be assigned to the Department, if any; utilities; and all other items of income and direct expense relating to The County Property (including without limitation existing service or supply contracts, owner's association dues, etc., if any) shall be prorated as of the date of Closing.
 19. State Board of Land Commissioners' Approval; Date and Place of Closing. Closing is contingent upon the Land Board's approval of this fully executed Agreement. Closing shall occur within a mutually agreed upon commercially reasonable amount of time after Land Board approval, but in no event later than ninety (90) days following said approval, at the office of Flying S Title and Escrow of Idaho, Inc. at 831 Main Avenue, St Maries, ID 83861 (the "Closing"). Closing shall be deemed complete upon the recordation of all deeds for the Endowment Land and The County Property. In the event the Land Board rejects approval of the exchange contemplated herein or the Closing does not occur within the time specified above, this Agreement shall terminate

with no further obligation by either Party other than the payment of all costs and expenses incurred up to the point of such termination, to be paid by the Party incurring any such cost or expense, or the Party obligated to pay any such cost or expense as provided for herein. Prior to Closing, either Party may terminate this Agreement, and the payment of all costs and expenses incurred up to the point of such termination shall be paid by the Party incurring any such cost or expense, or the Party obligated to pay any such cost or expense as provided for herein.

20. Closing Costs. Except as otherwise specified herein, the Parties shall share equally in all costs of closing, including, but not limited to, any closing agent and escrow fees.
21. Possession. The Department shall be entitled to possession of The County Property upon Closing. The County shall be entitled to possession of the Endowment Land upon Closing.
22. Survival of Terms. The terms and conditions of this Agreement shall survive the Closing and transfer of the respective properties between the Parties.
23. Counterparts. This Agreement may be executed in two or more counterparts, all of which shall be deemed an original, but all of which together shall constitute one and the same instrument
24. Modifications. This Agreement may only be modified in writing by mutual written agreement of the Parties prior to Closing, and any such modification shall be attached hereto. Amendments may require Land Board approval as determined by the Department.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement.

(The rest of this page has been intentionally left blank, signatures on the next page)

IDAHO DEPARTMENT OF LANDS

Dated: _____

DUSTIN MILLER, Director

BENEWAH COUNTY

a body politic in the state Of Idaho

Date: _____

PHILIP LAMPERT, Chairman, District 2

Date: _____

ROBERT SHORT, Commissioner, District 3

Date: _____

MARK REYNOLDS, Commissioner, District 1

Exhibit A

(Legal description of Endowment Land)

A parcel being a portion of the Northwest Quarter of Section 21 and the Northeast Quarter of Section 20, Township 44 North, Range 1 West, Boise Meridian, Benewah County, Idaho, being more particularly described as follows:

COMMENCING at the Northwest corner of said Section 21, being a 2-½" brass cap monument per CP&F Record 283737 (from which the North Quarter Corner of said Section 21, being a 2-½" brass cap monument per CP&F Record 130835, bears South 89°28'20" East, 2625.00 feet distant);

Thence South 00°20'31" East, on the west boundary of said Section 21, 568.53 feet to a point on the southerly right of way of State Highway 3, as described in State Aid Project 143-A, being a 5/8"x24" rebar with a yellow plastic cap marked "INLOES PLS 20888", hereinafter described as "a set monument", said point being the POINT OF BEGINNING;

Thence the following three (3) courses on the southerly right of way of said State Highway 3:

Thence South 84° 30' 36" East, 90.13 feet to a set monument, being a point of curvature;

Thence 235.60 feet on the arc of a curve to the left, having a radius of 1472.50 feet, a central angle of 09° 10' 02", and whose chord bears South 89° 05' 37" East, 235.35 feet to a set monument;

Thence North 86° 21' 24" East, 686.37 feet to a set monument on the west boundary of a 66.00' wide easement being recognized as Easement No. 4613 recorded July 12th, 1976, Benewah County Records;

Thence the following thirty-one (31) courses on the westerly boundary of said Easement No. 4613:

Thence South 33° 28' 15" East, 427.08 feet to a set monument, being a point of curvature;

Thence 174.24 feet on the arc of a curve to the left, having a radius of 268.00 feet, a central angle of 37° 15' 05", and whose chord bears South 52° 05' 47" East, 171.19 feet to a set monument;

Thence South 70° 43' 20" East, 121.18 feet to a set monument, being a point of curvature;

Thence 74.82 feet on the arc of a curve to the left, having a radius of 158.00 feet, a central angle of 27° 07' 54", and whose chord bears South 84° 17' 17" East, 74.12 feet to a set monument;

Thence North 82° 08' 47" East, 26.98 feet to a set monument, being a point of curvature; Thence 34.82 feet on the arc of a curve to the right, having a radius of 67.00 feet, a central angle of 29° 46' 25", and whose chord bears South 82° 58' 01" East, 34.43 feet to a set monument;

Thence South 71° 05' 06" West, 76.23 feet to a set monument, being a point of curvature; Thence 77.31 feet on the arc of a curve to the left, having a radius of 163.00 feet, a central angle of 27° 10' 28", and whose chord bears South 57° 29' 52" West, 76.59 feet to a set monument;

Thence South 43° 54' 38" West, 82.13 feet to a set monument, being a point of curvature;

Thence 69.01 feet on the arc of a curve to the right, having a radius of 102.00 feet, a central angle of 38° 45' 50", and whose chord bears South 63° 17' 33" West, 67.70 feet to a set monument;

Thence South 82° 40' 28" West, 111.88 feet to a set monument, being a point of curvature;

Thence 97.89 feet on the arc of curve to the left, having a radius of 558.00 feet, a central angle of 10° 03' 06", and whose chord bears South 77° 38' 55" West, 97.77 feet to a set monument;

Thence South 72° 37' 23" West, 174.07 feet to a set monument, being a point of curvature;

Thence 155.68 feet on the arc of a curve to the left, having a radius of 508.00 feet, a central angle

of 17° 33' 29", and whose chord bears South 63° 50' 38" West, 155.07 feet to a set monument, being a point of compound reverse curvature;

Thence 100.96 feet on the arc of a curve to the right, having a radius of 272.00 feet, a central angle of 21° 16' 01", and whose chord bears South 65° 41' 54" West, 100.38 feet to a set monument;

Thence South 76° 19' 54" West, 40.00 feet to a set monument, being a point of curvature;

Thence 77.11 feet on the arc of a curve to the left, having a radius of 233.00 feet, a central angle of 18° 57' 40", and whose chord bears South 66° 51' 04" West, 76.76 feet to a set monument, being a point of compound curvature;

Thence 192.79 feet on the arc of a curve to the left, having a radius of 563.00 feet, a central angle of 19° 37' 11", and whose chord bears South 47° 33' 39" West, 191.85 feet to a set monument, being a point of compound reverse curvature;

Thence 151.60 feet on the arc of a curve to the right, having a radius of 292.00 feet, a central angle of 29° 44' 47", and whose chord bears South 52° 37' 27" West, 149.90 feet to a set monument;

Thence South 67° 29' 50" West, 124.22 feet to a set monument, being a point of curvature;

Thence 175.21 feet on the arc of a curve to the left, having a radius of 233.00 feet, a central angle of 43° 05' 03", and whose chord bears South 45° 57' 19" West, 171.11 feet to a set monument;

Thence South 24° 24' 47" West, 114.40 feet to a set monument, being a point of curvature;

Thence 85.25 feet on the arc of a curve to the right, having a radius of 117.00 feet, a central angle of 41° 44' 59", and whose chord bears South 45° 17' 17" West, 83.38 feet to a set monument;

Thence South 66° 09' 46" West, 53.84 feet to a set monument on the west boundary of said Section 21;

Thence 167.40 feet on the arc of a curve to the left, having a radius of 298.00 feet, a central angle of 32° 11' 05", and whose chord bears South 50° 04' 14" West, 165.20 feet to a set monument;

Thence South 33° 58' 41" West, 206.36 feet to a set monument, being a point of curvature;

Thence 101.36 feet on the arc of a curve to the left, having a radius of 483.00 feet, a central angle of 12° 01' 28", and whose chord bears South 27° 57' 58" West, 101.18 feet to a set monument;

Thence South 21° 57' 14" West, 78.00 feet to a set monument, being a point of curvature;

Thence 56.27 feet on the arc of a curve to the right, having a radius of 92.00 feet, a central angle of 35° 02' 28", and whose chord bears South 39° 28' 28" West, 55.39 feet to a set monument, being a point of curvature compound reverse curvature;

Thence 90.96 feet on the arc of a curve to the left, having a radius of 418.00 feet, a central angle of 12° 28' 03", and whose chord bears South 50° 45' 41" West, 90.78 feet to a set monument;

Thence South 44° 31' 39" West, 158.78 feet to a set monument on the east/west midsection line of Section 20 (from which the east quarter corner of said Section 20, being a 3-1/4" aluminum cap monument per CP&F record 152684, bears North 89° 56' 30" East, 539.35 feet distant);

Thence South 89° 56' 30" West, on the east/west mid-section line of said Section 20, 769.48 feet to a 3-1/4" aluminum cap monument per CP&F record 152688, being the center/east 1/16th corner of said Section 20;

Thence continuing South 89° 55' 16" West, on the east/west mid-section line of said Section 20, 1308.47 feet to a 3-1/4" aluminum cap monument per CP&F record 152686, being the center quarter corner of said Section 20;

Thence North 00° 33' 24" East, on the north/south mid-section line of said Section 20, 1330.77 feet to a dead 24" Fir tree per CP&F record 152690, being the center/north 1/16th corner of said Section 20;

Thence North 89° 56' 02" East, on east/west 1/16th line within the Northeast Quarter of said Section 20, 2596.50 feet to a 3/4" aluminum cap monument per CP&F record 152685, being

the north 1/16th corner common to said Section 20 and Section 21;
Thence North 00° 20' 31" West, on the section line common to said Section 20 and Section 21,
762.67 feet to the POINT OF BEGINNING.

DRAFT

Exhibit B

(Legal Description of The County Property)

Parcel 1

The Southeast Quarter of the Southwest Quarter, Section 5, Township 43 North, Range 1 West, B.M., records of Benewah County, Idaho.

Parcel 2

The Southeast Quarter of the Southeast Quarter, Section 5, Township 43 North, Range 1 West, B.M., records of Benewah County, Idaho.

Parcel 3

The Southwest Quarter of the Southwest Quarter of Section 4, Township 43 North, Range 1 West, B.M., records of Benewah County, Idaho.

DRAFT

Exhibit C

Benewah County Land Exchange Due Diligence Cost Sharing Agreement

This Due Diligence Cost Sharing Agreement is entered into this 10th day of MAY, 2023, by and among the STATE BOARD OF LAND COMMISSIONERS ("Land Board"), acting by and through its administrative state agency, the IDAHO DEPARTMENT OF LANDS ("IDL"), and the County of Benewah, a body politic in the State of Idaho ("County"). The Parties are sometimes collectively referred to herein as the "Party" or "Parties", as the context may require.

WHEREAS, the Land Board, at their March 21, 2023, meeting, approved the due diligence phase of a land exchange between the Land Board and the County; and

WHEREAS, the Land Board and the County desire to share the cost of the due diligence items equally, except as noted below;

NOW THEREFORE, for and in consideration of the mutual promises, covenants, and conditions set forth herein, the Parties agree as follows:

1. The Parties shall share equally the cost of any title reports or title investigations necessary for the land currently owned by the state endowment and the land currently owned by the County.
2. The Parties shall share equally the cost of the appraisal report and appraisal review report for the land currently owned by the state endowment.
3. The Parties shall share equally the cost of the appraisal report and appraisal review report for the land currently owned by the County.
4. The Parties shall share equally the cost of the Environmental Site Assessment, Phase 1, and any additional reports that may be required or recommended by the ESA Phase 1 report for the land currently owned by the County.
5. The Parties shall share equally the cost of the Environmental Site Assessment, Phase 1, and any additional reports that may be required or recommended by the ESA Phase 1 report for the land currently owned by the state endowment.
6. The Parties shall share equally the cost of any boundary survey or surveys necessary for either the land currently owned by the state endowment, or the land currently owned by the County.
7. The Parties shall share equally the cost of any other study required by IDL or by the County.
8. The Parties shall share equally the cost of closing agent or escrow fees.
9. IDL shall be solely responsible for the cost of any timber cruise and/or evaluation necessary for the timber resources on the land that is currently owned by the County.
10. IDL shall be solely responsible for the 3rd party due diligence review performed by the Land Board's Real Estate Advisor, CenturyPacific.
11. The County shall be solely responsible for the cost of any timber cruise and/or evaluation necessary for the timber resources on the land that is currently owned by the state endowment.

The Parties understand and agree that either Party may elect to cancel the land exchange at any point in the process. In the event that one or both Parties decide to cancel the land exchange project, the cost of the due diligence performed to that point in time will be allocated as shown above.

(the rest of this page has been intentionally left blank)

IN WITNESS WHEREOF, the parties have duly executed this agreement.

5-10-23 Date

IDAHO DEPARTMENT OF LANDS

Dustin T. Miller
Dustin Miller, Director

5-8-23 Date

BENEWAH COUNTY

Phil R. Lampert
Phil Lampert, Chairman District 2

5-8-23 Date

Robert Short
Robert Short, Commissioner District 3

5-8-23 Date

Mark L. Reynolds
Mark Reynolds, Commissioner District 1

Exhibit D
Form of Lease Cancellation

**AGREEMENT FOR CANCELLATION OF
STATE LEASE DUE TO LAND
EXCHANGE**
(Non-Commercial Recreation Lease #M300005)

The undersigned Lessee of lands owned by the State of Idaho more particularly described below, hereby agrees with the State of Idaho that State of Idaho Lease Number M300005 of the below described real property currently in force and effect between lessee and the State of Idaho is terminated and of no further force and effect by reason of the land exchange transaction between the State of Idaho and Benewah County.

The State and the Lessee hereby waive, each as against the other, and for their respective successors and assigns any and all claims, causes of action related to the lease, if any, and further do hereby release the other from any and all obligations or duties under and pursuant to the terms of the lease.

This Agreement shall become effective contemporaneously with the closing of the land exchange between the State of Idaho and The County under which the described below real property is exchanged. In the event that the below described real property is not exchanged, this Agreement shall be null and of no force and effect.

Real Property Description – See Exhibit A attached hereto.
[The rest of this page has been intentionally left blank]

STATE OF IDAHO
Department of Lands

DUSTIN T. MILLER, Director

Date: _____

LESSEE

Up River Saddle Club

Date _____:

DRAFT

EXHIBIT A
to
Lease Cancellation Agreement

Legal Description

Township 44 North, Range 01 W, Boise Meridian, Benewah County, Idaho
Section 21: Portion of NWNW

DRAFT

Exhibit D
Form of Lease Cancellation

AGREEMENT FOR CANCELLATION OF
STATE LEASE DUE TO LAND
EXCHANGE
(Mineral Lease #9247)

The undersigned Lessee of lands owned by the State of Idaho more particularly described below, hereby agrees with the State of Idaho that State of Idaho **Lease Number 9247** of the below described real property currently in force and effect between lessee and the State of Idaho is terminated and of no further force and effect by reason of the land exchange transaction between the State of Idaho and Benewah County.

The State and the Lessee hereby waive, each as against the other, and for their respective successors and assigns any and all claims, causes of action related to the lease, if any, and further do hereby release the other from any and all obligations or duties under and pursuant to the terms of the lease.

This Agreement shall become effective contemporaneously with the closing of the land exchange between the State of Idaho and Benewah County under which the described below real property is exchanged. In the event that the below described real property is not exchanged, this Agreement shall be null and of no force and effect.

Real Property Description – See Exhibit A attached hereto.

[The rest of this page has been intentionally left blank]

STATE OF IDAHO
Department of Lands

Dustin T. Miller, Director

Date: _____

LESSEE

BENEWAH COUNTY
a body politic in the state Of Idaho

PHILIP LAMPERT, Chairman, District 2

Date: _____

ROBERT SHORT, Commissioner, District 3

Date: _____

Mark Reynolds, Commissioner, District 1

Date: _____

EXHIBIT A
to
Lease Cancellation Agreement

Legal Description

Township 44 North, Range 1 West, Boise Meridian, Section 20: N1/2SW1/4NE1/4. Containing 20 acres, more or less, School of Science lands Benewah County, Idaho

DRAFT

Exhibit E
Form of Warranty Deed
The Benewah County Property

Recording Requested By and
When Recorded Return to:

STATE OF IDAHO,
IDAHO DEPARTMENT OF LANDS,
300 North 6th Street, Suite 103
Boise, Idaho 83720-0050

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

WARRANTY DEED

Deed No. _____

THIS WARRANTY DEED is made this ____ day of _____, 2025, **BENEWAH COUNTY**, a body politic in the State of Idaho, whose mailing address is 701 W College Ave Suite 106 St. Maries, ID 83861, ("**Grantor**"), and the **STATE BOARD OF LAND COMMISSIONERS**, through its administrative agency, the **IDAHO DEPARTMENT OF LANDS**, whose mailing address 300 North 6th Street, Boise, ID 83720-0050 ("**Grantee**").

WITNESSETH, that Grantor, for good and valuable consideration, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and by these presents does grant, bargain, sell, convey and confirm unto Grantee, and to Grantee's heirs and assigns forever, all of the following described property in the County of Benewah, State of Idaho, which property is legally described as follows, to-wit:

Benewah County
Parcel 1

The Southeast Quarter of the Southwest Quarter, Section 5, Township 43 North, Range 1 West, B.M., records of Benewah County, Idaho.

Parcel 2

The Southeast Quarter of the Southeast Quarter, Section 5, Township 43 North, Range 1 West, B.M., records of Benewah County, Idaho.

Parcel 3

The Southwest Quarter of the Southwest Quarter of Section 4, Township 43 North, Range 1 West, B.M., records of Benewah County, Idaho.

TOGETHER WITH any reversions, any remainders, rents, issues and profits therefrom; and all estate, right, title and interest in and to the timber rights, as well in law as in equity, of Grantor.

TO HAVE AND TO HOLD the premises and the appurtenances unto Grantee, and to Grantee's heirs and assigns forever. Grantor and Grantor's heirs shall warrant and defend the premises in the quiet and peaceable possession of Grantee and Grantee's heirs and assigns, against Grantor and Grantor's heirs, and against every person whomsoever who lawfully holds (or who later lawfully claims to have held) rights

in the premises as of the date hereof.

In construing this Warranty Deed and where the context so requires, the singular includes the plural.

IN WITNESS WHEREOF, Grantor has executed the within instrument the day and year first above written.

[Remainder of page intentionally left blank, signatures on the next page]

DRAFT

IN WITNESS WHEREOF, the Parties have duly executed this Agreement.

BENEWAH COUNTY
a body politic in the State of Idaho

Date: _____

PHILIP LAMPERT, Chairman, District 2

Date: _____

ROBERT SHORT, Commissioner, District 3

Date: _____

MARK REYNOLDS, Commissioner, District 1

STATE OF IDAHO)
)ss.

COUNTY OF _____)

On this ____ day of _____, 2025, before me a Notary Public in and for said State, personally appeared **Philip Lampert**, known or identified to me to be the County Commissioner of BENEWAH COUNTY that executed the within instrument, and acknowledged to me that he executed the same as said County Commissioner, and that Benewah County 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: _____

STATE OF IDAHO)

)ss.

COUNTY OF _____)

On this ____ day of _____, 2025, before me a Notary Public in and for said State, personally appeared **ROBERT SHORT**, known or identified to me to be the County Commissioner of **BENEWAH COUNTY** that executed the within instrument, and acknowledged to me that he executed the same as said County Commissioner, and that Benewah County 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: _____

STATE OF IDAHO)
)ss.

COUNTY OF _____)

On this ____ day of _____, 2025, before me a Notary Public in and for said State, personally appeared **MARK REYNOLDS**, known or identified to me to be the County Commissioner of **BENEWAH COUNTY** that executed the within instrument, and acknowledged to me that he executed the same as said County Commissioner, and that Benewah County 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: _____

Exhibit F

Form of State Deed

Recording Requested By and
When Recorded Return to:

STATE OF IDAHO,
IDAHO DEPARTMENT OF LANDS,
300 North 6th Street, Suite 103
Boise, Idaho 83720-0050

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

STATE OF IDAHO DEED

DEED NO. _____

THIS STATE DEED (“**Deed**”) is made this ____ day of _____, 2025, by and between the **STATE BOARD OF LAND COMMISSIONERS**, whose mailing address is P.O. Box 83720, Boise, Idaho 83720-0050 (hereinafter referred to as "**Grantor**"), and **BENEWAH COUNTY**, a body politic in the state of Idaho, whose mailing address is 701 W College Ave Suite 106 St. Maries, ID 83861 (hereinafter referred to as "**Grantee**").

WITNESSETH: That Grantor, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby transfer, sell, convey and release unto Grantee all of Grantor’s right, title and interest in and to the following described real property (the “**Property**”) situated in Idaho County, State of Idaho, to-wit:

[See Exhibit “A”, attached hereto]

TOGETHER WITH the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining.

RESERVING THEREFROM:

1. A right of way for ditches constructed by authority of the United States as identified in Idaho Code § 58-604.

THE PROPERTY IS CONVEYED “AS IS”, with no representation or warranty of any kind as to the fitness of the Property for any particular purpose.

TO HAVE AND TO HOLD, all and singular, the Property unto the said Grantee and its successors and assigns forever.

IN WITNESS WHEREOF, Grantor 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

DRAFT

STATE OF IDAHO)
)ss.
COUNTY OF ADA)

On this ____ day of _____, 2025, 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 _____, 2025, 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 _____, 2025, 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: _____

DRAFT

Exhibit A

A parcel being a portion of the Northwest Quarter of Section 21 and the Northeast Quarter of Section 20, Township 44 North, Range 1 West, Boise Meridian, Benewah County, Idaho, being more particularly described as follows:

COMMENCING at the Northwest corner of said Section 21, being a 2-½" brass cap monument per CP&F Record 283737 (from which the North Quarter Corner of said Section 21, being a 2-½" brass cap monument per CP&F Record 130835, bears South 89°28'20" East, 2625.00 feet distant);

Thence South 00°20'31" East, on the west boundary of said Section 21, 568.53 feet to a point on the southerly right of way of State Highway 3, as described in State Aid Project 143-A, being a 5/8"x24" rebar with a yellow plastic cap marked "INLOES PLS 20888", hereinafter described as "a set monument", said point being the POINT OF BEGINNING;

Thence the following three (3) courses on the southerly right of way of said State Highway 3:

Thence South 84° 30' 36" East, 90.13 feet to a set monument, being a point of curvature;

Thence 235.60 feet on the arc of a curve to the left, having a radius of 1472.50 feet, a central angle of 09° 10' 02", and whose chord bears South 89° 05' 37" East, 235.35 feet to a set monument;

Thence North 86° 21' 24" East, 686.37 feet to a set monument on the west boundary of a 66.00' wide easement being recognized as Easement No. 4613 recorded July 12th, 1976, Benewah County Records;

Thence the following thirty-one (31) courses on the westerly boundary of said Easement No. 4613:

Thence South 33° 28' 15" East, 427.08 feet to a set monument, being a point of curvature;

Thence 174.24 feet on the arc of a curve to the left, having a radius of 268.00 feet, a central angle of 37° 15' 05", and whose chord bears South 52° 05' 47" East, 171.19 feet to a set monument;

Thence South 70° 43' 20" East, 121.18 feet to a set monument, being a point of curvature;

Thence 74.82 feet on the arc of a curve to the left, having a radius of 158.00 feet, a central angle of 27° 07' 54", and whose chord bears South 84° 17' 17" East, 74.12 feet to a set monument;

Thence North 82° 08' 47" East, 26.98 feet to a set monument, being a point of curvature; Thence 34.82 feet on the arc of a curve to the right, having a radius of 67.00 feet, a central angle of 29° 46' 25", and whose chord bears South 82° 58' 01" East, 34.43 feet to a set monument;

Thence South 71° 05' 06" West, 76.23 feet to a set monument, being a point of curvature; Thence 77.31 feet on the arc of a curve to the left, having a radius of 163.00 feet, a central angle of 27° 10' 28", and whose chord bears South 57° 29' 52" West, 76.59 feet to a set monument;

Thence South 43° 54' 38" West, 82.13 feet to a set monument, being a point of curvature;

Thence 69.01 feet on the arc of a curve to the right, having a radius of 102.00 feet, a central angle of 38° 45' 50", and whose chord bears South 63° 17' 33" West, 67.70 feet to a set monument;

Thence South 82° 40' 28" West, 111.88 feet to a set monument, being a point of curvature;

Thence 97.89 feet on the arc of curve to the left, having a radius of 558.00 feet, a central angle of 10° 03' 06", and whose chord bears South 77° 38' 55" West, 97.77 feet to a set monument;

Thence South 72° 37' 23" West, 174.07 feet to a set monument, being a point of curvature;

Thence 155.68 feet on the arc of a curve to the left, having a radius of 508.00 feet, a central angle of 17° 33' 29", and whose chord bears South 63° 50' 38" West, 155.07 feet to a set monument, being a point of compound reverse curvature;

Thence 100.96 feet on the arc of a curve to the right, having a radius of 272.00 feet, a central angle of 21° 16' 01", and whose chord bears South 65° 41' 54" West, 100.38 feet to a set

monument;

Thence South $76^{\circ} 19' 54''$ West, 40.00 feet to a set monument, being a point of curvature;

Thence 77.11 feet on the arc of a curve to the left, having a radius of 233.00 feet, a central angle of $18^{\circ} 57' 40''$, and whose chord bears South $66^{\circ} 51' 04''$ West, 76.76 feet to a set monument, being a point of compound curvature;

Thence 192.79 feet on the arc of a curve to the left, having a radius of 563.00 feet, a central angle of $19^{\circ} 37' 11''$, and whose chord bears South $47^{\circ} 33' 39''$ West, 191.85 feet to a set monument, being a point of compound reverse curvature;

Thence 151.60 feet on the arc of a curve to the right, having a radius of 292.00 feet, a central angle of $29^{\circ} 44' 47''$, and whose chord bears South $52^{\circ} 37' 27''$ West, 149.90 feet to a set monument;

Thence South $67^{\circ} 29' 50''$ West, 124.22 feet to a set monument, being a point of curvature;

Thence 175.21 feet on the arc of a curve to the left, having a radius of 233.00 feet, a central angle of $43^{\circ} 05' 03''$, and whose chord bears South $45^{\circ} 57' 19''$ West, 171.11 feet to a set monument;

Thence South $24^{\circ} 24' 47''$ West, 114.40 feet to a set monument, being a point of curvature;

Thence 85.25 feet on the arc of a curve to the right, having a radius of 117.00 feet, a central angle of $41^{\circ} 44' 59''$, and whose chord bears South $45^{\circ} 17' 17''$ West, 83.38 feet to a set monument;

Thence South $66^{\circ} 09' 46''$ West, 53.84 feet to a set monument on the west boundary of said Section 21;

Thence 167.40 feet on the arc of a curve to the left, having a radius of 298.00 feet, a central angle of $32^{\circ} 11' 05''$, and whose chord bears South $50^{\circ} 04' 14''$ West, 165.20 feet to a set monument;

Thence South $33^{\circ} 58' 41''$ West, 206.36 feet to a set monument, being a point of curvature;

Thence 101.36 feet on the arc of a curve to the left, having a radius of 483.00 feet, a central angle of $12^{\circ} 01' 28''$, and whose chord bears South $27^{\circ} 57' 58''$ West, 101.18 feet to a set monument;

Thence South $21^{\circ} 57' 14''$ West, 78.00 feet to a set monument, being a point of curvature;

Thence 56.27 feet on the arc of a curve to the right, having a radius of 92.00 feet, a central angle of $35^{\circ} 02' 28''$, and whose chord bears South $39^{\circ} 28' 28''$ West, 55.39 feet to a set monument, being a point of curvature compound reverse curvature;

Thence 90.96 feet on the arc of a curve to the left, having a radius of 418.00 feet, a central angle of $12^{\circ} 28' 03''$, and whose chord bears South $50^{\circ} 45' 41''$ West, 90.78 feet to a set monument;

Thence South $44^{\circ} 31' 39''$ West, 158.78 feet to a set monument on the east/west midsection line of Section 20 (from which the east quarter corner of said Section 20, being a $3\frac{1}{4}''$ aluminum cap monument per CP&F record 152684, bears North $89^{\circ} 56' 30''$ East, 539.35 feet distant);

Thence South $89^{\circ} 56' 30''$ West, on the east/west mid-section line of said Section 20, 769.48 feet to a $3\frac{1}{4}''$ aluminum cap monument per CP&F record 152688, being the center/east $1/16^{\text{th}}$ corner of said Section 20;

Thence continuing South $89^{\circ} 55' 16''$ West, on the east/west mid-section line of said Section 20, 1308.47 feet to a $3\frac{1}{4}''$ aluminum cap monument per CP&F record 152686, being the center quarter corner of said Section 20;

Thence North $00^{\circ} 33' 24''$ East, on the north/south mid-section line of said Section 20, 1330.77 feet to a dead $24''$ Fir tree per CP&F record 152690, being the center/north $1/16^{\text{th}}$ corner of said Section 20;

Thence North $89^{\circ} 56' 02''$ East, on east/west $1/16^{\text{th}}$ line within the Northeast Quarter of said Section 20, 2596.50 feet to a $3\frac{1}{4}''$ aluminum cap monument per CP&F record 152685, being the north $1/16^{\text{th}}$ corner common to said Section 20 and Section 21;

Thence North $00^{\circ} 20' 31''$ West, on the section line common to said Section 20 and Section 21, 762.67 feet to the POINT OF BEGINNING.

STATE BOARD OF LAND COMMISSIONERS

July 15, 2025
Regular Agenda

Subject

Disposition of 160 acres of rangeland near Driggs, Idaho

Question Presented

Shall the Land Board approve the disposition of 160 acres of rangeland near Driggs (Driggs 160) through auction?

Background

The State Board of Land Commissioners (Land Board) is constitutionally and statutorily charged with the management of state endowment lands for the maximum long-term financial return to endowment beneficiaries. A key component of this authority is the power to sell state endowment land, as outlined in Idaho Code, title 58, specifically § 58-105.

In late 2023, the Idaho Department of Lands (Department) was approached by a local landowner expressing interest in 160 acres of state endowment land located in Teton County. Upon receiving this interest, the Department underwent analysis of the parcel. Due to the land values surrounding the endowment-owned parcel, potential interest from outside parties, current uses, and the pristine features of the property, the most beneficial approach for the management of the asset would be disposition through public auction.

Discussion

The Driggs 160 parcel consists of 160 acres of rangeland, owned by the Charitable Institutions endowment fund. This portion of the county does not have planning and zoning, however, a majority of the land surrounding the endowment parcel is used for ranch land and residential subdivisions. This parcel has one grazing lease for 120 AUMs. The 2025 revenue from this lease is just over \$963.

Upon approval for disposition, the Department will:

- Contact county commissioners pursuant to Idaho Code § 58-313A. The county commissioners will then have 60 days to respond to the notification for sale. If the Department receives a notice of objection, the Department will bring the objection to the Land Board for consideration at its next regular meeting.

- Contact the grazing lessee to update them on the Department's plans and schedule for disposition.
- Reclassify the asset from Rangeland to Residential to accurately reflect the asset type and report income appropriately.
- Work with Bottles Real Estate, real estate broker, to create marketing materials to be posted on the Department's website and Multiple Listing Service (MLS).

The terms of the sale will include:

- Live public auction held in Teton County or Supervisory Area Office
- Starting bid not less than appraised value
- Bidders are required to post a nonrefundable bid deposit equal to the greater of 3% of the appraised value or \$10,000, unless otherwise approved by the Department
- A buyer's premium of 3% added to the successful bid price
- No contingencies
- Buyer responsible for all closing costs and title insurance
- Closing within 60 days after close of auction

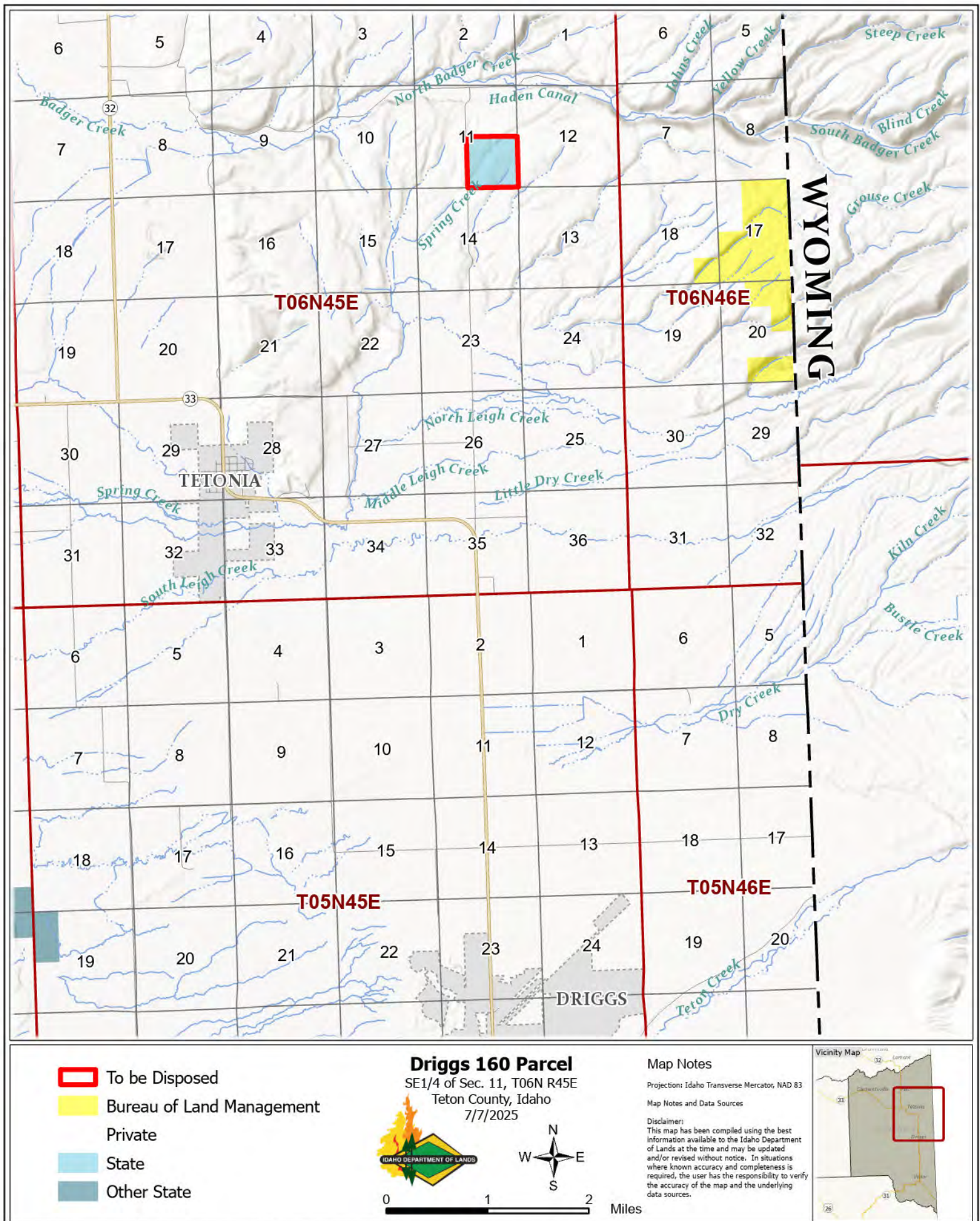
Recommendation

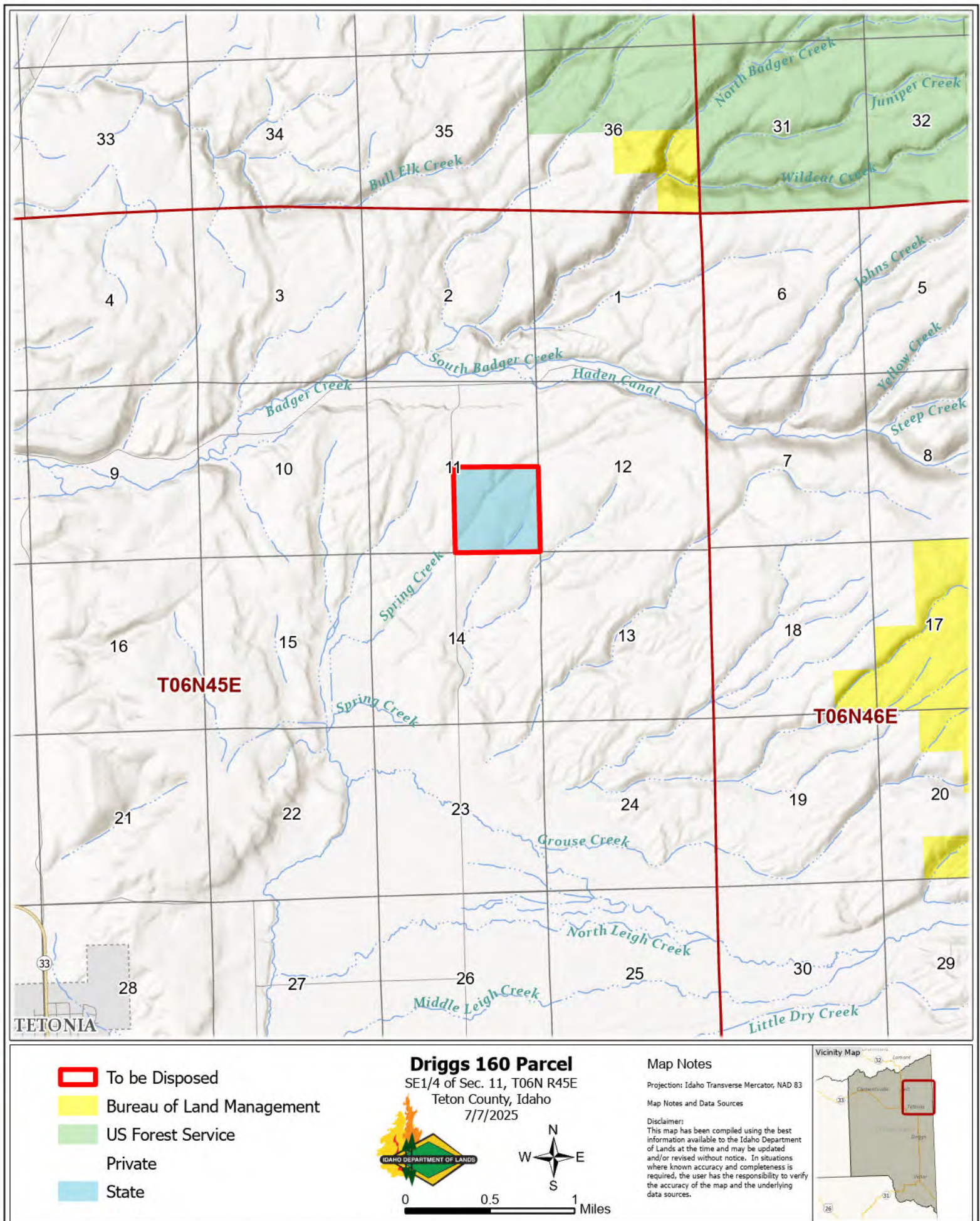
Approve the disposition of the 160-acre endowment parcel near Driggs (Driggs 160) through public auction.

Board Action

Attachments

1. Parcel Maps





STATE BOARD OF LAND COMMISSIONERS

July 15, 2025
Information Agenda

Subject

Proposed Rule for IDAPA 20.03.04 Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho.

Background

The Idaho Department of Lands (Department) regulates encroachments on navigable lakes pursuant to Title 58, Chapter 13, Idaho Code, and IDAPA 20.03.04.

Negotiated rulemaking for these rules was approved by the State Board of Land Commissioners (Land Board) on February 20, 2024 (Attachment 1). Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled for a comprehensive review in 2025. The Department began negotiations in spring of 2024.

Discussion

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

- Posting in the Idaho Administrative Bulletin in 2024 and 2025.
- Sending postcards to all lessees, major real estate associations, and state agencies statewide in 2024 and 2025.
- Sending emails to all encroachment permittees and lessees, as well as state and local agencies.
- Hosting public meetings, each with a video-conferencing option.

Negotiated rulemaking meetings were held on:

- April 24, 2024 in Sandpoint, Idaho
- April 25, 2024 in Coeur d'Alene, Idaho
- May 1, 2024 in McCall, Idaho
- May 6, 2024 in Jerome, Idaho
- May 7, 2024 in Pocatello, Idaho
- April 15, 2025 in Sandpoint, Idaho
- April 16, 2025 in Coeur d'Alene, Idaho
- April 23, 2025 in Boise, Idaho

In the 8 meetings held over 2024 and 2025, a total of 38 non-Department members attended the meetings in person, and a total of 23 attended the meetings virtually.

With no proposed substantive changes to decking requirements for single-family docks, community docks, or commercial marinas, and no proposed fee increases, the discussion in the meetings centered around the Incorporation by Reference of the International Fire Code (IFC), and discussions around the extent to which the Department may regulate encroachments. The Department chose to incorporate by reference the IFC to ensure that buildings, fueling stations, and commercial public encroachments meet minimum standards for safety over the water. The IFC sets minimum standards for the protection of life and property from fire and explosions in the state of Idaho. The IFC is enforced by the Idaho State Fire Marshal or their deputy. Department staff field many questions about regulatory authority, citing the Lake Protection Act, Title 58, Chapter 13 Idaho Code.

Attachment 2 is a summary of negotiated rulemaking. The Department incorporated revisions to the rule based on these comments.

The draft rule text will be submitted for publication in the Administrative Bulletin as a proposed rule and will be posted on the Department's rulemaking webpage (Attachment 3). The rule is written in track changes format to allow the reader to easily identify changes.

The proposed rule reduces the overall regulatory burden by reducing the total word count and the number of restrictive words. Most of the changes are a result of eliminating redundancies, reorganizing, and ensuring that the rule accurately reflects today's regulatory environment. The proposed rule includes the following changes:

- 12.78 percent reduction in word count, 27 percent reduction in restrictive words.
- Included definitions for common encroachments including breakwater, seawall, water line, residential area, and marine motor fuel dispensing facility.
- Incorporated by reference International Fire Code adopted through IDAPA 18.08.01.

The proposed rule will be open for public comment upon publication in the September 3, 2025 Administrative Bulletin. The draft Notice of Proposed Rule is found in Attachment 4.

Attachments

1. February 20, 2024 Approved Memo
2. Negotiated Rulemaking Summary
3. Proposed Rule Text
4. Draft Notice of Proposed Rule

STATE BOARD OF LAND COMMISSIONERS

February 20, 2024

Regular Agenda

Subject

Negotiated rulemaking for IDAPA 20.03.04 *Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho*

Question Presented

Shall the Land Board authorize the Department to initiate negotiated rulemaking for IDAPA 20.03.04 *Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho*?

Background

The Idaho Department of Lands (Department) manages encroachments on navigable lakes in Idaho pursuant to Title 58, Chapters 1 and 13, Idaho Code, and IDAPA 20.03.04. This rule protects the state's navigable lakes by setting standards for encroachments. By regulating encroachments, this rule protects property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, and water quality.

Encroachments include docks, marinas, piers, buoys, pilings, breakwaters, boat ramps, and other facilities used to support water craft, as well as landfills, bridges, utility lines, float homes, boat garages, and other structures constructed on, in, or above the beds or waters of a navigable lake.

Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled for a comprehensive review in 2025 with the goal of simplifying the rules for increased clarity and ease of use. The Department anticipates a high level of public interest in this rulemaking and recommends starting negotiations in the spring of 2024 in order to finish negotiations by the summer of 2025.

Discussion

The Department anticipates reducing the overall regulatory burden by reducing both total word count and the number of restrictive words in the new rule chapter. The Department will review the rule with stakeholders to ensure that it is right-sized.

A proposed timeline for the rulemaking process is provided in Attachment 1.

Recommendation

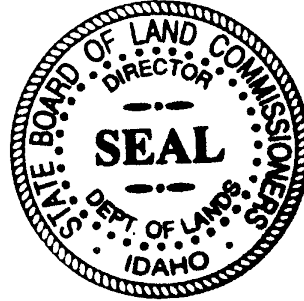
Authorize the Department to initiate negotiated rulemaking for IDAPA 20.03.04 *Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho*.

Board Action

A motion was made by Secretary of State McGrane that the Land Board authorize the Department to initiate negotiated rulemaking for IDAPA 20.03.04 Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho. Controller Woolf seconded the motion. The motion carried on a vote of 4-0.

Attachments

1. Draft rulemaking timeline





Negotiated Rulemaking Summary
IDAPA 20.03.04 — Rules for the Regulation of Beds, Waters,
and Airspace over Navigable Lakes in the State of Idaho
Docket No. 20-0304-2401

Members of the public participated in the Department's negotiated rulemaking process by attending the meetings and submitting written comments. Key information considered by the Department included applicable statutes, information provided by the public, and the Department's legal counsel during the negotiation process. In addition, the Department solicited information from the Idaho State Fire Marshal and the Idaho Office of Administrative Rules.

Key documents from the rulemaking record, which includes rule drafts, written public comments and documents distributed during the negotiated rulemaking process, are available at <https://www.idl.idaho.gov/rulemaking/docket-20-0304-2401/>. The entire rulemaking record is available for review upon request to the Department. At the conclusion of the negotiated rulemaking process, the Department formatted the final rule draft for publication as a proposed rule in the Idaho Administrative Bulletin.

In developing the draft rule, the Department considered all comments received during the negotiated rulemaking process. Following are comments on the draft rule and the Department's response to those comments:

Commenter	Written Comments	Rule Section	Response
Brian Hirschi 5/8/2024	IDL should adopt rules specific to Bear Lake, since its fluctuating water levels distinguish it from the other large recreational lakes.	General Encroachment Standards 015.15	1. Lake-Specific encroachment permit terms are not within the scope of this rulemaking and are written as conditions of the permits. IDL will consider adding a condition specific to the needs of Bear Lake.
Brian Hirschi 5/8/2024	IDL should clarify that the one guaranteed moorage for littoral owners is not a limitation on moorages for commercial operations/marinas with lots of beachfront	Mooring Buoys 015.09	2. IDL adjusted the draft of the rule for mooring buoys, changing the rule from "one mooring buoy per littoral owner" to "one mooring buoy per single family owner". This will enable commercial and community operations to have more than one mooring buoy.

Commenter	Written Comments	Rule Section	Response
Brian Hirschi 5/8/2024	The rules should more expressly contemplate your jet ski moorage system and/or contain a "catch-all" set of standards that applies to things that don't fit neatly within the categories of encroachments in the rules.	Encroachment Standards 015	3. The definitions of "encroachments in aid of navigation" and "encroachments not in aid of navigation" found in I.C. 58-1302 help define navigational and non-navigational encroachments.
Brian Hirschi 5/8/2024	The rules should define the term "encroachment" and/or identify items and activities that do not qualify as encroachments.	Definitions 010	4. The definitions of "encroachments in aid of navigation" and "encroachments not in aid of navigation" found in I.C. 58-1302 help define navigational and non-navigational encroachments.
Dylan B. Lawrence 6/12/2024	This rule purports to incorporate the International Fire Code (IFC) by reference. In my experience, an agency incorporates other legal provisions by reference when it has legal jurisdiction to enforce them. I do not read Director Miller's April 17, 2024 Final Order to suggest IDL has jurisdiction to enforce the IFC, which is administered by the Department of Insurance and local fire authorities. Clearly, the IFC has been adopted with amendments by the State of Idaho, and it is enforceable law. However, I question the propriety of IDL's adoption of the IFC in administrative rules specifically promulgated under the Lake Protection Act (LPA).	Incorporation by Reference 003.04	5. IDL does not purport to enforce the International Fire Code (IFC), but encroachments must fall within the IFC guidelines as they are enforced by the Idaho State Fire Marshal.
Dylan B. Lawrence 6/12/2024	The terms "encroachment," "navigational," and "nonnavigational" are all key concepts under the LPA and the Encroachment Rules, yet they remain undefined. In my experience, it is very unusual for such important terms in a regulatory program to remain undefined. In my opinion, there is enough legislative guidance in the LPA to provide definitions in the Encroachment Rules. This would	Definitions 010	6. There is no current definition of "encroachment" in either 58-1302 or IDAPA 20.03.04. However, there are definitions of "encroachments in aid of navigation" and encroachments not in aid of navigation" in I.C. 58-1302(h) and 58-1302(i). These terms may be used interchangeably with "navigational" and "nonnavigational" encroachments.

Commenter	Written Comments	Rule Section	Response
	be particularly helpful for parties who are not represented by attorneys or consultants		
Dylan B. Lawrence 6/12/2024	I suggest inserting the phrase "subject to decisions by the Idaho Supreme Court" before "will generally be at right angles to the shoreline." As I recall, the Idaho Supreme Court applies flexible standards to littoral lines that are highly specific to the particular lake and shoreline at issue. For unrepresented parties, it may be helpful to reference generally that it is important to consult Idaho Supreme Court opinions on this issue.	Definitions 010.26	7. IDL will consider this, but littoral right lines can also be determined through upland owner agreements, or local county officials. IDL will remove the sentence that states "Littoral right lines will generally be at right angles to the shoreline and are not an extension of upland property lines."
Dylan B. Lawrence 6/12/2024	The new language is helpful for littoral owners on Bear Lake, but the language is still vague and subject to multiple interpretations. IDL should more specifically state whether this is a minimum or maximum of one moorage per littoral landowner. To the extent it is the latter, I question the legal basis for the limitation in the first place. If IDL prefers docks to moorage, it should say so expressly in the rules so that applicants are aware of the preference.	Encroachment Standards Rule 015.09	8. IDL adjusted the draft of the rule for mooring buoys, changing the rule from "one mooring buoy per littoral owner" to "one mooring buoy per single family owner". This will enable commercial and community operations to have more than one mooring buoy. IDL considers docks and mooring buoys to be navigational aids.
Dylan B. Lawrence 6/12/2024	See general comment above. IDL has given itself authority to adopt lake specific rules. It should do so for Bear Lake.	General Encroachment Standards 015.15	9. Lake-Specific encroachment permit terms are written as conditions of the permits. IDL will consider adding condition(s) specific to the needs of Bear Lake.
Dylan B. Lawrence 6/12/2024	The language about what "will" be considered an encroachment should either be removed or revised to more specifically track the language of the LPA, which does not reference "dredged material" at all, and which only references "landfills" once. Otherwise, IDL is administratively revising the Legislature's definition of encroachments.	Applications 020.01	10. IDL has removed the language regarding all fill material from this section and moved it to the encroachment standards section under 015.16.

Commenter	Written Comments	Rule Section	Response
Dylan B. Lawrence 6/12/2024	The standards in the LPA and its three sets of rules that govern when easements and leases are required are extremely vague. When legal standards are vague, courts will often decline to enforce them, because the legislature and agency have not provided the courts with enough guidance. I believe that is the case here. Given the lack of guidance provided by the Legislature regarding easements and leases, IDL should develop rules that are consistent with the traditional understanding of those terms. There is significant judicial case law defining leases and easements. IDL should use those as guidance in developing rules governing leases.	Leases and Easements Rule 055.01	11. IDL will consider this comment as we consider future revisions to IDAPA 20.03.09 –Easements on State-Owned Navigable Waterways and 20.03.17 – Rules Governing Leases on State-Owned Navigable Waterways.
Gary MacDonald 11/20/2024	ACCESS to the water: Generally speaking, unless the land itself is owned by a government agency, the public at large does not have access to the water unless granted by the land owner. It is not likely that a private citizen is going to promote or allow the general public to have access to the water. That privilege has historically been provided by the state via public access sites AND private enterprises like ours, resorts and marinas that cater to the public. For a fee a citizen or a visitor can rent space at a marina for their watercraft. With that fee they are free to enjoy the docks and property. It used to be that almost all marinas were truly open to the public. Even if you were not a slip renter, you would still be able to walk the docks, use the restrooms, or just be "on the water." increasingly you will find gates on the docks and the public is locked out. In Bayview, I believe that MacDonald's Resort is the only place that the public can freely visit. Resorts and marinas who welcome the public provide genuine public	General	12. IDL does not control public access to navigable waterways, but there are terms in leases that allow discounts to commercial marinas to provide public moorage at their marina. These discounts are set and approved by the authority of the Land Board. There is room to allow for more discounts if comments are brought before the Land Board.

Commenter	Written Comments	Rule Section	Response
	access including the right to fish, access to restrooms, or just a pleasant walk on the docks. The current Idaho rules do make an attempt to reward marinas that provide public access, BUT public access is absolutely not being enhanced, it is being eroded. We really need to reverse this trend because the population is increasing and the state and counties do not have sufficient resources to give the public access to "their" water. The days are approaching quickly where people will drive by on the roadways and remark, "took at that beautiful lake, too bad we can't get near it."		
Gary MacDonald 11/20/2024	Resort/Marina sales to Developers: There is tremendous pressure on resort/marina owners to sell to developers. The developer then carves up the property into parcels, advertises that the buyer can "own your private access to the lake," and with the sale the public loses another possible access to the waterfront. It is extremely easy to find examples of this public access erosion. In the past, it would be common to find multiple family resorts that offered public access to the water. There are lakes now where there are no resorts or marinas. All of the former resorts have been made into parcels and sold which effectively locks out residents and tourists. I believe that the state needs to actively work on programs that will keep family operations going so that the temptation to just "hang it up and take the money" is less of an option. When family run marinas are lost to the developers and their individual sales, they will NEVER return to a property that welcomes the public at large. The citizens of Idaho and tourists who bring vacation dollars to Idaho will be locked out. We can't let this happen.	General/ Commercial Marina	13. IDL does not have jurisdiction on operations above the Ordinary High Water Mark of a navigable lake. It would be at the discretion of local city and county officials to limit the development of waterfront properties.

Commenter	Written Comments	Rule Section	Response
Gary MacDonald 11/20/2024	Layers of "Red Tape" and let's have more!? - At the meeting in Sandpoint this spring one of the rule "proposals" was the idea of incorporating the "Universal Building Code" or something similar into the state permit process. I mentioned at the time that I felt the proposal was an unnecessary burden on the resort/marina owners. I still feel that way because I have not seen a need for another layer of bureaucratic oversight of a resort/marina operation. Additionally, the compliance process has REAL costs associated with the increased compliance level. One would ask, "so what." Well, the "so what" part means that those costs have to be passed on to the people using the facility. That results in higher prices. Every year when our family meets to set prices, we actually worry about individual people who may not be able to afford to stay here. We want to continue to include as many income levels as possible in our customer and visitor clientele. If additional layers of compliance requirements are added, the financial impact will be the possibility that someone will be excluded because of that additional cost.	General/ Incorporation by Reference	14. IDL has removed the incorporation of the International Building Code rules from the draft rule. IDL anticipates no additional costs of compliance with the current rule draft.
Gary MacDonald 11/20/2024	A subject mostly unique to Bayview: Bayview for my 73year lifetime and even previous to my birth, has been a land and water village. The floathouses/floathomes that make up a good deal of waterfront offer a unique community. Tourists visit Bayview to view and sometimes utilize that unusual community. The health of the floathouse/floathome community is reliant on people being able to continue to improve and maintain the integrity and the look of the buildings. I believe that within the leased area that comprises our marina, our customers should be given a good	General/ Pend Oreille Specific/ Float Homes	15. Float homes must meet minimum standards for plumbing and electrical work, and must comply with minimum standards for building according to regional building codes. IDL does not allow new float homes nor the conversion of existing buildings into float homes.

Commenter	Written Comments	Rule Section	Response
	<p>degree of latitude when it comes to interior home modifications. I really don't see a need to overly complicate life by restricting my customers choosing to make improvements or modifications to their home's interior layout or uses. We want to promote those improvements to help the floathouse/floathome community remain vibrant so they will not ever constitute an eyesore. We want them to invite ownership and vitality! A. Having said that, we are <u>not</u> in favor of the proliferation of floathomes/floathouses. We are not in favor of making boat houses, which were originally built just to house boats, into floathouses/floathomes with their necessary plumbing and living facilities. We are comfortable having the 100 or so historical floathouses/floathomes as the unique community it is.</p>		
<p>Gary MacDonald 11/20/2024</p>	<p>Boat Sewage, Gray Water, Sanitation: Believe it or not, I think that the boat sewage pump out facilities at MacDonald's Resort are the ONLY working pump outs on the entire Southern end of Lake Pend Oreille. For years I thought that all marinas were required to have them, but I think I was wrong. Here are some of my comments regarding the current situation:</p> <p>A. We pump out sewage from a LOT of boats and we charge a small fee for that work. However, there are some boats, who very likely have heads/toilets that we NEVER see. I know they have the same bodily functions that I do, but we never see them at our pump out stations. I believe that they are illegally dumping their sewage overboard via macerator pumps exiting the boats via thru-hulls. Our recreational waters are being compromised by this practice.</p>	<p>General/Pump-Out/Sewage Disposal</p>	<p>16. Pump out of grey water and sewage is regulated under the Idaho Safe Boating Act, and rules administered by the Idaho Department of Environmental Quality. IDL does not regulate watercraft pump-out. Inspection of watercraft is regulated by the local marine deputies, or the U.S. Coast Guard.</p>

Commenter	Written Comments	Rule Section	Response
	<p>B. Some of the larger monohull boats, power and sail, and most houseboats have extensive gray water producing facilities including sinks, tubs, showers, and even clothes washers with dryers. It is a rare boat that has graywater retention facilities. Most of this gray water is going right into the take along with the suspended soils, organic matter, soap, shampoo, detergent, and various and sundry additives. Again, this practice, with the increase in human population and lake use, will compromise our recreational waters. The take can take some of this abuse, but the growing population will likely overtax the take's ability to remain unsullied.</p> <p>C. What should be done? I believe that in order to get a boat license any boat with head/toilet facilities should be inspected by an authorized technician. That inspection should confirm that the boat does have an adequate holding tank for sewage. If there is an overboard discharge option via y-valve or direct discharge that option should be sealed with a tamperproof tag so that it cannot be used. If on inspection by law enforcement the tag has been compromised there should be a weighty fine so that people are not tempted to cheat. In past years I have had conversations with the local health district and they have been interested but the problem has certainty not been at the top of their List. No progress on possible enforcement has been done to date. However, the increasing population might necessitate another look at the growing problem. Regarding gray water, that is a more complicated issue because having to retrofit boats for gray water retention would be a big problem. However, it is worth addressing so that over time boats may be required to be</p>		

Commenter	Written Comments	Rule Section	Response
	equipped with gray water retention as an industry standard. It is a subject worth some time and investigation.		
Gary MacDonald 11/20/2024	Abandoned Boats on Idaho State Property: I didn't think I would live long enough to see the day when people would just abandon boats. Now it is turning into a real problem. There is a boat now stuck in the mud in Buttonhook Bay because the owner left it there and when the lake went down it got stuck. That particular boat has been there all season. He is not paying for any dockage or space use to the state. It is an eyesore and has been taking up space that people who actually buy a boat license could use. The sheriff's office has been contacted as well as the Parks and Recreation people. Everyone wants to do something, but no one seems to have any authority. I think we need some legislation giving the state the right to lien the owner's property so there is a way to get the boat out of the water, sold, sent to the landfill, or other possibilities. At this point in time, it seems like the authorities do not have a clear path to removal.	General/Illegal Dumping and Waste	17. Illegal dumping of vessels is a problem that is managed by several entities. The marine sheriff deputies have the authority to cite individuals that dumps vessels or docks. Ultimately, the upland land owner is responsible for any unpermitted encroachments within their littoral right lines. Unpermitted encroachments are a violation of I.C. 58-1301, 58-1303, and are subject to penalties outlined in I.C. 58-1308 and 58-1310.
Coeur d'Alene Tribe 4/30/2025	There is significant inconsistency regarding the scope and applicability of the proposed rules, which must be remedied. The Heading and Sections 20.03 .04.012.02., .015.16.a., .015.16.a.(misnumbered in draft rule), .020.01., and .055.02., all state the rules apply to "navigable waterways." Yet the Scope (20.03.04.001) and numerous other Sections, confine the regulations to navigable lakes. The Lake Protection Act, Title 58, Chapter 13, Idaho Code applies specifically to navigable lakes, not navigable waterways. If IDL intends to extend these rules to all navigable waterways under its authority in I.C. § 58-104(9),	Scope 001	18. Navigable lakes are defined in Title 58, Chapter 13 Idaho Code. This definition does not limit the authority of federally-recognized entities. The title of the rule is now "Rules for Encroachments on Navigable Lakes". The other references to "waterways" have been changed to "lakes".

Commenter	Written Comments	Rule Section	Response
	then it should clearly state so and remove all inconsistencies.		
Coeur d'Alene Tribe 4/30/2025	Section 20.03.04.001. Scope reads: "These rules govern encroachments on, in, or above navigable lakes in the state of Idaho." However, there are navigable lakes in Idaho under the exclusive jurisdiction of the Coeur d'Alene Tribe and the Federal Government. Please revise the Scope to read: "These rules govern encroachments on, in, or above navigable lakes in the state of Idaho, except where those lakes are in the exclusive jurisdiction of a Federally recognized Indian tribe or the Federal Government."	Scope 001	19. See previous comment.
Coeur d'Alene Tribe 4/30/2025	1. As a general rule, key terms in regulations should be defined for clarity and simplicity purposes. Defining key terms in administrative rules is particularly important when the statutory definitions referenced by the rules are non-exclusive. a. The statutory definition of Encroachments in Aid of Navigation "means and includes docks, piers, floats, pilings, breakwaters, boat ramps, channels or basins, and other such aids to the navigability of the lake, on, in or above the beds or waters of a navigable lake." I. C. § 58-1302(h). This key term must be defined in the rules because the insertion of the terms "includes" and "other such aids" renders the statutory list of encroachments non-exclusive-without a definition there is no clarity on what "other such aids" are considered encroachments in aid of navigation. b. The statutory definition of Encroachments Not in Aid of Navigation "means and includes all other encroachments on, in or above the beds or waters of a navigable lake, including landfills or other structures not constructed primarily for use in aid	Definitions 010	20. a. IDL has determined that the definition of "encroachments in aid of navigation" defined in I.C. 58-1302 is sufficient to cover encroachments that are known navigational aids, and leaves sufficient room for any future or unique aids to navigation that would fall under that definition. b. See answer to a. above. c. Under the Executive Order 2020-02, Zero Based Regulation, that Idaho's citizens must review both Idaho statutes and rules in order to be law-abiding. Under the Rule Writers Manual published by the Idaho Office of Administrative Rules, "The purpose of a rule is to balance the statutory mandates and legislative intent of the law with any constitutional or federal mandates, executive orders of the Governor, and the agency mission." IDL has chosen not to adopt this suggested change.

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	<p>of the navigability of the lake." I.C. § 58-1302(i). This key term must be defined in the rules because the insertion of the terms "includes" and "all other encroachments ... not constructed primarily for use in aid of the navigability of the lake," renders the statutory list of encroachments non-exclusive-without a definition there is no clarity on what "all other encroachments" are considered encroachments not in aid of navigation.</p> <p>c. Beds of Navigable Lakes is a term of art that is defined differently in Title 58, Chapter 13, Idaho Code than in other statutes, federal law, tribal law, and case law. Because I.C. § 58-1302(b) defines beds of navigable lakes "for purposes of this act only," as the land (1) below the natural or ordinary high-water mark, and (2) between the natural or ordinary high-water mark and artificial high-water mark, the rules should state this departure from regular parlance for clarity purposes. If IDL does not define "beds of navigable lakes," then it should, at the very least, define the terms "ordinary and normal high-water mark" and "artificial high-water mark," and state that the rules are applicable to the land between the different high-water marks. It is unreasonable to assume regulated parties, unrepresented by legal counsel, will delve into both administrative rules and statutes to determine whether their actions fall within the scope of statutes or regulatory rules.</p>		
Coeur d'Alene Tribe 4/30/2025	<p>If IDL chooses not to define key terms in its rules, then at the bare minimum, it must state in each definition when a structure is a navigational or nonnavigational encroachment for clarity purposes. It is particularly troubling that the draft rules use terms such as "structure" or "mechanism" in place</p>	Definitions 010	21. IDL has chosen to adopt the suggested changes for adding "navigational" or "nonnavigational" to encroachment definitions, as well as using the more standardized word of "encroachment" in said definitions.

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	<p>of "encroachment;" without using the statutorily correct key term, a regulated party cannot know whether the rules apply to them. Absent definitions of key terms, the following definitions should be revised to denote what rules apply to each encroachment:</p> <p>a. 010.03.: Boat Garage. "A nonnavigational encroachment with one (1) or more slips that is completely enclosed with walls, roof, and doors."</p> <p>b. 010.04.: Boat Lift. "A navigational encroachment mechanism for mooring boats partially or entirely out of the water." c. 010.05: Boat Ramp: "A navigational encroachment consisting of a structure or improved surface extending below the ordinary or artificial high water mark whereby watercraft or equipment are launched from land-based vehicles or trailers."</p> <p>d. 010.06.: Breakwater: "A navigational encroachment that is designed to protect moorage by reducing wave energy."</p> <p>e. 010.09.: Community Dock. "A navigational encroachment that provides private moorage for three (3) or more adjacent littoral owners, or other littoral owners possessing a littoral common area with littoral rights including, but not limited to homeowner's associations. No public access is required for a community dock."</p> <p>f. 01 0.14.: Float Home. "A nonnavigational encroachment that is designed and built to be used, or is modified to be used, as a stationary residential dwelling and is not self-propelled."</p> <p>g. 010.16.: Jet Ski Ramp, Port, or Lift. "A navigational encroachment mechanism for mooring jet skis or other personal watercraft similar to a boat lift."</p>		

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	h. 010.24.: Piling. "A navigational encroachment made of commercially available materials intended to be used for such purpose, that is driven into the lakebed and used to secure other encroachments." i. 010.27.: Pylon. "A nonnavigational encroachment made of commercially available materials intended to be used for such purpose, that is placed into the lakebed and used to support other encroachments."		
Coeur d'Alene Tribe 4/30/2025	The definition of Public Trust Doctrine should be revised to reflect the accurate definition, consistent with I.C. § 58-1202(5) and the common law referenced therein. The definition should read: "The common law doctrine holds, the State owns in trust the beds and banks of navigable waters-not otherwise held in trust by the United States for the benefit of a Federally recognized Indian tribe-for the use and benefit of the public, including the uses of navigation, commerce, 'fish and wildlife habitation, recreation, aesthetic beauty, and water quality.'" Newton v. MJK/BJK, LLC, 469 P.3d 23, 29 (Idaho 2020); see also Byrd v. Idaho State Bd. of Land Comm'r, 505 P.3d 708, 714 (Idaho 2022).	General/Legal Authority	22. Definitions found in I.C. Title 52 chapter 12 are outside the scope of this rulemaking process.
Coeur d'Alene Tribe 4/30/2025	Section 20.03.04.015.15. Marine Motor Fuel Dispensing Facilities: Fuel dispensing facilities on, in, or above the waters or beds of navigable lakes present significant environmental and water quality concerns. This section is insufficiently vague; without further regulation there is considerable likelihood that these facilities will irreparably harm Tribal Waters, State waters, and waters of the United States. Water quality standards relating to hazardous spills and petroleum releases should be incorporated by reference; additionally, safety standards for liquified petroleum gas dealers and	Encroachment Standards 20.03.04.015.15	23. The permittee must follow all other applicable state, federal and local rules and laws insofar as they affect the use of public trust resources per IDAPA 20.03.04.070.04.

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	<p>gas storage facilities should be incorporated by reference.</p> <p>a. A new subsection .015.15.c. should be added to read: "All Marine Motor Fuel Dispensing Facilities permitted under this section must adhere to the standards set forth in IDAPA 58.01.02. 'Department of Environmental Quality-Water Quality Standards,' Subsections: 800. 'Hazardous and Deleterious Material Storage'; 850. 'Hazardous Material Spills'; 851. 'Petroleum Release Reporting, Investigation, and Confirmation'; and 852. 'Petroleum Release Response and Corrective Action' as incorporated by reference in Section 003.05. of these rules. Further, such Facilities must adhere to the standards set forth in IDAPA 24.22.01 'Division of Occupational and Professional Licenses-Rules for the Idaho Liquified Petroleum Gas Safety Board,' as incorporated by reference in Section 003.06."</p> <p>b. IDL should also incorporate by reference the above regulations at subsection 003.05. and 003.06., respectively.</p>		
Coeur d'Alene Tribe 4/30/2025	<p>Section 20.03.04.015.16. Fill Material:</p> <p>a. Fill material has significant deleterious effects on water quality and aquatic habitat. IDL should not allow "refuse or waste matter," to be used as fill material. Any fill material should be naturally occurring and environmentally sound to protect water quality.</p> <p>b. There should be no ambiguity about what rules apply to this kind of encroachment. The section states fill material is an encroachment requiring "written approval by the Department." The term "written approval" is not synonymous with "encroachment permit," and must be changed to</p>	<p>Encroachment Standards</p> <p>20.03.04.015.16</p>	<p>24. a. IDL will adopt this suggested change in the new draft of the rule.</p> <p>b. IDL will adopt this suggested change in the new draft of the rule.</p> <p>c. IDL has referenced in the rule under 20.03.04.020.03 that a person seeking to make an encroachment must also obtain any additional approvals lawfully required by federal, local or other state agencies. IDL has chosen not to adopt this suggested change.</p> <p>d. 58-1301 establishes the sideboards that IDL considers when reviewing applications.</p>

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	<p>accurately reflect that an encroachment permit is required, consistent with I.C. § 58-1306.</p> <p>c. The State is not solely responsible for regulating discharge of dredge or fill material into navigable lakes-the rule should reflect that other agencies share regulatory authority to put a regulated party on notice that they must acquire all necessary permits prior to discharging fill material into navigable lakes.</p> <p>d. The section should be revised to say: "The placing of dredged or fill material, on or in the beds of waters of any navigable lake is an encroachment and requires a nonnavigational encroachment permit from the Department, in addition to any other requisite permits from state, local, or federal agencies with jurisdiction. Any such fill material shall be naturally occurring and environmentally sound, no encroachment permit shall be issued if fill material will negatively affect water quality or aquatic habitat."</p>		
<p>Dave and Helen Blyton 6/8/2025</p>	<p>There is one section in Draft 2 regarding the Marine Motor Fuel Dispensing Facilities that we would like to see changed. The current language is very restrictive and will be virtually impossible to comply with, or for the State to enforce. On Lake Pend Oreille, it would require boaters to go approximately 10 miles to get fuel. Since many of the boaters use their boats year round on the lake to get to their cabins, or to fish, this trip could be present unnecessary challenges trying to get to the limited fuel dispensing facilities on the lake. Many other lakes in Idaho are similar with year round boaters and limited fuel dispensing facilities. We propose changing the language from requiring a marine motor fuel dispensing facility to requiring</p>	<p>Encroachment Standards 20.03.04.015.15</p>	<p>25. Portable gas cans are not fixed equipment. The public may refill their watercraft in a manner that complies with all local rules and codes. Marine motor fuel dispensing facilities are regulated under the International Fire Code and require an encroachment permit from IDL when located below the Ordinary High Water Mark.</p>

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	<p>a fuel dispensing hose that has an automatic shut off nozzle and drip elimination device. These hoses and drip elimination options are available for purchase for \$40.00 - \$75.00 and can be used with portable gas cans. This keeps the can on the dock and the hose with a shut off nozzle at the boat or wave runner. This would be very similar to how it is dispensed at a fuel dispensing facility. This approach may still be difficult to enforce, but we believe its simplicity and common sense will get support from boaters so the end result will be less fuel getting into the water. Required signage at public boat ramps and moorage facilities could ensure all boaters are aware of the new fuel regulation. This would not only educate the boaters but help other boaters, property owners, marinas, and moorage associations say something to those who are not following the rules.</p>		
<p>Dylan Lawrence 6/9/2025</p>	<p>Newly proposed Encroachment Rule 003.04 incorporates IDAPA 18.08.01 by reference. Typically, "incorporation by reference" means that the incorporating agency has the legal authority to enforce the external regulations that are being incorporated. A good example of this is that because Idaho DEQ has authority over regulatory programs delegated by EPA, DEQ often incorporates EPA regulations by reference. I do not believe a similar legal relationship exists between the Department of Lands and the Department of Insurance ("DOI"), and incorporating DOI's legal authorities by reference may exceed IDL's statutory authorities. Instead of incorporating those regulations by reference (and perhaps the other regulations referenced in Encroachment Rule 003),</p>	<p>Incorporation by Reference 003.04</p>	<p>26. I.C. § 67-5229(1)(d) gives IDL the authority to incorporate IDAPA 18.08.01 by reference.</p>

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	I suggest revising the initial language of that rule to read, "The following sets of regulations may also apply to activities regulated by these rules and should be consulted."		
Dylan Lawrence 6/9/2025	<p>Newly proposed Encroachment Rule 015.15(a) currently reads, "Wharves, piers, or docks at marine motor fuel dispensing facilities must be used exclusively for the dispensing or transfer of petroleum products to or from marine craft." This language appears to be taken verbatim from the International Fire Code (2018) ("IFC"). However, it is an incomplete reference. Section 2310.3.1 of the IFC provides: Wharves, piers or floats at marine motor fuel-dispensing facilities shall be used exclusively for the dispensing or transfer of petroleum products to or from marine craft, except that transfer of essential ship stores is allowed. (Emphasis added).</p> <p>The need to load and unload essential items from wharves and piers is universal. As an initial matter, I question the wisdom of quoting other regulatory programs, rather than simply referencing them to put the public on notice of their existence. For one thing, if the IFC is amended, then the Encroachment Rules could become outdated and inconsistent with the amended IFC. The same concern applies to the adoption of a new definition of "marine motor fuel-dispensing facility" in newly proposed Rule 010.20. While that appears mostly consistent with the definition of that phrase in IFC Section 202, that may not always be the case in the future. Given the reference to the state</p>	Encroachment Standards 015.15	27. IDL has chosen to remove the drafted language in Section 015.15.a, and amend it to read "Any portion of a marine motor fuel dispensing facility located below the O/AHWM requires an encroachment permit."

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	regulations adopting the IFC in newly proposed Rule 003.04 as previously discussed, I question whether it is necessary to quote Section 2310.3.1 at all. However, if IDL keeps the reference, it should restore the italicized language above and monitor amendments to the IFC to ensure consistency.		
Dylan Lawrence 6/9/2025	Newly proposed Rule 015.16(a) makes the affirmative statement that the following items are encroachments: (1) dredged material; (2) fill material; (3) refuse; and (4) waste matter intended as or becoming fill material. The Encroachment Rules are adopted pursuant to the statutes in the Lake Protection Act, Title 58, Chapter 13 of the Idaho Code (the "LPA"). The term "dredged" appears nowhere in the LPA, and the phrase "fill material" also appears nowhere in the LPA, though there is a reference to "landfills" being considered non-navigational encroachments in Idaho Code Section 58-1302(i). To ensure consistency with IDL's authorities under the LPA, this Rule should read, "The placing of landfills on or in the beds or waters of any navigable waterway is an encroachment and requires written approval by the Department."	Encroachment Standards 015.16	28. Dredging and fill below the Ordinary High Water Mark are considered encroachments. The permittee must follow all other applicable state, federal and local rules and laws insofar as they affect the use of public trust resources per IDAPA 20.03.04.070.04.
Dylan Lawrence 6/9/2025	IDL is suggesting mostly minor revisions to newly renumbered Encroachment Rule 016, regarding lake-specific permit terms. In the past, IDL has described an intent to coordinate a public planning process for Bear Lake, but it has not followed through. While this comment may be outside the scope of a zero-based regulation rulemaking effort, given Bear Lake's uniqueness, IDL should consider resuming that effort, which could also involve	Encroachment Standards 015.17	29. Lake-Specific encroachment permit terms are written as a condition(s) of the permits. IDL will consider adding a condition specific to the needs of Bear Lake.

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	development of standard permit conditions specific to Bear Lake.		
Idaho Conservation League 6/13/2025	20.03.04 Title – RULES FOR ENCROACHMENTS ON NAVIGABLE WATERWAYS The word 'waterways' must be reverted back to 'lakes,' as it was in the previous version of this rule. The Lakes Protection Act 2 specifically defines 'navigable lake' as ' <i>any permanent body of relatively still or slack water, including man-made reservoirs, not privately owned and not a mere marsh or stream eddy, and capable of accommodating boats or canoes.</i> ' The extent of the IDL's authority is limited to this definition of lakes, and must not be presumptively extended to rivers and other water bodies.	20.03.04 Title	30. IDL has elected to adopt this change. The title of the rule is now "Rules for Encroachments on Navigable Lakes".
Idaho Conservation League 6/13/2025	20.03.04.010.07 Commercial Marina - Definition. The proposed definition for a Commercial Marina is unclear. It states: "A commercial navigational encroachment whose primary purpose is to provide moorage for rental or for free to at least 50% of the general public." The definition for Commercial Marinas should state: "A commercial navigational encroachment primarily intended to provide moorage must make at least 50% of its moorage available for use by the general public. Access to this public moorage must not be contingent upon membership in a homeowners' association, club, or any other private entity."	Definitions 010.07	31. The standards for commercial marinas can be found in section 015.03.
Idaho Conservation League 6/13/2025	20.03.04.010.09 Community Dock - Definition. This definition should be limited to one 'structure', and the word 'structures' must not be added. The term 'Community Dock,' which is being defined, is a singular term, not plural. Each Community Dock	Definitions 010.09	32. The word "structure" has been removed from this definition and replaced with "encroachment". Applicants that meet the definition of a community dock may apply for

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	<p>must be permitted independently just as each single family dock is permitted independently. While lack of clarity regarding the singular nature of a Community Dock in the previous version of this rule may have been considered a 'loophole,' IDL is now attempting to explicitly allow such divisions. It is unacceptable to do so, as it effectively removes size limitations for Single-Family Docks and Two-Family Docks. The size limit for a Single-Family Dock is 700 square feet and the size limit for a Two-Family Dock is 1100 square feet. Each Community Dock is limited in size by the littoral footage owned by three or more adjacent owners, or other littoral owners possessing a littoral common area with littoral rights including, but not limited to homeowner's associations. The permissible square footage for a community dock is determined by the total littoral footage times a factor of seven, so is virtually unlimited and only based on the amount of littoral ownership by the applicant.</p> <p>Littoral owners have in certain cases been allowed to divide their total permissible community dock square footage into multiple individual structures, effectively undermining the size limits for Single-Family Docks and Two-Family Docks. For example, the Camp Bay Community Association, Inc's Encroachment Permit Application No. L-96-S-2687 was approved, allowing a community dock 'system' composed of 13 docks without the size limitations required for Single-Family and Two-Family Docks. The current loophole and proposed lack of appropriate regulation undermine the legislative intent of the Lakes Protection Act to protect fish and wildlife habitat, aquatic life and water quality. Large docks and extensive dock systems cause a</p>		<p>community docks allowable under Title 58, Section 1306 Idaho Code.</p>

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	loss of littoral zone habitat for fish, amphibians, insects, and other aquatic life. They can also change wave patterns and water circulation, leading to erosion or sediment accumulation. As such, fish spawning areas may be smothered and water clarity reduced.		
Idaho Conservation League 6/13/2025	20.03.04.012.01 Policy - Public Trust Resources Protection It should be clearly stated that the State Board of Land Commissioners is not the only entity responsible for managing lake beds in Idaho. Under Section 10 of the Rivers and Harbors Act of 1899 3 and Section 404 of the Clean Water Act 4 , the U.S. Army Corps of Engineers also has regulatory authority over lake beds of "Waters of the United States," including in Idaho. Additionally, certain Tribes have specific regulatory authority. The Coeur d'Alene Tribe owns the southern third of Lake Coeur d'Alene and its submerged lands. These rights were established through an 1873 executive order and affirmed in the 2001 Supreme Court case <i>United States v. Idaho</i> . Other Tribes may have ownership and regulatory authority related to land ownership and treaty rights. In order to support the public in navigating a complex legal system, these factors should be clearly stated.	Policy 012.01	33. Jurisdiction over navigable lakes is defined in Title 58, Chapter 13 Idaho Code. IDAPA 20.03.04.020.03 states "A person seeking to make an encroachment must also obtain any additional approvals lawfully required by federal, local or other state agencies.". Section 070.04 also states "The permittee must follow all other applicable state, federal and local rules and laws insofar as they affect the use of public trust resources."
Idaho Conservation League 6/13/2025	20.03.04.015.08 Encroachment Standard - Riprap Natural materials other than rock should be encouraged. Environmentally friendly solutions such as Coir Logs (coconut fiber rolls), logs and vegetative buffers can diminish wave action rather than exacerbate it as rock riprap does. Natural shoreline stabilization can absorb or diminish wave action, improve fish habitat and filter polluted runoff.	Encroachment Standards 015.08	34. IDL has revised the first sentence of Section 015.08 to say "Riprap used to stabilize shorelines will consist of rock or other materials that is appropriately sized to resist movement from anticipated wave heights or tractive forces of the water flow."

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Idaho Conservation League 6/13/2025	20.03.04.015.11 Encroachment Standard - Excavating or Dredging The Idaho Lake Protection Act 5 makes no reference to excavating or dredging, and IDL does not have authority to regulate these activities. It should be clearly stated that the U.S. Army Corps of Engineers and various Tribes have regulatory authority over dredging and excavation of lake beds. Section 404 of the Clean Water Act 6 establishes that the U.S. Army Corps of Engineers has regulatory authority over "Waters of the United States," including in Idaho. Additionally, certain Tribes have specific regulatory authority. The Coeur d'Alene Tribe owns the southern third of Lake Coeur d'Alene and its submerged lands. These rights were established through an 1873 executive order and affirmed in the 2001 Supreme Court case <i>United States v. Idaho 7</i> . Other Tribes may have ownership and regulatory authority related to land ownership and treaty rights. In order to support the public in navigating a complex legal system, these factors should be clearly stated.	Encroachment Standards 015.11	35. Dredging is considered an encroachment. The permittee must follow all other applicable state, federal and local rules and laws insofar as they affect the use of public trust resources per IDAPA 20.03.04.070.04.
Idaho Conservation League 6/13/2025	20.03.04.015.13.h General Encroachment Standards (connected with upland sewer or septic systems) Permits for facilities and infrastructure designed to hold or transfer sewage need to be coordinated with the Idaho Department of Environmental Quality (DEQ) or the relevant Public Health District, depending on the type of system they connect to. The DEQ derives its authority to regulate upland sewage disposal through the Individual/Subsurface Sewage Disposal Rules 8 , and Section 402 of the Clean Water Act. 9 The DEQ administers the Individual/Subsurface Sewage Disposal Rules in collaboration with Idaho's seven	Encroachment Standards 015.13	36. Sewer and septic systems must adhere to IDAPA 24.39.20, "Rules Governing Plumbing", incorporated by reference in these rules. Additionally, the permittee must follow all other applicable state, federal and local rules and laws insofar as they affect the use of public trust resources per IDAPA 20.03.04.070.04.

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	public health districts under a memorandum of understanding. While DEQ sets the standards and provides oversight, the public health districts are responsible for permitting and inspecting septic systems. Individuals or entities seeking to connect to community sewer or septic systems in Idaho must consult with the local public health district to ensure compliance with all applicable regulations and to obtain the necessary permits. This needs to be stated in IDL's rules in order to provide clarity to the applicant.		
Idaho Conservation League 6/13/2025	20.03.04.015.15 Marine Motor Fuel Dispensing Facilities Thank you for addressing this important issue. For clarity, consider changing the suggested language, "Wharves, piers, or docks at marine motor fuel dispensing facilities must be used exclusively for the dispensing or transfer of petroleum products to or from marine craft." to "Dispensing or transfer of petroleum products to or from marine craft must happen exclusively at marine motor fuel dispensing facilities."	Encroachment Standards 015.15	37. IDL has chosen to revise Section 015.15.a to read "Any portion of a marine motor fuel dispensing facility located below the O/AHWM requires an encroachment permit." Additionally, the permittee must follow all other applicable state, federal and local rules and laws insofar as they affect the use of public trust resources per IDAPA 20.03.04.070.04.
Idaho Conservation League 6/13/2025	20.03.04.015.16 Fill Material The Idaho Lake Protection Act 10 makes no reference to 'fill material,' and IDL does not have authority to regulate this activity. It should be clearly stated that the U.S. Army Corps of Engineers and various Tribes have regulatory authority over fill material being placed in lake beds. Section 404 of the Clean Water Act 11 establishes that the U.S. Army Corps of Engineers has regulatory authority over "Waters of the United States," including in Idaho. Additionally, certain Tribes have specific regulatory authority. The Coeur d'Alene Tribe owns the southern third of Lake Coeur d'Alene and its submerged lands. These rights were established	Encroachment Standards 015.16	38. Fill is considered an encroachment on navigable lakes. IDL works with the U.S. Army Corps of Engineers to address and/or permit fill below the Ordinary High Water Mark. Additionally, the permittee must follow all other applicable state, federal and local rules and laws insofar as they affect the use of public trust resources per IDAPA 20.03.04.070.04.

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	through an 1873 executive order and affirmed in the 2001 Supreme Court case <i>United States v. Idaho 12</i> . Other Tribes may have ownership and regulatory authority related to land ownership and treaty rights. In order to support the public in navigating a complex legal system, these factors should be clearly stated.		
Idaho Conservation League 6/13/2025	20.03.04.020.06 Applications - Dredging The Idaho Lake Protection Act 13 makes no reference to dredging, and IDL does not have authority to regulate this activity. It should be clearly stated that the U.S. Army Corps of Engineers and various Tribes have regulatory authority over dredging lake beds. Section 404 of the Clean Water Act 14 authorizes the U.S. Army Corps of Engineers as the regulatory authority over "Waters of the United States," including in Idaho. Additionally, certain Tribes have specific regulatory authority. The Coeur d'Alene Tribe owns the southern third of Lake Coeur d'Alene and its submerged lands. These rights were established through an 1873 executive order and affirmed in the 2001 Supreme Court case <i>United States v. Idaho 15</i> . Other Tribes may have ownership and regulatory authority related to land ownership and treaty rights. In order to support the public in navigating a complex legal system, these factors should be clearly stated.	Applications 020.06	39. Dredging is considered an activity that may require an encroachment permit under IDAPA 20.03.04. IDL works with the U.S. Army Corps of Engineers to address and/or permit dredging below the Ordinary High Water Mark. Additionally, the permittee must follow all other applicable state, federal and local rules and laws insofar as they affect the use of public trust resources per IDAPA 20.03.04.070.04.
Idaho Conservation League 6/13/2025	20.03.04.080 Violations - Penalties Fines should be assessed for encroachments that are built without permits, when applications for permits are submitted after the fact or not submitted at all. According to the Lake Protection Act 16, a civil penalty ranging from \$150 to \$2,500 for each violation may be assessed. If the violation causes harm to water quality, fisheries, or other public	Violations/ Penalties 080	40. Imposing additional fees and penalties lies outside of the scope of Executive Order 2020-02, Zero Based Regulation. Cost recovery for noncompliance is regulated under the Lake Protection Act.

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	trust values, the penalty may increase to up to \$10,000 per violation or \$1,000 for each day of a continuing violation, whichever is greater. It is very common to see permit applications after the fact, but very uncommon for IDL to assess fines. This effectively undermines IDL's authority to regulate encroachments, and even incentivizes unpermitted activity. Assessing fines in these situations would encourage compliance and also increase funding for IDL.		
Zack Spencer 6/13/2025	The part of the bill that concerns refilling only at marinas is not practical or almost all boat owners in medium to large size lakes. By the time that someone has driven there boat to and from a marina they will have used up the same amount or more gas then they started with. And as a person who workers at a marina on lake pend Oreille it would just cause even more of a headache for us because of the people would take there boats out for 5 minutes to refill with a gas can, then take another 10 minutes trying to put there boat back into the water, thus making our job harder. Also the gas prices for the floating pumps is stupidly expensive so no one with any sense will use them.	Encroachment Standards 015.15	41. IDL has chosen to remove the drafted language in Section 015.15.a, and amend it to read "Any portion of a marine motor fuel dispensing facility located below the O/AHWM requires an encroachment permit."
Ian and Kristen Burge 6/13/2025	The proposed requirements under section "Marine Motor Fuel Dispensing Facilities" creates many concerns for users on larger lakes in the state of Idaho, such as Lake Pend Oreille, Priest Lake and Lake Coeur d'Alene. Refueling locations can be many miles from marinas and private docks on the lakes. For example a boat that is kept at Garfield Bay on Lake Pend Oreille, would need to travel more than 20 miles round trip on water to obtain fuel or the owner would need to trailer their boat and travel about 20 miles round trip to refuel a		42. IDL has chosen to remove the drafted language in Section 015.15.a, and amend it to read "Any portion of a marine motor fuel dispensing facility located below the O/AHWM requires an encroachment permit."

Commenter	Written Comments	Rule Section	Response
	<p>boat at the closest land gas station in Sagle. Many of the boats kept at docks/marinas on the lake are challenging to transport for fuel, such as a sail boat.</p> <p>Higher Costs: Marina fuel is often more expensive than regular gas station fuel. Restricting fueling options could force boaters to pay these higher prices.</p> <p>Economic Impact on Boating: Restricting options could potentially hurt the recreational boating industry by making it more expensive and less convenient for boaters.</p> <p>I understand the desire to restrict refueling boats on the water, not at an approved marina gas facility. Perhaps instead of the draft language provided there can be restriction that marina gas stations must be used if located within 1-2 miles of where your boat is normally kept. Or put rules in place about the types of gas cans or transfer methods that can be used.</p>		

In-Person Comments	Rule Section	Response
<p>The following comment is a summation of a discussion that took place during the Sandpoint Public Meeting on April 15, 2025.</p> <p>The section that sets standards for Marine Motor Fuel Dispensing Facilities is considered too restrictive and limits individual needs to refuel a boat in an area with little access to a marine service station.</p>	20.03.04.015.15	<p>1. IDL has chosen to remove the drafted language in Section 015.15.a, and amend it to read "Any portion of a marine motor fuel dispensing facility located below the O/AHWM requires an encroachment permit."</p>

In-Person Comments	Rule Section	Response
<p>The following comment is a summation of a discussion that took place during the Sandpoint Public Meeting on April 15, 2025.</p> <p>The section under application requirements that suggests that applications for all encroachments that are enclosed structures require engineered plans stamped by a licensed engineer in the state of Idaho is overly restrictive and places an undue cost burden on applicants to get a stamped engineered drawing.</p>	<p>20.03.04.020.07.a.vi ii.</p>	<p>2. IDL has chosen to revise the language in Section 020.07.a.viii to read "Plans submitted for enclosed encroachments must accurately depict all interior and exterior features. Public, commercial, and residential encroachments may require engineered plans approved by a licensed professional engineer in the state of Idaho."</p>

**20.03.04 – RULES FOR ~~ENCROACHMENTS ON NAVIGABLE LAKES~~~~WATERWAYS~~~~THE~~
~~REGULATION OF BEDS, WATERS, AND AIRSPACE~~
~~OVER NAVIGABLE LAKES IN THE STATE OF IDAHO~~**

000. ~~LEGAL~~ AUTHORITY.

This Chapter is adopted under the legal authorities of Sections 58-104(6), 58-104(9), 58-105, and 58-127, Idaho Code; Title 58, Chapter 13, Idaho Code; and Title 67, Chapter 52, Idaho Code. (3-18-22) ()

001. ~~TITLE AND~~ SCOPE.

~~01. Title. These rules are titled IDAPA 20.03.04, “Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho.” (3-18-22)~~

~~01,02.~~ **Scope.** These rules govern encroachments on, in, or above navigable lakes in the state of Idaho. (3-18-22) ()

002. ADMINISTRATIVE APPEALS.

Any person aggrieved by any final decision or order of the ~~b~~Board is entitled to judicial review pursuant to ~~the provisions of Title 67, Chapter 52, Idaho Code, IDAPA 20.01.01,~~ Title 58, Chapter 13, Sections 58-1305 and 58-1306, Idaho Code, and Sections 025, 030, and 080 of these rules. (3-18-22) ()

003. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into these rules: (3-18-22)

01. IDAPA 24.39.10, “Rules of the Idaho Electrical Board.” IDAPA 24.39.10 is available at <https://adminrules.idaho.gov/rules/current/24/243910.pdf>. (3-18-22)

02. IDAPA 24.39.20, “Rules Governing Plumbing.” This rule is available at <https://adminrules.idaho.gov/rules/current/24/243920.pdf>. (3-18-22)

03. 33 CFR Part 62, revised as of July 27, 2015 (United States Aids to Navigation System). The Electronic Code of Federal Regulations (eCFR) is available at <https://www.ecfr.gov/cgi-bin/ECFR>. (3-18-22) ()

~~04. IDAPA 18.08.01, “Idaho Department of Insurance State Fire Marshal – Adoption of the International Fire Code” This rule is available at https://adminrules.idaho.gov/rules/current/18/180801.pdf ()~~

004. -- 009. (RESERVED)

010. DEFINITIONS.

~~Additional definitions can be found in Title 58, Chapter 13, Idaho Code. ()~~

01. Adjacent. Contiguous or touching, and with regard to land or land ownership having a common boundary. (3-18-22)

02. Aids to Navigation. Buoys, beacons, warning lights, and other encroachments used to determine position or safe courses~~in aid of navigation intended to improve waterways for navigation.~~ (3-18-22) ()

~~03. Artificial High Water Mark. The high water elevation above the natural or ordinary high water mark resulting from construction of man-made dams or control works and impressing a new and higher vegetation line. (3-18-22)~~

~~04. Beds of Navigable Lakes. The lands lying under or below the “natural or ordinary high water mark” of a navigable lake and, for purposes of these rules only, the lands lying between the natural or ordinary high water~~

~~mark and the artificial high water mark, if there be one. (3-18-22)~~

~~05. Board. The Idaho State Board of Land Commissioners or its designee. (3-18-22)~~

~~036. Boat Garage. A nonnavigational encroachment structure with one (1) or more slips that is completely enclosed with walls, roof, and doors, but no temporary or permanent residential area. (3-18-22)()~~

~~047. Boat Lift. A navigational mechanism encroachment for mooring boats partially or entirely out of the water. (3-18-22)()~~

~~058. Boat Ramp. A navigational structure encroachment or improved surface extending below the ordinary or artificial high water mark whereby watercraft or equipment are launched from land-based vehicles or trailers. (3-18-22)()~~

~~06. Breakwater. A navigational encroachment structure that is designed to protect moorage by reducing wave energy. ()~~

~~079. Commercial Marina. A commercial navigational encroachment whose primary purpose is to provide moorage for rental or for free to the at least 50% of the general public. (3-18-22)()~~

~~0810. Commercial Navigational Encroachment. A navigational encroachment used for commercial purposes. (3-18-22)~~

~~0911. Community Dock. A navigational structure or structures encroachment that provides private moorage for three (3) or more than two (2) adjacent littoral owners, or other littoral owners possessing a littoral common area with littoral rights including, but not limited to homeowner's associations. No public access is required for a community dock. (3-18-22)()~~

~~102. Covered Slip. A slip, or group of slips, with a covered by a frame, fabric canopy, and eaves that do not extend beyond the underlying dock. (3-18-22)()~~

~~113. Department. The Idaho Department of Lands or its designee. (3-18-22)()~~

~~124. Director. The head of the Idaho Department of Lands or their his designee. (3-18-22)()~~

~~13. Dredging. The removal of earthen material below the ordinary or artificial high water mark. The term "dredging" may also be used interchangeably with "excavating". ()~~

~~15. Encroachments in Aid of Navigation. Includes docks, piers, jet ski and boat lifts, buoys, pilings, breakwaters, boat ramps, channels or basins, and other facilities used to support water craft and moorage on, in, or above the beds or waters of a navigable lake. The term "encroachments in aid of navigation" is used interchangeably with the term "navigational encroachments." (3-18-22)~~

~~16. Encroachments Not in Aid of Navigation. Includes all other encroachments on, in, or above the beds or waters of a navigable lake, including landfills, bridges, utility and power lines, or other structures not constructed primarily for use in aid of navigation, such as float homes and boat garages. The term "encroachments not in aid of navigation" is used interchangeably with the term "nonnavigational encroachments." (3-18-22)~~

~~147. Floating Home or Float Home. A nonnavigational structure encroachment that is designed and built to be used, or is modified to be used, as a stationary waterborne residential dwelling and is not self-propelled. These structures are usually dependent for utilities upon a continuous utility linkage to a source originating on shore, and must have either a permanent continuous connection to a sewage system on shore, or an alternative method of sewage disposal that does not violate local, state, or federal water quality and sanitation regulations. (3-18-22)()~~

~~158. Floating Toys. Trampolines, inflatable structures, water ski courses, slides, and other nonnavigational recreational equipment that are not permanently anchored to the lake-bed or an encroachment and are~~

either located between the shoreline and the line of navigability or are waterward of the line of navigability for less than twenty-four (24) consecutive hours. (3-18-22)()

169. Jet Ski Ramp, Port, or Lift. A navigational mechanism encroachment for mooring jet skis or other personal watercraft similar to a boat lift. ~~The lifts may be free standing or attached to a dock or pier.~~ (3-18-22)()

1720. Line of Navigability. A line located at such distance waterward of the low water mark established by the length of existing legally permitted encroachments, water depths waterward of the low water mark, and by other relevant criteria determined by the ~~b~~Board when a line has not already been established for the body of water in question. (3-18-22)()

~~18. Riparian or Littoral Owner.~~ The fee owner of land adjacent to a navigable lake, or a lessee, or the owner of littoral rights that have been segregated from the fee specifically by deed, lease, or other grant. ()

~~19. Riparian or Littoral Right Lines.~~ Lines that extend waterward from ~~of~~ the intersection of ~~between~~ the artificial or ordinary high water mark and an upland ownership boundary to the line of navigation. ~~Littoral right lines will generally be at right angles to the shoreline and are not extensions of upland property lines.~~ ()

201. Low Water Mark. That line or elevation on the bed of a lake marked or located by the average low water elevations over a period of years, and marks the point to which the riparian rights of adjoining landowners extend as a matter of right, in aid of their right to use the waters of the lake for purposes of navigation. (3-18-22)

~~21. Marine Motor Fuel-Dispensing Facility.~~ A nonnavigational encroachment where flammable and/or combustible liquids or gases used as fuel for watercraft are stored and dispensed from fixed equipment on shore, piers, wharves, floats or docks into the fuel tanks of marine craft and includes all other facilities used in connection therewith. ()

22. Moorage. A place to secure float homes, boat garages, and watercraft, ~~including, but not limited to,~~ boats, personal watercraft, jet skis, etc. (3-18-22)()

~~23. Natural or Ordinary High Water Mark.~~ The high water elevation in a lake over a period of years, uninfluenced by man-made dams or works, at which elevation the water impresses a line on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes. (3-18-22)

~~24. Navigable Lake.~~ Any permanent body of relatively still or slack water, including man-made reservoirs, not privately owned and not a mere marsh or stream eddy, and capable of accommodating boats or canoes. This definition does not include man-made reservoirs where the jurisdiction thereof is asserted and exclusively assumed by a federal agency. (3-18-22)

235. Party. Each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party. (3-18-22)

~~246. Person.~~ Any individual, partnership, corporation, association, governmental subdivision or agency, or public or private organization or entity of any character. ~~partnership, association, corporation, natural person, or entity qualified to do business in the state of Idaho and any federal, state, tribal, or municipal unit of government.~~ (3-18-22)()

257. Piling. ~~A metal, Metal, concrete, plastic, or wood p~~osts that ~~is~~ are placed ~~driven~~ into the lakebed and used to secure floating docks and other structures. (3-18-22)()

~~28. Plans.~~ Maps, sketches, engineering drawings, aerial and other photographs, word descriptions, and specifications sufficient to describe the extent, nature and approximate location of the proposed encroachment and the proposed method of accomplishing the same. (3-18-22)

269. Public Hearing. The type of hearing where members of the public and other interested parties or

agencies are allowed to comment, in written or oral form, on the record at a public meeting held at a set time and place and presided over by a designated ~~representative of the Department who acts as the~~ hearing coordinator. This type of hearing is an informal opportunity for public comment and does not involve the presentation of witnesses, cross examination, oaths, or the rules of evidence. A recording of any oral presentations at these such hearings will be taken ~~by the Department, by tape recorder. The hearing coordinator exercises such control at hearings as necessary to maintain order, decorum and common courtesy among the participants.~~(3-18-22) ()

2730. Public Trust Doctrine. The duty of the State ~~to its people~~ to ensure that the use of public trust resources is consistent with identified public trust values. This common law doctrine has been interpreted by decisions of the Idaho Appellate Courts and is codified at Title 58, Chapter 12, Idaho Code. (3-18-22) ()

2831. Pylon. A ~~metal, concrete, or wood~~ post that is placed into the lakebed and used to support ~~encroachments, fixed piers.~~ (3-18-22) ()

29. Residential Area. Any space used for habitation, whether temporarily or permanently, that may include, but is not limited to sleeping arrangements, cooking appliances, bathroom facilities, living amenities, recreational or entertaining space, or utility connections. ()

~~**32. Riparian or Littoral Rights.** The rights of owners or lessees of land adjacent to navigable waters of the lake to maintain their adjacency to the lake and to make use of their rights as riparian or littoral owners or lessees in building or using aids to navigation but does not include any right to make any consumptive use of the waters of the lake. (3-18-22)~~

~~**33. Riparian or Littoral Owner.** The fee owner of land immediately adjacent to a navigable lake, or his lessee, or the owner of riparian or littoral rights that have been segregated from the fee specifically by deed, lease, or other grant. (3-18-22)~~

~~**34. Riparian or Littoral Right Lines.** Lines that extend waterward of the intersection between the artificial or ordinary high water mark and an upland ownership boundary to the line of navigation. Riparian or littoral right lines will generally be at right angles to the shoreline. (3-18-22)~~

~~**30. Seawall.** A nonnavigational encroachment wall or embankment constructed to prevent erosion to an area of land. ()~~

~~**35. Side Tie.** Moorage for watercraft where the dock or pier is on only one (1) side of the watercraft. (3-18-22)~~

310. Single-Family Dock. A navigational encroachment ~~structure~~ providing noncommercial moorage that serves one (1) waterfront owner ~~whose waterfront footage is no less than twenty five (25) feet.~~ (3-18-22) ()

321. Slip. Moorage for watercraft ~~boats~~ with pier or dock structures on at least two (2) sides of the moorage. (3-18-22) ()

332. Submerged Lands. The state-owned beds of navigable lakes, rivers and streams below the ~~natural or ordinary high water marks.~~(3-18-22) ()

343. Two-Family Dock. A navigational structure encroachment providing noncommercial moorage that serves two (2) separate adjacent waterfront owners, ~~having a combined waterfront footage of no less than fifty (50) feet. Usually, the structure is located on the common littoral property line.~~(3-18-22) ()

354. Upland. The land above the OHWM bordering on navigable lakes, rivers, and streams. (3-18-22)()

~~**365. Water Line.** A nonnavigational buried or submerged line encroachment used to collect or discharge water. ()~~

011. ABBREVIATIONS.

- 01. ATON.** Aids to Navigation. (3-18-22)
- 02. HDPE.** High-Density Polyethylene. (3-18-22)
- 03. O/AHWM.** Ordinary or Artificial High Water Mark. ()

012. POLICY.

01. ~~Public Trust Resource~~Environmental Protection and Navigational or Economic Necessity. ~~Justification, or Benefit.~~ It is the express policy of the State of Idaho that the public health, interest, safety and welfare requires that all encroachments upon, in or above the beds or waters of navigable lakes of the state be regulated in order that the protection of property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty and water quality be given due consideration and weighed against the navigational or economic necessity or justification for, or benefit to be derived from the proposed encroachment. Moreover, it is the responsibility of the ~~State Board of Land Commissioners~~ to regulate and control the use or disposition of state-owned lake beds, ~~so as~~ to provide for their commercial, navigational, recreational or other public use. ~~(3-18-22)~~()

02. No Encroachments Without Permit. No encroachment on, in or above the beds or waters of any navigable lake ~~in the state~~ may be made ~~without approval unless approval has been given~~ as provided in these rules. ~~An encroachment permit does not guarantee the use of public trust lands without appropriate compensation to the state of Idaho. An encroachment permit may require a submerged land lease. An encroachment permit for a specific activity or encroachment does not guarantee continued use if the activity or encroachment is subsequently found to substantially interfere with navigation or commerce.~~

~~(3-18-22)~~()

03. ~~Permitting of Existing Encroachments.~~ (3-18-22)

~~a. The provisions of Title 58, Chapter 13, Section 58-1312, Idaho Code, apply.~~ (3-18-22)

~~b. Any new encroachments, or any unpermitted encroachments constructed after January 1, 1975, are subject to these rules.~~ (3-18-22)

013. -- 014. (RESERVED)

015. ENCROACHMENT STANDARDS.

01. Single-Family and Two-Family Docks. ~~The following parameters govern the size and dimensions of single family docks and two family docks.~~ (3-18-22)

~~a. Total waterfront ownership must include no less than at least twenty-five (25) linear feet of shoreline for single-family docks or fifty (50) feet of linear shoreline for two-family docks. ()~~

~~ba. No part of the structure encroachment waterward of the O/AHWM natural or ordinary or artificial high water mark or artificial high water mark may exceed ten (10) feet in width, excluding the slip cut out. (3-18-22)~~()

~~cb. Total surface decking area waterward of the O/AHWM natural or ordinary or artificial high water mark, including approach ramp and walkway may not exceed seven hundred (700) square feet, including approach ramp and walkway for a single-family dock and may not exceed or one thousand one hundred (1,100) square feet, including approach ramp and walkway for a two-family dock. (3-18-22)~~()

~~de. No portion of the docking facility encroachment may extend beyond the line of navigability.~~

~~Shorter docks are encouraged whenever practical and new docks normally will be installed within the waterward extent of existing docks or the line of navigability.~~ (3-18-22)()

~~ed.~~ A variance to the standards in this Subsection 015.01 ~~will~~ may only be approved by the Department when justified by site specific considerations, ~~such as the distance to the established line of navigability. A lease may~~ Any variance granted may require a lease be required per IDAPA 20.03.17 – Rules Governing Leases on State-Owned Navigable Waterways. (3-18-22)()

02. Community Docks. (3-18-22)

~~a.~~ A community dock is considered a commercial navigational aid for purposes of processing the application. (3-18-22)

~~ab.~~ No part of the ~~structure encroachment~~ waterward of the ~~O/AHWM natural or ordinary high water mark or artificial high water mark~~ may exceed ten (10) feet in width except breakwaters when justified by site specific conditions and approved by the Department. (3-18-22)()

~~be.~~ A Total waterfront ownership community dock may not have less than must have at least fifty (50) linear feet of combined shoreline frontage. ()

~~cd.~~ Moorage facilities will be limited in size as a function of the length of shoreline dedicated to the community dock. The surface decking area of the community dock is limited to may not exceed the greater of seven hundred (700) square feet or is limited to the product of the length of the linear feet of the upland shoreline multiplied by seven (7) square feet per linear foot or a minimum of seven hundred (700) square feet. However, the Department, at its in its sole discretion, may limit the ultimate size surface decking area when evaluating the proposal and site specific considerations justify a reduction to protect public trust values resources. (3-18-22)()

~~dd.~~ If The Department may allow the surface decking area of a community dock to exceed the size limitations if the need for a breakwater is demonstrated. a breakwater will be incorporated into the structure of a dock, and a need for the breakwater can be demonstrated, the Department may allow the surface decking area to exceed the size limitations of Paragraph 015.02. de of these rules. (3-18-22)()

~~ee.~~ A new application form encroachment permit is required to convert ~~change person with~~ an existing community dock in that desires to change the facility to a commercial marina. must submit the following information to the Department: (3-18-22)()

~~i.~~ A new application for an encroachment permit. (3-18-22)

~~ii.~~ Text and drawings that describe which moorage will be public and which moorage will be private. (3-18-22)

03. Commercial Marina. (3-18-22)

~~a.~~ Commercial marinas must have a minimum of At least fifty percent (50%) of their moorage at a commercial marina must be available for use by available to the the general public on either a first come, first served basis for free or rent, or a rent or for lease not to exceed one (1) lease agreement for a period of time up to one (1) year. Moorage contracts Moorage leases may be renewed annually, so long as a renewal term does not not to exceed one (1) year. Moorage for use by the general public Public moorage may must not include conditions that result in a transfer of ownership of moorage or real property, or require membership in a club or organization. (3-18-22)()

~~b.~~ A permit is required to convert an existing commercial marina into a community dock any other type of encroachment. Commercial marinas that desire to convert some of their moorage to private use must keep at least fifty percent (50%) of their moorage available for use by the to the general public. The permit application must describe, in text and in drawings, illustrate and clearly depict which moorage will be public and which moorage will be private is public moorage and which is private moorage. Commercial marinas that are converted to a community dock must conform to all the community dock standards,

~~including frontage requirements and square footage restrictions. This change of use must be approved by the Department through a new encroachment permit prior to implementing the change. (3-18-22) ()~~

c. If local city or county ordinances governing parking requirements for marinas have not been adopted, commercial marinas must provide ~~at least a minimum of upland vehicle parking equivalent to one (1) upland parking space per two (2) public watercraft or float home moorages. If private moorage is tied to specific parking spaces or designated parking areas~~ designated parking spaces or areas, then the commercial marina must provide at least one (1) upland parking space per one (1) private watercraft or float home moorage ~~must be provided.~~ In the event of conflict, the local ordinances prevail. (3-18-22) ()

~~d. If a commercial marina can be accessed from a road, marina customers must be allowed access via that road. (3-18-22)~~

~~ed.~~ Moorage that is not available for public use as described in Paragraph 015.03.a. of these rules is private moorage. (3-18-22)

~~fe.~~ When calculating the moorage percentage, the amount of public moorage is to be compared to the amount of private moorage. Commercial marinas with private float home moorage are required to provide either non-private float home moorage or two (2) public use boat moorages for ~~each~~ every private float home moorage in addition to any other required public use boat moorages. (3-18-22) ()

~~gf.~~ When private moorage is permitted, the public moorage must be of similar size and quality as private moorage, except for float home moorage as provided in Paragraph 015.03.f. (3-18-22)

~~hg.~~ Commercial marinas with private moorage must form a condominium association, co-op, or other entity that owns and manages the marina, littoral rights, upland property sufficient to maintain and operate a marina, ~~and private submerged land, if present.~~ This entity is responsible for obtaining and maintaining an encroachment permit under these rules and a submerged lands lease under IDAPA 20.03.17, "Rules Governing Leases on State-Owned Navigable Waterways ~~Submerged lands and Formerly Submerged Lands.~~" (3-18-22) ()

~~i. Existing commercial marinas that desire to change their operations and convert some of their moorage to private use must keep at least fifty percent (50%) of their moorage available for use by the general public. This change in operations must be approved by the Department through a new encroachment permit prior to implementation of the change. The permit application must describe, in text and in drawings, which moorage will be public and which moorage will be private. (3-18-22)~~

04. Covered Slip. (3-18-22)

a. Covered slips, regardless of when constructed, may not have a temporary or permanent residential area. (3-18-22)

b. Covered slips with ~~permanent~~ hard roofs and up to three (3) walls may be maintained or replaced at their current size if ~~they were~~ previously permitted or ~~if they were~~ constructed prior to January 1, 1975. These structures may not be expanded nor converted to boat garages. ~~should have colors that blend with the natural surroundings and are approved by the Department.~~ (3-18-22) ()

c. Covered slips may not be supported by extra piling nor constructed with hard roofs. (3-18-22)

~~d. Covered slips should have colors that blend with the natural surroundings and are approved by the Department.~~ Slip covers ()

~~e. Fabric~~ e Covered slips must be constructed as canopies without sides unless the following standards are followed: (3-18-22) ()

i. At least two (2) feet of open space is left between the bottom of the cover and the dock or pier surface; and (3-18-22)

- ii. Fabric for canopy and sides will transmit at least seventy-five percent (75%) of the natural light. (3-18-22)

05. Boat Garage. (3-18-22)

a. Boat garages ~~must only be used for mooring boats~~ watercraft, and ~~have no~~ may not have separate fully enclosed rooms, overhead storage, or ~~temporary or permanent~~ a residential area of any kind as defined by these rules. ~~are considered nonnavigational encroachments.~~ (3-18-22) ()

b. Applications for permits to construct new boat garages ~~to expand the total square footage of the existing footprint, or raise the height or to expand the height or square footage of existing boat garage will not be~~ no longer accepted unless the application is to support local emergency services. (3-18-22) ()

c. ~~A permit is required to replace or relocate an existing boat garage. A new boat garage may not be expanded in size or height, and must retain the original square footage and footprint. The application must include detailed, sealed drawings that depict all features including walls, roof, windows, doors, and slip. The drawings must include an interior layout that depicts the dimensions of the slip cut out and location of any interior walls. , and boat garages must retain Existing permitted boat garages may be maintained or replaced with the current square footage of their existing footprint and height.~~ (3-18-22) ()

~~d. Relocation of an existing boat garage will require a permit.~~ (3-18-22)

06. Breakwaters. Breakwaters ~~built upon the lake for use in aid of navigation~~ will not be authorized below the ~~level of normal~~ low water mark without an extraordinary showing of need, provided, however that this does not apply to floating breakwaters secured by piling and used to protect private property from recurring wind, wave, or ice damage, or used to control traffic in busy areas of lakes. The breakwater must be designed to counter wave actions of known wave heights and wave lengths. (3-18-22) ()

07. Seawalls. Seawalls should be placed at or above the ~~O/AHWM ordinary high water mark, or the artificial high water mark, if applicable possible.~~ Seawalls are ~~not an aid to navigation, non-navigational~~ and placement waterward of the ~~O/AHWM ordinary or artificial high water mark~~ will generally not be allowed. (3-18-22) ()

08. Riprap. (3-18-22)

a. Riprap used to stabilize shorelines will consist of rock ~~or other materials~~ that ~~are~~ is appropriately sized to resist movement from anticipated wave heights or tractive forces of the water flow. The rock must be sound, dense, durable, and angular rock resistant to weathering and free of fines. The riprap must overlie a distinct filter layer ~~which that~~ consists of sand, gravel, or nonwoven geotextile fabric. The riprap and filter layer must be keyed into the bed below the ~~O/AHWM ordinary or artificial high water mark~~, as applicable. If the applicant wishes to install riprap with different standards, they must submit a design that is signed and stamped for construction purposes by a professional engineer registered in the state of Idaho. (3-18-22) ()

b. Riprap used to protect the base of a seawall or other vertical walls may not need to be keyed into the bed and may not require a filter layer, at the Department's discretion. (3-18-22)

09. Mooring Buoys. Buoys must be installed a minimum of thirty (30) feet away from littoral right lines of adjacent littoral owners. One (1) mooring buoy per littoral owner may be allowed ~~for single-family encroachments.~~ (3-18-22) ()

10. Float Homes. (3-18-22)

a. Applications for permits to construct new float homes, ~~convert existing encroachments into float homes,~~ or to expand the total square footage of the existing footprint, will not be accepted. (3-18-22) ()

b. ~~Applications for relocation of~~ A permit is required to relocate, rebuild, or add another story to existing float homes, within a lake or from one (1) lake to another. Applications are subject to the following requirements: (3-18-22)()

i. The applicant must provide P ~~proof of ownership or long-term lease of the upland parcels adjacent to the relocation site, must be furnished to the Department.~~ (3-18-22)()

ii. The applicant must provide detailed, scaled drawings stamped approved by an engineer licensed in the state of Idaho that accurately illustrate and depict all interior and exterior features, layouts, and dimensions. ()

iii. The applicant must show that all wastes and waste-water will be transported to shore disposal systems by a method approved by the Idaho Department of Environmental Quality or the appropriate local health authority. Applicant must either obtain a letter from the local sewer district stating that the district will serve the float home or demonstrate that sewage will be appropriately handled and treated. Applicant must also provide a statement from a professional plumber licensed in the state of Idaho that the plumbing was designed in accordance with IDAPA 24.39.20, "Rules Governing Plumbing," as incorporated by reference in Section 003 of these rules, installed properly, and has been pressure tested. (3-18-22)()

e. ~~Encroachment applications and approved local permits are required for replacement of, or adding another story to, a float home.~~ (3-18-22)

d. ~~All plumbing work on float homes must be done in accordance with IDAPA 24.29.20, "Rules Governing Plumbing" and IDAPA 29.39.10, "Rules of the Idaho Electrical Board," as incorporated by reference in Section 003 of these rules.~~ (3-18-22)

e. ~~All float homes in Idaho that connect with upland sewer or septic systems must implement the following standards by December 31, 2012:~~ (3-18-22)

i. ~~The holding tank with pump or grinder unit must be adequately sealed to prevent material from escaping and to prevent lake water from entering. The tank lid must have a gasket or seal, and the lid must be securely fastened at all times unless the system is being repaired or maintained. An audible overflow alarm must also be installed.~~ (3-18-22)

ii. ~~Grinders or solids handling pumps must be used to move sewage from the float home to the upland system.~~ (3-18-22)

iii. ~~If solids handling pumps are used, they must have a minimum two (2) inch interior diameter discharge, and the pipe to the shoreline must also have a minimum two (2) inch interior diameter. Connectors used on either end of this pipe may not significantly reduce the interior diameter.~~ (3-18-22)

iv. ~~The pipeline from the float home to the shoreline must be a continuous line with no mechanical connections. Check valves and manual shutoff valves must be installed at each end of the line. Butt fused HDPE, two hundred (200) psi black polyethylene pipe, or materials with similar properties must be used. The pipeline must contain sufficient slack to account for the maximum expected rise and fall of the lake or river level. The pipeline must be buried in the lakebed for freeze protection where it will be exposed during periods of low water. Pipelines on the bed of the lake must be appropriately located and anchored so they will not unduly interfere with navigation or other lake related uses.~~ (3-18-22)

v. ~~Manifolds below the ordinary, or artificial if applicable, high water mark that collect two (2) or more sewer lines and then route the discharge to the shore through a single pipe are not allowed. All float homes must have an individual sewer line from the float home to a facility on the shore.~~ (3-18-22)

f. ~~All float home permittees will have their float homes inspected by a professional plumber licensed in the state of Idaho by December 31, 2012. The inspection will be documented with a report prepared by the inspector. The report will document whether or not the float homes meet the standards in Paragraph 015.10.e. of these rules, and~~

will be provided to the Department before the above date.

(3-18-22)

~~g. A float home permittee must request an extension, and give cause for the extension, if their float home does not meet the standards in paragraph 015.01.e. of these rules by December 31, 2012. Extensions beyond December 31, 2016 will not be allowed. A permittee's failure to either request the extension, if needed, or to meet the December 31, 2016 deadline will be a violation subject to the provisions of Section 080 of these rules.~~ (3-18-22)

~~h. Construction or remodel work on afloat home that costs fifty percent (50%) or more of its assessed value will require an encroachment application and construction drawings stamped by an engineer, licensed in the state of Idaho.~~ (3-18-22)

11. Excavating or Dredging Channel.

(3-18-22) ()

a. Excavating, or dredging, ~~or dredging channels~~, requires an encroachment permit and are processed in accordance with Section 030 of these rules. (3-18-22) ()

b. ~~An excavated or Dredging channel or basin~~ to provide/improve access to navigable waters must have a clear environmental, economic, or social benefit to the people of the state/public, and must not result in any appreciable environmental degradation. ~~A Dredging channel or basin~~ will not be approved if the cumulative effects of these features ~~in the same navigable lake~~ would be adverse to fisheries or water quality. (3-18-22) ()

c. Whenever practical, ~~dredging such channels or basins~~ must ~~be located to serve~~ benefit more than one (1) littoral owner or a commercial marina; provided, however, ~~that no dredging basin or channel~~ will not be approved that will provide access for watercraft to non-littoral owners. (3-18-22) ()

12. ATONs. Aids to Navigation will conform to the requirements established by the United States Aid to Navigation system. (3-18-22)

13. General Encroachment Standards.

(3-18-22)

a. Square Footage. The square footage limitations in Subsections 015.01 and 015.02 include all ~~structures~~ encroachments beyond the O/AHWM ~~ordinary or artificial high water mark such as~~ including the approach, ramp, pier, dock, and all other floating or suspended structures that cover the lake surface, except for: (3-18-22) ()

i. Boat lifts as allowed pursuant to Paragraph 015.13.b. (3-18-22)

ii. Jet ski ramp, port, or lift as allowed pursuant to Paragraph 015.13.b. (3-18-22)

iii. Slip covers. (3-18-22)

iv. Undecked portions of breakwaters. (3-18-22)

b. Boat Lifts and Jet Ski Lifts. (3-18-22)

i. Single-family docks are allowed ~~a single~~ one (1) boat lift and two (2) jet ski lifts, or two (2) boat lifts, ~~without adding their footprint to the~~ which are not included in calculating total ~~dock~~ square footage. Additional lifts will ~~require that~~ include fifty percent (50%) of the footprint square footage of the largest lifts ~~be included in the~~ into calculating total allowable square footage ~~of the dock or pier~~ as per Subsection 015.01. (3-18-22) ()

ii. Two-family docks are allowed either two (2) boat lifts and four (4) jet ski lifts, or four (4) boat lifts, ~~without adding their footprint to the~~ which are not included in calculating total ~~dock~~ square footage. Additional lifts will ~~require that~~ include fifty percent (50%) of the footprint square footage of the largest lifts into calculating total allowable square footage ~~be included in the allowable square footage of the dock or pier~~ as per Subsection 015.01. (3-18-22) ()

iii. A boat lift or jet ski lift within lines drawn perpendicular from the shore to the outside dock edges will not require a separate permit if the lift is outside the ten (10) foot adjacent littoral owner setback, the lift does not extend beyond the line of navigability, and the lift does not count toward the square footage of the dock as outlined in Subparagraphs 015.13.b.i. and 015.13.b.ii. The permittee must send a revised permit drawing with the lift location as an application to the Department. If the lift meets the above conditions, the application will be approved as submitted. Future applications must include the lifts. (3-18-22)

iv. Community docks are allowed either one (1) boat lift or two (2) jet ski lifts per moorage. Boat lifts placed outside of a slip must be oriented with the long axis parallel to the dock ~~structure~~. Additional lifts will require that fifty percent (50%) of their footprint be included in the allowable square footage of the dock or pier as per Subsection 015.02. (3-18-22) ()

c. Angle from Shoreline. (3-18-22)

i. Where feasible, all docks, piers, or similar structures must ~~be constructed so as to protrude as nearly as possible~~ protrude at right angles to the general shoreline as nearly as possible, lessening the potential for to minimize infringement on adjacent littoral rights. (3-18-22) ()

ii. Where ~~it is not feasible to place docks at~~ right angles to the ~~general~~ shoreline are not feasible, the Department will work with the applicant to ~~review and approve the applicant's proposed design an acceptable alternative~~ configuration ~~and location of the dock and the dock's~~ and angle from shore. (3-18-22) ()

d. Length of Community Docks and Commercial Navigational Encroachments. Docks, piers, or other ~~works encroachments~~ may extend ~~to a length that will~~ as far as necessary to provide access ~~to a water depth that will afford sufficient draft for water craft customarily in use on the particular body of water, except that no structure may extend beyond within~~ the normal accepted line of navigability. ~~established through use unless a~~ Additional length may be authorized by permit or order of the Director. The Department may authorize a longer or shorter length if justified by specific site conditions. If a ~~normally accepted~~ line of navigability has not been established through use, the ~~Director~~ Department may ~~from time to time as he deems necessary~~, designate a line of navigability for the purpose of effective administration of these rules. (3-18-22) ()

e. Presumed Adverse Effect. It will be presumed, subject to rebuttal, that single-family and two-family navigational encroachments will have an adverse effect upon adjacent littoral rights if located closer than ten (10) feet from adjacent littoral right lines, and that commercial navigational encroachments, community docks or nonnavigational encroachments will have ~~an like~~ an adverse effect upon adjacent littoral rights if located closer than twenty-five (25) feet to adjacent littoral right lines. Written consent of the adjacent littoral owners ~~s or owners~~ will automatically rebut the presumption. All boat lifts and other structures attached to the encroachments are subject to the above presumptions of adverse ~~ae~~ effects. (3-18-22) ()

f. Weather Conditions. Encroachments and their building materials must be designed and installed to withstand normally anticipated weather conditions in the area. Docks, piers, and similar structures must be adequately secured to pilings or anchors to prevent displacement due to ice, wind, and waves. Flotation devices ~~for docks, float homes, etc.~~ must be reasonably resistant to puncture and other damage. (3-18-22) ()

g. Markers. If the Department determines that an encroachment is not of sufficient size to be readily seen or poses a hazard to navigation, the permit will specify ~~that the use of ATONs aids to navigation be used to~~ clearly identify the potential navigational hazard. (3-18-22) ()

h. All encroachments that connect with upland sewer or septic systems must implement the following standards: ()

i. The holding tank with pump or grinder unit must be adequately sealed to prevent material from escaping and to prevent lake water from entering. The tank lid must have a gasket or seal, and the lid must be securely fastened at all times unless the system is being repaired or maintained. An audible overflow alarm must also be installed. ()

ii. Grinders or solids handling pumps must be used to move sewage from the encroachment to the upland system. ()

iii. If solids handling pumps are used, they must have a minimum two (2) inch interior diameter discharge, and the pipe to the shoreline must also have a minimum two (2) inch interior diameter. Connectors used on either end of this pipe may not significantly reduce the interior diameter. ()

iv. The pipeline to the shoreline must be a continuous line with no mechanical connections. Check valves and manual shutoff valves must be installed at each end of the line. Butt fused HDPE, two hundred (200) psi black polyethylene pipe, or materials with similar properties must be used. The pipeline must contain sufficient slack to account for the maximum expected rise and fall of the water level. The pipeline must be buried in the lakebed for freeze protection where it will be exposed during periods of low water. Pipelines on the bed of the lake must be appropriately located and anchored so they will not unduly interfere with navigation or other lake related uses. ()

v. Manifolds below the O/AHWM that collect two (2) or more sewer lines and then route the discharge to the shore through a single pipe are not allowed. All encroachments must have an individual sewer line from the encroachment to a facility on the shore. ()

vi. All permittees will have their encroachment inspected by a professional plumber licensed in the state of Idaho. The inspection will be documented with a report prepared by the inspector. The report will document whether or not the encroachment meets the standards in Paragraph 015.13.h. of these rules, and will be provided to the Department within thirty (30) days of any modification that impacts plumbing ()

i. All electrical work installed on encroachments must be done in accordance with IDAPA 29.39.10, "Rules of the Idaho Electrical Board," as incorporated by reference in Section 003 of these rules. ()

j. All plumbing work on encroachments must be done in accordance with IDAPA 24.29.20, "Rules Governing Plumbing" as incorporated by reference in Section 003 of these rules. ()

k. All encroachments beyond the O/AHWM mark must adhere to the safety standards set forth in IDAPA 18.08.01, "Idaho Department of Insurance State Fire Marshal – Adoption of the International Fire Code" as incorporated by reference in Section 003 of these rules. ()

1.h. Overhead Clearance. (3-18-22)

i. Overhead clearance between the O/AHWM ~~natural or ordinary high water mark or the artificial high water mark, if there be one,~~ and the structure or wires must be sufficient to pass the largest vessel that may reasonably be anticipated to use the ~~subject~~ waters in the vicinity of the encroachment. ~~In no case will the clearance be required to exceed~~ The clearance must not exceed thirty (30) feet unless after public hearing, the Department determines ~~after public hearing that it a higher clearance is in the overall public interest that the clearance exceed be in excess of thirty (30) feet necessary for the public's benefit. Irrespective of height above the water, approval of~~ Approval of structures or wires presenting a ~~hazard for boating or other water related~~ navigational hazard activities may ~~be conditioned upon~~ require adequate safety marking to show clearance and ~~otherwise to~~ warn the public of the hazard, ~~which will be specified. The Department will specify~~ in the permit ~~the amount of overhead clearance and markings required.~~ (3-18-22) ()

ii. When the permit provides for overhead clearance or safety markings under Paragraph 015.13.h., the Department will consider the applicable requirements of the United States Coast Guard, the Idaho Transportation Department, the Idaho Public Utilities Commission and any other applicable federal, state, or local laws ~~regulations~~. (3-18-22) ()

im. Beaded Foam Flotation. Beaded foam flotation must be completely encased in a manner that will maintain the structural integrity of the foam. The encasement must be resistant to the entry of rodents. (3-18-22)

14. Floating Toys.

(3-18-22)

~~a. Encroachment permits are not required for floating toys, except where noted in Paragraph 015.14.b. Counties and cities may regulate floating toys for public safety and related concerns.~~ (3-18-22)

~~ab. A floating toy becomes a nonnavigational encroachment, and~~ An encroachment permit is required for floating toys when they are anchored to the lakebed with an anchor that requires equipment for removal or when located waterward of the line of navigability for more than twenty-four (24) consecutive hours, when one (1) of the following occurs: (3-18-22) ()

~~i. It is anchored to the bed of the lake with a device that requires equipment to remove it from the bed of the lake, or;~~ (3-18-22)

~~ii. It is located waterward of the line of navigability for more than twenty-four (24) consecutive hours.~~ (3-18-22)

15. Marine Motor Fuel Dispensing Facilities.

()

~~a. Any portion of a marine motor fuel dispensing facility located below the O/AHWM requires an encroachment permit. Wharves, piers, or docks at marine motor fuel dispensing facilities must be used exclusively for the dispensing or transfer of petroleum products to or from marine craft.~~ ()

~~b. Spills of liquids that create any sheen on the water must be reported immediately to the local fire department and jurisdictional authorities.~~ ()

16. Fill Material.

()

~~a. The placing of any dredged or fill material, refuse or waste matter intended as or becoming fill material, on or in the beds or waters of any navigable lake waterway is an encroachment and requires a permit from written approval by the Department.~~ ()

1765. Lake Specific Encroachment Permit Terms.

(3-18-22)

~~a. The Department may use encroachment permit conditions specific to individual lakes waterways if the permit conditions are necessary~~ needed ~~to protect public trust values~~ resources ~~and the permit condition is approved by the Land Board.~~ (3-18-22) ()

~~b. Lake specific encroachment permit conditions may supplement, negate, or alter encroachment standards established in Section 015 of these rules.~~ (3-18-22)

~~c. Lake specific encroachment permit conditions will be used to assist with implementing lake management plans authorized by Title 39, Chapter 66, Idaho Code; Title 39, Chapter 85, Idaho Code; Title 67, Chapter 43, Idaho Code; and Title 70, Chapter 2, Idaho Code. The purpose for using such lake specific permit conditions is to address lake specific environmental concerns that require attention and create a need for a variance from what is allowed on other lakes.~~ (3-18-22) ()

~~d. Lake specific encroachment permit terms may be read at the Idaho Department of Lands website: <https://www.idl.idaho.gov/>.~~ (3-18-22) ()

01876. -- 019. (RESERVED)

020. APPLICATIONS.

~~01. Encroachment Applications. No person shall hereafter make or cause to be made any~~

encroachments on, in or above the beds or waters of any navigable lake in the state of Idaho are allowed without first making application to and receiving ~~written approval~~ an encroachment permit from the ~~Idaho~~ Department. ~~The placing of dredged or fill material, refuse or waste matter intended as or becoming fill material, on or in the beds or waters of any navigable lake in the state of Idaho shall be considered an encroachment and written approval by the department is required. If demolition is required prior to construction of the proposed encroachment, then the application must include a description of any demolition activities and the steps that will be taken to protect water quality and other public trust values/resources.~~ No demolition activities may proceed until the permit is issued.

(3-18-22) ()

02. Signature Requirement. Only persons who are littoral owners or lessees of a littoral owner ~~shall~~ be ~~are~~ eligible to apply for encroachment permits. A person who has been specifically granted littoral rights or dock rights from a littoral owner ~~shall~~ is ~~also be~~ eligible for an encroachment permit; the grantor of ~~these~~ such littoral rights, however, ~~shall~~ are no longer be eligible to apply for an encroachment permit. Except for water lines or utility lines, the possession of an easement to the shoreline does not qualify a person to be eligible for an encroachment permit.

(3-18-22) ()

03. Other Permits. ~~Nothing in these rules shall excuse a~~ A person seeking to make an encroachment ~~from must also~~ obtaining any additional approvals lawfully required by federal, local or other state agencies. ~~(3-18-22) ()~~

04. Repairs, Reinstallation of Structures. No permit is required to clean, maintain, or repair an existing permitted encroachment, but a permit is required to ~~completely~~ replace, enlarge, or extend an existing encroachment. Replacement of single-family and two-family docks ~~may will~~ not require a permit if ~~they meet the~~ the replacement is within current standards criteria as provided in Section 58-1305(e), Idaho Code. Idaho Code § 58-1305(e). Reinstalling Replacing the top or decking of a dock, wharf or similar structure ~~an encroachment is~~ shall be considered a repair. R; reinstallation replacement of winter damaged or wind and water damaged ~~of wind or water damaged~~ pilings, docks, ~~or~~ or floats float logs ~~shall be~~ is considered a repair. ~~Repairs, or replacements~~ Any repair or replacement under Section 58-1305(e), Idaho Code, that adversely affects the bed of the lake will be considered is a violation of these rules.

(3-18-22) ()

05. Dock Reconfiguration.

(3-18-22)

a. ~~Rearrangement~~ Reconfiguration or rearrangement of single-family and two-family docks will require a new application for an encroachment permit. ~~(3-18-22) ()~~

b. Reconfiguration or ~~R~~earrangement of community docks and commercial navigational encroachments may not require a new application for an encroachment permit if the changes are only internal and navigational. The ~~D~~epartment ~~shall~~ must be consulted prior to commencement of modifications ~~being made~~, and ~~shall will use~~ consider the following ~~criteria to help~~ determine if a new permit ~~must be submitted~~ is required. ~~(3-18-22) ()~~

i. Overall footprint does not change in dimension or orientation; ~~(3-18-22) ()~~

ii. No increase in the square footage, as described in the existing permit ~~and in accordance with Paragraph 015.13.a., occurs.~~ This only applies to community docks; ~~(3-18-22) ()~~

iii. The entrances and exits of the ~~facility~~ encroachment do not change. ~~(3-18-22) ()~~

iv. The number of slips does not change. ()

06. RedDredging. A permit is required before ~~RedD~~redging or redredging a channel or basin ~~shall will~~ be ~~considered a new encroachment and a permit is required unless~~ redredging is specifically authorized by the outstanding an existing permit. ~~Dredging work must comply with water quality standards administered by the Department of Environmental Quality. Water quality certification from the Idaho Department of Environmental Quality is required regardless of how redredging is addressed in any existing or future permit.~~ ~~(3-18-22) ()~~

07. Forms, Filing. Applications ~~and plans shall~~ must be filed on forms provided by the Department together with filing fees and costs of publication when required by these rules. Costs ~~of preparation of~~ incurred to prepare the application, including all necessary maps and drawings, ~~shall~~ must be paid by the applicant.

(3-18-22) ()

a. Plans ~~shall~~ must include detailed information to demonstrate compliance with the applicable standards of these rules, and the following information at a scale sufficient to show the information requested:

(3-18-22) ()

i. Lakebed profile in relationship to the proposed encroachment. The lakebed profile ~~shall~~ must ~~show~~ clearly depict the O/AHWM, the line of navigability, and the low water mark ~~summer and winter water levels.~~

(3-18-22) ()

ii. Copy of most recent survey or county plat showing the full extent of the applicant's ~~lot~~ upland parcel and the adjacent ~~littoral lots~~ upland parcels.

(3-18-22) ()

iii. Proof of current ownership or control of ~~littoral upland~~ property or littoral ~~or riparian~~ rights. (3-18-22) ()

iv. ~~A general vicinity map~~ Scaled maps accurately depicting the location of all encroachments and their dimensions.

(3-18-22) ()

v. Scaled air photos or maps ~~showing~~ accurately depicting the lengths of adjacent docks as an indication of the line of navigability, distances to adjacent encroachments, distance to littoral lines, and the location and orientation of the proposed encroachment in the lake.

(3-18-22) ()

vi. Total square footage of proposed docks and other structures, excluding pilings, that cover the lake surface.

(3-18-22)

vii. Names and current mailing addresses of adjacent littoral landowners. (3-18-22)

~~viii. Applications for all~~ Plans submitted for enclosed encroachments must accurately depict all interior and exterior features. that are enclosed structures. Public, commercial, and residential encroachments may require engineered plans approved ~~stamped by a licensed professional engineer licensed in the state of Idaho.~~ ()

b. Applications must be submitted or approved by the littoral owner or, if the encroachment will lie over or upon private lands between the ~~natural or ordinary high water mark~~ OHWM and the ~~AHWM artificial high water mark,~~ the application must be submitted or approved by the owner of ~~such~~ those lands. When the littoral owner is not the applicant, the application ~~shall~~ must bear the owner's signature as approving the encroachment prior to filing.

(3-18-22) ()

c. If more than one (1) littoral owner exists, the application must bear the signature of all littoral owners, or the signature of an authorized officer of an entity or ~~designated homeowner's~~ or property management association.

(3-18-22) ()

d. Applications for noncommercial ATONs, encroachments intended to improve waterways for navigation, wildlife habitat, and other recreational uses by members of the public must be filed by any municipality, county, state, or federal agency, or other entity empowered to make ~~such~~ those improvements. Application fees are not required for these encroachments.

(3-18-22) ()

e. The following applications ~~shall~~ must be accompanied by the respective nonrefundable ~~filing~~ fees together with a deposit toward the cost of newspaper publication, which ~~deposit shall~~ will be determined by the ~~Department~~ Director at the time of filing:

(3-18-22) ()

i. Nonnavigational encroachments require a fee of one thousand dollars (\$1,000); except that nonnavigational encroachments for bank stabilization and erosion control require a fee of five hundred fifty dollars

(\$550).

(3-18-22)

ii. Commercial navigational encroachments require a ~~base~~ fee of two thousand dollars (\$2,000). If the costs of processing an application exceed this amount, then the applicant may be charged additional costs as allowed by ~~Title 58, Chapter 13, Section Idaho Code § 58-1307, Idaho Code;~~ (3-18-22) ()

iii. Community navigational encroachments require a fee of two thousand dollars (\$2,000); and (3-18-22)

iv. Navigational encroachments extending beyond the line of navigability require a fee of one thousand dollars (\$1,000). (3-18-22)

f. Applicants ~~shall must~~ pay any balance due ~~on publication costs~~ before written approval will be issued. The Department ~~shall will~~ refund ~~any publication costs if the notice is not published any excess at or before final action on the application.~~ (3-18-22) ()

g. Application for a single-family or two-family dock not extending beyond the line of navigability or a nonnavigational encroachment for a buried or submerged water ~~intake~~ line serving four or less households ~~shall must~~ be accompanied by a nonrefundable ~~filing~~ fee of four hundred twenty-five dollars (\$425). (3-18-22) ()

h. No publication cost is required for applications ~~s~~ for noncommercial navigational encroachments ~~s~~ not extending beyond the line of navigability or for application for installation of buried or submerged water ~~intake~~ lines and utility lines. (3-18-22) ()

i. Applications and plans ~~shall must~~ be stamped with the date ~~received by the Department of filing.~~ (3-18-22) ()

j. Applications that are incomplete, not in the proper form, not containing the required signature(s), or not accompanied by filing fees and costs of publication ~~when required, shall will~~ not be accepted for filing. The ~~d~~Department ~~shall will~~ send the applicant a written notice of incompleteness with a listing of the application's deficiencies. The applicant will be given thirty (30) days from receipt of the notice of incompleteness to resubmit the required information. The deadline may be extended with written consent of the ~~d~~Department. If the given deadline is not met, the ~~d~~Department will notify the applicant that the application has been denied due to lack of sufficient information. The applicant may reapply at a later date, but will be required to pay another filing fee and publication fee, if applicable. (3-18-22) ()

021. -- 024. (RESERVED)

025. PROCESSING OF APPLICATIONS FOR SINGLE-FAMILY AND TWO-FAMILY NAVIGATIONAL ENCROACHMENTS ~~WITHIN LINE OF NAVIGABILITY.~~

01. Single-Family and Two-Family Navigational Encroachments. Applications for single-family and two-family navigational encroachments not extending beyond the line of navigability will be processed with a minimum of procedural requirements and ~~shall will~~ not be denied except in the most unusual of circumstances. ~~No newspaper publication, formal appearance by the applicant, or hearing is contemplated.~~ (3-18-22) ()

02. Notification of Adjacent Littoral Owners. The ~~d~~Department will provide a copy of the application to the littoral owners ~~immediately~~ adjacent to the applicant's property. If the applicant owns one (1) or more adjacent lots, the ~~d~~Department ~~shall will~~ notify the owner of the next adjacent lot. If the proposed encroachment may infringe upon the littoral rights of an adjacent owner, the ~~d~~Department will provide notice of the application by certified mail, return receipt requested; otherwise, the notice will be sent by regular mail. Notification will be mailed to the adjacent littoral owners' usual place of address, which, if not known, will be the address shown on the records of the county treasurer or assessor. The applicant may submit the adjacent littoral owners' signatures, consenting to the proposed encroachment, in lieu of the ~~d~~Department's notification. (3-18-22) ()

03. Written Objections. (3-18-22)

a. If an adjacent littoral owner files written objections to the application with the ~~d~~Department within ten (10) ~~days~~ from the date of service or receipt of notice of ~~the completed~~ application, the ~~d~~Department ~~shall will~~ ~~schedule~~ ~~fix a time and a place for~~ a hearing. In computing the time to object, the day of service or receipt of notice of the application ~~shall will~~ not be counted. Objections must be received ~~by the Department~~ within the ten (10) day period. ~~by mail or hand delivery to in the local dDepartment office or the director's office in Boise.~~ If the last day of the period is Saturday, Sunday or a legal holiday, the time within which to object ~~shall will~~ run until the end of the first business day thereafter. (3-18-22) ()

b. The applicant and any objectors may agree to changes in the ~~permit-proposed encroachment~~ that result in the objections being withdrawn. Department employees may facilitate ~~this any such~~ agreement. Participation by ~~d~~Department personnel in this informal mediation ~~shall will~~ not constitute a conflict of interest for participation in the hearing process. A withdrawal of objections must be in writing, completed prior to a scheduled hearing, and contain: (3-18-22) ()

- i. Signatures of the applicant and the objecting party; (3-18-22)
- ii. A description of the changes or clarifications to the permit that are acceptable to the applicant, the objecting party, and the ~~d~~Department. (3-18-22) ()

04. **Unusual Circumstances.** Even though no objection is filed by an adjacent littoral owner to a noncommercial navigational encroachment, ~~if the Ddirector may require a hearing deems it advisable~~ because of the existence of unusual circumstances, ~~he may require a hearing.~~ (3-18-22) ()

05. **Hearings.** Hearings ~~fixed set~~ by the ~~d~~Director following an objection ~~pursuant to Subsection 025.03~~ or the Director's own determination ~~pursuant to Subsection 025.04 shall will be held within sixty (60) days from the date the application is accepted for filing. be fixed as to time and place, but no later than sixty (60) days from date of acceptance for filing of the application. accepted.~~ At the hearing, the applicant, ~~the Department~~ and any adjacent ~~littoral riparian~~ owner filing timely objections may appear personally or through an authorized representative and present evidence. ~~The dDepartment may also appear and present evidence at the hearing. In such hearings the The Director will designate a hearing officere coordinator shall who will~~ act as a fact finder and not a party. ~~The Director, at his discretion, will designate a Department representative to sit as the hearing coordinator.~~ Provided, however, that the parties may agree to informal disposition of an application by stipulation, agreed settlement, consent order, or other informal means. (3-18-22) ()

06. **Decision Following a Hearing.** The ~~d~~Director ~~shall will~~, within forty-five (45) days after close of the hearing provided for in Subsections 025.03 or 025.04 render a ~~written~~ final decision ~~and give notice thereof~~ to the parties appearing before him ~~either personally or by certified or registered mail. The final decision shall will be in writing.~~ (3-18-22) ()

07. **Disposition Without Hearing.** If a hearing is not held under Subsection 025.03 or Subsection 025.04, then the ~~d~~Department ~~shall will~~ act upon a complete application ~~filed under Subsection 025.01~~ as expeditiously as possible but no later than sixty (60) days from acceptance of the application. Failure to act within this sixty (60) day timeframe ~~shall will~~ constitute approval of the application. Applications determined to be incomplete under Subsection 020.07 are not subject to the sixty (60) day timeframe until the information requested by the ~~d~~Department and required by the rules has been submitted. (3-18-22) ()

08. **Judicial Review.** Any applicant aggrieved by the Director's final ~~order decision~~, or an aggrieved party appearing at a hearing, ~~shall may~~ have a right to have the proceedings and final ~~decision order~~ reviewed by the district court in the county where the encroachment is proposed by filing a notice of appeal within thirty (30) days from the date of the final ~~decision order~~. An ~~adjacent littoral owner objector~~ ~~shall will~~ be required to deposit an appeal bond with the court, in an amount to be determined by the court but not less than five hundred dollars (\$500) insuring payment to the applicant of damages caused by delay and costs and expenses, including reasonable attorney fees, incurred on the appeal in the event the district court sustains the action of the ~~d~~Director. The applicant need post no bond with the court to prosecute an appeal. (3-18-22) ()

026. -- 029. (RESERVED)

030. PROCESSING OF APPLICATIONS FOR ALL OTHER TYPES OF ENCROACHMENTS.

01. Nonnavigational, Community, and Commercial Navigational Encroachments. Within ten (10) days of receiving a complete application for a nonnavigational encroachment, a community dock, a commercial navigational encroachment, or a navigational encroachment extending beyond the line of navigability, the Department will ~~cause to be published~~ a notice of application once a week for two (2) consecutive weeks in a newspaper of general circulation in the county in which the encroachment is proposed. If, however, the Director orders a public hearing on the application within the time for publication of the above notice, the Department will dispense with publication of the notice of the application and proceed instead to publish a notice of the public hearing as provided in Subsection 030.05. Applications for installation of buried or submerged water ~~intake~~ lines and utility lines are exempt from the newspaper publication process. (3-18-22) ()

02. Encroachments Not in Aid of Navigation. Encroachments not in aid of navigation ~~in navigable lakes~~ will normally not be approved by the Department ~~except and will be considered only~~ in cases involving major environmental, economic, or social benefits that exceed the detrimental effects of the proposed encroachment to public trust values and adjacent real property, if any, to the general public. Approval under these circumstances is authorized only when consistent with the public trust doctrine and when there is no other feasible alternative with less impact on public trust values. (3-18-22) ()

03. Notifications. ~~Upon request or when the~~ The Department deems it appropriate, the Department may ~~furnish~~ provide copies of the application and plans to federal, state and local agencies and to adjacent littoral owners, requesting comment on the likely effect of the proposed encroachment upon adjacent littoral property and public trust values such as navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, water quality, etc. (3-18-22) ()

04. Written Comments or Objections. Within thirty (30) days of the first date of publication, an agency, adjacent littoral owner ~~or lessee~~, or any resident of the state of Idaho may do one (1) of the following: (3-18-22)

a. Notify the Department of their opinions and recommendation, if any, for alternate plans they believe will be economically feasible and will accomplish the purpose of the proposed encroachment without unreasonably adversely affecting adjacent littoral property or public trust values; or (3-18-22)

b. File with the Department written objections to the proposed encroachment and request a public hearing on the application. ~~The hearing must be specifically requested in writing.~~ Any person or agency requesting a public hearing on the application must deposit and pay to the Department an amount sufficient to cover the cost of publishing notice of hearing provided in Subsection 030.05. (3-18-22) ()

05. Public Hearing. ~~The Department will publish~~ A notice of the time and place of public hearing on the application ~~will be published by the Department~~ Director once a week for two (2) consecutive weeks in a newspaper in the county in which the encroachment is proposed, ~~which~~ The public hearing will be held within ninety (90) days from the date the application is accepted for filing. (3-18-22) ()

06. Hearing Participants. Any person may appear at the public hearing and present oral testimony. ~~Written comments will also be received by the Department.~~ Persons may also submit written comments to the Department. (3-18-22) ()

07. Decision After Hearing. The Director will render a final decision and order within thirty (30) days after close of the public hearing. A copy of ~~the his~~ final decision-order will be mailed to the applicant and to each person or agency appearing at the hearing and giving oral or written testimony. ~~in support of or in opposition to the proposed encroachment.~~ (3-18-22) ()

08. Decision Where No Hearing. (3-18-22)

a. ~~In the event~~If no objection to the proposed encroachment is filed with the Department and no public hearing is requested ~~under Subsection 030.04,~~ or ordered ~~by the Director under Subsection 030.01,~~ the Department ~~will issue a final decision and order;~~ based upon its investigation and ~~considering~~ consideration the economics of the navigational necessity, justification or benefit, public or private, of ~~the such~~ proposed encroachment as well as its detrimental effects, if any, upon adjacent real property and public trust values such as navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, water quality, etc. ~~will prepare and forward to the applicant its decision.~~ (3-18-22) ()

b. The applicant, if dissatisfied with the Director's decision, has twenty (20) days from the date of the Director's decision to request reconsideration thereof. If reconsideration is ~~granted~~required, the Director will set a time and place for a reconsideration hearing, not to exceed thirty (30) days from receipt of the request, at which time and place the applicant may appear in person or through an authorized representative and present briefing and oral argument. Upon conclusion of reconsideration, the Director will, by personal service or by registered or certified mail, notify the applicant of ~~his~~ the final decision. (3-18-22) ()

09. **Judicial Review.** Any applicant ~~or party~~ aggrieved by the Director's final ~~decision~~order; ~~or an aggrieved party who appeared at a hearing,~~ has the right to ~~have the proceedings and~~ judicial review of the final decision ~~of the Director~~order reviewed by the district court in the county in which the encroachment is proposed by filing a notice of appeal within thirty (30) days from the date of the final ~~decision~~ order. The applicant need post no bond with the court to prosecute an appeal. Any other aggrieved party is required to deposit an appeal bond with the court, in an amount to be determined by the court but not less than five hundred dollars (\$500), insuring payment to the applicant of damages caused by delay and costs and expenses, including reasonable attorney fees, incurred on the appeal in the event the district court sustains the action of the Director. (3-18-22) ()

10. **Factors in Decision.** In recognition of continuing private property ownership of lands lying between the ~~natural or ordinary high water mark~~ OHWM and the ~~artificial high water mark~~ AHWM, if present, the Department will consider unreasonable adverse effect upon adjacent property and undue interference with navigation the most important factors to be considered in granting or denying an application for either a nonnavigational encroachment or a commercial navigational encroachment not extending below the ~~natural or ordinary high water mark~~ OHWM. If no objections have been filed to the application and no public hearing has been requested or ordered by the Director, or, if upon reconsideration of a decision disallowing a permit, or following a public hearing, the Department determines that the benefits, whether public or private, to be derived from allowing ~~such~~ the encroachment exceed its detrimental effects, the permit will be granted. (3-18-22) ()

031. -- 034. (RESERVED)

035. TEMPORARY PERMITS.

01. **Applicability.** Temporary permits ~~are used~~ may be issued for construction, ~~demolition~~, temporary activities related to permitted encroachments, or other activities approved by the Department. (3-18-22) ()

02. **Permit Term.** ~~These Temporary~~ permits are generally issued for less than one (1) year, but longer terms may be approved by the Department and permits may be extended with Department approval. (3-18-22) ()

03. **Bonding.** The Department may require bondings for temporary permits. (3-18-22) ()

04. **Fee.** The ~~b~~Board sets fees for temporary permits, but the fees will not be greater than the amounts listed for the respective permit types in Subsection 020.07. Fee information is available ~~on the Internet~~ at www.idl.idaho.gov. (3-18-22) ()

05. **Processing.** ~~These Temporary~~ permits may be advertised if the Department deems it appropriate, with the applicant paying the advertising fee as per Subsection 020.07. (3-18-22) ()

036. -- ~~054~~49. (RESERVED)

050. — RECORDATION.

~~Recordation of an issued permit in the records of the county in which an encroachment is located is a condition of issuance of a permit and proof of recordation must be furnished to the Department by the permittee before a permit becomes valid. Such recordation is at the expense of the permittee. Recordation of an issued permit serves only to provide constructive notice of the permit to the public and subsequent purchasers and mortgagees, but conveys no other right, title, or interest on the permittee other than validation of said permit. (3-18-22)~~

051. — 054. — (RESERVED)

055. LEASES AND EASEMENTS.

01. Lease or Easement ~~Required~~. As a condition of the encroachment permit, the Department may require a submerged land lease or easement for use of any part of the state-owned bed of the lake where ~~such a lease or easement is~~ required in accordance with “Rules Governing Leases on State-owned Navigable Waterways Submerged Lands and Formerly Submerged Lands,” IDAPA 20.03.17, or “Rules For Easements On State-owned Navigable Waterways Submerged Lands And Formerly Submerged Lands,” IDAPA 20.03.09. ~~A lease or easement may be required for uses including, but not limited to, commercial uses.~~ Construction of an encroachment authorized by permit ~~without first~~before obtaining the required lease or easement constitutes a trespass ~~upon state-owned public trust lands~~. This rule is intended to grant the state recompense for the use of the state-owned bed of a navigable lake where reasonable and it is not intended that the Department withhold or refuse to grant such a lease or easement if in all other respects the proposed encroachment would be permitted. (3-18-22) ()

02. Seawalls, Breakwaters, Fill Quays. Seawalls, breakwaters, and fill quays on or over state-owned beds, designed primarily to create additional land surface, will only be authorized ~~, if at all,~~ by an encroachment permit and submerged land lease or easement, upon determination approval by the Department ~~, to be an appropriate use of submerged lands.~~ (3-18-22) ()

056. -- 059. (RESERVED)

060. INSTALLATION.

01. Installation Only After Permit Issued. Installation or ~~on-site~~ construction of an encroachment may commence only when the permit is issued ~~, or~~ when the ~~d~~Department notifies the applicant in writing that installation may ~~be commenced,~~ or when the ~~d~~Department has failed to act in accordance with Subsection 025.07. (3-18-22) ()

02. Removal of Construction Waste. (3-18-22)

a. Pilings, anchors, old docks, and other structures or waste at the site of the installation or reinstallation and not used as a part of the encroachment ~~shall~~ must be removed from the water and lakebed at the time of the installation or reinstallation to a point above the O/AHWM, normal flood water levels; provided, however, that this shall not be construed to prevent the use of trash booms for the temporary control of floatable piling ends and other floatable materials in a securely maintained trash boom, but approval for a trash boom shall be required as part of a permit. (3-18-22) ()

b. Demolition of encroachments ~~shall~~ will be done in a manner that does not unnecessarily damage the lakebed or shoreline. Demolition work must comply with water quality standards administered by the Department of Environmental Quality. (3-18-22) ()

03. Compliance with Permit. All work ~~shall~~ must be done in accordance with these rules, and the application submitted, and is subject to any condition specified in the permit. (3-18-22) ()

04. Sunset Clause. All activities authorized within the scope of the encroachment permit must be completed within three (3) years of issuance date. If the activities are not completed within three (3) years, the permit ~~shall~~ will automatically expire unless it was previously revoked or extended by the ~~d~~Department. The ~~d~~Department

may issue a permit with an initial sunset clause that exceeds three (3) years, if the need is demonstrated by the applicant. (3-18-22) ()

061. -- 064. (RESERVED)

065. ASSIGNMENTS.

01. ~~Assignment of Encroachment Permit~~ Assignment. Encroachment permits may be assigned only upon approval of the department if provided that the permitted encroachments conforms with the approved permits. An assignment is not valid until approved by the ~~The assignor and assignee must complete a d~~ Department assignment form and forward it to the appropriate area office. (3-18-22) ()

02. Assignment Application Fee. The assignor and assignee must complete a Department assignment form and submit along with the assignment fee is three hundred dollars (\$300) assignment fee and is due at the time the assignment is submitted to the d Department. (3-18-22) ()

03. ~~Approval Required for Assignment~~. An assignment is not valid until it has been approved by the department. (3-18-22) ()

04. Assignment With New Permit. Encroachments not in compliance with the approved permit may be assigned only if: (3-18-22)

a. An application ~~for~~ a new permit to correct the noncompliance is submitted at the same time. (3-18-22)

b. The assignee submits written consent to bring the encroachment ~~permit~~ into compliance. (3-18-22) ()

066. -- 069. (RESERVED)

070. MISCELLANEOUS.

01. Water Resources Permit. A permit to alter a navigable stream issued by the Department of Water Resources pursuant to Title 42, Chapter 38, Idaho Code, may, in appropriate circumstances, contain language stating the approval of the Department of Lands to occupy the state-owned bed of the navigable stream. (3-18-22)

02. Dredge and Placer Mining. Department authorization is required for dredge and placer mining in the lands, lakes and rivers within the state, whether or not the state owns the beds, pursuant to Title 47, Chapter 13, Idaho Code. (3-18-22)

03. Mineral Leases. Littoral rights do not include any right to remove bed materials from state-owned lakebeds. Applications to lease minerals, oil, gas and hydrocarbons, and geothermal resources within the state-owned beds of navigable lakes will be processed by the Department pursuant to Title 47, Chapters 7, 8 and 16, Idaho Code, and rules promulgated thereunder. (3-18-22)

04. Other Laws and Rules. The permittee must ~~comply with~~ follow all other applicable state, federal and local rules and laws insofar as they affect the use of public trust resources. (3-18-22) ()

071. -- 079. (RESERVED)

080. VIOLATIONS - PENALTIES.

01. Cease and Desist Order. ~~When the Department determines that a violation of these rules is occurring due to the ongoing~~ Ongoing construction of an unauthorized encroachment or an unauthorized modification of a permitted encroachment is considered a violation of these rules. , it may provide the ~~The Department will serve the~~ landowner, contractor, or permittee a cease with a written cease and desist order that ~~consists of~~ contains a short

and plain statement ~~of what the violation is,~~ describing the violation, the pertinent legal authority, and how the violation may be rectified. This order will be served by personal service or certified mail. The cease and desist order ~~is used to~~ will require the permittee to maintain the status quo pending formal proceedings by the Department to rectify the violation. (3-18-22) ()

02. Notice of Noncompliance/Proposed Permit Revocation. When the Department determines that these rules have been violated, a cause exists for revocation of a lake encroachment permit, or both of these have occurred, it will provide the permittee or offending person with a notice of noncompliance/proposed permit revocation that consists of a short and plain statement of the violation including any pertinent legal authority. This notice also informs the permittee or offending person of what steps are needed to either bring the encroachment into compliance, if possible, ~~or avoid revocation, or both.~~ (3-18-22) ()

03. Noncompliance Resolution. The Department will attempt to resolve all noncompliance issues through conference with the permittee or other involved party. Any period set by the parties for correction of a violation is binding. If the Department is unsuccessful in resolving the violations, then the Department may pursue other remedies under Section 080 of these rules. (3-18-22)

04. Violations. The following acts or omissions subject a person to a civil penalty as allowed by Title 58, Chapter 13, Section 58-1308, Idaho Code: (3-18-22)

a. A violation of ~~the provisions of~~ Title 58, Chapter 13, Idaho Code, or of the rules and general orders adopted and applicable to navigable lakes; (3-18-22) ()

b. A violation of any special order of the Director applicable to a navigable lake; or (3-18-22)

c. Refusal to cease and desist from any violation ~~in regards to a navigable lake~~ after having received a written cease and desist order from the Department by personal service or certified mail, within the time provided in the notice, or within thirty (30) days of service of ~~such the~~ notice if no time is provided. (3-18-22) ()

d. Willfully and knowingly falsifying any records, plans, information, or other data ~~provided to the Department required by these rules.~~ (3-18-22) ()

e. Violating the terms of an encroachment permit. (3-18-22)

05. Injunctions, Damages. The Board expressly reserves the right, through the Director, to seek injunctive relief under Title 58, Chapter 13, Section 58-1308, Idaho Code and mitigation of damages under Title 58, Chapter 13, Section 58-1309, Idaho Code, in addition to the civil penalties provided for in Subsection 080.04 of these rules. (3-18-22)

06. Mitigation, Restoration. The ~~b~~Board expressly reserves the right, through the Director, to require mitigation and restoration of damages under Title 58, Chapter 13, Section 58-1309, Idaho Code, in addition to the civil penalties and injunctive relief provided for in Subsections 080.04 and 080.05 of these rules. The Department may consult with other ~~state~~ agencies to determine the appropriate type and amount of mitigation and restoration ~~required.~~ (3-18-22) ()

07. Revocation of Lake Encroachment Permits. (3-18-22)

a. The Department may institute an administrative action to revoke a lake encroachment permit for violation of the conditions of a permit, or for any other reason authorized by law. ~~All such These~~ proceedings will be conducted as contested case hearings subject to ~~the provisions of~~ Title 67, Chapter 52, Idaho Code, ~~and IDAPA 20.01.01, "Rules of Practice and Procedure before the State Board of Land Commissioners."~~ (3-18-22) ()

b. A hearing officer appointed to conduct the revocation hearing prepares recommended findings of fact and conclusions of law and ~~sends forward~~ them to the Director for final adoption or rejection. (3-18-22) ()

c. An aggrieved party who appeared and testified at a hearing has the right to have the proceedings

and final decision of the Director reviewed by the district court of the county in which the violation or revocation occurred by filing a notice of appeal within twenty-eight (28) days from the date of the final decision. (3-18-22)

081. -- 999. (RESERVED)

DRAFT

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

IDAPA 20.03.04 — RULES FOR THE REGULATION OF BEDS, WATERS, AND AIRSPACE OVER NAVIGABLE LAKES IN THE STATE OF IDAHO

DOCKET NO. 20-0304-2401 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 58-1304 and 58-104(6), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

Thursday, September 11, 2025
10:00am MT
Idaho Department of Lands
Boise Bureau Office
Garnet Meeting Room
300 N. 6th Street, Suite 103
Boise, ID 83720

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:

Following [Executive Order 2020-01: Zero-Based Regulation](#), this rule chapter is scheduled to be repealed and replaced in 2025 for review during the 2026 legislative session. The department anticipates reducing the overall regulatory burden by reducing both total word count and the number of restrictive words in the new rule chapter. The department reviewed the rule with stakeholders to ensure that it is right sized. The department seeks to modify language for consistency within the rule, with statutes, and with other state rules.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:
This rule will have no fiscal impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 2, 2025, Idaho Administrative Bulletin, Vol. 25-4, pages 36-38.

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:

IDL has chosen to incorporate by reference the International Fire Code adopted through IDAPA 18.08.01 - Idaho Department of Insurance State Fire Marshal – Adoption of the International Fire Code, which helps IDL ensure that buildings, fueling stations, and commercial public encroachments meet minimum standards for safety over the water. The IFC is enforced through the Idaho State Fire Marshal or their deputy.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Marde Mensinger at (208) 334-0248.

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 September 24, 2025.

DATED this August 1, 2025.

Marde Mensinger, Navigable Waterways Program Manager
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