



Idaho State Board of Land Commissioners

Brad Little, Governor and President of the Board

Lawrence E. Denney, Secretary of State

Lawrence G. Wasden, Attorney General

Brandon D Woolf, State Controller

Sherri Ybarra, Superintendent of Public Instruction

Dustin T. Miller, Director and Secretary to the Board

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

Final Minutes
State Board of Land Commissioners Regular Meeting
July 16, 2019

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, July 16, 2019, in the State Capitol, Lincoln Auditorium (WW02), 700 W Jefferson Street, Boise, Idaho. The meeting began at 9:00 a.m. The Honorable Governor Brad Little presided. The following members were in attendance:

Honorable Secretary of State Lawrence Denney
Honorable Attorney General Lawrence Wasden (*via teleconference*)
Honorable State Controller Brandon Woolf
Honorable Superintendent of Public Instruction Sherri Ybarra

For the record, all Board members were present, with Attorney General Wasden joining via conference call.

1. Department Report – *Presented by Dustin Miller, Director*

Endowment Transactions

A. Timber Sales – June 2019

Discussion: None.

B. Leases and Permits – June 2019

Discussion: Controller Woolf commented that a key difference between revenue in FY2016 and FY2019 is that a great deal of residential cottage sites and commercial properties have been sold; some of those proceeds were reinvested and some were transferred to the endowment permanent fund. Controller Woolf asked if Department staff, or Endowment Fund Investment Board staff, had the opportunity to identify those reinvested or transferred dollars for a more accurate comparison of earnings between FY2016 and FY2019. Director Miller responded that preliminary calculations of the \$40 million that rolled over to the permanent fund, at 6% nominal return with inflation, is about \$2.4 million per year in terms of revenue, or net real return of \$1.5 million per year.

Controller Woolf pointed out, on page 2, that communications sites receipts are almost double what was expected for FY2019. Controller Woolf inquired if the Department had additional communication site leases, or why did the income double. Director Miller replied that the Department has been collecting delinquent payments from a number of communication companies in the past several months. Governor Little asked if the Department has made changes in the contracts, such as if the lessee is delinquent, the Department can lock gates and not allow access to the site; payments would probably come posthaste. Director Miller noted that Lands and Waterways staff in the area offices are being more cognizant of these contracts and ensuring that lessees are meeting payment deadlines. Governor Little questioned protocol of having area staff following up on missed payments rather than fiscal staff, since checks are processed in the Boise staff office, not area offices. Director Miller acknowledged that payments come to the Boise office for processing, but field personnel oversee the leases—the contracts—and ensure compliance with the terms, including payments. Governor Little asked for a brief update on this topic at the next Land Board meeting. Director Miller said the Department will do so.

Referring to page 2 of the report, Governor Little asked when expected revenue for fiscal year 2020 will be included. Director Miller replied that those figures will be on the report in August; the Department does its revenue forecast report in August each year.

Status Updates

C. Land Bank Fund

Discussion: None.

D. Fire Season Update

Discussion: Director Miller remarked that because things change rather quickly during fire season, the 2019 figures in the fire season comparison chart are outdated. Those numbers are now at 86 total fires and 557 acres burned on land under the Department's protection. That included 22 lightning-caused fires and 64 human-caused. Director Miller also pointed out that the 20-year average for this point in time, mid-July, has increased exponentially; currently that number is 81 fires and nearly 6,200 acres burned. Director Miller explained that post-Fourth of July, there are more people in the woods, with more likelihood of human ignitions happening, and weather patterns are different. There are many more lightning storms moving through, so the 20-year average jumps up pretty quickly about this time of year. Governor Little clarified that the change in 20-year average acres burned, from 765 to 6,200, is because of the time of year on the calendar. Director Miller said that is correct.

Director Miller mentioned that Department firefighters have assisted on fires in Canada and Alaska to date; it is an honor to be able to provide resources to neighbors, and their service is appreciated. Other countries and other states look to the Department for expertise, and sending Department firefighters to assist on off-district fires helps with their qualifications and increases their skills as firefighters.

Governor Little commented that one human-caused fire was a controlled burn, and asked if someone will be held liable for that; is the Department seeking to recoup fire costs. Director Miller responded that the Department's fire investigators are looking into that now; the fire occurred on industrial land as a controlled burn that spilled over onto other ownership.

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

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

Discussion: Mr. Halvorson reported that the endowment fund is up 7.7% for the fiscal year; strong markets led to a 4.9% return in June. Mr. Halvorson mentioned there is talk of the Federal Reserve easing its policy on interest rates; there is a likely chance of seeing lower rates later this year, which would stimulate the economy. That is a similar story throughout the world; Europe and China are both doing what they can to stimulate their economies. Lower inflation and stimulated economies will hopefully lead to higher equity markets next fiscal year. In Europe, with a new president of the European Central Bank, there is anticipation that Europe will come out of its malaise, and the markets and economies will get better there.

On behalf of EFIB, Mr. Halvorson recognized several of its managers for their outstanding performance in FY2019: Fiera Capital, a global equity firm out of Montreal, Canada, had double-digit returns; WCM Asset, Wellington, TimesSquare, and Sands Capital all had great returns this year. A recent addition to the portfolio is two fixed-income managers, Western and DoubleLine; they had returns between 7-8%. Mr. Halvorson stated that EFIB staff is closing FY2019 books now. With these great returns and low inflation, EFIB expects that distributions are solid and all reserve levels are at target levels; EFIB may be able to return some money back to the permanent fund as well.

Mr. Halvorson commented that the Investment Board met on July 2nd to evaluate and select consultants for final presentations. The Investment Board decided to bring Callan, the incumbent, and RVK in for interviews on September 19, 2019. Mr. Halvorson said there are no compliance issues to report. EFIB has a new board member; Representative Steve Harris joined the board, replacing Representative Neil Anderson. There is an EFIB Audit Committee meeting on August 14th, and an Investment Board meeting on August 15th.

Following up on Controller Woolf's question earlier, about identifying those reinvested or transferred dollars for a more accurate comparison of Lands and Waterways revenue between FY2016 and FY2019, Mr. Halvorson stated that he did a quick analysis of the deposits that were made in 2014 and 2015, into the permanent fund, that totaled about \$47.6 million. Over the last 4-1/2 years, the fund had a cumulative return on that money of about 36%; that is 7.05% annual return, or about \$17.1 million in earnings. Mr. Halvorson explained those deposits were made at different times so he put them in "buckets." The highest-returning bucket in that time span was the deposit made on September 30, 2014. That return was approximately 7.2% annualized, 39% cumulative, or \$5.1 million earned on \$13 million. Mr. Halvorson summarized that 7% return is in line with the long-term expected return of 7-8% on the endowment fund. Governor Little clarified that the 7% return is on the whole fund. Mr. Halvorson said that is true. Governor Little observed that in looking at the investment report, it must be a timing issue of when the money went into the permanent fund, the fact that it is 300 basis points behind the 3-year returns shown. Mr. Halvorson replied that there were timing differences of when the funds were transferred, and there were a couple of pretty volatile months in the market. Governor Little remarked that the Board's constitutional obligation regarding the Land Bank includes the flexibility to put Land Bank money into the total endowment fund. Mr. Halvorson stated yes, that is a discussion

for the Land Board; there is also the 5-year window where Land Bank funds revert to the permanent fund if not reinvested. Governor Little commented that 7% return on the fund is wonderful.

Attorney General Wasden noticed that Barrow Hanley, small cap value equity, is at -8.0%; even on the 3-year average annualized it is -1.8%. Attorney General Wasden did not question what EFIB is doing, but wondered what is happening there. Governor Little added that he would like to know how Barrow Hanley is doing relative to all the other small cap managers, because the Investment Board has a policy of small cap managers that has not been a great place to be the last few years. Mr. Halvorson directed everyone's attention to page 2 of the investment report, where managers are represented relative to their benchmark, for the shorter period fiscal year-to-date and the longer period 3-year annualized returns. About halfway down is Barrow Hanley, U.S. small cap; on a fiscal year-to-date relative to their benchmark they are down 1.8%, but over the last three years relative to their benchmark they are positive 1.5%. Mr. Halvorson noted that the last year has been particularly challenging for small cap and value equities in particular. Value has been affected by a rush to dividends; a lot of active managers have avoided these very expensive dividend-paying stocks. Their portfolios have been left behind because of this rush into "safe dividend paying stocks." That is what is happening with Barrow Hanley. In U.S. large cap, there is a similar story with LSV. Their fiscal relative return is -4.5%, longer term 1.4%. Mr. Halvorson described it as more of a value effect right now. Growth is doing favorably in the market—FANG stock: Facebook, Amazon, Netflix and Google—those are dominating the market right now. Value, which is very attractive right now, is being left behind due to these growth stocks.

Superintendent Ybarra recommended that the Land Board, with support of the Investment Board, draft a letter of appreciation to Representative Anderson, thanking him for his distinguished service to the endowment beneficiaries. Governor Little concurred and noted it will be done.

Consent—Action Item(s)

3. Disclaimer of Interest Request DI600297-Central Paving, Inc., Boise River – Presented by Andrew Smyth, Program Manager-Public Trust

Recommendation: Direct the Department to issue a disclaimer of interest for the parcel totaling 11.018 acres of the former bed of the Boise River, and to require Central Paving Inc. to pay the remaining processing fee of \$300 or actual cost, whichever is greater, to the Department for this transaction.

Discussion: Governor Little asked when the river moved. Mr. Wilson responded he does not know exactly when the river moved; as indicated on the map, this parcel of land is the former bed of the Boise River and completely surrounded by private property. Mr. Wilson recalled that former area manager, Don Stockton, got landowners to agree who would divvy up this land that was part of the river channel that is now uplands. All of the disclaimers to the east and south were issued based on those landowner agreements and quit claim deeds. Governor Little observed on the map that disclaimers identified as DI180, DI170, and DI199 appear to be granted accreted lands, and wondered why this strip being discussed today is inside of those disclaimers. Governor Little commented that generally in accreted lands, they get further from the river; why

is this disclaimer closer to the river. Mr. Wilson replied that the people who owned the property then, that Central Paving owns now, did not want to go forward with the disclaimer process at that time. That is why this disclaimer only goes to the center line of the thread of that former channel. Mr. Stockton persuaded landowners at that time, the Central Paving property and those other landowners, to agree to basically split that former channel; this has been in the works for 15 to 20 years.

4. Forest Legacy Project, Hall Mountain-Kootenai Valley: Peterson – Presented by Craig Foss, Division Administrator-Forestry and Fire

Recommendation: Authorize the Department to acquire the Kootenai Valley–Peterson conservation easement comprising 132 acres.

Discussion: Governor Little noted that there is a list of people who support the project, but is there a list of people who are against it. Mr. Foss stated he is not aware of anybody that is against the project. The Boundary County Commissioners have expressed concern for continued conservation easements within their county, but they have gone on record as being supportive of all of the projects the Department has before them to date. This particular project was originally proposed in 2014. Governor Little asked when the appraisal was done. Mr. Foss replied the appraisal was completed in the last six months, and added that with the Forest Legacy Program a review appraisal is also required.

Controller Woolf requested a summary of the timeline in processing these projects. Mr. Foss described that conservation partners are typically working with landowners to identify properties that are at risk of development, where the landowner wants to prevent development from occurring on their property, and wants to continue to maintain it for its traditional uses. Mr. Foss outlined, for example, right now this year the Department would be out looking at those projects. Department staff would put together proposals, review those proposals for the State of Idaho, rank them, and then those projects would go to a western regional review process. Projects that are ranked out of the western region would go to the Forest Service in the Washington, D.C. office. These would be considered the FY2021 projects. So in 2019, the Department is reviewing projects that would be funded in FY2021. Mr. Foss explained that projects being worked on this year would probably be awarded a year from now. After notification of that award, the Department would develop the conservation easement terms, perform the appraisal, conduct the review appraisal, and then bring the project to the Land Board. Mr. Foss summarized that typically it is four to five years from the start of a project to when it is funded and gets Land Board approval.

Superintendent Ybarra inquired, with the sale of the landowner's development rights under the Forest Legacy Program, does that affect or impact the taxable value of the property. Mr. Foss replied that if the land is currently in the timber tax category, it will continue to be taxed in the timber tax category. Governor Little added, it means that the land can never go into residential development or commercial development, so it would preclude potential increases, but the land will stay at its current tax category. Mr. Foss stated that is correct.

5. Approval of Minutes – June 18, 2019 Regular Meeting (Boise)

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

For the record, at 9:40 a.m., Attorney General Wasden excused himself from the meeting.

Regular—Action Item(s)

6. Adoption of a Temporary Rule to Implement House Bill 141 (Amendments to Surface Mining Act) – Presented by Eric Wilson, Bureau Chief-Resource Protection and Assistance

Recommendation: Adopt the Temporary Rule for IDAPA 20.03.02, with the amended chapter title of *Rules Governing Mined Land Reclamation* and an effective date of July 16, 2019.

Discussion: Superintendent Ybarra asked, if this temporary rule is adopted and goes into place, will that be the starting place for the next phase of negotiation. Mr. Wilson replied yes and no, and explained that the Department started down the negotiated rulemaking process after passage of House Bill 141 by the 2019 legislature. The Department then started delving into topics that were not specifically a result of House Bill 141; those were pulled out of the temporary rule. The Department will put those topics back into the negotiated rule, and will also look at some changes per the Red Tape Reduction Act. The Department's counsel pointed out additional issues that the Department may want to consider for the negotiated rule.

Public Comment: Governor Little called for members of the public who signed up to speak. Mr. Ben Davenport, Idaho Mining Association, stated he did not have anything to add. Mr. Austin Walkins, Idaho Conservation League (ICL), stated that ICL is supportive of this temporary rule.

Board Action: A motion was made by Controller Woolf that the Board adopt the Temporary Rule for IDAPA 20.03.02, with the amended chapter title of *Rules Governing Mined Land Reclamation* and an effective date of July 16, 2019. Secretary of State Denney seconded the motion. The motion carried on a vote of 4-0.

Information

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

7. Department of Lands' Leasing Process – Presented by Ryan Montoya, Bureau Chief-Real Estate Services

Discussion: Controller Woolf asked when the revised leasing web pages will be live. Mr. Montoya responded that the Department is currently developing the new web pages and also the new Land Information Management System (LIMS). The Department has the capability to get this going immediately; however, having the Department's public website interact with the LIMS system is approximately three to four months out.

Governor Little inquired if there are existing rules, or is this through policy. Mr. Montoya replied that there are existing rules; the Department is working with the Office of the Attorney General

now to determine how the new process, if there is a new process, would interact with the existing rules and what steps would be needed going forward from that point.

Governor Little asked if the Department has reached out to commercial entities, communications people, and realtors. Is this all internal for now, and does the Department want to have a prototype before reaching out to external parties. Mr. Montoya indicated that at this point it is all internal. The Department is working with the Attorney General's office to get some of the answers before reaching out to industry stakeholders, to avoid any type of uncertainty.

Controller Woolf called attention to the application form on page 22 [slide 22] of the presentation; it appears that an individual goes online to do an online application, but then has to download and fill out a PDF form. Controller Woolf asked if the PDF forms are different for each type of lease, and how many pages need to be downloaded. Mr. Montoya noted that the applications will be different based on the type of activity; certain information is needed for a grazing lease, for example, such as access to properties and management plans. Other leases will have information requirements specific to the lease activity. Mr. Montoya commented that the Department is trying to make the process as user-friendly as possible, and is trying to keep the application to a page or two. Controller Woolf suggested something the Department should consider in the future is to make the application strictly an online form rather than a PDF to download and fill out. Controller Woolf wondered if the committee reviewing and streamlining the leasing process feels it has met the goals recommended by the Land Board. Mr. Montoya remarked that the Land Board's mission, and the Department's, is to maximize revenue for the endowments. Making the process easier, and the public more aware of the process, furthers that mission.

Governor Little mentioned that this process is vastly better than what was in place and congratulated Mr. Montoya and the Department; Governor Little said he looks forward to the final product. Governor Little asked that it be reviewed by a broader group once it is closer to being final.

At 10:16 a.m. a motion was made by Controller Woolf to 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 Denney seconded the motion. *Roll Call Vote: Aye: Denney, Woolf, Ybarra, Little; Nay: None; Absent: Wasden.*

Executive Session

- A. 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. [TOPIC: FY2020 CEC – Director, Department of Lands]

At 10:28 a.m. the Board resolved out of Executive Session by unanimous consent. No action was taken by the Board during the Executive Session.

