



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
October 17, 2019

The regular meeting of the Idaho State Board of Land Commissioners was held on Thursday, October 17, 2019 in the State Capitol, Hearing Room EW42, 700 W Jefferson Street, Boise, Idaho. The meeting began at 1:30 p.m. The Honorable Governor Brad Little presided. The following members were in attendance:

Honorable Secretary of State Lawrence Denney

Honorable Attorney General Lawrence Wasden

Honorable State Controller Brandon Woolf

For the record, four Board members were present. Superintendent Ybarra was absent due to meeting conflicts.

For the record, Governor Little announced that testimony would be accepted on several agenda items and asked those wanting to testify to please sign in.

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

Endowment Transactions

A. Timber Sales – September 2019

Discussion: Controller Woolf asked what the differences were between the first auction of the West Wood Sale and the second, and now third, auctions. Director Miller replied that Department foresters look at the location of the sale, the price, the market conditions, road development credits, and determine if a sale will be reappraised. Governor Little asked if the Department has a written protocol for handling subsequent auctions on a timber sale. Director Miller said yes, and asked Mr. Foss to elaborate on the process. Mr. Foss described that the West Wood Sale was initially auctioned on March 7, 2019. Between the date the sale was advertised and the auction date, a slide occurred on one of the roads. The purchasers were concerned about having to do a sale modification, so they decided not to bid on that sale. The Department spent time with purchasers, learning about any additional concerns. Mr. Foss said the Department brought this back to auction the second time on September 10, 2019. What had happened in the meantime was timber prices fell. Cedar

prices fell particularly low; there is about 125,000 board feet of cedar on this sale. In addition, some of the haul costs and logging costs had increased during that time. Those price changes were just enough that no bids were received on that second sale. Mr. Foss stated that the Department plans to spend the winter revisiting this entire sale. Staff has a process to look at all estimated costs, the prices that are factored in when developing a minimum bid. Department staff will meet with potential purchasers and discuss their costs. The necessary adjustments will be made and then this sale will be auctioned in the spring of 2020. Governor Little noted that while a slide is an unforeseen circumstance, his concern is just for the Department to make sure that the people bidding all know what the protocols are in case a timber sale does not sell; it is a fairness standpoint that all of the bidders are aware of the process.

B. Leases and Permits – September 2019

Discussion: None.

Status Updates

C. Land Bank Fund

Discussion: None.

D. Fire Season Report – Final

Discussion: Governor Little asked about the difference in endowment acres burned; page 1 shows 1,259 and page 2 shows 7,984. Director Miller explained that the 1,259 acres burned was on endowment land within the Department's protection, and the 7,984 acres burned was on endowment land that is protected by federal partners through offset agreements. Governor Little commented that when it comes to dollars and acres, some of the Department's expenses are for lands that do not belong to the endowments, but there are cooperative agreements in place. The numerator and denominator in doing the math is relative to what those agreements are, not what the ownership is. Director Miller said that is correct.

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

A. Manager's Report; and

B. Investment Report

Discussion: Mr. Anton reported that the endowment portfolio is up 1% for the month of September and is up 0.4% for fiscal year-to-date through September 30. Through October 16, the fund is up 0.8%; it has gained a little during the first two weeks of October. Mr. Anton remarked that the global economy seems to be at a critical juncture. Global economic growth has slowed since early 2018. It is at a point where some of the weakness could begin to trigger a recession. Germany technically is in a recession. Growth in China has slowed and Brexit remains unresolved. While the trade negotiations with China are continuing, a resolution is still unclear and so there are concerns about tariffs and how the U.S. manufacturing sector may be impacted. While the U.S. has really been the bastion of strength globally, there is a slowdown occurring in the manufacturing sector and there are concerns that could spill over into the consumer sector. In terms of reaction by investors, there has been a movement of funds from equities into fixed income to try to seek some safety, which has driven up bond prices and has driven down yields. The market is basically

moving sideways. Mr. Anton believes the economy is resilient. The nation's unemployment is still at a 50-year low. There are positive things happening, but there needs to be positive momentum before there will be good movement in the equity markets.

Mr. Anton mentioned that reserves at the end of August were 5.9 years for public schools and 6.7 years or more for the other endowments. Based on the gains experienced in September, reserve levels were full at the end of September. The Endowment Fund Investment Board held a special meeting on September 19, 2019. The Investment Board interviewed Callan and RVK, who were the finalists in the investment consultants search process. The Board elected to retain Callan as its investment consultant. EFIB staff is currently working with the Attorney General's Office on the agreements between Callan, EFIB, State Insurance Fund, and the Land Board. Governor Little inquired about the length of the contract with Callan. Mr. Anton indicated that the EFIB contract is structured as an initial 5-year term with annual automatic renewals, and noted the other contracts will likely be structured that way as well. Mr. Anton added that the contract can be terminated at any time without cause.

Governor Little observed that the last line of the report says 8 out of 15 managers are meeting the benchmark and wondered if only half the managers are meeting the benchmark, does that mean the portfolio would be better off in index funds. Mr. Anton responded no. Looking at the calendar year to date, numbers are primarily green. Looking at the longer term historical data, the numbers are primarily green. That indicates that the managers over time can beat their benchmarks. So far fiscal year-to-date – three months – value stocks have outperformed the growth stocks. The portfolio does have slight growth bias which has caused some underperformance in the short term. Mr. Anton remarked that the fund is positioned with very good managers.

Consent—Action Item(s)

3. Results of September 2019 Grazing and Crop Conflict Auctions – Presented by Dustin Miller, Director

Recommendation: Direct the Department to award grazing leases to: Blue Butte Grazing Association (G700316), Star Gate Ranch (G700336), Karl Studer (G700326), Carl Horn (G700338), MaCade Bingham (G800462), Lake Family Ranches (G800460), Neal Ward (G800468 & G800461), Fish Creek Cattle (G800444), and Perry Ward (C800070).

Discussion: None.

4. Approval of Minutes – September 13, 2019 Regular Meeting (Boise)

Consent Agenda Board Action: A motion was made by Attorney General Wasden that the Board adopt and approve the Consent Agenda. Controller Woolf seconded the motion. The motion carried on a vote of 4-0.

Regular—Action Item(s)

5. Adoption of Pending Rule—IDAPA 20.03.03, Rules Governing Administration of the Reclamation Fund – Presented by Eric Wilson, Bureau Chief-Resource Protection and Assistance

Recommendation: Adopt the pending rule with changes to the proposed rule text to amend IDAPA 20.03.03, Rules Governing Administration of the Reclamation Fund.

Discussion: Governor Little asked if the Department will follow up with the Land Board regarding recommendations on acreage and liability going forward. Mr. Wilson responded that if the legislature adopts the pending rule, the Department would come to the next regularly scheduled Board meeting following that adoption. Mr. Wilson said for the time being the Department would stay with the 40 acres. The reclamation fund currently has \$2.1 million; it needs to be \$2.8 million to reach that recommended level for the 50-acre limit. Mr. Wilson stated it will likely be a couple of years, but the funds will get to that point.

Board Action: A motion was made by Attorney General Wasden that the Board adopt the pending rule changes to the proposed rule text to amend IDAPA 20.03.03, Rules Governing Administration of the Reclamation Fund. Controller Woolf seconded the motion. The motion carried on a vote of 4-0.

6. Adoption of Pending Rule—IDAPA 20.03.04, Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho – Presented by Mick Thomas, Division Administrator, Oil and Gas

Recommendation: Adopt the pending fee rule to amend IDAPA 20.03.04, Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in Idaho.

Discussion: None.

Board Action: A motion was made by Attorney General Wasden that the Board approve the Department recommendation that is adopt the pending fee rule to amend IDAPA 20.03.04, Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in Idaho. Controller Woolf seconded the motion. The motion carried on a vote of 4-0.

7. Adoption of Pending Rules—Omnibus Rulemaking – Presented by David Groeschl, Deputy Director

Recommendation: Adopt the Department's amended proposed rules as pending rules and approve the Department's Notices of Omnibus Rulemaking for adoption of pending rules and pending fee rules.

Discussion: Governor Little mentioned that one of the questions submitted was about hardwoods versus 4-inch DBH¹, and asked if that was the standard for the trees along the creek. Mr. Groeschl replied that under the new shade rule, each diameter class of tree, whether hardwood or conifer, has a certain coefficient or shading size associated with it based on the diameter of the tree, and that develops the relative stocking that is required. Governor Little offered, for illustration, a big old spindly lodge pole, which does not provide as much shade as a nice hardwood that creates a lot of shade; how is that taken into account. Mr. Groeschl answered if it is a 10-inch lodge pole versus a 10-inch hardwood, for example, under the shade

¹ Diameter at breast height

rule that tree has the same shading coefficient associated with it that counts toward relative stocking. Governor Little noted it was just one of the comments he read; if he were a fish he would rather have a hardwood tree of 4 inches diameter than a lodge pole. Governor Little understands this cannot be made too complicated because people out in the field need to be able to comply with it.

Board Action: A motion was made by Attorney General Wasden that the Board adopt the Department recommendation that is adopt the Department's amended proposed rules as pending rules and approve the Department's Notices of Omnibus Rulemaking for adoption of pending rules and pending fee rules. Controller Woolf seconded the motion. The motion carried on a vote of 4-0.

8. Approval of Lower Cranberry Timber Sale – *Presented by Bill Haagenson, Division Administrator-Operations*

Recommendation: The Department recommends that the Board authorize auction of the Lower Cranberry timber sale which includes clearcut harvest units exceeding 100 acres.

Discussion: None.

Board Action: A motion was made by Attorney General Wasden that the Board adopt the Department recommendation that is that the Board authorize auction of the Lower Cranberry Timber Sale which includes clearcut harvest units exceeding 100 acres. Controller Woolf seconded the motion. The motion carried on a vote of 4-0.

9. Department of Lands' Lease Auction Process – *Presented by Bill Haagenson, Division Administrator-Operations*

For the record, Governor Little recused himself from discussion and the vote on this item. Governor Little has interest in his family's ranching operation; one of the leases that is subject to this item is part of the family's ranch operations. Governor Little asked Secretary of State Denney to chair this agenda item.

Recommendation: Approve the Department's proposed lease advertising and auction process.

Discussion: Controller Woolf noted that the Department has gone through this process over the summer and prepared everything; has the Department actually notified the lessees of this process, and when and how was that done. Mr. Haagenson responded that one challenge in making adequate notification to the applicants is that the Department has not known where the process is going to go. Staff has been reluctant to provide inaccurate information to those folks until they have answers to provide. Controller Woolf said the memo mentioned the timing of the auction would be determined based on weather and other factors. Controller Woolf inquired about the impact of the January 1st timeline; if there was a conflict does the Department have enough time to do an appropriate valuation. Mr. Haagenson replied it does depend somewhat on the location of the lease and, for instance, snow depths if there is an early snow pack. In some places it may be difficult to get out and value improvements. There may be situations – a very few in number, if any – where the Department may do a land use permit or allow the lease to continue to operate until the lease auction process can be completed. The Department hopes to accommodate all applicants and get them all addressed prior to any weather events, or anything else stopping the process from getting done.

Board Action: A motion was made by Attorney General Wasden that the Board adopt the Department recommendation to approve the Department's proposed lease advertising and auction process. Controller Woolf asked if there was any public comment regarding this matter. Secretary of State Denney noted that no one signed up to provide public testimony. Controller Woolf seconded the motion. The motion carried on a vote of 3-0.

Information

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

10. 2020 Grazing Lease Rate and Non-Fee Grazing Cost Study Update – Presented by Bill Haagenson, Division Administrator-Operations

Discussion: None.

At 2:23 p.m. a motion was made by Attorney General Wasden to resolve into Executive Session pursuant to Idaho Code § 74-206(1)(f) to communicate with legal counsel for the Land Board to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. Attorney General Wasden requested that a roll call vote be taken and that the Secretary record the vote in the minutes of the meeting. Controller Woolf seconded the motion. *Roll Call Vote: Aye:* Denney, Wasden, Woolf, Little; *Nay:* None; *Absent:* Ybarra.

Executive Session

- A. Idaho Code § 74-206(1)(f) – to communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. [Topic: Lease M500031]

At 3:11 p.m. the Board resolved out of Executive Session by unanimous consent. No action was taken by the Board during the Executive Session.

Regular—Action Item(s)

11. Settlement Negotiations for Lease M500031

Board Action: A motion was made by Attorney General Wasden that the Director of the Department of Lands, with the assistance of the Attorney General, be authorized to settle the matter concerning lease number M500031 within the parameters recommended by the Attorney General's Office during executive session. Controller Woolf seconded the motion. The motion carried on a vote of 4-0.

Discussion: None.

There being no further business before the Board, at 3:12 p.m. a motion to adjourn was made by Attorney General Wasden. Controller Woolf seconded the motion. The motion carried on a vote of 4-0.

