



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

June 16, 2020

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, June 16, 2020 in the State Capitol, Lincoln Auditorium WW02, 700 W Jefferson Street, Boise, Idaho. The meeting began at 9:03 a.m. The Honorable Governor Brad Little presided. The following members were in attendance:

Honorable Governor Brad Little
Honorable Secretary of State Lawrence Denney
Honorable Attorney General Lawrence Wasden
Honorable State Controller Brandon Woolf
Honorable Superintendent of Public Instruction Sherri Ybarra

For the record, all Board members were present. Deputy Director Bill Haagenson was acting Secretary for this meeting in place of Director Dustin Miller.

1. Department Report – Presented by Bill Haagenson, Deputy Director

Endowment Transactions

- A. Timber Sales – May 2020
- B. Leases and Permits – May 2020

Discussion: None.

Status Updates

- C. Priest Lake 2020 VAFO Appraised Values

Discussion: Controller Woolf asked if the appraisals for the 2020 VAFO were done by the same appraiser that did the earlier ones in 2018 and 2019. Mr. Haagenson replied that it was the same appraiser, Hall-Widdoss.

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 remarked that despite continued economic challenges related to COVID-19, growing tensions with China, and the social unrest seen across the United States sparked by the death of George Floyd, financial markets have been remarkably resilient partially bolstered by the activity of the Federal Reserve, the stimulus package from the U.S. government and also governments around the world. The resiliency has also been prompted and stems from optimism that the future is brighter than what the country has seen over the last few months. In particular, two weeks ago the employment numbers were significantly stronger, and this morning there was a very strong retail sales report that came out. As people are looking forward, they see strength in the economy coming back and that has kindled the rebound and the recovery.

Mr. Anton reported that in May the portfolio was up 4.5% and is up 2.7% fiscal year-to-date. Through yesterday [June 15], the fund was up 3.9%. It has been quite a ride. At the high point of the fiscal year the fund was up 9.8% on February 19; it dropped down 18.5% on March 23 and about a week ago it was up 7.6%. The fund is almost back to the high for the fiscal year. The portfolio had some volatility the last few days. Some days the market is down because there is perception of a second wave of COVID-19. There have been some increases in China and several states like Arizona, California, and Florida. Certain days people are very pessimistic; they think the second wave is really going to do more harm. Other days there is good economic news and the market rebounds. Overall, the markets experienced a huge dip and a significant recovery which has left the endowment portfolio in a healthy place going into the end of the fiscal year.

In terms of reserves, Mr. Anton indicated the fund is close to being fully reserved. At the end of May, reserves were close to 5.9 years for public schools and between 6.5 and 8.4 years for the other endowments. It is important to keep in mind, if fund return is above inflation, the return above inflation gets moved from the permanent fund into the reserve funds which will push the reserve coverage up even farther. As of yesterday, the fund was up 3.9%; the market is up again today. The fund is a fair amount above inflation; unless there is a drop off the last few weeks of the fiscal year, reserves will be fully funded at the end of the fiscal year.

Mr. Anton highlighted, from the second page of the Investment Report (item B), very strong performances from the majority of investment managers. Mr. Anton stated it is incredible how much many of them are above their benchmark. For example, Sands Capital is 4.6% above the benchmark; Times Square is 2.7%; Sycamore is 5.3%; Eagle is 11.4%; Barrow Hanley is 10.5%; WCM is 17.7%. It is rare that the endowment's fund managers, or any managers, beat their benchmark by that magnitude. The Investment Board and EFIB staff have been exceptionally pleased with their performances.

Mr. Anton mentioned one item of significant action from the Investment Board. The Investment Board has been working closely with the State Insurance Fund (SIF) Board and Callan on reviewing the SIF portfolio for the last 6-9 months. Both the Investment Board and the SIF Board approved a new asset allocation for SIF's portfolio. There are limits in terms of what can be changed because SIF is regulated and has strict guidelines and requirements, but a decision was

reached to move to a slightly more aggressive allocation on the fixed income side. Yields are extremely low right now. The yield on the ten-year treasury bill is about 0.7% and SIF's portfolio was about 60% treasury bills. Their portfolio is going to be moving more toward investment grade corporate bonds, still high-quality bonds but trying to increase the yield a little more on their portfolio.

Mr. Anton concluded by sharing that the next audit committee meeting is August 12 and the next Investment Board meeting is August 13.

Governor Little observed that all green is all good.

Consent—Action Item(s)

3. State Participation as a Member of Clearwater-Potlatch Timber Protective Association (CPTPA) and Southern Idaho Timber Protective Association (SITPA) – Presented by Craig Foss, Division Administrator-Forestry and Fire

Discussion: None.

Recommendation: The Department recommends that the State continue to participate as a member of the Clearwater-Potlatch Timber Protective Association and Southern Idaho Timber Protective Association.

4. Authorization for Issuance of Deficiency Warrants to Pay Fire Suppression Costs in FY2021 – Presented by Craig Foss, Division Administrator-Forestry and Fire

Discussion: Governor Little stated it is absurd that the Board has to authorize issuance of deficiency warrants each year. The Board and the Department know that costs will exceed what is appropriated. Governor Little proposed that the Department figure out some way that this authorization does not need to keep recurring every year. Controller Woolf asked what the current balance is in the deficiency fund. Mr. Foss said the balance is \$49.7 million. The Department has some obligations to pay, and expects some reimbursements; after those, the balance will be approximately \$37.6 million. Governor Little commented that is a data point that has value.

Recommendation: Authorize the Department to issue deficiency warrants necessary to pay the fire suppression costs beyond the \$151,600 appropriation for FY2021.

5. Forest Legacy Project, Hall Mountain-Kootenai Valley: Low Smith Creek – Presented by Craig Foss, Division Administrator-Forestry and Fire

Discussion: Attorney General Wasden confirmed for the record that this is a completely voluntary program on behalf of the landowner. Mr. Foss affirmed that each Forest Legacy project has entirely willing buyer and willing seller.

Recommendation: Authorize the Idaho Department of Lands to acquire the Low Smith Creek conservation easement comprising 98 acres.

6. Results of May 2020 Grazing Lease Live Auction – Presented by Bill Haagenson, Deputy Director

Discussion: None.

Recommendation: Direct the Department to award grazing lease G500152 to the high bidder, Gloria Ringel.

7. Approval of Draft Minutes – May 19, 2020 Regular Meeting (Boise)

For the record, Governor Little acknowledged receipt of revised draft minutes, clarified only minor grammar and typographical adjustments were made—no substantive corrections—and requested that in future any last-minute revisions should have changes highlighted.

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 5-0.

Regular—Action Item(s)

8. Endowment Land Management, City of McCall and Vicinity – Presented by Ryan Montoya, Bureau Chief-Real Estate Services

For the record, prior to the presentation of item 8, Attorney General Wasden disclosed for purposes of clarity and transparency that he had discussions concerning some of the parcels that Mr. Montoya was going to talk about. Attorney General Wasden noted this is a very large piece of property and stated he had not talked to others about the entirety of this property, but smaller portions of this property. Attorney General Wasden elaborated that he had a few conversations with two different sets of people. At the time those conversations took place, there was no matter before the Board for action; there was no matter under consideration. Individuals were exercising their right to speak with elected officials.

Attorney General Wasden mentioned that he had a number of conversations with his friend, Mr. Bruce Smith, a fellow graduate of the University of Idaho, School of Law, 1985. Attorney General Wasden said he was aware that Mr. Smith had sent several letters and emails to the Department and to the Attorney General's staff. Mr. Smith and the Attorney General also had personal conversations.

In addition, Attorney General Wasden commented that on May 7, 2020 he participated in a [Cisco] Webex meeting with Trident Holdings. Trident Holdings discussed their view of some of the properties surrounding Payette Lake in the McCall area. Their representatives included Mr. Alec Williams, Mr. Greg Casey, Ms. Erika Malmen, Mr. David Lehman, and Mr. David New. Attorney General Wasden reiterated that those matters were not before the Board at the time of those discussions and noted that the Board was not making a decision on any proposals today, but he deemed it important to disclose those prior discussions.

Following the presentation of item 8, during the discussion period, Governor Little conveyed that he also had a meeting with Trident representatives: Mr. Casey, Mr. Williams, and Mr. Lehman. Superintendent Ybarra communicated that she and her staff met with Trident representatives on May 28. Controller Woolf shared that his staff met with Trident; he himself did not. Secretary of

State Denney imparted that he and his staff had a meeting with Trident and a meeting with Mr. Craig Utter (Payette Land Trust).

Recommendation: Direct the Department to suspend leasing and disposing of lands in and around McCall, where not previously approved, until a detailed plan for those lands is presented by the Department and approved by the Land Board. Direct the Department to continue issuing leases on currently leased lands for grazing, residential, communication, mineral, and other legacy programs as well as land use permits (LUP) that are less than three years in duration.

[Editor's note: Due to duration, the Discussion portion of these minutes is written in first-person format. These are not verbatim notes.]

Discussion:

Controller Woolf: I have a couple of questions. One, do you feel that the Department has enough expertise to do this, or would a third party be beneficial in helping from a consulting standpoint to help understand the breadth of what you're looking at?

Ryan Montoya: There's a lot that goes into an analysis like this. The properties that we're looking at are in a jurisdiction that is designated residential in nature. There are also areas that have wide dispersed recreation. We have different uses that we will be looking at and we anticipate that we have the expertise to put together some plans. Callan has indicated that they have internal staff that can help us with some sort of development and evaluation if we should need their help. There are outside experts that if we get to a point, and there's a recommendation to the Land Board where we do seek additional input from industry experts, we would seek that as well.

Controller Woolf: From all that, because of the breadth and the large size of land that this impacts in McCall, could you speak to the timing then with continued review and knowing there is a need to expedite and finish this up based on various things that are in place. Maybe you can talk a little bit about the time frame of how much longer this review would be and what type of time frame you are looking at.

Mr. Montoya: I anticipate that we would be able to come back to the Land Board no later than September with an update, at least identifying some issues that may need further direction from the Board. For example, continuing cottage site leasing and other similar opportunities that were part of previous decisions. That will need to be discussed in the future and we would anticipate bringing forth some options and some plans in the near future.

Governor Little: Are there any current leases – this is a pretty big chunk of real estate – that would be impacted by any such proposal, like cabin sites, etc.?

Mr. Montoya: We do have leases currently on the cottage sites. We do have grazing leases in the area; we have timber sales that are slated to be sold as well. Those would be the majority of the items under lease that we have. We also have mineral leases in the area that would be impacted. We wouldn't be suspending those. We would continue on with those legacy leases. We don't have any of those that will be coming up for renewal in the immediate

vicinity of Payette Lake within the next 6 months; we shouldn't have an issue as long as we have a plan approved by then.

Governor Little: So there's no timing issue on some of these leases being up right away?

Mr. Montoya: Correct.

Controller Woolf: Mr. Haagenson talked about two VAFOs potentially in the fall for Payette. Where would those fit then?

Mr. Montoya: Those would fall into the already approved disposition plans from the VAFO process. Right now, we're marketing Cougar Island and that would be part of the sale process. We have some properties that do have lessees that are interested in participating in the auction. However, we're working out some easement issues in order to bring more properties to sale for the market.

Governor Little: Would this action item that's in front of the Board now stay any of our normal operating policies?

Mr. Montoya: No, the intention would be to suspend new applications on activities that wouldn't be considered more of the legacy. So, commercial recreation...

Governor Little: Non-legacy issues would be stayed.

Mr. Montoya: Correct. The VAFO, the cottage sites, would continue on with the sale process.

Attorney General Wasden: Can you help me understand what kind of process you foresee in terms of doing the analysis on this large parcel of 28,000 acres?

Mr. Montoya: An analysis on the 28,000 acres is going to be different from analysis on individual parcels around the lake. We have parcels that we understand are within the growth and the comprehensive plan within McCall. Those would be looked at differently in the sense of looking at some of the areas outside of the area of impact. For example, our Payette Lakes area office is referred to as the Deinhard 80, and that is down the street from Highway 55 and has an anticipated use as commercial on the front and potentially residential on the back. So what we would look at is identifying these certain parcels that are identified within McCall's comprehensive plan and their zoning as residential/commercial, and then identifying what would be the highest and best use for those, talking to the city about anticipated growth, looking at their annexation and potential growth around the lake to identify where we can potentially have assets for lease or disposition for a higher and better use. For example, we own roughly 82 acres in an area that is called White Pine Heights. White Pine Heights is part of the VAFO platting process, but it hasn't been split into parcels. We've looked at that property and identified potential growth as it is in an area that could handle growth. We've met with the City of McCall and talked with them about annexation. We would be looking at ways to increase the value of that property for what it could potentially handle as the use – residential. We would need to evaluate each parcel to make sure that the analysis that we're doing is in the highest and best use for that parcel. We would identify those, and we began to do that around the lake. We've identified different parcels, going through what is their highest and best use, identified the available sewage, for example, as well as water services, and broken them up into different parcels. From there,

we're going to evaluate what that looks like in terms of use and how are we going to make that available for lease if that's the best interest for the endowments. There is a high likelihood that those areas are residential purpose, and whether or not we would get back into that type of leasing. We're looking at that and doing the evaluation on the certain parcels. If you look at the additional 20,000 acres outside the area of impact, we have to look at other factors. Some of those factors are that they are in the visual corridor, so what are the limitations there. What are our management practices, what type of timber is on there, and what do we do for management where it's outside of that growth area? We're looking at it as holistic in nature but in a micro setting on each individual parcel to be able to provide a recommendation.

Attorney General Wasden: You've talked about residential and commercial. As I look at that map, I realize that the area office on Deinhard Lane is next to a shopping center, so what we're going to do with that makes some sense to talk about it in that context. But most of that land isn't commercial in nature, it just isn't; maybe communication sites or something like that. I understand the dialogue that needs to take place in terms of how we are going to use this and are we going to fit within the confines of our constitutional obligation here. Mostly this was a statement rather than a question. What I understand you to be asking for is a temporary halt in the processes so that the Department has an opportunity to examine this parcel as a whole, to make a recommendation to us within a fairly short time period, to see that we are fulfilling our fiduciary responsibility. Some of these parcels, individually, may have other uses. Holistically, the best use that we may have of them and the greatest long-term return to us is going to be by having an organized and comprehensive proposal. Is that what you're asking?

Mr. Montoya: Yes.

Board Action, part 1: A motion was made by Attorney General Wasden that the Board adopt and approve the Department's recommendation that is to suspend leasing and disposing of lands in and around McCall that were not previously approved until a detailed plan for those lands is presented by the Department and approved by the Land Board; direct the Department to continue issuing leases on currently leased lands for grazing, residential, communication, mineral, and other legacy programs, as well as land use permits that are less than three years in duration; and the Department will provide the Land Board with a schedule of this review at the next Land Board meeting. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

It was brought to the Board's attention that public comment on this agenda item was overlooked. Attorney General Wasden withdrew his motion until public input was made.

[Editor's note: Due to duration, the Public Comment portion of these minutes is written in first-person format. These are not verbatim notes.]

Public Comment: Remarks were given by Alan Shealy, Laura Shealy, Alec Williams and Bruce Smith.

Alan Shealy: Governor, members of the Land Board, thank you for taking my testimony. I would like to begin my testimony, I know I've got 3 minutes so I will move through as quickly as I can, by reading from Idaho Code § 39-6601, the language of which was crafted in large part due to the dogged efforts of my late father-in-law Peter Johnson.

Legislative intent – the legislature finds that the waters of Big Payette Lake and its watershed are threatened with deterioration due to expanding residential development, greater public use and growing land use activities, that these pressures may endanger the drinkability, economic potential, fisheries, natural beauty, recreational use, swimability, and wildlife values of the lake, that the state holds all such public lakes in trust for the use of all of its citizens, that to preserve and protect such public lakes and to increase and enhance the use of enjoyment of such lakes is in the best interest of all the citizens of the state. The legislature declares that it is necessary to embark upon a program of water quality protection for the lake so that future generations of Idahoans may use and enjoy it. This act creates a program to protect, preserve and where necessary improve the water quality of the lake while accommodating private, public, and commercial activities to the extent prudent and practicable. The program as set forth in this act shall require a working partnership of federal, state, and local agencies.

This was adopted 27 years ago; this was before all of the subsequent development occurred on the lake. My question to you, to the Land Board, as part of a multi-agency state, federal, and local coalition referenced by this very code, without a robust and comprehensive environmental impact study, how can the Board sell land for development...the very design of which will necessarily and be virtually certain to have harmful effects on safety, erosion, water quality, and watershed. Members of the Land Board, Governor, you have I believe, a very distinct and inherent conflict of interest here. I know your jobs are difficult, but you are obligated to maximize the return on real assets for the benefit of the state education system; but you are also obligated to protect our waterways from threats that come from expanding residential development. This is explicitly stated in the act. In fact if the quality of life on Payette Lake is diminished by overdevelopment, you will reduce the return on assets – the very return on assets that you were trying to enhance. I respectfully urge the Land Board to suspend, as I hope you are about to do, the sale or transfer of all currently leased and unleased parcels in and around McCall until a detailed plan for those lands, informed by a robust and comprehensive environmental impact study including remediation requirements, is presented by the Department of Lands and approved by the Land Board. With respect to Cougar Island specifically, this is a uniquely sensitive property. It sits right in the middle of Payette Lake. It has been enjoyed by generations of people for its watershed; we watch deer swim over there; there are osprey nests over there. It's an absolutely beautiful piece of property. It would be an unmitigated tragedy if it were to be hacked into five lots and sold that way. Pollution and erosion from development of this island would flow down the lake because of the current and diminish water quality for the majority of the lake's inhabitants. I would encourage a land swap, actually, with a tax friendly donation to the City of McCall. As a former Boise City Council member, we did this all the time. We protected hundreds of acres of very sensitive foothills property, not just through the purchase of that property but the encouragement of donations – tax beneficial donations by the landowners. If the island is eventually to be sold, it should be sold as one parcel. I would encourage that as one parcel. I would submit, as a financial guy and also a real estate investor, that you will get more money if you sell it as one parcel as opposed to five and you will also ameliorate some of the damage that I have alluded to before. This would conform to the current RR zoning designation of the City of McCall, which is one house per 10 acres, if I recall correctly, and adhere to the letter and intent of Idaho Code designed to protect Big Payette Lake. Thank

you for your time, Governor and members of the Land Board, and for your service to the state. I stand for questions if there are any.

Governor Little: Thanks, Alan.

Laura Shealy: Governor and members of the Board, I am Laura Shealy and I first would like to read a brief letter by the Big Payette Lake Water Quality Council, which is a non-profit that looks after the quality of the water in Payette Lake. I am a member of that board and so I am reading this on behalf of them. I think we're heading in the right direction, but I'll read this anyway.

Payette Lake is the sole drinking water source for thousands of residents and visitors in the McCall area, and is arguably the principal asset for the local economy. The mission of the Big Payette Lake Water Quality Council is to advocate for the protection and sustainability of Payette Lake. In that spirit, we must ask that the Land Board defer action on any broadscale land exchange or sale proposals that have a likelihood for significant impacts to Payette Lake. Specifically, we request that the Board of Land Commissioners adopt the staff recommendation to direct the Department of Lands to suspend leasing and disposing of lands in and around McCall, where not previously approved, until a detailed plan for those lands is presented by the Department and approved by the Land Board. Our council is a free-standing non-profit Idaho corporation, a successor to the statutory council founded in 1993 by Peter Johnson through the Big Payette Lake Water Quality Act I.C. § 39-66. The resulting 1997 lake management plan as accepted by the legislature and participating signatories is still in place. We ask that the Land Board carefully consider all major activities, leases, sales and exchanges of land in light of that management plan and all other provisions of law intended to protect and sustain the water quality of Payette Lake. Thank you.

This letter is written by our chair, Dave Simmons, who has been involved in Big Payette Lake Water Quality from day one.

I have one more of my own personal comment and that is about the five cottage sites on Cougar Island. I know that is an already approved sale and that the auction is planned for, I think, this summer or fall. Along with what my husband said, this has really just come to our attention recently. The City of McCall designates Cougar Island as Rural-Residential. What that means is one dwelling for 10 acres; Cougar Island is 14.21 acres. It makes sense to anyone understanding the composition of Cougar Island, its geologic make up, its isolation from road access, its scenic significance in the Payette Lake corridor that RR is the right designation. There's only been one residence on the island for decades. Please reconsider downsizing the five lots to one. Thank you; any questions?

Governor Little: Thank you, Laura.

Alec Williams: Thank you Governor; thank you commissioners. My name is Alec Williams and the company I founded is the proponent of the 28,000-acre land exchange mentioned in the Department's memo. In many ways, I also have a conflict in that I love McCall. I have not proposed to anyone, but if I do it would probably be at the shores of Payette Lake as well. We were asked to present our full proposal at the Board's meeting in July rather than this

one and we look forward to doing so. We're also glad the Board is taking up this issue of a holistic plan for McCall because that is exactly the genesis behind our exchange. When we first heard about the losses the endowment incurs annually holding these lands, we put together a team of Idahoans and other experts to help McCall chart its own future, rather than to have it charted for them. We met yesterday with the Valley County Commission and have met with McCall's city manager, planning and zoning director, and other local interest groups. We will present to McCall City Council shortly. Certain Valley County Commissioners expressed eagerness, both toward our proposal and to testifying today, but given the short notice for this public comment period, were unable to travel to Boise for it. We've been grateful for the Department's staff for their useful feedback, guidance, and questions. It has helped us perform a thorough economic analysis on the benefits from our proposal which we conservatively value at roughly \$84.7 million of which only a minority component is the actual land value itself. It has also helped begin similarly thorough studies of the Land Board's alternatives that we have heard voiced such as holding these lands for their appreciation value, auctioning them all off, having IDL develop them, or more aggressively logging these lands around the lake. We do not believe any of these are true solutions. We look forward to providing the Board with detailed analysis and evidence explaining why an exchange offers a far better return to beneficiaries than these various alternatives. We also believe this particular exchange offers a far more meaningful way for McCall and its residents to participate with us as partners in the planning process. The Shealys brought up water quality, which for us has been a huge priority. Our other priorities include conserving the vast majority of these lands and preserving the public's ability to access both the lake and the forested hillsides forever. We look forward to presenting in July. Thank you, Governor.

Governor Little: Thank you.

Bruce Smith: Gentlemen, Ms. Ybarra, my name is Bruce Smith. I am the applicant for leases in McCall that generated this memo and recommendation; in other words I am your problem child. We've already heard what the proposal is, you voted on it, so I realize I've got a little bit of headwind to overcome here, but I oppose the recommendation. I submitted my application over a year ago and have been waiting ever since. The Land Board directed the Department of Lands to address that Parcel G, which is part of this endeavor, 14 months ago. According to the memo, the only thing that's been done is get a survey and get an appraisal, nothing else. There is a point at which you wait long enough and mine has been long enough. My proposal, my lease proposal, is less impactful than any of the things that you've been talking about. It was temporary, it earned money for the endowment that you have never earned before, it was not permanent, and it wasn't controversial; it followed your policy. Now, I plead guilty to being persistent. In my former life of 30 years I was an attorney, and I learned that persistence is helpful at times. I like to tell everybody when I started practicing, I was 6'5"...so I am at a point now I am retired, and I am just trying to do some things to earn some money for the endowments. One of the reasons I oppose the recommendation in the memo is that memo, in addition to my application sitting there forever, that memo doesn't justify what you're voting on. There is no rationale in the memo, no basis for making the recommendation that's made and that you previously approved. If you are going to do a study on Payette Lake and the surrounding area, you do not do permanent things to foreclose the very results of the study that you're proposing to do; yet you heard a request to do exceptions...continue with legacy programs, selling cottage sites, continuing with

leasing...so you want to keep doing all of the things that you've been doing including permanent things while at the same time somebody like myself comes along with something that's temporary – we're putting yurts in certain places for people to rent; it's temporary. I am a long-time participant/observer, whatever you call it, of the cottage site problem. The last thing in the world you want to do on leased property is put a house. That was the genesis for all the problems that you've had at Payette Lake. I approached this whole thing strategically to do something temporary to earn money for the endowments in a very non-controversial way. As Mr. Shealy referred to it, you have somewhat of a conflict. A lot of current issues stem from that wedding site lease, and you know what happened. You cancelled the lease of a guy that was doing business. It cost the endowment money. The problems caused by that were far reaching. It cost \$355,000 to settle the tort claim. It shut down the Department's leasing program. It left hundreds of invalid leases as its legacy. People are going to wonder about doing investment in McCall or anywhere else if the contract they have with the State can be done away on a whim. That contract, Secretary, you signed it, the previous Governor signed it and without any notice, without any explanation of what you're doing, you just cancelled the lease causing all of these problems that came from it. That was the history that I took into trying to discern and figure out something to do up there. So you want to do permanent things while you study, or while the Department studies what to do. That is not common sense. If you want to do a study, define what the study is, figure out a timeline for the study, undertake that. But don't be doing permanent things that are going to foreclose the results of the study. That is being arbitrary. Rather than pursue the recommendation from the Department, in my testimony which I have given you a written copy of, I've come up with some recommendations for you. One is open up your activities to the public. You ought to be proud of the things that you're doing for the endowment and to publicize and explain to the people what you are doing is critically important. Half the people and half the problems that you have in McCall and elsewhere is because they do not understand your fiduciary obligations.

Governor Little: Bruce, can you wrap up? There's a contract here that says three minutes. I let everybody go over it so kind of wrap up.

Bruce Smith: Okay. If you want to suspend things, suspend them all. Then you have to get some notices; as a result of that wedding site decision, you have to get some notices out to the existing lessees of the problems that caused with those leases that they currently have in place. You can look at the comments; I've given you written copies of them, so I don't need to do anything else. But Governor, the piggin' string is loose. You are going to have an executive session you can tell everybody else what that means. But you've got a host of problems. You've got a lot of things to deal with, but you better tighten that thing down, okay? Thank you very much. I appreciate your time listening to me.

Governor Little: Thank you, Mr. Smith.

Board Action, part 2: Attorney General Wasden reported that he does not have the authority to withdraw his previous motion since it was voted on. A motion was made by Attorney General Wasden to repeal the prior vote of the Board because it was made and voted on before public testimony was resolved. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

A motion was made by Attorney General Wasden that the Land Board adopt and approve the Department's recommendation that is direct the Department to suspend leasing and disposing of lands in and around McCall where not previously approved until a detailed plan for those lands is presented by the Department and approved by the Land Board; direct the Department to continue issuing leases on currently leased lands for grazing, residential, communication, mineral, and other legacy programs, as well as land use permits that are less than three years in duration; and further direct the Department to provide a schedule of review at the next Land Board meeting [July 21, 2020]. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

Information

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

9. Pre-Season Fire Forecast/Update – Introduction by Craig Foss, Division Administrator-Forestry and Fire

Mr. Foss recalled that back in March, the Department, and all of us, had no idea this [COVID] was coming when Department staff was making plans for the 2020 fire season and hiring seasonal staff. When COVID hit, the Department quickly developed a COVID-centric plan for bringing on fire and timber crews. The Department applied that plan and has hired over 140 seasonal employees. The Department implemented a module concept which is to have folks work in small groups. Fire crews train in small groups when possible; they are housed in small groups, and when they go out onto fires, that is how they are going to operate. It has been a successful model; to date there have been no positive COVID test cases. The Department's philosophy this fire season is the same it has always been and that is to monitor firefighter safety first and foremost, but to always fight fire aggressively. That is the Department's theme and that is the theme of agency partners this year: aggressive initial attack, but always maintain firefighter safety.

A. Predictive Services Forecast – Bryan Henry, Meteorologist, NIFC

Discussion: None.

B. Resource Readiness – Craig Foss, Division Administrator-Forestry and Fire

Discussion: None.

C. Rangeland Fire Protection Associations – Rick Finis, South Idaho Fire Liaison, IDL

Discussion: Attorney General Wasden asked about the bulldozer incident: was that the Department's, was it private, was it properly maintained? Attorney General Wasden observed dozers do not always overheat and burn up. Mr. Finis replied that the dozer belonged to the Simplot Corporation assigned to the Saylor Creek RFP. It had prior issues in a previous fire season. They worked with the BLM [Bureau of Land Management] and resolved the problems. It is an inherent problem with that specific model of dozer; they took the recommendations from the BLM and maintained it properly. The issue with the dozer that day...that was the third fire it was on, but the first time it showed problems with overheating. When a dozer overheats, it goes into limp mode and the operator cannot move the equipment. The bulldozer overheated a couple of times; the operator let it cool down and then continued. As the report showed, it was

properly maintained. It probably was not the best piece of equipment to use that day; the temperature was 100°F.

Controller Woolf mentioned there are now nine RFPAs and inquired if there is any discussion of other RFPAs being created in the next few years. Mr. Finis responded that the Department hears from interested parties, but nobody has been able to generate the interest in their area. Being an all-volunteer program, people do need to step up. It will probably take another large fire in their backyard to get them going. BLM keeps pushing it; the Department keeps pushing it.

Governor Little asked what the process is to sign up a person or a piece of equipment for an RFPA. Why is it different for a logging contractor than for a rancher? The issue with having logging contractors is that they have to go through the [U.S.] Forest Service, through a separate process. What's the difference between the Forest Service and the RFPA? Mr. Foss responded that the RFPAs are working on land that is currently not within the Department's protection and it is not necessarily within federal protection. It is landowners that really feel that it is in their best interest to protect their livelihood. With regard to the areas where logging contractors are involved, typically it is multiple land ownerships that they are engaged in, and typically there are protection responsibilities for different agencies within those areas. As far as those contractors' decisions, where they want to engage in wildland fire protection, to engage on federal lands there are stringent requirements that they have to meet. Governor Little asked if the Forest Service is more stringent than BLM. Mr. Foss replied that the Forest Service and BLM would together make the requirements of those contractors – in terms of the equipment that they use, having that equipment inspected in advance, and the type of qualifications that the individuals operating that equipment have to have. All of that is considered when the VIPR¹ contract is developed. When a contractor comes to work on Department lands, typically they are going to be qualified to participate just in initial attack, that first 24-48 hours. Then typically the Department is going to be ordering resources to continue to work on that project. But if contractors are not qualified, then the Department has to provide a heavy equipment boss and a crew boss. Those are some of the qualifications that the Department provided to the Associated Logging Contractors, the criteria, to let them know if they have folks that really want to engage fire, these are the types of positions that would help the Department. It is entirely up to those individuals whether they do that or not. The Department's experience has been logging contractors would much rather be working in the woods logging, conducting the activity that they are trained to do, than fighting wildfire. Wildfire is much more incidental to what they do. Governor Little stated he understands that; if there is a big fire, they are shut out of the woods and they might be shut out of the woods for a long time.

Governor Little noted that Mr. Foss talked about the feller buncher; the feller buncher can move more timber in an hour than a 20-man crew can do in two days. Governor Little indicated a little more proactive action might be beneficial. Equipment is inspected by the State for their workers comp; perhaps simultaneously the Department could give them their red tags on their equipment. If the RFPAs can fight fire on BLM and state ground, what are the hurdles for the Forest Service. Mr. Foss commented that the Department's experience has been in a really busy fire year, a lot of folks want to get engaged at that time. In subsequent, less busy fire years, there is dwindling interest. In the next really busy fire year, it picks up again. The Department

¹ Virtual Incident Procurement

consistently tries to work with the Associated Logging Contractors to inform them what is required, what the training qualifications are that would really be helpful to work with the Department's industry partners because they have a lot of folks involved. It is in their best interest to have trained folks. But ultimately it is the responsibility of those different landowners and those different company owners to decide whether they actually want to sign up, get that training, and be engaged.

At 10:53 a.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, Ybarra, Little; Nay: None; Absent: None.*

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. The mere presence of legal counsel at an executive session does not satisfy this requirement. [TOPIC: Lease E310021]

At 11:53 a.m., a motion was made by Attorney General Wasden that the Board resolve out of Executive Session. Attorney General Wasden requested that the official minutes of the meeting reflect that no action was taken by the Board during Executive Session.

Attorney General Wasden noted there was a potential action item; the Board will not take action because no action is necessary.

There being no further business before the Board, at 11:54 a.m. a motion to adjourn was made by Attorney General Wasden. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

