

## State Board of Land Commissioners Open Meeting Checklist

Meeting Date: October 20, 2020

### Regular Meetings

|            |                                                                                                                                                                                    |
|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10/1/2020  | Notice of Meeting posted in prominent place in IDL's Boise Headquarters office five (5) or more calendar days before meeting.                                                      |
| 10/1/2020  | Notice of Meeting posted in prominent place in IDL's Coeur d'Alene Headquarters office five (5) or more calendar days before meeting.                                              |
| 10/1/2020  | Notice of Meeting posted in prominent place at meeting location five (5) or more calendar days before meeting.                                                                     |
| 10/1/2020  | Notice of Meeting emailed/faxed to list of media and interested citizens who have requested such notice five (5) or more calendar days before meeting.                             |
| 10/1/2020  | Notice of Meeting posted electronically on IDL's public website <a href="http://www.idl.idaho.gov">www.idl.idaho.gov</a> five (5) or more calendar days before meeting.            |
| 10/15/2020 | Agenda posted in prominent place in IDL's Boise Headquarters office forty-eight (48) hours before meeting.                                                                         |
| 10/15/2020 | Agenda posted in prominent place in IDL's Coeur d'Alene Headquarters office forty-eight (48) hours before meeting.                                                                 |
| 10/15/2020 | Agenda posted in prominent place at meeting location forty-eight (48) hours before meeting.                                                                                        |
| 10/15/2020 | Agenda emailed/faxed to list of media and interested citizens who have requested such notice forty-eight (48) hours before meeting.                                                |
| 10/15/2020 | Agenda posted electronically on IDL's public website <a href="http://www.idl.idaho.gov">www.idl.idaho.gov</a> forty-eight (48) hours before meeting.                               |
| 12/9/2019  | Land Board annual meeting schedule posted – Boise Director's office, Coeur d'Alene staff office, and IDL's public website <a href="http://www.idl.idaho.gov">www.idl.idaho.gov</a> |

### Special Meetings

|  |                                                                                                                                                                            |
|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | Notice of Meeting and Agenda posted in a prominent place in IDL's Boise Director's office twenty-four (24) hours before meeting.                                           |
|  | Notice of Meeting and Agenda posted in a prominent place in IDL's Coeur d'Alene staff office twenty-four (24) hours before meeting.                                        |
|  | Notice of Meeting and Agenda posted at meeting location twenty-four (24) hours before meeting.                                                                             |
|  | Notice of Meeting and Agenda emailed/faxed to list of media and interested citizens who have requested such notice twenty-four (24) hours before meeting.                  |
|  | Notice of Meeting and Agenda posted electronically on IDL's public website <a href="http://www.idl.idaho.gov">www.idl.idaho.gov</a> twenty-four (24) hours before meeting. |
|  | Emergency situation exists – no advance Notice of Meeting or Agenda needed. "Emergency" defined in Idaho Code § 74-204(2).                                                 |

### Executive Sessions *(If only an Executive Session will be held)*

|  |                                                                                                                                                                            |
|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | Notice of Meeting and Agenda posted in IDL's Boise Director's office twenty-four (24) hours before meeting.                                                                |
|  | Notice of Meeting and Agenda posted in IDL's Coeur d'Alene staff office twenty-four (24) hours before meeting.                                                             |
|  | Notice of Meeting and Agenda emailed/faxed to list of media and interested citizens who have requested such notice twenty-four (24) hours before meeting.                  |
|  | Notice of Meeting and Agenda posted electronically on IDL's public website <a href="http://www.idl.idaho.gov">www.idl.idaho.gov</a> twenty-four (24) hours before meeting. |
|  | Notice contains reason for the executive session and the applicable provision of Idaho Code § 74-206 that authorizes the executive session.                                |

  
Recording Secretary

October 15, 2020

Date



## **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, Secretary to the Board

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# **NOTICE OF PUBLIC MEETING OCTOBER 2020**

The Idaho State Board of Land Commissioners will hold a Regular Meeting on Tuesday, October 20, 2020 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 (Mountain).

This meeting is open to the public.

Meeting will be streamed live at <https://www.idahoptv.org/shows/idahoinsession/>

All in-person attendees must comply with current COVID-19 safety protocols for public gatherings in the City of Boise, including but not limited to wearing face coverings and observing physical distancing. Physical distancing measures reduce the meeting room's normal attendance capacity.<sup>1</sup>

Members of the public may listen to the meeting via teleconference, using the following:

Dial toll-free: 1-877-820-7831

Enter passcode: 1906697, followed by (#) key

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<sup>1</sup> [www.cityofboise.org/departments/mayor/coronavirus-covid-19-information/](http://www.cityofboise.org/departments/mayor/coronavirus-covid-19-information/) AND [www.cdhd.idaho.gov/dac-coronavirus](http://www.cdhd.idaho.gov/dac-coronavirus)

First Notice Posted: 10/01/2020-IDL Boise; 10/01/2020-IDL CDA

This notice is published pursuant to § 74-204 Idaho Code. 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, 208.334.0242



## Idaho State Board of Land Commissioners

Brad Little, Governor and President of the Board  
Lawrence E. Denney, Secretary of State  
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Brandon D Woolf, State Controller  
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### State Board of Land Commissioners Regular Meeting

October 20, 2020 – 9:00 AM (MT)

#### Final Agenda

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

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#### **This meeting is open to the public.**

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

##### **Trust Land Revenue**

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

##### **Status Updates**

- C. Fire Season Report – Final
- D. Land Bank Fund

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

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

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<sup>1</sup> [www.cityofboise.org/departments/mayor/coronavirus-covid-19-information/](http://www.cityofboise.org/departments/mayor/coronavirus-covid-19-information/) AND [www.cdhd.idaho.gov/dac-coronavirus](http://www.cdhd.idaho.gov/dac-coronavirus)

### **Consent—Action Item(s)**

3. **Results of September 2020 Grazing Lease Live Auction** – *Presented by Ryan Montoya, Bureau Chief-Real Estate Services*
4. **Approval of Draft Minutes** – September 15, 2020 Regular Meeting (Boise)

### **Regular—Action Item(s)**

5. **Adoption of Pending Fee Rules—Omnibus Rulemaking** – *Presented by Scott Phillips, Policy and Communications Chief*
6. **Approval of Pocono Poke Cedar Timber Sale** – *Presented by Jim Elbin, Division Administrator-Trust Land Management*
7. **FY2022 Revised Budget Enhancements** – *Presented by Debbie Buck, Financial Officer*
8. **Idaho Forest Group Land Exchange** – *Presented by Josh Purkiss, Program Manager-Real Estate*
9. **Avimor Land Exchange** – *Presented by Josh Purkiss, Program Manager-Real Estate*
10. **Grazing Rate Formula and 2021 Grazing Lease Rate** – *Presented by Ryan Montoya, Bureau Chief-Real Estate Services*

### **Information**

11. **Minerals Regulatory Status Update** – *Presented by Mick Thomas, Division Administrator-Minerals, Public Trust, Oil & Gas*
12. **Winter Dock Storage on North Idaho Lakes** – *Presented by Mick Thomas, Division Administrator-Minerals, Public Trust, Oil & Gas*
13. **Endowment Leasing Status Update** – *Presented by Ryan Montoya, Bureau Chief-Real Estate Services*

### **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: Minerals Lease E310021]

### **Regular—Action Item(s)**

14. **Minerals Lease E310021**



# Idaho Statutes

## 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

October 20, 2020  
Trust Land Revenue

## Timber Sales

During September 2020, the Department of Lands sold nine endowment timber sales at auction. The endowment net sale value represents a 54% up bid over the advertised value. The Caribou Conks Pulp and Devils Fork sales were scheduled for a second auction, but due to a timber sale website error, the timber sale ads were not posted for purchaser use. The sales have been rescheduled for a second auction on October 15.

| TIMBER SALE AUCTIONS    |      |               |                |          |                        |                         |                 |                      |
|-------------------------|------|---------------|----------------|----------|------------------------|-------------------------|-----------------|----------------------|
| Sale Name               | Area | Sawlogs MBF   | Cedar Prod MBF | Pulp MBF | Appraised Net Value    | Sale Net Value          | Net \$/MBF      | Purchaser            |
| Lost Heywood            | MC   | 12,820        |                |          | \$ 3,048,928.00        | \$ 4,585,148.00         | \$357.66        | Empire Lumber Co     |
| Glenwood 120 Cedar      | MC   | 2,955         |                |          | \$ 665,659.00          | \$ 782,920.00           | \$264.95        | IFG Timber LLC       |
| 3 Bear Cedar            | PON  | 8,905         | 210            |          | \$ 2,368,714.00        | \$ 3,854,084.65         | \$422.83        | Stella-Jones Corp    |
| Middle Man              | PON  | 3,700         |                |          | \$ 708,643.50          | \$ 1,129,463.00         | \$305.26        | IFG Timber LLC       |
| Packer Salvage          | SWI  | 9,545         |                |          | \$ 457,612.00          | \$ 601,031.50           | \$62.97         | Woodgrain Inc        |
| Knobby Bear             | PL   | 3,700         |                |          | \$ 464,550.00          | \$ 882,562.50           | \$238.53        | Stimson Lumber Co    |
| Faerbers Cedar          | CLW  | 495           |                |          | \$ 220,830.50          | \$ 279,745.75           | \$565.14        | Stella-Jones Corp    |
| True North Cedar        | CLW  | 5,730         | 310            |          | \$ 2,466,920.50        | \$ 3,959,731.00         | \$655.58        | Alta Forest Prod LLC |
| Curtis Blowdown Salvage | POL  | 405           |                |          | \$ 50,826.50           | \$ 50,826.50            | \$125.50        | Paul Glazier Logging |
| <b>Endowment</b>        |      | <b>48,255</b> | <b>520</b>     | <b>0</b> | <b>\$10,452,684.00</b> | <b>\$ 16,125,512.90</b> | <b>\$330.61</b> |                      |

| PROPOSED TIMBER SALES FOR AUCTION |               |                      |      |                        |
|-----------------------------------|---------------|----------------------|------|------------------------|
| Sale Name                         | Volume MBF    | Advertised Net Value | Area | Estimated Auction Date |
| North Operations                  |               |                      |      |                        |
| Brickel Sawlog                    | 5,400         | \$ 637,475           | MICA | 10/6/2020              |
| Hunt Ridge OSR                    | 4,925         | \$ 464,519           | MICA | 10/6/2020              |
| Cougar Saw Log                    | 1,905         | \$ 156,492           | MICA | 10/6/2020              |
| Caribou Conks Pulp                | 3,650         | \$ 99,639            | PL   | 10/15/2020             |
| Devils Fork                       | 3,000         | \$ 283,654.50        | PL   | 10/15/2020             |
|                                   | <b>18,880</b> | <b>\$ 1,641,780</b>  |      |                        |
| South Operations                  |               |                      |      |                        |
| Packer Summit Salvage             | 10,330        | \$ 422,271           | SW   | 10/8/2020              |

### VOLUME UNDER CONTRACT as of September 30, 2020

|                               | Public School | Pooled       | Total         | 3 Year Avg.   |
|-------------------------------|---------------|--------------|---------------|---------------|
| Active Contracts              |               |              | 175           | 179           |
| Total Residual MBF Equivalent | 339,987       | 232,830      | 572,817       | 523,985       |
| Estimated residual value      | \$82,517,977  | \$61,005,777 | \$143,523,754 | \$150,826,750 |
| Residual Value (\$/MBF)       | \$242.71      | \$262.02     | \$250.56      | \$287.59      |

### TIMBER HARVEST RECEIPTS

|               | September       |                 | FY to date       | October Projected |               |
|---------------|-----------------|-----------------|------------------|-------------------|---------------|
|               | Stumpage        | Interest        | Harvest Receipts | Stumpage          | Interest      |
| Public School | \$ 5,855,115.02 | \$ 898,419.74   | \$ 17,726,032.99 | \$ 3,787,301.59   | \$ 453,213.38 |
| Pooled        | \$ 1,898,707.30 | \$ 234,953.38   | \$ 7,478,911.38  | \$ 1,776,006.77   | \$ 170,010.41 |
| General Fund  | \$ 498.84       | \$ 59.94        | \$ 3,671.38      | \$ 992.01         | \$ 124.25     |
| <b>TOTALS</b> | \$ 7,754,321.16 | \$ 1,133,433.06 | \$ 25,208,615.75 | \$ 5,564,300.37   | \$ 623,348.04 |

## IDAHO DEPARTMENT OF LANDS

### STATUS OF FY 2021 TIMBER SALE PROGRAM

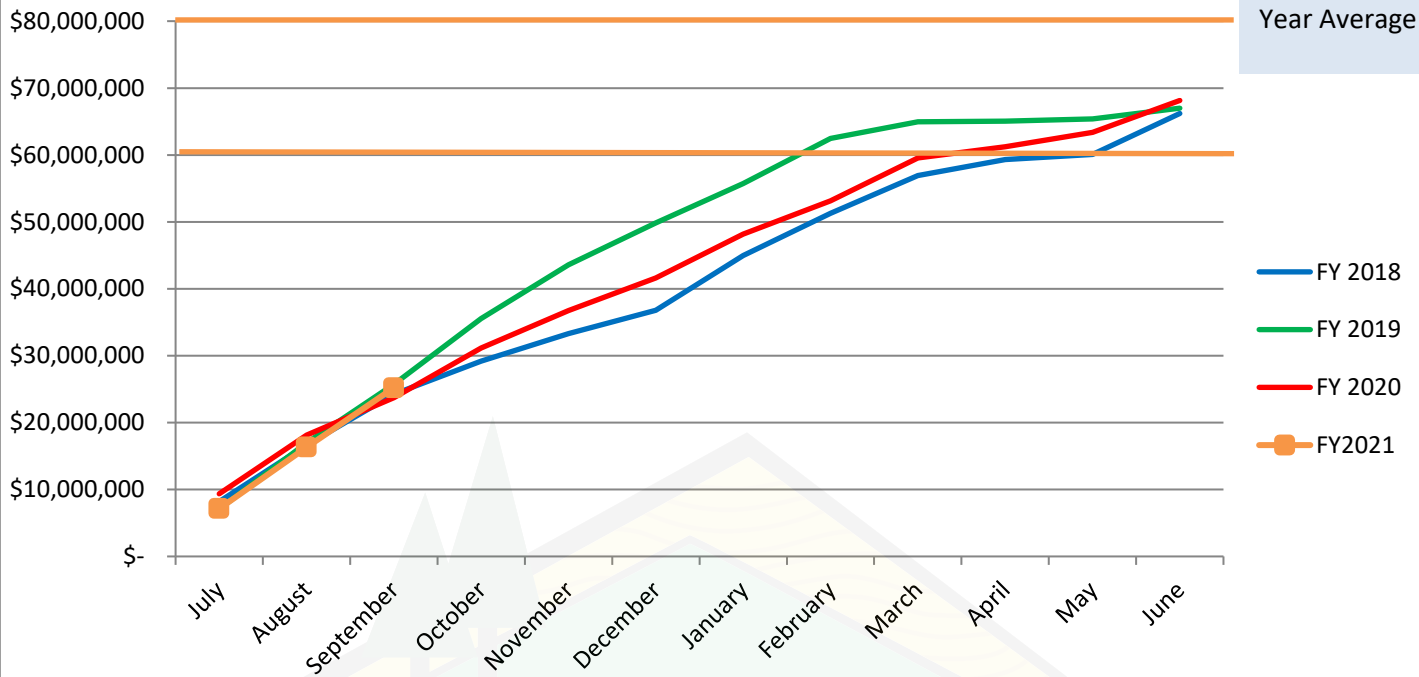
|                               | MBF Sawlog    |        |                | Number Poles  |        |                |
|-------------------------------|---------------|--------|----------------|---------------|--------|----------------|
|                               | Public School | Pooled | All Endowments | Public School | Pooled | All Endowments |
|                               |               |        |                |               |        |                |
| Sold as of September 30, 2020 | 26,028        | 30,405 | 56,434         | 2,462         | 8,386  | 10,848         |
| Currently Advertised          | 11,530        | 0      | 11,530         | 0             | 0      | 0              |
| In Review                     | 41,890        | 19,675 | 61,565         | 12,622        | 603    | 13,225         |
| Did Not Sell <sup>1</sup>     | 0             | 0      | 0              | 0             | 0      | 0              |
| <b>TOTALS</b>                 | 79,448        | 50,080 | 129,529        | 15,084        | 8,989  | 24,073         |
| FY-2021 Sales Plan            |               |        | 284,238        |               |        | 28,810         |
| Percent to Date               |               |        | 46%            |               |        | 84%            |

<sup>1</sup> After three attempts at auction.



## Cumulative Harvest Receipts

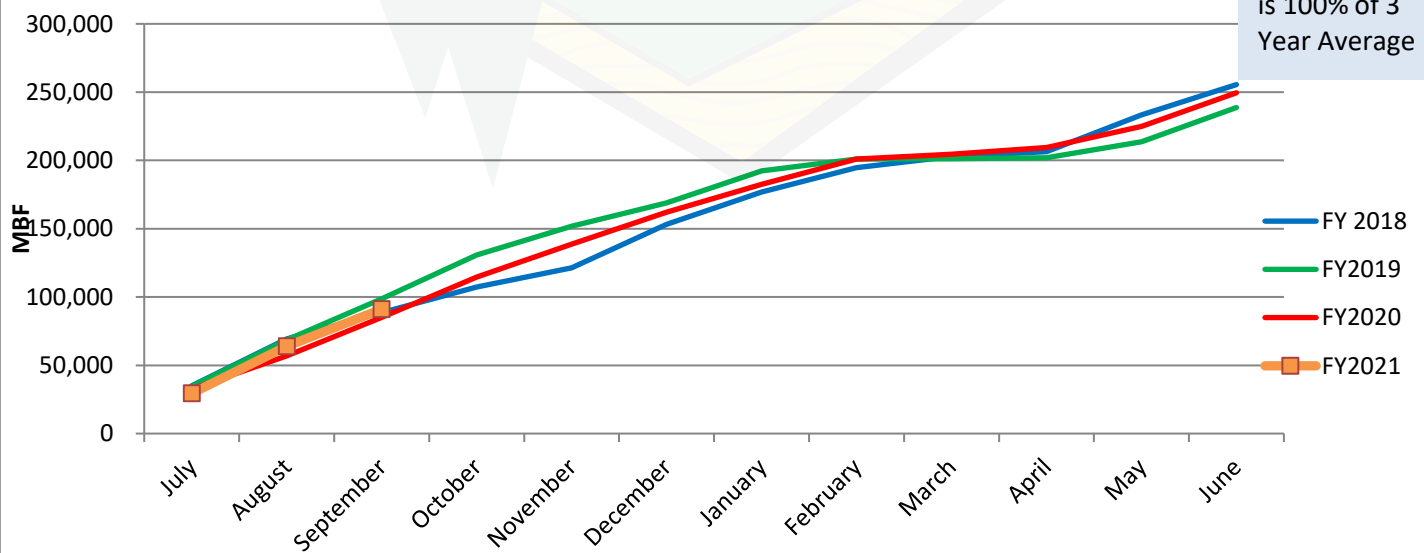
Current FYTD  
is 103% of 3  
Year Average



## IDAHO DEPARTMENT OF LANDS

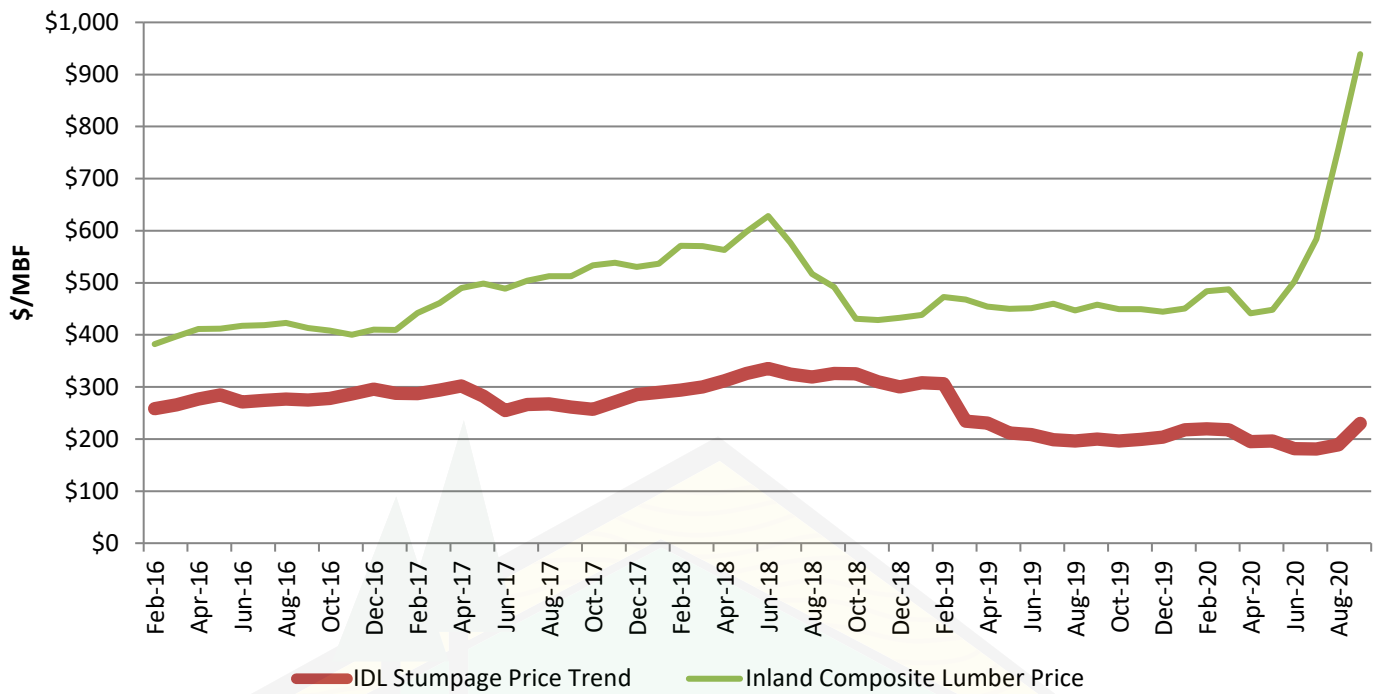
## Cumulative Harvest Volume

Current FYTD  
is 100% of 3  
Year Average





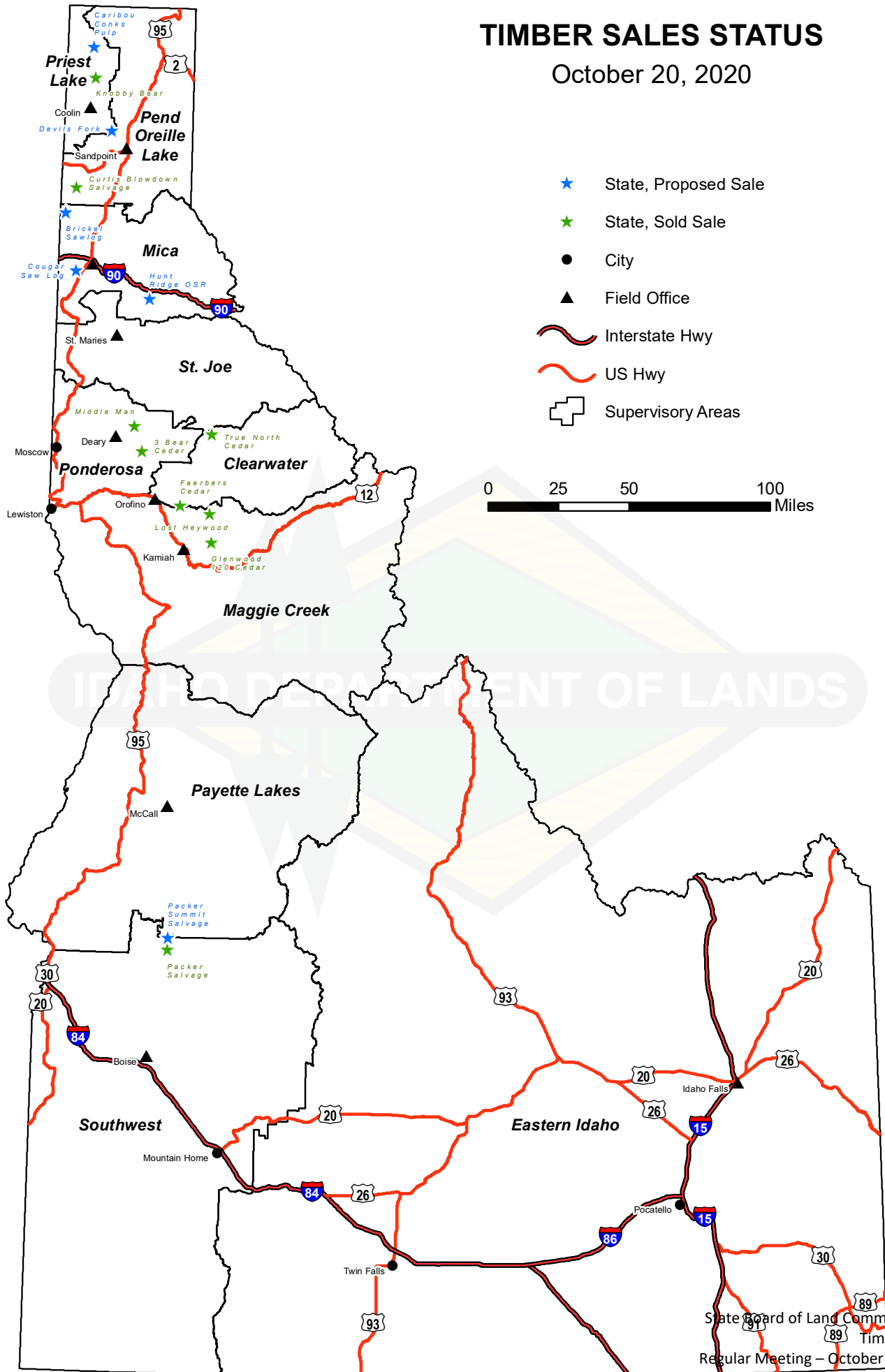
## Monthly Lumber and Stumpage Price



IDL Stumpage Price Line is a 6-month rolling average of the net sale price.

# TIMBER SALES STATUS

October 20, 2020



# STATE BOARD OF LAND COMMISSIONERS

October 20, 2020

## Endowment Transactions

### Leases and Permits

| FISCAL YEAR 2021 – LEASING & PERMITTING TRANSACTIONS BY MONTH – through September 30, 2020 |           |           |           |     |     |     |     |     |     |     |     |     |     |           |
|--------------------------------------------------------------------------------------------|-----------|-----------|-----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----------|
| ACTIVITY                                                                                   | JUL       | AUG       | SEP       | OCT | NOV | DEC | JAN | FEB | MAR | APR | MAY | JUN | EST | FYTD      |
| <b>SURFACE</b>                                                                             |           |           |           |     |     |     |     |     |     |     |     |     |     |           |
| Agriculture                                                                                | -         | -         | -         |     |     |     |     |     |     |     |     |     | 1   | 0         |
| <i>Assignments</i>                                                                         | -         | -         | -         |     |     |     |     |     |     |     |     |     | 1   | 0         |
| Communication Sites                                                                        | -         | -         | -         |     |     |     |     |     |     |     |     |     | 31  | 0         |
| Grazing                                                                                    | 7         | 2         | 1         |     |     |     |     |     |     |     |     |     | 14  | 10        |
| <i>Assignments</i>                                                                         | -         | 3         | 4         |     |     |     |     |     |     |     |     |     | 32  | 7         |
| Residential                                                                                | -         | 2         | 4         |     |     |     |     |     |     |     |     |     | 18  | 6         |
| <i>Assignments</i>                                                                         | -         | 1         | 1         |     |     |     |     |     |     |     |     |     | 18  | 2         |
| <b>COMMERCIAL</b>                                                                          |           |           |           |     |     |     |     |     |     |     |     |     |     |           |
| Alternative Energy                                                                         | -         | -         | -         |     |     |     |     |     |     |     |     |     | 1   | 0         |
| Industrial                                                                                 | -         | -         | -         |     |     |     |     |     |     |     |     |     | 6   | 0         |
| Military                                                                                   | -         | -         | -         |     |     |     |     |     |     |     |     |     | 4   | 0         |
| Office/Retail                                                                              | -         | -         | -         |     |     |     |     |     |     |     |     |     | 2   | 0         |
| Recreation                                                                                 | -         | -         | -         |     |     |     |     |     |     |     |     |     | 11  | 0         |
| <i>Assignments</i>                                                                         | -         | -         | -         |     |     |     |     |     |     |     |     |     | -   | 0         |
| <b>OTHER</b>                                                                               |           |           |           |     |     |     |     |     |     |     |     |     |     |           |
| Conservation                                                                               | -         | -         | -         |     |     |     |     |     |     |     |     |     | 0   | 0         |
| <i>Assignments</i>                                                                         | -         | -         | -         |     |     |     |     |     |     |     |     |     | -   | 0         |
| Geothermal                                                                                 | -         | -         | -         |     |     |     |     |     |     |     |     |     | 4   | 0         |
| Minerals                                                                                   | 13        | -         | -         |     |     |     |     |     |     |     |     |     | 57  | 13        |
| <i>Assignments</i>                                                                         |           | -         | -         |     |     |     |     |     |     |     |     |     | -   | 0         |
| Non-Comm Recreation                                                                        | -         | -         | -         |     |     |     |     |     |     |     |     |     | -   | 0         |
| Oil & Gas                                                                                  | -         | -         | -         |     |     |     |     |     |     |     |     |     | 0   | 0         |
| <b>PERMITS</b>                                                                             |           |           |           |     |     |     |     |     |     |     |     |     |     |           |
| Land Use Permits                                                                           | 10        | 5         | 12        |     |     |     |     |     |     |     |     |     | NA  | 27        |
| <b>TOTAL INSTRUMENTS</b>                                                                   | <b>30</b> | <b>13</b> | <b>22</b> |     |     |     |     |     |     |     |     |     |     | <b>65</b> |

### Real Estate

| FISCAL YEAR 2021 – REAL ESTATE TRANSACTIONS BY MONTH – through September 30, 2020                                |     |     |     |     |     |     |     |     |     |     |     |     |      |  |
|------------------------------------------------------------------------------------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|------|--|
| ACTIVITY                                                                                                         | JUL | AUG | SEP | OCT | NOV | DEC | JAN | FEB | MAR | APR | MAY | JUN | FYTD |  |
| Deeds Acquired                                                                                                   | -   | -   | -   |     |     |     |     |     |     |     |     |     | 0    |  |
| Deeds Granted                                                                                                    | -   | -   | 9   |     |     |     |     |     |     |     |     |     | 9    |  |
| Deeds Granted - Surplus                                                                                          | -   | -   | -   |     |     |     |     |     |     |     |     |     | 0    |  |
| Easements Acquired                                                                                               | -   | -   | -   |     |     |     |     |     |     |     |     |     | 0    |  |
| Easements Granted                                                                                                | -   | -   | -   |     |     |     |     |     |     |     |     |     | 0    |  |
| <i>Assignments</i>                                                                                               | -   | 1   | -   |     |     |     |     |     |     |     |     |     | 1    |  |
| <i>Notes: The Department closed nine of the eighteen Priest Lake cottage sites that sold on August 15, 2020.</i> |     |     |     |     |     |     |     |     |     |     |     |     |      |  |

**TRUST LAND MANAGEMENT DIVISION**  
**2021FYTD GROSS REVENUE - ACTUAL AND FORECASTED**  
**through September 30, 2020**

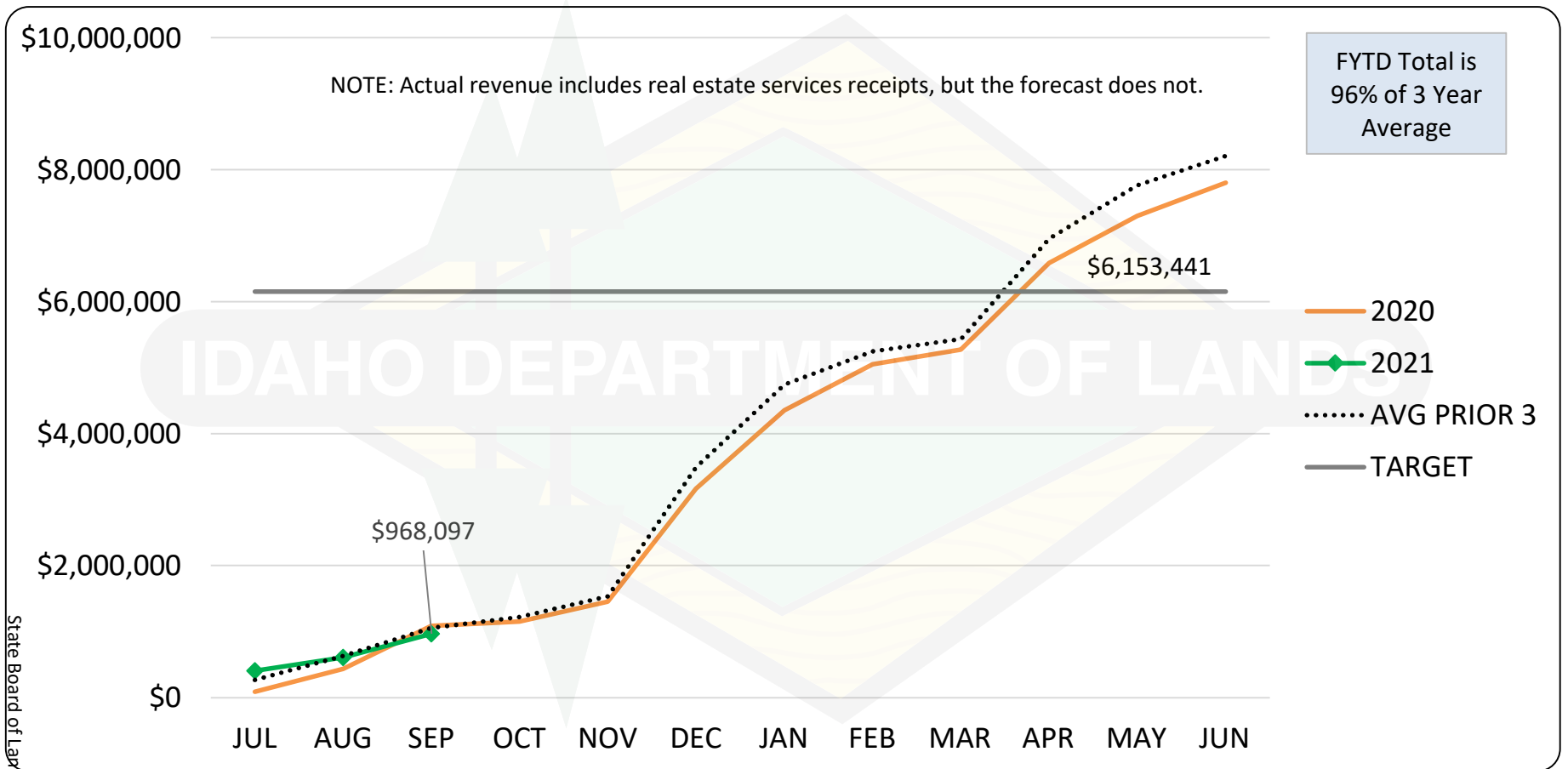
|                             | ACTUAL RECEIPTS<br>AS OF 09.30.2020 | REVENUE EXPECTED<br>BY 09.30.2020** | REVENUE EXPECTED<br>BY 06.30.2021 |
|-----------------------------|-------------------------------------|-------------------------------------|-----------------------------------|
| <b>SURFACE</b>              |                                     |                                     |                                   |
| AGRICULTURE                 | \$ 3,062                            | \$ 3,212                            | \$ 471,741                        |
| COMMUNICATION SITES         | \$ 46,142                           | \$ 70,617                           | \$ 548,358                        |
| GRAZING                     | \$ 12,785                           | \$ 11,227                           | \$ 1,822,510                      |
| RESIDENTIAL                 | \$ 16,487                           | \$ 47,474                           | \$ 1,450,328                      |
| <b>COMMERCIAL</b>           |                                     |                                     |                                   |
| COMMERCIAL ENERGY RESOURCES | \$ 4,364                            | \$ -                                | \$ 12,715                         |
| COMMERCIAL INDUSTRIAL       | \$ 11,406                           | \$ 19,800                           | \$ 73,313                         |
| COMMERCIAL MILITARY         | \$ -                                | \$ -                                | \$ 62,438                         |
| COMMERCIAL OFFICE/RETAIL    | \$ 529,118                          | \$ 416,217                          | \$ 997,011                        |
| COMMERCIAL RECREATION       | \$ 233,297                          | \$ 231,615                          | \$ 470,323                        |
| <b>OTHER</b>                |                                     |                                     |                                   |
| CONSERVATION LEASES         | \$ 100                              | \$ -                                | \$ 103,951                        |
| GEOTHERMAL                  | \$ -                                | \$ 1,000                            | \$ 5,000                          |
| MINERAL                     | \$ 17,258                           | \$ 9,844                            | \$ 70,492                         |
| NON-COMMERCIAL RECREATION   | \$ 2,511                            | \$ 1,300                            | \$ 52,129                         |
| OIL AND GAS LEASES          | \$ 6,759                            | \$ 1,026                            | \$ 13,133                         |
| <b>Sub Total</b>            | <b>\$ 883,290</b>                   | <b>\$ 813,331</b>                   | <b>\$ 6,153,440</b>               |
|                             |                                     |                                     |                                   |
| *LAND SALES/RECORDS         | \$ 84,807                           |                                     |                                   |
| *REAL ESTATE SERVICES       | \$ -                                |                                     |                                   |
| <b>Grand Total</b>          | <b>\$ 968,097</b>                   |                                     |                                   |

\* These categories are not included in the annual forecast.

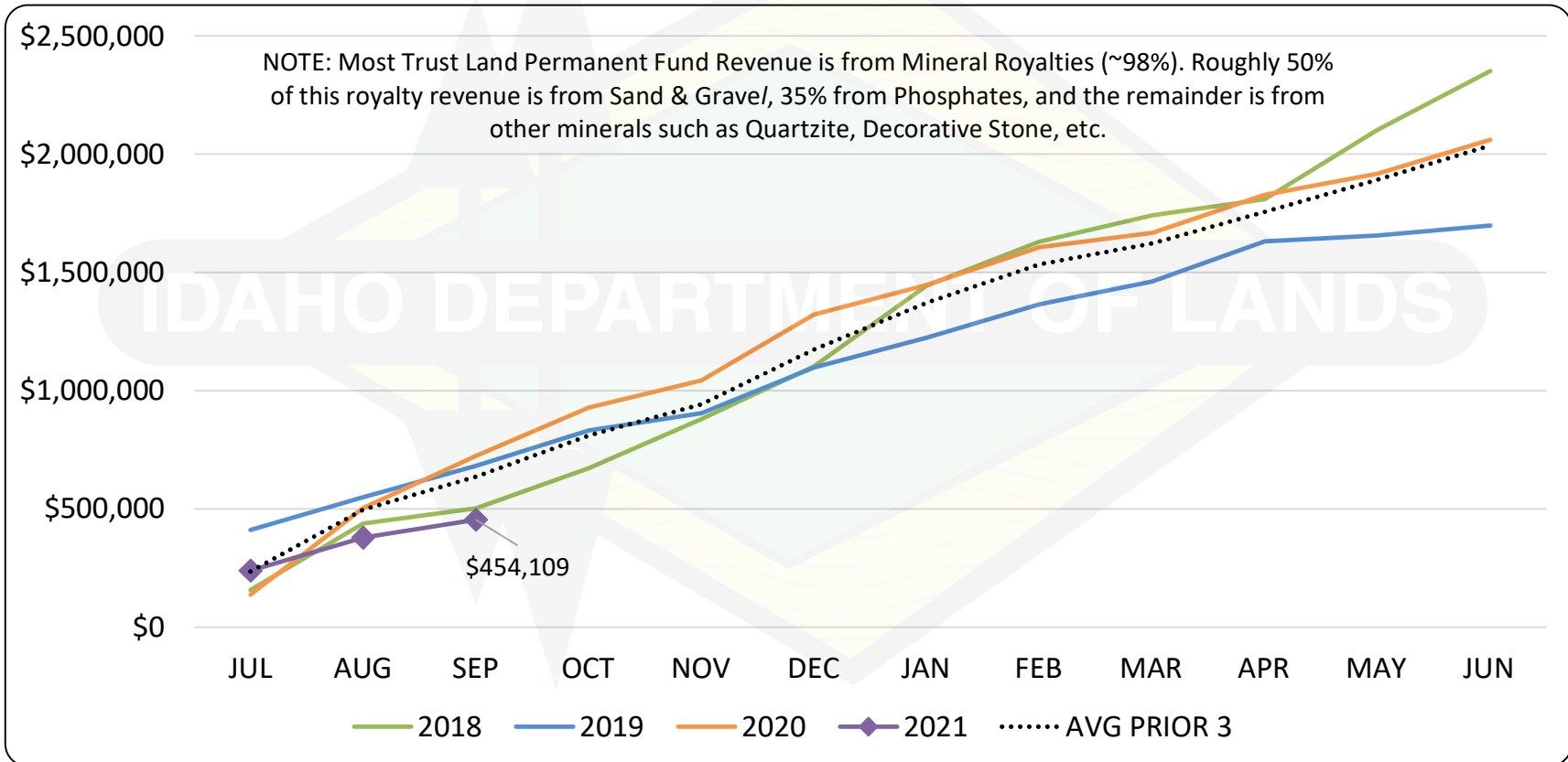
\*\* These figures are based on "normal" timing of revenue/billing throughout the year.

NOTE: The Department prepares the annual endowment revenue forecast by ASSET CLASS (not by Program). For this table, we have attempted to further breakdown the forecast by program by applying trend data.

# Cumulative Trust Land Program Receipts - Earnings Reserve - All Programs FY2020 - FYTD2021



# Cumulative Trust Land Permanent Fund Revenue/Royalties (Does NOT include Land Bank Revenue) FY18 - FYTD21



# STATE BOARD OF LAND COMMISSIONERS

October 20, 2020  
Department Report

## Subject

Fire Season Update

## Background

As of October 5, 2020, Emergency Fire Suppression expenditures are estimated to be \$26,550,000. The Suppression Account will recover an estimated \$3,100,000 of reimbursable costs, for a net obligation of \$23,450,000. The total obligation above includes the 2020 contracted aircraft costs, a prepositioned hand crew, and 11 prepositioned engines to assist with reduced resource availability due to Covid-19. These engines are assigned across the state to boost initial attack resources.

## Discussion

There are currently no large fires in IDL's protection.

As shown by the table below, fire occurrence to date for 2020 is 84 percent of the 20-year average, while the acres burned is 30 percent of the 20-year average.

**Fire Season Comparison to Date**

| Number of Fires |           |       |       |        |
|-----------------|-----------|-------|-------|--------|
| Year            | Lightning | Human | Total | Acres  |
| 2017            | 62        | 139   | 201   | 52,783 |
| 2018            | 57        | 202   | 259   | 7,721  |
| 2019            | 95        | 148   | 243   | 1,478  |
| 2020            | 50        | 196   | 246   | 6,882  |
| 20 Yr. Average  |           |       | 294   | 22,634 |

Numbers in table are YTD for prior years and YTD for the current year.

A warm and dry September created a longer-than-normal fire season. Idaho received widespread wetting rain during the first week of October.

All fire restrictions have been rescinded.



## Fire Season Summary of Expenses and Acreage Burned

| Total Acres Burned by Ownership |                |
|---------------------------------|----------------|
| 10/1/2020                       |                |
| Surface Owner                   | Acres          |
| Idaho Department of Lands       | 23,074         |
| Other State Lands               | 2,782          |
| Private                         | 35,657         |
| Bureau of Land Management       | 47,881         |
| Other Federal                   | 9,694          |
| U.S. Forest Service             | 181,537        |
| <b>Total Acres</b>              | <b>300,625</b> |

Only fires with perimeters in the Fire Enterprise Geospatial Portal and the IDL Lands Resource Manager system have been included in the analysis.

## Suppression Spending Detail

| Fire Deficiency Warrant Spending – 2020 Fire Season YTD |                     |                                                            |
|---------------------------------------------------------|---------------------|------------------------------------------------------------|
| Category                                                | Estimated Costs     | Notes                                                      |
| Aviation Resources                                      | \$2,200,000         | 4 SEATS, 1 Fire Boss, 2 Type 2 Helicopters                 |
| Preposition Engines                                     | \$800,000           | 11 contract engines to boost IA statewide                  |
| Preposition Hand Crew                                   | \$200,000           | 20-person Hand Crew to boost IA                            |
| IDL Team Fires                                          | \$15,200,000        | Type 2 and Type 3 Fires                                    |
| IDL Non-Team Fires                                      | \$4,350,000         | IDL/Assn fires including prepositioning                    |
| Reimbursable                                            | \$3,100,000         | IDL and Fire Department resources supporting non-IDL fires |
| Other Suppression                                       | \$700,000           | Coeur d'Alene Cache, Dispatch, admin support               |
| <b>Total Estimate YTD</b>                               | <b>\$26,550,000</b> |                                                            |

## Suppression Spending History

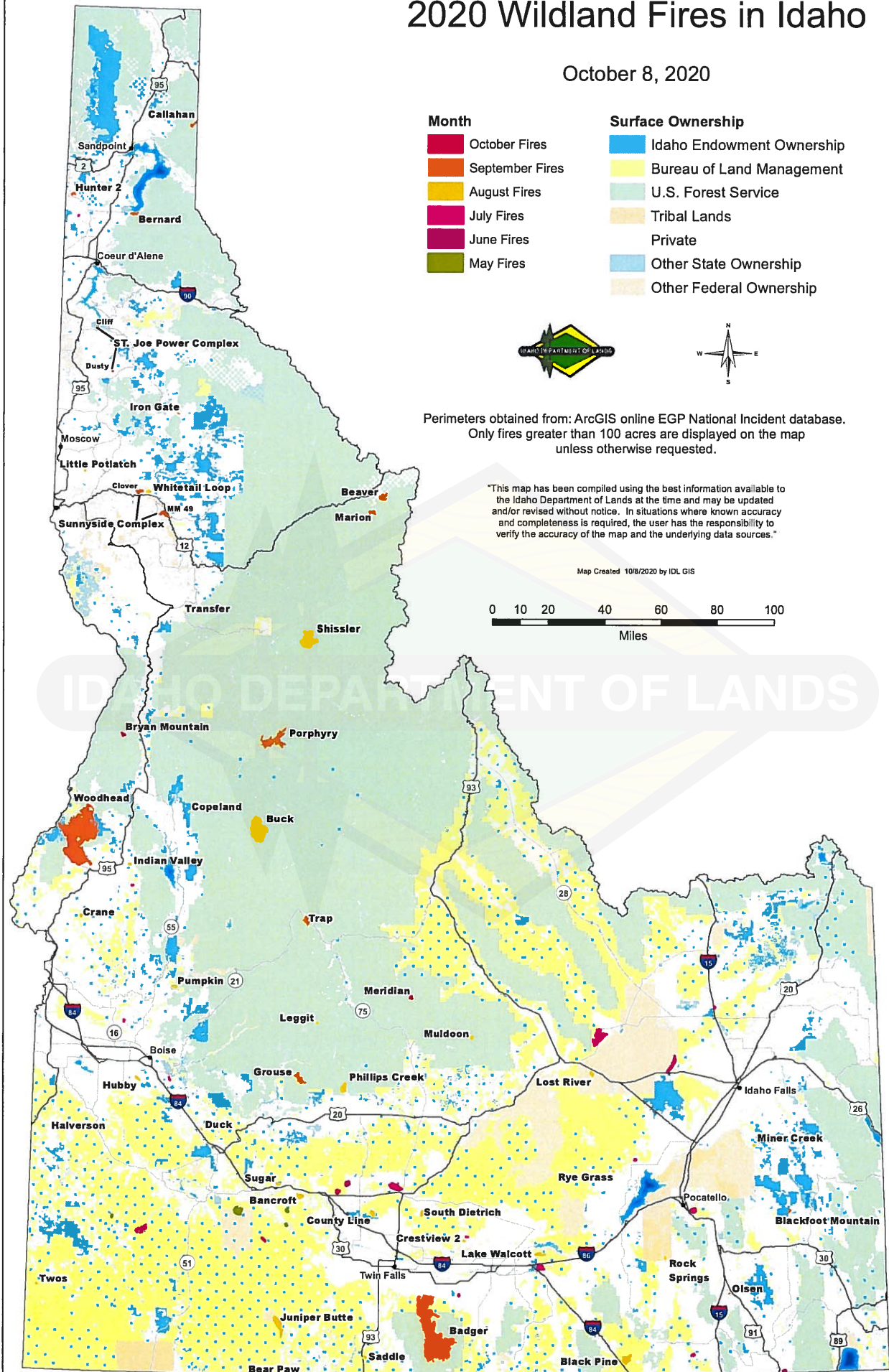
| Fire Season Estimated Costs from Annual Reports |                              |               |                  |
|-------------------------------------------------|------------------------------|---------------|------------------|
|                                                 | Idaho Fire Suppression Costs | Reimbursable  | Idaho Obligation |
| 2015                                            | \$ 78,113,000                | \$ 17,902,000 | \$ 60,211,000    |
| 2016                                            | \$ 14,802,000                | \$ 4,781,000  | \$ 10,021,000    |
| 2017                                            | \$ 22,081,000                | \$ 5,632,000  | \$ 16,449,000    |
| 2018                                            | \$ 28,000,000                | \$ 8,500,000  | \$ 19,500,000    |
| 2019                                            | \$ 13,600,000                | \$ 2,100,000  | \$ 11,500,000    |
| 2020                                            | \$ 26,550,000                | \$ 3,100,000  | \$ 23,450,000    |

## Attachments

1. Significant Fires Throughout Idaho

# 2020 Wildland Fires in Idaho

October 8, 2020



| LAND BANK AGING REPORT                                                              |                      |                      |                      |                     |                       |                    |
|-------------------------------------------------------------------------------------|----------------------|----------------------|----------------------|---------------------|-----------------------|--------------------|
| Current Remaining Principal Balance By Quarter Receipted - As of September 30, 2020 |                      |                      |                      |                     |                       |                    |
| FY Quarter IN                                                                       | Public School        | Normal Schools       | State Hospital South | University of Idaho | All Endowments        | FY Quarter EXPIRES |
| 2017-02                                                                             | \$ 2,291,792         | \$ 2,161,254         | \$ 9,515,446         | \$ -                | \$ 13,968,492         | 2022-02            |
| 2017-03                                                                             | \$ 5,766,250         | \$ 10,431,970        | \$ 1,593,780         | \$ -                | \$ 17,792,000         | 2022-03            |
| 2017-04                                                                             | \$ -                 | \$ 25,100            | \$ -                 | \$ -                | \$ 25,100             | 2022-04            |
| 2018-01                                                                             | \$ -                 | \$ 3,331,000         | \$ 4,439,000         | \$ -                | \$ 7,770,000          | 2023-01            |
| 2018-02                                                                             | \$ 27,869,832        | \$ -                 | \$ 125,500           | \$ -                | \$ 27,995,332         | 2023-02            |
| 2018-03                                                                             | \$ -                 | \$ 2,000,712         | \$ 829,888           | \$ 5,650,029        | \$ 8,480,629          | 2023-03            |
| 2018-04                                                                             | \$ 10,500            | \$ -                 | \$ -                 | \$ -                | \$ 10,500             | 2023-04            |
| 2019-01                                                                             | \$ -                 | \$ 2,428,000         | \$ 1,442,000         | \$ -                | \$ 3,870,000          | 2024-01            |
| 2019-02                                                                             | \$ 25,136,124        | \$ -                 | \$ -                 | \$ -                | \$ 25,136,124         | 2024-02            |
| 2019-03                                                                             | \$ -                 | \$ -                 | \$ -                 | \$ -                | \$ -                  | 2024-03            |
| 2019-04                                                                             | \$ -                 | \$ -                 | \$ -                 | \$ -                | \$ -                  | 2024-04            |
| 2020-01                                                                             | \$ -                 | \$ 2,582,500         | \$ 1,670,000         | \$ -                | \$ 4,252,500          | 2025-01            |
| 2020-02                                                                             | \$ 12,793,400        | \$ -                 | \$ -                 | \$ -                | \$ 12,793,400         | 2025-02            |
| 2020-03                                                                             | \$ 866,000           | \$ -                 | \$ -                 | \$ -                | \$ 866,000            | 2025-03            |
| 2020-04                                                                             | \$ 52,134            | \$ -                 | \$ -                 | \$ -                | \$ 52,134             | 2025-04            |
| 2021-01                                                                             | \$ 5,159,720         | \$ -                 | \$ -                 | \$ -                | \$ 5,159,720          | 2026-01            |
| <b>TOTAL PRINCIPAL REMAINING</b>                                                    | <b>\$ 79,945,752</b> | <b>\$ 22,960,536</b> | <b>\$ 19,615,614</b> | <b>\$ 5,650,029</b> | <b>\$ 128,171,932</b> |                    |

|                                                   |                      |                      |                      |                     |                       |
|---------------------------------------------------|----------------------|----------------------|----------------------|---------------------|-----------------------|
| <b>LAND BANK CASH BALANCE<br/>(with Interest)</b> | <b>\$ 84,987,795</b> | <b>\$ 24,260,813</b> | <b>\$ 20,961,396</b> | <b>\$ 5,931,980</b> | <b>\$ 136,141,984</b> |
|---------------------------------------------------|----------------------|----------------------|----------------------|---------------------|-----------------------|



M. Dean Buffington :: Chairman  
Jerry F. Aldape      Gary L. Mahn  
Warren R. Bakes      Richelle A. Sugiyama  
Steven C. Harris      Thomas J. Wilford  
Irving Littman      Chuck Winder  
Chris J. Anton :: Manager of Investments

## Monthly Report to the Board of Land Commissioners

### Investment performance through September 30, 2020

**Month: -1.6%      Fiscal year: 5.6 %**

Equity markets took a breather during September. The confidence of equity investors was shaken by the emergence of heightened COVID-19 infections, the contentious U.S. presidential election and the fiscal stimulus stalemate in Congress. Globally there are now more than 35.9 million confirmed cases of COVID-19 and over one million related deaths. The infection rate has accelerated in Europe and in 34 states the 7-day moving average of new cases is higher than it was a month ago. President Trump's nomination of Amy Coney Barrett to replace Justice Ruth Bader Ginsburg on the Supreme Court temporarily chilled talks between Democrats and Republicans to provide additional fiscal stimulus, but it now appears both parties are motivated to reach an agreement before the November presidential election. Many believe the economy needs this inflow of money urgently as retail sales growth has softened and labor markets are showing only modest improvement. Fed Chairman Jerome Powell warned Congress on several occasions that the economy will suffer if lawmakers fail to act, underscoring that small businesses and lower-income households require more support. He remarked, "The downturn has not fallen equally on all Americans; those least able to bear the burden have been the most affected."

### Status of endowment fund reserves

Distributions for FY2021 and FY2022 are well secured.

### Significant actions of the Endowment Fund Investment Board

The Endowment Fund Investment Board held a special meeting on September 24, 2020 to learn about investment opportunities related to infrastructure.

### 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

EFIB Board Meeting – November 17, 2020



Preliminary Report (Land Grant Fund, excluding accruals)

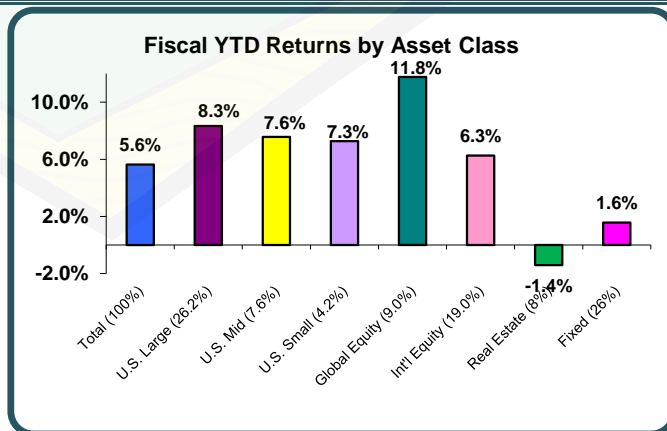
September 30, 2020

|                                                        | Month                   | FYTD                    |
|--------------------------------------------------------|-------------------------|-------------------------|
| <b>Beginning Value of Fund</b>                         | <b>\$ 2,563,291,079</b> | <b>\$ 2,395,398,968</b> |
| Distributions to Beneficiaries                         | (7,043,400)             | (21,130,200)            |
| Land Revenue net of IDL Expenses                       | 3,779,727               | 12,851,929              |
| Change in Market Value net of Investment Mgt. Expenses | (38,748,984)            | 134,157,725             |
| <b>Current Value of Fund</b>                           | <b>\$ 2,521,278,422</b> | <b>\$ 2,521,278,422</b> |

| <b>Gross Returns</b>   | <b>Current Month</b> | <b>Calendar Y-T-D</b> | <b>Fiscal Y-T-D</b> | <b>One Year</b> | <b>Three Year</b> | <b>Five Year</b> | <b>Ten Year</b> |
|------------------------|----------------------|-----------------------|---------------------|-----------------|-------------------|------------------|-----------------|
| <b>Total Fund</b>      | <b>-1.6%</b>         | <b>3.9%</b>           | <b>5.6%</b>         | <b>10.7%</b>    | <b>8.2%</b>       | <b>9.6%</b>      | <b>9.0%</b>     |
| Total Fund Benchmark*  | -2.3%                | 3.5%                  | 5.5%                | 9.7%            | 7.4%              | 9.1%             | 8.6%            |
| <b>Total Fixed</b>     | <b>-0.1%</b>         | <b>5.4%</b>           | <b>1.6%</b>         | <b>6.1%</b>     | <b>5.0%</b>       | <b>4.1%</b>      | <b>3.5%</b>     |
| 85% BB Agg, 15% TIPS   | -0.1%                | 7.2%                  | 1.0%                | 7.4%            | 5.3%              | 4.2%             | 3.6%            |
| <b>Total Equity</b>    | <b>-2.3%</b>         | <b>3.6%</b>           | <b>8.0%</b>         | <b>13.2%</b>    | <b>9.4%</b>       | <b>11.9%</b>     | <b>11.0%</b>    |
| 38% R3 19% Ax 9% AC    | -3.2%                | 1.7%                  | 8.2%                | 10.9%           | 8.0%              | 11.2%            | 10.5%           |
| <b>Domestic Equity</b> | <b>-2.6%</b>         | <b>4.1%</b>           | <b>8.1%</b>         | <b>13.5%</b>    | <b>10.8%</b>      | <b>13.1%</b>     | <b>13.5%</b>    |
| Russell 3000 (R3)      | -3.6%                | 5.4%                  | 9.2%                | 15.0%           | 11.6%             | 13.7%            | 13.5%           |
| <b>Global Equity</b>   | <b>-1.3%</b>         | <b>9.6%</b>           | <b>11.8%</b>        | <b>19.4%</b>    | <b>10.6%</b>      | <b>12.0%</b>     | <b>8.4%</b>     |
| MSCI ACWI (AC)         | -3.2%                | 1.4%                  | 8.1%                | 10.4%           | 7.1%              | 10.3%            | 8.5%            |
| <b>Int'l. Equity</b>   | <b>-2.1%</b>         | <b>-0.1%</b>          | <b>6.3%</b>         | <b>9.8%</b>     | <b>6.0%</b>       | <b>8.9%</b>      | <b>5.3%</b>     |
| MSCI ACWI ex-US (Ax)   | -2.5%                | -5.4%                 | 6.3%                | 3.0%            | 1.2%              | 6.2%             | 4.0%            |
| <b>Real Estate</b>     |                      |                       | <b>-1.4%</b>        | <b>3.0%</b>     | <b>5.4%</b>       |                  |                 |
|                        |                      |                       | -1.8%               | 3.0%            | 4.7%              |                  |                 |

\* Benchmark: 38% Russell 3000 19% ACWI ex-US 9% AC 26% BB Agg. 8% ODCE

|                        | <b>Mkt Value (\$M)</b> | <b>Allocation</b> |
|------------------------|------------------------|-------------------|
| <b>Domestic Equity</b> | <b>\$ 974.7</b>        | <b>38.7%</b>      |
| Large Cap              | 678.5                  | 26.9%             |
| Mid Cap                | 190.5                  | 7.6%              |
| Small Cap              | 105.6                  | 4.2%              |
| <b>Global Equity</b>   | <b>240.7</b>           | <b>9.5%</b>       |
| <b>Int'l Equity</b>    | <b>501.8</b>           | <b>19.9%</b>      |
| <b>Fixed Income</b>    | <b>599.7</b>           | <b>23.8%</b>      |
| <b>Real Estate</b>     | <b>190.4</b>           | <b>7.6%</b>       |
| <b>Cash</b>            | <b>11.3</b>            | <b>0.4%</b>       |
| <b>Total Fund</b>      | <b>\$ 2,521.3</b>      | <b>100%</b>       |



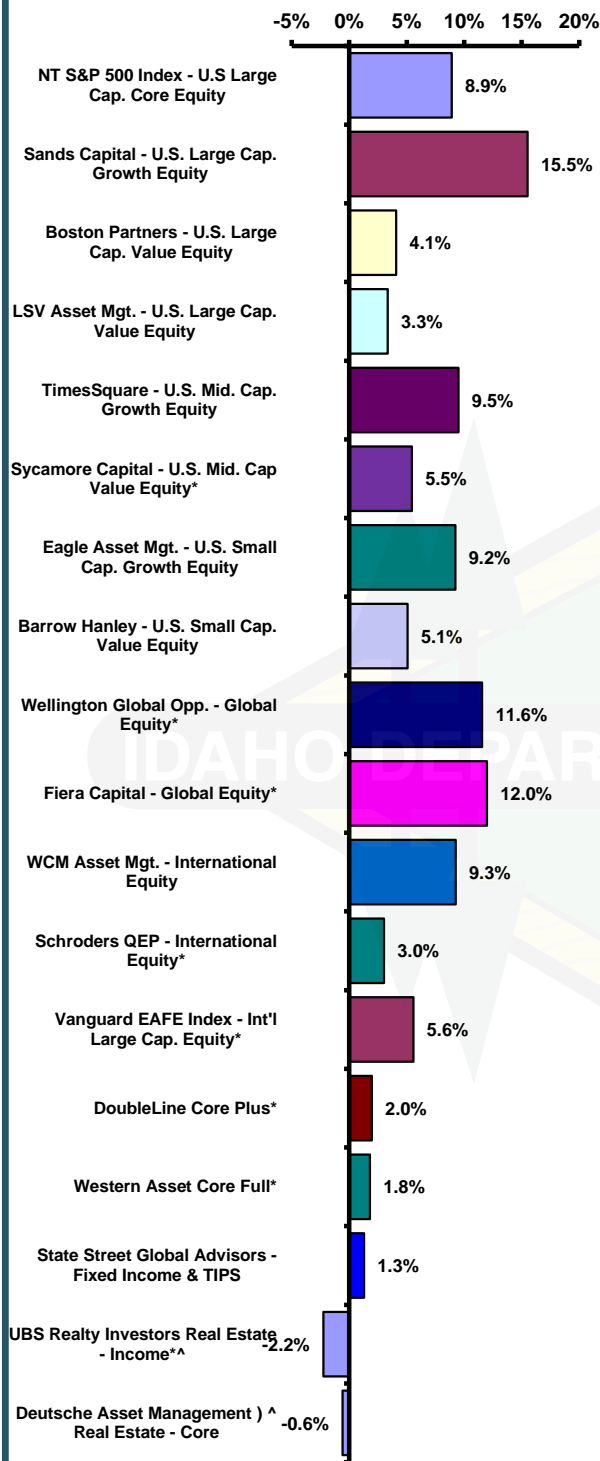
## Endowment Fund Staff Comments:

Equity markets took a breather during September. The confidence of equity investors was shaken by the emergence of heightened COVID-19 infections, the contentious U.S. presidential election and the fiscal stimulus stalemate in Congress. Globally there are now more than 35.9 million confirmed cases of COVID-19 and over one million related deaths. The infection rate has accelerated in Europe and in 34 states the 7-day moving average of new cases is higher than it was a month ago. President Trump's nomination of Amy Coney Barrett to replace Justice Ruth Bader Ginsburg on the Supreme Court temporarily chilled talks between Democrats and Republicans to provide additional fiscal stimulus, but it now appears both parties are motivated to reach an agreement before the November presidential election. Many believe the economy needs this inflow of money urgently as retail sales growth has softened and labor markets are showing only modest improvement. Fed Chairman Jerome Powell warned Congress on several occasions that the economy will suffer if lawmakers fail to act, underscoring that small businesses and lower-income households require more support. He remarked, "The downturn has not fallen equally on all Americans; those least able to bear the burden have been the most affected."

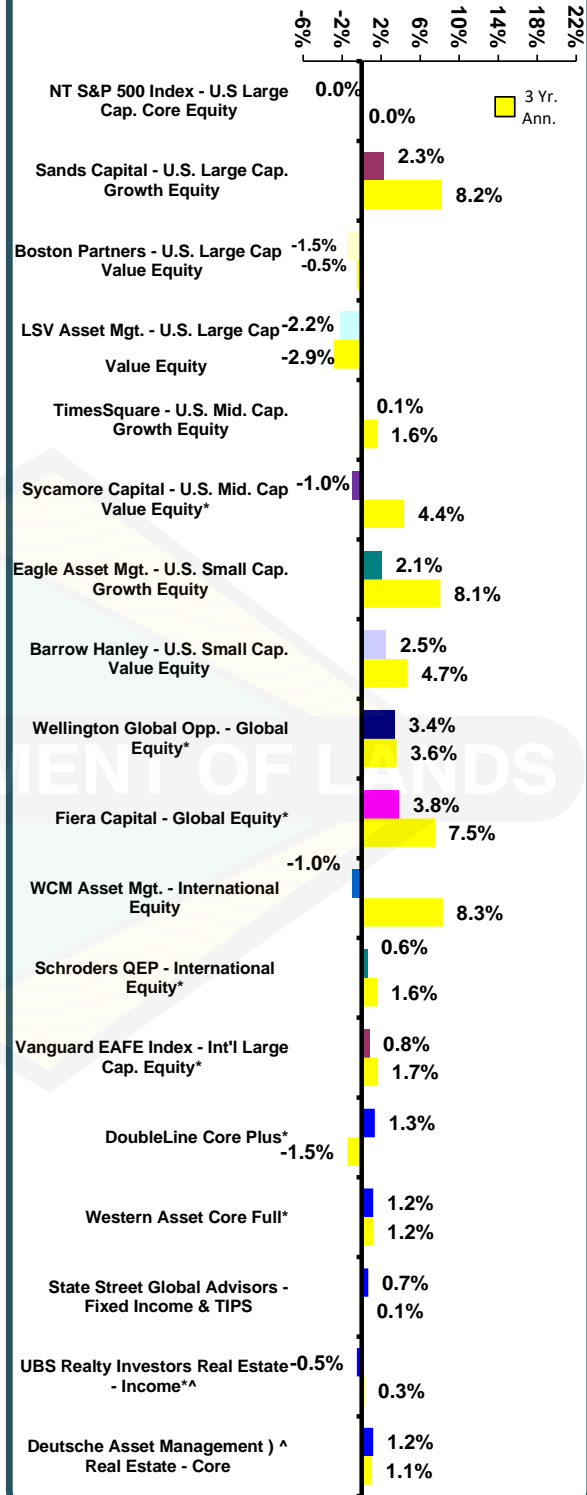
September 30, 2020

# INVESTMENT REPORT

## FYTD Manager Returns



## Manager Relative Returns Fiscal YTD and 3-Yr Ave\*



\*ITD return used when manager has less than 3 years. ^ Most recent valuation.

## **STATE BOARD OF LAND COMMISSIONERS**

October 20, 2020

Consent Agenda

### **Subject**

Results of September 2020 Grazing Lease Live Auction

### **Question Presented**

Shall the Board direct the Department to award grazing lease G800481 to the high bidder at the live auction?

### **Background**

During the open application period for unleased grazing lease G800481, the Idaho Department of Lands (Department) received two applications. In accordance with IDAPA 20.03.14.105.01, when two or more eligible applicants apply to lease the same state endowment trust land, the Department shall hold a live auction. Department staff conducted the live auction on September 3, 2020 and determined the high bidder in accordance with existing statutes, rules, and procedures.

### **Discussion**

The live auction for G800481, previously unleased land, was held at the Eastern Supervisory Area Office. The premium bid for G800481 was \$2,500.00 and the lease is offered on a 20-year term. Attachment 1 is a summary of the auction results. The Department informed all auction participants they had 20 days from the date of the auction to file an appeal with the State Board of Land Commissioners (Land Board). The 20-day appeal period has expired, and no appeals were received by the Department.

According to IDAPA 20.03.14.106, a review and approval of live auction results by the Land Board for certain types of leases, including grazing leases, is required prior to lease issuance. Idaho Code § 58-310(4) provides that the Land Board has the right to reject any and all bids made at the live auctions when there has been fraud or collusion, or for any reason, which in the judgment of the Land Board, justifies the rejection of the bids. The Department completed the lease auction process in accordance with existing statutes, rules, and procedures and did not observe any indication of fraud or collusion related to this process.

### **Recommendation**

Direct the Department to award grazing lease G800481 to the high bidder, Thomas Katsilometes.



## **Board Action**

## **Attachments**

1. Summary of September 2020 Grazing Lease Auction



**Summary of September 2020 Grazing Live Auction**

| Supervisory Area | Lease Number | Endowment | Lease Term (Years) | AUMs | Acres | Improvement Value | # of Participants | # of Bids | High Bid Amount | High Bid per Year, per AUM | Effective 2020 AUM Rate* | High Bidder         |
|------------------|--------------|-----------|--------------------|------|-------|-------------------|-------------------|-----------|-----------------|----------------------------|--------------------------|---------------------|
| Eastern          | G800481      | PS        | 20                 | 80   | 640   | \$0.00            | 2                 | 17        | \$2,500.00      | \$1.56                     | \$8.88                   | Thomas Katsilometes |

**Total : \$2,500.00**

\* Effective 2020 AUM Rate is calculated by adding the 2020 AUM rate (\$7.32) and the High Bid per Year, per AUM.

**IDAHO DEPARTMENT OF LANDS**



## 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, Secretary to the Board

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*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

September 15, 2020

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, September 15, 2020 in the State Capitol, House Hearing Room EW42, 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.

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

##### **Trust Land Revenue**

###### A. Timber Sales – August 2020

**Discussion:** Governor Little asked why the Bacon Salvage sale was cancelled. Director Miller replied that the sale was not cancelled; it was completed. Cancelled is nomenclature used in the industry for a completed sale. Referring to page 2 of the report, volume under contract residual value, Governor Little noted the Department's 3-year average is \$288/MBF and the total is \$246/MBF. The graph shows timber price is up, but even more compelling is the future market is up 120%; Governor Little said it seems a little ironic that the Department is below the 3-year average with record high timber prices. Director Miller explained that much of the volume under contract right now is for sales that are less than five years old. Governor Little requested an aging report on the timber sales.

Governor Little appreciated the tussock moth update and wondered if the Forest Service is trying to get some salvage done around Sagehen. Governor Little remarked it is good that the Department highlight for the public what it did with this tussock moth sale; interest in forest health is very high today, just look out the window [smoky conditions], and the Department should talk about what a significant reduction of risk that salvage was. Governor Little inquired

about the sales that are on the queue and what kind of value the Department expects to get for those trees, if they were defoliated a year ago. Deputy Director Bill Haagenson answered that the latest round of sales the Department is working on for salvage represents the last of the volume that the Douglas-fir tussock moth would have affected. There is some delay in the effect of the insect and the Department captures the salvage as that progresses. There is still time to salvage that volume similar to the other sales the Department has done.

B. Leases and Permits – August 2020

**Discussion:** None.

**Status Updates**

C. Fire Season Report

**Discussion:** Governor Little asked about the \$20 million; is that the forecast through the end of the season or is that an estimate. Governor Little mentioned there is \$40 or \$50 million in the deficiency suppression pool; does the Department have a forecast number of what expenditures are going to be at the current burn rate towards the end of the season. How much of that \$50 million is going to be at risk? Director Miller responded there is not an estimate on that. Director Miller stated the cash balance in the deficiency fund is about \$44.5 million and costs right now are approximately \$20.3 million. The Department's obligation of that is \$18.8 million. Fire season came on late this year, but the Department is hopeful in the next two or three weeks to start seeing some season-ending events. Department firefighters do a phenomenal job at initial attack and trying to keep these fires small and manageable, to keep them Type 3 team or less and minimize those costs. Governor Little questioned the difference between a Type 2 or Type 3 team; what are cost differences and are those Type 2 and Type 3 teams federal administrators of the fires. Josh Harvey, Bureau Chief-Fire Management, described the fire type classifications:

- Type 5 fire example is a single tree lightning strike, manageable with an engine and 3 personnel;
- Type 4 incident is slightly more complex; there are multiple types of resources on it: hand crews, engines, higher level of qualification for the individual that is the incident commander. This type of fire might be broken into smaller pieces for easier management. Aircraft would include a helicopter and maybe a retardant delivery system of a single engine air tanker [SEAT].
- Type 3 fire rises to an incident management team. This team consists of an incident commander (IC), operations plans chief, logistics chief, and finance chief. The overall management is getting much more complex. There are multiple types of resources and 150 to 200+ people on the incident. It involves values at risk: structures, infrastructure, powerlines, highways being impinged, etc. At the onset of a Type 3 incident, expenses are a couple hundred thousand dollars. Costs may exceed \$1 million but normally do not exceed \$2 million.
- Type 2 incidents may have a 50-man roster of the incident management team, not exclusively federal folks working on that. The Type 2 team that is currently managing the Sunnyside Complex out of Orofino consists of many Department of Lands personnel in command positions. The two operations chiefs on that team are Department staff. Incidents like that consist of multiple fires that one team is managing: multiple resources, heavy airtankers that cost \$30,000 to \$40,000 per drop, Type 1 helicopters that when

sitting on the ground are \$20,000 per day or more, anywhere from 300 to 900+ individuals in the camp working the fire line.

- Type 1 fires, current examples are fires in Oregon and California. There have been Type 1 incidents here in Idaho. These are multi-million-dollar incidents, typically exceeding the \$5 million mark or much higher and include extensive evacuations, potential loss of life, and severe damage to infrastructure.

Mr. Harvey indicated fires in Idaho typically involve Type 3 and Type 2 teams. The Department's Type 2 teams are very highly qualified and capable of managing large, complex incidents that can include loss of life and damage to infrastructure. Fires within the Department's protection areas tend to be slightly smaller in acreage and Type 1 incidences are infrequent. Mr. Harvey summarized that expenses range from a few hundred dollars on a Type 5 fire to millions of dollars on Type 1 and Type 2 incidents. Governor Little thanked Mr. Harvey for the helpful descriptions. Governor Little asked for crib notes on the fire types for future reference.

Governor Little mentioned he has been in communications with Idaho's Office of Emergency Management, Oregon, Washington, and California. Idaho is quite fortunate that early on, the Department and federal land managers decided to get on every one of these fires immediately. Idaho had better weather than those states. Governor Little commented Idaho has good fire management, but some is up to God and be thankful for that. Governor Little indicated that Idaho sent some local crews into Oregon; it is important, and it was the right thing to do this year particularly given the stresses from the COVID virus. Governor Little asked that Mr. Harvey tell all of the Department's crews the Board is very proud of them. Not only are the people of Idaho proud that the fires are out, taxpayers are proud that the Department has not needed to spend all \$45 million in the deficiency fund.

#### D. Cottage Sites Auction – Priest Lake Results

**Discussion:** Governor Little inquired about the timeline between the appraisal and the sale. The fact that values are off by 35%--is it the appraisers or the timing of the appraisals. Mr. Sid Anderson, Program Manager-Real Estate, replied that the appraisals were complete in May 2020. Timing varies depending on the auction cycle, but typically the auction is held three or four months after the appraisals are completed.

Controller Woolf observed that ten of the lots had up-bids and inquired if there was anything different about this auction compared to auctions in the past or is it just a hot market.

Mr. Anderson commented that this was a much more exciting auction than generally occurs for Priest Lake lots. At Payette Lake, there has been quite a bit of competition for lots; at Priest Lake there has been very little competition in the past. Mr. Anderson said that with the previous 281 lots sold, only 10 were competitively bid. The Department anticipated more bidding action than normal based on the marketing phase and the interest that was shown. There were a couple of lots where competition was neighbor against neighbor or family against family, which was unfortunate. Most of this the Department can only attribute to the market conditions in society due to COVID and the riots. If people want somewhere remote to get away from those worries, Priest Lake is the place.

## **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 equity markets continue to exhibit very strong positive momentum and all of the major U.S. indices reached all-time highs in the month of August. The portfolio was up 3.3% for the month and up 7.4% fiscal-year-to-date through August 31. Through yesterday [September 14] the portfolio was up 6.1%. Mr. Anton mentioned that at the recent Jackson Hole Economic Policy Symposium, Chairman Jerome Powell indicated that the Federal Reserve would aim for inflation that averages 2% over time, rather than a 2% cap, which implies a plan to keep interest rates low for a considerable period of time in order to drive higher unemployment and higher levels of inflation. This low interest rate environment has caused many investors to shift funds from fixed income into equity markets and other alternatives trying to seek greater returns because of the low interest rates. Investors, in particular, have been enamored by the technology and the large growth stocks and that is part of what has driven the market to these all-time highs. Mr. Anton stated there are signs the economy continues to improve. Earnings in the last quarter, for many cases, were better than anticipated. It seems a bit odd that the financial markets seem to have declared victory that COVID-19 is over since markets are at all-time highs. There has been this immediate bounce back, but Mr. Anton observed there still appears to be some uncertainty where things are headed. The next two months should be interesting as schools reopen and as the election process kicks into full gear. Mr. Anton said it will not be surprising to see volatility in the markets as witnessed over the last couple of months. Overall, the portfolio is in good standing.

Mr. Anton pointed out in the Investment Report, page 2, that the fund is ahead of the benchmark for fixed income and a little behind primarily in U.S. equities, driven by two things. One is a technical measurement issue that the fund is compared to the Russell 3000 benchmark; as the large cap stocks have become a bigger part of the market, the fund's weighting in mid- and small-cap companies is greater than the index. The fund's mid- and small-cap companies have underperformed somewhat. Part of the underperformance is not a management issue, but a structural asset allocation issue. The second is that endowment fund managers significantly outperformed last fiscal year. Managers did a nice job identifying companies that would be stable and strong during the pandemic and recover most quickly. As endowment funds reached these all-time highs, the markets have been really driven out by retail investors that are pouring into a large number of the index funds and driving all stocks up. Those high-flyers moved first and have not moved quite as quickly as the market reached the peaks.

In terms of upcoming events, Mr. Anton reported that the Investment Board is holding a special meeting on September 24th, an educational session for the Investment Board to consider investment opportunities related to infrastructure. The yield on the ten-year treasury is at 0.67% and inflation is 1.6% which is a negative real yield on fixed income and that is 26% of the endowment portfolio. The gain benchmark requires the portfolio to grow at least at the rate of inflation. The Investment Board is considering if it makes sense to look at some alternatives that have good cash flow, maybe are not quite as risky as the equity part of the portfolio but give greater returns in the traditional fixed income.



## Consent—Action Item(s)

### 3. **Idaho State Historical Society/Botanical Garden Lease** – *Presented by Janet Gallimore, Executive Director, Idaho State Historical Society*

**Recommendation:** Approve the restated lease between the Idaho State Historical Society and the Idaho Botanical Garden.

**Discussion:** Director Gallimore communicated that the Idaho State Historical Society [ISHS] and the Botanical Garden have had an ongoing relationship since 1984. The Idaho Botanical Garden became part of the Old Idaho Penitentiary Historic District under the first lease shown in Attachment 1 of the Board materials. The original 50-year lease was very general and left much to interpretation and, sometimes, to misunderstanding. The Idaho Botanical Garden and ISHS agency staff worked to clarify roles and enhance site operations over time through MOUs; both parties have a strong collaborative relationship. ISHS had excellent relationships with former Directors Rundberg and Wiersema, and now with current Director Erin Anderson. Director Gallimore indicated that the restated lease establishes a new 50-year term as noted on page 3. This will enhance the long-term self-sustainability for the Idaho Botanical Garden and the restated lease annual rent is based upon a 2019 Valbridge Property Advisor's Estimate of Market Rate. The discounted lease rate recognizes the public educational value that the Idaho Botanical Garden brings to the Old Pen Historic District and the state. Director Gallimore shared that the Botanical Garden presently serves over 150,000 visitors annually and offers education and public programming to more than 13,000 school kids and 2,000 adults. Currently the lease revenue helps ISHS support operations of the Old Pen Historic District, which is funded primarily through non-general fund sources under the administrative guidance of the Idaho State Historical Society. The Old Pen Historic District's budget is approximately \$470,000 which is earned from admissions receipts in the annual amount of \$350,000, building and property rental revenues including those from the Garden and CWI (College of Western Idaho) and others in the amount of \$80,000, and communication tower receipts in the amount of \$40,000. Director Gallimore mentioned this restated lease was authored by Deputy Attorney General Jenifer Marcus and was approved by the State Historical Society Board of Trustees on August 20, 2020 and the Board of the Idaho Botanical Garden on August 27, 2020. Director Gallimore commented that the Old Idaho Penitentiary is one of the top tourism destinations in Idaho and is quite unique as it is one of only four territorial prisons in the United States open to the public. Adding to its uniqueness is the feature of the Idaho Botanical Garden; both organizations are great collaborators in building and promoting the Old Pen Historic District as a historic, cultural, environmental, and educational destination of regional and national importance.

Governor Little remarked that fifty years is a long time and asked if the lease allows either party to look at some other condition if both parties agreed to it. Governor Little noted the fact that it is not endowment land makes it a little helpful. Director Gallimore agreed that fifty years is a long lease term and it is somewhat unusual; both boards grappled with that, understanding that the Botanical Garden, in order to fundraise the capital money to invest in the site, has donors who want a longer term security for donated funds. That was one of the driving factors to the length of the lease. The original lease was for fifty years as well. The lease terms require the premises to be appraised every 10 years then the lease amount readjusted to the higher of either 25% of the market value or whatever the lease rate is at that point. The lease will not go for fifty years without adjusting to market conditions to be fair to the State and to be fair to the Garden. Governor Little supposed if it was to the benefit of both parties to make a change other than the



lease rate that it could be done; that is usually standard in a lease. Director Gallimore stated there is a provision in this lease for an annual meeting of both boards and also a default clause in case anything happens with stipulation for what buildings and structures would come to the State and what would have to be removed by the Botanical Garden.

Attorney General Wasden thanked Director Gallimore for her presentation, and for her work at the Historical Society. Attorney General Wasden observed that in the past there has been misunderstanding between the Botanical Garden and the Historical Society and expected that this lease, as it is proposed, will help resolve those issues for smooth operations in the future. Director Gallimore clarified that those misapprehensions were well in the past and primarily had to do with a lack of understanding about the nature of a historic district and the nature of renovation of buildings. There is provision in this lease that outlines that any restoration of historic buildings will be done within the confines of the Secretary of the Interior's standards and that archaeology would be done on the site if there was anything moving into the ground. Director Gallimore assured the Attorney General and the Board that in the last 15 years there have been no misunderstandings between the Historical Society and the Botanical Gardens.

#### **4. Approval of Draft Minutes – August 18, 2020 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 5-0.

#### **Regular—Action Item(s)**

#### **5. FY2022 Department of Lands Budget – Presented by Donna Caldwell, Division Administrator-Business Services**

**Recommendation:** Approve the Department's FY2022 budget request as submitted to Division of Financial Management and Legislative Services Office on Friday, August 28, 2020.

**Discussion:** Controller Woolf recalled that when the Board approved the Department's budget last month, the Department was asked to identify the savings or potential loss associated with engine bosses, as requested in the first decision unit. Controller Woolf asked if there has been opportunity for analysis or if additional time is needed. Ms. Caldwell responded that the Department does need more time. It is a difficult question because fire seasons are extremely variable. Depending on what is happening during the season, it could save a great deal, or it could save little. Division Administrator Craig Foss explained last month that one of the Department's goals is to have better retention of those engine boss positions which are frequently lost to federal agencies that can provide them more security. Ms. Caldwell remarked that the Department wants to be able to compete and keep those staff members. By doing that, costs of retraining are reduced which is about \$50,000 for each of the engine bosses. In addition, fire crews are safer and more efficient because they build experience. They understand the Department's way of doing things, they learn the grounds, they learn the operational needs of the agency on various kinds of fires. Josh Harvey mentioned in his presentation earlier in this meeting about the different type teams...there is potential to have an engine boss call in a Type 2 or Type 3 team too early or not early enough. That can have devastating effects on the general fund in terms of costs. The Department is working to determine an effectual method to illustrate the cost savings or potential loss.

**Board Action:** A motion was made by Controller Woolf that the Board adopt and approve the Department's FY2022 budget request as submitted to the Division of Financial Management and Legislative Services Office on Friday, August 28, 2020. Attorney General Wasden seconded the motion. The motion carried on a vote of 4-0. For the record, Governor Little was recused from this vote.

**6. Proposed Legislation** – *Presented by Scott Phillips, Policy and Communications Chief*

**Recommendation:** The Department recommends the Land Board approve these legislative proposals and direct the Department to proceed with the 2021 executive agency legislation process.

**Discussion:** Attorney General Wasden inquired why the Scaling Board does not want to participate in PERSI. Mr. Phillips replied it was brought to the Department's attention by the State Controller's office. It typically costs more to process an individual transaction than the amount of the transaction itself; it is an efficiency-saving matter. Governor Little commented that he thought all Board honorariums had been switched out of PERSI participation. Governor Little explained that if a person qualifies for PERSI it has other effects; it is actually a federal tax law issue. Governor Little said perhaps the Controller's staff can research and added that he has been involved in 20 changes in honorariums and it is the right thing to do.

**Board Action:** A motion was made by Attorney General Wasden that the Board adopt and approve the Department's recommendation that is approve the legislative proposals and direct the Department to proceed with the 2021 executive agency legislation process. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

**Information**

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

**7. Bond Assurance Fund Update** – *Presented by Mick Thomas, Division Administrator-Minerals, Public Trust, Oil & Gas*

**Discussion:** None.

**Executive Session**

None

There being no further business before the Board, at 10:00 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.

# STATE BOARD OF LAND COMMISSIONERS

October 20, 2020

Regular Agenda

## Subject

Omnibus Rulemaking – Adoption of Pending Fee Rules

## Question Presented

Shall the Land Board adopt the Department's proposed fee rules as pending fee rules (including the amended IDAPA 20.03.02, Rules Governing Mined Land Reclamation) and approve the Department's Omnibus Rulemaking Notice for Adoption of Pending Fee Rules?

## Background

To ensure the continuity of previously approved administrative rules, the State Board of Land Commissioners (Land Board) adopted omnibus temporary rules on February 18, 2020, to become effective if the Idaho Legislature did not otherwise approve or reject the rules submitted for their review. The Legislature adjourned the 2020 session without approving fee rules, and temporary fee rules became effective on March 20, 2020 (*sine die*). These rules are in effect until the end of the 2021 legislative session.

Further, the Idaho Department of Lands (Department) undertook negotiated rulemaking for IDAPA 20.03.02, Rules Governing Mined Land Reclamation, to implement 2019 amendments to the Idaho Mined Land Reclamation Act<sup>1</sup> (Title 47, Chapter 15, Idaho Code). Negotiated rulemaking to formulate a proposed rule for IDAPA 20.03.02 concluded in August 2020.

## Discussion

An omnibus Notice of Proposed Rulemaking was published in a special edition of the Idaho Administrative Bulletin on September 16, 2020. Except for IDAPA 20.03.02, the proposed fee rules under IDAPA 20, Rules of the Idaho Department of Lands, were re-published as previously submitted to and reviewed by the Idaho Legislature. The proposed rule text for IDAPA 20.03.02, Rules Governing Mined Land Reclamation included changes negotiated with stakeholders at multiple public meetings through the negotiated rulemaking process in 2019 and 2020.

The proposed fee rules were open for written public comment from September 16 through October 7, 2020, and a public hearing was held on September 30, 2020. Three people offered remarks on IDAPA 20.03.02 during the hearing; no other rules received remarks.

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<sup>1</sup> Prior to July 1, 2019 known as Idaho Surface Mining Act

Seven written comments were received on IDAPA 20.03.02; no other rules received comments.

A summary of oral and written comments is included as Attachment 1. Several edits were made to the proposed rule based on the comments received (Attachment 2). A number of other edits were made in compliance with Executive Order 2020-01.

If approved by the Land Board and other approving authorities, the Department will submit the Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule (Attachment 3) for review by the 2021 Idaho Legislature. The rulemaking notice includes rules of the Idaho Oil and Gas Conservation Commission and Idaho Board of Scaling Practices because those rules are listed in IDAPA 20, Rules of the Idaho Department of Lands. However, the Department is not asking the Land Board to adopt rules under authority of those boards.

### **Recommendation**

Adopt the Department's proposed fee rules including the amended IDAPA 20.03.02, Rules Governing Mined Land Reclamation as pending fee rules and approve the Department's Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule.

### **Board Action**

### **Attachments**

1. Summary of Comments Received on Proposed Rules
2. Pending Rule Text for IDAPA 20.03.02 (Changes to Proposed Rule)
3. Draft Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule

**Response to Comments on Proposed Rule IDAPA 20.03.02, Rules Governing Mined Land Reclamation**

**Docket No. 20-0000-2000F (Fee Rule)**

| <b>Comment</b>                                                                                                                                     | <b>Commenter</b>      | <b>Rule Section</b> | <b>IDL Response</b>                                                                                                                                                                                                                                                                                                                                                                                             |
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| Definitions of Material Modification, Pollutant, and Treatment were changed in IDAPA 58.01.13, so the definitions in IDL's rule should be changed. | Mary Anne Nelson, DEQ | 010.10, 17, and 25  | Changes made.                                                                                                                                                                                                                                                                                                                                                                                                   |
| A reference to applicable surface and ground water quality standards is needed.                                                                    | Mary Anne Nelson, DEQ | 140.09              | Changes made.                                                                                                                                                                                                                                                                                                                                                                                                   |
| Exempt an individual and small operator that operates in compliance with 060.03-08.                                                                | Alan Gilda            | 001.05.b            | No statutory authority exists for this exemption. While IDL understands the concerns stated, IDL has not required a reclamation plan for operations as described in the comment. No definition is proposed for "individual and small operator," and several permitted operators may claim the same status.                                                                                                      |
| IDL's proposal to classify hobby mines as exploration is not a legal solution.                                                                     | Alan Gilda            | 68.01               | Hardrock mines should be reporting production to the Idaho Tax Commission as required by Title 47, Chapter 12, Idaho Code. In the admitted absence of such reporting, and the admitted hobby nature of the activity in question, IDL stands by the classification of the activity as exploration. Reclamation is still required, but no application fee or financial assurance is required.                     |
| Change the fees to a per-acre fee within the 0-100, >100-1,000, +1,000 acre categories.                                                            | Alan Gilda            | 68.01               | Size of an operation is one factor in the level of effort required to review a reclamation plan. Complexity is another factor that may or may not be related to the number of acres at a mine. An underground mine may have a small footprint, but potentially acid generating waste rock and adit discharge may require more effort for IDL to review and would not be captured in an acres-only fee schedule. |

| Comment                                                                                                                                                                                                                                                                                         | Commenter                                        | Rule Section | IDL Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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| The proposed fees do not follow Executive Order 2020-01 due to the impact on the small miner.                                                                                                                                                                                                   | Alan Gilda                                       | 68.01        | The fees are appropriate for businesses. Executive Order 2020-01 appears to be targeted toward the impact on businesses, and not hobbies. The Proposed Rule is shorter than the prior rules even with the additions required by HB 141.                                                                                                                                                                                                                                                                                                                                          |
| The new proposed rules state "These rules apply to all exploration, mining operations, and permanent closure of cyanidation facilities on all lands in the state, regardless of ownership." This will now require the small miner to submit a reclamation plan whereas previously they did not. | Alan Gilda                                       | 001.05       | This language is unchanged from the language in Subsection 001.05 prior to the passage of HB 141. For the described activities, nothing has materially changed in statute or rule.                                                                                                                                                                                                                                                                                                                                                                                               |
| Add an additional exemption: v. A small mine operation conducted in accordance with Section 060.                                                                                                                                                                                                | Alan Gilda                                       | 001.05.b     | A mine cannot both be exempt from the rules and follow Section 060. Also, no definition is proposed for "small mine operation," and several permitted operators may claim the same status.                                                                                                                                                                                                                                                                                                                                                                                       |
| Modify as follows: "Any operator desiring to conduct exploration or a small mine operation using motorized earth-moving equipment....shall notify the Department..."                                                                                                                            | Alan Gilda                                       | 060.03       | No definition is proposed for "small mine operation," and several permitted operators may claim the same status. Also, the described activity was hand work. Any mining using motorized earth-moving equipment should be required to submit a reclamation plan and provide financial assurance.                                                                                                                                                                                                                                                                                  |
| As per prior comments, the denial of a time extension request under Subsection 03 should also be appealable.                                                                                                                                                                                    | Bradley Kucera,<br>Thompson Creek Mining Company | 120.22       | The rulemaking record does not reflect a prior request for this change. Change was made.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Reasonable cause is a subjective metric.                                                                                                                                                                                                                                                        | Bradley Kucera,<br>Thompson Creek Mining Company | 120.03       | Reasonable cause is a commonly used legal phrase. It relies on facts and circumstances specific to the issue at hand. Listing all of the possible facts and circumstances that would support an extension is not feasible in a rule and risks omitting other facts and circumstances that could also be relevant. Reasonable cause gives an operator flexibility in presenting their request for extension. The agency decision, however, must be based on the specific facts and circumstances regarding the request or it will get overturned if subjected to judicial review. |

| Comment                                                                                                                                                                                                                                                              | Commenter                                    | Rule Section | IDL Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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| The duration of SWPPP, IPDES permit, ground water point of compliance, and other permits or approvals may not capture the information required by 069.05.a. This may not ensure that up to date information is being used to assess potential water quality impacts. | Austin Walkins,<br>Idaho Conservation League | 070.04.c     | If water quality predictions made at the start of a project do not match reality during the life of the operation, then IDL can declare a material change as defined in Subsection 010.09 and require the operator to amend their plan for both operations and post-closure. Monitoring data as per Subsection 070.06 can be used to help determine if conditions have changed or adjustments are needed. The SWPPP, IPDES, and other permits can also be modified as needed through the life of a project. Coordination with DEQ and other agencies during plan reviews and ongoing oversight will ensure that water quality standards are being met.                      |
| Change "may" to "shall" in the first sentence.                                                                                                                                                                                                                       | Austin Walkins,<br>Idaho Conservation League | 155.01       | The Department needs the flexibility provided by the word "may." Idaho Code § 47-1508(e) requires the board to review reclamation plans at least once every five (5) years. In order to help accomplish this review the rule allows the Department to require operators to submit an update on their mining operation. The majority of reclamation plans are gravel pits with a low potential for water quality issues and may not need the operator's update to accomplish the review required by Idaho Code § 47-1508(e). This is especially true for reclamation plans held by public road agencies that are exempt from financial assurance under Idaho Code § 47-1519. |
| Reference to Executive Order 88-23 and subsequent language is outdated and unnecessary.                                                                                                                                                                              | Ben Davenport,<br>Idaho Mining Association   | 001.02       | Reference removed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Strike the 1997 date as it is obsolete and confusing. This should instead mirror the language in Idaho Code § 42-1512(h) and 42-1518(d).                                                                                                                             | Ben Davenport,<br>Idaho Mining Association   | 001.05.a     | Removing the 1997 date may require plans approved before that date to submit additional information. With the legislative lapse in rules, this paragraph is reworded to more clearly express the intent. Subsections 120.05 and 120.07 address Idaho Code § 47-1512(h). Section 200 addresses the language in Idaho Code § 47-1518(d).                                                                                                                                                                                                                                                                                                                                      |



| Comment                                                                                                                                                                                   | Commenter                               | Rule Section | IDL Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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| Change b to "Substantially modifies surface water management or a water management plan in a way that significantly increases the potential to cause degradation of waters of the state." | Ben Davenport, Idaho Mining Association | 010.09.b     | The proposed change removes the exemption of "routine implementation and maintenance of BMPs" and was not discussed during the negotiated rulemaking. Also, if a change is significant enough that IDL needs an interagency review, then it should be a material change regardless of whether or not it increases the potential to cause degradation. Until IDL receives assistance from DEQ and other agencies, the potential impact on waters of the state may not be known.                                                                                                                                                                                                                                                                                                  |
| Definition should only apply to cyanidation facilities permitted prior to July 1, 2005 as stated in Idaho Code § 47-1518(b).                                                              | Ben Davenport, Idaho Mining Association | 010.10       | 010.10.b addresses this issue of applicability, as does 001.05.e.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| This subparagraph should be stricken because significant change is not defined and is not associated with potential water quality impacts or increased closure costs.                     | Ben Davenport, Idaho Mining Association | 010.10.a.ii  | Definition changed to match the definition in IDAPA 58.01.13.007.12 that was published in Docket 58-0000-2000F.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Phased operation language similar to that used in Section 069 is needed in Section 070 to reduce confusion on this point.                                                                 | Ben Davenport, Idaho Mining Association | 070          | Two references in Section 070 already address this. First, 070.02.a requires all information submitted under Section 069 to also be submitted under Section 070. Subparagraph 069.05.i of the reclamation plan requirements states "If construction, mining, or reclamation will be completed in phases, a description of the tasks to be completed in each phase, an estimated schedule, and proposed adjustments of financial assurance related to each phase." Also, and in response to prior requests by rulemaking participants, Subsection 070.04 states "Reclamation plans must include all of the information required under Subsection 069.05, including but not limited to phases as described in Subsection 069.05.i, and the following additional information:...". |

| Comment                                                                                                                                                           | Commenter                               | Rule Section  | IDL Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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| It is unclear what the term "process fluid ponds" means and what is intended by the use of the term.                                                              | Ben Davenport, Idaho Mining Association | 070.03 and 05 | "Process fluid ponds" refer to any ponds that contain fluids used to process ore at a mine site. The size and contents of these ponds need to be disclosed due to the impact on financial assurance and post closure planning. They are part of the "affected land" defined in Idaho Code § 47-1503(5). IDL placed these in Section 070 so applicants will understand that information on these facilities, if present at the mine site, needs to be included in the reclamation plan.                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| A geotech analysis report should not be required if this analysis has already been undertaken or evaluated by another agency such as a federal agency under NEPA. | Ben Davenport, Idaho Mining Association | 070.04        | IDL agrees, and continues to accept reports that have been developed through the NEPA process. "Prepare" changed to "provide" in the first sentence to make this more clear. A similar requirement for geotech reports has been in place since 1998. This is accomplished through the interagency review process IDL has participated in for over 30 years. As IDL has communicated multiple times during rulemaking, an operator on federally administered lands is asked to develop one plan that satisfies the requirements of all state and federal agencies.                                                                                                                                                                                                                                                                                                                                                             |
| This section still leaves the potential for IDL to require the collection of additional data beyond DEQ requirements.                                             | Ben Davenport, Idaho Mining Association | 070.06        | A potential monitoring requirement has been in the rules since 1989. IDL is not aware of any situation when IDL has required monitoring data and an operator has objected. As currently proposed in the rule, "This will not require any additional monitoring data where such data is already provided under an IPDES permit, SWPPP, ground water point of compliance, or other federal or state requirements for collecting surface or ground water data." If an operator is proposing a mine with no surface discharge and no predicted impacts to ground water, then no DEQ permitting requirements exist. A mine operator who proposes to land apply waste water is also exempt from permitting through DEQ under IDAPA 58.01.17.100.02.a. Monitoring requirements from IDL in these situations may be the only way to verify that an operator's predictions are accurate and no impacts to water quality are occurring. |

| Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Commenter                               | Rule Section | IDL Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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| Only IDL should be responsible for a determination that post closure is complete for a cyanidation facility.                                                                                                                                                                                                                                                                                                                                                                                                  | Ben Davenport, Idaho Mining Association | 111.02       | This is not supported by existing statute and rule. Idaho Code § 47-1506(h) states in part "The board shall coordinate its review of activities in a reclamation plan, operating plan, and permanent closure plan under statutory responsibility of the department of environmental quality with that department, ...". IDAPA 58.01.13.100.03.t requires the post closure plan submitted to DEQ to be the exact same as that submitted to IDL. IDAPA 58.01.13.500.11 requires the permanent closure plan as approved by IDL to be incorporated by reference into the DEQ permit. IDAPA 58.01.13.501.02 requires the permanent closure report to be submitted to DEQ for review and approval, and describes a joint review by DEQ and IDL. IDAPA 58.01.13.502.02 requires a coordinated evaluation of the permanent closure report with IDL. |
| Only a material change should be cause for amending a permanent closure plan as stated in Idaho Code § 47-1508(f). Material modification only applies to that portion of a facility with an existing permit prior to July 1, 2005. As we are not aware of any operating cyanidation facility in Idaho, it is not necessary to include the reference to "material modification" in this section. Also we would recommend striking 01.b as that should be adequately covered by reference to "material change." | Ben Davenport, Idaho Mining Association | 091.01       | Material modification could be applied to any cyanidation closure plan that is issued in the future; it is not restricted to facilities with existing permits. See IDAPA 20.03.02.010.09. An amendment caused by a material change is covered by Idaho Code § 47-1508(a). The last sentence in 091.01 states "Circumstances that could require a permanent closure plan to be amended include:". The use of the word "could" is intentional. Not all material modifications may result in a need for a plan amendment. It is likely, however, that a material change will require a plan amendment.                                                                                                                                                                                                                                         |
| Appeal process for financial assurance extension requests should be added here.                                                                                                                                                                                                                                                                                                                                                                                                                               | Ben Davenport, Idaho Mining Association | 120.22       | Added to the Subsection.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

| Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Commenter                               | Rule Section | IDL Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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| Unclear what disbursements from the trust mean.                                                                                                                                                                                                                                                                                                                                                                                                          | Ben Davenport, Idaho Mining Association | 122.05.f     | Disbursements include payments to the trustee or any other payment of funds not related to financial assurance release. Sentence added to provide more explanation. In the event of bankruptcy or other unforeseen circumstances during the post-closure period, payments to third parties may be needed. The post-closure period may last 30 years or longer, so it is not unreasonable that unforeseen costs related to management of the trust may occur. As with other forms of financial assurance, IDL needs to review and approve this reduction in the financial assurance due to the requested disbursement. Similar language is found in BLM Handbook H3809-1 Section 6.3.4.4, New Mexico 19.10.12.1208.E(2)(h), Pennsylvania PAC 86.158(f)(2)(iv), and 40 CFR 264.143(a)(10). Financial assurance release is handled as described in Section 120. |
| Language change suggested as follows "When used to cover post closure costs, including long-term water management, a payment schedule will be created in the memorandum of agreement. The trust fund must be initially funded in an amount to cover the liability for the first five (5) years of post-closure. Annual payments into the trust will increase incrementally with the addition of post closure liability through the post closure period." | Ben Davenport, Idaho Mining Association | 122.05.e.iii | The proposed language only funds the first five years of post closure. Water treatment, if required, will likely last at least thirty years, if not longer. An operator that goes bankrupt before post closure or in that first five years will leave the taxpayers with at least 25 years of unfunded liability. Also, the proposed language departs from the RCRA concept of a "pay in period" that fully funds the closure cost by the time the closure period is reached. This subparagraph was modified from BLM Handbook H3809-1 Section 6.3.4.6 (page 6-37). The expected earnings from the trust fund during post-closure, however, are not explicitly accounted for. Language modified to ensure the expected earnings are included in the amount needed. This should reduce the initial amount needed.                                             |
| Idaho Code § 47-704 9(f) protects resource estimates from disclosure, and this rule should do the same.                                                                                                                                                                                                                                                                                                                                                  | Wendy Miller, Keceph Mountain LLC       | 180.03       | IDAPA 20.03.02 derives its authority from Title 47, Chapter 15, Idaho Code, the Mined Land Reclamation Act. Title 47, Chapter 7, Idaho Code, Mineral Rights on State Lands, has no impact on this rule. Title 74, Chapter 1, Idaho Code, the Public Records Act, has one or more exemptions related to resource estimates. IDL's public records policy complies with the Public Records Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

| Comment                                                                            | Commenter                               | Rule Section                  | IDL Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|------------------------------------------------------------------------------------|-----------------------------------------|-------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| These rules result in significant permitting delays for mining companies in Idaho. | Wendy Miller,<br>Keceph<br>Mountain LLC | Executive<br>Order<br>2020.01 | As IDL has communicated multiple times during rulemaking, an operator on federally administered lands is asked to develop one plan that satisfies the requirements of all state and federal agencies. This is accomplished through the interagency review process IDL has participated in for over 30 years. The federal permitting process drives the timeframe, not the state permitting process. IDL participates in the Federal NEPA process used to review projects on BLM and USFS lands even before IDL receives an application from an operator. IDL's interagency review process saves an operator time by consolidating several permitting actions into one. IDL's participation in this process has improved these federal reviews several times by steering decisions to a more sensible outcome also favored by the mining company. |
| Definitions of Operating Plan and Reclamation Plan are almost identical.           | Wendy Miller,<br>Keceph<br>Mountain LLC | 010.14 and<br>21              | IDL is working within the authorities given in Idaho Code § 47-1506(a) and (b).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| IDL is giving itself authority over federal lands.                                 | Wendy Miller,<br>Keceph<br>Mountain LLC | 001.05                        | IDL is given this authority in Idaho Code § 47-1501(a): "It is the purpose of this chapter to provide for the protection of the public health, safety and welfare through measures to reclaim <b><u>the surface of all the lands within the state disturbed by exploration and surface and underground mining operations</u></b> and measures to assure the proper closure of cyanidation facilities and thereby conserve natural resources, aid in the protection of wildlife, domestic animals, and aquatic resources, and reduce soil erosion." <i>Emphasis added.</i> The legality of IDL's mining regulatory authority on federal lands is affirmed by the Idaho Supreme Court in <u>State ex rel. Andrus v. Click</u> , 97 Idaho 791, 554 P.2d 969 (1976).                                                                                 |

| Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Commenter                         | Rule Section                        | IDL Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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| The definition of Operating Plan exceeds the authority given in Idaho Code § 47-1506(b).                                                                                                                                                                                                                                                                                                                                                                                                                                           | Wendy Miller, Keceph Mountain LLC | 010.14                              | The intent of the definition is to distinguish it from the rest of the information required in a reclamation plan. The definition itself is not a requirement. The requirement for an operating plan is in 070.02.c, and it only requires an operating plan if it is required by Idaho Code § 47-1506(b). As stated in Idaho Code § 47-1506(b)(2), IDL can promulgate rules or guidelines to allow the content of a nonfederal operating plan to be determined based upon the type and size of the mining operation. |
| Mining operations on federal lands require a document called by some federal agencies a "Plan of Operation" (POO) or something similar. Contained within the POO is a section on the mining plan, a section on the environment, and a section on reclamation. It was from that understanding, the Legislature exempted "operating plans" for mines on federal lands. But, since the department later went with different nomenclature/definitions, they divided the mine permit into an "Operating Plan" and a "Reclamation Plan." | Wendy Miller, Keceph Mountain LLC | 010.14 and 21                       | IDL is working within the authorities given in Idaho Code § 47-1506(a) and (b). Operating plans were added to the statute in 1997 by the legislature. IDL did not create the nomenclature that differs from that used by federal agencies. IDL has not reviewed the legislative intent from the 1997 statute change, and it was not part of the rulemaking record.                                                                                                                                                   |
| With duplicative permitting requirements, IDL is not only hurting others but is hurting itself. The reason is mining companies can't mine until the permitting process is approved, and IDL gets royalties from mining companies producing minerals.                                                                                                                                                                                                                                                                               | Wendy Miller, Keceph Mountain LLC | General                             | IDL only collects royalties from minerals removed from state-owned lands. This includes mostly sand and gravel and some phosphate, and only represents a small part of overall mineral production in Idaho. No hard rock mines on state lands have paid royalties in over 25 years.                                                                                                                                                                                                                                  |
| The difference in terminology for operating and reclamation plans between the federal agencies and IDL is confusing. While it would help for mining law to be updated, IDL can do a lot to help fix these encumbrances in 20.03.02 right now without changing the law.                                                                                                                                                                                                                                                             | Wendy Miller, Keceph Mountain LLC | Reclamation Plan and Operating Plan | This rulemaking was undertaken due to the 2019 update to Idaho Code § 47-15 <i>et seq</i> . Changes to the reclamation plan and operating plan terminology would have to first come through legislation to change Idaho Code § 47-15 <i>et seq</i> . The rules cannot override or conflict with statute.                                                                                                                                                                                                             |
| This section exceeds IDL statutory authority by stating that a fee can be charged for third party plan reviews.                                                                                                                                                                                                                                                                                                                                                                                                                    | Wendy Miller, Keceph Mountain LLC | 001                                 | This error in the rules goes back to 2006, and will be fixed in the Pending rule.                                                                                                                                                                                                                                                                                                                                                                                                                                    |

| Comment                                                                                                                                                                                                                                                                                                                                                         | Commenter                               | Rule Section | IDL Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| If an out-of-state company proposes a mine and they have their own professional engineer already on staff, they still have to hire an Idaho personal engineer? More importantly, where is the "MUST" be an Idaho licensed professional engineer required in Title 47, Chapter 15? This is added expense and red-tape instead of reducing the regulatory burden. | Wendy Miller,<br>Keceph<br>Mountain LLC | 070.04.f     | This is required by Idaho Code § 54-1201 <i>et seq</i> . It is a common practice to ensure that structures are adequately designed to protect the health and safety of Idahoans. Engineers, like many licensed professionals, are often licensed in multiple states, or states have adopted reciprocity with other states for licensing requirements.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Review by Idaho Departments of Fish and Game and Water Resources are not authorized by statute and may add additional permitting requirements.                                                                                                                                                                                                                  | Wendy Miller,<br>Keceph<br>Mountain LLC | 080.02       | This state agency review process has been in the rules since 1989. This does not add more permitting requirements, rather it lets the operator and other agencies know up front what is being proposed and what other state requirements may be. In the absence of this interagency review, an operator could start operations without obtaining a needed stream channel alteration permit or dam safety permit from IDWR. This could lead to a violation from IDWR and a stop work order. The rules have a more proactive approach to allow these needs to be revealed early on in the permitting process. IDL staff often suggest that potential applicants may need to contact one or more other agencies for additional permitting requirements as part of the interagency review process. Mines reviewed under Section 070 always receive interagency review because of the high likelihood that other permits will be needed. |
| Section 120 is Financial Insurance Requirements of the state and lists 22 subpoints. Is IDL confusing/mixing Federal and state oversight on federal lands?                                                                                                                                                                                                      | Wendy Miller,<br>Keceph<br>Mountain LLC | 120.14       | IDL and the federal agencies have recognized each other's bonds for over 30 years. IDL is not aware of any instance where an operator was required to submit duplicate bonding.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |



| Comment                                                                                                                                                                                                                                                         | Commenter                         | Rule Section | IDL Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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| Why doesn't Idaho provide an option for the individuals and small operators? The expensive permitting process discourages small miners.                                                                                                                         | Wendy Miller, Keceph Mountain LLC | General      | Activities classified as exploration do not require reclamation plans. Underground mines, even small ones, often have complex waste rock or mine drainage issues associated with them. Abandoned mines across the state that were excavated prior to mining regulations offer an example of the possible consequences of unregulated mining. Hundreds of abandoned mines leach contaminants into ground and surface waters that are used for agriculture and consumption. Hundreds of unsecured abandoned mine openings threaten the health and safety of Idaho's residents and visitors. Mining is a capital intensive business. The permitting costs are generally small compared to the initial capital costs, ongoing extraction costs, and reclamation costs.                                           |
| These proposed rules in 20.03.02 and excessive costs for small businesses are suddenly being dumped on the small underground mining operations because before underground mines were not regulated so extreme. The additional regulation adds to the confusion. | Wendy Miller, Keceph Mountain LLC | General      | IDL has processed and approved one reclamation plan for a small underground mine since the Temporary Rule was first adopted in 2019. No other applications for an underground mine have been received. The rules do not impact activities that IDL classifies as exploration, including underground exploration. Mining is a capital intensive business. The permitting costs are generally small compared to the initial capital costs, ongoing extraction costs, and reclamation costs. These costs generally require that underground mines be operated as a business, and not a hobby.                                                                                                                                                                                                                   |
| IDL has mentioned to conduct exploration first. While exploration does precede mining, if the permitting process is so complex, costly, tedious, and excessive for a small business to mine, why invest any money into doing exploration in Idaho?              | Wendy Miller, Keceph Mountain LLC | General      | Many companies are investing in exploration in Idaho. See <a href="https://www.mining-journal.com/gold-and-silver-news/news/1394963/gold-explorers-shining-in-idaho">https://www.mining-journal.com/gold-and-silver-news/news/1394963/gold-explorers-shining-in-idaho</a> "Up until five years ago, the Idaho Mining Association (IMA) was primarily focused on operators, but with the new growth in gold exploration and other critical minerals we have seen substantial growth in the exploration and developmen+D47t side of our membership. We have increased from four or five exploration companies to 10-to-15. Word has gotten out that have great geological resources, friendly state policy makers and that the jurisdiction is good," association president Ben Davenport told Mining Journal. |



| Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Commenter                         | Rule Section | IDL Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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| Is the permitting so unpredictable and complicated that a pre-meeting is needed to discuss anticipated application requirements and application procedures? Shouldn't the new rulemaking effort produce a regulatory process that is more straight forward for all and in light of Executive Order 20202-01, reduce the overall regulatory burden, or at a minimum remain neutral, as compared to the previous rule?                                                                 | Wendy Miller, Keceph Mountain LLC | 071.03       | IDL must coordinate the review and approval of cyanidation closure plans with DEQ as required by statute and IDAPA 58.01.13. The purpose of the pre-application meeting is to reduce the overall time needed for application processing. Without IDL's assistance at a pre-application meeting, the applicant may miss some required information in their application and IDL would have to determine the application is incomplete. The incomplete application is then returned for revision. This process may repeat until the application is complete. Proper closing of a cyanidation facility is not a simple task, and IDL needs to ensure that the operator understands the requirements before they submit the closure plan for review.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| In the last 8 years, non-fuel mineral production (phosphate, aggregate, industrial minerals, silver, gold, lead, zinc, copper, etc.) went from 2011 highest at \$1.4 Billion but has declined to just under \$600 million in 2018. IDL should do its part in helping all companies mine minerals for Idaho by reducing unnecessary, excessive, burdensome regulations instead of heaping more on them which can especially lead to driving small mining businesses out of the state. | Wendy Miller, Keceph Mountain LLC | General      | Commodity prices in 2011 were much higher than they were in 2018. Aside from aggregate and perhaps a few industrial minerals, the listed commodities have an international market. Commodity prices are the most important variable for a mine operator. At a given grade of ore, price is what separates ore from waste. The State of Idaho has no influence on the prices of international commodities. For over 30 years IDL has instituted the Joint Review Process with other state and federal agencies to allow an operator to streamline the permitting process as much as possible. Improvements can always be made, but IDL firmly believes that state agencies should be at the table for permitting decisions on federal lands. The participation of IDL in the interagency review and administration of mine sites has helped federal land managers to make better resource and fact-based decisions in spite of pressure from other federal agencies or non-governmental organizations to make non-fact based decisions. The State of Idaho believes it can make decisions at least as good as, if not better than, the federal government because our decision makers are closer to the issues than Washington D.C. |

## 20.03.02 – RULES GOVERNING MINED LAND RECLAMATION

### 000. LEGAL AUTHORITY.

Title 47, Chapter 15 (“chapter”), Idaho Code, authorizes the Board to promulgate rules pertaining to mineral exploration; mining operations; reclamation of lands affected by exploration and mining operations, including review and approval of reclamation and permanent closure plans; requirements for financial assurance for reclamation and permanent closure, and to establish a reasonable fee for reviewing and approving reclamation plans and permanent closure plans, including the reasonable cost to employ a qualified independent party, acceptable to the applicant and the Board, to ~~review reclamation plans and permanent closure plans and to~~ verify the accuracy of cost estimates ~~for reclamation plans and permanent closure plans~~. The Board has delegated to the director of the Department the duties and powers under the chapter and these rules, however the Board retains responsibility for administrative review.

( )

### 001. TITLE AND SCOPE.

**01. Title.** These rules are titled IDAPA 20.03.02, “Rules Governing Mined Land Reclamation,” IDAPA 20, Title 03, Chapter 02.

( )

~~**02. Purpose.** These rules are intended to provide for the protection of public health, safety, and welfare, by ensuring that all the lands within the state disturbed by exploration and mining operations are properly reclaimed and ensuring the proper permanent closure of cyanidation facilities and thereby conserve natural resources; aid in the protection of wildlife, domestic animals, and aquatic resources; and reduce soil erosion. It is also the purpose of these rules to implement the State of Idaho’s antidegradation policy as set forth in Executive Order No. 88-23 as it pertains to exploration and mining operations and cyanidation facilities operating in the state. These rules are not intended to require reclamation or permanent closure activities in addition to those required by the chapter.~~

( )

**032. Scope.** These rules establish the notification requirements for exploration and the application, operation, and reclamation requirements for mined lands. In addition, they establish the application and closure requirements for cyanidation facilities. These rules also establish the reclamation and financial assurance requirements for all these activities, and describe the processes used to administer the rules in an orderly and predictable manner.

( )

**043. Other Laws.** Operators engaged in exploration, mine operation, and operation of a cyanidation facility shall comply with all applicable laws and rules of the state of Idaho including, but not limited to the following:

( )

**a.** Idaho water quality standards established in Title 39, Chapters 1 and 36, Idaho Code; IDAPA 58.01.02, “Water Quality Standards”; and IDAPA 58.01.11, “Ground Water Quality Rule,” administered by the Department of Environmental Quality (DEQ).

( )

**b.** Requirements and procedures for hazardous and solid waste management, as established in Title 39, Chapter 44, Idaho Code, and rules promulgated thereunder including, IDAPA 58.01.05, “Rules and Standards for Hazardous Waste” and IDAPA 58.01.06, “Solid Waste Management Rules,” administered by the DEQ.

( )

**c.** Section 39-118A, Idaho Code, and applicable rules for ore processing by cyanidation as promulgated and administered by the DEQ as defined in IDAPA 58.01.13, “Rules for Ore Processing by Cyanidation.”

( )

**d.** Section 39-175, Idaho Code, and applicable rules for the discharge of pollutants to waters of the United States as promulgated and administered by DEQ in IDAPA 58.01.25, “Rules Regulating the Idaho Pollutant Discharge Elimination System Program.”

( )

e. Idaho Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and applicable rules as promulgated and administered by the Idaho Department of Water Resources. ( )

f. Idaho Dam Safety Act, Sections 42-1710 through 42-1721, Idaho Code, and applicable rules promulgated and administered by the Idaho Department of Water Resources. ( )

**054. Applicability.** These rules are to be read and applied in conjunction with the chapter. These rules apply to all exploration, mining operations, and permanent closure of cyanidation facilities on all lands in the state, regardless of ownership. ( )

a. These rules apply to mining operations or exploration operations commenced after ~~the effective date of these rules~~ January 1, 1997. These rules in no way affect, alter, or modify the terms or conditions of any approved reclamation plan, reclamation plan amendment, or financial assurance for reclamation obtained prior to January 1, 1997. If a material change arises and is regulated in accordance with Subsection 090.01, then the operator shall submit a reclamation plan amendment. ( )

b. These rules do not apply to: ( )

i. Any surface mining operations performed prior to May 31, 1972. An operator will not be required to perform reclamation activities on any pit or overburden pile as it existed prior to May 31, 1972. ( )

ii. Mining operations for which the Idaho Dredge and Placer Mining Protection Act requires a permit, or which are otherwise regulated by that act. ( )

iii. Extraction of minerals from within the right-of-way of a public highway by a public or governmental agency for maintenance, repair or construction of a public highway, provided the affected land is an integral part of such highway. ( )

iv. Underground mines that existed prior to July 1, 2019, and have not expanded their surface disturbance by 50% or more after that date. ( )

c. Sand and gravel mining operations in state-owned beds of navigable lakes, rivers or streams shall constitute an approved mining plan for the purpose of these rules if the operator has all of the following: ( )

i. A valid riverbed mineral lease granted by the Board in accordance with IDAPA 20.03.05, "Rules Governing Riverbed Mineral Leasing", with a valid mineral lease bond; ( )

ii. An approved plan of operations for the riverbed mineral lease; and ( )

iii. A valid stream channel alteration permit issued by the Idaho Department of Water Resources. ( )

d. Surface mining operations, conducted by a public or governmental agency for maintenance, repair, or construction of a public highway, which: ( )

i. Disturb more than two (2) acres will comply with the provisions of Section 069; or ( )

ii. Disturb less than two (2) acres will comply with Subsections 060.06.a. through 060.06.e. ( )

e. A cyanidation facility with a permit approved by the DEQ prior to July 1, 2005, ~~shall be~~ is subject to the applicable laws and rules for ore processing by cyanidation in effect on June 30, 2005; however, if there is a material modification or material expansion to a cyanidation facility after July 1, 2005, these rules shall apply to the modification or expansion. ( )

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

In addition to the definitions set forth in the chapter, the following definitions apply to these rules: ( )

**01. Adit.** A nearly horizontal passage from the surface into an underground mine. ( )

**02. Approximate Previous Contour.** A contour that is reasonably comparable to that contour existing prior to disturbance, or that blends with the adjacent topography. ( )

**03. Best Management Practices (BMP).** Practices, techniques or measures developed or identified by the designated agency and identified in the state water quality management plan which are determined to be a cost-effective and practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals. ( )

**04. Chapter.** The Mined Land Reclamation Act, Title 47, Chapter 15, Idaho Code. ( )

**05. Department.** The Idaho Department of Lands. ( )

**06. Discharge.** With regard to cyanidation facilities, when used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. ( )

**07. Ground Water.** Any water of the state that occurs beneath the surface of the earth in a saturated geological formation of rock or soil. ( )

**08. Land Application.** A process or activity involving application of liquids or slurries potentially containing cyanide from the cyanidation facility to the land surface for the purpose of treatment, neutralization, disposal, or groundwater recharge. ( )

**09. Material Change.** A change that deviates from the approved reclamation plan or permanent closure plan and causes one (1) or more of the following to occur: ( )

**a.** Results in a substantial adverse effect to the geotechnical stability of overburden disposal areas, topsoil, stockpiles, roads, embankments, tailings facilities, cyanidation facilities or pit walls; ( )

**b.** Substantially modifies surface water management or a water management plan, not to include routine implementation and maintenance of BMPs; ( )

**c.** Exceeds the permitted acreage; or ( )

**d.** Increases overall estimated reclamation costs by more than fifteen percent (15%). ( )

**10. Material Modification or Material Expansion.** With regard to cyanidation facilities: ( )

**a.** Any change to a permitted cyanidation facility ~~with an existing permit~~, except as provided in Subsection 010.10.b, that the Department determines will ~~cause any of the following~~: ( )

~~i. The addition of a new cyanidation process, or cyanidation facility component, or a significant change in the capacity of an existing cyanidation facility component, that is not authorized by the existing permit and significantly increases the potential to cause degradation of waters of the state; or~~ ( )

~~ii. A significant change in the location of a cyanidation process, cyanidation facility component or site condition that is not adequately described in the original application; or~~ ( )

~~iii. A change in the cyanidation process that alters the characteristics of the waste stream in a way that significantly increases the potential to cause degradation of waters of the state.~~ ( )

i. Cause or increase the potential to cause degradation of waters, such as a new cyanidation process or cyanidation facility component; or ( )

ii. Change the capacity, location, or process of an existing cyanidation facility component; or ( )

iii. Change the site condition in a manner that is not adequately described in the original permit application. ( )

b. Reclamation and closure related activities at a cyanidation facility with an existing permit that did not actively add cyanide after January 1, 2005 ~~is~~are not ~~be considered to be~~ material modifications or material expansions of the cyanidation facility. ( )

11. **Material Stabilization.** Managing or treating spent ore, tailings, other solids and/or sludges resulting from the cyanidation process to minimize waters or all other applied solutions from migrating through the material and transporting pollutants associated with the cyanidation facility to ensure that all discharges comply with all applicable standards and criteria. ( )

12. **Motorized Earth-Moving Equipment.** Backhoes, bulldozers, front-loaders, trenchers, core drills, and other similar equipment. ( )

13. **Neutralization.** Treatment of process waters such that discharge or final disposal of those waters does not, or will not, violate any applicable standards and criteria. ( )

14. **Operating Plan.** A plan that describes how a mining operation will be constructed and operated to avoid or minimize surface disturbance and potential impacts to waters of the state, and to prepare for final reclamation. ( )

15. **Permanent Closure.** Those activities that result in neutralization, material stabilization, and decontamination of cyanidation facilities or the facilities' final reclamation. ( )

16. **Permit.** When used without qualification, any written authorization, license, or equivalent control document issued by the DEQ. This includes authorizations issued pursuant to the application, public participation, and appeal procedures in IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation," and those issued pursuant to the application, public participation, and appeal procedures in IDAPA 58.01.25. ( )

17. **Pollutant.** Chemicals, chemical waste, process water, biological materials, radioactive materials, or other materials that, when discharged, cause or contribute ~~to water pollution,~~ adverse effects to any beneficial use or may otherwise for any other reason may impact waters of the state. ( )

18. **Process Waters.** Any liquids intentionally or unintentionally introduced into any portion of the cyanidation process. These liquids may contain cyanide or other minerals, meteoric water, ground or surface water, elements and compounds added to the process solutions for leaching or the general beneficiation of ore, or hazardous materials that result from the combination of these materials. ( )

19. **Real Property.** Land and appurtenances as defined in Section 55-101, Idaho Code. ( )

20. **Reclamation.** The process of restoring an area affected by a mining operation or cyanidation facility to its original or another beneficial use, considering previous uses, possible future uses, and surrounding topography. The objective is to re-establish a diverse, self-perpetuating plant community, and to minimize erosion, remove hazards, and maintain water quality. ( )

21. **Reclamation Plan.** A plan using a combination of maps, drawings, and descriptions that describes how a mine is constructed and how reclamation of a mine's affected land is accomplished. ( )

22. **Revegetation.** The establishment of the premining vegetation or a comparable vegetative cover on

the land disturbed by mining operations. ( )

**23. Shaft.** A vertical or inclined passage from the surface into an underground mine. ( )

**24. Surface Waters.** The surface waters of the state of Idaho. ( )

**25. Treatment.** Any method, technique or process, including neutralization, designed to that changes the physical, chemical, or biological character or composition of a waste for the purpose of disposal, or the end result of such action. ( )

**26. Water Balance.** An inventory and accounting process capable of being reconciled that integrates all potential sources of water that are entrained in the cyanidation facility or may enter into or exit from the cyanidation facility. The inventory must include the water holding capacity of specific structures within the facility that contain process water. The water balance is used to ensure that all process water and other pollutants can be contained as engineered and designed within a factor of safety as determined in the permanent closure plan. ( )

**27. Water Management Plan.** A document that describes the results of the water balance and the methods that will be used to ensure that pollutants are not discharged from a cyanidation facility into waters of the state, unless permitted or otherwise approved by the DEQ. ( )

**28. Waters of the State.** All the accumulations of water, surface and underground, natural and artificial, public or private, or parts thereof that are wholly or partially within, flow through or border upon the state of Idaho. These waters shall not include municipal or industrial wastewater treatment or storage structures or private reservoirs, the operation of which has no effect on waters of the state. ( )

#### **011. ABBREVIATIONS.**

**01. BMP.** Best Management Practices. ( )

**02. DEQ.** Department of Environmental Quality. ( )

**03. IPDES.** Idaho Pollutant Discharge Elimination System. ( )

**04. SWPPP.** Storm Water Pollution Prevention Plan. ( )

**05. U.S.C.** United States Code. ( )

**012. -- 049. (RESERVED)**

#### **050. ADMINISTRATION.**

The Department will administer these rules under the direction of the director. ( )

**051. -- 059. (RESERVED)**

#### **060. EXPLORATION OPERATIONS AND REQUIRED RECLAMATION.**

**01. Diligence.** All reclamation activities required to be conducted on exploration sites ~~shall~~ must be performed in a good, workmanlike manner with all reasonable diligence, and as to a given exploration drill hole, road, or trench, within one (1) year after abandonment thereof. ( )

**02. When Exploration Is Mining.** Exploration operations may under some circumstances constitute mining operations as described in Section 47-1503(7), Idaho Code. ( )

**03. Notification.** Any operator desiring to conduct exploration using motorized earth-moving equipment to locate minerals for immediate or ultimate sale shall notify the Department within seven (7) days after beginning exploration operations. No application fee or financial assurance is required for exploration that is not a



mining operation. ( )

**04. Contents of Notification.** The notification shall include: ( )

a. The name and address of the operator; ( )

b. The legal description of the exploration and its starting and estimated completion date; and ( )

c. The anticipated size of the exploration and the general method of operation. ( )

**05. Confidentiality.** Any such notification ~~shall be~~ **is** treated as confidential in accord with Section 180. ( )

**06. Exploration Reclamation (Less Than Two Acres).** Every operator who conducts exploration affecting less than two (2) acres shall: ( )

a. Wherever possible, contour the affected lands to their approximate previous contour; and ( )

b. Conduct revegetation activities in accordance with Subsection 140.11. Unless otherwise required by a federal agency, one (1) pit or trench on a federal mining claim showing discovery, may be left open pending verification by federal mining examiners. ( )

c. Exploration drill holes ~~shall~~ **must** be plugged within thirty (30) days of drilling the holes. Upon request, the director may allow the holes to be temporarily left unplugged for up to a year, ~~but until they are plugged for up to a year,~~ but until they are plugged the holes must be left so as to eliminate hazards to humans and animals. ( )

d. Pits or trenches on mining claims showing discovery may be left open pending verification by federal mining examiners but shall not create a hazard to humans or animals. Such abandoned pits and trenches ~~shall~~ **must** be reclaimed within one (1) year of verification. ( )

e. If water runoff from exploration causes siltation of surface waters in amounts more than normally results from runoff, the operator shall reclaim affected lands and adjoining lands under his control as is necessary to meet state water quality standards. ( )

**07. Exploration Reclamation (More Than Two Acres).** Reclamation of lands where exploration has affected more than two (2) acres ~~shall~~ **must** be completed as set forth in Subsection 060.06 and the following additional requirements: ( )

a. Abandoned exploration roads ~~shall~~ **must** be cross-ditched as necessary to minimize erosion. The director may request in writing, or may be petitioned in writing, that a given road or road segment be left for a specific purpose and not be cross-ditched or revegetated. If the director approves the petition, the operator cannot thereafter be required to conduct reclamation activities with respect to that given road or road segment. ( )

b. Ridges of overburden ~~shall~~ **must** be leveled so as to have a minimum width of ten (10) feet at the top. ( )

c. Peaks of overburden ~~shall~~ **must** be leveled so as to have a minimum width of fifteen (15) feet at the top. ( )

d. Overburden piles ~~shall~~ **must** be reasonably prepared to control erosion. ( )

e. Abandoned lands affected by exploration ~~shall~~ **must** be top-dressed to the extent that such overburden is reasonably available from any pit or other excavation created by the exploration, with that type of overburden that is conducive to the control of erosion or the growth of vegetation that the operator elects to plant

thereon. ( )

**f.** Any water containment structure created in connection with exploration, ~~shall~~ **must** be reasonably prepared so as not to constitute a hazard to humans or animals. ( )

**08. Additional Reclamation.** The operator and the director may agree, in writing, to complete additional reclamation beyond the requirements established in the chapter and these rules. ( )

**061. -- 067. (RESERVED)**

## **068. APPLICATION FEES**

**01. Base Application Fees.** The following base fee schedule will be used for all reclamation plans and permanent closure plans and amendments to those plans. For plans processed under Section 069 of these rules, this base fee covers up to twenty (20) hours of staff time for review and processing. For plans processed under Section 070 of these rules, the applicant may instead enter an agreement with the Department as described in Subsection 068.03 of these rules. The applicable acreage is based on the proposed reclamation plan area identified in the application:

| Type of Plan                                                     | Fee (Dollars)                       |
|------------------------------------------------------------------|-------------------------------------|
| Section 069 of these rules, Reclamation Plan 0 to 5 acres        | Five hundred (\$500)                |
| Section 069 of these rules, Reclamation Plan >5 to 40 acres      | Six hundred (\$600)                 |
| Section 069 of these rules, Reclamation Plan over 40 acres       | Seven hundred fifty (\$750)         |
| Section 070 of these rules, Reclamation Plan 0 to 100 acres      | One thousand (\$1,000)              |
| Section 070 of these rules, Reclamation Plan >100 to 1,000 acres | One thousand five hundred (\$1,500) |
| Section 070 of these rules, Reclamation Plan >1,000 acres        | Two thousand (\$2,000)              |
| Section 071 of these rules, Permanent Closure Plan               | Five thousand (\$5,000)             |

( )

**02. Additional Fees for Applications Submitted Under Section 069.** Plans processed under Section 069 of these rules that require more than twenty (20) hours of staff time due to an incomplete application will result in additional fees being charged. After a revised application has been received and determined to be complete with the exception of the fee, IDL will send an invoice to the operator at a rate of forty dollars per hour (\$40/hour) for the additional review time over the initial twenty (20) hours. If this additional fee is not paid prior to the sixty (60) day approval deadline, the application will be denied. If the additional fee is paid within 30 days of the denial, the application will be considered complete and the time requirements of Subsection 080.03 will apply. ( )

**03. Alternative Fee Agreement for Applications Submitted Under Section 070.** In lieu of paying a fee at the time the application is submitted, an applicant under Section 070 of these rules may enter into an agreement with the Department for actual costs incurred to process an application, verify a reclamation cost estimate submitted under Idaho Code § 47-1512(c), and issue a final decision. The applicant shall not commence operations until the terms of the agreement have been met, including that the Department has been reimbursed for all actual costs incurred for the permitting process. ( )

## **069. APPLICATION PROCEDURE AND REQUIREMENTS FOR QUARRIES, DECORATIVE STONE, BUILDING STONE, AND AGGREGATE MATERIALS INCLUDING SAND, GRAVEL AND CRUSHED ROCK.**

**01. Approval Required.** Approval of a reclamation plan by the Department is required even if approval of such plan has been or will be obtained from a federal agency. ( )

**02. No Operator Shall Conduct Mining Operations.** No operator shall conduct mining operations on



any lands in the state until the reclamation plan has been approved by the director, and the operator has filed financial assurance that meets the requirements of the chapter and these rules. ( )

**03. Application Package.** The operator must submit a complete application package, for each separate mine or mine panel, before the reclamation plan will be approved. Separate mines are individual, physically disconnected operations. A complete application package consists of: ( )

a. An application provided by the director; ( )

b. A map or maps of the proposed mining operation which includes the information required under Subsection 069.04; ( )

c. A reclamation plan, in map and narrative form, which includes the information required under Subsection 069.05; and ( )

d. An out-of-state operator shall designate an in-state agent authorized to act on behalf of the operator. In case of an emergency that requires an action or actions to prevent environmental damage, both the operator and the authorized agent will be notified. ( )

e. The correct fee listed in Section 068 of these rules. ( )

**04. Map Requirements.** A vicinity map ~~shall~~must be prepared on standard United States Geological Survey ("USGS") seven and one-half (7.5) minute quadrangle maps or equivalent. A map of the proposed mining operation site ~~shall~~must be of sufficient scale to show: ( )

a. The location of existing roads, access, and main haul roads to be constructed or reconstructed in conjunction with the mining operation and the approximate dates for construction, reconstruction, and abandonment; ( )

b. The approximate location and names, if known, of drainages, streams, creeks, or water bodies within one thousand (1,000) feet of the mining operation; ( )

c. The approximate boundaries of the lands to be utilized in the mining operations, including a legal description to the quarter-quarter section; ( )

d. The approximate boundaries and acreage of the lands that will become affected land as a result of the mining operation during the first year of operations; ( )

e. The currently planned storage locations of fuel, equipment maintenance products, wastes, and chemicals that will be utilized in the mining operation; ( )

f. The currently planned location and configuration of pits, overburden piles, crusher reject materials, mineral stockpiles, topsoil storage, wash plant ponds and sediment ponds that will be utilized; ( )

g. Scaled cross-sections by length and height showing surface profiles prior to mining; and ( )

h. A surface and mineral control or ownership map of appropriate scale for boundary identification; ( )

**05. Reclamation Plan Requirements.** Reclamation plans must be submitted in map and narrative form and include the following: ( )

a. Where waters of the state are likely to be impacted or when requested by the director, documents identifying and assessing foreseeable, site-specific sources of water quality impacts from mining operations and proposed management activities, such as BMPs or other measures and practices, to comply with water quality requirements; ( )

- b.** Scaled cross-sections by length and height, showing planned surface profiles and slopes after reclamation; ( )
- c.** Roads to be reclaimed; ( )
- d.** A plan for revegetation of affected lands including soil types, slopes, precipitation, seed rates, species, handling of topsoil or other growth medium, time of planting, method of planting and, if necessary, fertilizer and mulching rates; ( )
- e.** The planned reclamation of wash plant or sediment ponds; ( )
- f.** A drainage control map which identifies the location of BMPs that will be implemented to control erosion and water quality impacts during mining and reclamation activities; ( )
- g.** The location of any current 100-year floodplain in relation to the mining facilities if the floodplain is within one hundred (100) feet of the facilities, and the BMPs to be implemented that will keep surface waters from entering any pits and potentially changing course. ( )
- h.** For operations over five (5) acres, an estimate of total reclamation cost to be used in establishing a financial assurance amount. The cost estimate will include, but is not limited to, the approximate cost of grading, revegetation, equipment mobilization, labor, and other pertinent direct and indirect costs of a third-party to complete reclamation. ( )
- i.** If construction, mining, or reclamation will be completed in phases, a description of the tasks to be completed in each phase, an estimated schedule, and proposed adjustments of financial assurance related to each phase. ( )

**070. APPLICATION PROCEDURE AND REQUIREMENTS FOR OTHER MINING OPERATIONS INCLUDING HARDROCK, UNDERGROUND AND PHOSPHATE MINING.**

- 01. Reclamation Plan Approval Required.** Approval of a reclamation plan by the Department is required even if approval of such plan has been or will be obtained from a federal agency. No operator shall conduct mining operations on any lands in the state until the reclamation plan has been approved by the director, and the operator has filed the required financial assurance. ( )
- 02. Application Package.** The operator must submit a complete application package for each separate mine or mine panel before the reclamation plan will be approved. Separate mines are individual, physically disconnected operations. A complete application package consists of: ( )
  - a.** All items and information required or allowed under Section 069 of these rules; ( )
  - b.** Any additional information required by Subsection 070.04; and ( )
  - c.** An operating plan, if required by Section 47-1506(b), Idaho Code, prepared in accordance with Subsection 070.05 of these rules. ( )

**03. Map Requirements.** Maps ~~shall~~**must** be prepared in accordance with Subsection 069.04 of these rules with the addition of any tailings facilities or process fluid ponds. ( )

**04. Reclamation Plan Requirements.** Reclamation plans must include all of the information required under Subsection 069.05, including but not limited to phases as described in Subsection 069.05.i, and the following additional information: ( )

- a.** A description of the planned reclamation of overburden disposal areas, tailings facilities, and sediment ponds; and ( )

**b.** An estimate of total reclamation cost to be used in establishing the financial assurance amount. The cost estimate should include the approximate cost of grading, revegetation, equipment mobilization, labor, and other pertinent costs for third party reclamation. ( )

**c.** To assist in meeting the requirements of paragraph 069.05.a in these rules, a summary of requirements from a SWPPP, IPDES permit, ground water point of compliance, and other permits or approvals or BMPs related to foreseeable water quality impacts on the affected land. ( )

**d.** Structures that will be built to help implement a SWPPP, IPDES permit, Point of Compliance or other permits or approvals related to foreseeable water quality impacts on the affected land. ( )

**e.** Additional information regarding coarse and durable rock armor if any is proposed to be used for reclamation of mine facilities. The director may, after considering the type, size, and potential environmental impact of the facility, require the operator to include additional information in the reclamation plan. Such information may include, but is not limited to, one (1) or more of the following: ( )

i. A description of the quantities, size, geologic characteristics, and durability of the materials to be used for final reclamation and armoring. ( )

ii. A description of how the coarse and durable materials will be handled and/or stockpiled, including a schedule for such activities that will ensure adequate quantities are available during reclamation. ( )

**f.** The director may, after considering the type, size, and potential environmental impact of the facility, require the operator to prepare provide a geotechnical analysis and report. If failure of these structures can reasonably be expected to impact adjacent surface or ground waters or adjacent private or state-owned lands, the analysis may be required to consider the long-term stability of these structures, the potential for ground water accumulation, and the expected seismic accelerations at the site. The report must bear the imprint of an Idaho licensed professional engineer that is both signed and dated by the engineer. The report shall show that the following features, if present, are designed in a manner that is consistent with industry standards to minimize the potential for failure: ( )

i. Any waste rock or overburden stockpiles; ( )

ii. Any pit walls proposed to be more than one hundred (100) feet high; and ( )

iii. Any pit walls where geologic conditions could lead to failure of the wall regardless of the height. ( )

**g.** Underground mines must provide the following additional information: ( )

i. Location and dimensions of all underground mine openings at the ground surface, including but not limited to vents, shafts, and adits; and ( )

ii. A description of how each mine opening in subparagraph 070.04.g.i of these rules will be secured during reclamation to eliminate hazards to human health and safety. ( )

**h.** A description of post-closure activities that includes the proposed length of the post-closure period and the following: ( )

i. A summary of procedures and methods for water management including any likely IPDES permit, stormwater permit, and monitoring required for any ground water point of compliance, along with sufficient information to support a cost estimate for such water management activities. ( )

ii. Care and maintenance for facilities after mining has ceased. ( )

i. Other pertinent information the Department has determined is necessary to ensure that the operator

will comply with the requirements of the chapter. ( )

**05. Operating Plan Requirements.** A complete operating plan shall consist of: ( )

a. Ore, tailings, and waste rock handling flow sheets and diagrams. ( )

b. Waste rock management plan. ( )

c. Water quality monitoring locations. ( )

d. Anticipated concurrent reclamation prior to the cessation of mining. ( )

e. Estimated throughput and timeline for mining. ( )

f. Types of ore processing and beneficiation. ( )

g. Process fluid pond volumes and anticipated contents, if applicable. ( )

**06. Monitoring Data.** The Department will, as needed and through consultation with DEQ, obtain the operator's baseline data on ground water or surface water gathered during the planning and permitting process for the operation, and may require the operator to furnish additional monitoring data during the life of the project. This will not require any additional monitoring data where such data is already provided under an IPDES permit, SWPPP, ground water point of compliance, or other federal or state requirements for collecting surface or ground water data. ( )

#### **071. APPLICATION PROCEDURE AND REQUIREMENTS FOR PERMANENT CLOSURE OF CYANIDATION FACILITIES.**

**01. Permanent Closure Plan Approval Required.** No operator shall operate a new cyanidation facility or materially modify or materially expand an existing cyanidation facility prior to obtaining a permit, approval from the director and before the operator has filed financial assurance, as required by these rules. ( )

**02. Permanent Closure Plan Requirements.** A permanent closure plan shall: ( )

a. Identify the current owner of the cyanidation facility and the party responsible for the permanent closure and the long-term care and maintenance of the cyanidation facility; ( )

b. Include a timeline showing: ( )

i. The schedule to complete permanent closure activities, including neutralization of process waters and material stabilization, and the time period for which the operator shall be is responsible for post-closure activities; and ( )

ii. If the operator plans to complete construction, operation, and/or permanent closure of the cyanidation facility in phases, the schedule to begin each phase of construction, operation, and/or permanent closure activities and any associated post-closure activities. ( )

c. Provide the objectives, methods, and procedures that will achieve neutralization of process waters and material stabilization during the closure period and through post-closure; ( )

d. Provide a water management plan from the time the cyanidation facility is in permanent closure through the defined post-closure period. The plan shall must be prepared in accordance with IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation," administered by the DEQ, as required to meet the objectives of the permanent closure plan. ( )

e. Include the schematic drawings for all BMPs that will be used during the closure period, through

the defined post-closure period, and a description of how the BMPs support the water management plan, and an explanation of the water conveyance systems that are planned for the cyanidation facility. ( )

**f.** Provide proposed post-construction topographic maps and scaled cross-sections showing the configuration of the final heap or tailing facility, including the final cap and cover designs and the plan for long-term operation and maintenance of the cap. Caps and covers used as source control measures for cyanidation facilities must be designed to minimize the interaction of meteoric waters, surface waters, and ground waters with wastes containing pollutants that are likely to be mobilized and discharged to waters of the state. Prior to approval of a permanent closure plan, engineering designs and specifications for caps and covers must bear the imprint of an Idaho licensed professional engineer that is both signed and dated by the engineer; ( )

**g.** Include monitoring plans for surface and ground water during closure and post-closure periods, adequate to demonstrate water quality trends and to ensure compliance with the stated permanent closure objectives and the requirements of the chapter; ( )

**h.** Provide an assessment of the potential impacts to soils, vegetation, and surface and ground waters for all areas to be used for the land application system and provide a mitigation plan, as appropriate. ( )

**i.** Provide information on how the operator will comply with the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; Idaho Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code; Idaho Solid Waste Management Act, Chapter 74, Title 39, Idaho Code; and appropriate state rules, during operation and permanent closure; ( )

**j.** Provide sufficient detail to allow the operator to prepare an estimate of the reasonable costs to implement the permanent closure plan; ( )

**k.** Provide an estimate of the reasonable estimated costs to complete the permanent closure activities specified in the permanent closure plan in the event the operator fails to complete those activities. The estimate shall: ( )

**i.** Identify the incremental costs of attaining critical phases of the permanent closure plan and a proposed financial assurance release schedule; ( )

**ii.** Assume that permanent closure activities will be completed by a third party whose services are contracted for by the Board as a result of a financial assurance forfeiture under Section 47-1513, Idaho Code. ( )

**l.** If the proposal is to complete cyanidation facility construction, operation, and/or permanent closure activities in phases: ( )

**i.** Describe how these activities will be phased and how, after the first phase of activities, each subsequent phase will be distinguished from the previous phase or phases; and ( )

**ii.** Describe how any required post-closure activities will be addressed during and after each subsequent phase has begun. ( )

**m.** Provide any additional information that may be required by the Department to ensure compliance with the objectives of the permanent closure plan and the requirements of the chapter. ( )

**03. Preapplication Conference.** Prospective applicants are encouraged to meet with the Department well in advance of preparing and submitting an application package to discuss the anticipated application requirements and application procedures, and to arrange for a visit or visits to the proposed location of the cyanidation facility. The preapplication conference may trigger a period of collaborative effort between the Department, the DEQ, and the applicant in developing checklists to be used by the agencies in reviewing an application for completion, accuracy, and protectiveness. ( )

**04. Application Package for Permanent Closure.** An application and its contents submitted to the Department ~~shall~~ **will** be used to determine whether an applicant can complete all permanent closure activities in conformance with all applicable state laws. An application must provide information in sufficient detail to allow the director to make necessary application review decisions regarding cyanidation facility closure and protection of public health, safety, and welfare, in accordance with the chapter. A complete application package must be submitted to the Department. A complete application package for an operator proposing to use cyanidation shall consist of: ( )

**a.** A Department application form completed, signed, and dated by the applicant. This form shall contain the following information: ( )

i. Name, location, and mailing address of the cyanidation facility; ( )

ii. Name, mailing address, and phone number of the operator. An out-of-state operator shall designate an in-state agent authorized to act on his behalf. In case of an emergency that requires actions to prevent environmental damage, both the operator and his agent will be notified; ( )

iii. Land ownership status (federal, state, private or public); ( )

iv. The legal description to the quarter-quarter section of the location of the proposed cyanidation facility; and ( )

v. The legal structure (corporation, partnership, etc.) and primary place of business of the operator. ( )

**b.** Evidence that the applicant is authorized by the Secretary of State to conduct business in the state of Idaho; ( )

**c.** A permanent closure plan as prescribed in Subsection 071.02; ( )

**d.** The DEQ application and supporting materials; ( )

**e.** The fee as defined in Subsection 071.05.a. ( )

**05. Application Fee.** The application fee shall consist of two (2) parts: ( )

**a.** Processing and review fee. ( )

i. The applicant shall pay a nonrefundable five thousand dollar (\$5,000) fee upon submission of an application. Within thirty (30) days of receiving an application and this fee, the director shall provide a detailed cost estimate to the operator which includes a description of the scope of the Department's review; the assumptions on which the Department's estimate is based; and an itemized accounting of the anticipated number of labor hours, hourly labor rates, travel expenses and any other direct expenses the Department expects to incur, and indirect expenses equal to ten percent (10%) of the Department's estimated direct costs, as required to satisfy its statutory obligation pursuant to the chapter. ( )

ii. If the Department's estimate is greater than five thousand dollars (\$5,000), the applicant may agree to pay a fee equal to the difference between five thousand dollars (\$5,000) and the Department's estimate, or may commence negotiations with the Department to establish a reasonable fee. ( )

iii. If, within twenty (20) days from issuance of the Department's estimate, the Department and applicant cannot agree on a reasonable application processing and review fee, the applicant may appeal to the Board. The Board shall: ( )

(1) Review the Department's estimate; ( )

(2) Conduct a hearing where the applicant is allowed to give testimony to the Board concerning the



Department's estimate; and ( )

(3) Establish the amount of the application review and processing fee. ( )

iv. If the fee is more than five thousand dollars (\$5,000), the applicant shall pay the balance of the fee within fifteen (15) days of the Board's decision or withdraw the application. ( )

v. Nothing in this section shall extend the time in which the Board must act on a plan submitted. ( )

b. Permanent closure cost estimate verification fee. ( )

i. Pursuant to Sections 47-1506(g) and 47-1508(f), Idaho Code, the Department may employ a qualified independent party, acceptable to the operator and the Board, to verify the accuracy of the permanent closure cost estimate. ( )

ii. The applicant ~~shall be~~ is solely responsible for paying the Department's cost to employ a qualified independent party to verify the accuracy of the permanent closure cost estimate. The applicant may participate in the Department's processes for identifying qualified parties and selecting a party to perform this work. ( )

iii. If a federal agency has responsibility to establish the financial assurance amount for permanent closure of a cyanidation facility on federal land, the Department may employ the firm retained by the federal agency to verify the accuracy of the permanent closure cost estimate. If the director chooses not to employ the firm retained by the federal agency, he shall provide a written justification explaining why the firm was not employed. ( )

**072. -- 079. (RESERVED)**

## **080. PROCEDURES FOR REVIEW AND DECISION UPON AN APPLICATION FOR A RECLAMATION PLAN OR PERMANENT CLOSURE PLAN.**

**01. Return of Application.** Within thirty (30) days after receipt of a reclamation plan or permanent closure plan by the Department, an application may be returned for correction and resubmission if either the reclamation plan or permanent closure plan are incomplete. Return of an application by the director shall constitute a rejection in accordance with Section 47-1507(b), Idaho Code. ( )

**02. Agency Notification and Comments.** ( )

a. Nonconfidential materials submitted under Sections 069, 070, and 071 ~~shall~~ will be forwarded by the director to the Idaho Departments of Water Resources, Environmental Quality, and Fish and Game for review and comment. The director may decide not to circulate applications submitted under Section 069 if the director determines the impacts of the proposed activities are minor and do not involve surface or ground waters. The director may provide public notice on receipt of a reclamation plan or permanent closure plan. In addition, nonconfidential contents of an application will be provided to individuals who request the information in writing, as required by the Idaho Public Records Act. ( )

b. Upon receipt of a complete application for a reclamation plan or a permanent closure plan, the director shall provide notice to the cities and counties where the mining or cyanidation facility operation is proposed, in accordance with Section 47-1505(7), Idaho Code. The notice shall include the name and address of the operator, the procedure and schedule for the Department's review, and an invitation to review nonconfidential portions of the application, if requested in writing. Such notice will be provided upon receipt of a reclamation plan, a permanent closure plan, or any amended plan for an existing operation, or an amended cost estimate to complete permanent closure of a cyanidation facility, if required under the chapter and these rules.. ( )

**03. Decision on Reclamation Plans.** The director shall review a new reclamation plan or an amended reclamation plan pursuant to Sections 47-1507 and 47-1508, Idaho Code. ( )



a. Approval. ( )

i. Within sixty (60) days of receipt of an application that complies with Subsections 069 and 070 of these rules, the Department shall provide written notice to the applicant that the reclamation plan or any amendment(s) to an approved reclamation plan is approved or denied and, if approved, the amount of the financial assurance required; or ( )

ii. If the director does not take action within sixty (60) days, a reclamation plan or any amendments thereof ~~shall be~~ is deemed to comply with the chapter, unless the sixty (60) day time period is extended pursuant to Section 47-1507(c), Idaho Code. ( )

iii. The operator and director may agree, in writing, to implement additional actions with respect to reclamation that extend beyond the requirements set forth in these rules. ( )

b. Inspections. The director may determine that an inspection of the proposed mining site location is necessary if the inspection will provide additional information or otherwise aid in processing of the application. ( )

i. If the director decides to perform an inspection, the applicant will be contacted and asked that he or an authorized employee or agent be present. This rule shall not prevent the Department from making an inspection of the site if the applicant does not appear. ( )

ii. If weather conditions preclude an inspection of a proposed mining operation, the director shall provide written notice to the applicant that review of the reclamation plan or an amended reclamation plan has been suspended until weather conditions permit an inspection, and that the schedule for a decision ~~shall will~~ be extended for up to thirty (30) days after weather conditions permit such inspection in accordance with Section 47-1507(c), Idaho Code. ( )

**04. Decision on Cyanidation Facility Permanent Closure Plans.** Pursuant to Sections 47-1507 and 47-1508, Idaho Code, following review of a complete application, the director shall: ( )

a. Coordination with DEQ. Initiate a coordinated interagency review of the application by providing a notice in writing to the DEQ director that the Department has received an application for permanent closure of a cyanidation facility; ( )

b. Approval. ( )

i. Within one-hundred eighty (180) days of receipt of an application that complies with Subsection 071.04 of these rules, the Department shall provide written notice to the applicant that the permanent closure plan is approved or denied and, if approved, the amount of the permanent closure financial assurance required; or ( )

ii. If the director does not take action within one-hundred eighty (180) days, a permanent closure plan, or any amendments thereof, ~~shall be~~ is deemed to comply with the provisions of the chapter, unless the one hundred eighty (180) day time period ~~shall be~~ is extended in accordance with Section 47-1507(c), Idaho Code. ( )

c. Inspections. The director may determine that it is necessary to inspect the proposed cyanidation facility location if the inspection will provide additional information or otherwise aid in processing of the application. ( )

i. If the director determines to inspect the site, the applicant will be contacted and asked that he or an authorized employee or agent be present. The Department may proceed with an inspection if the applicant or his designated employee or agent does not appear. ( )

ii. If weather conditions preclude an inspection of the proposed cyanidation facility, the director shall provide written notice to the applicant that processing of the application has been suspended until weather conditions

permit an inspection, and that the schedule for a decision ~~shall be~~ is extended for up to thirty (30) days after weather conditions permit such inspection in accordance with Section 47-1507(c), Idaho Code. ( )

**05. Permanent Closure Plan Approval.** ( )

a. The Department may condition its approval on issuance of a permit by the DEQ for the cyanidation facility. ( )

b. Except for the concurrent and additional permanent closure requirements that may be established in a permit issued by the DEQ pursuant to Section 39-118A, Idaho Code and IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation," an approved permanent closure plan shall define the nature and extent of the operator's obligation under the chapter. ( )

c. The permanent closure plan, as approved by the Department in coordination with the DEQ, ~~shall will~~ be incorporated by reference into the cyanidation facility permit issued by DEQ as a permit condition and ~~shall will~~ be enforceable as such. The operator shall ensure that closure complies with the approved permanent closure plan and any additional permanent closure requirements as outlined in the permit issued by DEQ. ( )

d. No sooner than one hundred and twenty (120) days after an application for a permanent closure plan has been submitted to the Department, the applicant may submit a reclamation plan as required by Section 070 of these rules. The Department will review and approve the reclamation plan in accordance with Subsection 080 of these rules. ( )

e. Approval of a permanent closure plan by the Department is required even if approval of such plan has been or will be obtained from an appropriate federal agency. ( )

**06. Denial of an Application.** If the director rejects an application, the director shall deliver in writing to the applicant a statement of the reasons the application has been rejected, the factual findings upon which the rejection is based, a statement of the applicable statute(s) and rule(s), the manner in which the application failed to fulfill the requirements of these rules, and the action that must be taken or conditions that must be satisfied to meet the requirements of the chapter and these rules. The applicant may submit an amended application in accordance with Sections 069, 070 or 071 for review and, if appropriate, approval by the Department. The director shall deny a reclamation plan, permanent closure plan, or any amendments thereof if: ( )

a. The application is inaccurate or incomplete; ( )

b. The cyanidation facility as proposed cannot be conditioned for construction, operation, and closure to protect public safety, health, and welfare, in accordance with the scope and intent of these rules, or to protect beneficial uses of the waters of the state, as determined by the DEQ pursuant to Section 39-118A, Idaho Code and IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation" and other DEQ rules cited therein. ( )

**07. Public Hearing.** The director may call a public hearing to determine whether a proposed application complies with the chapter and these rules. A hearing ~~shall will~~ be conducted in accordance with Section 110. ( )

**08. Referral to Board.** The director may refer the decision concerning an application to the Board. This action will not extend the time period for a decision to approve or deny an application. ( )

**09. Appeal of Final Order.** Any final order of the Board regarding an application for a mining reclamation plan or for permanent closure of a cyanidation facility may be appealed as set forth in Section 47-1514, Idaho Code. ( )

**081. -- 089. (RESERVED)**

**090. AMENDING AN APPROVED RECLAMATION PLAN.**

**01. Cause for Reclamation Plan Amendment.** In the event circumstances arise that necessitate amendments to an approved reclamation plan, the operator shall submit an application to amend the plan and state the reasons the amendment is necessary. Either the operator or the director may initiate a process to amend an approved reclamation plan. If the director identifies a material change he believes requires a change in the reclamation plan, the director must deliver in writing to the operator a detailed statement identifying the material change and the action(s) necessary to address the material changes. Plan amendments have the same requirements as described in Section 069 and 070 of these rules. ( )

**02. Review of Amendment.** The director will process an application to amend a plan in accordance with Sections 080 and 110, provided, however, that no land or aspect or provision of an approved reclamation plan that would not be affected by the proposed amendment, ~~shall be~~ is subject to the amendment, review or reapproval in connection with processing the application. Approval of an amendment shall not be conditioned upon the performance of any actions not required by the approved reclamation plan or the proposed amendment itself, unless the operator agrees to perform such actions. ( )

**03. Adjustments.** Adjustments to an approved reclamation plan may be made by agreement between the director and the operator, if the adjustment is consistent with the overall objectives of the approved reclamation plan and so long as applicable surface and ground water quality standards will be met. Adjustments are due to changes that are smaller than material changes. ( )

#### **091. AMENDING AN APPROVED PERMANENT CLOSURE PLAN.**

**01. Cause for Permanent Closure Plan Amendment.** In the event circumstances arise that necessitate amendments to an approved permanent closure plan, the operator shall submit an application to amend the permanent closure plan and state the reasons the amendment is necessary. Either the operator or the director may initiate a process to amend an approved permanent closure plan. Circumstances that could require a permanent closure plan to be amended include: ( )

**a.** A material modification or material expansion in the cyanidation facility design or operation for which the approved permanent closure plan is no longer adequate; ( )

**b.** Conditions substantially different from those anticipated in the original permit for which the approved permanent closure plan is no longer adequate; or ( )

**c.** A material change as defined in Subsection 010.09 of these rules. ( )

**02. Modifications at an Operator's Request.** Requests from an operator to modify a permanent closure plan ~~shall~~ must be submitted to the Department in writing. The director shall process an application for amendment in accordance with Section 080. An application to amend a permanent closure plan shall include: ( )

**a.** A written description of the circumstances that necessitate the amendment; ( )

**b.** Data supporting the request; ( )

**c.** The proposed amendment; ( )

**d.** A description of how the amendment will impact the estimated cost to complete permanent closure pursuant to the chapter; ( )

**e.** A cost estimate to implement the amended permanent closure plan, prepared in accordance with Subsection 071.02 of these rules; and ( )

**f.** Payment of a reasonable fee as may be determined by the director in accordance with Section 47-1508, Idaho Code. ( )

**03. Modification at Request of Director.** If, following consultation with the DEQ, the director determines that cause exists to amend the permanent closure plan the director shall notify the operator in writing of his determination and explain the circumstances that have arisen which require the permanent closure plan to be amended. Within thirty (30) days or as agreed by the operator and the Department, the operator shall submit an application to amend the permanent closure plan in accordance with Subsection 091.02. ( )

**04. Adjustment.** Adjustments to an approved permanent closure plan may be made by agreement between the director and the operator, if the adjustment is consistent with the overall objectives of the approved permanent closure plan and so long as applicable surface and ground water quality standards will be met. ( )

**092. -- 099.**

**(RESERVED)**

**100. DEVIATION FROM AN APPROVED RECLAMATION PLAN.**

**01. Unforeseen Events.** If a mining operator finds that unforeseen events or unexpected conditions require immediate change from an approved plan, the operator may continue mining in accordance with the procedures dictated by the changed conditions, pending submission and approval of an amended plan, even though operations do not comply with the approved reclamation plan on file with the Department. This shall not excuse the operator from complying with the requirements of Sections 140 and 120. ( )

**02. Notification.** The operator shall notify the director, in writing, within ten (10) days of the discovery of conditions that require deviation from the approved plan. A proposed amendment to the reclamation plan ~~shall~~ must be submitted by the operator within thirty (30) days of the discovery of those conditions. ( )

**101. -- 109.**

**(RESERVED)**

**110. PUBLIC HEARING.**

**01. Call for a Hearing.** A public hearing called by the director following receipt of a complete application submitted in accordance with Sections 069, 070, or 071 ~~shall be is~~ conducted in accordance with Section 47-1507(d), Idaho Code. The director may call for a hearing following his preliminary review of an application for a new operation or an amendment application for an existing operation when one (1) or more of the following circumstances arises: ( )

**a. Public Concern.** The public, potentially affected landowners, any governmental entity, or any other interested parties who may be affected by the operations proposed under the chapter have registered, in writing, a concern with the director regarding the proposed operations or cyanidation facility. The purpose of the public hearing ~~shall be is~~ to gather written and oral comments as to whether the proposed reclamation plan or permanent closure plan meets the requirements of the chapter and these rules. ( )

**b. Agency Concern.** The director determines, after consultation with the Department of Water Resources, DEQ, the Department of Fish and Game, and affected Indian tribes that the proposed mining or cyanidation facility operations could reasonably be expected to significantly degrade adjacent surface and/or ground waters or otherwise threaten public health, safety or welfare. The purpose of a public hearing held under this subsection will be to receive written and oral comments on the measures the operator is proposing to use to protect surface and/or ground water quality from nonpoint source pollution. ( )

**02. Consolidation.** If the director determines that a hearing should be held, he shall order that such proceedings be consolidated. The applicant and the public must be advised of the specific subjects to be discussed at the hearing at least twenty (20) days prior to the hearing. The Department will coordinate with the DEQ, as appropriate, for any hearings relating to permanent closure of a cyanidation facility to streamline application processing.( )

**03. Location.** A hearing ~~shall will~~ be held in the locality of the proposed mine or a proposed cyanidation facility at a reasonably convenient time and place for public participation. The director may call for more than one hearing when conditions warrant. ( )

**04. Notice of Hearing.** The director shall provide at least twenty (20) days' advance notice of the date, time, and place of the hearing to: federal, state, and local governmental agencies, Indian tribes who may have an interest in the decision as shown on the application, and the public; to all persons who petitioned for a hearing; and to any person identified by the applicant under Subsection 070.02 as a legal owner of the land that will likely be affected by the proposed operations. Notice to the applicant must be sent by certified mail and postmarked not less than twenty (20) days before the scheduled public hearing date. ( )

**05. Publication of Notice.** The director shall provide at least twenty (20) days advance notice to the general public of the date, time, and place of the hearing. A newspaper advertisement will be placed once a week, for two (2) consecutive weeks, in the locale of the area covered by the application. ( )

**a.** In the event a hearing is ordered under Section 110, the notice shall describe: ( )

**i.** The potentially significant surface water quality impacts from the proposed mining operation and the operator's description of the measures that will be used to prevent degradation of adjacent surface and ground waters from sources of pollution; or ( )

**ii.** The objectives of a permanent closure plan that have been submitted for review. ( )

**b.** A copy of the application ~~shall~~will be placed for review in a public place in the local area of the proposed mining operation or cyanidation facility, in the closest Department area office, and the Department's administrative office in Boise. ( )

**06. Hearing Officer.** The hearing ~~shall~~will be conducted by the director or his designated representative. Both oral and written testimony will be accepted. Proceedings of the hearing will be recorded on audio tape and a verbatim transcript will be prepared. ( )

**07. Consideration of Hearing Record.** The Department ~~shall~~will consider the hearing record when reviewing reclamation plans or permanent closure plans for final approval or rejection. ( )

## **111. COMPLETION OF PERMANENT CLOSURE.**

**01. Implementation of a Permanent Closure Plan.** Unless otherwise specified in the approved permanent closure plan, an operator must begin implementation of the approved permanent closure plan as follows: ( )

**a.** Within two (2) years of the final addition of new cyanide to the ore process circuit; or ( )

**b.** If the product recovery phase of the cyanidation facility has been suspended for a period of more than two (2) years. ( )

**02. Submittal of a Permanent Closure Report.** The operator shall submit a permanent closure report to the Department for review and approval. A permanent closure report ~~shall~~must be of sufficient detail for the directors of the Department and DEQ to issue a determination that permanent closure, as defined by Subsection 010.15 of these rules, has been achieved. The permanent closure report shall address: ( )

**a.** The effectiveness of material stabilization; ( )

**b.** The effectiveness of the water management plan and the adequacy of the monitoring plan; ( )

**c.** The final configuration of the cyanidation facility and its operational/closure status; ( )

**d.** The post-closure operation, maintenance, and monitoring requirements, and the estimated reasonable cost to complete those activities; ( )

- e. The operational/closure status of any land application site of the cyanidation facilities; ( )
- f. Source control systems that have been constructed or implemented to eliminate, mitigate, or contain short- and long-term discharge of pollutants from the cyanidation facility, unless otherwise permitted; ( )
- g. The short- and long-term water quality trends in surface and ground water through the statistical analysis of the existing monitoring data pursuant to the ore-processing by cyanidation permit; ( )
- h. Ownership and responsibility for the site upon permanent closure during the defined post-closure period; ( )
- i. The future beneficial uses of the land, surface and ground waters in and adjacent to the closed cyanidation facilities; and ( )
- j. How the permanent closure of the cyanidation facility complies with the Resource Conservation and Recovery Act, Hazardous Waste Management Act, Solid Waste Management Act, and appropriate rules. ( )

**03. Review of a Permanent Closure Report.** The Department will immediately forward a copy of the permanent closure report to DEQ for their review and comment. ( )

## **112. DECISION TO APPROVE OR DISAPPROVE OF A PERMANENT CLOSURE REPORT.**

**01. Receipt of a Permanent Closure Report.** Within sixty (60) days of receipt of a permanent closure report, the director shall issue to the operator a director's determination of approval or disapproval of the permanent closure report. ( )

**02. Permanent Closure Report Is Disapproved.** The director's determination to approve or disapprove a permanent closure report ~~shall~~will be based on the permanent closure report's demonstration that permanent closure has resulted in long-term neutralization of process waters and material stabilization. If a permanent closure report is disapproved, the director shall provide in writing identification of: ( )

- a. Errors or inaccuracies in the permanent closure report; ( )
- b. Issues or details that require additional clarification; ( )
- c. Failures to fully implement the approved permanent closure plans; ( )
- d. Failures to ensure protection for public health, safety, and welfare or to prevent degradation of waters of the state; ( )
- e. Outstanding violations or other noncompliance issues; and ( )
- f. Other issues supporting the Department's disagreement with the contents, final conclusions or recommendations of the permanent closure report. ( )

## **113. -- 119. (RESERVED)**

## **120. FINANCIAL ASSURANCE REQUIREMENTS.**

**01. Submittal of Financial Assurance Before Mining.** Prior to beginning any mining on a mine panel covered by a reclamation plan, an operator shall submit to the director, on a Department form, financial assurance meeting the requirements of this rule. ( )

**02. Submittal of Financial Assurance Before Operating a Cyanidation Facility.** Prior to beginning operation of a cyanidation facility an operator will submit to the director, on a Department form, financial assurance meeting the requirements of Section 47-1512(a)(2), Idaho Code. The financial assurance will be in an amount equal



to the total costs estimated under paragraph 071.02.k. and Section 120 of these rules. ( )

**03. Timely Financial Assurance Submittal.** Financial assurance must be received by the Department within twenty-four (24) months of reclamation or permanent closure plan approval or the Department will cancel the respective plan without prejudice. If financial assurance is not received within eighteen (18) months of a plan approval, the Department will notify the operator that financial assurance is required prior to the twenty-four (24) month deadline. Extensions will be granted by the director for reasonable cause given if a written request is received prior to the deadline. If financial assurance or an extension request is not received by the deadline, the plan will be canceled. The operator must then submit a new plan application and application fee to restart the approval process. ( )

**04. Phased Financial Assurance.** If the Department approves a reclamation plan or permanent closure plan with phased financial assurance, then financial assurance may increase incrementally commensurate with the additional reclamation or permanent closure liability. After construction and operation of the initial phase has commenced and after filing by an operator of the initial financial assurance, an operator will not construct any component of a subsequent phase or phases of the subject mine or cyanidation facility before filing the additional financial assurance amount that is required by the Board. If phased financial assurance is not authorized, the operator is required to file the financial assurance amount required to complete reclamation or permanent closure of all planned phases prior to any construction of the mine or operation of the cyanidation facility. ( )

**05. Financial Assurance for Mines with Five (5) or Less Disturbed Acres.** Financial assurance will be a minimum of five thousand dollars (\$5,000) per acre unless the operator or the Department determine that the estimated reasonable costs of reclamation require a different amount. No financial assurance may exceed fifteen thousand dollars (\$15,000) for a given acre of affected land unless the condition in Subsection 120.07 of these rules have been met. ( )

**06. Financial Assurance for Cyanidation Facility Affecting Five (5) or Less Disturbed Acres.** The Board may require financial assurance in excess of five million dollars (\$5,000,000) if the conditions in Subsection 120.07 of these rules have been met. ( )

**07. Process for Requiring Higher Financial Assurance.** Financial assurance in excess of the amounts in Subsections 120.05 and 06 of this rule may only be obtained if: ( )

**a.** The Board has determined that such financial assurance is necessary to meet the requirements of the chapter; and ( )

**b.** The Board has delivered to the operator, in writing, a notice setting forth the reasons it believes such financial assurance is necessary; and ( )

**c.** The Board has conducted a hearing where the operator is allowed to give testimony to the Board concerning the amount of the proposed financial assurance, as provided by Section 47-1512, Idaho Code. This requirement for a hearing may be waived, in writing, by the operator. ( )

**08. Financial Assurance for Mine or Cyanidation Facility with More than Five (5) Disturbed Acres.** The amount of financial assurance ~~shall~~must be the amount necessary for the Board to pay the estimated reasonable costs of reclamation required under the reclamation plan or permanent closure plan, including indirect costs in Section 120 of these rules. ( )

**09. Mobilization Costs are Direct Costs.** Mobilization and demobilization costs will be included in financial assurance calculations as a direct cost. Costs will be calculated to the mine from the nearest community that has at least two (2) contractors able to perform the reclamation. ( )

**10. Indirect Costs for Reclamation Cost Calculations.** Reclamation and permanent closure cost calculations shall include the following indirect costs and should fall within the percentages given. If a different percentage is used, then a justification must be given. Alternatively, an operator may propose the use of an industry recognized standardized reclamation cost estimation tool for use in reclamation and/or permanent closure cost estimates and the use of the tool's associated indirect costs which are established using the project direct costs as



- identified: ( )
- a. Contractor profit at six percent to ten percent (6% to 10%) of direct costs; ( )
  - b. Contractor overhead at four percent to eight percent (4% to 8%) of direct costs; ( )
  - c. Contractor insurance at one and a half percent (1.5%) of labor costs; ( )
  - d. Contractor bonding at two and a half percent to three and a half percent (2.5% to 3.5%) of direct costs; ( )
  - e. Contract administration at five percent to nine percent (5% to 9%) of direct costs; ( )
  - f. Re-engineering for mines or cyanidation facilities with direct reclamation costs over five hundred thousand dollars (\$500,000). Re-engineering will be ~~determined at~~ three percent to seven percent (3% to 7%) of direct costs; ( )
  - g. Scope contingency at six percent to eleven percent (6% to 11%) of direct costs; ( )
  - h. Bid contingency at six percent to eleven percent (6% to 11%) of direct costs; and ( )
  - i. Other site specific costs as appropriate. ( )
11. **Salvage Value Not Allowed.** Reclamation or permanent closure costs will not be reduced by assigning a salvage value to structures or fixtures to be removed during reclamation. ( )
12. **Mining Operation Conducted by Public or Government.** Notwithstanding any other provision of law to the contrary, the financial assurance provisions of the chapter and these rules do not apply to any surface mining operations conducted by a public or governmental agency for maintenance, repair, or construction of a public highway. ( )
13. **Annual Financial Assurance Review for Reclamation Plans.** At the beginning of each calendar year, the operator shall notify the director of any increase in the acreage of affected land beyond that covered by the existing financial assurance which will result from planned mining activity within the next twelve (12) months. A commensurate increase in the financial assurance will be required for an increase in affected acreage. Any additional financial assurance required ~~shall must~~ be submitted on the appropriate form within ninety (90) days of operator's receipt of notice from the Department that an additional amount is required. In no event will mining operations be conducted that would affect additional acreage until the appropriate form and financial assurance has been submitted to the Department. Acreage on which reclamation is complete will be reported in accordance with Subsection 120.16 and after release of this acreage from the reclamation plan by the director, the financial assurance will be reduced by the amount appropriate to reflect the completed reclamation. ( )
14. **Financial Assurance Provided to the Federal Government.** Any financial assurance provided to the federal government that also meets the requirements of Section 120 ~~shall will~~ be sufficient for the purposes of these rules. A mine providing financial assurance through an order under the Comprehensive Environmental Response, Compensation, and Liability Act is not required to submit financial assurance to the Department as described in Idaho Code 47-1512(n). ( )
15. **Financial Assurance Reduction for Mines.** ( )
- a. An operator may petition the director for a change in the initial financial assurance amount. The director will review the petition and if satisfied with the information presented a revised financial assurance amount will be determined. The revised amount will be based upon the estimated cost that the director would incur should a forfeiture of financial assurance occur and it became necessary for the director, through contracting with a third party, to complete reclamation to the standards established in the plan. ( )

b. Upon finding that any land covered by financial assurance will not be affected by mining, the operator will notify the director. The amount of the financial assurance will be reduced by the amount being held to reclaim those lands. ( )

c. Any request for financial assurance reduction will be answered by the director within thirty (30) days of receiving such request unless weather conditions prevent inspection. ( )

**16. Financial Assurance Release Following Mine Reclamation.** Upon completion of all or a portion of the reclamation or post-closure activity specified in the plan, the operator may notify the director of his desire to secure release from financial assurance. When the director has verified that the requirements of the reclamation plan have been substantially met as stated in the plan, the financial assurance will be released. ( )

a. Any request for financial assurance release will be answered by the director within thirty (30) days of receiving such request unless weather conditions prevent inspection. ( )

b. If the director finds that a specific portion of the reclamation or post-closure has been substantially completed, the financial assurance may be reduced to the amount required to complete the remaining reclamation or post-closure. The following schedule will be used to complete these financial assurance reductions unless the director determines in a specific case that this schedule is not appropriate and specifies a different schedule, or the approved reclamation plan has a different schedule based on site-specific conditions. ( )

i. Sixty percent (60%) of the financial assurance may be released when the operator completes the required backfilling, regrading, topsoil replacement, and drainage control of a specific area in accordance with the approved reclamation plan; and ( )

ii. After revegetation activities have been performed by the operator on the regraded lands, according to the approved reclamation plan, the Department may release an additional twenty-five percent (25%) of the financial assurance. ( )

c. The remaining financial assurance shall not be released: ( )

i. As long as the affected lands are contributing suspended solids to surface waters outside the affected area in excess of state water quality standards and in greater quantities than existed prior to the commencement of mining operations; ( )

ii. Until final removal of equipment and structures related to the mining activity or until any remaining equipment and structures are brought under an approved reclamation plan and financial assurance by a new operator; and ( )

iii. Until all temporary sediment or erosion control structures have been removed and reclaimed or until such structures are brought under an approved reclamation plan and financial assurance by a new operator. ( )

**17. Corporate Guarantee Released First.** If an operator provides part of a their financial assurance through a corporate guarantee, then the corporate guarantee will be released prior to any other type of financial assurance being released. Other types of financial assurance will only be released after the corporate guarantee has been completely released. ( )

**18. Cooperative Agreements.** The director may through private conference, conciliation, and persuasion reach a cooperative agreement with the operator to correct deficiencies in complying with the reclamation plan and thereby postpone action to forfeit the financial assurance and cancel the reclamation plan if all deficiencies are satisfactorily corrected within the time specified by the cooperative agreement. ( )

**19. Permanent Closure Financial Assurance Review.** The Department will periodically review all financial assurances filed for permanent closure to determine their sufficiency to complete the work required by an approved permanent closure plan. For reviews conducted under paragraphs a and b the director may employ a qualified

independent party to verify the accuracy of the revised permanent closure cost estimate as described in paragraph 071.05.b. of these rules. ( )

a. Once every three (3) years, the operator must submit an updated permanent closure cost estimate to the Department for review. The director will review the updated estimate to determine whether the existing financial assurance amount is adequate to implement the permanent closure plan, as approved by the Department. Any resulting change in the financial assurance amount does not in and of itself require an amendment to the permanent closure plan as may be required by Section 091 of these rules. The director will review the estimate to determine whether the existing financial assurance amount is adequate to complete permanent closure of the cyanidation facility. ( )

b. When the director determines that there has been a material change in the estimated reasonable costs to complete permanent closure: ( )

i. The director will notify the operator in writing of his intent to reevaluate the financial assurance amount. Within a reasonable time period determined by the Department, the operator will provide to the Department a revised cost estimate to complete permanent closure as approved by the Department. ( )

ii. Within thirty (30) days of receipt of the revised cost estimate, the director will notify the operator in writing of his determination of financial assurance adequacy. ( )

iii. Within ninety (90) days of notification of the director's assessment, the operator will make the appropriate adjustment to the financial assurance or the director will reduce the financial assurance as appropriate. ( )

c. The Department may conduct an internal review of the amount of each financial assurance annually to determine whether it is adequate to complete permanent closure. ( )

## **20. Permanent Closure Financial Assurance Release.** ( )

a. A financial assurance filed for permanent closure of a cyanidation facility will be released according to the schedule in the permanent closure plan. The schedule will include provisions for the release of the post-closure monitoring and maintenance portions of the financial assurance. The schedule may be adjusted to reflect the operator's performance of permanent closure activities and their demonstrated effectiveness. ( )

b. Upon completion of an activity required by an approved permanent closure plan, the operator may request in writing a financial assurance reduction for that activity. The Department will notify the operator within thirty (30) days whether or not the activity meets the requirements of the permanent closure plan. When the director, in consultation with DEQ, has verified that the activity meets the requirements of the permanent closure plan, the financial assurance will be reduced by an amount to reflect the activity completed. ( )

c. Upon the director's determination that all activities specified in the permanent closure plan have been successfully completed, the Department will, in accordance with Section 47-1512(i), Idaho Code, release the balance remaining after partial financial assurance releases. ( )

**21. Liabilities for Reclamation Costs Not Covered by Financial Assurance.** An operator who is not required to furnish financial assurance by these rules but fails to reclaim may be subject to civil penalty under Section 47-1513(c), Idaho Code. The amount of civil penalty will be the estimated cost of reasonable reclamation of affected lands as determined by the director. Reasonable reclamation of the site will be presumed to be in accordance with the standards established in the approved reclamation plan. The amount of the civil penalty is in addition to those described in Section 47-1513(f), Idaho Code. ( )

**22. Appeal Process for Financial Assurance Decisions.** All decisions regarding any financial assurance extension requests, plan cancellation, financial assurance reduction, or financial assurance release as described in Section 120 of these rules are subject to appeal as described in Section 58-104, Idaho Code, and Section 47-1514, Idaho Code. ( )

**121. (RESERVED)**

**122. FORM OF FINANCIAL ASSURANCE.**

**01. Corporate Surety Bond. ( )**

**a.** A corporate surety bond is an indemnity agreement executed for the operator and a corporate surety licensed to do business in the state of Idaho, filed on the appropriate Department form. The bond ~~shall~~ **must** be payable to the state of Idaho and conditioned to require the operator to faithfully perform all requirements of the chapter, and the rules in effect on the date that a reclamation plan or a permanent closure plan was approved by the Department.

( )

**b.** The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties in Circular 570 of the U.S. Department of the Treasury.

( )

**c.** When replacement financial assurance is submitted, the following rider must be filed with the Department as part of the replacement before the existing financial assurance will be released: “[Surety company or principal] understands and expressly agrees that the liability under this bond shall extend to all acts for which reclamation is required on areas disturbed in connection with reclamation plan or permanent closure plan [number], both prior to and subsequent to the date of this rider.”

( )

**02. Collateral Bond.** A collateral bond is an indemnity agreement executed by or for the operator, payable to the state of Idaho, pledging cash deposits, government securities, real property, time deposit receipts, or certificates of deposit of any financial institution authorized to do business in the state. Collateral bonds ~~shall be~~ **are** subject to the following conditions.

( )

**a.** The director shall obtain possession of cash or other negotiable collateral bonds, and, upon receipt, deposit them with the state treasurer to hold them in trust for the purpose of bonding reclamation or permanent closure performance.

( )

**b.** The director shall value the collateral at its current market value minus any penalty for early withdrawal, not its face value.

( )

**c.** Certificates of deposit or time deposit receipts ~~shall be~~ **are** issued or assigned, in writing, to the state of Idaho and upon the books of the financial institution issuing such certificates. Interest will be allowed to accrue and may be paid by the bank, upon demand and after written release by the Department, to the operator or another person who posted the collateral bond.

( )

**d.** Amount of an individual certificate of deposit or time deposit receipt may not exceed the maximum amount insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or their successors.

( )

**e.** Financial institutions issuing certificates of deposit or time deposit receipts will waive all rights of set-off or liens which it has or might have against such certificates, and will place holds on those funds that prevent the operator from withdrawing funds until the Department sends a written release to the bank.

( )

**f.** Certificates of deposit and time deposit receipts ~~shall~~ **must** be automatically renewable. ( )

**03. Letters of Credit.** A letter of credit is an instrument executed by a bank doing business in Idaho, made at the request of a customer. A letter of credit states that the issuing bank will honor drafts for payment upon compliance with the terms of the credit. Letters of credit ~~shall be~~ **are** subject to the following conditions. ( )

**a.** All credits ~~shall~~ **must** be irrevocable and prepared in a format prescribed by the director. ( )

**b.** All credits must be issued by an institution authorized to do business in the state of Idaho or through a correspondent bank authorized to do business in the state of Idaho.

( )

c. The account party on all credits must be identical to the entity identified in the reclamation plan or in the permanent closure plan and on the cyanidation facility permit as the party obligated to complete reclamation or permanent closure. ( )

**04. Real Property.** Real property used as a collateral bond must be a perfected, first lien security interest in real property located within the state of Idaho, in favor of the state of Idaho, which meets the requirements of these rules using a deed of trust form acceptable to the Department for all lands forty (40) acres or less, or a mortgage form approved by the Department for all lands over forty (40) acres. ( )

a. The following information must be submitted for real property collateral: ( )

i. The value of the real property. The property will be valued at the difference between the fair market value and any reasonable expense anticipated by the Department in selling the property. The fair market value will be determined by an appraisal conducted by a licensed appraiser. The appraiser will be selected by the Department and the Department will provide appraisal instructions; however, the operator may propose an appraiser to the Department. The appraisal will be performed in a timely manner, and a copy sent to the Department and the operator. The expense of the appraisal will be borne by the operator. The real property will be reappraised every three (3) years; ( )

ii. A description of the property and a site improvement survey plat to verify legal descriptions of the property and to identify the existence of recorded easements; ( )

iii. Proof of ownership and title to the real property; ( )

iv. A current title binder which provides evidence of clear title containing no exceptions, or containing only exceptions acceptable to the director; and ( )

v. Phase I environmental assessment. ( )

b. Real property will not include any lands in the process of being mined, reclaimed, or planned to be mined under an approved reclamation plan. The operator may offer any lands within a reclamation plan that have received full release of financial assurances. In addition, any land used as a security will not be mined or otherwise disturbed while it is a security. The acceptance of real property within the permit boundary will be at the discretion of the director. ( )

**05. Trusts.** Trusts are subject to the requirements of Sections 47-1512(l) and 68-101, et seq. Idaho Code. The proposed trustee, range of investments, initial funding, schedule of payments, trustee fees, and expected rate of return are subject to review and approval by the Department through a memorandum of agreement with the operator. The trustee will invest the principal and income of the fund in accordance with general investment practices. Investments can include equities, bonds, and government securities and be well diversified in accordance with the following conditions: ( )

a. The joint party on the trust must be identical to the entity identified in the reclamation plan or in the permanent closure plan as the party obligated to complete reclamation or permanent closure. ( )

b. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. ( )

c. Equities may include stock funds, stock index funds, or individual stocks, but an individual stock may not exceed five percent (5%) of the total value of the trust. Direct investments in the operator's company or parent company are not allowed. Corporate equities must not exceed seventy percent (70%) of the total value of the trust fund. ( )

d. Bonds or money market funds must be investment-grade rated securities from a nationally recognized securities rating service. Individual corporate bonds may not exceed five percent (5%) of the total value of the trust. ( )

- e. Payments into the trust will be made as follows: ( )
- i. When used to cover reclamation or permanent closure costs, the trust fund will be initially funded in an amount needed to cover any surface disturbance in the first year of the trust fund. Annual payments into the trust will occur as needed prior to the disturbance of additional affected land at the mine or cyanidation facility. ( )
- ii. When used to cover a portion of reclamation or permanent closure costs in combination with other types of financial assurance, the initial and annual payments will be the pro-rata amount of the reclamation or permanent closure costs as described in subparagraph 122.05.e.i of these rules. ( )
- iii. When used to cover the anticipated post-closure costs, a payment schedule will be created in the memorandum of agreement. The post-closure costs must be fully funded by the time the post-closure period occurs. The trust fund, together with the anticipated earnings, must be enough at the expected start of the post-closure period to cover the costs of the post-closure period. ( )
- f. Disbursements from the trust will only occur upon written authorization of the Department. Disbursements include payments to the trustee or any other payment of funds not related to financial assurance release and not specifically mentioned in the memorandum of agreement. ( )
- g. Trusts will be irrevocable. ( )
- h. Income accrued on trust funds will be retained in the trust, except as otherwise agreed by the director under the terms of an agreement governing the trust. ( )
- 06. Corporate Guarantees.** ( )
- a. Up to fifty percent (50%) of required financial assurance for reclamation costs may be provided by a corporate guarantee. Post-closure costs for reclamation plans and permanent closure plans cannot be covered by a corporate guarantee. ( )
- b. Only operators who submit plans under Sections 070 or 071 of these rules may provide a corporate guarantee. ( )
- c. Operators who want to provide financial assurance through a corporate guarantee must provide an audited financial statement from a third-party certified public accountant that meets the requirements of IDAPA 24.30.01, the Idaho Accountancy Rule. The audited financial statement must show the operator meets two (2) of the following three (3) criteria and the criteria in paragraph d of this section: ( )
- i. Ratio of total liabilities to stockholder's equity is less than two (2) to one (1); ( )
- ii. Ratio of sum of net income plus depreciation, depletion, and amortization to total liabilities greater than ten one-hundredths (0.1) to one (1); or ( )
- iii. Ratio of current assets to current liabilities greater than one and fifty one-hundredths (1.5) to one (1). ( )
- d. The following financial criteria must also be met for a corporate guarantee: ( )
- i. Net working capital and tangible net worth are each equal to or greater than the total reclamation or permanent closure cost estimate; ( )
- ii. Tangible net worth of at least ten million dollars (\$10,000,000); and ( )
- iii. At least ninety percent (90%) of the corporation's total assets are in the United States, or the total assets in the United States are at least six (6) times greater than total reclamation or permanent closure cost estimate.



( )

e. A corporate guarantee can be provided by a parent company guarantor if that guarantor meets the conditions of paragraphs (c) and (d) in this section as if it were the operator. The terms of this corporate guarantee will provide for the following: ( )

i. The operator and the parent company will submit to the Department an indemnity agreement signed by corporate officers from both companies who are authorized to bind their corporations. The operator or parent company must also provide an affidavit certifying that such an agreement is valid under all applicable federal and state laws. The indemnity agreement will bind each party jointly and severally; ( )

ii. If the operator fails to complete reclamation or permanent closure, the parent company guarantor will do so or the guarantor will be liable under the indemnity agreement to provide funds to the Department sufficient to complete reclamation or permanent closure as per the plan, but not to exceed the financial assurance amount; ( )

iii. The corporate guarantee will remain in force unless the parent company guarantor sends notice of cancellation by certified mail to the operator and to the Department at least ninety (90) days in advance of the cancellation date, and the Department accepts the cancellation; and ( )

iv. The cancellation will be accepted by the Department only if the operator obtains replacement financial assurance before the cancellation date or if the lands for which the corporate guarantee, or portion thereof, was accepted have not been disturbed. ( )

v. If the operator is a partnership or joint venture, the indemnity agreement will bind each partner or member who has a beneficial interest, directly or indirectly, in the operator. ( )

f. The operator, or parent company guarantor, is required to either complete the approved reclamation or permanent closure plan for the lands in default, or pay to the Department an amount necessary to complete the approved reclamation, not to exceed the amount established in Section 120 of these rules. ( )

g. The operator or parent company guarantor will submit an annual update of the information required under paragraphs (c) and (d) of this section by April 1 following the issuance of the corporate guarantee. ( )

h. If the operator or parent company guarantor's financial fitness falls below the eligibility for providing a corporate guarantee they will immediately notify the Department, and the Department will require the operator to submit replacement financial assurance within ninety (90) days of being notified. ( )

i. The Department may require the operator or parent company guarantor to provide an update of the information in paragraphs (c) and (d) in this section at any time. The update must be provided within thirty (30) days of being requested. The requirements of paragraph (h) in this Section will then apply. ( )

**07. Blanket Financial Assurance.** Where an operator is involved in more than one (1) reclamation plan or permanent closure plan permitted by the Department, the director may accept a blanket financial assurance in lieu of separate reclamation or permanent closure financial assurances under the approved plans. The amount of such financial assurance ~~shall~~**must** be equal to the total of the requirements of the separate financial assurances being combined into a single financial assurance, as determined pursuant to Section 47-1512, Idaho Code, and in accordance with Section 120 of these rules. The principal ~~shall be~~**is** liable for an amount no more than the financial assurance filed for completion of reclamation activities or permanent closure activities if the Department takes action against the financial assurance pursuant to Section 47-1513, Idaho Code and Section 123 of these rules. ( )

**08. Reclamation Fund.** Reclamation plans processed under Section 069 of these rules may provide financial assurance through the Reclamation Fund established by Section 47-18, Idaho Code, and IDAPA 20.03.03. If financial assurance is provided through the Reclamation Fund, no other type of financial assurance may be combined with it on an individual mine site. ( )



**09. Multiple Forms of Financial Assurance Accepted.** An operator may combine more than one type of financial assurance, within the limitations of each type of financial assurance, to reach the full amount of the required financial assurance for a reclamation plan or permanent closure plan. ( )

**123. FORFEITURE OF FINANCIAL ASSURANCE.**

A financial assurance may be forfeited in accordance with Section 47-1513, Idaho Code, when the operator has not conducted the reclamation or has not conducted permanent closure in accord with an approved plan and the applicable requirements of these rules. ( )

**124. -- 129. (RESERVED)**

**130. TRANSFER OF APPROVED PLANS.**

**01. Reclamation Plans.** A reclamation plan may be transferred from one (1) operator to another only after the Department's approval. To complete a transfer, the new applicant must file a notarized assumption of reclamation plan form as prescribed by the Department and provide replacement financial assurance. The new operator ~~then shall be~~ **is** responsible for the past operator's obligations under the chapter, these rules, and the reclamation plan. ( )

**02. Permanent Closure Plans.** An approved permanent closure plan permit may be transferred to a new operator if he provides written notice to the director that includes a specific date for transfer of permanent closure responsibility, coverage, and liability between the old and new operators no later than ten (10) days after the date of closure. An operator ~~shall be~~ **is** required to provide such notice at the same time he provides notice to the DEQ as required IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation." To complete a transfer, the new applicant must: ( )

- a.** File a notarized assumption of permanent closure plan form as prescribed by the Department; and ( )
- b.** File a replacement permanent closure plan financial assurance on a form approved by the Department. ( )

**131. -- 139. (RESERVED)**

**140. BEST MANAGEMENT PRACTICES AND RECLAMATION FOR MINING OPERATION AND PERMANENT CLOSURE OF CYANIDATION FACILITIES.**

These are the minimum standards expected for all activities covered by these rules. Specific standards for individual mines may be appropriate based on site specific circumstances, and must be described in the plan. ( )

**01. Nonpoint Source Control.** ( )

**a.** Appropriate BMPs for nonpoint source controls ~~shall~~ **will** be designed, constructed, and maintained with respect to site-specific mining operations or permanent closure activities. Operators shall utilize BMPs designed to achieve state water quality standards and to protect existing beneficial uses of adjacent waters of the state. State water quality standards, as administered by DEQ, ~~shall be~~ **is** the standard that must be achieved by BMPs. ( )

**b.** If the BMPs utilized by the operator do not result in compliance with Subsection 140.01.a., the director shall require the operator to modify or improve such BMPs to meet the controlling, water quality standards as set forth in current laws, rules, and regulations. ( )

**02. Sediment Control.** In addition to proper mining techniques and reclamation measures, the operator shall take necessary steps at the close of each operating season to assure that sediment movement associated with surface runoff over the area is minimized in order to achieve water quality standards, or to preserve the condition of water runoff from the mined area prior to commencement of the subject mining or exploration operations, whichever is the more appropriate standard. Sediment control measures refer to best management practices carried out within and, if necessary, adjacent to the disturbed area and consist of utilization of proper mining and reclamation measures,

as well as specific necessary sediment control methods, separately or in combination. Specific sediment control methods may include, but are not limited to: ( )

- a. Keeping the disturbed area to a minimum at any given time through progressive reclamation; ( )
- b. Shaping waste to help reduce the rate and volume of water runoff by increasing infiltration; ( )
- c. Retaining sediment within the disturbed area; ( )
- d. Diverting surface runoff around the disturbed area; ( )
- e. Routing runoff through the disturbed area using protected channels or pipes so as not to increase sediment load; ( )
- f. Use of riprap, straw dikes, check dams, mulches, temporary vegetation, or other measures to reduce overland flow velocities, reduce runoff volume, or retain sediment; and ( )
- g. Use of adequate sediment ponds, with or without chemical treatment. ( )

**03. Clearing and Grubbing.** Clearing and grubbing of land in preparation for mining exposes mineral soil to the erosive effects of moving water. Operators are cautioned to keep such areas as small as possible (preferably no more than one (1) year's mining activity) as the operator ~~shall be~~ is required to meet the applicable surface water quality standards on all such areas. Where practicable, trees and slash should be stockpiled for use in seedbed protection and erosion control. ( )

**04. Overburden/Topsoil.** To aid in the revegetation of affected lands where mining operations result in the removal of substantial amounts of overburden including any topsoil, the operator should remove the available topsoil or other growth medium as a separate operation for such area. Unless there are previously affected lands which are graded and immediately available for placement of the newly removed topsoil or other growth medium, the topsoil or other growth medium ~~shall~~ will be stockpiled and protected from erosion and contamination until such areas become available. ( )

- a. Overburden/Topsoil Removal. ( )
  - i. Any overburden/topsoil to be removed should be removed prior to any other mining activity to prevent loss or contamination; ( )
  - ii. Where overburden/topsoil removal exposes land area to potential erosion, the director, under the reclamation plan, may require BMPs necessary to prevent violation of water quality standards; and ( )
  - iii. Where the operator can show that an overburden material other than topsoil is conducive to plant growth, or where overburden other than topsoil is the only material reasonably available, such overburden may be allowed as a substitute for or a supplement to the available topsoil. ( )

**b. Topsoil Storage.** Topsoil stockpiles ~~shall~~ will be placed to minimize rehandling and exposure to excessive wind and water erosion. Topsoil stockpiles ~~shall~~ will be protected as necessary from erosion by use of temporary vegetation or by other methods which will control erosion, including, but not limited to, silt fences, chemical binders, seeding, and mulching. ( )

**c. Overburden Storage.** Stockpiled ridges of overburden ~~shall~~ will be leveled in such a manner as to have a minimum width of ten (10) feet at the top. Peaks of overburden ~~shall~~ will be leveled in such a manner as to have a minimum width of fifteen (15) feet at the top. The overburden piles ~~shall~~ will be reasonably prepared to control erosion using best management practices; such activities may include terracing, silt fences, chemical binders, seeding, mulching or slope reduction. ( )

**d.** Topsoil Placement. Abandoned affected lands ~~shall~~**must** be covered with topsoil or other type of overburden that is conducive to plant growth, to the extent such materials are readily available, in order to achieve a stable uniform thickness. Excessive compaction of overburden and topsoil is to be avoided. Topsoil redistribution ~~shall~~**will** be timed so that seeding, or other protective measures, can be readily applied to prevent compaction and erosion. ( )

**e.** Fill. Backfill and fill materials should be compacted in a manner to ensure stability. ( )

**05. Roads.** ( )

**a.** Roads must be constructed to minimize soil erosion, which may require restrictions on the length and grade of the roadbed, surfacing of roads with durable non-toxic material, stabilization of cut and fill slopes, and other techniques designed to control erosion. ( )

**b.** All access and haul roads must be adequately drained. Drainage structures may include, but are not limited to, properly installed ditches, water-bars, cross drains, culverts, and sediment traps. ( )

**c.** Culverts that are to be maintained for more than one (1) year must be designed to pass peak flows from not less than a twenty (20) year, twenty-four (24) hour precipitation event and have a minimum diameter of eighteen (18) inches. ( )

**d.** Roads and water control structures will be maintained at periodic intervals as needed. Water control structures serving to drain roads must not be blocked or restricted in any manner to impede drainage or significantly alter the intended purpose of the structure. ( )

**e.** Roads that will not be recontoured to approximate original contours upon abandonment will be cross-ditched and revegetated, as necessary, to control erosion. ( )

**f.** Roads that are not abandoned and continue to be used under the jurisdiction of a governmental or private landowner, will comply with the nonpoint source sediment control provisions of Subsection 140.02 until the successor assumes control. ( )

**06. Backfilling and Grading.** ( )

**a.** Every operator who conducts mining or cyanidation facility operations which disturb less than two (2) acres shall, where possible, contour the disturbed land to its approximate previous contour. These lands ~~shall~~**must** be revegetated in accordance with Subsection 140.11. ( )

**b.** An operator who conducts mining or cyanidation facility operations which disturb two (2) acres or more shall reduce all waste piles and depressions to the lowest practicable grade. This grade shall not exceed the angle of repose or maximum slope of natural stability for such waste or generate erosion in which sediment enters waters of the state. ( )

**c.** Backfill and fill materials should be compacted in a manner to ensure mass and surface stability. ( )

**d.** After the disturbed area has been graded, slopes will be measured for consistency with the approved reclamation plan or the permanent closure plan. ( )

**07. Disposal of Waste in Areas Other Than Mine Excavation.** Waste material not used to backfill mined areas ~~shall~~**will** be transported and placed in a manner designed to stabilize the waste piles and control erosion. ( )

**a.** The available disposal area should be on a moderately sloped, naturally stable area. The site should be near the head of a drainage to reduce the area of watershed above the fill. ( )

**b.** All surface water flows within the disposal area ~~shall~~must be diverted and drained using accepted engineering practices such as a system of French drains, to keep water from entering the waste pile. These measures ~~shall~~must be implemented in accordance with standards prescribed by the Idaho Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and the Idaho Dam Safety Act, Sections 42-1710 through 42-1721, Idaho Code, if applicable. ( )

**c.** The waste material not used in backfilling mined areas should be compacted, where practical, and should be covered and graded to allow surface drainage and ensure long-term stability. ( )

**d.** The operator may, if appropriate, use terraces or slope reduction to stabilize the face of any fill. Slopes of the fill material should not exceed angle of repose or generate erosion in which sediment enters waters of the state. ( )

**e.** Unless adequate drainage is provided through a fill area, all surface water above the fill ~~shall~~must be diverted away from the fill area into protected channels, and drainage shall not be directed over the unprotected face of the fill. ( )

**f.** The operator shall conduct revegetation activities with respect to such waste piles in accordance with Subsection 140.11. ( )

**08. Settling Ponds; Minimum Criteria.** ( )

**a.** Sediment Storage Volume. Settling ponds shall provide adequate sediment storage capacity to achieve compliance with applicable water quality standards and protect existing beneficial uses, and may require periodic cleaning and proper disposal of sediment. ( )

**b.** Water Detention Time. Settling ponds shall have an adequate theoretical detention time for water inflow and runoff entering the pond, but theoretical detention time may be reduced by improvements in pond design, chemical treatment, or other methods. ( )

**c.** Emergency Spillway. In addition to the sediment storage volume and water detention time, settling ponds ~~shall~~must be designed to withstand and release storm flows as required by the Idaho Dam Safety Act, Section 42-1710 through 42-1721, Idaho Code, and Safety of Dams Rules, where applicable. ( )

**09. Tailings Facilities.** All tailings ponds, dams, or other types of tailings facilities ~~shall~~must be designed, constructed, operated, and decommissioned so that upon their abandonment, the dam and impoundment area will meet applicable surface and ground water quality standards and not otherwise constitute a hazard to human or animal life. ( )

**a.** Design criteria, construction techniques, and decommission techniques for tailings dams and impoundments shall comply with the Idaho Dam Safety Act, Sections 42-1710 through 42-1721, Idaho Code, and applicable rules and regulations. ( )

**b.** Topsoil ~~shall~~will be removed from the area to be affected by the impounding structure, tailings pond, or other tailings facilities in accordance with Subsection 140.04. ( )

**c.** Abandonment and Decommissioning of Tailings Impoundments. ( )

**i.** Dewatering. Tailings ponds ~~shall~~will be dewatered to the extent necessary to provide an adequate foundation for the approved post-mining use. ( )

**ii.** Control of surface waters. Surface waters shall either be channeled around the reservoir and impoundment structure or through the reservoir and breached structure. Permanent civil structures ~~shall~~must be designed and constructed to implement either method of channeling. The structure shall provide for erosion-free passage of waters and adequate energy dissipation prior to entry into the natural drainage below the impounding

structure. ( )

iii. Detoxification. Hazardous chemical residues within the tailings pond ~~shall~~**must** be detoxified or covered with an adequate thickness of non-toxic material, to the extent necessary to achieve water quality standards in waters of the state. ( )

iv. Reclamation. After implementing the required dewatering, detoxification, and surface drainage control measures, the reservoir and impounding structure ~~shall~~**will** be covered with topsoil or other material conducive to plant growth, in accordance with Subsection 140.04. Where such soils are limited in quantity or not available, and upon approval by the Department, physical or chemical methods for erosion control may be used. All such areas are to be revegetated in accordance with Subsection 140.11, unless specified otherwise. ( )

d. When the operator requests termination of its reclamation or permanent closure plan, pursuant to Section 150 of these rules, impoundment structures and any reservoirs retained as fresh water reservoirs after final reclamation or permanent closure ~~shall be~~**are** required to conform with the Idaho Dam Safety Act, Sections 42-1710 through 42-1721, Idaho Code, if applicable. ( )

#### 10. Permanent Cessation and Time Limits for Planting. ( )

a. Seeding and planting of affected lands or a permanently closed cyanidation facility should be conducted during the first normal period for favorable planting conditions after final seedbed preparation. ( )

b. Reclamation activities, where possible, are encouraged to be concurrent with the mining operation and may be included in the approved reclamation plan. Final reclamation must begin within one (1) year after the mining operations have permanently ceased on a mine panel. If the operator permanently ceases disposing of overburden on a waste area or permanently ceases removing minerals from a pit or permanently ceases using a road or other affected land, the reclamation activity on each given area must start within one (1) year of such cessation, despite the fact that all operations as to the mine panel, which included such pit, road, overburden pile, or other affected land, has not permanently ceased. ( )

c. An operator ~~shall be~~**is** presumed to have permanently ceased mining operations on a given portion of affected land when no substantial amount of mineral or overburden material has been removed or overburden placed on an overburden dump, or no significant use has been made of a road during the prior three (3) years. If an operator does not plan to use an affected area for three (3) or more years but intends thereafter to use the affected area for mining operations and desires to defer final reclamation until after its subsequent use, the operator must submit a notice of intent and request for deferral of reclamation to the director, in writing. If the director determines that the operator plans to continue the operation within a reasonable period of time, the director shall notify the operator and may require actions to be taken to reduce degradation of surface resources until operations resume. If the director determines that use of the affected land for mining operations will not be continued within a reasonable period of time, the director may proceed as though the mining operation has been abandoned, but the operator will be notified of such decision at least thirty (30) days before taking any formal administrative action. ( )

#### 11. Revegetation Activities. ( )

a. The operator shall select and establish plant species that can be expected to result in vegetation comparable to that growing on the affected lands or on a closed cyanidation facility prior to mining or cyanidation facility operations, respectively. Certified weed free seed should be used in revegetation. The operator may use available technical data and results of field tests for selecting seeding practices and soil amendments which will result in viable revegetation. These practices of selection may be included in an approved reclamation plan or permanent closure. ( )

b. Unless otherwise specified in the approved reclamation or permanent closure plan, the success of revegetation efforts ~~shall be~~**is** measured against the existing vegetation on site prior to the mining or cyanidation facility operation, or against an adjacent reference area supporting similar types of vegetation. ( )

i. The ground cover of living plants on the revegetated area should be comparable to the ground cover

of living plants on the adjacent reference area for two (2) full growing seasons after cessation of soil amendment or irrigation. ( )

ii. For purposes of this rule, ground cover ~~shall be~~ **is** considered comparable if it has, on the area actually planted at least seventy percent (70%) of the premining ground cover for the mined area or adjacent reference area; ( )

iii. For locations with an average annual precipitation of more than twenty-six (26) inches, the director, in approving a reclamation or permanent closure plan, may set a minimum standard for success of revegetation as follows: Vegetative cover of seventy percent (70%) for two (2) full growing seasons in areas planted to herbaceous species only; or fifty percent (50%) vegetative cover for two (2) full growing seasons and six hundred (600) woody plants per acre in areas planted to a mixture of herbaceous and woody species. ( )

iv. As used in this section, “herbaceous species” means grasses, legumes, and other forbs; “woody plants” means woody shrubs, trees, and vines; and “ground cover” means the area of the ground surface covered by the combined aerial parts of vegetation and the litter that is produced naturally on-site, expressed as a percentage of the total area measured. Rock surface areas will be excluded from this calculation. ( )

v. For previously mined areas that were not reclaimed to the standards required by Section 140, and which are affected by the mining or cyanidation facility operations, vegetation should be established to the extent necessary to control erosion, but shall not be less than that which existed before redisturbance; and ( )

vi. Vegetative cover shall not be less than that required to control erosion. ( )

c. Introduced species may be planted if they are known to be comparable to previous vegetation, or if known to be of equal or superior use for the approved post-mining use of the affected land, or, if necessary, to achieve a quick, temporary cover for soil stabilization purposes. Species classified as poisonous or noxious weed species shall not be used in revegetation. ( )

d. By mutual agreement of the director, the landowner, and the operator, a site may be converted to a different, more desirable or more economically suitable habitat. ( )

e. Planting of grasses and forbs should be done in a manner which promotes rapid stabilization of the soil surface. Wherever terrain permits, grasses and forbs should be drilled or compacted into the ground using agricultural grass planting equipment or other seeders specifically designed for mine revegetation applications. Broadcast and hydroseeding may be used on areas where other methods are impractical or unavailable. ( )

f. The operator should plant shrubs or shrub seed, as required, where shrub communities existed prior to mining. Shrub seed may be planted as a portion of a grass seed mix or planted as bare-root transplants after grass seeding. Where the landowner desires a specific land use such as grazing or cropland, shrubs will not be required in the revegetation species mix. Shrub lands undergoing revegetation with shrubs ~~shall~~ **will** be protected from erosion by vegetation, chemical, or other acceptable means during establishment of the shrubs. ( )

g. Reforestation. Tree stocking of forestlands should meet the following criteria: ( )

i. Trees that are adapted to the site should be planted on the area to be revegetated in a density which can be expected over time to yield a timber stand comparable to premining timber stands; ( )

ii. Trees ~~shall~~ **will** be established for two (2) full growing seasons after cessation of any soil amendments and irrigation before they are considered to be established; and ( )

iii. Forestlands undergoing revegetation with trees should be protected from erosion by vegetation, chemical binders, or other acceptable means during seedling establishment. ( )

h. Revegetation is not required on the following areas: ( )



i. Affected lands, or portions thereof, where planting is not practicable or reasonable because the soil is composed of excessive amounts of sand, gravel, shale, stone, or other material to such an extent to prohibit plant growth; ( )

ii. Any mined area or overburden stockpiles proposed to be used in the mining operations for haulage roads, so long as those roads are not abandoned; ( )

iii. Any mined area or overburden stockpile, where lakes are formed by rainfall or drainage runoff from adjoining lands; ( )

iv. Any mineral stockpile; ( )

v. Any exploration trench which will become a part of a pit or an overburden disposal area; and ( )

vi. Any road which is to be used in mining operations, so long as the road is not abandoned. ( )

i. **Mulching.** Mulch should be used on severe sites and may be required by the reclamation or permanent closure plan where slopes are steeper than three to one (3:1) or the mean annual rainfall is less than twelve (12) inches. When used, straw or hay mulch should be obtained from certified weed free sources. "Mulch" means vegetation residues or other suitable materials to aid in the stabilization of soil and soil moisture conservation which will provide a micro-climate more suitable for germination and growth on severe sites. Annual grains such as rye, oats, and wheat may be used as a substitute for mulch where they will provide adequate protection and will be replaced by permanent species within a reasonable length of time. ( )

**12. Petroleum-Based Products and Chemicals.** All refuse, chemical and petroleum products and equipment should be stored and maintained in a designated location away from surface water and disposed of in such a manner as to prevent their entry into a waterway. ( )

**141. -- 149. (RESERVED)**

## **150. TERMINATION OF A PLAN.**

**01. Terminate upon Request of the Operator.** A reclamation plan shall terminate upon request of the operator, upon inspection by the director, and a determination that all reclamation activity has been completed to the standards specified in the plan, and following final approval by the director. Upon termination, the director will release the remaining financial assurance, notify the operator, and any authority to conduct any mining operations under the subject plan shall terminate. ( )

**02. Terminate a Permanent Closure Plan.** The director shall terminate a permanent closure plan upon request of the operator, provided all the provisions and objectives of the permanent closure plan have been met, as determined by the director under Sections 111 and 112 of these rules. Upon a determination that permanent closure has been completed in accordance with the approved permanent closure plan and upon consultation with the DEQ that the operator's request to terminate a plan should be approved, the director will notify the operator that any authority to continue cyanidation operations shall cease and he will release the balance of the financial assurance in accordance with Subsection 120.20. ( )

**151. -- 154. (RESERVED)**

## **155. FIVE (5) YEAR UPDATES AND PERIODIC INSPECTIONS.**

**01. Five (5) Year Updates.** The Department may require operators to submit an update on their mining operation at least every five (5) years. The update will be on a Department form, and will be used to assist the Department in determining whether or not adjustments are needed for financial assurance or if a plan amendment is required due to a material change. Failure by an operator to complete the form and return it to the Department, or an operator providing false statements on the form, may result in the penalties in Section 47-1513(g), Idaho Code.



( )

**02. Right of Inspection.** Authorized representatives of the Department have the right to enter upon lands affected or proposed to be affected by exploration, mining operations, or cyanidation facilities to determine compliance with the reclamation or permanent closure plans and these rules. Inspections will be conducted at reasonable times in the presence of the operator or his authorized representative. The operator shall make such a person available for the purpose of inspection. This rule does not prevent the Department from making an inspection of the site if the operator fails to make a representative available on request. ( )

**03. Frequency of Inspection.** ( )

**a.** Mining operations with an approved reclamation plan will be inspected at least once every five (5) years to determine compliance with the approved plan and adequacy of the financial assurance. Inspections may need to be more frequent due to the large size, rapid pace of mining, complexity of an operation, or high financial assurance. ( )

**b.** Cyanidation facilities with an approved permanent closure plan will be inspected as often as is needed, but at least once a year. ( )

**156. -- 159. (RESERVED)**

**160. ENFORCEMENT AND FAILURE TO COMPLY.**

**01. Financial Assurance Forfeiture.** Upon request by the director, the attorney general may institute proceedings to have the financial assurance for reclamation or permanent closure forfeited for violation of an order entered pursuant to Section 47-1513, Idaho Code and these rules. ( )

**02. Civil Penalty.** An operator with no financial assurance, or an operator who violates these rules by performing an act which is not included in an approved reclamation plan or an approved permanent closure plan that is not subsequently approved by the Department, will be subject to a civil penalty as authorized by Section 47-1513(c), Idaho Code. ( )

**03. Injunctive Procedures.** The director may seek injunctive relief and proceed with legal action, if necessary, to enjoin a mine operator or cyanidation facility operator who violates the provisions of the chapter, these rules, or the terms of an existing approved reclamation or permanent closure plan. Any such action will follow the procedures established in Section 47-1513, Idaho Code. ( )

**04. Appeal of Final Order.** An operator dissatisfied with a final order of the Board may within sixty (60) days after receiving the order, file an appeal in accordance with Section 47-1514, Idaho Code. ( )

**161. -- 169. (RESERVED)**

**170. COMPUTATION OF TIME.**

Computation of time will be based on calendar days. In computing any period of time prescribed by the chapter, the day on which the designated period of time begins is excluded. The last day of the period is included unless it is a Saturday, Sunday or legal holiday when the Department is not open for business. In such a case, the time period runs until the end of the next day which is not a Saturday, Sunday or legal holiday. Intermediate Saturdays, Sundays or legal holidays are excluded from the computation when the period of prescribed time is seven (7) days or less. ( )

**171. -- 179. (RESERVED)**

**180. PUBLIC AND CONFIDENTIAL INFORMATION.**

**01. Information Subject to Disclosure.** Information obtained by the Department pursuant to the chapter and these rules is subject to disclosure under Title 74, Chapter 1, Idaho Code ("Public Records Act").

( )

**02. Use by Board.** Any plans, documents, or materials submitted as confidential and held as such shall not prohibit the Board, director, or Department from using the information in an administrative hearing or judicial proceeding initiated pursuant to Section 47-1514, Idaho Code. ( )

**03. Plans and BMPs.** An operator will not unreasonably designate as confidential portions of reclamation or permanent closure plans which detail proposed BMPs to meet state surface and ground water quality standards. Confidential portions of reclamation or permanent closure plans may be shared with DEQ in its coordinating role under these rules, as reasonably necessary. ( )

**181. -- 189. (RESERVED)**

**190. DEPOSIT OF FORFEITURES AND DAMAGES.**

All fees, penalties, forfeitures, and civil damages collected pursuant to the chapter, will be deposited with the state treasurer in the following accounts as appropriate: ( )

**01. Mine Reclamation Fund.** The mine reclamation fund to be used by the director for mined land reclamation purposes and to administer the reclamation provisions of the chapter and these rules. ( )

**02. Cyanidation Facility Closure Fund.** The cyanidation facility closure fund to be used by the director to complete permanent closure activities and to administer the permanent closure provisions of the chapter and these rules. ( )

**191. -- 199. (RESERVED)**

**200. COMPLIANCE OF EXISTING RECLAMATION PLANS.**

**01. Plans Approved Prior to 2019.** Reclamation plans approved prior to July 1, 2019, or reclamation plans that have permanently ceased operations prior to July 1, 2019, are not subject to the 2019 legislative amendments to the chapter regarding financial assurance and post-closure. New reclamation plans or plan amendments received after July 1, 2019, will be subject to the 2019 legislative amendments to the chapter. ( )

**02. Plans Submitted in 2019.** Reclamation plan applications submitted prior to July 1, 2019, but not yet approved, have until July 1, 2020 to submit post-closure plans and financial assurances as described in the 2019 legislative amendments to the chapter. ( )

**201. -- 999. (RESERVED)**

## IDAPA 20 – IDAHO DEPARTMENT OF LANDS

DOCKET NO. 20-0000-2000F

### NOTICE OF OMNIBUS RULEMAKING - ADOPTION OF PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency, the Idaho State Board of Land Commissioners, the Idaho Oil and Gas Conservation Commission (as to IDAPA 20.07.02), and the Idaho Board of Scaling Practices (as to IDAPA 20.06.01), and is now pending review by the 2021 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to:

- Sections 38-132 and 38-402, Idaho Code;
- Title 38, Chapter 12, including Section 38-1208, Idaho Code;
- Title 47, Chapters 3, 7, 8, 13, 15, 16 and 18, including Sections 47-314(8), 47-315(8), 47-328(1), 47-710, 47-714, and 47-1316, Idaho Code;
- Title 58, Chapters 1, 3, 6, 12 and 13, including Sections 58-104, 58-105, 58-127, and 58-304 through 58-312, Idaho Code;
- Title 67, Chapter 52, Idaho Code;
- Article IX, Sections 7 and 8 of the Idaho Constitution; and
- The Equal Footing Doctrine (Idaho Admission Act of July 3, 1890, 26 Stat. 215, Chapter 656).

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed fee rule and the text of the pending fee rule with an explanation of the reasons for the change.

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 20, Rules of the Idaho Department of Lands:

#### IDAPA 20

- 20.02.14, Rules for Selling Forest Products on State-Owned Endowment Lands
- 20.03.01, Rules Governing Dredge and Placer Mining Operations in Idaho
- 20.03.03, Rules Governing Administration of the Reclamation Fund
- 20.03.04, Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho
- 20.03.05, Riverbed Mineral Leasing in Idaho
- 20.03.08, Easements on State Owned Lands
- 20.03.09, Easements on State Owned Submerged Lands and Formerly Submerged Lands
- 20.03.13, Administration of Cottage Site Leases on State Lands
- 20.03.14, Rules Governing Grazing, Farming, Conservation, Noncommercial Recreation, and Communication Site Leases
- 20.03.15, Rules Governing Geothermal Leasing on Idaho State Lands
- 20.03.16, Rules Governing Oil and Gas Leasing on Idaho State Lands
- 20.03.17, Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands
- 20.04.02, Rules Pertaining to the Idaho Forestry Act and Fire Hazard Reduction Laws

This pending fee rule also adopts and publishes changes to IDAPA 20.03.02, Rules Governing Mined Land

Reclamation. The previously approved and codified chapter of IDAPA 20.03.02 has been amended through the negotiated rulemaking process to incorporate changes required by the passing of HB141 during the 2019 legislative session. Following are the changes to the previously codified rule: including surface impacts of underground mines, setting fees for reclamation plans, incorporating water treatment and post-closure activities in reclamation plans as needed, requiring that all reclamation tasks in a plan be completed and covered by financial assurance, estimating actual cost of reclamation and post-closure activities, expanding the types of financial assurance, and reviewing every plan at least once every five years. Also, compliance with Executive Orders 2019-02 and 2020-01 required additional changes, and rulemaking by the Department of Environmental Quality on the Ore Processing by Cyanidation Rules (IDAPA 58.01.13) required parallel changes to IDAPA 20.03.02.

The text of the pending rule for IDAPA 20.03.02, Rules Governing Mined Land Reclamation, has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the September 16, 2020 Idaho Administrative Bulletin (Special Edition), Vol. 20-9SE, pages 985 - 1192. This pending rule is being adopted to fully implement the changes required by HB141. These rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho, to give mine operators in Idaho more choices in providing financial assurance, and to update Idaho's mining regulations. Changes were made to the proposed rule in order to provide more clarity, further implement Executive Order 2020-01, correct errors, respond to comments, and ensure continuity with IDAPA 58.01.13.

The Idaho Board of Scaling Practices adopts the following pending fee rule under IDAPA 20.06:

- 20.06.01, Rules of the Idaho Board of Scaling Practices

The Oil and Gas Conservation Commission adopts the following pending fee rule under IDAPA 20.07:

- 20.07.02, Rules Governing Conservation of Oil and Natural Gas in the State of Idaho

#### **FEE SUMMARY:**

Following is the fee summary for IDAPA 20.03.02, Rules Governing Mined Land Reclamation:

HB 141 passed during the 2019 legislative session and authorized application fees for reclamation plans. Fees were implemented through a temporary rule prior to August 1, 2019 as required by HB 141. The temporary rule was extended to allow time for more negotiation toward a proposed rule. The base fees in the 2019 temporary rule have not changed, but the pending rule allows additional application fees to be charged if an application processed under Section 069 of the rules is incomplete and increases the length of the review past 20 hours of staff time. For applications processed under Section 070 of the rules, a cost recovery agreement may be entered into instead of submitting the base application fee. The proposed fees reflect cost recovery for IDL administrative costs associated with the review and approval of new plans and amended existing plans that are reviewed within the required five-year period. The proposed fees align with fees charged by other mineral-producing states in the western United States for reclamation plan review, approval, and amendments. The fees are estimated to generate annual revenue of approximately \$27,000 and will be placed into a dedicated account authorized under Idaho Code § 47-1513(f)(1). These funds are expected to offset additional IDL expenses anticipated with implementation of the five-year plan review process and increase in plan inspections now required under Idaho Code § 47-15.

For the following rule chapters, this rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature.

The following is a specific description of the fees or charges:

- 20.02.14 – Stumpage payments and associated bonding for removal of state timber from endowment land pursuant to timber sales. This charge is being imposed pursuant to Sections 58-104, 58-105 and 58-127, Idaho Code.
- 20.03.01 – Application fee, amendment fee, assignment fee, and inspection fee for all dredge and placer permits in the state of Idaho. This fee is being imposed pursuant to Sections 47-1316 and 47-1317, Idaho Code.
- 20.03.03 – Annual payment for Reclamation Fund participation. This charge is being imposed pursuant to Section 47-1803, Idaho Code.

- 20.03.04 – Application fees for encroachment permits and assignments and deposits toward the cost of newspaper publication. This fee is being imposed pursuant to Sections 58-127 and 58-1307, Idaho Code.
- 20.03.05 – Fees for applications, advertising applications, and approval of assignments for riverbed mineral leases and exploration locations. This fee is being imposed pursuant to Section 47-710, Idaho Code.
- 20.03.08 – Application fee, easement consideration fee, appraisal costs, and assignment fee for easements on state-owned lands. This fee is being imposed pursuant to Sections 58-127, 58-601, and 58-603, Idaho Code.
- 20.03.09 – Administrative fee, appraisal costs, and assignment fee for easements on state-owned submerged lands and formerly submerged lands. This fee is being imposed pursuant to Sections 58-104, 58-127 and 58-603, Idaho Code.
- 20.03.13 – Annual rental payment paid to the endowment for which the property is held. This charge is being imposed pursuant to Section 58-304, Idaho Code.
- 20.03.14 – Lease application fee, full lease assignment fee, partial lease assignment fee, mortgage agreement fee, sublease fee, rental payment, late rental payment fee, minimum lease fee, and lease payment extension request fee on state endowment trust lands. This fee or charge is being imposed pursuant to Section 58-304, Idaho Code.
- 20.03.15 – Application fee, assignment fee, late payment fee, royalty payments, and annual rental payment for geothermal leases on state-owned lands. This fee or charge is being imposed pursuant to Sections 47-1605 and 58-127, Idaho Code.
- 20.03.16 – Exploration permit fee, nomination fee, processing fee, royalty payments, and annual rental payment for oil and gas leases on endowment lands. This fee or charge is being imposed pursuant to Sections 47-805 and 58-127, Idaho Code.
- 20.03.17 – Application fee, rental rate, and assignment fee for leases on state-owned submerged lands and formerly submerged lands. This fee is being imposed pursuant to Sections 58-104, 58-127 and 58-304, Idaho Code.
- 20.04.02 – Fee imposed upon the harvest and sale of forest products to establish hazard management performance bonds for the abatement of fire hazard created by a timber harvest operation, and fees imposed upon contractors for transferring fire suppression cost liability back to the State. This fee or charge is being imposed pursuant to Sections 38-122 and 38-404, Idaho Code.
- 20.06.01 – Scaling assessment fee paid to a dedicated scaling account for all scaled timber harvested within the state of Idaho; administrative fees for registration, renewal, and transfer of log brands; fees for testing and issuance of a temporary scaling permit, specialty scaling license, and standard scaling license; fee to renew a specialty or standard scaling license; and fee for a requested check scale involving a scaling dispute. This fee is being imposed pursuant to Section 38-1209, Idaho Code.
- 20.07.02 – Bonding for oil and gas activities in Idaho and application fees for seismic operations; permit to drill, deepen or plug back; multiple zone completions; well treatment; pits and directional deviated wells. This fee or charge is being imposed pursuant to Sections 47-315(5)(e) and 47-316, Idaho Code.

**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: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the fees charged under IDAPA 20.03.02 are expected to cover the additional costs imposed by HB141, and none of the other rule chapters have changed their fees.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Scott Phillips, 208-334-0294.

Dated this 18th day of November, 2020.

Dustin Miller  
Director  
Idaho Department of Lands  
300 N. 6th St, Suite 103

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Boise, Idaho 83720-0050  
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# STATE BOARD OF LAND COMMISSIONERS

October 20, 2020

Regular Agenda

## Subject

Pocono Poke Cedar timber sale with clearcut harvest unit exceeding 100 acres

## Question Presented

Shall the Land Board approve the Pocono Poke Cedar timber sale with clearcut harvest unit exceeding 100 acres?

## Background

At its December 15, 2015 meeting, the Land Board adopted a timber sale governance structure whereby the Department would only present individual proposed timber sales for Land Board approval that fall outside of established Land Board policies. Timber sales with clearcut harvest units exceeding 100 acres are one type of sale to be submitted for approval.

## Discussion

The St. Joe Supervisory Area has submitted a timber sale that has a clearcut harvest unit exceeding 100 acres in size. The sale is in an area where active timber management has taken place in the past by the Department, the United States Forest Service, and neighboring private industrial lands (Attachments 1 and 2). The stands to be harvested have had limited management performed through direct sales on the parcel and road access that was built by Plum Creek to gain access to their property in the mid-1990's. The stands appear to have originated from fire in the past 120 years.

The proposed clearcut harvest in this sale is 110 acres. It is characterized by highly defective, shade-tolerant species (grand fir and western redcedar). The preferred seral species on-site have poor crowns and are not expected to produce enough cones and seed for natural regeneration.

The sale has been prepared to meet or exceed the Forest Practices Act. The proposed clearcut harvest unit is silviculturally and economically justified and was approved by the Timber Management Bureau. This sale was highlighted as part of the approved FY21 Sales Plan presented at the April 21, 2020 Land Board Meeting. After final cruising and appraisal was performed the sale name changed from Pocono Poke to Pocono Poke Cedar as it meets the definition of a cedar sale under Department procedures. All required notifications have been made to sister agencies regarding the name change. No other changes to the sale were made. This sale, as proposed, meets the objectives of the St. Joe Area Forest Asset Management Plan.



## **Recommendation**

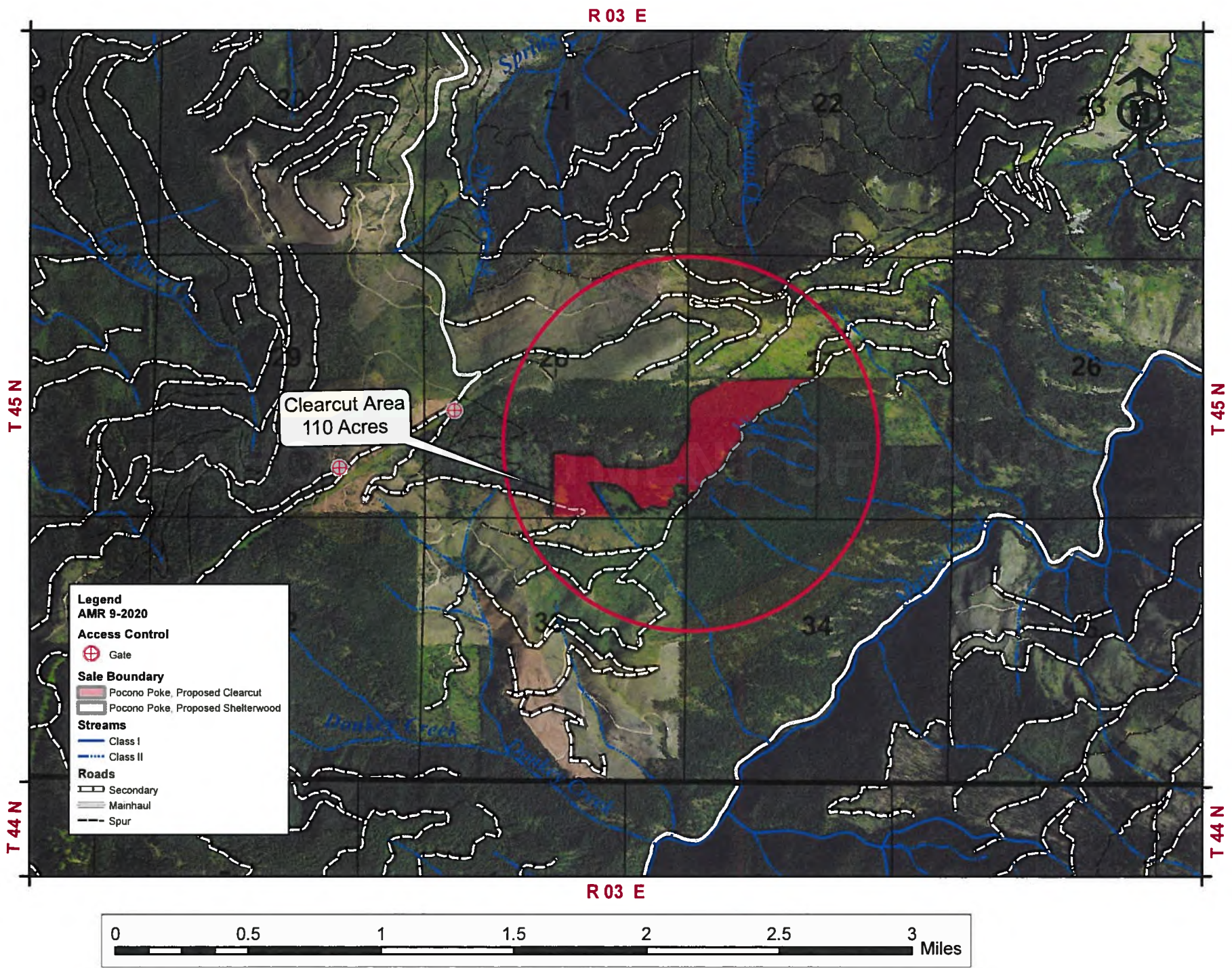
Approve the Pocono Poke Cedar timber sale.

## **Board Action**

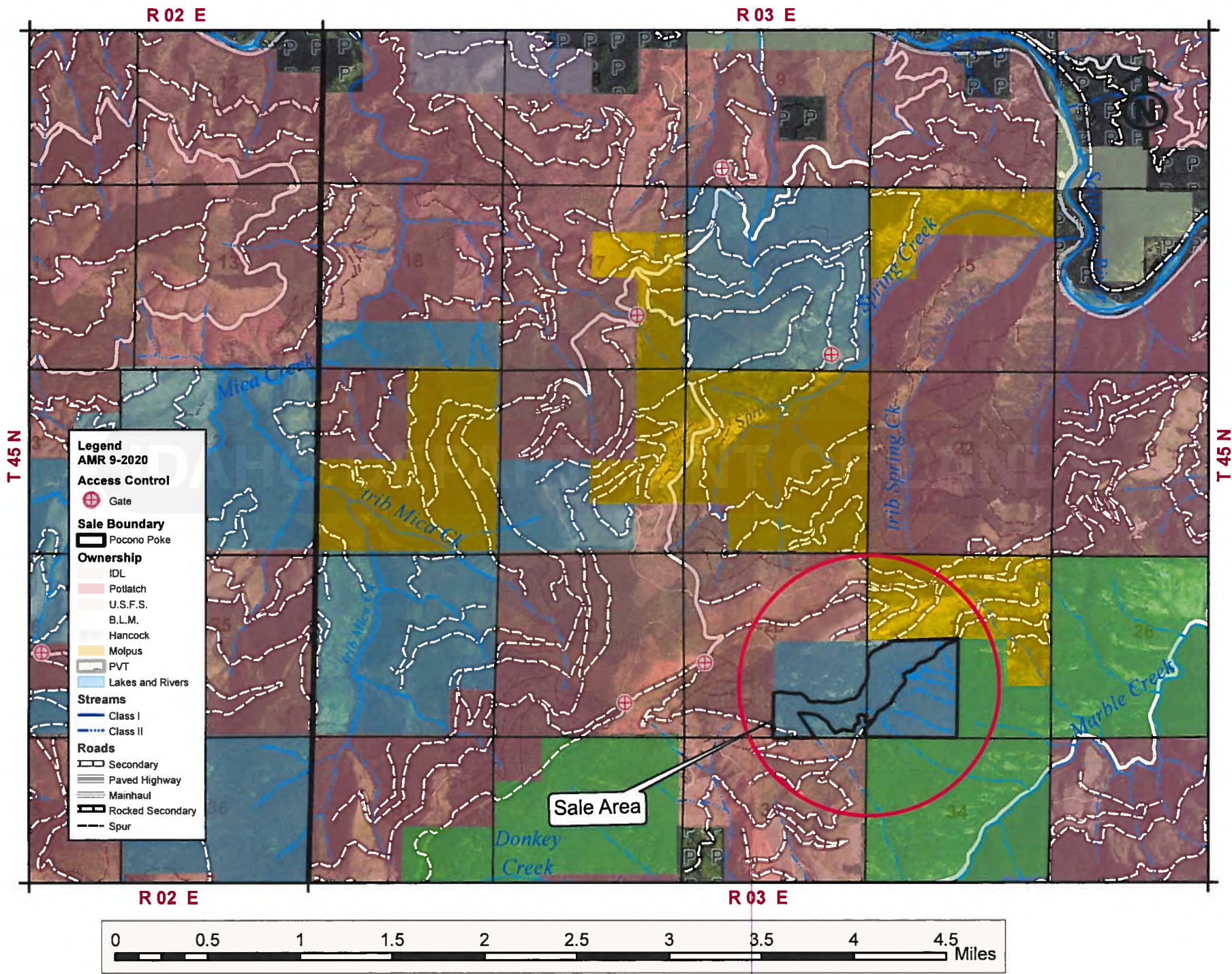
## **Attachments**

1. Pocono Poke Cedar Map
2. Pocono Poke Cedar Map - Ownership









# STATE BOARD OF LAND COMMISSIONERS

October 20, 2020

Regular Agenda

## Subject

Fiscal Year 2022 Idaho Department of Lands (Department) Budget Revision

## Question Presented

Shall the Land Board approve the FY2022 Budget Request modification and additional enhancement requests?

## Background

On September 15, 2020, the Land Board approved the Department of Lands FY2022 budget submission with a total request of \$66,003,700 (Attachment 1).

## Discussion

Since the FY2022 budget submission on August 28, 2020, the Division of Financial Management (DFM) has adjusted its guidance and is permitting some limited requests for general fund appropriation. For this reason, Department staff members are working with DFM to make several revisions to the budget request for FY2022 as follows (details shown in Attachment 2):

1. Lands Resource Specialist, Senior positions (10.0 FTP) – The Department has revised the request for \$281,100 of fire dedicated spending authority to \$281,100 of ongoing general funds. The request continues to be for twelve 10-month Engine Boss (ITC4) positions to enhance retention and safety and to partially reduce the need for contracted resources.
2. Lands Program Manager, Fire Investigations (1.0 FTP) – This is a new request for a program manager who will provide policy, oversight, and direction for the fire investigations program which is intended to increase cost recovery on negligent fires. The total of this request is \$138,700; it includes \$42,200 in one-time WERF<sup>1</sup> dedicated funds for a vehicle and \$96,500 from the general fund with most of that (\$93,500) as ongoing appropriation for the salary and benefits of the new position.
3. Shared Stewardship Program Support: Contracted Resources – An amount of \$450,000 in ongoing general fund is requested to provide funding for the set up and implementation of forest restoration and salvage efforts in high priority use areas on state, private, and federal land. The Department would use these funds to contract

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<sup>1</sup> Wildfire Equipment Replacement Fund



with forestry consultants to identify and develop shared stewardship projects for private forestland owners throughout Idaho.

4. GNA Program Support: Vehicles – A total of \$90,000 in one-time general fund is requested for purchase of three vehicles for GNA<sup>2</sup> program staff working in area offices across Idaho.
5. Shared Stewardship Program Support: Education – An amount of \$57,000 in one-time general fund is requested to help the program with outreach efforts to explain the need and benefits of cross-boundary forest management and shared stewardship.

The Department's previous requests for a Lands Program Manager, Rangeland Conservation, and PhoDAR/Drone Support are unchanged from the previous submission of the FY2022 budget.

If approved, the changes outlined above, and the other routine adjustments requested of all agencies by DFM will result in a final budget submission for FY2022 of:

| FUND TYPE             | AMOUNT              |
|-----------------------|---------------------|
| General Fund          | \$8,044,500         |
| Earnings Reserve Fund | \$31,483,300        |
| Federal Funds         | \$8,992,900         |
| Other Funds           | \$18,853,000        |
| <b>TOTAL REQUEST</b>  | <b>\$67,373,700</b> |

## Recommendation

Approve the Department's FY2022 Budget Request modification and additional enhancement requests.

## Board Action

## Attachments

1. September 15, 2020 Approved Land Board Memo
2. FY2022 Revised Budget Enhancements

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<sup>2</sup> Good Neighbor Authority

# STATE BOARD OF LAND COMMISSIONERS

September 15, 2020

Regular Agenda

## Subject

Fiscal Year 2022 Idaho Department of Lands (Department) Budget Request

## Question Presented

Shall the Board approve the Department's FY2022 budget request as submitted to Division of Financial Management (DFM) and Legislative Services Office (LSO) on Friday, August 28, 2020?

## Discussion

The budget was developed in accordance with guidelines provided by the DFM that prescribe 1% change in employee compensation (CEC), 23.5% variable benefit rate, and \$12,930 health benefit per full-time employee for the agency.

On August 18, 2020 the Board approved the Department's FY2022 enhancement decision units (Attachment 1). No changes have been made to those decision units.

The Department's FY2022 total budget request by funding source is as follows:

| FUND TYPE             | AMOUNT              |
|-----------------------|---------------------|
| General Fund          | \$6,437,400         |
| Earnings Reserve Fund | \$31,482,000        |
| Federal Funds         | \$8,992,900         |
| Other Funds           | \$19,091,400        |
| <b>TOTAL REQUEST</b>  | <b>\$66,003,700</b> |

The FY2022 budget request reflects the following changes above the maintenance level appropriation:

| FUND TYPE             | \$ CHANGE   | % CHANGE |
|-----------------------|-------------|----------|
| General Fund          | (\$130,000) | (2.0%)   |
| Earnings Reserve Fund | \$241,700   | 0.8%     |
| Federal Funds         | \$0         | 0.0%     |
| Other Funds           | \$916,300   | 5.1%     |

## Recommendation

Approve the Department's FY2022 budget request as submitted to Division of Financial Management and Legislative Services Office on Friday, August 28, 2020.

## Board Action

A motion was made by Controller Woolf that the Board adopt and approve the Department's FY2022 budget request as submitted to the Division of Financial Management and Legislative Services Office on Friday, August 28, 2020. Attorney General Wasden seconded the motion. The motion carried on a vote of 4-0. For the record, Governor Little was recused from this vote.

## Attachments

1. Approved Board Memo – August 18, 2020



IDAHO DEPARTMENT OF LANDS



# IDL Enhancement Decision Units - FY2022 - 10.20.2020

| Priority | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | General Fund | Dedicated Fund | Federal Fund | Earnings Reserve Fund | Total     | Object | FTP   | Ongoing or OneTime |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|----------------|--------------|-----------------------|-----------|--------|-------|--------------------|
| 1        | <b><u>LAAD: Fire Program Enhancements</u></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |              |                |              |                       |           |        |       |                    |
|          | This request is to convert 12 temporary 8-month fire employees to 12 permanent 10-month Engine Boss/Incident Commander Type 4 qualified positions. Request requires 10 FTP and \$281,100 in General Fund PC to cover the difference in funding needed for two additional months and to bring the employees from their current temporary rate (~\$17.43/hr) to the 80% of policy rate for Grade L (\$25.06/hr). This conversion will help in the retention of qualified fire line leadership and supervision, ensure safe operations on wildland fires, and reduce the need for ordering federal resources to provide fire line supervision. It will also reduce our reliance on contracted resources, though this need will continue until IDL is able to hire qualified engine bosses to staff all 31 engines. COVID is also impacting availability of wildfire suppression resources, and will likely continue into 2021. The request also includes a pickup for the fire bureau and two crew carriers to transport fire crews to incidents within the state. It takes 5 extended cab pickup trucks to transport the same number of people that 2 crew carriers can. The crew carriers offer safer transportation in the event of a rollover, better areas for gear storage, and a communication system in the rig with individual headsets for briefing and information sharing en route to an incident. The Thorn Creek Butte repeater will allow communication between Boise interagency dispatch, the southwest supervisory area and the fire suppression crews and eliminates grave safety concerns. Linking hardware will connect 3 mountaintop repeaters to provide seamless radio coverage across 750,000+ acres. |              |                |              |                       |           |        |       |                    |
|          | Res Spec, Sr. (Sal & Benes) - Convert 8 mo. To 10 mo.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | \$281,100    | \$0            | \$0          | \$0                   | \$281,100 | PC     | 10.00 | Ongoing            |
|          | Pickup - 1/2 ton, 4X4 (WERF)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | \$0          | \$42,200       | \$0          | \$0                   | \$42,200  | CO     | 0.00  | One Time           |
|          | Fuel & Maintenance - Pickup                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | \$0          | \$1,000        | \$0          | \$0                   | \$1,000   | OE     | 0.00  | Ongoing            |
|          | Two 10-person Crew Carriers (WERF)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | \$0          | \$540,000      | \$0          | \$0                   | \$540,000 | CO     | 0.00  | One Time           |
|          | Fuel & Maintenance - Crew Carriers                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | \$0          | \$2,000        | \$0          | \$0                   | \$2,000   | OE     | 0.00  | Ongoing            |
|          | Repeater - Thorn Creek Butte (WERF)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | \$0          | \$20,000       | \$0          | \$0                   | \$20,000  | CO     | 0.00  | One Time           |
|          | Linking Hardware for 3 Radio Repeaters (WERF)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | \$0          | \$30,000       | \$0          | \$0                   | \$30,000  | CO     | 0.00  | One Time           |
|          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | \$281,100    | \$635,200      | \$0          | \$0                   | \$916,300 |        | 10.00 |                    |
| 2        | <b><u>LAAD: Lands Program Manager, Fire Investigations</u></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |              |                |              |                       |           |        |       |                    |
|          | The Investigations Program Manager will provide policy, oversight and direction for the Fire Investigations Program. The addition of this position will streamline the investigations, negligent fire billing, and cost recovery process, and is intended to increase cost recovery and reduce the state's share of fire costs.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |              |                |              |                       |           |        |       |                    |
|          | Salary & Benefits - 80% of Grade N                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | \$93,500     | \$0            | \$0          | \$0                   | \$93,500  | PC     | 1.00  | Ongoing            |
|          | Pickup - 1/2 ton, 4X4 (WERF)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | \$0          | \$42,200       | \$0          | \$0                   | \$42,200  | CO     | 0.00  | One Time           |
|          | PC and Office Furniture                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | \$3,000      | \$0            | \$0          | \$0                   | \$3,000   | CO     | 0.00  | One Time           |
|          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | \$96,500     | \$42,200       | \$0          | \$0                   | \$138,700 |        | 1.00  |                    |

| Priority | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | General Fund | Dedicated Fund | Federal Fund | Earnings Reserve Fund | Total            | Object | FTP         | Ongoing or OneTime |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|----------------|--------------|-----------------------|------------------|--------|-------------|--------------------|
| 3        | <b><u>LAAB: Shared Stewardship Program Support - Contracted</u></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |              |                |              |                       |                  |        |             |                    |
|          | This request is for funding to set up and implement forest restoration and salvage-harvest efforts in high priority use areas and to contract with forestry consultants to identify and develop Share Stewardship projects for private forestland owners. This funding will be allocated for projects in both the north and south shared stewardship landscapes. For example, initial high priority use areas would include areas along roads and in campgrounds on burned sections of the Payette NF and adjacent state and private forestlands associated with the Woodhead Fire and with Douglas Fir Tussock Moth recovery in the Sage Hen area. |              |                |              |                       |                  |        |             |                    |
|          | Contracted forestry consultants                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | \$450,000    | \$0            | \$0          | \$0                   | \$450,000        | OE     | 0.00        | Ongoing            |
|          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | \$450,000    | \$0            | \$0          | \$0                   | <b>\$450,000</b> |        | <b>0.00</b> |                    |
| 4        | <b><u>LAAB: GNA Program Support - Vehicles</u></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |              |                |              |                       |                  |        |             |                    |
|          | This request is for additional vehicles to support full-time forestry staff located in the GNA program who work in IDL area offices across Idaho.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |              |                |              |                       |                  |        |             |                    |
|          | 3 Pickups - 1/2 ton                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | \$90,000     | \$0            | \$0          | \$0                   | \$90,000         | CO     | 0.00        | One Time           |
|          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | \$90,000     | \$0            | \$0          | \$0                   | <b>\$90,000</b>  |        | <b>0.00</b> |                    |
| 5        | <b><u>LAAB: Shared Stewardship Program Support - Education</u></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |              |                |              |                       |                  |        |             |                    |
|          | The Shared Stewardship program is in need of operating funds to document and explain the need and benefits of cross boundary forest management and Shared Stewardship.                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |              |                |              |                       |                  |        |             |                    |
|          | Education Funding                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | \$57,000     | \$0            | \$0          | \$0                   | \$57,000         | OE     | 0.00        | One Time           |
|          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | \$57,000     | \$0            | \$0          | \$0                   | <b>\$57,000</b>  |        | <b>0.00</b> |                    |

| Priority             | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | General Fund     | Dedicated Fund    | Federal Fund | Earnings Reserve Fund | Total              | Object | FTP          | Ongoing or OneTime |
|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|-------------------|--------------|-----------------------|--------------------|--------|--------------|--------------------|
| 6                    | <b><u>LAAC: Lands Program Manager, Rangeland Conservation</u></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                  |                   |              |                       |                    |        |              |                    |
|                      | This position would coordinate IDL rangeland conservation and restoration activities both internally and externally and ensure the productivity of our rangeland assets as to maximize the long-term financial returns to the endowment beneficiaries. The individual in the position would also serve as IDL's "seat at the table" for the multitude of rangeland partnerships and collaboratives currently taking place and would also coordinate with the BLM and other agencies whose activities may impact endowment lands. This individual would work closely with IDL range staff predominantly in the Southwest, Eastern, and Payette Lakes area field offices and would coordinate rangeland conservation efforts including but not limited to: post fire rehabilitation, strategic fuel breaks, juniper removal, prescribed burning, sage grouse plan implementation, and livestock forage improvement projects. |                  |                   |              |                       |                    |        |              |                    |
|                      | Salary & Benefits - 80% of Grade N                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | \$0              | \$0               | \$0          | \$93,500              | \$93,500           | PC     | 0.00         | Ongoing            |
|                      | Office Supplies, Training, Travel, Rent                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | \$0              | \$0               | \$0          | \$12,000              | \$12,000           | OE     | 0.00         | Ongoing            |
|                      | Pickup - 1/2 ton                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | \$0              | \$0               | \$0          | \$42,200              | \$42,200           | CO     | 0.00         | One Time           |
|                      | PC and Office Furniture                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | \$0              | \$0               | \$0          | \$3,000               | \$3,000            | CO     | 0.00         | One Time           |
|                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | \$0              | \$0               | \$0          | \$150,700             | <b>\$150,700</b>   |        | <b>0.00</b>  |                    |
| 7                    | <b><u>LAAB: PhoDAR and Drone Support</u></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                  |                   |              |                       |                    |        |              |                    |
|                      | The request is to add a second small drone to the Technical Services UAS program that will allow for timely project completion. This request also adds a LiDAR sensor that will enable the acquisition LiDAR data for our scattered endowment parcels when it is not available via fixed wing contractors. Request is also for the acquisition PhoDAR data to support endowment timber growth modeling of the LiDAR stand based inventory data. Finally, the laptop and workstation will support the necessary data processing and analysis work needed.                                                                                                                                                                                                                                                                                                                                                                   |                  |                   |              |                       |                    |        |              |                    |
|                      | PhoDAR Data Acquisition                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | \$0              | \$0               | \$0          | \$70,000              | \$70,000           | OE     | 0.00         | One Time           |
|                      | LiDAR Sensor                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | \$0              | \$0               | \$0          | \$15,000              | \$15,000           | CO     | 0.00         | One Time           |
|                      | Drone, small                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | \$0              | \$0               | \$0          | \$2,000               | \$2,000            | CO     | 0.00         | One Time           |
|                      | Remote Sensing Field Laptop                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | \$0              | \$0               | \$0          | \$2,000               | \$2,000            | CO     | 0.00         | One Time           |
|                      | Remote Sensing Work Station                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | \$0              | \$0               | \$0          | \$2,000               | \$2,000            | CO     | 0.00         | One Time           |
|                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | \$0              | \$0               | \$0          | \$91,000              | <b>\$91,000</b>    |        | <b>0.00</b>  |                    |
| <b>Grand Totals:</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>\$974,600</b> | <b>\$ 677,400</b> | <b>\$0</b>   | <b>\$241,700</b>      | <b>\$1,893,700</b> |        | <b>11.00</b> |                    |

# STATE BOARD OF LAND COMMISSIONERS

October 20, 2020

Regular Agenda

## Subject

Approval to proceed with due diligence for Idaho Forest Group land exchange

## Question Presented

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

## Background

In June 2020, the Idaho Department of Lands (Department) received an application for a land exchange (Attachment 1) from the Idaho Forest Group, LLC (IFG). IFG proposes exchanging four parcels of land it owns for three parcels of endowment land located adjacent to IFG's mill in Athol, Kootenai County. A vicinity map shows the location of all the parcels involved in the proposed land exchange (Attachment 2). Area staff and Department leadership have reviewed the proposal and believe it warrants further formal evaluation via the due diligence process.

The Public School endowment land proposed for exchange consists of three separate tax parcels which total approximately 96.5 acres. The endowment parcels are located in Section 16 of Township 53N, Range 3W, Kootenai County, in the town of Athol. Two of the parcels are contiguous and include portions that extend along the railroad right of way outside of the otherwise rectangular-shaped parcels of land. The third tax parcel is nearby. It is a small triangular-shaped parcel containing approximately 0.14 acres (Attachment 3).

The IFG properties consist of 320 acres total; 280 acres in Bonner County (one 160-acre parcel, one 80-acre parcel, and one 40-acre parcel) and one 40-acre parcel in Benewah County, all adjacent to existing endowment timberlands (Attachment 4).

## Discussion

This proposed land exchange would improve the productivity, improve long-term value, and block up endowment forestland assets.

Specific benefits of the exchange include:

- Increase Primary Base: The Department's endowment forestlands are categorized as either primary or secondary base. Primary base forestlands are productive, accessible and manageable; whereas secondary base forestlands are typically steeper (rocky, shallow soils) and less productive. The Athol endowment property consists of 76 acres of secondary base and 20.5 acres of non-forest, due to the poor soils and slow

growing timber. The 320 acres of IFG's property is 75% primary base, due to the productive soils and the ability to grow more diverse and higher value timber.

- Urban Interface: The endowment property is adjacent to the City of Athol, has an increased recreational component that complicates management, and has reduced timber production. IFG's property is located away from paths of development and is mostly surrounded by endowment timberlands.
- 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 on the IFG property as timberland will be higher than the Athol endowment property since it is more productive in growing trees.
- County Tax Assessments: As a result of the proposed exchange, there would be an estimated \$200 reduction to Benewah County, and a \$700 reduction to Bonner County tax rolls due to the State's exemption from property taxes. As part of the due diligence process, the Department will seek comments from the Benewah County and Boundary County Commissioners. Conversely, Kootenai County would add a parcel to its tax roll, forecasted to generate approximately \$600 per year.

Upon Land Board approval, the next steps for the land exchange would be for the Department to perform due diligence consistent with the following (also listed in 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 proceed.

## **Recommendation**

Approve proceeding with due diligence for the IFG land exchange proposal.

## **Board Action**

## **Attachments**

1. IFG land exchange application
2. IFG exchange vicinity map
3. Endowment parcel map
4. IFG parcel maps
5. Due diligence checklist

The logo of the Idaho Department of Lands is centered on the page. It features a stylized mountain range in the background. In the foreground, there is a large, light green diamond shape. Overlaid on this diamond is a yellow rectangular area with wavy lines, representing water. A horizontal banner with a rounded end is positioned across the middle of the diamond, containing the text "IDAHO DEPARTMENT OF LANDS" in white, bold, uppercase letters.

**IDAHO DEPARTMENT OF LANDS**



# EXCHANGE APPLICATION

Land exchange process is used by Idaho Department of Lands to evaluate land exchange proposals for Endowment Lands. Please provide all information to ensure that the Exchange Application is complete.

## Exchange Application Instructions:

- Meet with the appropriate Area Manager prior to filing a Exchange Application (See list of Area Offices on Page 3)
- Submit a completed Exchange Application and \$1,000 Application Fee to the appropriate Supervisory Area Office

Note: Please read Exchange Application Information carefully for additional terms and conditions prior to filing

## Exchange Application Fee: \$1,000.00 (Nonrefundable)

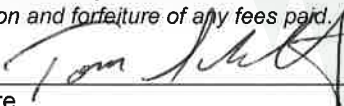
**APPLICANT DATA:** The full legal name of the Applicant or the business entity name on file with the Idaho Secretary of State. Certificate of Good Standing must be provided for all business entities.

|                                                   |                                                     |
|---------------------------------------------------|-----------------------------------------------------|
| Applicant or Business Name:<br>Idaho Forest Group | Contact Name: Tom Schultz                           |
| Street Address:<br>687 W Canfield Ave, Suite 100  | Position or Title: VP Resources & Govt Affairs      |
| City: Coeur d'Alene                               | Mailing Address (if different from Street Address): |
| State: ID                                         | PO Box (if applicable)                              |
| Email Address(es): tom.schultz@idfg.com           | Zip +4: 83815                                       |
| Website Address(es): IDFG.com                     | Work Phone:                                         |
| Fax:                                              | Cell/Mobile: 208-340-9792                           |
|                                                   | Home Phone:                                         |

The applicant must provide the following information:

- Describe and list Idaho Department of Lands parcels and Applicant's parcels on Attachment A.
- Provide maps showing or portraying the IDL and Applicant's parcels listed on Attachment A.

I hereby certify that I am the Applicant or the Authorized Representative of the Applicant and that the information contained in the Exchange Application is true and correct to the best of my knowledge, and acknowledge that falsification of any information contained herein, or provided herewith, will be grounds for rejection of the Exchange Application and forfeiture of any fees paid.

Signature  Date September 8, 2020

Print/Type Name Tom Schultz Title (if applicable) VP Resources and Government Affairs

## IDL Staff Use Only

Instrument # \_\_\_\_\_ Project # \_\_\_\_\_ \$ \_\_\_\_\_ TC: 104 PCA: 11487 Subsidiary: 3204750

### SUPERVISORY AREA

- ☐ Exchange Application Reviewed
- ☐ Exchange Application for Submittal
- ☐ Exchange Application Denied

### OPERATIONS CHIEF

- ☐ Exchange Application Reviewed
- ☐ Exchange Application Authorized for Submittal
- ☐ Exchange Application Denied

Area Manager \_\_\_\_\_ Date \_\_\_\_\_

Operations Chief \_\_\_\_\_ Date \_\_\_\_\_

Attach III Exchange Application

pg 1 of 6

ATTACHMENT 1

## Idaho Department of Lands – Area Offices

### **PRIEST LAKE AREA OFFICE**

4053 Cavanaugh Bay Rd.  
Coolin ID 83821  
Tel No: 443-2516  
FAX No: 443-2162

### **PEND OREILLE LAKE AREA OFFICE**

2550 Hwy. 2 West  
Sandpoint ID 83864  
Tel No: 263-5104  
FAX No: 263-0724

### **KOOTENAI VALLEY AREA OFFICE**

Route 4, P.O. Box 4810  
(South Highway 95)  
Bonners Ferry ID 83805  
Tel No: 267-5577  
FAX No: 267-8301

### **MICA AREA OFFICE**

3706 Industrial Ave. South  
Coeur d'Alene ID 83815  
Tel No: 769-1577  
FAX No: 769-1597

### **ST. JOE AREA OFFICE**

1806 Main Ave.  
St. Maries ID 83861  
Tel No: 254-4551  
FAX No: 475-4867

### **CATALDO AREA OFFICE**

80 Hilltop Overpass Rd.  
Kingston ID 83839  
Tel No: 682-4611  
FAX No: 682-2991

### **CLEARWATER AREA OFFICE**

10230 Highway 12  
Orofino ID 83544  
Tel No: 476-4587  
FAX No: 476-7175

### **PONDEROSA AREA OFFICE**

3130 Highway 3  
Deary ID 83823  
Tel No: 877-1121  
FAX No: 877-1122

### **MAGGIE CREEK AREA OFFICE**

Rt. 2 Box 190  
913 Third St  
Kamiah ID 83536  
Tel No: 935-2141  
FAX No: 935-0905

### **CRAIG MT. AREA OFFICE**

P.O. Box 68  
Craigmont ID 83523  
Tel No: 924-5571  
FAX No: 924-5572

### **PAYETTE LAKES AREA OFFICE**

555 Deinhard Lane  
McCall ID 83638  
Tel No: 634-7125  
FAX No: 634-5117

### **SOUTHWEST AREA OFFICE**

8355 W. State St.  
Boise, ID 83703  
Tel No: 334-3488  
FAX No: 853-6372

### **SOUTH CENTRAL AREA OFFICE**

324 South 417 East  
Suite 2  
Jerome ID 83338  
Tel No: 324-2561  
FAX No: 324-2917

### **EASTERN IDAHO AREA OFFICE**

3563 Ririe Highway  
Idaho Falls ID 83401  
Tel No: 525-7167  
FAX No: 525-7178

## **EXCHANGE APPLICATION TERMS AND CONDITIONS**

(Please read carefully before completing)

### **IMPORTANT CONSIDERATIONS:**

All endowment land transactions must be in accordance with the Idaho Department of Lands (IDL) mandate to assure the highest and best use of the land and to act in the best interest of the endowments.

Endowment land exchange is subject to the following Idaho Constitution or statutory reference:

1. Idaho Constitution - Article IX, Sections 8 and 10
2. Idaho Admissions Act - Section 5 (b)
3. Idaho Code Sections 58-104 (8), 58-138, 58-505

Submission of this application does not guarantee that the land will be exchanged. The Land Board or Director may determine that a land exchange would not be in the best interest of the endowments at any point prior to the execution of a Final Land Exchange Agreement; at which point the application would be denied.

Prior to filing an Exchange Application, the applicant is required to schedule a pre-application meeting with the Area Supervisor in the appropriate area. See list of area offices on Page 3 of the Exchange Application.

### **TRANSACTION COSTS BORNE BY THE APPLICANT**

1. Exchange Application Fee: \$1,000.00 The Exchange Application Fee is nonrefundable.
2. Transaction costs such as appraisal, survey, or Phase 1 Environmental Site Assessment (ESA) necessary to exchange properties are generally borne by the applicant but may be negotiated subject to Asset Management Steering Committee direction.
3. All endowment land will be appraised as though with all purpose legal access.

### **APPLICATION PROCESS**

Each Exchange Application is reviewed on a case by case basis. Evaluation of the application includes but is not limited to an analysis of: income potential to the endowment; proposed use; impact to adjacent endowment lands, access, proximity to existing development; parcel size; and conformance with local regulations are taken into consideration when evaluating the merits of each application.

Endowment lands shall be exchanged only after completion of a comprehensive staff evaluation and an agreement to initiate has been executed; a formal appraisal has been prepared and accepted; a satisfactory exchange package has been negotiated between IDL and the applicant; receipt of State Land Board approval and completion of a Land Exchange Agreement has been executed.

The Department will strive to process Exchange Applications through close of escrow within 6 months after an Agreement to Initiate the Exchange has been executed. However, the time frame will vary depending on the complexity of the exchange transaction and Department priorities as defined by the Asset Management Plan and the Land Board.

## Attachment A

## IDL Property

| Parcel | Twp | Rge | Section | Subdivision               | Acres | County   | Type of Land (forest, range, agriculture, commercial, residential) | Name and street address of adjacent property owners                                                                                                                                                                                            | Fund (IDL Staff) |
|--------|-----|-----|---------|---------------------------|-------|----------|--------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| A      | 53N | 03W | 16      | NA – Parcel #53N03W163200 | 40    | Kootenai | Rural Residential Tract                                            | Doty (5200 E Hwy 54, Athol), Bitner (29694 N Greystone Rd, Athol), Klim (8940 N Ramsey Rd, Hayden), Blazin (30020 N Greystone Rd, Athol), Farnham (30234 N Greystone Rd, Athol), DH Holdings (PO Box 4186, Spokane), IDL (PO Box 83720, Boise) |                  |
| B      | 53N | 03W | 16      | NA – Parcel #A00000163200 | 35.5  | Kootenai | Res. Lot/Tract in City                                             | IDL (PO Box 83720, Boise), IFG – Kamp (687 W Canfield, Cda), Doty (5300 Hwy 54, Athol), City of Athol (PO Box 249, Athol), Swenson (30430 N Alice Ct, Athol), Hathaway (30455 N Alice Ct, Athol)                                               |                  |
| C      | 53N | 03W | 16      | NA – Parcel #A00000160800 | 0.14  | Kootenai | Res Lot/Tract in City                                              | Peters, Anthony (5580 E Hwy 53, Athol), IFG – Kamp (687 W Canfield, Cda)                                                                                                                                                                       |                  |
| D      |     |     |         |                           |       |          |                                                                    |                                                                                                                                                                                                                                                |                  |
| E      |     |     |         |                           |       |          |                                                                    |                                                                                                                                                                                                                                                |                  |
| F      |     |     |         |                           |       |          |                                                                    |                                                                                                                                                                                                                                                |                  |

## Applicant's property interest offered for Exchange

- ☒ Yes   ☐ No   **Fee simple: surface plus subsurface**  
☐ Yes   ☐ No   **Subsurface minerals only**  
☐ Yes   ☐ No   **Surface only**  
☐ Yes   ☐ No   **Other \_\_\_\_\_**

## Current use:

|   |                           |
|---|---------------------------|
| A | <u>Timberlands</u>        |
| B | <u>Timberlands</u>        |
| C | <u>RR easement access</u> |
| D |                           |
| E |                           |
| F |                           |

## Provide additional information about parcels.

|   |                                                                                                                                                                                                                            |
|---|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A | State Land Grant PN22128, Amended PG&E Easement No. 5608, State of Idaho Dept of Public Works Highway 54 Easement No. 711                                                                                                  |
| B | State Land Grant PN22128, Amended PG&E Easement No. 5608, State of Idaho Dept of Public Works Highway 54 Easement No. 711, Spokane International Railway Easement No. 33, Idaho Forest Group, LLC Road Easement No. 220017 |
| C | State Land Grant PN22127, Idaho Transportation Dept Highway 54 Easement No. 5218, Northern Pacific Railway Easement No. 2A                                                                                                 |

|   |  |
|---|--|
| D |  |
| E |  |
| F |  |

## Attachment A

### Applicant's Property

| Parcel           | Twp | Rge | Section | Subdivision | Acres | County  | County Parcel No. | Type of Land (forest, range, agriculture, commercial, residential) | Name and street address of adjacent property owners                                                                                                                                |
|------------------|-----|-----|---------|-------------|-------|---------|-------------------|--------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A – "Bodie"      | 56N | 05W | 09      | NA          | 80    | Bonner  | RP56N05W09 7200A  | Productivity Forest Land                                           | IDL (PO Box 83720, Boise)                                                                                                                                                          |
| B – "North Fork" | 57N | 03W | 05      | NA          | 40    | Bonner  | RP57N03W05 3000A  | Productivity Forest Land                                           | IDL (PO Box 83720, Boise)                                                                                                                                                          |
| C – "Titus"      | 44N | 01W | 16      | NA          | 40    | Benewah | RP44N01W16 0600A  | Productivity Forest Land                                           | IDL (PO Box 83720, Boise), Edmondson (867 N Cerritos Drive, Palm Springs, CA)                                                                                                      |
| D – "Happy Fork" | 57N | 03W | 09      | NA          | 160   | Bonner  | RP57N03W09 2400A  | Productivity Forest Land                                           | IDL (PO Box 83720, Boise), Dozark Trust (321 Webster St, Needham, MA), Brende, Bruce (12189 Baldy Mtn Rd, Sandpoint, ID), Stimson Lumber Company (520 SW Yamhill St, Portland, OR) |
| E                |     |     |         |             |       |         |                   |                                                                    |                                                                                                                                                                                    |
| F                |     |     |         |             |       |         |                   |                                                                    |                                                                                                                                                                                    |

### Applicant's property interest offered for Exchange

- ☒ Yes   ☐ No   **Fee simple: surface plus subsurface**  
☐ Yes   ☐ No   **Subsurface minerals only**  
☐ Yes   ☐ No   **Surface only**  
☐ Yes   ☐ No   **Other** \_\_\_\_\_

### Current use and surrounding uses:

|   |                    |
|---|--------------------|
| A | <u>Timberlands</u> |
| B | <u>Timberlands</u> |
| C | <u>Timberlands</u> |
| D | <u>Timberlands</u> |
| E |                    |
| F |                    |

Are you willing to obtain any required land and/or mineral interest application at your expense? ☒ Yes ☐ No

Are you currently leasing the property for any use? ☐ Yes ☒ No

If yes, please describe lease \_\_\_\_\_

Provide a complete listing of improvements/structures for the applicant's property.

|          |
|----------|
| A - None |
| B - None |
| C - None |
| D - None |

Provide an estimated market value for the applicant's property.

|                                                       |
|-------------------------------------------------------|
| A – “Bodie” estimated market value is \$130,000.      |
| B – “North Fork” estimated market value is \$400,000. |
| C – “Titus” estimated market value is \$24,000.       |
| D – “Happy Fork” estimated market value is \$250,000. |

Provide a complete listing of any dumps or other hazmat issues for the applicant's property.

|          |
|----------|
| A - None |
| B - None |
| C - None |
| D - None |

Provide a complete listing of any easements that affect the applicant's property title.

|                                                                                                                                           |
|-------------------------------------------------------------------------------------------------------------------------------------------|
| A - Easement No. 511 granting access to IDL                                                                                               |
| B – Easement No. 511 granting access to IDL                                                                                               |
| C – Easement No. 59 right of way easement to the Chicago, Milwaukee, & Puget Sound Railway Company (originally granted by State of Idaho) |
| D - Easement No. 511 granting access to IDL                                                                                               |

Does applicant's property have legal access? ☐ Yes ☒ No

If yes, please describe access: timber management generally requires a road use permit from the IDL.

Does applicant's property have any water rights? ☐ Yes ☒ No

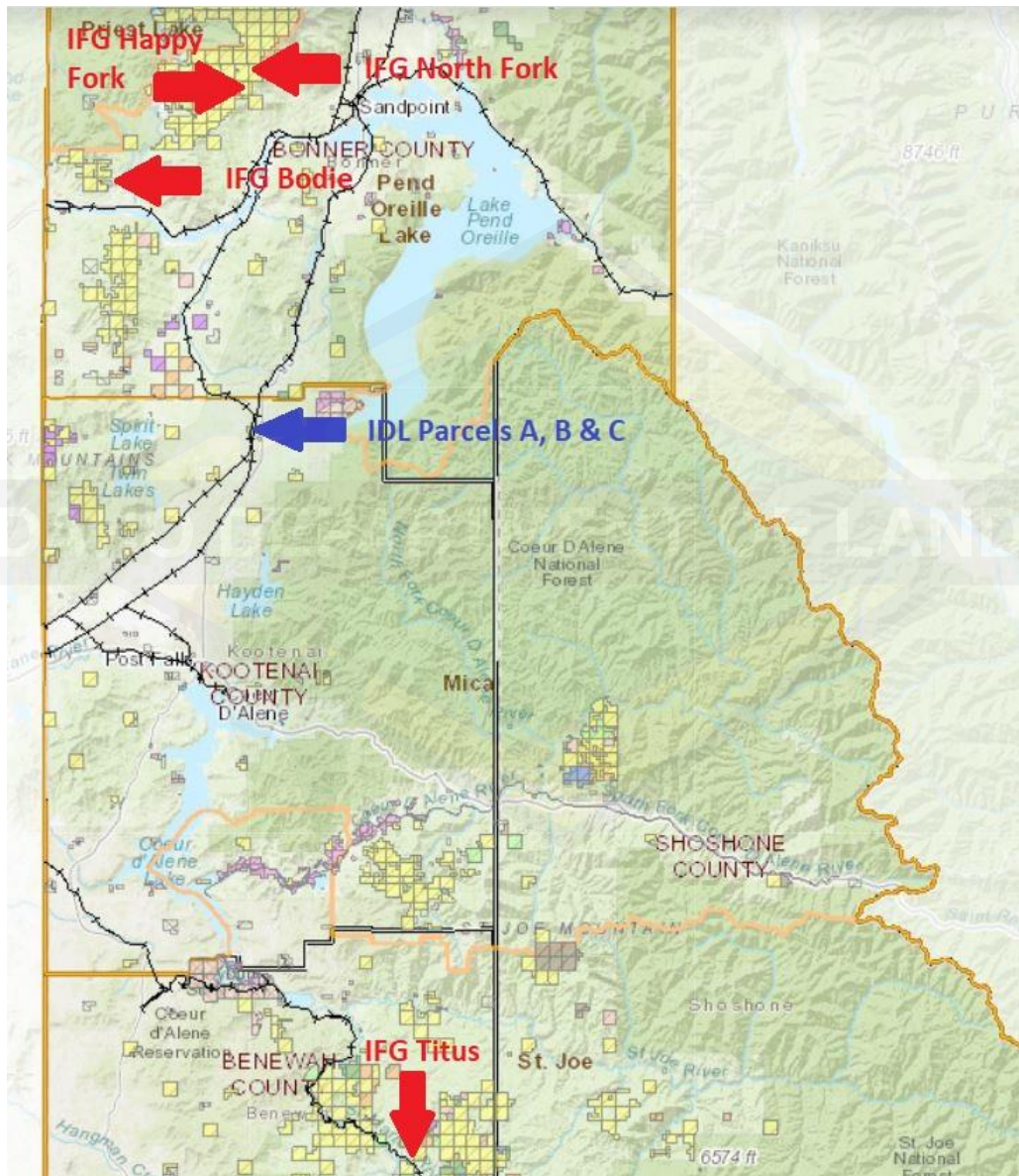
If yes, please list water right numbers that apply.

|          |
|----------|
| A - None |
| B - None |
| C – None |
| D - None |

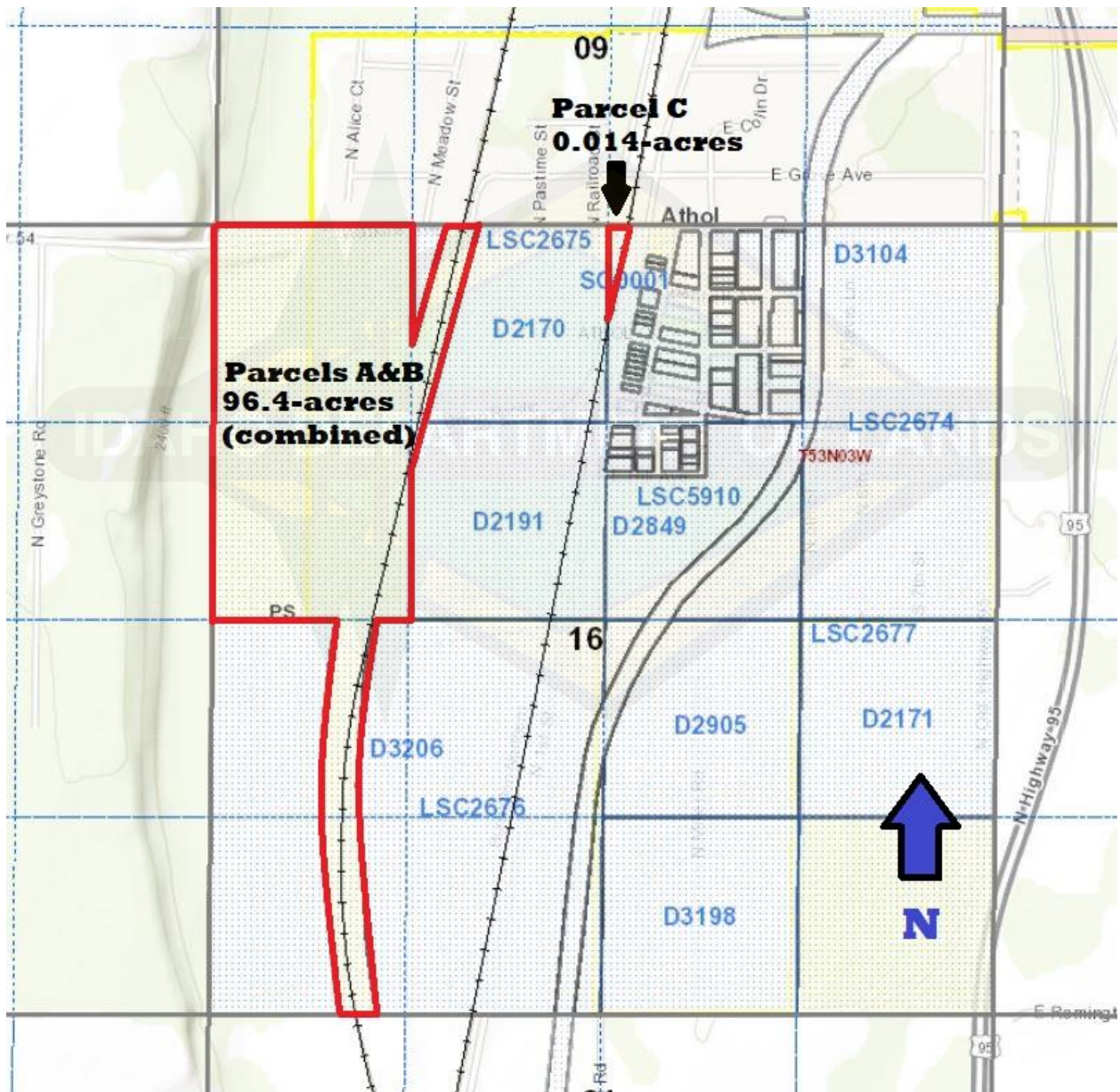


# IFG LEX

## Parcel Vicinity Map

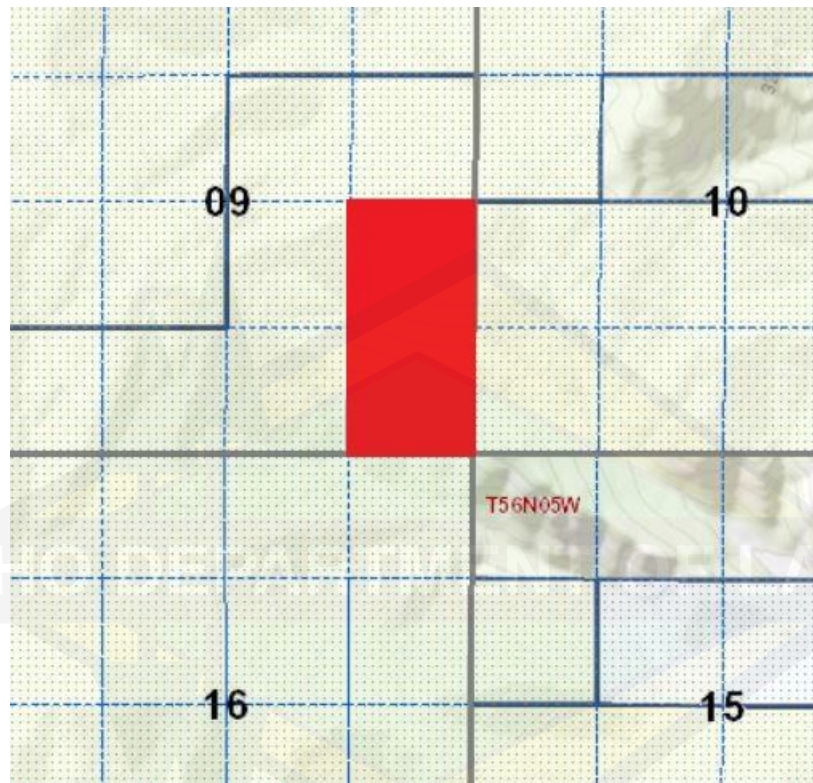


IFG LEX  
Endowment Parcel Map  
T53N, R3W, SEC 16  
KOOTENAI COUNTY





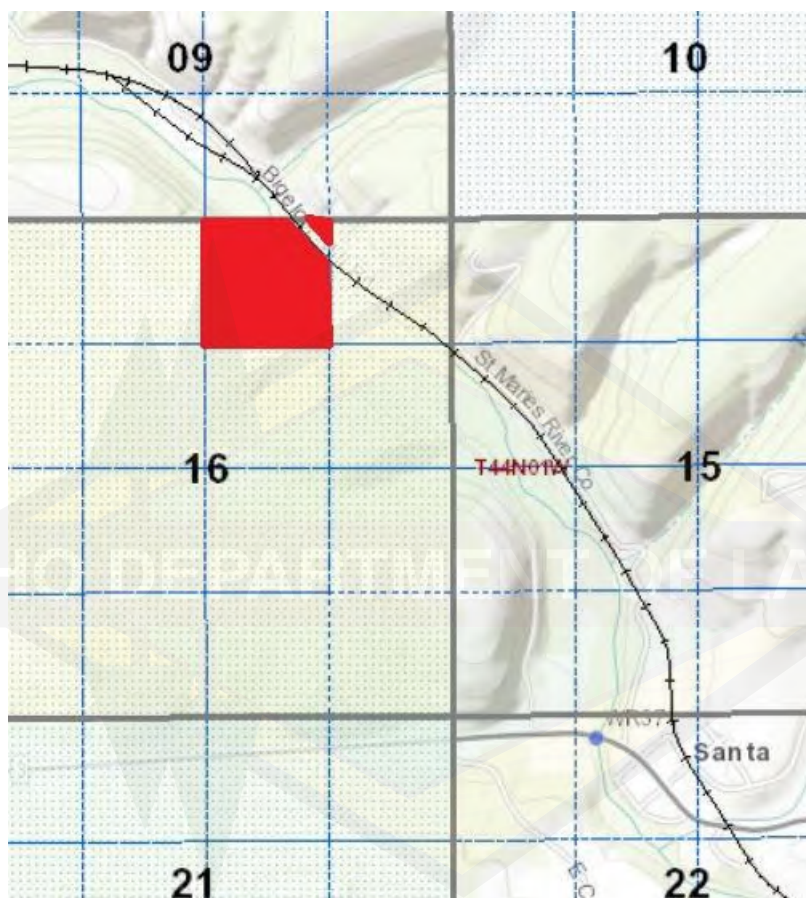
IFG PARCEL A "BODIE"  
T56N, R5W, SEC 9  
80-ACRES  
BONNER COUNTY



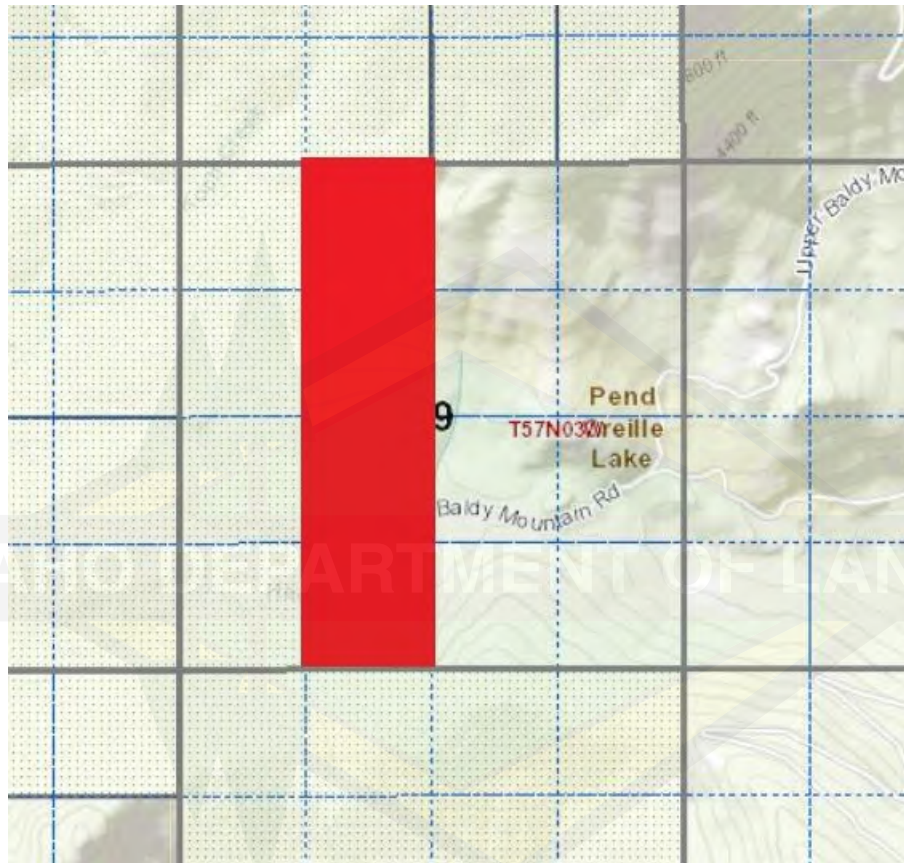
IFG PARCEL B "NORTH FORK"  
T57N, R3W, SEC 5  
40-ACRES  
BONNER COUNTY



IFG PARCEL C "TITUS"  
T44N, R1W, SEC 16  
40-ACRES  
BENEWAH COUNTY



IFG PARCEL D "HAPPY FORK"  
T57N, R3W, SEC 9  
160-ACRES  
BONNER COUNTY





# Due Diligence Checklist

**“Due Diligence”** is a broad term that business, real property professionals and real estate attorneys use. The term is used here to refer to the inspection and investigation of real property being considered for acquisition. Due diligence is conducted to assist the buyer in making an informed purchase decision. Items considered under due diligence vary with each property type. The following checklist is a reference used to identify documents and conditions that should be considered in the purchase of real property.

       **Commitment for Title Insurance (All Properties).** A commitment for title insurance (Preliminary Title Report) should be obtained soon after the Purchase Sale Agreement is executed. This document includes the legal description for the property and provides a list of all current exceptions to title on the property such as property owner, unpaid taxes, easements, options to purchase, judgments, mortgages, recorded liens, deed of trust, timber harvest rights, mineral rights, water rights. The title review process is used to determine the condition of the title to be transferred to the buyer at closing, as well as identifying any potential title problems.

       **Phase One Environmental Site Assessment (Phase One ESA) (All Properties).** The Phase One ESA provides the buyer an overview of the environmental condition and environmental history of the property. The report is intended to identify actual and potential problems (e.g. contamination by hazardous substances, leaking underground storage tanks, landfills, etc.) based primarily on a review of historical use documentation, regulatory agency databases and a physical on-site investigation. If environmental conditions or potential environmental conditions are discovered during the investigation, the report will generally recommend specific follow-up testing, remediation and/or studies. A Phase One ESA typically does not include specific inspections for asbestos, lead paint, mold, radon, or wetland delineation. The final report has four components including: Records Review; Site Reconnaissance; Interviews with present and past owners, operators, occupants of the property and local government officials; and a Narrative Report.

       **Access (All Properties).** Evaluate the adequacy of access and determine whether additional rights may be obtained as part of an exchange or purchase transaction at closing. There are five (5) access classifications:

- 1) **Public Use Access:** A permanent public access typically from a county road, state or Federal highway, which has an approved approach designated for the purpose of which the property is currently being used, or designated for its current zoning. Width of approach needs to be sufficient for the properties designated use.
- 2) **Full Legal Administrative Access:** A designated permanent easement specifically identified for access to property for all management activities and access is transferable.

- 3) **Limited Legal Administrative Access:** A designated temporary or permanent access limited for specific activities that would be non-transferable. (Such as Timber harvest, for maintenance access, irrigation.)
- 4) **Physical Access:** Properties where there is an existing road to or across the property, but no permanent legal access is recorded. The road may be designated on a county map. The existing road may be primitive, in poor condition, or currently unusable.
- 5) **No Access:** Property with no legal or physical access established or identified by a recorded document or a county map.

\_\_\_\_\_ **Utilities (All Properties).** Identify existing utility infrastructure located on or adjacent to property such as power, water/well, septic/sewer, phone, natural gas, hot water, solar, wind and if they are provided by city services or located on site. Identify the capacity of the utilities; are they major transmission facilities which would encumber future use or development of the property, or are they of a capacity which could enhance the property for future development

\_\_\_\_\_ **Production Data (All Properties).** Obtain production information associated with the property being considered for purchase. Examples of production data for some property types:

- 1) **Cropland.** Parcel acreage, farmable acres, non-farmable acres, commodities grown, yields, total production, price per unit, and crop rotation. If the property will be acquired subject to a lease; name of tenant, term of lease, and type of lease (i.e. cash or crop share).
- 2) **Timberland.** Total acreage; delineation of acreage used for commercial timber, plantation, non-commercial timberland, and non-stocked; estimated timber volumes by species (i.e. MBF), and mean annual increment (MAI).
- 3) **Rangeland.** Parcel acreage, animal unit months (AUM's) of forage, season of use.
- 4) **Commercial.** Property operating data including cash flow analysis, vacancy rates, operating costs, rent vs. market rent, existing leases and lease terms.

\_\_\_\_\_ **Mineral Rights (All Properties).** The terms "mineral lands," "mineral," "mineral deposits," "deposit," and "mineral right," as used herein is construed to mean and include all coal, oil, oil shale, gas, phosphate, sodium, asbestos, gold, silver, lead, zinc, copper, antimony, geothermal resources, salable minerals, and all other mineral lands, minerals or deposits of minerals of whatsoever kind or character. This includes "salable minerals," meaning a mineral substance that can be taken from the earth and that has a value in and of itself separate and apart from the earth. The potential of mineral lands should be evaluated on annual rental, the amount of royalty, the basis upon which the royalty shall be computed and such other details as necessary in the interest of the state.

Determine whether the property to be acquired excludes mineral rights. To the extent that the mineral rights have been severed from fee ownership, determine to what extent, if any, those severed rights affect the use and value of the property by the buyer. Prior to purchase, determine who owns the mineral rights and what the owner's intent is regarding use and development of the mineral estate.

\_\_\_\_\_ **Water Rights (All Properties).** The constitution and statutes of the state of Idaho declare all the waters of the state, when flowing in their natural channels, including the waters of all natural springs and lakes within the boundaries of the state, and ground waters of the state, to be public waters. A water right is the right to divert the public waters of the state of Idaho and put them to a beneficial use, in accordance with one's priority date. Beneficial uses include such uses as domestic use, irrigation, stock-watering, manufacturing, mining, hydropower, municipal use, aquaculture, recreation, fish and wildlife, among others. The amount of the water right is the amount of water put to beneficial use. Determine the scope and nature of any water rights related to the property. If a property is fully serviced by water and sewer utility service, water rights will not be an issue. If water rights for the property have been separated from the fee interest or come from an off-site source, the purchase and sale agreement must address the transfer of necessary rights to the buyer at closing. The Idaho Department of Water Resources maintains a website to research water rights within the state of Idaho.

\_\_\_\_\_ **Physical Improvements (All Properties).** Improvements include buildings, fences, ponds, spring developments, and real property fixtures that are permanently part of the land. Improvements are generally attached to, embedded in or permanently resting on the land and cannot be removed without substantially damaging an improvement or the real property with which it is being used. An inventory of physical improvements on the property and who owns or claims to own the improvements will be made prior to requesting an appraisal.

\_\_\_\_\_ **Approvals and Entitlements (All Properties).** Determine the regulatory status of proposed property, and if it is based on the type or types of uses currently being made of the land. Review the current zoning, potential zoning, areas of impact, proposed future growth, any restrictive covenants or proposed restrictions which would encumber the property and its utilization in its highest and best use. Confirm that the existing use of the property complies with applicable zoning, building and life safety codes. Determine which land use entitlements will be necessary for intended use of the property.

\_\_\_\_\_ **Personal Property (All Properties).** Identify within the Purchase Sale Agreement what personal or intangible property will be included in the purchase. For example, furniture, trade fixtures, equipment, sprinkler pipe, pumps, etc. that are necessary for the buyer's use of the property. Determine any third party security interest in any of the personal property. Assess the need to purchase or transfer permits or licenses required to operate the property or related equipment and fixtures (e.g. franchises, trademarks, patents, copyrights, liquor licenses, etc.)

\_\_\_\_\_ **Rights-of-Way (Easement) Impacts (All Properties).** Rights-of-way are temporary or permanent property rights that have been either granted or acquired, for roads, utilities, or public use access. These are often conveyed through an easement and may or may not be recorded. In addition to roads and utilities some more obscure examples include:

- 1.) Conservation easements – limits the amount and type of development that can occur on a property in order to preserve its productive capacity and open character while keeping the property in the landowner's ownership and control.
- 2.) Solar/Scenic easements – protect an owner's view shed or path of sunshine and generally restrict the height of building construction.
- 3.) Airspace easement – permits the area above the surface of property to permit an imposition upon such property from excessive noise, vibration, discomfort, inconvenience, etc. that consequently reduces market value. Generally used for airport impact areas but can also apply to bridges and walkways.
- 4.) Maintenance easement – permits an individual to cross onto the property of another for the purpose of maintaining something owned or controlled by the dominant estate owner, such as, irrigation ditches, canals, culverts, power lines, water lines, etc.

\_\_\_\_\_ **Endangered Species (All Properties).** The Endangered Species Act of 1973, as amended, is one of the most far-reaching wildlife conservation laws ever enacted by any nation. The presence of threatened/endangered or potentially threatened/endangered species may significantly restrict the development potential, other potential uses, and market value of a property.

\_\_\_\_\_ **Copies of all leases affecting the property (All Properties).** Review all leases having an effect on the future use of or income from the property. For state lands involved in an exchange, ensure a land exchange addendum is signed by the lessee.

\_\_\_\_\_ **Appraisals and Appraisal Review (All Properties).** A real estate appraisal is required for all property types to determine the market value for the property or property rights or interest being disposed or acquired. At a minimum the appraisal is prepared in compliance with the *Uniform Standards of Professional Appraisal Practice (USPAP)*. Appraisals will be independently reviewed by IDL or another appraiser to ensure compliance with USPAP and to determine the adequacy and appropriateness of the report.

\_\_\_\_\_ **Property Boundary Survey (Optional).** Obtain copies of recorded Records of Survey for the property, if available. If a survey is necessary it should be initiated immediately after the Purchase and Sale Agreement has been executed to allow time to address any potential title problems identified by the survey prior to closing.

\_\_\_\_\_ **Timber Rights (Timberland).** Determine who has the legal right to harvest the timber on a parcel of land. A seller of forestland can choose to include or exclude timber rights as part of a fee ownership sale. Such rights can be severed for a specific period of time or permanently transferred.

\_\_\_\_\_ **Timber Cruise/Harvest/Road analysis and Check Cruise (Timberland).** Forested properties with merchantable timber being considered for acquisition will require a timber cruise to determine the quality and quantity of harvestable timber. The cruise will identify tree species and measurements within each plot. Sufficient plots must be

measured to obtain a statistically reliable sample for estimated gross volume, defect, piece size, general stand information, net merchantable volume, etc.

       **Conservation Reserve Program (Agriculture/Timberland).** Determine if the property is eligible for and currently enrolled in a variety of farm and agriculture programs. What is the impact in ownership change to enrollment eligibility? There are currently five (5) areas which can receive payment, including:

- 1) Wildlife Habitat Incentives (WHIP)
- 2) Wetland Reserve Program (WRP)
- 3) Forestry Incentive Program (FIP)
- 4) Farmland Protection Program (FPP)
- 5) Environmental Quality Incentives Program (EQIP)

       **Architecture/Engineering Analysis (Properties with Buildings).** Acquisition of properties with business related structures requires an analysis by architectural and engineering professionals to determine the condition of the building and identify any potential problem areas, such as deferred maintenance and necessary repairs. Such analysis will typically consider, but is not limited to an analysis of: structural integrity; roof, electrical, plumbing and HVAC systems age and condition; Americans with Disabilities Act (ADA), fire and safety code compliance; general service and maintenance logs; parking area requirements and surface age and condition; review of Phase One Environmental Site Assessment; and testing for asbestos, lead paint, or mold issues. If work is performed on improvements prior to closing, obtain copies of any design and construction drawings and contracts and determine whether the seller's rights under those contracts are assignable to the buyer. Ensure proper lien waivers have been obtained by the seller for work performed prior to closing.

# STATE BOARD OF LAND COMMISSIONERS

October 20, 2020

Regular Agenda

## Subject

Approval to proceed with due diligence for Avimor land exchange

## Question Presented

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

## Background

In June 2020, the Idaho Department of Lands (Department) received an application for a land exchange from Avimor Partners, LLC (Avimor). Avimor proposes exchanging 800 acres of its land for 800 acres of endowment land located in the Boise foothills (Attachment 1). Area staff and Department leadership have reviewed the proposal and believe it warrants further formal evaluation via the due diligence process.

The Public School endowment land proposed for exchange consists of approximately 800 acres, referred to as the "Endowment Lands." The Endowment Lands are located in Ada and Boise counties. A legal description of the Endowment Lands (Attachment 2) and a map (Attachment 3) are attached.

The Avimor properties consist of 800 acres in Boise County. The land is contiguous as seen on the existing ownership map (Attachment 4). The land exchange would consolidate the endowment land into two large blocks, as seen on the proposed ownership map (Attachment 5).

## Discussion

This proposed land exchange would improve the long-term value and block up endowment grazing land.

Specific benefits of the exchange include:

- Block up endowment land: Currently, the Endowment Lands are scattered in 40- to 160-acre blocks which reduces the opportunities for leasing endowment land.
- Suburban Interface: The existing Endowment Lands are in the path of development for the Avimor subdivision which will reduce the ability to lease for grazing.
- 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 on the Avimor property will be higher than the Endowment Lands because of the ability to lease for grazing.
- County Tax Assessments: As a result of the proposed exchange, there would be an estimated \$350 reduction to Boise County tax rolls due to the State's exemption from



property taxes. As part of the due diligence process, the Department will seek comments from the Boise County Commissioners. Conversely, Ada County would add an estimated 480 acres to its tax roll, forecasted to generate approximately \$350 per year.

Upon Land Board approval, the next steps for the land exchange would be for the Department to perform due diligence consistent with the following (also listed in Attachment 6):

- 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 environment 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.
- 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 proceed.

## **Recommendation**

Approve proceeding with due diligence for the Avimor land exchange proposal.

## **Board Action**

## **Attachments**

1. Avimor land exchange application
2. Endowment parcel legal descriptions
3. Existing endowment parcel map
4. Existing ownership map
5. Proposed ownership map
6. Due diligence checklist

# EXCHANGE APPLICATION

Land exchange process is used by Idaho Department of Lands to evaluate land exchange proposals for Endowment Lands. Please provide all information to ensure that the Exchange Application is complete.

## Exchange Application Instructions:

- Meet with the appropriate Area Manager prior to filing a Exchange Application (See list of Area Offices on Page 3)
  - Submit a completed Exchange Application and \$1,000 Application Fee to the appropriate Supervisory Area Office
- Note: Please read Exchange Application Information carefully for additional terms and conditions prior to filing

## Exchange Application Fee: \$1,000.00 (Nonrefundable)

**APPLICANT DATA:** The full legal name of the Applicant or the business entity name on file with the Idaho Secretary of State. Certificate of Good Standing must be provided for all business entities.

|                                                                                                                                |                                                     |
|--------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|
| Applicant or Business Name:<br>Avimor Partners as beneficiary of Dual Beneficiary Trust                                        | Contact Name: Dan Richter                           |
| Street Address:<br>18454 N. McLeod Way                                                                                         | Position or Title: Managing Member                  |
| City: Boise                                                                                                                    | Mailing Address (if different from Street Address): |
| State: ID                                                                                                                      | PO Box (if applicable)                              |
| Email Address(es): <a href="mailto:danr@avimor.com">danr@avimor.com</a> <a href="mailto:bradp@avimor.com">bradp@avimor.com</a> | Zip +4:                                             |
| Website Address(es):                                                                                                           | Work Phone: 208-939-0343                            |
| Fax:                                                                                                                           | Cell/Mobile:                                        |
|                                                                                                                                | Home Phone:                                         |

The applicant must provide the following information:

- Describe and list Idaho Department of Lands parcels and Applicant's parcels on Attachment A & B.
- Provide maps showing or portraying the IDL and Applicant's parcels listed on Attachment C.

I hereby certify that I am the Applicant or the Authorized Representative of the Applicant and that the information contained in the Exchange Application is true and correct to the best of my knowledge, and acknowledge that falsification of any information contained herein, or provided herewith, will be grounds for rejection of the Exchange Application and forfeiture of any fees paid.

Signature

Date

Print/Type Name

Title (if applicable)

RECEIVED  
APR 28 2020  
Idaho Dept. of Lands  
SWI

### IDL Staff Use Only

Instrument # \_\_\_\_\_ Project # \_\_\_\_\_ \$ \_\_\_\_\_ TC: 104 PCA: 11487 Subsidiary: 3204750

#### SUPERVISORY AREA

#### OPERATIONS CHIEF

- ☒ Exchange Application Reviewed  
☐ Exchange Application for Submittal  
☐ Exchange Application Denied

- ☐ Exchange Application Reviewed  
☐ Exchange Application Authorized for Submittal  
☐ Exchange Application Denied

Area Manager

Date

Operations Chief

Date

Attach III Exchange Application

pg 1 of 6

ATTACHMENT 1

## Idaho Department of Lands – Area Offices

### **PRIEST LAKE AREA OFFICE**

4053 Cavanaugh Bay Rd.  
Coolin ID 83821  
Tel No: 443-2516  
FAX No: 443-2162

### **PEND OREILLE LAKE AREA OFFICE**

2550 Hwy. 2 West  
Sandpoint ID 83864  
Tel No: 263-5104  
FAX No: 263-0724

### **KOOTENAI VALLEY AREA OFFICE**

Route 4, P.O. Box 4810  
(South Highway 95)  
Bonners Ferry ID 83805  
Tel No: 267-5577  
FAX No: 267-8301

### **MICA AREA OFFICE**

3706 Industrial Ave. South  
Coeur d'Alene ID 83815  
Tel No: 769-1577  
FAX No: 769-1597

### **ST. JOE AREA OFFICE**

1806 Main Ave.  
St. Maries ID 83861  
Tel No: 254-4551  
FAX No: 475-4867

### **CATALDO AREA OFFICE**

80 Hilltop Overpass Rd.  
Kingston ID 83839  
Tel No: 682-4611  
FAX No: 682-2991

### **CLEARWATER AREA OFFICE**

10230 Highway 12  
Orofino ID 83544  
Tel No: 476-4587  
FAX No: 476-7175

### **PONDEROSA AREA OFFICE**

3130 Highway 3  
Deary ID 83823  
Tel No: 877-1121  
FAX No: 877-1122

### **MAGGIE CREEK AREA OFFICE**

Rt. 2 Box 190  
913 Third St  
Kamiah ID 83536  
Tel No: 935-2141  
FAX No: 935-0905

### **CRAIG MT. AREA OFFICE**

P.O. Box 68  
Craigmont ID 83523  
Tel No: 924-5571  
FAX No: 924-5572

### **PAYETTE LAKES AREA OFFICE**

555 Deinhard Lane  
McCall ID 83638  
Tel No: 634-7125  
FAX No: 634-5117

### **SOUTHWEST AREA OFFICE**

8355 W. State St.  
Boise, ID 83703  
Tel No: 334-3488  
FAX No: 853-6372

### **SOUTH CENTRAL AREA OFFICE**

324 South 417 East  
Suite 2  
Jerome ID 83338  
Tel No: 324-2561  
FAX No: 324-2917

### **EASTERN IDAHO AREA OFFICE**

3563 Ririe Highway  
Idaho Falls ID 83401  
Tel No: 525-7167  
FAX No: 525-7178

## **EXCHANGE APPLICATION TERMS AND CONDITIONS**

(Please read carefully before completing)

### **IMPORTANT CONSIDERATIONS:**

All endowment land transactions must be in accordance with the Idaho Department of Lands (IDL) mandate to assure the highest and best use of the land and to act in the best interest of the endowments.

Endowment land exchange is subject to the following Idaho Constitution or statutory reference:

1. Idaho Constitution - Article IX, Sections 8 and 10
2. Idaho Admissions Act - Section 5 (b)
3. Idaho Code Sections 58-104 (8), 58-138, 58-505

Submission of this application does not guarantee that the land will be exchanged. The Land Board or Director may determine that a land exchange would not be in the best interest of the endowments at any point prior to the execution of a Final Land Exchange Agreement; at which point the application would be denied.

Prior to filing an Exchange Application, the applicant is required to schedule a pre-application meeting with the Area Supervisor in the appropriate area. See list of area offices on Page 3 of the Exchange Application.

### **TRANSACTION COSTS BORNE BY THE APPLICANT**

1. Exchange Application Fee: \$1,000.00 The Exchange Application Fee is nonrefundable.
2. Transaction costs such as appraisal, survey, or Phase 1 Environmental Site Assessment (ESA) necessary to exchange properties are generally borne by the applicant but may be negotiated subject to Asset Management Steering Committee direction.
3. All endowment land will be appraised as though with all purpose legal access.

### **APPLICATION PROCESS**

Each Exchange Application is reviewed on a case by case basis. Evaluation of the application includes but is not limited to an analysis of: income potential to the endowment; proposed use; impact to adjacent endowment lands, access, proximity to existing development; parcel size; and conformance with local regulations are taken into consideration when evaluating the merits of each application.

Endowment lands shall be exchanged only after completion of a comprehensive staff evaluation and an agreement to initiate has been executed; a formal appraisal has been prepared and accepted; a satisfactory exchange package has been negotiated between IDL and the applicant; receipt of State Land Board approval and completion of a Land Exchange Agreement has been executed.

The Department will strive to process Exchange Applications through close of escrow within 6 months after an Agreement to Initiate the Exchange has been executed. However, the time frame will vary depending on the complexity of the exchange transaction and Department priorities as defined by the Asset Management Plan and the Land Board.

## IDL Property

| Parcel | Twp | Rge | Section | Subdivision                | Acres | County | Type of Land<br>(forest,<br>range,<br>agriculture,<br>commercial,<br>residential) | Name and street address of adjacent property owners | Fund<br>(IDL<br>Staff) |
|--------|-----|-----|---------|----------------------------|-------|--------|-----------------------------------------------------------------------------------|-----------------------------------------------------|------------------------|
| A      |     |     |         | See Attached Exhibit A & C |       |        |                                                                                   |                                                     |                        |
| B      |     |     |         |                            |       |        |                                                                                   |                                                     |                        |
| C      |     |     |         |                            |       |        |                                                                                   |                                                     |                        |
| D      |     |     |         |                            |       |        |                                                                                   |                                                     |                        |
| E      |     |     |         |                            |       |        |                                                                                   |                                                     |                        |
| F      |     |     |         |                            |       |        |                                                                                   |                                                     |                        |

## Applicant's property interest offered for Exchange

☒ Yes ☐ No Fee simple: surface plus subsurface  
☐ Yes ☐ No Subsurface minerals only  
☐ Yes ☐ No Surface only  
☐ Yes ☐ No Other \_\_\_\_\_

## Current use:

|   |  |
|---|--|
| A |  |
| B |  |
| C |  |
| D |  |
| E |  |
| F |  |

## Provide additional information about parcels.

|   |  |
|---|--|
| A |  |
| B |  |
| C |  |
| D |  |
| E |  |
| F |  |

## Attachment A

### Applicant's Property

| Parcel | Twp | Rge | Section | Subdivision                 | Acres | County | County Parcel No. | Type of Land<br>(forest, range,<br>agriculture,<br>commercial,<br>residential) | Name and street address of adjacent property owners |
|--------|-----|-----|---------|-----------------------------|-------|--------|-------------------|--------------------------------------------------------------------------------|-----------------------------------------------------|
| A      |     |     |         | Please See<br>Exhibit B & C |       |        |                   |                                                                                |                                                     |
| B      |     |     |         |                             |       |        |                   |                                                                                |                                                     |
| C      |     |     |         |                             |       |        |                   |                                                                                |                                                     |
| D      |     |     |         |                             |       |        |                   |                                                                                |                                                     |
| E      |     |     |         |                             |       |        |                   |                                                                                |                                                     |
| F      |     |     |         |                             |       |        |                   |                                                                                |                                                     |

### Applicant's property interest offered for Exchange

☒ Yes   ☐ No   **Fee simple: surface plus subsurface**  
☐ Yes   ☐ No   **Subsurface minerals only**  
☐ Yes   ☐ No   **Surface only**  
☐ Yes   ☐ No   **Other \_\_\_\_\_**

### Current use and surrounding uses:

|   |         |
|---|---------|
| A | Grazing |
| B | Grazing |
| C | Grazing |
| D | Grazing |
| E | Grazing |
| F |         |



Are you willing to obtain any required land and/or mineral interest application at your expense? ☐ Yes ☒ No

Are you currently leasing the property for any use?

☒ Yes ☐ No

If yes, please describe lease: Grazing

Provide a complete listing of improvements/structures for the applicant's property.

|      |
|------|
| None |
|      |
|      |
|      |

Provide an estimated market value for the applicant's property.

|               |
|---------------|
| 5,000 an acre |
|               |
|               |
|               |

Provide a complete listing of any dumps or other hazmat issues for the applicant's property.

|      |
|------|
| None |
|      |
|      |
|      |

Provide a complete listing of any easements that affect the applicant's property title.

|      |
|------|
| None |
|      |
|      |
|      |

Does applicant's property have legal access?

☒ Yes ☐ No

If yes, please describe access Access off of HWY 55

Does applicant's property have any water rights?

☐ Yes ☒ No

If yes, please list water right numbers that apply.

|  |
|--|
|  |
|  |
|  |
|  |

# Exhibit A

## From State Trust to Avimor

| IDL Prcl | tw | Rge | Section | 1/4 sect | 1/4, 1/4 sec | Description |
|----------|----|-----|---------|----------|--------------|-------------|
| 1        | 6n | 1e  | 27      | sw       | nw           |             |
| 2        | 6n | 1e  | 34      | nw       | nw           |             |
| 3        | 5n | 1e  | 2       | ne       | nw           |             |
| 4        | 5n | 1e  | 2       | ne       | ne           |             |
| 5        | 5n | 1e  | 2       | ne       | sw           |             |
| 6        | 5n | 1e  | 2       | ne       | se           |             |
| 7        | 5n | 1e  | 3       | sw       | nw           |             |
| 8        | 5n | 1e  | 3       | sw       | sw           |             |
| 9        | 5n | 1e  | 10      | nw       | nw           |             |
| 10       | 5n | 1e  | 10      | nw       | ne           |             |
| 11       | 5n | 1e  | 10      | ne       | nw           |             |
| 12       | 5n | 1e  | 10      | ne       | ne           |             |
| 13       | 5n | 1e  | 11      | nw       | nw           |             |
| 14       | 5n | 1e  | 11      | nw       | ne           |             |
| 15       | 5n | 2e  | 8       | nw       | sw           |             |
| 16       | 5n | 2e  | 8       | se       | nw           |             |
| 17       | 5n | 2e  | 9       | nw       | sw           |             |
| 18       | 6n | 2e  | 32      | se       | se           |             |
| 19       | 5n | 2e  | 5       | ne       | ne           |             |
| 20       | 5n | 2e  | 4       | nw       | nw           |             |
|          |    |     |         |          |              |             |
|          |    |     |         |          |              |             |

# EXHIBIT B

## From Avimor to State Trust

| App Prcl                                                | tw | Rge | Section | 1/4 sect | 1/4, 1/4 sec | Description            |
|---------------------------------------------------------|----|-----|---------|----------|--------------|------------------------|
| 1                                                       | 6n | 2e  | 20      | ne       | sw*          | To Summit Ridge Road   |
| 2                                                       | 6n | 2e  | 20      | nw       | se           |                        |
| 3                                                       | 6n | 2e  | 20      | nw       | sw           |                        |
| 4                                                       | 6n | 2e  | 19      | ne       | se           |                        |
| 5                                                       | 6n | 2e  | 19      | ne       | sw           |                        |
| 6                                                       | 6n | 2e  | 19      | nw       | se           |                        |
| 7                                                       | 6n | 2e  | 19      | sw       | ne           |                        |
| 8                                                       | 6n | 2e  | 19      | se       | nw           |                        |
| 9                                                       | 6n | 2e  | 19      | se       | ne           |                        |
| 10                                                      | 6n | 2e  | 20      | sw       | nw           |                        |
| 11                                                      | 6n | 2e  | 20      | sw       | ne           | plus portion of nw1/4, |
| 12                                                      | 6n | 2e  | 20      | sw       | se*          | plus portion of sw1/4, |
| 13                                                      | 6n | 2e  | 20      | sw       | sw           |                        |
| 14                                                      | 6n | 2e  | 19      | se       | se           |                        |
| 15                                                      | 6n | 2e  | 19      | se       | sw           |                        |
| 16                                                      | 6n | 2e  | 19      | sw       | se           |                        |
| 17                                                      | 6n | 2e  | 29      | nw       | nw           | plus portion ne1/4,    |
| 18                                                      | 6n | 2e  | 29      | nw       | ne           | to HWY 55              |
| 19                                                      | 6n | 2e  | 29      | nw       | sw*          | to power line, plus    |
| 20                                                      | 6n | 2e  | 29      | nw       | se*          | to Hwy 55              |
| * portion of 1/4, 1/4 section (see map and description) |    |     |         |          |              |                        |

Avimor LEX  
Endowment Land Legal Descriptions

Township 5N, Range 1E, Ada County:

NE  $\frac{1}{4}$ , Section 2- 160 acres  
W  $\frac{1}{2}$ , SW  $\frac{1}{4}$ , Section 3- 80 acres  
N  $\frac{1}{2}$ , N  $\frac{1}{2}$ , Section 10- 160 acres  
N  $\frac{1}{2}$ , NW  $\frac{1}{4}$ , Section 11- 80 acres

Township 6N, Range 1E, Ada County:

NW  $\frac{1}{4}$ , SW  $\frac{1}{4}$ , Section 27- 40 acres  
NW  $\frac{1}{4}$ , NW  $\frac{1}{4}$ , Section 34-40 acres

Township 5N, Range 2E, Boise County:

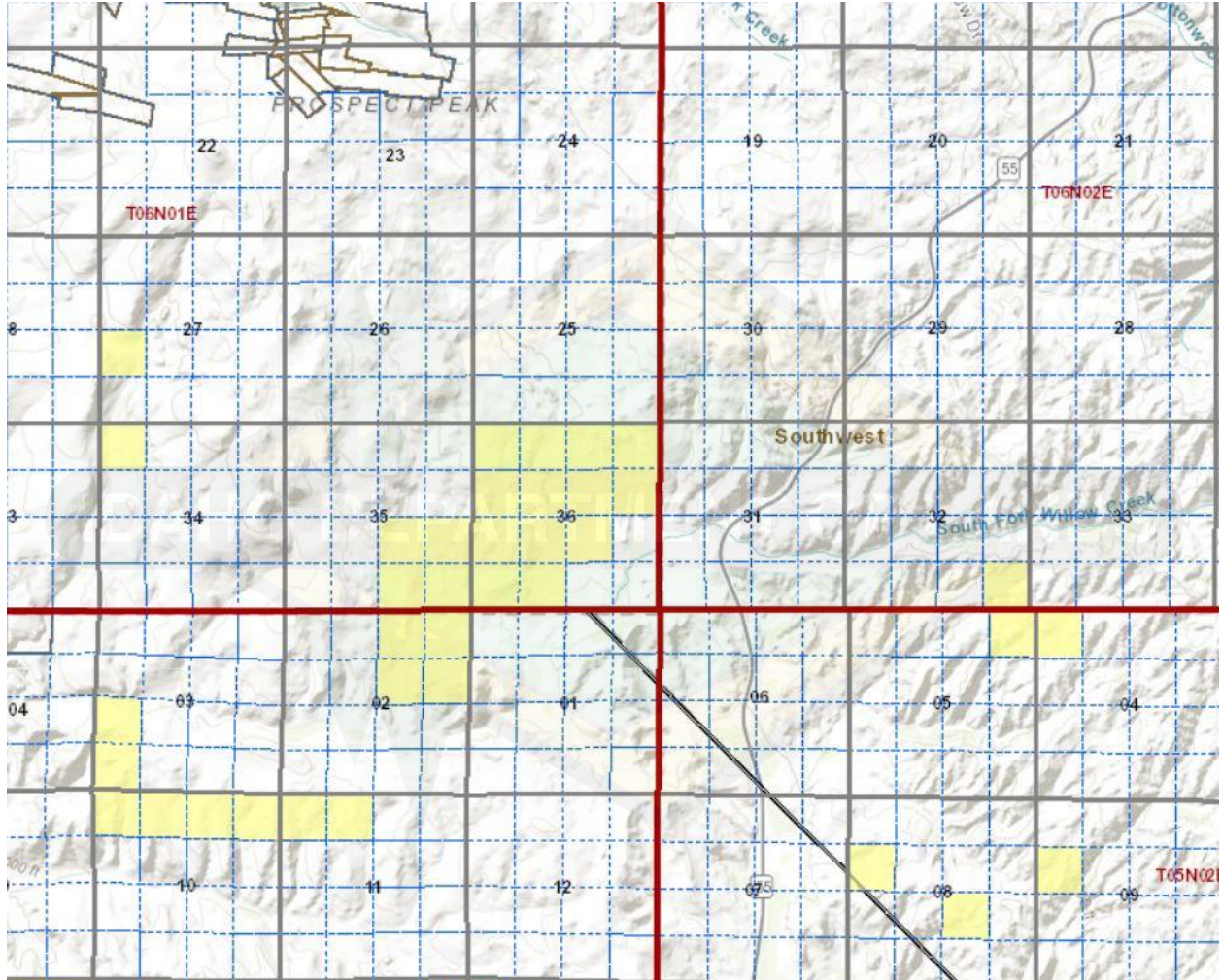
NW  $\frac{1}{4}$ , NW  $\frac{1}{4}$ , Section 4- 40 acres  
NE  $\frac{1}{4}$ , NE  $\frac{1}{4}$ , Section 5- 40 acres  
SW  $\frac{1}{4}$ , NW  $\frac{1}{4}$  &  
NW  $\frac{1}{4}$ , SE  $\frac{1}{4}$ , Section 8- 80 acres  
SW  $\frac{1}{4}$ , NW  $\frac{1}{4}$ , Section 9- 40 acres

Township 6N, Range 2E, Boise County:

SE  $\frac{1}{4}$ , SE  $\frac{1}{4}$ , Section 32- 40 acres

# Avimor LEX

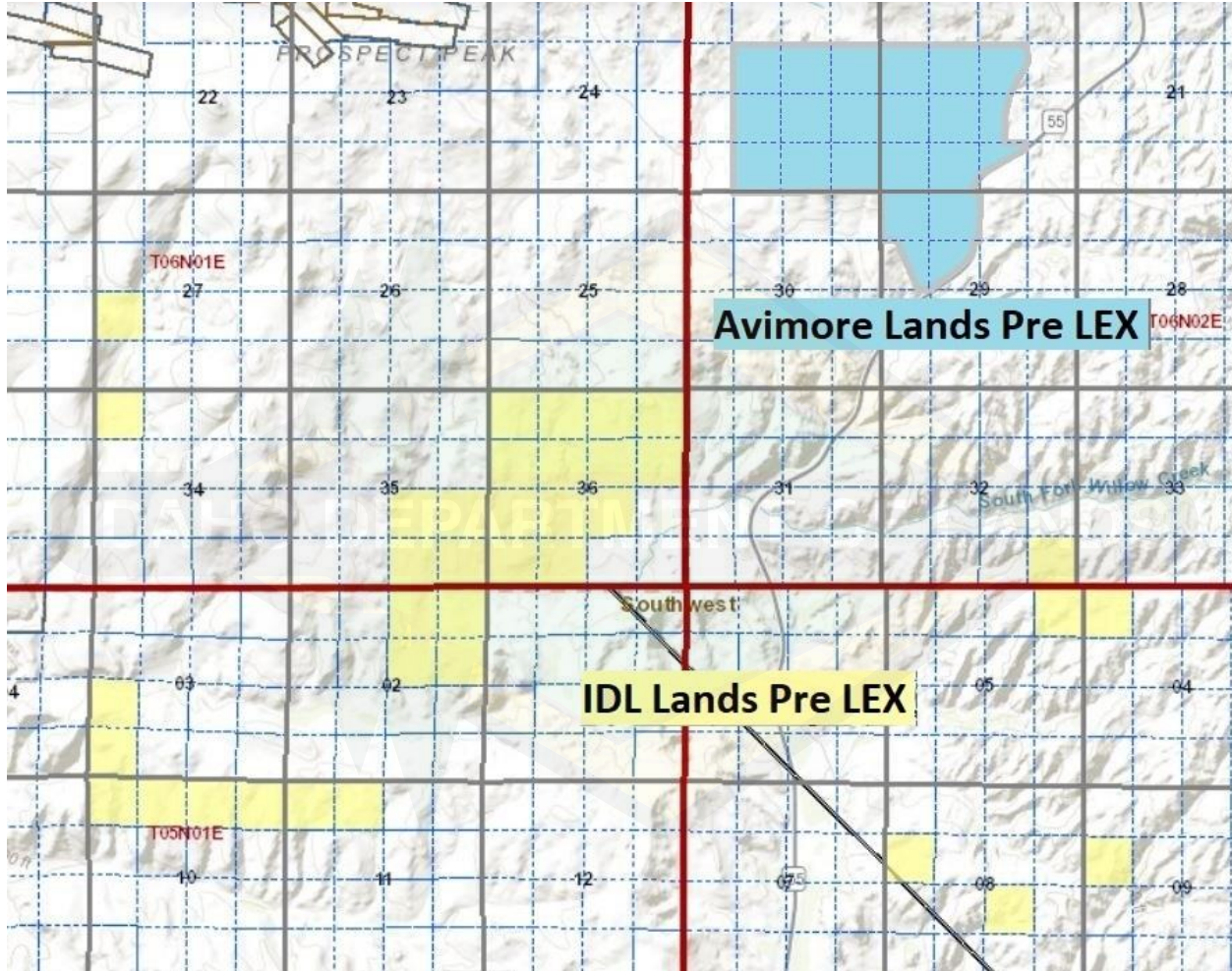
## Existing IDL Parcel Map





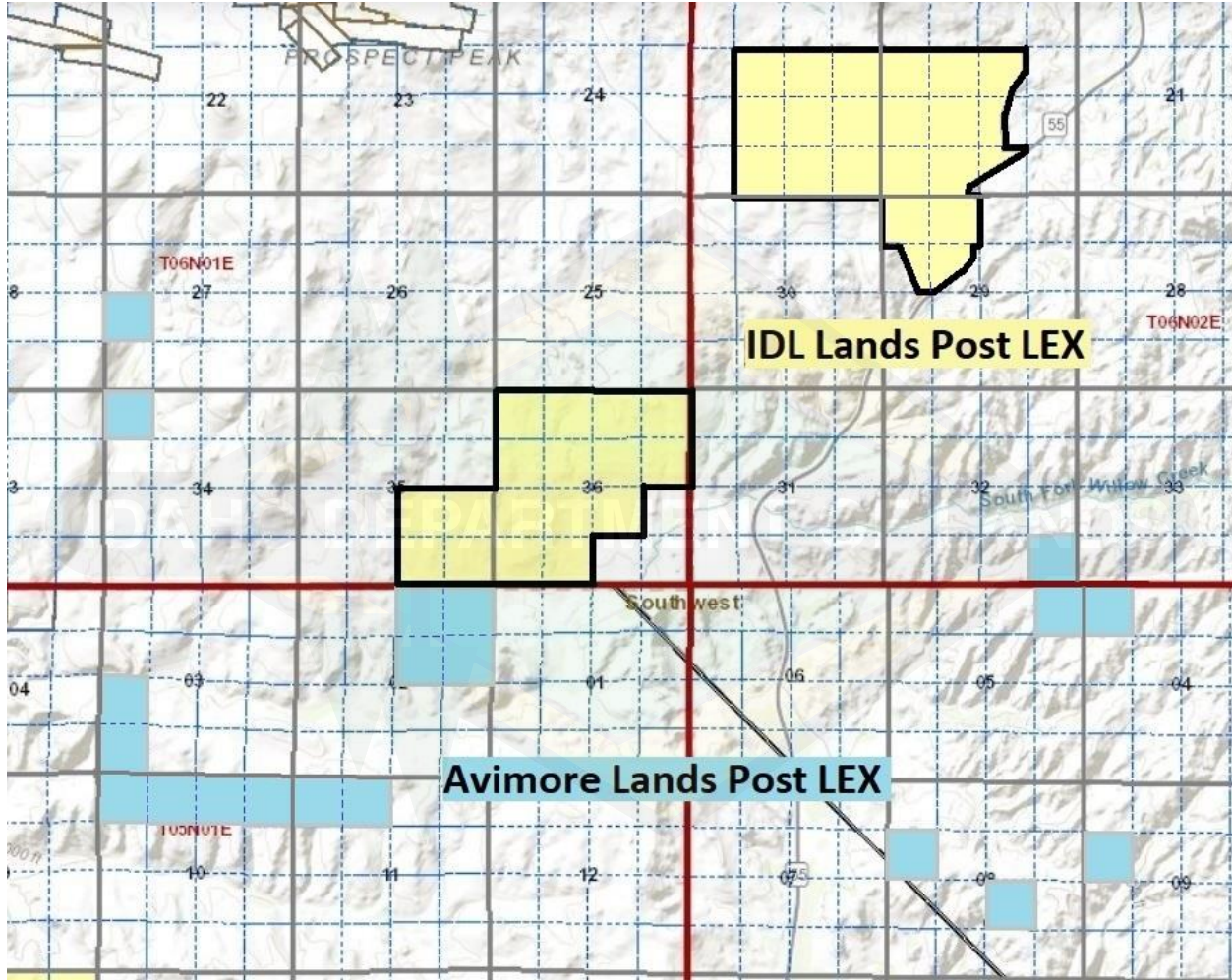
# Avimor LEX

## Existing Ownership Map





# Avimor LEX Proposed Ownership Map



# Due Diligence Checklist

**“Due Diligence”** is a broad term that business, real property professionals and real estate attorneys use. The term is used here to refer to the inspection and investigation of real property being considered for acquisition. Due diligence is conducted to assist the buyer in making an informed purchase decision. Items considered under due diligence vary with each property type. The following checklist is a reference used to identify documents and conditions that should be considered in the purchase of real property.

       **Commitment for Title Insurance (All Properties).** A commitment for title insurance (Preliminary Title Report) should be obtained soon after the Purchase Sale Agreement is executed. This document includes the legal description for the property and provides a list of all current exceptions to title on the property such as property owner, unpaid taxes, easements, options to purchase, judgments, mortgages, recorded liens, deed of trust, timber harvest rights, mineral rights, water rights. The title review process is used to determine the condition of the title to be transferred to the buyer at closing, as well as identifying any potential title problems.

       **Phase One Environmental Site Assessment (Phase One ESA) (All Properties).** The Phase One ESA provides the buyer an overview of the environmental condition and environmental history of the property. The report is intended to identify actual and potential problems (e.g. contamination by hazardous substances, leaking underground storage tanks, landfills, etc.) based primarily on a review of historical use documentation, regulatory agency databases and a physical on-site investigation. If environmental conditions or potential environmental conditions are discovered during the investigation, the report will generally recommend specific follow-up testing, remediation and/or studies. A Phase One ESA typically does not include specific inspections for asbestos, lead paint, mold, radon, or wetland delineation. The final report has four components including: Records Review; Site Reconnaissance; Interviews with present and past owners, operators, occupants of the property and local government officials; and a Narrative Report.

       **Access (All Properties).** Evaluate the adequacy of access and determine whether additional rights may be obtained as part of an exchange or purchase transaction at closing. There are five (5) access classifications:

- 1) **Public Use Access:** A permanent public access typically from a county road, state or Federal highway, which has an approved approach designated for the purpose of which the property is currently being used, or designated for its current zoning. Width of approach needs to be sufficient for the properties designated use.
- 2) **Full Legal Administrative Access:** A designated permanent easement specifically identified for access to property for all management activities and access is transferable.

- 3) **Limited Legal Administrative Access:** A designated temporary or permanent access limited for specific activities that would be non-transferable. (Such as Timber harvest, for maintenance access, irrigation.)
- 4) **Physical Access:** Properties where there is an existing road to or across the property, but no permanent legal access is recorded. The road may be designated on a county map. The existing road may be primitive, in poor condition, or currently unusable.
- 5) **No Access:** Property with no legal or physical access established or identified by a recorded document or a county map.

\_\_\_\_\_ **Utilities (All Properties).** Identify existing utility infrastructure located on or adjacent to property such as power, water/well, septic/sewer, phone, natural gas, hot water, solar, wind and if they are provided by city services or located on site. Identify the capacity of the utilities; are they major transmission facilities which would encumber future use or development of the property, or are they of a capacity which could enhance the property for future development

\_\_\_\_\_ **Production Data (All Properties).** Obtain production information associated with the property being considered for purchase. Examples of production data for some property types:

- 1) **Cropland.** Parcel acreage, farmable acres, non-farmable acres, commodities grown, yields, total production, price per unit, and crop rotation. If the property will be acquired subject to a lease; name of tenant, term of lease, and type of lease (i.e. cash or crop share).
- 2) **Timberland.** Total acreage; delineation of acreage used for commercial timber, plantation, non-commercial timberland, and non-stocked; estimated timber volumes by species (i.e. MBF), and mean annual increment (MAI).
- 3) **Rangeland.** Parcel acreage, animal unit months (AUM's) of forage, season of use.
- 4) **Commercial.** Property operating data including cash flow analysis, vacancy rates, operating costs, rent vs. market rent, existing leases and lease terms.

\_\_\_\_\_ **Mineral Rights (All Properties).** The terms "mineral lands," "mineral," "mineral deposits," "deposit," and "mineral right," as used herein is construed to mean and include all coal, oil, oil shale, gas, phosphate, sodium, asbestos, gold, silver, lead, zinc, copper, antimony, geothermal resources, salable minerals, and all other mineral lands, minerals or deposits of minerals of whatsoever kind or character. This includes "salable minerals," meaning a mineral substance that can be taken from the earth and that has a value in and of itself separate and apart from the earth. The potential of mineral lands should be evaluated on annual rental, the amount of royalty, the basis upon which the royalty shall be computed and such other details as necessary in the interest of the state.

Determine whether the property to be acquired excludes mineral rights. To the extent that the mineral rights have been severed from fee ownership, determine to what extent, if any, those severed rights affect the use and value of the property by the buyer. Prior to purchase, determine who owns the mineral rights and what the owner's intent is regarding use and development of the mineral estate.

\_\_\_\_\_ **Water Rights (All Properties).** The constitution and statutes of the state of Idaho declare all the waters of the state, when flowing in their natural channels, including the waters of all natural springs and lakes within the boundaries of the state, and ground waters of the state, to be public waters. A water right is the right to divert the public waters of the state of Idaho and put them to a beneficial use, in accordance with one's priority date. Beneficial uses include such uses as domestic use, irrigation, stock-watering, manufacturing, mining, hydropower, municipal use, aquaculture, recreation, fish and wildlife, among others. The amount of the water right is the amount of water put to beneficial use. Determine the scope and nature of any water rights related to the property. If a property is fully serviced by water and sewer utility service, water rights will not be an issue. If water rights for the property have been separated from the fee interest or come from an off-site source, the purchase and sale agreement must address the transfer of necessary rights to the buyer at closing. The Idaho Department of Water Resources maintains a website to research water rights within the state of Idaho.

\_\_\_\_\_ **Physical Improvements (All Properties).** Improvements include buildings, fences, ponds, spring developments, and real property fixtures that are permanently part of the land. Improvements are generally attached to, embedded in or permanently resting on the land and cannot be removed without substantially damaging an improvement or the real property with which it is being used. An inventory of physical improvements on the property and who owns or claims to own the improvements will be made prior to requesting an appraisal.

\_\_\_\_\_ **Approvals and Entitlements (All Properties).** Determine the regulatory status of proposed property, and if it is based on the type or types of uses currently being made of the land. Review the current zoning, potential zoning, areas of impact, proposed future growth, any restrictive covenants or proposed restrictions which would encumber the property and its utilization in its highest and best use. Confirm that the existing use of the property complies with applicable zoning, building and life safety codes. Determine which land use entitlements will be necessary for intended use of the property.

\_\_\_\_\_ **Personal Property (All Properties).** Identify within the Purchase Sale Agreement what personal or intangible property will be included in the purchase. For example, furniture, trade fixtures, equipment, sprinkler pipe, pumps, etc. that are necessary for the buyer's use of the property. Determine any third party security interest in any of the personal property. Assess the need to purchase or transfer permits or licenses required to operate the property or related equipment and fixtures (e.g. franchises, trademarks, patents, copyrights, liquor licenses, etc.)

\_\_\_\_\_ **Rights-of-Way (Easement) Impacts (All Properties).** Rights-of-way are temporary or permanent property rights that have been either granted or acquired, for roads, utilities, or public use access. These are often conveyed through an easement and may or may not be recorded. In addition to roads and utilities some more obscure examples include:



- 1.) Conservation easements – limits the amount and type of development that can occur on a property in order to preserve its productive capacity and open character while keeping the property in the landowner's ownership and control.
- 2.) Solar/Scenic easements – protect an owner's view shed or path of sunshine and generally restrict the height of building construction.
- 3.) Airspace easement – permits the area above the surface of property to permit an imposition upon such property from excessive noise, vibration, discomfort, inconvenience, etc. that consequently reduces market value. Generally used for airport impact areas but can also apply to bridges and walkways.
- 4.) Maintenance easement – permits an individual to cross onto the property of another for the purpose of maintaining something owned or controlled by the dominant estate owner, such as, irrigation ditches, canals, culverts, power lines, water lines, etc.

\_\_\_\_\_ **Endangered Species (All Properties).** The Endangered Species Act of 1973, as amended, is one of the most far-reaching wildlife conservation laws ever enacted by any nation. The presence of threatened/endangered or potentially threatened/endangered species may significantly restrict the development potential, other potential uses, and market value of a property.

\_\_\_\_\_ **Copies of all leases affecting the property (All Properties).** Review all leases having an effect on the future use of or income from the property. For state lands involved in an exchange, ensure a land exchange addendum is signed by the lessee.

\_\_\_\_\_ **Appraisals and Appraisal Review (All Properties).** A real estate appraisal is required for all property types to determine the market value for the property or property rights or interest being disposed or acquired. At a minimum the appraisal is prepared in compliance with the *Uniform Standards of Professional Appraisal Practice (USPAP)*. Appraisals will be independently reviewed by IDL or another appraiser to ensure compliance with USPAP and to determine the adequacy and appropriateness of the report.

\_\_\_\_\_ **Property Boundary Survey (Optional).** Obtain copies of recorded Records of Survey for the property, if available. If a survey is necessary it should be initiated immediately after the Purchase and Sale Agreement has been executed to allow time to address any potential title problems identified by the survey prior to closing.

\_\_\_\_\_ **Timber Rights (Timberland).** Determine who has the legal right to harvest the timber on a parcel of land. A seller of forestland can choose to include or exclude timber rights as part of a fee ownership sale. Such rights can be severed for a specific period of time or permanently transferred.

\_\_\_\_\_ **Timber Cruise/Harvest/Road analysis and Check Cruise (Timberland).** Forested properties with merchantable timber being considered for acquisition will require a timber cruise to determine the quality and quantity of harvestable timber. The cruise will identify tree species and measurements within each plot. Sufficient plots must be

measured to obtain a statistically reliable sample for estimated gross volume, defect, piece size, general stand information, net merchantable volume, etc.

       **Conservation Reserve Program (Agriculture/Timberland).** Determine if the property is eligible for and currently enrolled in a variety of farm and agriculture programs. What is the impact in ownership change to enrollment eligibility? There are currently five (5) areas which can receive payment, including:

- 1) Wildlife Habitat Incentives (WHIP)
- 2) Wetland Reserve Program (WRP)
- 3) Forestry Incentive Program (FIP)
- 4) Farmland Protection Program (FPP)
- 5) Environmental Quality Incentives Program (EQIP)

       **Architecture/Engineering Analysis (Properties with Buildings).** Acquisition of properties with business related structures requires an analysis by architectural and engineering professionals to determine the condition of the building and identify any potential problem areas, such as deferred maintenance and necessary repairs. Such analysis will typically consider, but is not limited to an analysis of: structural integrity; roof, electrical, plumbing and HVAC systems age and condition; Americans with Disabilities Act (ADA), fire and safety code compliance; general service and maintenance logs; parking area requirements and surface age and condition; review of Phase One Environmental Site Assessment; and testing for asbestos, lead paint, or mold issues. If work is performed on improvements prior to closing, obtain copies of any design and construction drawings and contracts and determine whether the seller's rights under those contracts are assignable to the buyer. Ensure proper lien waivers have been obtained by the seller for work performed prior to closing.



# STATE BOARD OF LAND COMMISSIONERS

October 20, 2020

Regular Agenda

## Subject

Grazing Rate Formula and 2021 Grazing Lease Rate

## Question Presented

Shall the Land Board approve the Department's proposed course of action to update the current grazing rate formula?

## Background

In 1993, the State Board of Land Commissioners (Land Board) adopted a formula to determine the annual grazing fee for leases on state endowment trust land. The formula is based upon four indices used to approximate the value of forage on state endowment trust land and is applied on an Animal Unit Month (AUM) basis. These indices include private lease rates, forage value, prices received for beef cattle, and the price of inputs to produce beef cattle. The USDA National Agricultural Statistics Service (NASS) publishes these indices in December and January of each year, reflecting data from the previous 12-month period. The grazing rate for 2021 is calculated to be \$7.07/AUM.

The 2021 grazing rate (status quo formula) is the 4th year of declining Department rates, while private lease rates remain steady. The gap between the Department rate and private lease rates continues to widen. The rate disparity has occurred and in fact grown since the 1990's, highlighting the continued need for evaluation.

As a part of that grazing rate evaluation process, the Land Board directed the Department to engage with the University of Wyoming (UW) regarding their collaborative project with the Public Lands Council Endowment Trust to provide an up-to-date, third-party study on the non-fee costs for federal rangeland grazing. In 2019, the Department and UW finalized an agreement for a study that followed the same methodology but would seek to estimate the non-fee costs to graze on endowment land. The Department received the report from UW, which the university deemed final (Attachment 1).

## Discussion

### 2021 Grazing Lease Rate

To align with the rental rate notice requirements in Idaho Administrative Code 20.03.14, the 1993 status quo formula will be used for the 2021 grazing rate. Based on the most recent indices reported, the grazing rate for 2021 will be \$7.07 per AUM. This figure represents a decrease of approximately 3% from the 2020 rate of \$7.32. The primary drivers of the

change in rate were a decrease in the Forage Value Index and an increase in the prices paid for production inputs. Formula value changes are as follows:

| Value                            | % Change              |
|----------------------------------|-----------------------|
| FVI – Forage Value Index         | Decrease of 3%        |
| BCPI – Beef Cattle Price Index   | No Significant Change |
| PPI – Prices Paid Index          | Increase of 4%        |
| IDFVI – Idaho Forage Value Index | No Significant Change |

The AUM fee formula for sheep as approved by the Land Board provides that if the previous 12-month (October 1 - September 30) average lamb price is less than or equal to 70% of the price for calves under 500 pounds during the same period, the sheep AUM rate will be reduced 25%. Price data reviewed by the Idaho Department of Lands (Department) this month has shown that an additional reduction beyond the cattle AUM rate will not be necessary.

All grazing lessees and cropland lessees reporting grazing activities will be notified of the 2021 rate within six months of the new rate taking effect.

#### **University of Wyoming Grazing Rate Study**

The Department found significant issues with the UW grazing rate study, as outlined in Attachment 2: *Analysis of Non-Fee Grazing Cost Study for the Idaho Department of Lands*. The primary concern is the low response rate from lessees, resulting in only 38 lessees being surveyed, while the original requirement was to survey 86 lessees to achieve statistical significance. Due to the low response rate and lack of statistical significance, the Department cannot confidently rely on this study alone to decide the grazing rate.

#### **Next Steps**

The Department proposes to work with Land Board and Department staffs to synthesize data from previous working groups, Department analyses, the UW grazing rate study, previously collected public input, and other available information, including meetings with stakeholders, to formulate grazing rate options for the Land Board's consideration. For example, instead of focusing on complicated formulas, the Department could use a simple formula that establishes the Department grazing rate as a percentage of the private lease rate. Regardless of the methodology, it will be the goal of the Department to recommend a method to establish the lease rate that achieves a fair market rate for the endowment beneficiaries. A decision regarding the grazing rate must be made by September 2021 in order to establish a new rate for 2022. Accordingly, the Department would present its

recommendation to the Land Board no later than July 2021 to allow time to address any concerns or comments by the Land Board prior to adopting the 2022 grazing rate.

### **Recommendation**

Direct the Department to coordinate with Land Board staff, gather and review pertinent information, engage with stakeholders, and conduct any other work necessary to recommend a grazing rate method to the Land Board no later than July 2021.

### **Board Action**

### **Attachments**

1. UW Non-Fee Grazing Cost Study Final Report for IDL
2. IDL Analysis of UW Non-Fee Grazing Cost Study



IDAHO DEPARTMENT OF LANDS

# **Non-Fee Grazing Cost Study for the Idaho Department of Lands**

**Submitted by:**

**John A. Tanaka, Kristie A. Maczko, Thomas Hilken, and Kasey Dollerschell<sup>1</sup>**

**March 31, 2020**

## **Background**

In 2015, Idaho Department of Lands (IDL) began a review of their state grazing rate formula that had been in effect since 1993. During the August 2018 Land Board meeting, the State Board of Land Commissioners decided to continue using the status quo grazing rate methodology but directed IDL to engage with the University of Wyoming in their collaborative project with the Public Lands Council Endowment Trust (PLCET). The collaborative PLCET project is intended to provide a comprehensive, up-to-date, third-party study on the non-fee costs for federal rangeland grazing (BLM and USFS) within the state of Idaho. Research on this topic started in the 1960's, continued into the 1990's and the PLCET felt it was now due for an update on federal rangelands.

In 2018, IDL and University of Wyoming finalized an agreement (Joint Funding Agreement No.19-416) for a study that would quantify an estimate of the non-fee costs of grazing livestock on Idaho Department of State Lands. This study would be completed in conjunction with the collaborative project funded by the PLCET.

## **Purpose and Objective**

This study focused on non-fee costs associated with livestock grazing to determine the total cost of grazing on state endowment rangelands on a per AUM basis. It is our understanding that the information gained from this study may be used by the State Board of Land Commissioners in the process regarding the state grazing fee and methodology in accounting for non-fee costs of grazing on state endowment rangelands.

The objective of this study was to quantify and estimate the non-fee costs of grazing livestock on Idaho Department of Lands (IDL) lease lands and compare those costs with federal (USDI Bureau of Land Management (BLM) and the USDA Forest Service (USFS)) and private rangelands within Idaho. This project is being done in conjunction with a collaborative project funded by the Public Lands Council Endowment Trust (PLCET) and the University of Wyoming to estimate non-fee costs on rangelands managed by the BLM and USFS, as well as private rangelands within the State of Idaho. The PLCET project is also estimating the non-fee costs of federal and private lands in Wyoming and California.

## **Methods**

This project consisted of in-person interviews using a questionnaire developed specifically for collecting information from Idaho state land lessees (Attachment 1). The survey form was

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<sup>1</sup> Authors are Professor Emeritus, Executive Director of the Sustainable Rangelands Roundtable, Research Assistant, and Graduate Research Assistant, University of Wyoming

compiled by researchers from the University of Wyoming with input from IDL. It was based on the survey conducted in the early 1990's by a group of researchers looking at the non-fee costs of grazing on public lands (Torell et al. 1993). After the questionnaire was developed, it was submitted to the University of Wyoming Institutional Review Board for approval to conduct research with human subjects and was approved for use (Attachment 2). Similar questionnaires were used to collect information for non-fee costs associated with federal and private rangelands.

Survey information from the completed questionnaires were then transferred to Excel spreadsheets and summarized. Data were summarized in the same categories as were used in the original 1966 non-fee grazing study that established the federal grazing fee (Table 1). Other information obtained from the questionnaire, but not summarized in the worksheets, included: general ranch characteristics such as rangeland vegetation and topography; number of and class of livestock; grazing management practices; and, when the state lease was purchased and the purchase price.

Table 1. Summary of Fee and Non-Fee Grazing Costs, 1966.

| Item                                                                                                   | Cattle      | Cattle      | Sheep       | Sheep       |
|--------------------------------------------------------------------------------------------------------|-------------|-------------|-------------|-------------|
|                                                                                                        | Public      | Private     | Public      | Private     |
| Lost Animals                                                                                           | 0.60        | 0.37        | 0.70        | 0.65        |
| Association Fees                                                                                       | 0.08        | -           | 0.04        | -           |
| Veterinarian                                                                                           | 0.11        | 0.13        | 0.11        | 0.11        |
| Moving Livestock                                                                                       | 0.24        | 0.25        | 0.42        | 0.38        |
| Herding                                                                                                | 0.46        | 0.19        | 1.33        | 1.16        |
| Salt and Feed                                                                                          | 0.56        | 0.83        | 0.55        | 0.45        |
| Travel                                                                                                 | 0.32        | 0.25        | 0.49        | 0.43        |
| Water                                                                                                  | 0.08        | 0.06        | 0.15        | 0.16        |
| Horse Cost                                                                                             | 0.16        | 0.10        | 0.16        | 0.07        |
| Maintenance                                                                                            | 0.43        | 0.40        | 0.20        | 0.24        |
| Development Depreciation                                                                               | 0.11        | 0.03        | 0.09        | 0.02        |
| Other Costs                                                                                            | 0.13        | 0.14        | 0.29        | 0.22        |
| Private Lease Rate                                                                                     | -           | 1.79        | -           | 1.77        |
| <b>Total Non-Fee Costs</b>                                                                             | <b>3.28</b> | <b>4.54</b> | <b>4.53</b> | <b>5.66</b> |
| Cost Difference/Forage Value                                                                           |             | 1.26        |             | 1.13        |
| Weighted Cost Difference                                                                               |             |             | 1.23        |             |
| (weighting by relative AUMS of cattle and sheep on public lands)                                       |             |             |             |             |
| Source: USDI and USDA. 1977. Study of Fees for Grazing Livestock on Federal Lands. Table 5, Page 2-22. |             |             |             |             |

Table 1 shows the estimated costs in 1966 dollars for cattle and sheep on public and private lands. The weighted cost difference between private and public land costs of grazing was used to initially establish the federal grazing fee. The Public Rangelands Improvement Act (PRIA, PL 95-514) established a formula to update the federal grazing fee using the \$1.23 base. This was amended in 1986 to the current \$1.35/AUM base by Executive Order 12548.

Rancher cost information is personal and confidential. IDL was not involved in the selection process and no personal information from this study was shared outside the research team. In addition, the final data from this project are combined totals. No individual data can be released. The list of ranchers sampled has been destroyed as per the University of Wyoming approved protocol. Because most of the interviewees had both a federal permit and state lease, two researchers conducted every interview with each researcher being responsible for either the state lease, federal allotment, or private lease.

Initially, a random sample of 100 livestock producers was drawn from a list of federal permittees who participated in the study conducted in the 1990's. In addition, a random sample of 100 state land lessees was drawn from the state lessee list of 800 provided by IDL. A package to introduce the project and invite participation, along with a copy of the questionnaire, was mailed to the randomly selected producers. The letter informed the ranchers that participation was voluntary and there was no need to travel as the 2 researchers would visit them to conduct the approximately 2 to 3-hour interview, depending upon the amount of information filled out by the rancher prior to the interview. We encouraged participation by informing the ranchers that their shared information would be greatly appreciated and aid in the research on this topic, particularly since data has not been updated for over 20 years. Because response was extremely low from the initial mailing, it was decided that phone calls would be made to encourage participation. After phoning every name that had a phone number on the list once (and twice if a message was left or no answer from the first attempt), it became quite evident that participation was going to be a challenge. Therefore, a second random sample of 100 federal permittees and state lessees was selected from their respective lists. The PLCET study provided a second federal list, while the second state list was pulled from the original list provided by IDL in an attempt to get the desired number of respondents. Phone calls were then made to the second lists in another attempt to get to the desired number of interviews.

In addition, IDL sent out a letter to all 800 lessees encouraging participation from those ranchers that were previously selected from the 2 random samples. The initial intent was to ensure we had enough IDL respondents to meet a 95% confidence level with a 10% margin of error. Given 800 lessees with IDL leases, this would be 86 respondents needed. Every opportunity was afforded to the ranchers to become involved in this study.

## **Results and Discussion**

It was our understanding that there were approximately 1,400 IDL leases held by approximately 800 lessees. As previously mentioned, the original intent was to sample 86 lessees to meet a 95% confidence level with 10% margin of error. However, because of low lessee participation, we ended up interviewing 38 lessees that held 85 leases. In discussions with the researchers that conducted the last study in the early 1990's this approach was consistent with what they did (Rimbey, N.R., personal communication). The first randomly selected list resulted in 14 interviews while the second list resulted in 16 interviews. Six interviews were completed as a result of federal lists that contained federal permittees that also had control of one or more state leases. The final 2 phone interviews (for a total of 38 interviews) resulted from IDL sending a letter to all 800 lessees requesting participation. It remains a mystery as to why the ranching community would not want to be involved, however one can only speculate that ranchers may



have been reluctant due to fear of their grazing rates increasing as a result of this study. The 38 respondents did result in 85 leases surveyed totaling 25,486 AUMs with a range of 8 to 1,800 AUMs per lease, and an average of 299 AUMs per lease.

Table 2 shows the results for the Idaho state lands, the federal lands in Idaho, and private leases in Idaho in the same format as the original 1966 grazing fee cost study. All 3 are shown here for comparison purposes and will be discussed further.

Table 2. Non-fee grazing costs for Idaho Department of Lands leases, federal allotments, and private leases, 2018.

| Item                            | 2018<br>Survey<br>IDAHO | 2018<br>Survey<br>Federal | 2018<br>Survey<br>Private |
|---------------------------------|-------------------------|---------------------------|---------------------------|
| Lost Animals                    | 8.86                    | 6.02                      | 5.32                      |
| Association Fees                |                         |                           |                           |
| Veterinarian                    | 0.38                    | 0.48                      | 0.17                      |
| Moving Livestock                | 3.92                    | 5.76                      | 3.69                      |
| Herding                         | 2.99                    | 10.43                     | 3.38                      |
| Salt and Feed                   | 1.65                    | 1.96                      | 1.25                      |
| Travel                          | 0.16                    | 0.03                      | 0.01                      |
| Water                           | 1.00                    | 1.29                      | 0.07                      |
| Horse Cost                      | 0.18                    | 0.19                      | 0.13                      |
| Maintenance                     | 3.84                    | 5.85                      | 2.43                      |
| Development Depreciation        | 7.11                    | 3.12                      | 0.54                      |
| Other Costs                     | 2.09                    | 1.06                      | 1.63                      |
| Technology                      | 0.13                    | 0.03                      | 0.13                      |
| Private Lease Rate <sup>1</sup> |                         |                           | 18.00                     |
| Total Non-Fee Costs             | 32.30                   | 36.22                     | 36.77                     |
| Grazing Fee                     | 8.03                    | 1.41                      |                           |
| <b>Total Cost</b>               | <b>40.33</b>            | <b>37.63</b>              | <b>36.77</b>              |

Notes:

2018 Private Lease Rates from USDA-NASS (Ag. Prices, February 2019).

Results from the survey interviews indicate that Idaho Department of Lands grazing leases appear to have the highest total cost, but the lowest non-fee costs of the 3 kinds of ownership. The lost animals and development depreciation costs appear to be the highest on IDL lands. Additionally, although it is speculation on our part, there appears to be more incentive for ranchers to invest in rangeland improvements on state lands. One new category of non-fee cost that was added to this study was the rancher's use of technology in managing their operation. While it is not an extremely high cost at this point, it will be interesting to see how this cost changes in the future.

We note that the sample of private land leases is very small. There is no systematic way to collect a population of ranches that lease private land, so this sample is more opportunistic. In some cases, it was ranchers that had state leases that also had private leases and in others it was word of mouth. Statistically, it is impossible to say how accurate the results are for private leases. The population is unknown and there was no random sample (two of the requirements for a statistical sample). In previous studies, researchers have been able to work with groups like the USDA-National Agricultural Statistics Service (USDA-NASS) to identify those producers that reported leasing private land for beef cattle or sheep production. While we tried that route, we were told by USDA-NASS that approach is no longer possible.

## **Conclusions**

In the original 1966 study that compared costs of grazing between federal and private lands, non-fee costs on federal permits averaged \$1.23 per AUM less than total costs on private land leases. Following that same logic, it appears that grazing on Idaho State Lands is more expensive than grazing that occurs on private land and federal allotments. The State of Idaho may wish to investigate why it appears to have higher total costs than other kind of permitted or leased lands. Possible areas to explore include the investment and maintenance of range improvements (water developments, corrals, roads, juniper, and invasive plant control, etc.) and death losses/lost animals on state lands. Depending on who maintains title to the range improvements and what happens when leases change hands, that relatively large cost may be an acceptable difference in total costs.

Additionally, comparing previous studies can shed some light on structural changes in how cattle and sheep are raised using these leases and permits. As Rimbey and Torell (2011) explained when they used the indices to adjust costs from 1992 to 2010, they could only account for inflation and not any structural changes that had occurred. Table 3 shows the 1966, 1992, and 2018 study results, all in 2018 dollars. Cost indices were derived from the USDA-SRS (1967) and USDA-NASS Agricultural Prices (2011 and 2019) and used to adjust prices to 2018. Indices were the same ones used by Rimbey and Torell (2011) and shown in Table 4.

As shown in Table 3, when all 3 surveys are put in real dollars (2018 \$), the total costs are similar. The base year of 1910-14 was used as it is the only index reported for all 3 years without having to calibrate different base years. The 1966 cattle total costs on federal land is the only one that appears to be much lower than the others. It is important to remember that this study sought to obtain results that are plus or minus 10% with a 95% confidence (with 85 responses, it turns out to be plus or minus 10.06%). As such, it is unlikely that any of the other total costs would be statistically different. The basic conclusion from this study is that grazing in Idaho on IDL lands, federal lands, and private lands are generally equivalent.

There are differences in how the non-fee costs are distributed over time, however (Table 5). Table 5 shows the percent of total fee and non-fee costs for each component item based on the information in Table 3. Just comparing the Federal lands over time, it appears that the components stay approximately the same on a percentage basis from 1992 to 2018. There are some differences however, such as horse costs going down and likely traded for ATV use. In looking at state leases, lost animals and development depreciation make a much larger

percentage of total costs while moving livestock and herding appear much lower than on the other land types. Also note the difference in how much the different fees are from a low of 3.4% for federal grazing fees and a high of 49.2% for private land leases.

It is worth mentioning that some ranchers expressed the following concerns with the survey: (1) the survey did not capture the price of bidding and acquiring the lease when it came up for renewal, and (2) the survey did not account for indirect effects of wolf depredation (Steele et al. 2013) such as lack of cow/calf performance, disruption of prescribed grazing system, and overall stress. One younger rancher had a death loss rate of nearly 8% and reported he was probably not going to meet his loan repayment obligations. Another concern was that comparisons are made between a private lease rate and a state lease rate should include taxes that have to be paid for by the private lease holder and not the State.

Lastly, the biggest caveat on these results is the low number of ranchers that participated. We assume from the data collected that there would have been more variation between operations than within an operation. That is, more variation in results from rancher to rancher than within multiple state leases within the same ranch. Another caveat is that this is a one-year snapshot of non-fee costs compared to 2 historical snapshots of those same non-fee costs. Whether such items as lost animals is an anomaly in 2018 compared to other years is unknown based on this study.

The logo of the Idaho Department of Lands is centered on the page. It features a stylized mountain range in the background, with a central peak highlighted in light blue. Overlaid on this is a large, light green diamond shape. A horizontal grey bar with rounded ends is positioned across the middle of the diamond, containing the text "IDAHO DEPARTMENT OF LANDS" in white, bold, sans-serif capital letters.

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Table 3. Non-fee costs found in 1966, 1992, and 2018 rancher surveys expressed in 2018 dollars.

| Item                         | 1966<br>Cattle<br>Public | 1966<br>Cattle<br>Private | 1966<br>Sheep<br>Public | 1966<br>Sheep<br>Private | 1992<br>Federal | 1992<br>Private | <b>2018<br/>Survey<br/>IDL</b> | 2018<br>Survey<br>Federal | 2018<br>Survey<br>Private |
|------------------------------|--------------------------|---------------------------|-------------------------|--------------------------|-----------------|-----------------|--------------------------------|---------------------------|---------------------------|
| All Values in 2018 \$        |                          |                           |                         |                          |                 |                 |                                |                           |                           |
| Lost Animals                 | 1.99                     | 1.23                      | 2.32                    | 2.16                     | 6.19            | 3.46            | <b>8.86</b>                    | 6.02                      | 5.32                      |
| Association Fees             | 0.62                     |                           | 0.31                    |                          | 0.99            |                 |                                |                           |                           |
| Veterinarian                 | 1.25                     | 1.48                      | 1.25                    | 1.25                     | 0.28            | 0.32            | <b>0.38</b>                    | 0.48                      | 0.17                      |
| Moving Livestock             | 2.31                     | 2.41                      | 4.05                    | 3.66                     | 6.37            | 3.62            | <b>3.92</b>                    | 5.76                      | 3.69                      |
| Herding                      | 5.25                     | 2.17                      | 15.17                   | 13.23                    | 12.13           | 7.37            | <b>2.99</b>                    | 10.43                     | 3.38                      |
| Salt and Feed                | 3.40                     | 5.04                      | 3.34                    | 2.73                     | 2.24            | 2.97            | <b>1.65</b>                    | 1.96                      | 1.25                      |
| Travel                       | 2.40                     | 1.88                      | 3.68                    | 3.23                     | 1.36            | 0.39            | <b>0.16</b>                    | 0.03                      | 0.01                      |
| Water                        | 0.62                     | 0.46                      | 1.15                    | 1.23                     | 0.90            | 0.28            | <b>1.00</b>                    | 1.29                      | 0.07                      |
| Horse Cost                   | 0.76                     | 0.47                      | 0.76                    | 0.33                     | 0.69            | 0.33            | <b>0.18</b>                    | 0.19                      | 0.13                      |
| Maintenance                  | 4.25                     | 3.95                      | 1.98                    | 2.37                     | 6.86            | 4.24            | <b>3.84</b>                    | 5.85                      | 2.43                      |
| Development Depreciation     | 0.85                     | 0.23                      | 0.69                    | 0.15                     | 0.99            | 0.37            | <b>7.11</b>                    | 3.12                      | 0.54                      |
| Other Costs                  | 1.00                     | 1.08                      | 2.23                    | 1.69                     | 1.07            | 0.32            | <b>2.09</b>                    | 1.06                      | 1.63                      |
| Technology                   |                          |                           |                         |                          |                 |                 | <b>0.13</b>                    | 0.03                      | 0.13                      |
| Private Lease Rate           |                          | 13.77                     |                         | 13.62                    |                 | 19.70           |                                |                           | 18.00                     |
| Total Non-Fee Costs          | 24.70                    | 34.17                     | 36.94                   | 45.67                    | 40.07           | 43.37           | <b>32.30</b>                   | <b>36.22</b>              | <b>36.77</b>              |
| Cost Difference/Forage Value |                          | 9.48                      |                         | 8.73                     | 1.41            |                 | <b>8.03</b>                    | 1.41                      |                           |
| Weighted Cost Difference     |                          |                           | 9.42                    |                          |                 |                 |                                |                           |                           |
| Fee and Non-Fee Costs        | 24.70                    | 34.17                     | 36.94                   | 45.67                    | 40.07           | 43.37           | <b>40.33</b>                   | <b>37.63</b>              | <b>36.77</b>              |

Table 4. Agricultural Prices index categories.

|                          |                                     | 1966        | 1992   | 2018   |
|--------------------------|-------------------------------------|-------------|--------|--------|
| Non-Fee Cost Item        | Agricultural Prices Index           | 1910-14=100 |        |        |
| Lost Animals             | Meat animals/Prices received        | 322         | 935    | 1069   |
| Association Fees         | Production Items                    | 287         | 1003   | 2208   |
| Veterinarian             | Wage Rates                          | 812         | 3824   | 9260   |
| Moving Livestock         | (Auto & Trucks) + (Wage Rates)      | 648         | 3315   | 6247.5 |
| Herding                  | Wage Rates                          | 812         | 3824   | 9260   |
| Salt and Feed            | (Auto & Trucks)+(feed)              | 354.5       | 1647.5 | 2151.5 |
| Travel                   | (Auto & Trucks)+(fuel & energy)     | 331         | 1766.5 | 2487.5 |
| Water                    | Production Items                    | 287         | 1003   | 2208   |
| Horse Cost               | Feed                                | 225         | 489    | 1068   |
| Maintenance              | (Wage Rates) + (Building & Fencing) | 606.5       | 2587   | 5992.5 |
| Development Depreciation | Production Items                    | 287         | 1003   | 2208   |
| Other Costs              | Production Items                    | 287         | 1003   | 2208   |
| Technology               | Production Items                    |             |        | 2208   |

Notes:

Cost items with more than one index listed were updated using an average of the indices listed.

Indices derived from USDA SRS (1967) and NASS (1992, and 2018) Agricultural Prices.

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Table 5. Percent of cost item of the total fee and non-fee costs as adjusted to 2018 dollars.

| Item                     | 1966   | 1966    | 1966   | 1966    | 1992    | 1992    | 2018   | 2018    | 2018    |
|--------------------------|--------|---------|--------|---------|---------|---------|--------|---------|---------|
|                          | Cattle | Cattle  | Sheep  | Sheep   |         |         | Survey | Survey  | Survey  |
|                          | Public | Private | Public | Private | Federal | Private | IDL    | Federal | Private |
| Percent (%)              |        |         |        |         |         |         |        |         |         |
| Lost Animals             | 8.07   | 3.59    | 6.29   | 4.73    | 15.45   | 7.98    | 21.96  | 15.99   | 14.46   |
| Association Fees         | 2.49   |         | 0.83   |         | 2.47    |         |        |         |         |
| Veterinarian             | 5.08   | 4.34    | 3.40   | 2.75    | 0.70    | 0.74    | 0.94   | 1.27    | 0.47    |
| Moving Livestock         | 9.37   | 7.05    | 10.96  | 8.02    | 15.90   | 8.35    | 9.73   | 15.31   | 10.04   |
| Herding                  | 21.24  | 6.34    | 41.06  | 28.97   | 30.27   | 16.99   | 7.41   | 27.71   | 9.19    |
| Salt and Feed            | 13.76  | 14.74   | 9.04   | 5.98    | 5.59    | 6.85    | 4.08   | 5.21    | 3.41    |
| Travel                   | 9.74   | 5.50    | 9.97   | 7.08    | 3.39    | 0.90    | 0.39   | 0.08    | 0.04    |
| Water                    | 2.49   | 1.35    | 3.12   | 2.70    | 2.25    | 0.65    | 2.48   | 3.44    | 0.20    |
| Horse Cost               | 3.08   | 1.39    | 2.06   | 0.73    | 1.72    | 0.76    | 0.44   | 0.50    | 0.36    |
| Maintenance              | 17.20  | 11.57   | 5.35   | 5.19    | 17.12   | 9.78    | 9.52   | 15.55   | 6.62    |
| Development Depreciation | 3.43   | 0.68    | 1.87   | 0.34    | 2.47    | 0.85    | 17.63  | 8.30    | 1.48    |
| Other Costs              | 4.05   | 3.15    | 6.04   | 3.71    | 2.67    | 0.74    | 5.18   | 2.81    | 4.43    |
| Technology               |        |         |        |         |         |         | 0.31   | 0.08    | 0.36    |
| Private Lease Rate       |        | 40.30   |        | 29.82   |         | 45.42   |        |         | 48.95   |
| Total Non-Fee Costs      |        |         |        |         |         |         |        |         |         |
| Grazing Fee              |        |         |        |         |         |         | 19.91  | 3.75    |         |



## Literature Cited

- Rimbey, N.R., and L.A. Torell. 2011. Grazing costs: What's the current situation? University of Idaho Agricultural Economics Extension Series No. 2011-02.
- Steele, J.R., B.S. Rashford, T.K. Foulke, J.A. Tanaka, and D.T. Taylor. 2013. Wolf (*Canus lupis*) predation impacts on livestock production: direct effects, indirect effects, and implications for compensation ratios. *Rangeland Ecology and Management* 66:539-544.
- Torell, L.A., L.W. Van Tassell, N.R. Rimbey, E.T. Bartlett, T. Bagwell, P. Burgener, and J. Coen. 1993. The value of public land forage and the implications for grazing fee policy. *New Mexico State University Agricultural Experiment Station Bulletin* 767.
- USDA, National Agricultural Statistics Service. 2011. *Agricultural Prices*. January 2011. ISSN: 1937-4216.
- USDA, National Agricultural Statistics Service. 2019. *Agricultural Prices*. February 2019. ISSN: 1937-4216.
- USDA, Statistical Reporting Service. 1967. *Agricultural Prices*. January 1967. PR 1 (1-67).
- USDI and USDA. 1977. Study of fees for grazing livestock on federal lands: A report from the Secretary of Interior and the Secretary of Agriculture. October 21, 1977. Washington, D.C.

The logo of the Idaho Department of Lands is a large, stylized diamond shape. It features a light green center with a yellow border. The words "IDAHO DEPARTMENT OF LANDS" are written in white, bold, capital letters across the middle of the diamond. The background of the page is white, and the logo is semi-transparent, allowing the text of the literature cited to be seen through it.

IDAHO DEPARTMENT OF LANDS

**University of Wyoming**  
**2019 Non-Fee Grazing Cost Evaluation**  
**Idaho State Endowment Trust Lands**

The following information is being collected to determine the actual total costs of running livestock subject to leases on Idaho's state endowment trust lands. This survey is being conducted by the University of Wyoming for the Idaho Department of Lands (IDL) in conjunction with a larger tristate study, including Idaho, Wyoming, and California, for costs associated with grazing on federal public and private lands.

Be assured that any information you provide will be strictly confidential. Only summary statistics for Idaho will be released and individual responses will not be maintained.

Enumerator

\_\_\_\_\_

**I. GENERAL RANCH DESCRIPTION**

The following information is for the **2018** operating year. Please include accurate information for your entire operation that includes Idaho state leased land.

A. What was your average livestock inventory on January 1, 2018?

1.) Mother Cows \_\_\_\_\_ No.                      Repl. Heifers \_\_\_\_\_ No.

Bulls \_\_\_\_\_ No.

2.) Yearling market livestock (Over 6 months of age)

Raised Steers \_\_\_\_\_ No.                      Raised Heifers \_\_\_\_\_ No.

Purchased Steers \_\_\_\_\_ No.                      Purchased Heifers \_\_\_\_\_ No.

3.) Ewes \_\_\_\_\_ No.                      Rams \_\_\_\_\_ No.

Yearlings \_\_\_\_\_ No.

4.) Horses \_\_\_\_\_ No.

5.) Other Livestock (specify) \_\_\_\_\_ No.

## II. LIST OF IDAHO STATE TRUST LAND LEASES

1. Are your IDL state leases: (select all that apply)

- Managed as a stand-alone, blocked **state** land unit ☐
- Managed as scattered section(s) within BLM or USFS permits ☐
- Managed as part of a grazing association, run in common ☐
- Managed only in conjunction with your private land ☐

2. Please provide a list of all state land, IDL leases in 2018.

A. Lease 1 Allotment Name (if applicable) \_\_\_\_\_

Lease Number \_\_\_\_\_

Is this lease combined with BLM ☐ USFS ☐ or other IDL ☐ leases?

Name of IDL supervisory area in which the lease is located:

\_\_\_\_\_

B. Lease 2 Name \_\_\_\_\_

Lease Number \_\_\_\_\_

Is this lease combined with BLM ☐ USFS ☐ or other IDL ☐ leases?

Name of IDL supervisory area in which the lease is located:

\_\_\_\_\_

C. Lease 3 Name \_\_\_\_\_

Lease Number \_\_\_\_\_

Is this lease combined with BLM ☐ USFS ☐ or other IDL ☐ leases?

Name of IDL supervisory area in which the lease is located:

\_\_\_\_\_

D. **For any additional state land leases please add another page like this one.**

### III. LEASE CHARACTERISTICS AND MANAGEMENT

This section will be filled out for IDL leases identified in Part II and used during 2018.

#### 1. Allotment Management Unit

| Ownership                 | Acreage       |               |               | AUMS          |               |               |
|---------------------------|---------------|---------------|---------------|---------------|---------------|---------------|
|                           | State Lease 1 | State Lease 2 | State Lease 3 | State Lease 1 | State Lease 2 | State Lease 3 |
| Bureau of Land Management |               |               |               |               |               |               |
| U.S. Forest Service       |               |               |               |               |               |               |
| Other Federal             |               |               |               |               |               |               |
| State Trust Land          |               |               |               |               |               |               |
| Private Deeded            |               |               |               |               |               |               |
| Private Lease             |               |               |               |               |               |               |
| Uncontrolled              |               |               |               |               |               |               |
| Other (describe)          |               |               |               |               |               |               |
| TOTAL                     |               |               |               |               |               |               |

#### 2. What type of vegetation is on each state grazing lease?

| Type                                                          | State Lease 1 | State Lease 2 | State Lease 3 |
|---------------------------------------------------------------|---------------|---------------|---------------|
| (1) Sagebrush                                                 | %             | %             | %             |
| (2) Salt Desert Shrub (Atriplex, Greasewood)                  | %             | %             | %             |
| (3) Chaparral (Oakbrush, Mt. Mahogany, Chamise)               | %             | %             | %             |
| (4) Creosote bush (Blackbrush, cactus, mesquite, etc.)        | %             | %             | %             |
| (5) Pinyon-Juniper                                            | %             | %             | %             |
| (6) Coniferous Forest Types (Ponderosa, Lodgepole, etc.)      | %             | %             | %             |
| (7) Broadleaf Woodland (Aspen, Oaks, Cottonwood-River Bottom) | %             | %             | %             |
| (8) Native Grassland                                          | %             | %             | %             |
| (9) Native Meadowland                                         | %             | %             | %             |
| (10) Seeded Grasses                                           | %             | %             | %             |
| (11) Invasive Annual Grasses                                  | %             | %             | %             |

(11) Other (Describe)

%

%

%

3. What were the number of livestock on each state lease in 2018?

| Lease 1                                                   | On the Lease |      | Off the Lease |      |
|-----------------------------------------------------------|--------------|------|---------------|------|
|                                                           | Number       | Date | Number        | Date |
| Total Cows (Include cows with calves and dry cows)        |              |      |               |      |
| Weaned Calves (Weaning age to 1 year old)                 |              |      |               |      |
| Yearlings (1 to 2 years old. excluding cows listed above) |              |      |               |      |
| Bulls                                                     |              |      |               |      |
| Ewes                                                      |              |      |               |      |
| Rams                                                      |              |      |               |      |
| Weaned Lambs (weaning age to 1 year old)                  |              |      |               |      |
| Wethers                                                   |              |      |               |      |
| Horses (Include only horses under permit or license)      |              |      |               |      |

| Lease 2                                                   | On the Lease |      | Off the Lease |      |
|-----------------------------------------------------------|--------------|------|---------------|------|
|                                                           | Number       | Date | Number        | Date |
| Total Cows (Include cows with calves and dry cows)        |              |      |               |      |
| Weaned Calves (Weaning age to 1 year old)                 |              |      |               |      |
| Yearlings (1 to 2 years old. excluding cows listed above) |              |      |               |      |
| Bulls                                                     |              |      |               |      |
| Ewes                                                      |              |      |               |      |
| Rams                                                      |              |      |               |      |
| Weaned Lambs (weaning age to 1 year old)                  |              |      |               |      |
| Wethers                                                   |              |      |               |      |

|                                                      |  |  |  |  |
|------------------------------------------------------|--|--|--|--|
| Horses (Include only horses under permit or license) |  |  |  |  |
|------------------------------------------------------|--|--|--|--|

| Lease 3                                                   | On the Lease |      | Off the Lease |      |
|-----------------------------------------------------------|--------------|------|---------------|------|
|                                                           | Number       | Date | Number        | Date |
| Total Cows (Include cows with calves and dry cows)        |              |      |               |      |
| Weaned Calves (Weaning age to 1 year old)                 |              |      |               |      |
| Yearlings (1 to 2 years old. excluding cows listed above) |              |      |               |      |
| Bulls                                                     |              |      |               |      |
| Ewes                                                      |              |      |               |      |
| Rams                                                      |              |      |               |      |
| Weaned Lambs (weaning age to 1 year old)                  |              |      |               |      |
| Wethers                                                   |              |      |               |      |
| Horses (Include only horses under permit or license)      |              |      |               |      |

4. What topographic features best describe each state lease? (give proportion)

| Description      | Lease 1 (%) | Lease 2 (%) | Lease 3 (%) |
|------------------|-------------|-------------|-------------|
| Steep            |             |             |             |
| Steep and Rocky  |             |             |             |
| Rolling Hills    |             |             |             |
| Gentle, Flat     |             |             |             |
| Other (describe) |             |             |             |

5. How many pasture (units) are there in each state lease?

Lease 1 \_\_\_\_\_



Lease 2 \_\_\_\_\_

Lease 3 \_\_\_\_\_



6. How would you describe your current grazing management plan on each lease?

|                                                                                           | State<br>Lease 1 |   | State<br>Lease 2 |   | State<br>Lease 3 |   |
|-------------------------------------------------------------------------------------------|------------------|---|------------------|---|------------------|---|
| Scheduled rest rotation among a number of pastures (one or more pastures used each year). | Y                | N | Y                | N | Y                | N |
|                                                                                           | _____            |   | _____            |   | _____            |   |
| How many pastures are used each year?                                                     |                  |   |                  |   |                  |   |
| Scheduled deferred rotation among a number of pastures.                                   | Y                | N | Y                | N | Y                | N |
|                                                                                           | _____            |   | _____            |   | _____            |   |
| How many pastures are used each year?                                                     |                  |   |                  |   |                  |   |
| Open rotation with scheduled moves.                                                       | Y                | N | Y                | N | Y                | N |
|                                                                                           | _____            |   | _____            |   | _____            |   |
| How many pastures were used each year?                                                    |                  |   |                  |   |                  |   |
|                                                                                           | _____            |   | _____            |   | _____            |   |
| How many moves while in this lease?                                                       |                  |   |                  |   |                  |   |
| Continuous grazing, with all livestock distributed freely                                 | Y                | N | Y                | N | Y                | N |
| Decision deferment (i.e., non-scheduled moves, Savory Grazing System)                     | Y                | N | Y                | N | Y                | N |
| Other (specify)                                                                           | Y                | N | Y                | N | Y                | N |

7. How many years have you had each state lease or how long has each state lease been in your family?

Lease 1 \_\_\_\_\_

Lease 2 \_\_\_\_\_

Lease 3 \_\_\_\_\_

8. If state lease was purchased via assignment, sublease, or premium auction bid:

Year Purchased

How much was paid? (\$/AUM for  
sublease, premium bid for auction,  
or payment for an assignment.)

#### **IV. RANGE DEVELOPMENT AND MAINTENANCE COSTS**

Include here all range improvements and developments that service the IDL state trust land leases or allow harvest of forage, regardless of land ownership. Include all improvements made to run your operation.



### A. Range Improvement Developments

[illegible]

## B. Range Improvement Maintenance

| Maintenance Item                                                                                                                                                                       | Cost |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|
| <b>Water Maintenance</b>                                                                                                                                                               |      |
| (1) Water pumping costs (gas, electric, diesel, service)                                                                                                                               |      |
| (2) Contract expenses to haul water?                                                                                                                                                   |      |
| (3) Materials to maintain and clean wells, stock ponds and                                                                                                                             |      |
| (4) Cost of bulldozers, and other equipment for water maintenance?                                                                                                                     |      |
| (5) Other costs in maintaining stock ponds, wells, and springs on the IDL leases?                                                                                                      |      |
| <b>Fence Maintenance</b>                                                                                                                                                               |      |
| (6) What was the cost of materials and equipment to maintain fences on the IDL leases during the last grazing season?                                                                  |      |
| <b>Noxious Weed Control</b>                                                                                                                                                            |      |
| (7) Noxious Weed Control – What was the cost of materials and equipment to control noxious weeds on your IDL lease during the 2018 grazing season (including any contracted services). |      |
| <b>Other Costs</b>                                                                                                                                                                     |      |
| (8) Did you have any costs in implementing or maintaining improvements other than those we have for the 2018 grazing season?                                                           |      |

## V. OTHER CASH COSTS

This section of the questionnaire will be used to list the cash costs expended in grazing livestock on all IDL state leases.

- A. What were your cash expenditures for the following items that were used while livestock were on the leases in 2018?

| Description                                                       | Units | Dollars |
|-------------------------------------------------------------------|-------|---------|
| (1) Salt                                                          |       |         |
| (2) Veterinary and Medicine                                       |       |         |
| (3) Protein Supplements.<br>Grain, Hay                            |       |         |
| (4) Contractor Feed                                               |       |         |
| (6) Predator Control<br>(Poisons, trappers, wolf control methods) |       |         |

|                                       |  |  |
|---------------------------------------|--|--|
| (7) Others<br>(not previously listed) |  |  |
|                                       |  |  |

Do association fees pay for: (check all that apply)

- ☐ State Lease Fees
                    
 ☐ Herding, rider  
☐ Salt and Supplements
                    
 ☐ Fence and Improvement maintenance  
☐ Other (specify \_\_\_\_\_)

#### B. Miscellaneous Costs

What were the cash and non-cash expenditures for the following items pertaining to all leases during 2018? (Paperwork, stockmen's grazing meetings, planning, vandalism, rounding up stray stock after gates are left open, meetings with state personnel, endangered species protocol etc.)

|               | Transportation |         | Labor                  |              |                     |           |
|---------------|----------------|---------|------------------------|--------------|---------------------|-----------|
|               | Vehicle Type   | Mileage | Manager Operated (hrs) | Family (hrs) | Regular Hired (hrs) | Day (hrs) |
| Paper work    |                |         |                        |              |                     |           |
| Meetings      |                |         |                        |              |                     |           |
| Vandalism     |                |         |                        |              |                     |           |
| Stray roundup |                |         |                        |              |                     |           |
|               |                |         |                        |              |                     |           |
|               |                |         |                        |              |                     |           |
|               |                |         |                        |              |                     |           |



## VI. DEATH LOSSES

A. What was the average 2018 Livestock sale weights?

Steer calves

Heifer calves

Yearling steers

Yearling heifers

Cull cows

Lambs

Cull Ewes

Cull bucks

Wool per ewe

B. How many livestock died or disappeared on all IDL state leases in 2018?

Cows \_\_\_\_\_

Yearling Steers \_\_\_\_\_

Yearling Heifers \_\_\_\_\_

Steer Calves \_\_\_\_\_

Heifer Calves \_\_\_\_\_

Bulls \_\_\_\_\_

Rams \_\_\_\_\_

Ewes \_\_\_\_\_

Lambs \_\_\_\_\_

C. Did you receive any cash payments for livestock losses during 2018?

Dollar Amount: \_\_\_\_\_

## VII. LABOR

This section of the questionnaire asks about the labor requirements (number of people and the hours required) to move livestock to IDL leases, to herd and distribute livestock on IDL leases, to gather and move livestock from IDL leases, to maintain the physical requirements of the IDL leases (fences, water tanks, dams, etc.) and the labor requirements for animal health and maintain (herd checking, doctoring, salting, feeding, watering, etc.) throughout 2018.

|                  | Pay Unit*<br>(code) | Wage rate per<br>unit time | Approx. monthly cost for social<br>security, unemployment, insurance,<br>room and board, and benefits |
|------------------|---------------------|----------------------------|-------------------------------------------------------------------------------------------------------|
| Hired<br>Manager |                     |                            |                                                                                                       |
| Hired labor      |                     |                            |                                                                                                       |
| Day labor        |                     |                            |                                                                                                       |

•paid by: hour=1 day=2 week =3 month =4 unpaid=5 exchange=6

|                     | Livestock to<br>IDL leases<br>(A) |      | Herding,<br>distribution,<br>grazing mgt.<br>(B) |      | Maintain<br>IDL leases |      | Animal health<br>and periodic<br>Inspection<br>(D) |      | Gathering &<br>moving<br>livestock<br>(E) |      |
|---------------------|-----------------------------------|------|--------------------------------------------------|------|------------------------|------|----------------------------------------------------|------|-------------------------------------------|------|
|                     | no.                               | hrs. | no.                                              | hrs. | no.                    | hrs. | no.                                                | hrs. | no.                                       | hrs. |
| Yourself/manager    |                                   |      |                                                  |      |                        |      |                                                    |      |                                           |      |
| Family members      |                                   |      |                                                  |      |                        |      |                                                    |      |                                           |      |
| Regular hired labor |                                   |      |                                                  |      |                        |      |                                                    |      |                                           |      |
| Day Labor           |                                   |      |                                                  |      |                        |      |                                                    |      |                                           |      |
| Exchange Labor      |                                   |      |                                                  |      |                        |      |                                                    |      |                                           |      |

## VIII. TRANSPORTATION

This section of the questionnaire asks about the vehicle requirements to move livestock to IDL leases, vehicle requirements to herd and distribute livestock on IDL leases, gather and move livestock from IDL leases, maintain the physical requirement of the IDL leases (fences, water tanks, dams. etc.) and the vehicles requirements for animal health and maintenance checking, doctoring, salting, watering, etc.) throughout 2018.

(Please: use hours on farm and industrial equipment instead of miles)

This section of the questionnaire will ask about the transportation of livestock to and from the IDL leases.

- A. What is the distance from your ranch headquarters to this IDL leases?

\_\_\_\_\_ miles

- B. If livestock were not taken directly from the ranch headquarters, give the distance from the last private lease, IDL lease, or owned pasture used.

\_\_\_\_\_ miles

- C. How were the livestock moved to the IDL leases?

\_\_\_\_\_ Hired trucks      \$ \_\_\_\_\_ Total Cost

\_\_\_\_\_ Owned trucks

\_\_\_\_\_ Trailed

\_\_\_\_\_ Other (specify \_\_\_\_\_)

- D. What was the distance to remove livestock from the IDL leases?

\_\_\_\_\_ miles

- E. How were the livestock moved off of the IDL leases?

\_\_\_\_\_ Hired trucks      \$ \_\_\_\_\_ Total Cost

\_\_\_\_\_ Owned trucks

\_\_\_\_\_ Trailed

\_\_\_\_\_ Other (specify \_\_\_\_\_)

If hired trucks were used, what was the total cost in transporting livestock from the IDL lease?      \$ \_\_\_\_\_

Please fill out the following table with as much detail as possible:

| Vehicle<br>type<br>used<br>* | Livestock<br>to IDL<br>Lease |                         | Herding<br>and<br>Distributio<br>n in lease |                         | Gathering<br>and<br>moving<br>livestock in<br>lease |                         | Lease<br>Maintenan<br>ce |                         | Animal<br>Health and<br>Maintenan<br>ce |                         |
|------------------------------|------------------------------|-------------------------|---------------------------------------------|-------------------------|-----------------------------------------------------|-------------------------|--------------------------|-------------------------|-----------------------------------------|-------------------------|
|                              | No.<br>Use<br>d              | Mil<br>es<br>(hrs<br>.) | No.<br>Use<br>d                             | Mil<br>es<br>(hrs<br>.) | No.<br>Use<br>d                                     | Mil<br>es<br>(hrs<br>.) | No.<br>Use<br>d          | Mil<br>es<br>(hrs<br>.) | No.<br>Use<br>d                         | Mil<br>es<br>(hrs<br>.) |

\*Some vehicles that might be used: Pickup, Pickup-stock trailer, Stock truck, Semi-tractor trailer, All-terrain vehicle (ATV), Water-tank truck, Tractors, Implements.

Of the total costs for equipment (to the IDL leases) what percentage was done by:

\_\_\_\_\_ % Rented/Contracted

\_\_\_\_\_ % Owned equipment

## IX. Horse Use

This section of the questionnaire will ask you about the horse requirements to operate and maintain this IDL leases throughout 2018.

### A. Horse requirements to operate and maintain this IDL leases

| Horse Requirements                                |                          |                     |
|---------------------------------------------------|--------------------------|---------------------|
|                                                   | Average number of horses | Average days horses |
| Livestock to IDL leases                           |                          |                     |
| Livestock distribution/herding/grazing management |                          |                     |
| Livestock gathering                               |                          |                     |
| Livestock off IDL leases                          |                          |                     |
| Maintenance of IDL leases                         |                          |                     |
| Animal health and maintenance                     |                          |                     |

### B. What percent of the total horse requirements were by the following:

\_\_\_\_\_ % Owned horses  
\_\_\_\_\_ % Rented Horses  
\_\_\_\_\_ % Horses provided by hired range riders  
\_\_\_\_\_ % Horses provided by friend or neighbor  
\_\_\_\_\_ % other (specify \_\_\_\_\_)

\*Sum should equal 100%

## **X. Technology**

This section will ask questions in the use of technology to maintain IDL leases throughout 2018.

A. Is there use of any subscriptions to local weather, roads or other apps?

App: \_\_\_\_\_

Cost: \_\_\_\_\_

App: \_\_\_\_\_

Cost: \_\_\_\_\_

App: \_\_\_\_\_

Cost: \_\_\_\_\_

B. Was any mobile technology purchased to use on the IDL leases?  
(iPad, GPS)

(Ex: laptop,

Device: \_\_\_\_\_

Cost: \_\_\_\_\_

Device: \_\_\_\_\_

Cost: \_\_\_\_\_

Device: \_\_\_\_\_

Cost: \_\_\_\_\_

**END** (Thank you)



# UNIVERSITY OF WYOMING

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June 12, 2019

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Kristie Maczko  
Research Scientist  
Ecosystem Science and Management  
University of Wyoming

**Protocol #20190612JT02426**

Re: IRB Proposal "Evaluating Non-fee Grazing Permit Costs in the Context of Social and Economic Characteristics of Public Land Ranchers"

Dear John, Kasey, Tom, and Kristie:

The proposal referenced above qualifies for exempt review and is approved as one that would not involve more than minimal risk to participants. Our exempt review and approval will be reported to the IRB at their next convened meeting on June 20, 2019.

Any significant change(s) in the research/project protocol(s) from what was approved should be submitted to the IRB (Protocol Update Form) for review and approval prior to initiating any change. Further information and the forms referenced above may be accessed at the "Human Subjects" link on the Office of Research and Economic Development website: <http://www.uwyo.edu/research/human-subjects/index.html>. Please note that exempt protocols are approved for a maximum of three years. If your study extends beyond three years, or beyond the duration that is approved in your protocol form, please be sure to submit an update before expiration to extend the duration. If you are not able to submit the update in time, you will need to submit a new exemption request for the project.

You may proceed with the project/research and we wish you luck in the endeavor. Please feel free to call me if you have any questions.

Sincerely,

*Nichole Person*

Nichole Person  
Staff Assistant, Research Office  
On behalf of the Chairman,  
Institutional Review Board



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## MEMORANDUM

**To:** Bill Haagenson, Deputy Director

**From:** Jason Laney, Program Manager

**Date:** 09/30/2020

**Subject:** Analysis of Non-Fee Grazing Cost Study for the Idaho Department of Lands

### **Background**

During the August 2018 Land Board Meeting, the State Board of Land Commissioners (Land Board) directed the Idaho Department of Lands (IDL) to engage with the University of Wyoming (UW) regarding their collaborative project with the Public Lands Council Endowment Trust to provide an up-to-date, third party study on the non-fee costs for federal rangeland grazing. In 2018, IDL and UW finalized an agreement for a study that followed the same methodology but would seek to estimate the non-fee costs to graze on endowment land.

On May 5, 2020, IDL received a report from the University of Wyoming. This memo outlines and expands upon some of the salient report findings.

### **Sample Size and Survey Participation**

Per UW researchers, the goal sample size of the study was to survey 86 of the over 800 IDL grazing lessees to achieve a 95% confidence level with a 10% margin of error. Below is a timeline of the efforts to achieve the highest possible rate of lessee participation.

- May 2019 – IDL asked UW how many state lessees would be in the survey. UW responded, "about 90 for a 95% confidence interval and 10% margin of error."

- June 2019 - UW randomly selected 100 lessees from a list of all IDL grazing lessees.<sup>1</sup> Letters and information packets were mailed to the selected participants.
- July 2019 – UW researchers reached out via phone to each of the selected lessees.<sup>2</sup>
- August 2019 – IDL provided updated contact information for all lessees, and UW contractor(s) made another round of calls.
- August 20, 2019 – IDL received an update from UW stating that 22 lessees had responded. UW expressed the need for an additional 6 weeks to collect responses. IDL sent letters to every lessee urging participation in the study and provided UW contact information.
- September 2019 – Meeting held with UW researchers and key IDL staff. UW explained progress and difficulties they were experiencing getting responses to the survey.
- November 2019 – UW researchers stated they needed responses from "30 more leases" and asked for an extension of the project end date to allow for more responses to be collected. IDL also learned that 300 packets were sent to lessees, an increase from the original 100 packets sent.
- November 2019 – The list of lessees that had received survey packets was mailed to IDL area offices, and they were asked to reach out to lessees to encourage participation. Some lessees requested survey packets as a result of this outreach.
- December 2019 – The contract with UW was modified to extend the due date of the final report. UW stated that the entire budget set aside to travel to Boise for a wrap-up discussion had been used in the additional efforts to contact and survey lessees.
- March 31, 2020 – Copy of draft study was received by IDL. IDL identified outliers in the data and followed up with UW.
- May 4, 2020 – IDL received the revised study, and IDL raised questions about lessee participation and other concerns with study.
- July 2020 – According to researchers, UW was not able to expend time or funds on the project once the agreement had ended on March 31, 2020.

## **Table 2**

Table 2 shows the breakdown of various non-fee costs for IDL leases, comparing them to federal allotments and private leases, as reported by lessees. While the list is comprehensive, and may represent potential costs to a grazing operation, there are several data points that merit further discussion.

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<sup>1</sup> IDL was not involved in the selection process of the lessees to survey. No individual data was released by UW and all information regarding the lessees sampled was destroyed by UW based on their approved protocols.

<sup>2</sup> UW sent a package to the lessees informing them of the process, voluntary nature of the survey, questions, and that the interview would be in-person by the interviewers. Due to the low responses of the UW package, UW decided to follow up with phone calls to encourage participation.

- Lost Animals – According to survey results, the cost of lost animals is 55% higher on state leases compared to federal permits. Since a vast majority of state leases are intermingled with federal land, it is perplexing how the cost of lost animals could be so much higher on endowment land.

UW researchers stated that state leases were "hit harder" in some of these costs because state leases represented a smaller portion of the AUM's surveyed compared to the respondent's total operation. Further explanation for this disparity was provided by Dr. Tanaka:

*The difference between the state and federal costs are due the allotments or leases that were 100% state or federal. Using this method, if every pasture was a mix of federal and state, they would have the same cost/AUM. About 35% of the sample were state lands only. As I think I said on the call, the numbers were what was reported, and it is a one-year sample. So doing things on a smaller state lease generally costs the same total amount and that is divided by a smaller number of AUMs resulting in a higher cost/AUM. For example, if a ranch reported the loss of one calf and you divide that cost by the fewer AUMs you get a higher cost/AUM compared to that same loss on a larger federal allotment.*

- Travel – Survey results reported that travel costs on state leases are up to four times higher than federal land. This was difficult to understand since a majority of endowment land is scattered within or closely tied to federal permits and most of the state's premium blocked leases have excellent access.
- Development Depreciation – This index figure represents the highest cost per AUM on state leases, as reported by lessees. The reported cost is \$7.11/AUM, more than twice the cost on federal land. Researchers stated, "there appears to be more incentive for ranchers to invest in rangeland improvements on state lands."

This does seem to be the case for some of the state's more desirable leases. Unlike federal permittees, state lessees can own all or a portion of a permitted improvement and are compensated for the improvement should the lease change hands. Unlike federal land, a state lessee's investment in improvements is not a "sunk cost" since lessees can recoup the value of improvements.

The construction of improvements is also a way to discourage conflicting applications, as this may significantly add to the cost for another applicant to obtain the lease. These benefits to the state lessee were not considered in the study. It is also worth noting that 90% of the leases surveyed included improvements, while IDL estimates that only 69% of leases include

improvements, some of which are only partially owned by the lessee or owned by the state, according to GIS analysis.

It also appears that that state cost sharing of improvements was not reported by respondents on the survey. Finally, there was no consideration given to extremely simple permitting process for improvements on endowment land, compared to an often expensive and lengthy process to implement the same improvement on a federal permit.

- Other Costs – According to the survey, other costs consist of salt, veterinary costs, protein supplements, supplemental feed, predator control, and other miscellaneous costs (paperwork, meetings, etc.). These costs were reported to be over two times greater for state leases than federal permits. This discrepancy is difficult to understand since the federal permits do not provide for any of these costs and the number of meetings and paperwork required for a federal permit are much higher than a state lease.
- Technology – While technology spending comprises of only a small portion of non-fee costs per AUM, survey results show that lessees spend 14 times more on technology (apps, remote sensing, etc.) for state land than federal lands. Again, this great disparity between the two ownerships is difficult to explain.

#### **Peer Review and Survey Coverage**

The signed scope of work agreement does require that a peer review will be completed, which IDL understood to mean a full, academic peer review of the study was to be completed. However, UW researchers stated that the contracted peer review only meant an internal review of the collected data by contractors and that no additional time or funding was allocated for an extensive form of review.

At this time, the Non-Fee Grazing Cost study has not undergone any form of third-party peer review. Without a peer review, objective evaluation of the study's method and data becomes difficult, as peer reviews serve to validate study findings and to point out strengths and weaknesses of a study. Traditionally a peer review is a review of the work by other in the same field used to ensure quality standards and credibility are met.

Over the course of the study, the researchers (and IDL) expended considerably more time and resources required getting responses from lessees. By the end of 2019, UW had been unsuccessful in receiving 86 lessee responses and prepared the report based on 38 lessee responses.<sup>3</sup> As stated in the report, "It remains a mystery as to why the ranching community would not want to be involved, however, one can only speculate that ranchers may have been reluctant due to fear of their grazing rate increasing as a result of this study."

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<sup>3</sup> There are approximately 800 grazing lessees who hold 1,400 grazing leases. The study surveyed 4.75% (38 lessees) of the grazing lessees who hold approximately 6% (85) of grazing leases.

### **Conclusion**

Due to the low sample size, lack of peer review, and apparent inconsistencies with costs on state leases versus federal permits, this study should not be the sole piece of evidence used to determine how the Department moves forward with the grazing rate. The study may be one component, along with other data and information gathered by IDL, in the discussion moving forward regarding the Land Board's grazing rate and associated formula.





## STATE BOARD OF LAND COMMISSIONERS

October 20, 2020  
Information Agenda

### Subject

Minerals Regulatory Status Update

### Background

Idaho has considerable mineral wealth that includes rare earths and other metals that are essential to modern society and its developing technologies. In Idaho, mining is a several-hundred-million-dollar industry that provides high paying jobs in communities where they are needed most. In 2019 Idaho ranked #8 globally for mineral investment attractiveness and #7 globally for policy perception.

The Idaho Department of Lands (Department) minerals' regulatory and assistance program is housed within the Minerals, Public Trust, and Oil & Gas Division. This division is tasked with assisting industry while working with other state agencies to ensure Idaho's water, soil, and air are protected for generations to come. Division staff fulfill this need by helping mine operators in Idaho during the permitting process and providing ongoing support and monitoring of operations to ensure the state's environmental guidelines are met.

All permits, reclamation plans, and closure plans are processed through the appropriate area office. Division or other Department staff assist as requested. Complete reclamation plan applications are processed within 60 days of receipt. These plan approvals are primarily done by area staff following a set of recently updated standard procedures which are posted on the Department's public website. If an application comes in that is incomplete, the operator is notified of the missing information and provided guidance on how to resolve any omissions. Once received the modified application is reviewed again. If an application requires an interagency review, the Department contacts those agencies and works with the operator to keep them updated on the progress. The level of complexity within a reclamation plan is dependent on the operation. For example, dry, upland aggregate mines that do not require interagency review may be completed within 30 days depending on area staff workload, distance to inspection, time of year, etc.

The new Landfolio database will better allow division staff to track plan reviews occurring at the area offices. The Department participates in NEPA<sup>1</sup> reviews before a reclamation plan application is received. This helps to ensure that the operator knows what the Department expects for a complete reclamation plan before submitting the application.

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<sup>1</sup> National Environmental Policy Act

## Discussion

Currently there are 1,560 state reclamation plans in Idaho with total bonding amount just over \$118 million dollars. The majority of these are smaller operators that are utilizing the Bond Assurance Fund to cover possible reclamation cost. Approximately 300 operators do not qualify or have chosen not to participate in the Bond Assurance Fund. These typically larger operations have provided bonding primarily through surety bonds.

In 2019 the Idaho legislature approved HB 141 that modernized Idaho Code regarding the state's mineral industry. Within the minerals' regulatory division, proposed rule IDAPA 20.03.02 expands the types of financial assurance available to an operator. This provides consistent, predictable standards that operators can work with and that are used in other states. HB 141 required a temporary rule to be in effect by August 2019. This deadline was met, and negotiated rulemaking continued into 2020. Some achievements of the rulemaking to date:

- High engagement with industry and stake holders in updating financial assurance instruments and defining roles for state agencies.
- New or modified agreements are being worked on so the agencies can better establish roles and responsibilities. This will provide better service to the operators, and better assurance to the general public that permitting issues associated with mining are being resolved.
- These updated rules provide a credible defense against CERCLA 108b rules<sup>2</sup> that EPA has proposed in the past.
- Updating the rules to the standards expected in the 21st century helps support the mining industry's social license to operate. This is important both for the gravel operator trying to rezone their property to allow mining, and for the multinational corporation working through the permitting process for a large project involving both private and federal lands.

The Department is gathering data to populate the cost data sheets that form the backbone of Standardized Reclamation Cost Estimator (SRCE). When complete, it will be used by Department staff to cross check an operator's reclamation cost estimate for completeness and accuracy. The SRCE system is free and open source; it can be used by operators to generate reclamation cost data for submission to state and federal agencies.

The Idaho mineral industry is growing to keep pace with demand. Active Idaho mineral exploration continues to increase, particularly for precious metals, as shown by "grass roots" ventures and advanced exploration drilling projects. Idaho has always had top tier mineral resources, and the effective management of those resources over the past several decades ensures that Idaho will continue to support U.S. and global mineral needs.

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<sup>2</sup> Comprehensive Environmental Response, Compensation, and Liability Act

# STATE BOARD OF LAND COMMISSIONERS

October 20, 2020  
Information Agenda

## Subject

Winter Dock Storage on North Idaho Lakes

## Background

To protect docks from the impacts of fluctuating lake levels, snow loads, and ice pressure on Lake Coeur d'Alene and Hayden Lake, some marine contractors offer a service to temporarily relocate docks in various bays during the winter months. Several marine contractors are not in compliance with the provisions of the Lake Protection Act and existing encroachment permits. Idaho Department of Lands (Department) is working with the marine contractors to come into compliance with the applicable standards.

## Discussion

As log storage on Lake Coeur d'Alene for the timber mills started phasing out in the 1980's, dock storage started appearing on the lake. Between 1989 and 2014, the Department issued five encroachment permits for dock storage areas in Cougar Bay, Rockford Bay, Powderhorn Bay, and Harrison Slough/CDA River on Lake Coeur d'Alene. Attachment 1 is a map of these locations.

Over the last few years Department staff observed that a few dock storage areas were not being managed according to the terms of the permits or applicable rules. Attachment 2 shows photos of some of these specific facilities. Knowing that more applications were being prepared for either dock storage or dock construction, the Department determined that all types of encroachments or uses needed to be brought into compliance. The intent was to bring all marine contractors into compliance and ensure a level playing field. An inventory was put together based on existing permits and area staff knowledge.

In December 2019, the Department initiated dialogs with the marine contractors about the dock storage areas. In January 2020, Department staff met with four marine contractors to discuss options to achieve compliance. This included obtaining encroachment permits, ensuring permits were properly assigned to the existing businesses, and operating within the terms of the existing encroachment permits and leases.

In April 2020, the Department issued five notices to three of the marine contractors identifying the noncompliances, pertinent legal authorities, corrective actions, and a timeframe to complete the next steps.

All of the marine contractors have responded to the notices of noncompliance and are in various stages of corrective actions. The Department scheduled a November 4, 2020 public

hearing for North Idaho Maritime's encroachment permit application for winter dock storage and year-round construction area in Cougar Bay. The Department will schedule public hearings on the other encroachment permit applications once the applications are finalized.

Following each public hearing, the hearing coordinator will make a recommendation to the director whether to approve or deny the application. The director will then issue a final order within 30 days from the close of the hearing. If the application is approved, the marine contractor will be authorized to continue to store docks and Department staff will monitor to ensure compliance with the permit. If the application is denied, the Department may grant temporary permits to authorize docks to be stored at the current location through the end of this winter season since docks will already be in storage by the time a decision is issued; however, lakefront owners and marine contractors will need to identify an alternative plan for next year.

### **Attachments**

1. Dock Storage Map
2. Dock Storage Photos

The logo of the Idaho Department of Lands is a large, stylized diamond shape. It features a light green center with a yellow border. The text "IDAHO DEPARTMENT OF LANDS" is written in white, bold, capital letters across the middle of the diamond. The background of the page is white, and the logo is semi-transparent, allowing the text of the document to be seen through it.

IDAHO DEPARTMENT OF LANDS

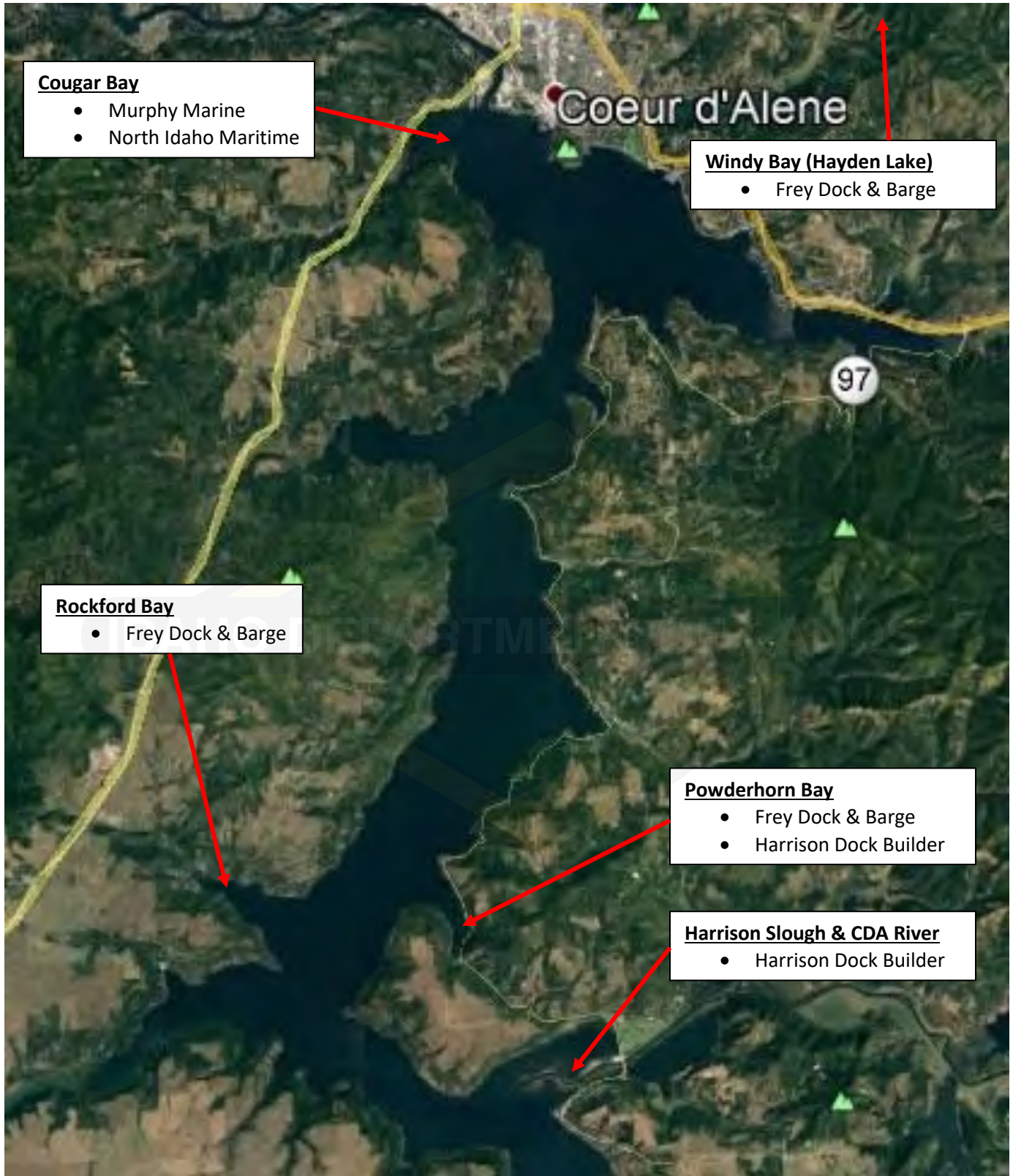




Photo 1

Harrison Slough/Coeur d'Alene River

Noncompliant dock storage or work areas are circled.



Photo 2

Close up of above right location on lower Coeur d'Alene River.





### Photo 3

Cougar Bay on Lake Coeur d'Alene looking toward the Spokane River outlet.

Unpermitted dock storage or work areas are circled.



# STATE BOARD OF LAND COMMISSIONERS

October 20, 2020  
Information Agenda

## Subject

Endowment leasing update

## Background

### Endowment Leasing

The Department has the responsibility for leasing and authorizing the use of approximately 2.5 million acres of state endowment trust land (surface estate) and nearly 3.4 million acres of endowment mineral estate. A wide variety of leasing and permit opportunities are available on state endowment lands, including grazing, farming, conservation, residential cottage sites, wind and geothermal energy, mineral extraction, oil and gas production, and commercial sites that include cell towers, ski resorts, and RV parks.

### Grazing, Agriculture, and Conservation Leasing

The Department manages 1,106 grazing leases that cover 1,767,904 acres of endowment land located primarily in the southern two-thirds of Idaho. Grazing leases contributed an estimated 256,678 animal unit months (AUMs) of forage to livestock operations in 2020. In addition, the Department administers a portfolio of farming and conservation leases and permits that total approximately 18,859 acres. Crops grown on endowment land include alfalfa hay, barley, beans, corn, potatoes, safflower, wheat, and organic crops. Some croplands are also managed within the USDA Conservation Reserve Program (CRP). Conservation leases have varied purposes including wildlife habitat in conjunction with Wildlife Management Areas (WMA), big game habitat, parks, and recreation.

### Cottage Site Leasing

The Department manages endowment land on the shores and uplands of two of Idaho's most beautiful lakes – Priest Lake and Payette Lake. At the end of FY2020, the Department managed 88 cottage sites for approximately \$1.4 million in annual revenue. Cottage site management continues to be part of the leasing program; however, the Land Board will continue to offer private ownership using the Voluntary Auction for Ownership option. Disposition of cottage sites is approved through 2024.

### Commercial Leasing

In FY2020, the Department managed a total of 164 commercial leases, which provided over \$1.6 million to the endowment beneficiaries. Commercial leases include communication sites, wind and geothermal energy sites, office retail, commercial and non-commercial recreation uses, as well as military and industrial uses.

## Minerals, Geothermal, Oil and Gas

The Department manages 3.4 million acres of state-owned mineral rights and administers leases for production of non-metallic minerals (garnets and phosphate), metallic minerals (gold and silver), salable minerals (sand, gravel, stone, and cinders), oil and gas, and geothermal resources. Production and royalty revenue associated with the permanent extraction of commodities is immediately invested in the Permanent Fund managed by the Endowment Fund Investment Board, while rent and fee revenue is applied to the Earnings Reserve Fund.

| Total Number of Leases Administered                                                                       | FY2017 | FY2018 | FY2019 | FY2020       |
|-----------------------------------------------------------------------------------------------------------|--------|--------|--------|--------------|
| Includes Submerged, Grazing, Crop, Conservation, Commercial, Residential, Minerals, Oil & Gas, Geothermal | 2,750  | 2,453  | 2,488  | <b>2,578</b> |

## Discussion

### FY2020 Leases

In April 2019, the Land Board directed the Department to review its leasing process. As a result, numerous leases, lease applications, and certain auctions were suspended until a new process was approved.<sup>1</sup> In October 2019, the Land Board approved the Department's proposed lease process and the Department began processing the 2020 leases. Due to the temporary suspension and high volume of grazing leases, there was a delay in processing 2020 leases. In FY2020, there were 161 leases processed, 139 of those being grazing leases.

### FY2021 Leases

The Department is processing FY2021 leases and lease applications. Some of the FY2021 leases were applied for prior to 2020 and became part of the lease applications that were suspended due to the 2019 lease review process. The Department is working to get the backlog completed and consistent with the typical lease advertising schedule.

Additionally, the Department is working with the Office of Attorney General (OAG) to update lease templates including those affected by 2020 legislation. A goal of the Department is to have all lease templates to the OAG by November for updating prior to the next calendar year. Many of the lease templates currently with the OAG will be ready for calendar year 2021 advertising.

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<sup>1</sup>The Department advertises leases that are expiring in the following year. For example, if a lease expires in 2021, the Department will advertise the lease in early 2021 for the lease to begin in 2022. The lease being advertised is the 2022 lease. New leases are processed as soon as possible.

## **Grazing**

- Fourteen grazing leases expire in FY2021 and will begin the advertising process in January 2021.

## **Residential**

- Eighteen residential leases expire in FY2021 and will begin the advertising process.

## **Commercial**

- There are a number of commercial leases including industrial, military, and office. The Department is currently processing seven industrial and four military leases. There are two office/retail leases that will be advertised as expiring in 2021, and one commercial office space in the Department's Boise staff office that is vacant and will be advertised for application.

## **Communication Sites**

There are many communication leases and applications in different stages of the process.

- Three leases have been processed and completed.
- Nine leases are being processed after being advertised (FirstNet is included in this group) and are out for signature.
- One lease (Buttercup) is being advertised for auction with three applicants.
- Twelve leases are being advertised for application.
- Two leases are in process to begin the application process.

## **Commercial Recreation**

- The Department is working with the OAG on the commercial recreation lease template. There have been several new lease applications for commercial recreation on endowment land. Three of those applications have been in McCall. Due to the Department's preparation of a plan for endowment lands near McCall, the applications have been returned to the applicants until plan approval. However, there are seven commercial and five non-commercial recreation leases the Department is working on and will process upon lease template completion.

## **Alternative Energy**

- The Department has received proposals for a wind and solar project in Elmore County. The Department is working with the OAG on the lease and will offer the lease for auction within the next few months.

## Minerals, Geothermal, Oil and Gas

- House Bill 547 significantly changed portions of Idaho Code § 47-704 and § 47-707. In response, the mineral leasing templates and lease statuses have required review to determine the applicability to each lease. As a result, the lease templates have been delayed as the OAG and Department work through those leases and applications.
- Fourteen new mineral leases (13 metallic and 1 salable) have been issued.
- Geothermal: Four pending leases. The Department is working with the OAG on the lease templates and leases.
- Phosphate: Five leases will be offered extension agreements. One lease is being researched to determine if it will be offered an extension agreement or be re-advertised. Seven expired leases will be re-advertised and auctioned. The Department is working with the OAG on the lease template.
- Salable and Metallic: 25-30 leases are being reviewed for extension and/or re-advertisement and auction. The Department is working with the OAG on the lease template.

The logo of the Idaho Department of Lands is a large, stylized diamond shape. It features a light green center, a yellow border, and a grey outer border. A grey banner with the text "IDAHO DEPARTMENT OF LANDS" in white capital letters is superimposed over the center of the diamond.

IDAHO DEPARTMENT OF LANDS

**AGENDA ITEM 14**

**MINERALS LEASE E310021**

**NO BOARD MATERIALS  
ARE PROVIDED FOR THIS ITEM**

IDAHO DEPARTMENT OF LANDS