



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

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

Final Minutes
State Board of Land Commissioners Regular Meeting
July 20, 2021

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, July 20, 2021 in the Capitol, Lincoln Auditorium (WW02), Lower Level, West Wing, 700 W Jefferson St., Boise, Idaho, and via webinar. The meeting began at 9:01 a.m. The Honorable Secretary of State Lawrence Denney presided in place of Governor Brad Little who joined via webinar. 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, the Governor's Stage 4 Stay Healthy Guidelines, dated 5/11/2021, allowed for public meetings of any size with adherence to physical distancing and sanitation requirements. Four Land Board members were present at the physical meeting location, and Governor Brad Little joined via Zoom webinar for a period of time while he was on business out of state.

1. Department Report – Presented by Dustin Miller, Director

Trust Land Revenue

- A. Timber Sales – June 2021
- B. Leases and Permits – June 2021

Discussion: Regarding the chart on page 4 of the Leases and Permits report, Attorney General Wasden relayed his understanding that essentially the percentages are changing because of the reduction in residential real estate, which was an intentional choice by the Land Board, as well as a reduction in commercial properties which, again, was a deliberate choice by the Land Board. Attorney General Wasden asked for clarification that this is reflective of gross receipts, not net income. Director Miller said that is correct.

Status Updates

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

Discussion: In reference to the Fire Season Report, Attorney General Wasden noticed that in terms of the numbers of fires, recognizing drier than normal conditions, the lightning strikes are 200-300% of normal, but human-caused fires are also 250-300% more than normal. Attorney General Wasden inquired about the Department's actions to try and reduce human-caused fires in the future. Director Miller responded that the Department has significantly ramped up its prevention messaging, on social media outlets and through other sources, to educate the public on the severity of the situation and conditions out there. The best thing that the Department can do is continue to push the prevention messaging, educate folks on the risk out there, and provide information on what sort of things can start fires. Director Miller stated a prime example on roadways is dragging chains. Educating folks to make sure that chains are shortened up on trailers, wrapped and not dragging, helps prevent unwanted fires, as does making sure people are smart with the activities that they are doing on endowment lands and public lands. Director Miller remarked that fire restrictions are in effect for most of the state. In the northern part of the state, north of the Salmon River, Stage 2 fire restrictions are in place and in the lower, southern part of the state Stage 1 fire restrictions are in effect. The Department created a fire restrictions page on its website for the public to view and understand where the restrictions are and what it means to be in Stage 1 and Stage 2 restrictions. The Department is working to educate folks on being smart with their activities whether it is on public lands, private lands, or state endowment lands.

Superintendent Ybarra extended her thanks to the Department for that website; it is huge to educate the public on fire restrictions. Superintendent Ybarra recognized it was probably a heavy lift and it is going to be a long season. The Superintendent mentioned folks sometimes ask her what restrictions the state is under; it will be nice to just send them to that website. Director Miller thanked Superintendent Ybarra and remarked the health and safety of firefighters is a top priority. The Department is closely monitoring fatigue and burnout, making sure that its firefighters are obtaining their work-to-rest ratios, and finding fresh replacements for them whether it is hand crews or engines. Director Miller reiterated this is going to be a long season as Madam Superintendent indicated.

Controller Woolf mentioned he had the opportunity to attend the Leland Complex last week with the Director, the Governor, and others. Controller Woolf commented on the amazing job that Mike [McManus] and his team are doing there at the incident command post, noting they answered a lot of questions from the group. Controller Woolf asked if there is anything more the Land Board can assist the Department and others with through this unprecedented season. Director Miller replied that the Land Board is cognizant and responsive to the needs of the Department's fire program and extended his appreciation for Land Board members' focus and attention on the Department's needs. The Department will continue to communicate with members regularly as the season continues to unfold and bring any requests for assistance as needed. Right now, things are in hand, but the Department is buckling in for the remainder of the season which is going to be a long one.

Governor Little referred to an aviation fuel issue that was brought up at the NIFC press conference on July 13th and asked if all the aircraft used by the Department have a secure,

adequate supply of fuel. Director Miller replied aircraft are getting the fuel needed right now; certainly the fuel shortage is an ongoing issue for the Department, federal resources, and everybody else, but Department aircraft are flying. The National Guard brought fuel with them to supply their Black Hawks. Director Miller added that yesterday [July 19th] there were no aircraft flying on fires under the Department's control given conditions and visibility. The whole region was socked in with some pretty dense smoke. Director Miller recapped that the Department is getting the fuel it needs now and is planning and working with partners to ensure it gets fuel needed for the future. Governor Little inquired if the Department can still fly unmanned aerial to do reconnaissance through the smoke when aircraft are locked down. Director Miller responded yes; the Department has the capability to fly unmanned aircraft when visibility is such that manned aircraft cannot go up in the air.

For the record, Governor Little left the meeting at approximately 9:27 a.m. to attend other business.

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

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

Discussion: Mr. Anton reported that the endowment fund was up 29.7% during FY2021 which is 3.8% above benchmark. In terms of dollars, investment gains were slightly north of \$700 million; this surpasses the fund's previous record of 24.6% that took place in FY2011 as financial markets recovered from the great financial crisis. Looking back at the year, Mr. Anton mentioned that large growth stocks outperformed early in the fiscal year, as big technology companies were best positioned to support new ways of living and working from home due to COVID-19-induced quarantines. Small and value-oriented stocks outperformed in the second half of the fiscal year as effective vaccination efforts enabled a gradual and more broadly dispersed reopening of the economy. The endowment fund's modest overweight in the portfolio toward mid- and small-cap stocks was beneficial to fund results during the year. Mr. Anton commented that the incredible speed of the financial market recovery would not have been possible without extraordinary monetary and fiscal support and outstanding efforts by the biotech and health care communities. Despite these outstanding results there were some challenges in the portfolio. The retail and office sectors of the fund's real estate assets were hit hard by COVID-19 quarantines but recovered and posted positive results overall for the year and in the last two quarters. EFIB just recently received performance reports for the second calendar quarter (fourth fiscal quarter) for both real estate funds and both were up nearly 4% during the quarter. Those gains are not reflected in these numbers, but it is nice to see that healthy recovery in the real estate sector. Mr. Anton noted that fixed income struggled as well because interest rates increased after being at all-time lows just prior to the beginning of the fiscal year. The credit and TIPS [Treasury Inflation Protected Securities] portion of the fund's fixed income portfolio performed relatively well, as spreads tightened and inflation expectations escalated, but it was a difficult year for treasuries given the rising rate environment. Mr. Anton said EFIB's investment performance was complemented by strong and outstanding performance by the team at Idaho Department of Lands. As Director Miller indicated in his report, timber revenue was about 20% above average due to strong lumber markets, a good operating season, solid stumpage prices, and increasing volume of timber under contract as specified by the Forest Asset Management Plan. Additionally,

\$31.8 million was transferred into the permanent fund from the Land Bank. Mr. Anton shared that strong investment performance combined with strong lands revenue will allow EFIB and the Land Board to increase beneficiary distributions in FY2023, maintain solid reserves, and grow the permanent fund. Mr. Anton conveyed the order of magnitude of what EFIB will be presenting to the Land Board in terms of beneficiary distributions for FY2023: it is anticipated that distributions will increase from about \$88 million in current fiscal year, FY2022, to around \$100 million in FY2023. In addition to that, it is exciting to see the fund surpass \$3 billion for the first time during the fiscal year. Mr. Anton remarked that he could not close without noting that capital market assumptions for Callan, and many other organizations, universally suggest investment returns face stiff headwinds due to the low interest rate environment, high equity valuations, and the likelihood that central banks both in the U.S. and around the world will begin the delicate process of scaling back accommodations and potentially increasing interest rates. Mr. Anton observed that he is not sure in his career if the fund will see another year of 29.7%; enjoy it now. Mr. Anton concluded the investment overview and stated at this point EFIB staff is focused on closing the books and preparing for audit. The Land Board Audit Committee meeting is August 11th, the Investment Board meeting is the following day, and the next week is the Land Board meeting. During that Land Board meeting, EFIB will present its recommendations for beneficiaries for FY2023. Superintendent Ybarra extended her thank you to Mr. Anton and his team on behalf of the beneficiaries, specifically public school kids; it has been an historic year.

Consent—Action Item(s)

- 3. Disclaimer of Interest Request DI600302-6 Point Teaser Investments, LLC, Boise River –**
Presented by Eric Wilson, Bureau Chief-Resource Protection and Assistance

Discussion: Mr. Wilson reviewed Board memos for all three disclaimers (items 3-5), then answered questions from Land Board members. Controller Woolf asked if the 25-foot public use rights of way are along the greenbelt, on the south side of the river. Mr. Wilson responded that the easements are actually a little bit waterward of where the greenbelt exists now. Mr. Wilson noted that there are some existing easements that the City of Boise has along the river there. These disclaimers are going to be conditioned on the applicants honoring those existing easements for a sewer pipe and for the greenbelt through this area. Mr. Wilson did not anticipate that the greenbelt would be affected by these transactions.

Recommendation: Direct the Department to issue Disclaimer of Interest DI600302 for one parcel totaling 0.61 acres of the former bed of the Boise River to 6 Point Teaser Investments, LLC following their payment to the Department of the remaining processing fee of \$300.

- 4. Disclaimer of Interest Request DI600307-Crispy Investments, LLC, Boise River –** *Presented by Craig Foss, State Forester/Division Administrator-Forestry and Fire*

Discussion: See item 3 above.

Recommendation: Direct the Department to issue Disclaimer of Interest DI600307 for one parcel totaling 3.17 acres of the former bed of the Boise River to Crispy Investments, LLC following their payment to the Department of the remaining processing fee of \$300.

5. **Disclaimer of Interest Request DI600314-U Got Action Investments, LLC, Boise River** – *Presented by Craig Foss, State Forester/Division Administrator-Forestry and Fire*

Discussion: See item 3 above.

Recommendation: Direct the Department to issue Disclaimer of Interest DI600314 for one parcel totaling 0.04 acres of the former bed of the Boise River to U Got Action Investments, LLC following their payment to the Department of the remaining processing fee of \$300.

6. **Approval of Draft Minutes** – June 15, 2021 Regular Meeting (Boise)

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

Regular—Action Item(s)

7. **Acquisition of Title: Idaho Fish and Game Regional Office Administrative Sites in Jerome and Idaho Falls** – *Presented by Josh Purkiss, Bureau Chief-Real Estate Services, and Michael Pearson, Division Administrator, Idaho Department of Fish and Game*

Recommendation: Approve acquisition of the two IDFG regional office properties in Jerome and Idaho Falls with title to be held by the Land Board for the benefit and use of IDFG, with all necessary funds and expenses for the purchase to be paid by IDFG.

Discussion: None.

Board Action: A motion was made by Attorney General Wasden that the Land Board approve the recommendation that is approve acquisition of the two Idaho Fish and Game regional office properties in Jerome and Idaho Falls with the title to be held by the Land Board for the benefit and use of Idaho Fish and Game, with all necessary funds and expenses for the purchase to be paid by Idaho Fish and Game. Controller Woolf seconded the motion. The motion carried on a vote of 4-0.

8. **Land Bank Fund: Transfer of Past Earned Interest to Permanent Fund** – *Presented by Dustin Miller, Director*

Recommendation: Authorize the State Treasurer to transfer \$4,021,508 in interest from the Land Bank to the appropriate endowments' permanent funds for investment by the Endowment Fund Investment Board.

Discussion: Attorney General Wasden stated this project has presented some accounting and auditing challenges; he appreciated the effort by the Department to make this recommendation and noted that Director Miller discussed a couple of other alternatives. Attorney General Wasden professed he is not an accountant or an auditor but put forth that the Land Board will want to consider some sort of requirements and, at some point, the Department will want to make a recommendation. Attorney General Wasden suggested that it would be appropriate to have folks with accounting and auditing experience help devise a proper process. Director Miller thanked the Attorney General for the advice and affirmed the Department will do that.

Controller Woolf asked Director Miller to confirm that the recommendation from the Department today is only to move this \$4 million, though other recommendations or options were touched on, and in the future the Land Board can have the discussion that Attorney General Wasden mentioned. Director Miller replied that is correct.

Board Action: A motion was made by Attorney General Wasden that the Land Board adopt the Department recommendation that is authorize the State Treasurer to transfer \$4,021,508 in interest from the Land Bank to the appropriate endowments' permanent funds for investment by the Endowment Fund Investment Board. Controller Woolf seconded the motion. The motion carried on a vote of 4-0.

9. Proposed Legislation-2022 Session – Presented by Scott Phillips, Policy and Communications Chief

Recommendation: Approve the bill language for the Department's five 2022 legislative priorities.

[Editor's note: Due to duration, the Discussion portion of this item is written in first-person format. This is not a verbatim transcript.]

Discussion:

Controller Woolf: Mr. Phillips, back on the rest and recuperation, where it talks about up to 2 days, is that payment based on what their work schedule would have been on those two scheduled workdays, meaning whether it was eight, 10, or 12 – whatever their work schedule was for those two days is that what their payment would be?

Mr. Phillips: That is correct. Let's say if their normal work schedule is Monday through Friday and they finish a 14-day fire assignment on Wednesday, they would be eligible for rest and recuperation leave on Thursday and Friday. But if they get back in on Thursday, they would only be eligible for one day of recuperation leave under the model.

Controller Woolf: After being up at the incident command post there in Deary, seeing that and knowing what our department is up against for this summer, for Josh Harvey and the team there, being able to have this rest and recuperation and hazard pay are two great things to help our firefighters be equal to the federal, BLM, and U.S. Forest Service firefighters that are fighting on our fires. I fully support these and appreciate the staff working with this. I am grateful for deputy attorneys general and their work in putting the language together. I look forward to supporting these.

Secretary of State Denney: Scott, on the sign that you showed us, it says you need a firewood permit for state lands. Are those signs going to be put up everywhere where you can enter state land on a road? Is that the thought?

Mr. Phillips: Mr. Chairman, Land Board members, our intention is to use them strategically. There are parcels of endowment land that really don't see a lot of recreational pressure, so it wouldn't make sense to spend the resources on those. However, on areas that do see the pressure, the signage is critical for ensuring the public is aware of what they can and cannot do. It will be a more targeted approach.

Secretary of State Denney: I guess that the average person does not know when they cross onto state land and that they need a permit different than their Forest Service wood permit.

Mr. Phillips: Mr. Chairman and Land Board members, that is our assumption as well. On the website, we will have what I anticipate as being some GIS enabled maps to help people really dive into and understand where restriction boundaries are, where endowment land is. And of course to comply with code, we will use the appropriate signage.

Director Miller: Mr. Chairman, Land Board members, I would echo Mr. Phillips' thank you and in particular being fire season and our focus on taking care of our wildland firefighters, the legislation for both hazard pay and the leave after a 14-day roll is vitally important for our program. I appreciate the recognition of wanting to get our firefighters closer to what other agencies are paying and helping us address that inequity. This is going to be a great tool for recruitment and retention of our highly skilled and trained firefighting force. All these pieces of legislation are very important to the Department, but being fire season, I just wanted to say thank you for your help and assistance with taking care of our firefighters

Board Action: A motion was made by Attorney General Wasden that the Land Board adopt and approve the Department recommendation that is approve the bill language for the Department's five 2022 legislative priorities. Controller Woolf seconded the motion. The motion carried on a vote of 4-0.

Information

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

10. Proposed Rule IDAPA 20.03.09, Easements on State-Owned Submerged Lands and Formerly Submerged Lands – Presented by Mick Thomas, Division Administrator-Minerals, Public Trust, Oil and Gas

11. Draft Grazing Rate Methodology Proposal – Presented by Dustin Miller, Director

[Editor's note: Due to duration, the Discussion portion of this item is written in first-person format. This is not a verbatim transcript.]

Discussion:

Superintendent Ybarra: Normally, you give us the comments from the public. I am assuming we will get those here soon; do we have anything yet? I think I heard you say you are collecting that and putting it together. If we do, do you have a tone and tenor of that right now? Are there specific concerns yet?

Director Miller: Mr. Chairman and Madam Superintendent, we've begun getting some comments in. I don't know if they've been fully analyzed yet. I could bring Scott up here to talk about the tone and tenor of those comments. What we plan to do is ensure that we provide ample information and heads up to the Land Board, so you can review those comments.

Mr. Phillips: Mr. Chairman, Land Board members, to date via the online form that we've launched, we've received nine public comments. We've also had conversations with numerous stakeholders over the telephone. The tenor of the comments...one of the themes I am starting to see is concerns about the timing of this change vis-à-vis the economic conditions of the ranching industry and drought on lands that they would normally graze. Our intention is to compile those

comments. We're looking for good suggestions; part of our public outreach was a request to help us look for other data sources we may not be aware of because we base the model on the best available data sources we could find. We're confident in that research but we're willing to listen to stakeholders and our customers and see if they have some different ideas they can share with us that may help us refine the model even further.

Secretary of State Denney: I've gotten a few calls and I have tried to increase your business by directing them to your website and asking them to make their comments to you. One of the comments that I've heard that I don't have an answer to is it seems like this new rate is tied to the NASS private rate. The NASS private rate takes into account, not only native rangeland, but also improved crop aftermath and irrigated pasture. Have we removed those out of that NASS formula so that we are more comparing apples to apples, the native rangeland...I would guess that is the majority of our leases is native rangeland?

Director Miller: Mr. Chairman, I appreciate the comment. This actually came up when we were meeting with the Idaho Cattle Association in Salmon, concerns over the components of what goes into the development of that NASS private rate. We still have more work to do to make sure we're capturing everything and looking at the right components of that NASS rate. That's been a helpful comment for us that we were not aware of prior to having those conversations, so we will keep working through that.

Secretary of State Denney: The other comment that I've heard quite a bit is thinking that we need a tiered system or something of the nature. Are you comfortable that the difference in carrying capacity, the number of AUMs, takes care of that tiered system rather than having actual different prices per AUM?

Director Miller: Mr. Chairman, that is something that we've been looking at as well. I am confident that the carrying capacity is addressing that when you can put more AUMS on a piece of ground say over in Eastern than you can on some of our rangelands here at Southwest and out in the Owyhees. I know that's come up in the past, having a conversation about a two-tiered system. I believe some states possibly do a two-tiered system that we are looking at. But I do feel comfortable, Mr. Chairman that carrying capacity of some of those more productive rangelands, and the increase in AUMs on those rangelands, is addressing that. Certainly there's going to be a lot more robust dialogue surrounding that issue moving forward.

Secretary of State Denney: I would suggest that since we know the carrying capacity on most of these leases, if it comes down to a tiered system, we know where those breaks are, where we need to put those. That is just a suggestion from me.

Executive Session

None

There being no further business before the Land Board, at 10:08 a.m. a motion to adjourn was made by Attorney General Wasden. Controller Woolf seconded the motion. The motion carried on a vote of 4-0.

