

State Board of Land Commissioners Open Meeting Checklist

Meeting Date: July 19, 2022

Regular Meetings

7/8/2022	Meeting Notice posted in prominent place in IDL's Boise Director's office five (5) or more calendar days before meeting.
7/8/2022	Meeting Notice posted in prominent place in IDL's Coeur d'Alene staff office five (5) or more calendar days before meeting.
7/8/2022	Meeting Notice posted in prominent place at meeting location five (5) or more calendar days before meeting.
7/8/2022	Meeting Notice published on Townhall Idaho website https://townhall.idaho.gov five (5) or more calendar days before meeting.
7/8/2022	Meeting Notice emailed/faxed to list of media and interested citizens who have requested such notice five (5) or more calendar days before meeting.
7/8/2022	Meeting Notice posted electronically on IDL's public website https://www.idl.idaho.gov five (5) or more calendar days before meeting.
7/14/2022	Agenda posted in prominent place in IDL's Boise Director's office forty-eight (48) hours before meeting.
7/14/2022	Agenda posted in prominent place in IDL's Coeur d'Alene staff office forty-eight (48) hours before meeting.
7/14/2022	Agenda posted in prominent place at meeting location forty-eight (48) hours before meeting.
7/14/2022	Agenda published on Townhall Idaho website https://townhall.idaho.gov forty-eight (48) hours before meeting.
7/14/2022	Agenda emailed/faxed to list of media and interested citizens who have requested such notice forty-eight (48) hours before meeting.
7/14/2022	Agenda posted electronically on IDL's public website https://www.idl.idaho.gov forty-eight (48) hours before meeting.
4/26/2022	Land Board annual meeting schedule posted – Boise Director's office, Coeur d'Alene staff office, and IDL's public website https://www.idl.idaho.gov .

Special Meetings

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

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

	Meeting Notice and Agenda posted in IDL's Boise Director's office twenty-four (24) hours before meeting.
	Meeting Notice and Agenda posted in IDL's Coeur d'Alene staff office twenty-four (24) hours before meeting.
	Meeting Notice and Agenda posted at meeting location twenty-four (24) hours before meeting.
	Meeting Notice and Agenda published on Townhall Idaho website https://townhall.idaho.gov twenty-four (24) hours before meeting.
	Meeting Notice and Agenda emailed/faxed to list of media and interested citizens who have requested such notice twenty-four (24) hours before meeting.
	Meeting Notice and Agenda posted electronically on IDL's public website https://www.idl.idaho.gov 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

July 14, 2022

Date

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

NOTICE OF PUBLIC MEETING JULY 2022

The Idaho State Board of Land Commissioners will hold a Regular Meeting on Tuesday, July 19, 2022 in the **State Capitol, Lincoln Auditorium (WW02), Lower Level, West Wing, 700 W. Jefferson St., Boise, Idaho**. The meeting is scheduled to begin at 9:00 AM (Mountain).

Please note location.

The State Board of Land Commissioners will conduct this meeting in person and by virtual means. This meeting is open to the public. No public comment will be taken.

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

Members of the public may register to attend the Zoom webinar through this link:

https://idl.zoom.us/webinar/register/WN_rl-AG4l1THyTdFeFMvyNjQ

First Notice Posted: 7/8/2022-IDL Boise; 7/8/2022-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

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State Board of Land Commissioners Regular Meeting

July 19, 2022 – 9:00 AM (MT)

Final Agenda

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

Please note location.

**The State Board of Land Commissioners will conduct this meeting in person and by virtual means.
This meeting is open to the public. No public comment will be taken.**

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https://idl.zoom.us/webinar/register/WN_rl-AG4l1THyTdFeFMvyNjQ

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

Trust Land Revenue

- A. Timber Sales – June 2022
- B. Leases and Permits – June 2022

Status Updates

- C. Fire Season Report
- 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

Consent—Action Item(s)

3. **Results of June 23, 2022 Minerals Lease Live Auction** – Presented by Mike Murphy, Program Manager-Minerals Leasing

4. **Approval of Draft Minutes** – June 21, 2022 Regular Meeting (Boise)

State Board of Land Commissioners
Final Agenda
Regular Meeting – July 19, 2022
Page 1 of 2

Regular—Action Item(s)

5. **Proposed Legislation-2023 Session** – *Presented by Scott Phillips, Policy and Communications Chief*

Information

6. **Proposed Rule IDAPA 20.03.17, Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands** – *Presented by Eric Wilson, Bureau Chief-Resource Protection and Assistance*

Executive Session

None

The logo of the Idaho Department of Lands is a large, stylized diamond shape. It features a light green background with a yellow border. Inside the diamond, there are stylized mountain peaks and a river. A horizontal banner across the middle of the diamond contains the text "IDAHO DEPARTMENT OF LANDS" in white, uppercase letters.

IDAHO DEPARTMENT OF LANDS



Idaho Statutes

Idaho Statutes are updated to the web July 1 following the legislative session.

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

July 19, 2022
Trust Land Revenue

Timber Sales

During June 2022, the Department of Lands sold ten timber sales at auction. Seven of the sales had competitive bidding. The net sale value represents 15% up bid over the appraised value. Five endowment timber sales did not sell at auction. One Good Neighbor Authority (GNA) sale was sold. The sale had competitive bidding. The net sale value represents 78% up bid over the appraised value.

TIMBER SALE AUCTIONS								
Sale Name	Area	Sawlog MBF	Cedar Prod MBF	Pulp MBF	Appraised Net Value	Sale Net Value	Net \$/MBF	Purchaser
Brush Cedar	POND	3,603	942		\$2,994,522.50	\$2,994,522.50	\$658.86	Stella-Jones
Hardball	PAY	4,215			\$ 478,543.50	\$ 562,005.00	\$133.33	IFG Timber LLC
Blackfoot Mountains OSR Ton	EI	1,600			\$ 52,323.50	\$ 198,150.50	\$123.84	Sun Mountain
Coyote Ridge Ton	EI	1,100			\$ 37,018.22	\$ 130,066.00	\$118.24	Sun Mountain
Gold Spring Ton	EI	1,310			\$ 38,881.46	\$ 230,045.50	\$175.61	Sun Mountain
Freebob	POL	1,020			\$ 220,698.00	\$ 237,238.00	\$232.59	Stimson Lumber
Falling Color Cedar	POL	1,515			\$ 791,395.50	\$ 854,691.00	\$564.15	Alta Forest
Dry Buck Summit	SWI	9,657			\$1,831,877.00	2,695,678.40	\$279.14	Woodgrain Inc
Benton Middle Cedar Salvage	CLW	8,330			\$1,625,338.00	\$1,625,338.00	\$195.12	IFG Timber LLC
Jumping Elk	SJ	6,225			\$1,786,631.00	\$1,786,631.00	\$287.01	IFG Timber LLC
Endowment		38,575	942	0	\$9,857,228.68	\$11,314,365.90	\$286.32	
Albeni GNA Ton	IPNF	3,370			\$ 355,385.94	\$ 633,570.00	\$188.00	Stimson Lumber
Non-Endowment		3,370	0	0	\$ 355,385.94	\$ 633,570.00	\$188.00	

PROPOSED TIMBER SALES FOR AUCTION				
Sale Name	Volume MBF	Advertised Net Value	Area	Estimated Auction Date
North Operations				
Sand Mountain Salvage	1,515	\$ 12,799.50	Ponderosa	7/6/2022
Willow OSR	2,570	\$ 740,304.00	St. Joe	7/19/2022
Higbee Camp	7,055	\$ 1,826,423.50	MICA-Cataldo	7/26/2022
TOTALS	11,140	\$ 2,579,527.00		
South Operations				
Golden Glen	4,885	\$1,971,433.50	Maggie Creek	7/20/2022
Chase N Paper Pulp	2,450	\$ 465,384.50	Maggie Creek	7/20/2022
TOTALS	7,335	\$ 2,436,818.00		

VOLUME UNDER CONTRACT as of June 30, 2022				
	Public School	Pooled	Total	3 Year Avg.
Active Contracts			179	176
Total Residual MBF Equivalent	345,406	216,523	561,929	543,400
Estimated residual value	\$94,838,296	\$56,302,783	\$151,141,079	\$151,941,890
Residual Value (\$/MBF)	\$274.57	\$260.03	\$268.97	\$280.21

	TIMBER HARVEST RECEIPTS				
	June		FY to date	July Projected	
	Stumpage	Interest	Harvest Receipts	Stumpage	Interest
Public School	\$ 2,886,449.22	\$ 175,991.92	\$ 48,116,635.51	\$ 4,233,508.74	\$ 324,444.00
Pooled	\$ 1,026,450.53	\$ 99,775.28	\$ 27,678,860.38	\$ 1,872,516.97	\$ 233,310.70
General Fund	\$ 2.43	\$ 0.00	\$ 13.21	\$ 2.43	\$ 0.00
TOTALS	\$ 3,912,902.18	\$ 275,767.20	\$ 75,795,509.10	\$ 6,106,028.14	\$ 557,754.70

	Status of FY2022 Timber Sale Program					
	MBF Sawlog			Number Poles		
	Public School	Pooled	All Endowments	Public School	Pooled	All Endowments
Sold as of June 30, 2022	175,507	91,434	266,941	25,593	17,886	43,479
Currently Advertised	9,625	6,585	16,210	0	0	0
In Review	22,671	7,846	30,517	3,142	5,023	8,165
Did Not Sell*	1,515	0	1,515	0	0	0
TOTALS	209,318	105,865	315,183	28,735	22,909	51,644
FY2022 Sales Plan			311,195			20,600
Percent to Date			101%			251%

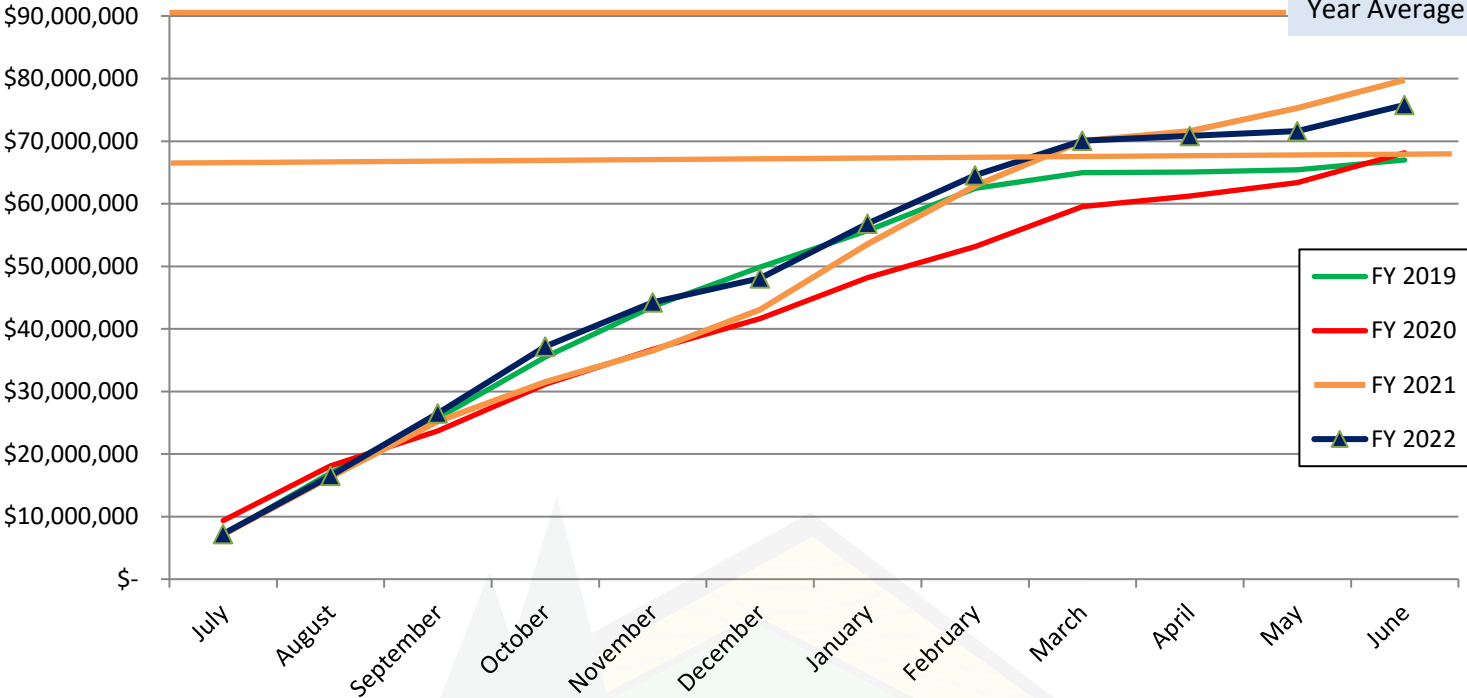
*After three attempts at auction.

	Status of FY2023 Timber Sale Program					
	MBF Sawlog			Number Poles		
	Public School	Pooled	All Endowments	Public School	Pooled	All Endowments
Sold as of June 30, 2022	0	0	0	0	0	0
Currently Advertised	0	0	0	0	0	0
In Review	20,195	5,920	26,115	1,650	510	2,160
Did Not Sell*	0	0	0	0	0	0
TOTALS	20,195	5,920	26,115	1,650	510	2,160
FY2023 Sales Plan			326,000			20,000
Percent to Date			8%			11%

*After three attempts at auction.

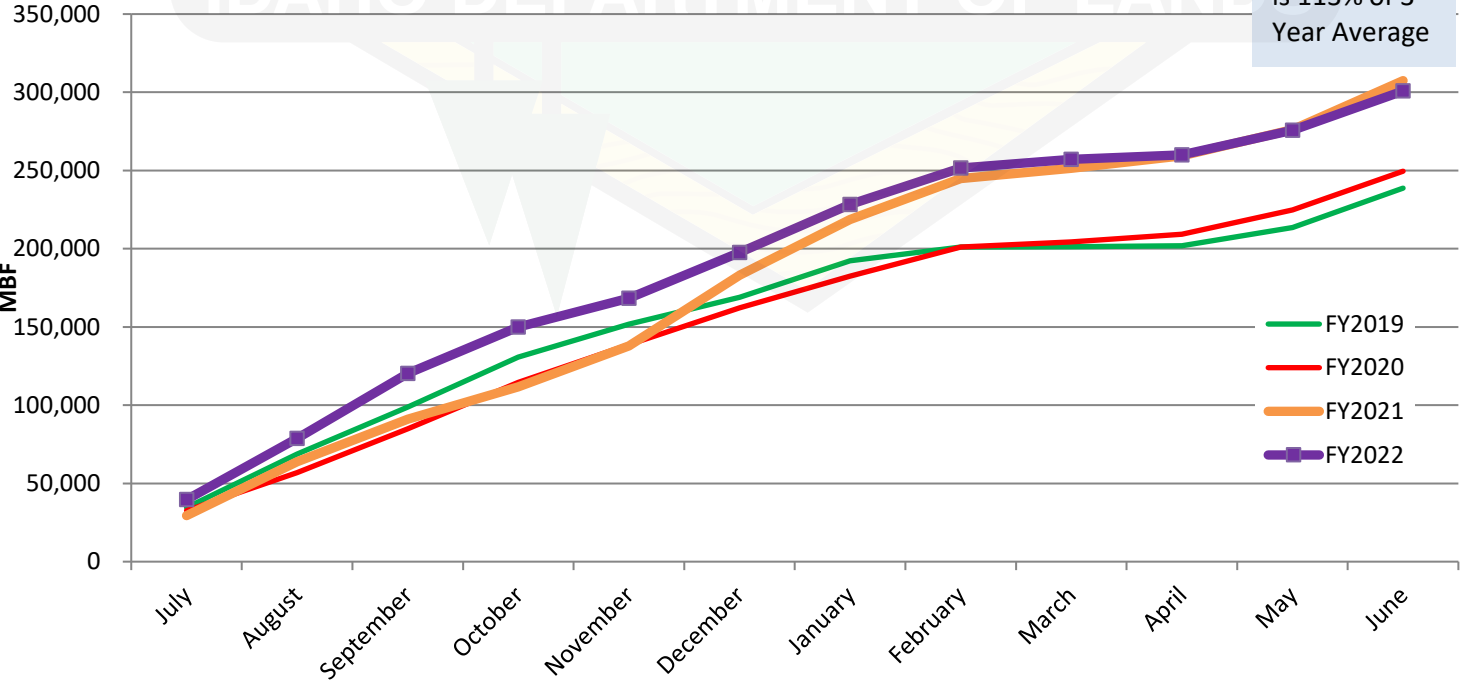
Cumulative Harvest Receipts

Current FYTD
is 106% of 3
Year Average

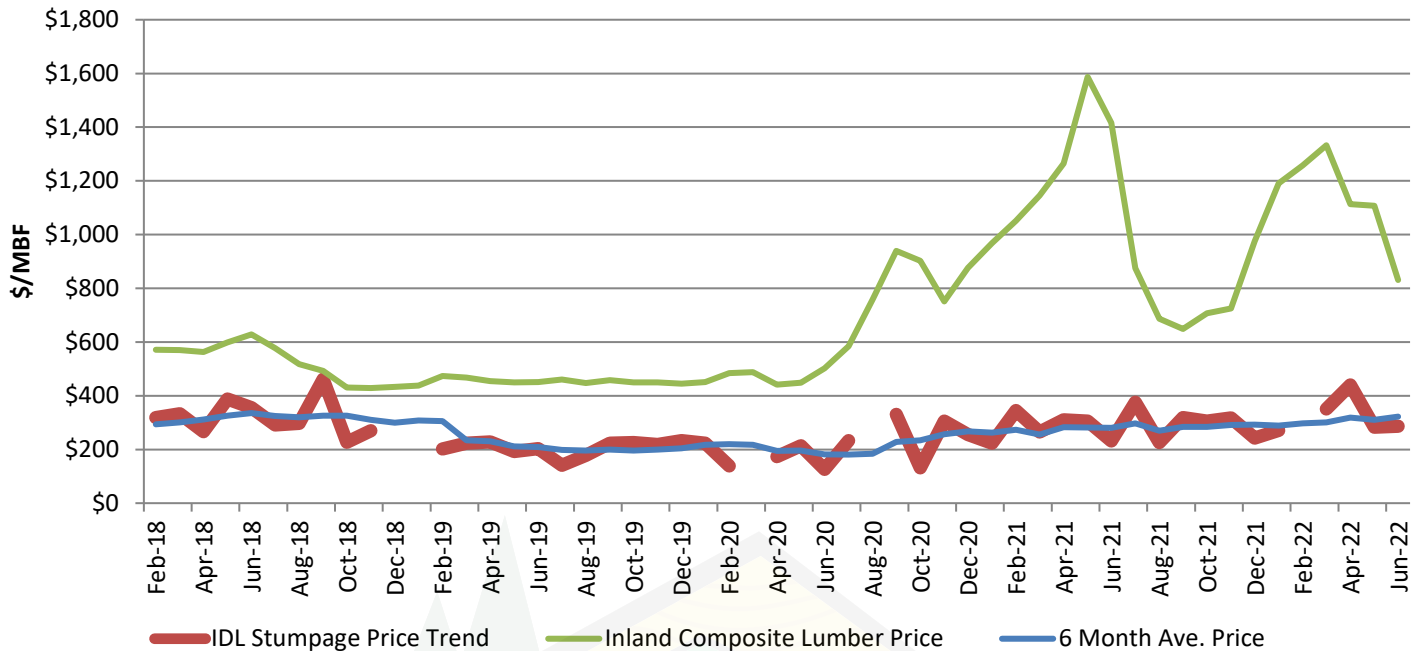


Cumulative Harvest Volume

Current FYTD
is 113% of 3
Year Average



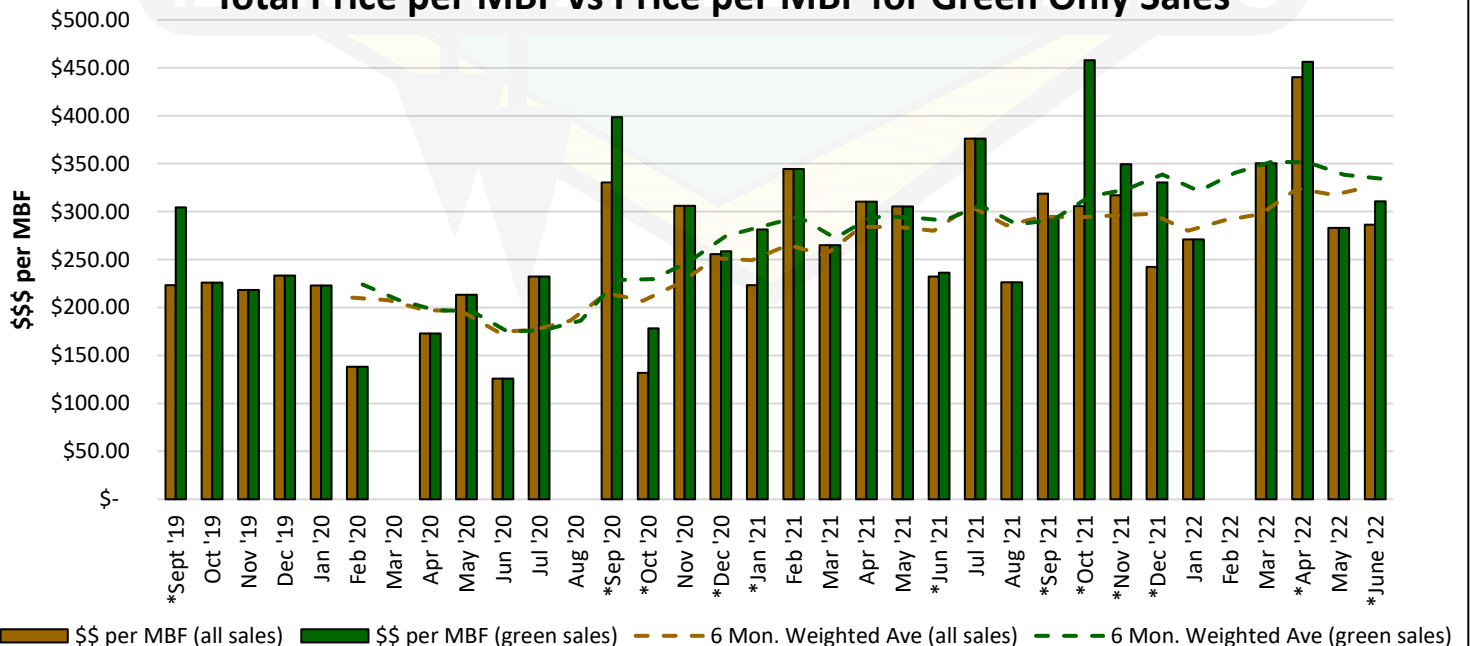
Monthly Lumber and Stumpage Price



June 2022 6-month average price is \$322.41.

June 2021 6-month average price was \$280.29.

Total Price per MBF vs Price per MBF for Green Only Sales



*Month where a salvage sale was sold.

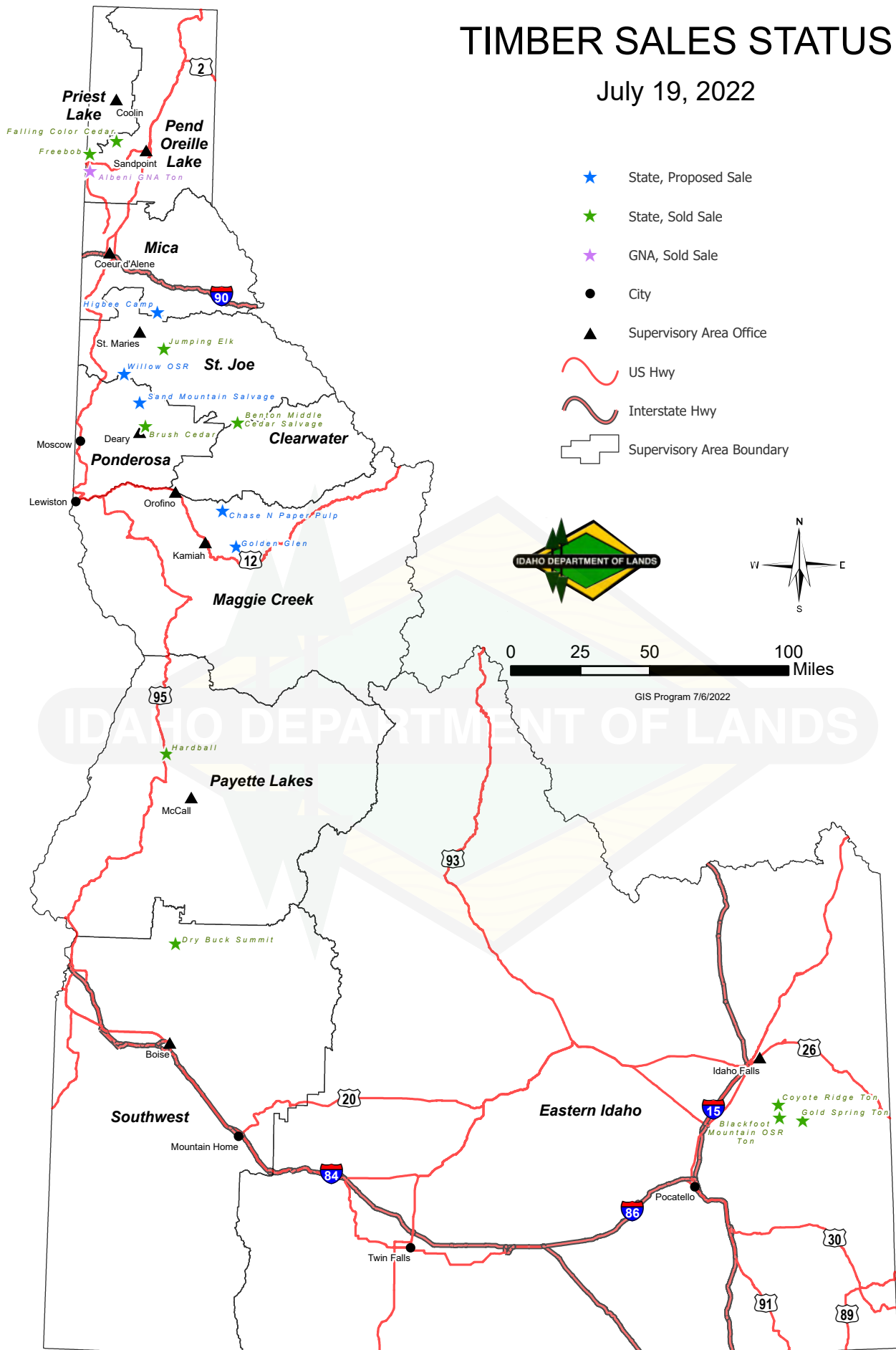
Trendlines are a 6-month average of the net sale price split out by all sales and green sales only.

June 2022 month average for green sales: \$310.68

June 2022 month average for all sales: \$286.32

TIMBER SALES STATUS

July 19, 2022



STATE BOARD OF LAND COMMISSIONERS

July 19, 2022
Endowment Transactions

Leases and Permits

FISCAL YEAR 2022 – LEASING & PERMITTING TRANSACTIONS BY MONTH – through June 30, 2022													
ACTIVITY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
SURFACE													
Agriculture	-	-	-	-	1	-	-	-	-	-	-	-	1
<i>Assignments</i>	-	-	-	-	-	-	-	-	-	-	-	-	0
Communication Sites	-	-	2	-	2	1	1	-	-	-	1	2	9
Grazing	-	3	2	5	5	1	-	-	-	-	3	-	19
<i>Assignments</i>	2	-	1	-	4	2	1	7	4	5	-	2	28
Residential	1	-	1	-	7	-	-	-	-	-	1	-	10
<i>Assignments</i>	-	-	1	-	1	-	-	-	-	-	-	1	3
COMMERCIAL													
Alternative Energy	-	-	-	-	-	-	-	-	-	-	-	-	0
Industrial	-	-	-	-	-	-	-	-	-	-	-	-	0
Military	-	-	-	-	-	-	-	-	-	-	-	-	0
Office/Retail	-	-	-	-	-	-	-	-	-	-	-	-	0
Recreation	-	-	-	-	-	-	-	-	-	-	-	-	0
<i>Assignments</i>	-	-	-	-	-	-	-	-	-	-	-	-	0
OTHER													
Conservation	-	-	-	-	2	-	-	-	-	-	-	-	2
<i>Assignments</i>	-	-	-	-	-	-	-	-	-	-	-	-	0
Geothermal	-	-	-	-	-	-	-	-	-	-	-	-	0
Minerals	-	-	-	1	-	-	-	-	3	-	16	-	20
<i>Assignments</i>	-	-	-	-	-	1	-	-	-	-	-	-	1
Non-Comm Recreation	-	-	-	-	-	-	-	-	-	-	-	-	0
Oil & Gas	-	-	-	-	-	-	-	-	-	-	-	-	0
PERMITS													
Land Use Permits	9	9	9	2	11	9	8	8	19	4	11	6	105
TOTAL INSTRUMENTS	12	12	16	8	33	14	10	15	26	9	32	11	198

Real Estate

FISCAL YEAR 2022 – REAL ESTATE TRANSACTIONS BY MONTH – through June 30, 2022													
ACTIVITY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
Deeds Acquired	-	-	-	1	-	2	-	-	1	-	-	-	4
Deeds Granted	-	-	5	10	2	2	5	-	2	-	-	-	26
Deeds Granted - Surplus	-	-	-	-	-	-	-	-	-	-	-	-	0
Easements Acquired	-	-	-	2	1	-	-	-	-	-	-	2	5
Easements Granted	-	2	-	5	2	-	-	-	-	-	2	-	11
Land Exchange Updates <i>Avimor - Title issues continue to prevent the Department from bringing this forward for Land Board final approval to close.</i>													

TRUST LAND MANAGEMENT DIVISION
FY2022 GROSS REVENUE (non-timber) - ACTUAL AND FORECASTED
through June 30, 2022

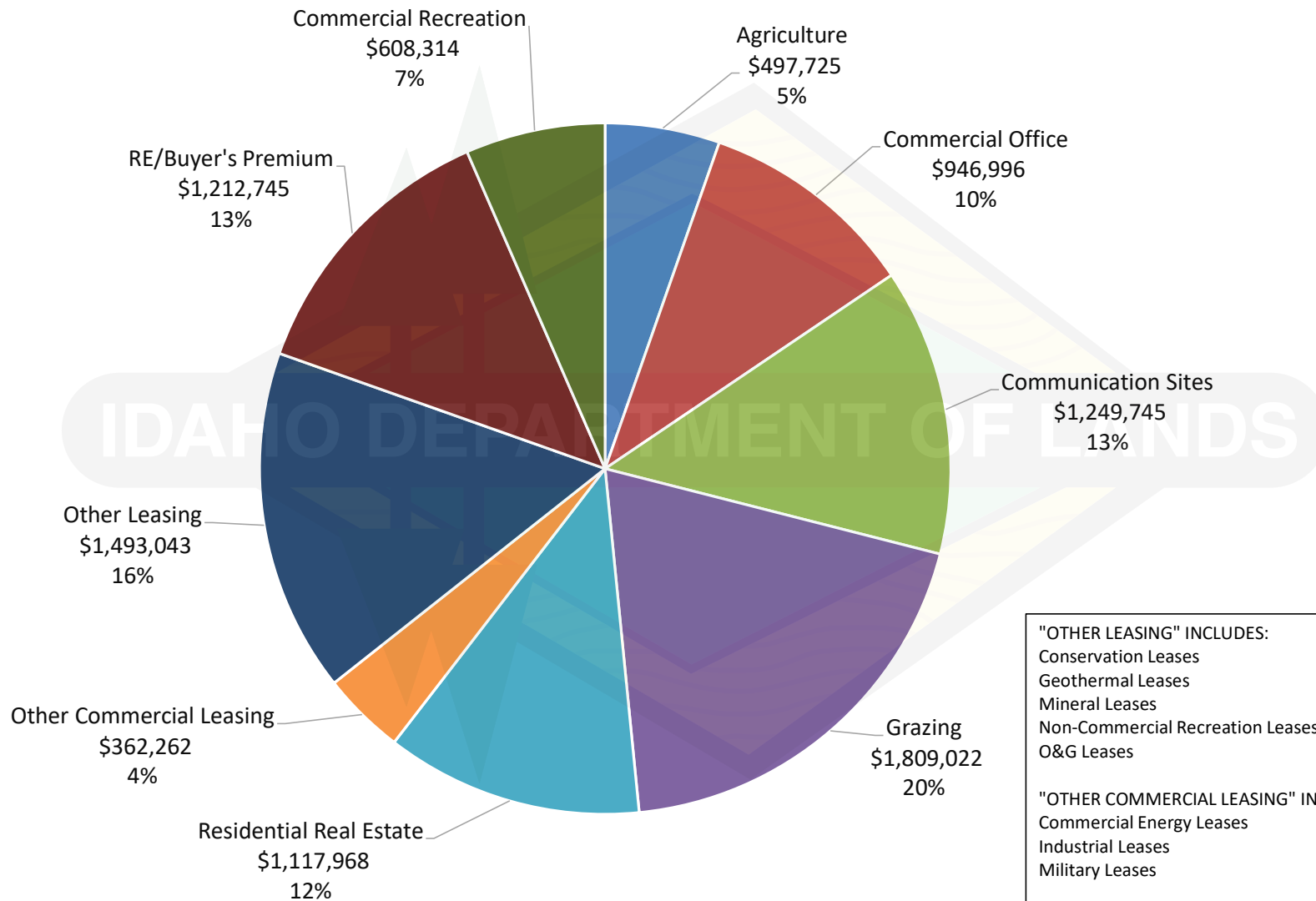
	ACTUAL RECEIPTS AS OF 06.30.2022	REVENUE EXPECTED BY 06.30.2022**	REVENUE EXPECTED BY 06.30.2022
SURFACE			
AGRICULTURE	\$ 497,725	\$ 491,700	\$ 491,700
COMMUNICATION SITES	\$ 1,249,745	\$ 1,011,000	\$ 1,011,000
GRAZING	\$ 1,809,022	\$ 1,817,000	\$ 1,817,000
RESIDENTIAL	\$ 1,117,968	\$ 1,303,345	\$ 1,303,345
COMMERCIAL			
COMMERCIAL ENERGY RESOURCES	\$ 26,032	\$ 21,859	\$ 21,859
COMMERCIAL INDUSTRIAL	\$ 155,145	\$ 84,967	\$ 84,967
COMMERCIAL MILITARY	\$ 181,085	\$ 91,463	\$ 91,463
COMMERCIAL OFFICE/RETAIL	\$ 946,996	\$ 923,859	\$ 923,859
COMMERCIAL RECREATION	\$ 608,314	\$ 531,800	\$ 531,800
OTHER			
CONSERVATION LEASES	\$ 74,475	\$ 65,000	\$ 65,000
GEOTHERMAL	\$ 1,250	\$ -	\$ -
MINERAL	\$ 1,300,273	\$ 105,403	\$ 105,403
NON-COMMERCIAL RECREATION	\$ 114,570	\$ 98,452	\$ 98,452
OIL AND GAS LEASES	\$ 2,475	\$ 6,473	\$ 6,473
Sub Total	\$ 8,085,075	\$ 6,552,321	\$ 6,552,321
*REAL ESTATE SERVICES	\$ 1,212,745		
Grand Total	\$ 9,297,820		

* This category is not included in the annual forecast.

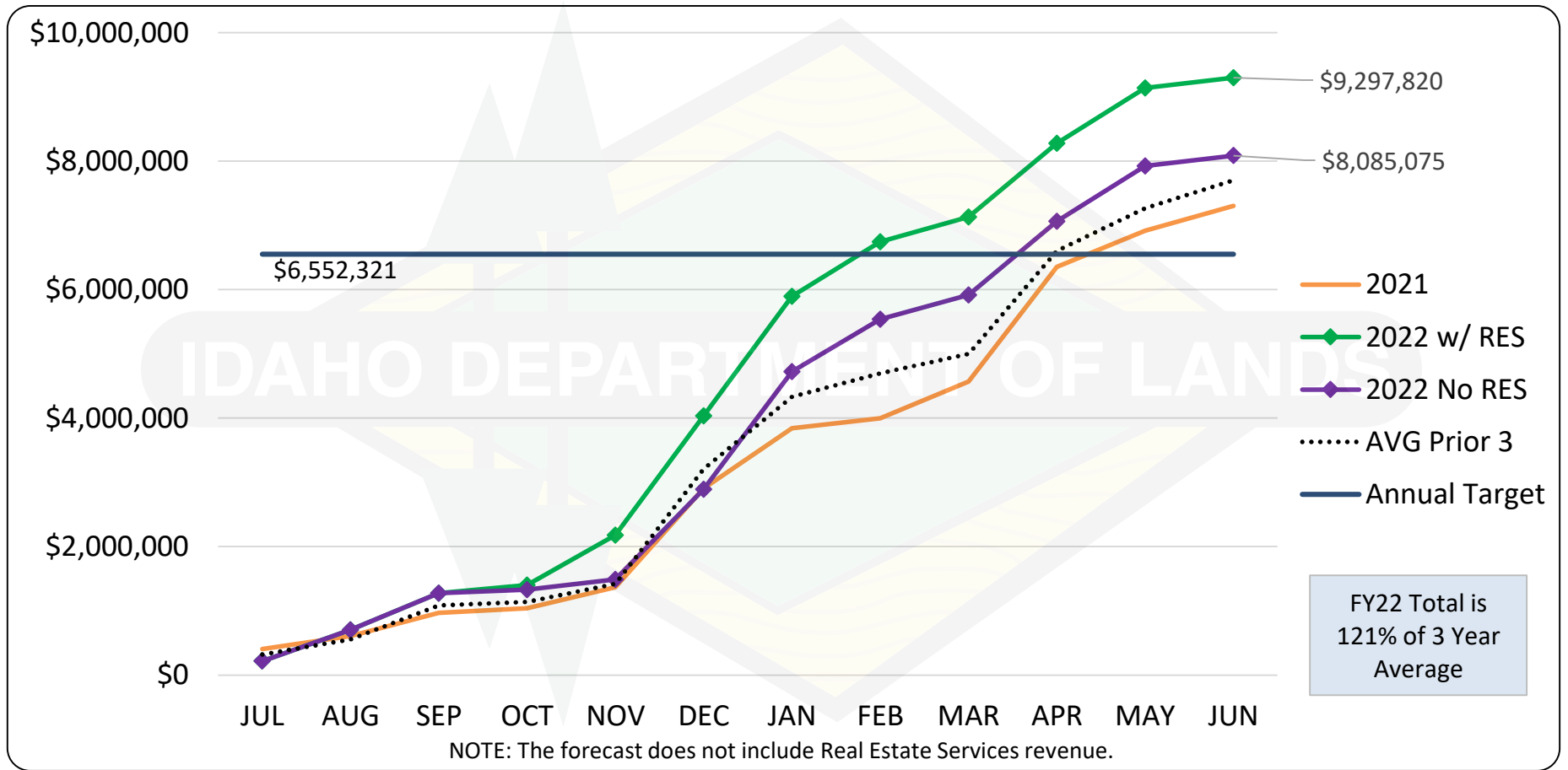
** These figures are based on "normal" timing of revenue/billing throughout the year.

TRUST LAND - EARNINGS RESERVE REVENUE BY PROGRAM (non-timber)

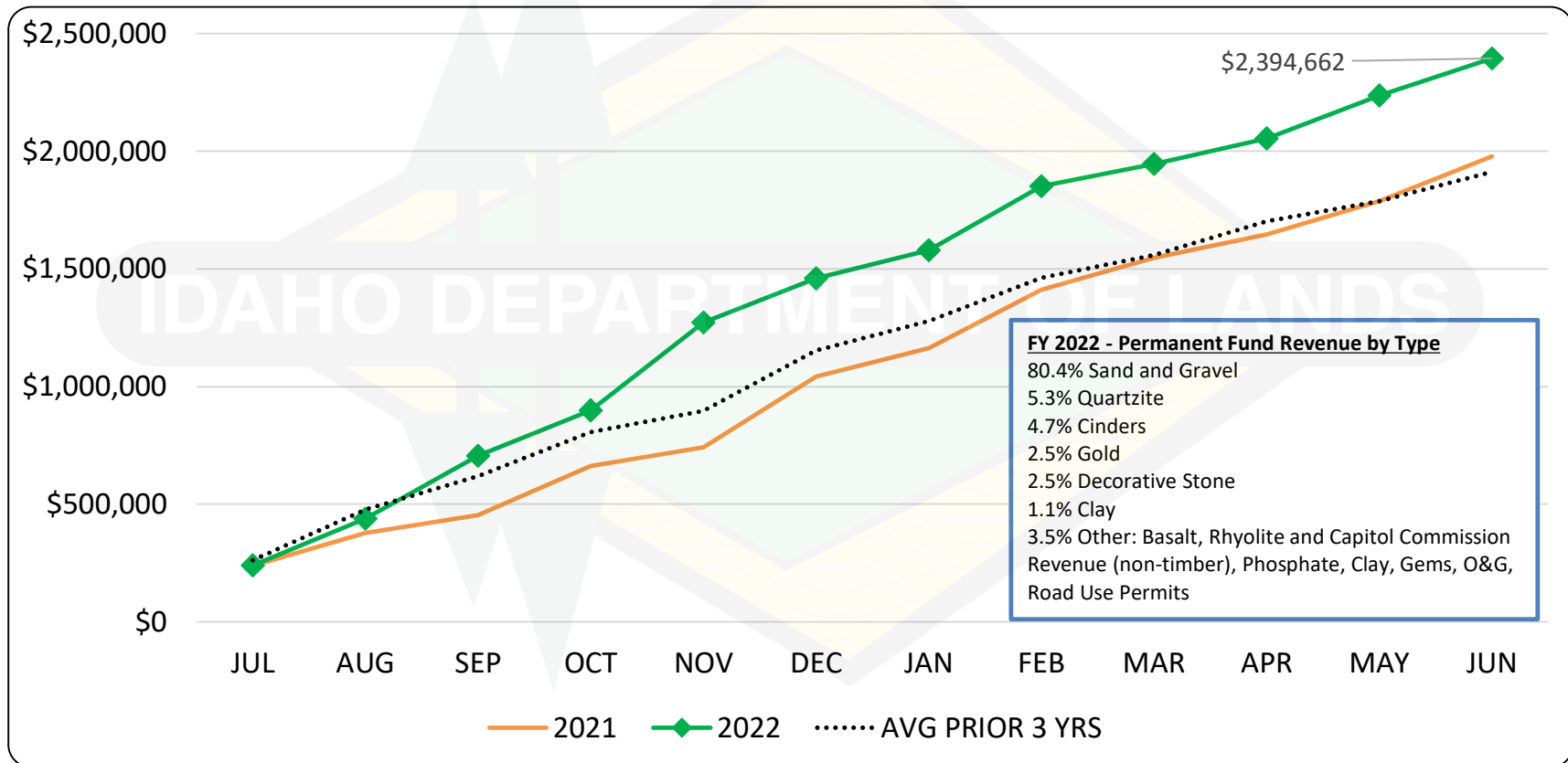
TOTAL FY2022 = \$9,297,820



Cumulative Trust Land Program Receipts Earnings Reserve - All Programs excluding Timber FY 2021 - FY 2022



Cumulative Trust Land Permanent Fund Revenue/Royalties (Does NOT include Land Bank or Timber Program Revenue) FY 2021 - FY 2022



STATE BOARD OF LAND COMMISSIONERS

July 19, 2022
Department Report

Subject

Fire Season Update

Background

As of July 12, Emergency Fire Suppression expenditures are estimated to be \$5,013,000. The Suppression Account will recover an estimated \$960,000 of reimbursable costs, for a net obligation of \$4,053,000. The total obligation includes the 2022 contracted aircraft costs and prepositioned contract engines to assist with resource scarcity. These engines will be assigned across the state to boost initial attack resources.

Discussion

Currently there are no IDL fires being managed with an Incident Management Team.

As shown by the table below, fire occurrence to date for 2022 is 46 percent of the 20-year average, while the acres burned is less than 1 percent of the 20-year average.

Fire Season Comparison to Date

Number of Fires				
Year	Human	Lightning	Total	Acres
2019	61	19	80	540
2020	45	11	56	280
2021	140	53	193	62,005
2022	26	12	38	45
20 Yr. Average			82	9,900

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

This spring Idaho has received above average precipitation and below average temperatures. This has created good soil moisture and good growing conditions for fuels. This has resulted in very few small fires within IDL protection. As the summer continues to warm, the grasses and small fuels will begin to cure and live fuels will become readily available to burn. The long term forecast for July and August is above average temperatures and below normal precipitation, this will be most pronounced in southern Idaho. An average fire season is predicted for northern Idaho with the potential for above average fire season in southwest Idaho. There are no fire restrictions in place.

Significant Fires Outside of IDL Protection

There are no significant fires in Idaho outside of IDL protection.

Total Acres Burned by Ownership	
7/14/2022	
Surface Owner	Acres
Idaho Department of Lands	128
Other State Lands	0
Private	796
Bureau of Land Management	3,651
Other Federal	0
U.S. Forest Service	0
Total Acres	4,575

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

Fire Deficiency Warrant Spending - 2022 Fire Season YTD		
Category	Estimated Costs	Notes
Aviation Resources	\$3,000,000.00	4 SEATS, 2 Fire Bosses, 2 Type 2 Helicopters
Prepositioned Engines	\$385,000.00	5 Contract engines statewide to boost IA, Start Date 8/1/2022 – 9/15/2022
IDL Non-Team Fires	\$78,000.00	IDL/Assn fires including pre-positioning
Other Suppression	\$590,000.00	Coeur d'Alene Cache, Dispatch
Other Suppression	\$960,000.00	Reimbursable (IDL and Fire Department resources supporting non-IDL fires)
Total Estimate YTD	\$5,013,000.00	

LAND BANK AGING REPORT							
Current Remaining Principal Balance By Quarter Received - As of June 30, 2022							
FY Quarter IN	Public School	Agriculture College	Normal Schools	State Hospital South	University of Idaho	All Endowments	FY Quarter EXPIRES
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
2021-02	\$ 6,595,000	\$ -	\$ -	\$ -	\$ -	\$ 6,595,000	2026-02
2021-03	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2026-03
2021-04	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2026-04
2022-01	\$ 1,500,720	\$ -	\$ -	\$ -	\$ -	\$ 1,500,720	2027-01
2022-02	\$ 10,140,720	\$ 23,250,000	\$ -	\$ -	\$ -	\$ 33,390,720	2027-02
2022-03	\$ 9,890,500	\$ -	\$ -	\$ -	\$ -	\$ 9,890,500	2027-03
2022-04	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2027-04
TOTAL PRINCIPAL REMAINING	\$ 72,134,318	\$ 23,250,000	\$ 5,010,500	\$ 3,112,000	\$ -	\$ 103,506,818	

LAND BANK CASH BALANCE (with Interest)	\$ 73,396,601	\$ 23,296,190	\$ 5,353,791	\$ 3,412,887	\$ 4,132	\$ 105,463,601
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Thomas J. Wilford :: Chairman
Jerry F. Aldape Irving Littman
Bob Donaldson Richelle A. Sugiyama
Joseph Forney Chuck Winder
Steven C. Harris Brian Yeargain

Chris J. Anton :: Manager of Investments

Monthly Report to the Board of Land Commissioners

Investment performance through June 30, 2022

Month: -6.4% Fiscal year: -13.0%

Investment returns started the fiscal year in positive territory as the Federal Reserve continued to provide strong monetary accommodation to bring employment back to pre-pandemic levels. By late calendar 2021, however, the Federal Reserve changed course as it became clear the U.S. had reached full employment and the magnitude and persistence of inflation was proving to be more problematic than anticipated. As inflation marched ever higher during the first half of calendar 2022, the Federal Reserve stepped up its rhetoric to fight inflation and introduced more aggressive plans to increase the Fed Funds rate and shrinking the size of its balance sheet. The fixed income market sold off with yields jumping dramatically to reflect the Fed's path of interest rate increases. Investment grade bonds dropped over 10% and as we approached fiscal year-end the yield on 10-year U.S. Treasury bonds breached 3.4%, which stands in stark contrast to the yield of 0.5% in March of 2020. Similarly, the equity market sold off over concerns that higher interest rates and inflation would slow economic growth, put pressure on corporate profitability and potentially push the U.S. economy into a recession.

The portfolio declined by 13.0% during fiscal 2022 with equities down 17.9%, fixed income down 10.2% and real estate up 23.7%. Equity markets had the worst performance during the first half of the calendar year since 1970. Growth/technology stocks were down significantly more than value stocks. The difference between growth and value is apparent in the contrast between large-cap growth manager Sands Capital (-50.5%) and large-cap value managers LSV and Boston Partners (-8.4% and -3.6%, respectively). Mid and small-caps stocks were generally down more than large cap stocks, however, our mid-cap managers TimesSquare and Sycamore both outperformed their benchmarks by solid margins. Real estate had outstanding performance during the year. Fixed income had a very challenging year given both the dramatic increase in interest rates and the widening of spreads as recession concerns escalated. DoubleLine outperformed Western given their tactical shorter duration positioning. Overall, our fixed income performance was right in-line with the Bloomberg Barclays Aggregate Index.



Thomas J. Wilford :: Chairman
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Chris J. Anton :: Manager of Investments

Status of endowment fund reserves

Distributions for FY2022 and FY2023 are well secured. At the end of June, earnings reserve balances are estimated to be approximately 5.9 years of distributions for Public School and 5.4 - 6.5 years of distributions for the other endowment funds.

Significant actions of the Endowment Fund Investment Board

None.

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

Audit Committee Meeting – August 17, 2022

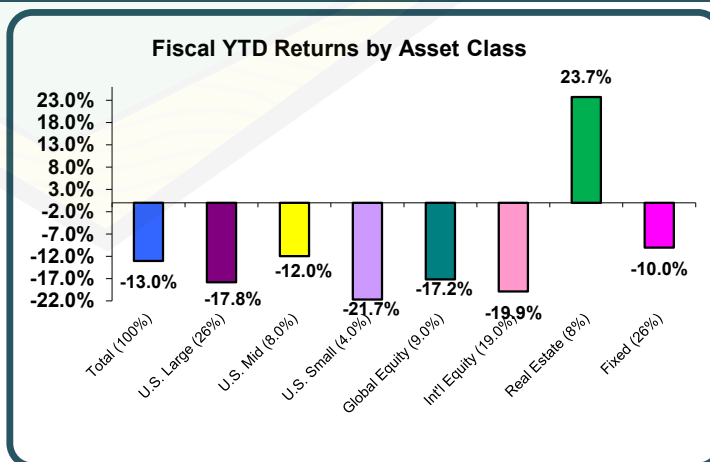
Board Meeting – August 17, 2022

	Month	FYTD
Beginning Value of Fund	\$ 2,843,307,975	\$ 3,107,842,560
Distributions to Beneficiaries	(7,464,708)	(88,201,496)
Land Revenue net of IDL Expenses (\$47.1 from Land Bank in June)	51,570,223	113,366,024
Change in Market Value net of Investment Mgt. Expenses	(181,342,198)	(426,935,796)
Current Value of Fund	\$ 2,706,071,292	\$ 2,706,071,292

	Current Month	Calendar Y-T-D	Fiscal Y-T-D	One Year	Three Year	Five Year	Ten Year
Gross Returns							
Total Fund	-6.3%	-16.7%	-13.0%	-13.0%	5.9%	7.0%	8.3%
Total Fund Benchmark*	-5.4%	-15.1%	-11.2%	-11.2%	5.4%	6.4%	7.8%
Total Fixed	-1.8%	-10.7%	-10.0%	-10.0%	-0.6%	1.2%	1.5%
BBG U.S. Agg	-1.6%	-10.1%	-9.5%	-9.5%	-0.3%	1.2%	1.6%
Total Equity	-8.9%	-22.1%	-17.9%	-17.9%	7.7%	8.9%	10.6%
38% R3 19% Ax 9% AC	-8.4%	-20.2%	-15.7%	-15.7%	6.9%	7.8%	10.1%
Domestic Equity	-9.0%	-21.9%	-17.1%	-17.1%	9.2%	10.5%	12.6%
Russell 3000 (R3)	-8.4%	-21.1%	-13.9%	-13.9%	9.8%	10.6%	12.6%
Global Equity	-7.8%	-23.1%	-17.2%	-17.2%	7.3%	8.1%	8.0%
MSCI ACWI (AC)	-8.4%	-20.2%	-15.8%	-15.8%	6.2%	7.0%	8.8%
Int'l. Equity	-9.1%	-22.3%	-19.9%	-19.9%	4.9%	5.9%	6.9%
MSCI ACWI ex-US (Ax)	-8.6%	-18.4%	-19.4%	-19.4%	1.4%	2.5%	4.8%
Real Estate			23.7%	23.7%	10.0%	8.7%	
NCREIF ODCE Index			27.3%	27.3%	10.3%	8.9%	

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

	Mkt Value	Allocation
Domestic Equity	\$ 1,006.3	37.2%
Large Cap	687.3	25.4%
Mid Cap	213.1	7.9%
Small Cap	105.9	3.9%
Global Equity	235.8	8.7%
Int'l Equity	505.1	18.7%
Fixed Income	617.3	22.8%
Real Estate	327.8	12.1%
Cash	13.6	0.5%
Total Fund	\$ 2,706.1	100.0%



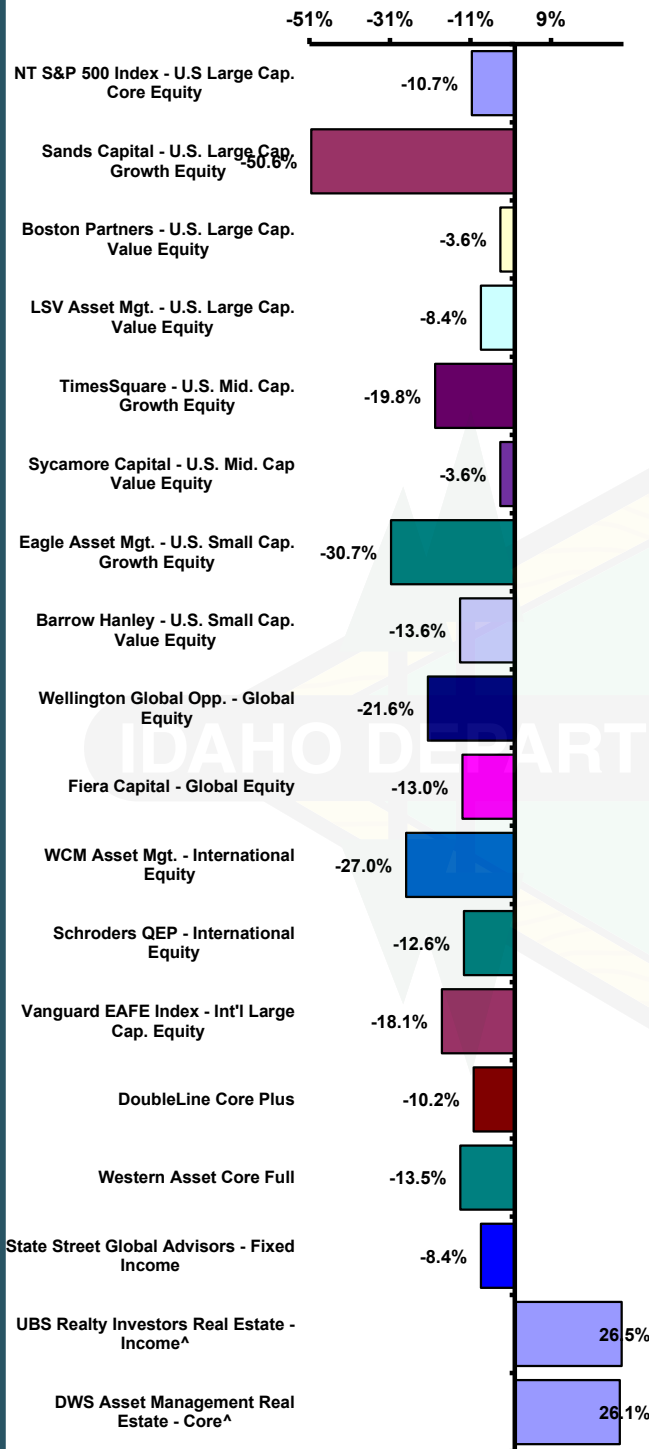
Endowment Fund Staff Comments:

Investment returns started the fiscal year in positive territory as the Federal Reserve continued to provide strong monetary accommodation to bring employment back to pre-pandemic levels. By late calendar 2021, however, the Federal Reserve changed course as it became clear the U.S. had reached full employment and the magnitude and persistence of inflation was proving to be more problematic than anticipated. As inflation marched ever higher during the first half of calendar 2022, the Federal Reserve stepped up its rhetoric to fight inflation and introduced more aggressive plans to increase the Fed Funds rate and shrinking the size of its balance sheet. The fixed income market sold off with yields jumping dramatically to reflect the Fed's path of interest rate increases. Investment grade bonds dropped over 10% and as we approached fiscal year-end the yield on 10-year U.S. Treasury bonds breached 3.4%, which stands in stark contrast to the yield of 0.5% in March of 2020. Similarly, the equity market sold off over concerns that higher interest rates and inflation would slow economic growth, put pressure on corporate profitability and potentially push the U.S. economy into a recession.

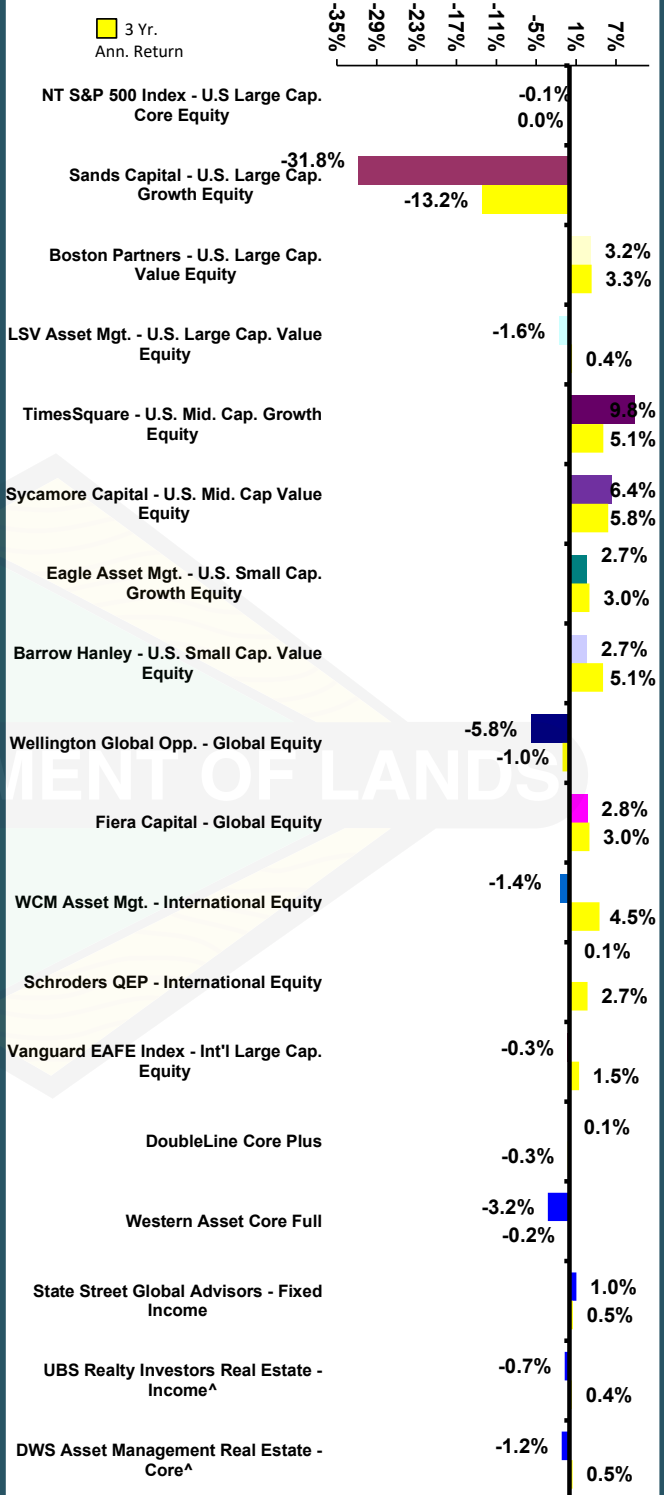
June 30, 2022

INVESTMENT REPORT

FYTD Manager Returns



Manager Relative Returns Fiscal YTD and 3-Yr Ave*



^ Most recent valuation.

STATE BOARD OF LAND COMMISSIONERS

July 19, 2022
Consent Agenda

Subject

Mineral Lease Live Auction – June 23, 2022

Question Presented

Shall the Land Board direct the Department to award the mineral lease to the high bidder at the live auction?

Background

The Idaho Department of Lands (Department) received an application for a new metallic mineral lease located in Lemhi County (site map included as Attachment 1). Pursuant to Idaho Code § 58-310 and Department procedure, a public auction was advertised and held to determine the high bidder for the lease. Auction participants, including the original applicant for the lease, were required to register for the live auction one week prior to the auction date. Department staff conducted the live auction.

Discussion

For the purposes of securing a single lessee for the mineral lease, a live auction was held on June 23, 2022, at the Department's Idaho Falls Area office. Idaho Champion Resources, LLC submitted the successful premium bid of \$15,000 for mineral lease E800094 (a 565-acre parcel). Two bidders registered for this auction, including Idaho Champion Resources, LLC (original applicant) and Mr. Ron Gibron. The lease includes a 20-year term for the extraction of metallic minerals, including annual rent of \$1,695.00 (based on an annual rent of \$3.00 per acre) and a minimum annual royalty payment of \$1,000. The royalty rate for the lease is a 5% Net Smelter Return (NSR). Attachment 2 summarizes the results of the live auction.

Idaho Code § 58-310(4) provides that the Idaho State Board of Land Commissioners (Land Board) has the right to reject any bid made at a live auction where fraud or collusion are present, or for any reason, all within the sole discretion of the Land Board. The Department completed the lease auction process in accordance with existing code and procedures and did not observe any indication of fraud or collusion related to this process.

Recommendation

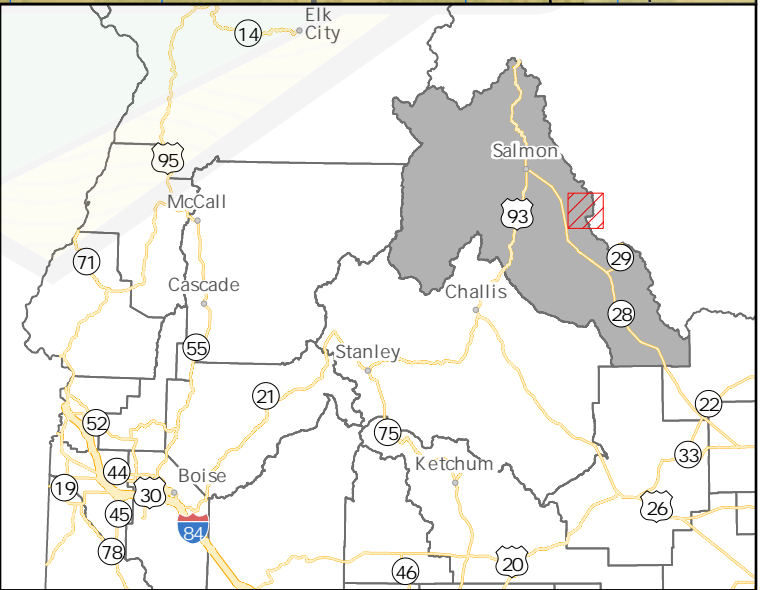
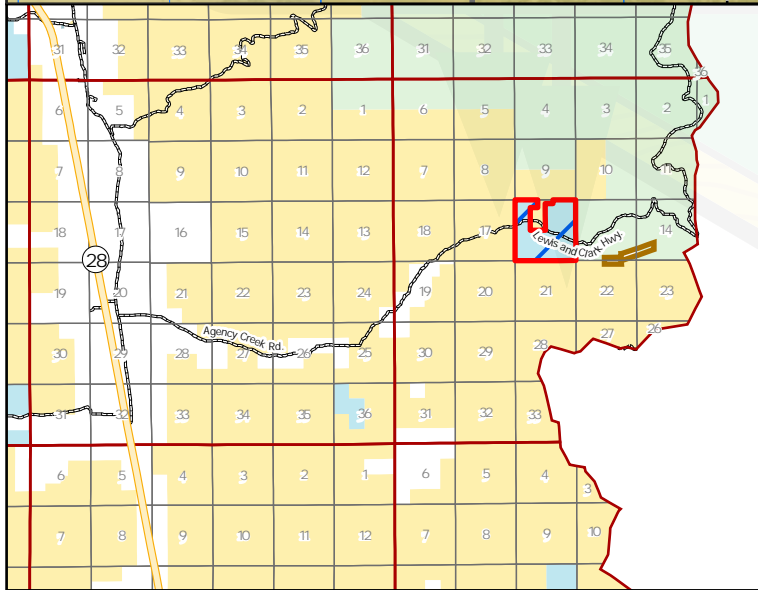
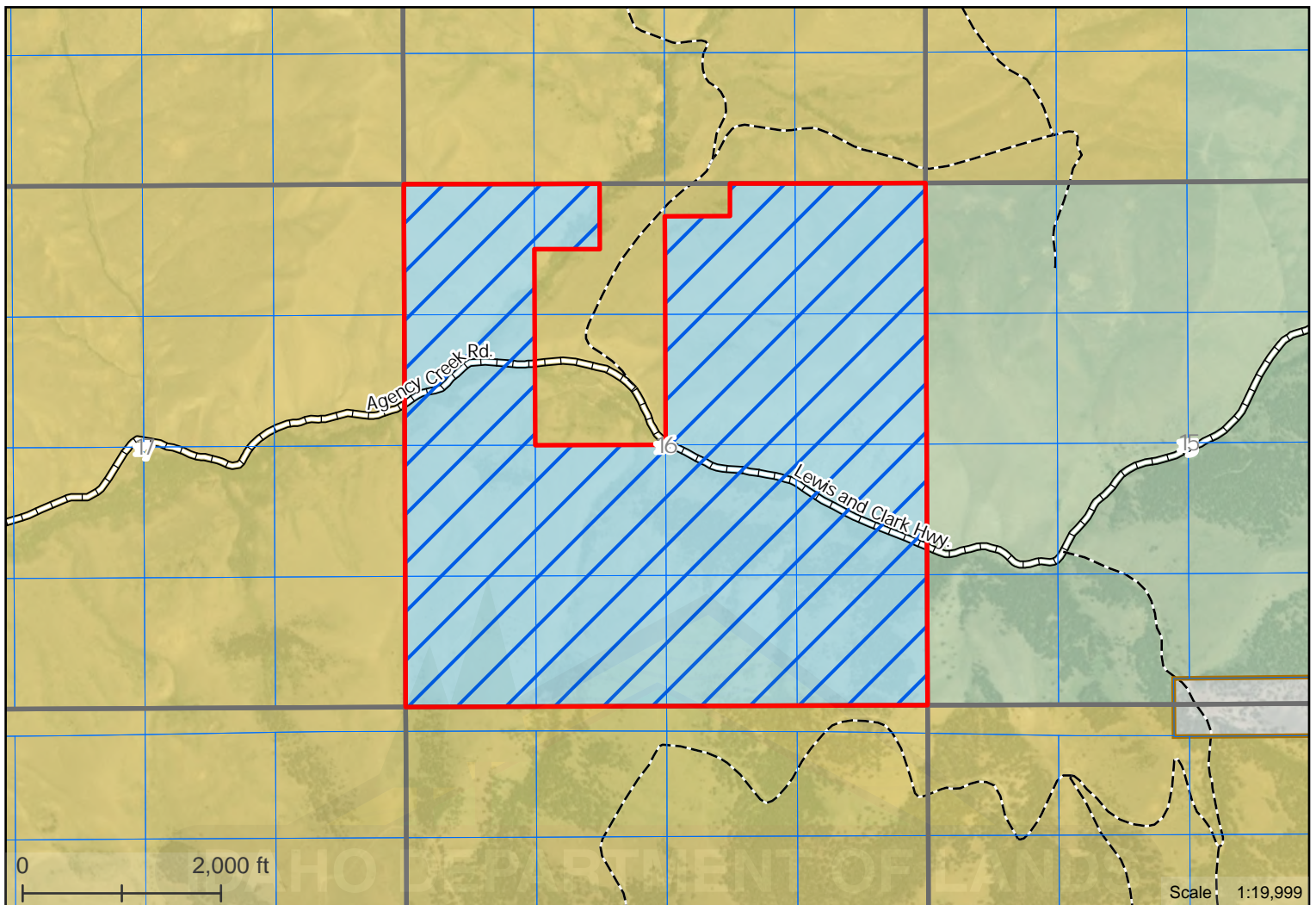
Direct the Department to award mineral lease E800094 to Idaho Champion Resources, LLC.

Board Action

Attachments

1. Site Map
2. Summary of Auction Results





- Subject Lease
- G800421
- Bureau of Land Management
- US Forest Service
- State
- Private
- Secondary
- Spur

E800094
Sec. 16 - T19N - R25E
Lemhi County, Idaho

7/5/2022



Map Notes

Projection: Idaho Transverse Mercator, NAD 83

Map Notes and Data Sources

Disclaimer:
This map has been compiled using the best information available to the Idaho Department of Lands at the time and may be updated and/or revised without notice. In situations where known accuracy and completeness is required, the user has the responsibility to verify the accuracy of the map and the underlying data sources.

Summary of June 23, 2022 Mineral Lease Live Auction

Supervisory Area	Lease Number	Endowment	Lease Term (Years)	Acres	Commodity	# of Participants	# of Bids	High Bid Amount	High Bidder
Idaho Falls	E800094	PS	20	565.00	Metallic	2	11	\$15,000.00	Idaho Champion Resources, LLC

Total : \$15,000.00

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

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

June 21, 2022

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, June 21, 2022 at the Capitol, Lincoln Auditorium (WW02), Lower Level, West Wing, 700 West Jefferson, Boise, Idaho, and via webinar. 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 Land Board members were present at the physical location.

[Editor's note: the Discussion portions, if any, for most agenda items are written in first-person format. This is not a verbatim transcript.]

1. Department Report – Presented by Dustin Miller, Director

Trust Land Revenue

- A. Timber Sales – May 2022
- B. Leases and Permits – May 2022

Discussion: None.

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

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

Discussion:

Mr. Anton: Governor, members of the Land Board, good morning. It feels like the world has changed fairly dramatically since I prepared this report two weeks ago; I will go briefly through the May numbers and then give you an update on where we are at today. May was really a bifurcated month. During the first half of the month the market was very concerned with rising interest rates, the Federal Reserve planned to increase interest rates to fight inflation because that slows the economy over time. The market sold off a bit early in May, and then in the back-half as China began to reopen, gained control of the COVID situation, and as valuations started to look fairly attractive, the market bounced back. The portfolio was actually up 0.3% for the month which left us down 7.1% fiscal year-to-date. About a week and a half ago, the inflation numbers came out for May and that spooked the markets. In April, inflation was at 8.4%, many felt that was the peak and inflation would start to soften a little bit. Unfortunately, when the numbers came out, we were at 8.6%; people panicked. The Federal Reserve, when they met, indicated they were increasing rates 0.75% instead of 0.5% in an effort to really try to push hard to fight inflation. The markets are worried at this point that all these efforts to raise rates are really going to stall the economy and force us into a recession. The yield on the 10-year went up to about 3.4%; it is a little lower than that today, but rates have jumped dramatically over the last year. As a result, we are down now 7.9% just during the first couple weeks here of June which has left us down about 14.5% fiscal year-to-date. We have a little time before the end of the year, today is a pretty good day, but it is a tough year; the level of earnings reserves has come down from what I had in the report. My estimate based on Friday's data is that we are at about 5.8 years of reserves for public schools and between 5.4 and 6.0 years for the other funds. The Land Board's initiative to increase the reserves when things were really great last year was very prudent and is paying off. We still have healthy reserves, but it is painful to be down 14.5%.

Governor Little: I see we still have Sands; how often do you review those managers.

Mr. Anton: The Governor is referring to Sands Capital, they are our large cap growth manager. If you look at the detail report, you can see they are down 44.8% fiscal year-to-date. Through yesterday they were down 51%; they have had a tough year. The market has been beat up the most in growth and technology companies.

Governor Little: The second graph shows down 33%, but that is relative to the index, is that right.

Mr. Anton: Yes, let me give you the current numbers. Through Friday [June 17, 2022], fiscal year-to-date, Sands is down 51.8% compared to benchmark which is down 21.3%. They are down about 30% more than the benchmark. The benchmark is a technology growth index that the NASDAQ's down from its peak about 33%. They are those types of companies that are growing very rapidly, and they have had some hiccups and are really down. To your point, Chris and I review it every day, and with the Investment Board at least quarterly. We recognize where they are at. Historically, they have added value. During most of the period as a manager, they have outperformed the benchmark. We are in a period where growth has been punished, particularly hypergrowth. Quality growth companies that are growing but are profitable are still doing reasonably well; many of those are in the benchmark. Companies that their growth is projected to be way out in the future have been punished and Sands is in many of those companies. We

have not decided to change managers at this point, but we are watching them closely. It is painful, I agree.

Governor Little: What is the policy of the Investment Board when you establish a benchmark, how far does your selection vary from the benchmark? You are insinuating that these are large cap ultra-growth...do you go out and find another manager that offsets that, or do you gamble on that?

Mr. Anton: If you look at our portfolio, we have an allocation of 5% to Sands, but we have an allocation of 10% to two large cap value managers. We have known all along that Sands plays in this sort of hypergrowth space and our portfolio has double the amount of large cap value to offset that. We knew going in there would be times when they are going to get really beat up, but there are also times when they do exceptionally well. We are not surprised by it, we do not like it, we are watching it. We do not have a firm policy that says if they are under their benchmark for a year, we automatically terminate them; we are keeping a close eye on things.

Consent—Action Item(s)

- 3. Disclaimer of Interest Request DI600315—C & L Family Farms, LLC, Boise River** — *Presented by Eric Wilson, Bureau Chief-Resource Protection and Assistance*

Recommendation: Direct the Department to issue a Disclaimer of Interest for one parcel totaling 28.77 acres of the former bed of the Boise River to C & L Family Farms, LLC, following their payment to the Department of the remaining processing fee of \$300.

Discussion: Governor Little asked if that fee is set in rule or code. Mr. Wilson replied that the fee is set by Land Board policy. Governor Little commented that 28 acres for \$600 is a good buy. Governor Little asked for an account of all costs as part of the discussion when disclaimers are discussed at a future Land Board meeting. Mr. Wilson indicated the Department has started preliminary research and maybe a slight adjustment in fees could be made.

- 4. Strategic Plan FY2023-FY2026** — *Presented by Dustin Miller, Director*

Recommendation: Direct the Department to submit its FY2023-FY2026 Strategic Plan to the Division of Financial Management by July 1, 2022.

Discussion: None.

- 5. State Membership in Timber Protective Associations** — *Presented by Dustin Miller, Director*

Recommendation: Authorize state participation as a member of the Clearwater-Potlatch Timber Protective Association and Southern Idaho Timber Protective Association.

Discussion: None.

- 6. Deficiency Warrant Authority for FY2023 Fire Suppression** — *Presented by Dustin Miller, Director*

Recommendation: Authorize issuance of deficiency warrants to pay the fire suppression costs in FY2023.

Discussion:

Governor Little: In previous years, we voted on some innocuous \$50,000 bill and I think I protested a little bit. Did we get that problem taken care of and we just are authorizing the deficiency warrants, do I have that correct?

Director Miller: Governor that is all this agenda item does. We have the place holder in there. The place holder has always been, for whatever reason, \$151,000.

Controller Woolf: Director, we already know you have put down payments for aviation costs; you are reserving helicopters or wildland firefighting planes. That is around \$1 million to \$2 million up front. Is it worth to even start there?

Director Miller: Governor, Mr. Controller, it probably is worth starting there. Looking at our numbers here, aviation resources, our estimated costs to keep those resources on contract is about \$2 million annually. Our balance in the deficiency fund is about \$73 million as of July 1; that includes the \$40 million that was added by the Idaho Legislature this year. Money is there. Craig and I need to talk in the future about this place holder and why it exists.

Governor Little: Director, it is early now, and we are going to go through the fire season, but I think maybe 8-10 months from now, if the Department as they are working through this can say what are our fixed costs and what are our variable costs. What would it cost us if we did not burn one acre of state land, our fixed costs, because I think that was where Controller Woolf was going. You guys are going to be busy now that the fire season is starting. Depending on what the rest of the Board thinks, I think it would be a good idea as we are going forward to be a little more transparent about it, if we knew what our fixed costs and what our variable costs were going forward. As you are doing your budget and your fire suppression work, if your financial people are just thinking about that it would be helpful to me.

Director Miller: Absolutely, Governor.

7. Approval of Draft Minutes – April 19, 2022 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 5-0.

At 9:27 a.m., a motion was made by Attorney General Wasden to resolve into Executive session pursuant to Idaho Code § 74-206(1)(f) – to communicate with legal counsel for the Land Board to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated; and pursuant Idaho Code § 74-206(1)(b) – to consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student. Attorney General Wasden requested that a roll call vote be taken and that the Secretary record the vote in the minutes of the meeting. Controller Woolf seconded the motion. *Roll Call Vote:* Aye: Denney, Wasden, Woolf, Ybarra, Little; Nay: None; Absent: None.

Executive Session

A. Disposition of Cougar Island on Payette Lake

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.

B. Performance Evaluation – Director, Department of Lands

Idaho Code § 74-206(1)(b) – to consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student.

At 9:57 a.m., a motion was made by Attorney General Wasden to resolve out of Executive session. A roll call vote was taken. *Roll Call Vote: Aye:* Denney, Wasden, Woolf, Ybarra, Little; *Nay:* None; *Absent:* None. No action was taken by the Land Board during Executive Session.

Regular—Action Item(s)

8. Disposition of Cougar Island on Payette Lake – Presented by Josh Purkiss, Bureau Chief-Real Estate Services

Recommendation: Reaffirm the Land Board's 2018 decision to dispose of Cougar Island at public auction in Valley or Ada County.

Discussion:

Attorney General Wasden: In the interest of transparency and in compliance with the Idaho Open Meeting Act, I want to disclose that one of my staff met with Mr. James Laski, the current lease holder and applicant for the 2022 VAFO. The meeting occurred on June 16 between Mr. Laski and my staff representative Darrell Early who is also counsel to the Board. There is nothing unusual about this; oftentimes members of the Board or our staff will meet with folks. There is nothing untoward here, but I wanted to make certain that you were of it. Mr. Laski had questions concerning the process for handling the county's letter and its objection and how the Board would approach the matter procedurally. Mr. Laski also expressed his interest in pursuing the VAFO process including his reasons and concerns about delaying the VAFO process further as it relates to his interest. He discussed the current efforts at perc testing the island and his history of ownership. Mr. Early relayed the nature of the process generally consistently with Idaho Code section 58-313A and did not otherwise discuss the business of the Board. I simply disclose this so it is on the record; again, there is nothing unusual about this. These kinds of meetings take place all the time.

Governor Little: Mr. Purkiss.

Mr. Purkiss: Thank you Governor, members of the Land Board. Again, for the record, Joshua Purkiss, Real Estate Services Bureau Chief at the Department of Lands. Idaho Statute 58-313A requires the Department to provide written notice to the county commissioners when the Board's intent is to sell land within their county. On April 20th of this year, the Department provided Valley County Commissioners a written notice outlining our plans for the disposition of

endowment land in the 2022 voluntary auction for ownership and the unleased lot auction in 2022. On May 9th, the Department received a written response from Valley County Commissioners in opposition of the sale of endowment land on Cougar Island. Pursuant to 58-313A, the objection must be presented at the next Land Board hearing, so here we are. Given the recent letter, the Department is asking the Land Board to reaffirm the decision of the 2018 approval to sell Cougar Island at public auction. Some background here: in 2010, the Board directed the Department to unify the split estates; in response, the Department created a lot solution team to address legal access, accurate easements and platting the subdivisions. As part of the process, the Department created five legal parcels on Cougar Island. You can see them on the map on the screen, as well as attachment A is the recorded plat of the island. In 2014, the Board directed the Department to auction both Priest and Payette Lake cottage sites, which did not include the unleased lots. So, you have Lot 2, which is the blue highlighted lot. That is the leased lot that Mr. Laski currently leases, and the four additional lots are unleased. In 2018, the Department came back to the Board and asked for approval to include the 14 unleased lots at Payette Lake in the cottage site auction. All but four of those remain to be sold and those are the four lots on Cougar Island. This was done primarily as a way to increase the activity around the auction. We saw a number of upbids on the unleased lots; they tend to sell for about 128% above appraised value versus the leased lots that sell for about 103% of appraised value. In June 2020, the Board directed the Department to prepare a plan for the management of endowment land in the McCall area. This became known as PELS or the Payette Endowment Land Strategy. The PELS plan included approximately 5,500 acres of endowment land located in the McCall area of impact. The development of the plan included various public meetings and the formation of a focus group with stakeholders from all across the state. During the development of PELS, Cougar Island was identified as a Tier 1 property which means that it met certain criteria and should be sold in the next 1-5 years. The PELS plan was adopted by the Land Board in March of 2021. In 2021, Cougar Island generated \$32,400. It was appraised for \$4.8 million, which equates to a 0.6% return. Currently the Department has no applications, no valid applications on Cougar Island, since the adoption of PELS other than the existing lessee's current request for disposition through the VAFO auction. Given the lack of leasing opportunities, the fact the island is underperforming at 0.6%, and the recent adoption of the PELS plan the Department recommends that the Land Board reaffirm the auction of Cougar Island.

Governor Little: Thank you Mr. Purkiss. Director, can you give us a dashboard of where we are going now.

Director Miller: Governor, I believe we have a couple of individuals that would like to say a few words on this topic before the vote from the Board. Valley County will be the first to speak.

Governor Little: Okay, Commissioner Maupin, I assume you are representing your county, welcome.

Ms. Sherry Maupin: Good morning, Governor, members of the Board. I am here regarding the sale of the Cougar Island representing the Valley County Board of Commissioners; I am Sherry Maupin a county commissioner. Cougar Island is a historical gem of Valley County. This island, which has been accessible for public use is one of the many areas used to enhance our recreation economy. Public lands are being transferred from public to private or proposed wilderness designations right now in Valley County. Valley County's economy is built upon recreation and its

access to recreation lands. Questions that we feel that should be answered prior to any sale: What will the island's sensitive environment resources allow? Septics and wells are being proposed on each lot. Has this testing been completed to ensure that Central District Health will approve these systems? Should five systems be allowed on an island in the middle of McCall and other communities drinking pool? Can five wells be supported? Will access to the island for building create the potential for environmental concerns? The continued need to ferry items to build back and forth from the island also create a great concern for potential impacts to the lake. Valley County is currently in the process of completing a waterways management plan for the region. The sale of this property is before all of the environmental research has been completed and the county has a chance to create and enforce new ordinances surrounding lake water quality. As part of this plan, the county may enforce our current code which is for development within areas of critical concern. This ordinance requires an environmental assessment of any lands that are within these critical areas; this island would meet these requirements. This assessment would be incumbent upon any future owners of such land. Valley County is in the process of forming a recreational infrastructure committee that will provide for future use plans, and opportunities to grow our programs in Valley County. The sale of this island is before any assessment can be made on how this impacts our recreation plans for the future; opportunities could be identified which may allow for the purchase and use of the island for conservation of public space for future generations. Valley County is requesting that if the sale of these lands be allowed, that we be able to utilize statute title 58. This title allows for the creation of an installment note to be paid by the purchaser of the land over an agreed upon term and interest rate not to exceed 20 years. This note would allow the endowment board to secure an additional funding source from the interest paid on such note. The auction process for purchasing state endowment land possesses significant barriers for state departments, county governments, or local municipalities wanting to participate in obtaining land crucial to their economic and open space needs. The need to allocate public funding for an undetermined purchase price makes it extremely difficult for public entities to participate in the auction process. Allowing the use of existing state statute to create agreements between the Land Board and a public entity to complete the transaction over the course of 20 years can provide the necessary flexibility for the purchase and transfer of these transitional lands from the endowment to another state department, county, or city government. Specifically, this would allow Valley County to budget for the purchase over time and partner with local non-profits, allow us to apply for grants, and work with private individuals to acquire the necessary funding to complete the transaction. As an example, this would allow for entities to grow state, county, and city parks on land which have traditionally been seen as public open space. This provides a win for the endowment by disposing of the land in a manner which meets the constitutional requirement at the same time providing a win for Valley County and securing land which is crucial to the local economy, environment, and our heritage. This could also provide a win for the people of Idaho by creating a new avenue for the growth of state and local parks. With the use of current statutes and sufficient prior notice necessary for planning, Valley County could become an essential partner with the Land Board in solving the problem of transitional lands within the endowment portfolio. Further, we have already started identifying some issues. ISDA has identified that Eurasian milfoil is present in Payette Lake and further testing and eradication may be needed. They will be working with Valley County this year to remove and monitor ongoing concerns for this invasive species which is already present. The last thing, Valley County does own 10 acres. We would love to exchange those 10 acres with the State. We have talked to the Idaho Department of

Transportation in potentially using this as a rest stop so right as you come out of the canyon on the right side at Sixty Lane. If there is some way to exchange a portion of these lands to be able to utilize this as an opportunity for Valley County, we would put that on the table also. I have a copy of an ad that is going out this week. We are advertising to our local community this pending auction allowing us to raise funds if the auction does go forward. We are asking you not to do that, but if it should we are trying to raise funds as fast as we can. It is very difficult for governments to do this on such a short notice. I will stand for questions.

Attorney General Wasden: Commissioner Maupin, nice to see you again.

Commissioner Maupin: And you.

Attorney General Wasden: This is the first I have heard of the potential exchange. Have you approached the Department on that issue...made an application, or anything of that nature?

Commissioner Maupin: We have not. We are working with United Payette; I believe that they have been in conversation. We do have a pending lease right now, not certain whose office it is in, but it has been presented on some of the other endowment lands in the greater area. We are waiting to hear back on that to see how that goes and how we can partner on leasing some of this property.

Attorney General Wasden: In your presentation you raised some really interesting issues, appropriate issues. I am interested in knowing if you have any information in terms of the financials. That is, we have an obligation to obtain the maximum long-term return. Do you have any information that can enlighten us in that regard, what the return on this land would be, etc.? If you have anything like that, I would like to know what it would be.

Commissioner Maupin: Unfortunately, because of an auction situation we never know what the price is going to be; postponing that auction would allow us the opportunity to negotiate potentially a settlement or some type of a process going forward. Right now, it is such a time restraint for us that it has not been possible. We could certainly negotiate that through a lease.

Attorney General Wasden: Thank you.

Secretary of State Denney: Thank you, Commissioner Maupin. This particular parcel was auctioned several years ago, and it was requested a second time and yet this is the first time that Valley County has objected to that auction. Can you enlighten us as to why that would be?

Commissioner Maupin: I believe that we have been woken during the process of the 28,000 acres of endowment lands. I do not think anybody really understood the full potential to our recreation base in the past. We have certainly engaged at this moment in time; our community is very engaged in this conversation as you probably all know through your email chains. It is something that we are trying to find long-term solutions. This is our recreation base, and we are obviously a recreation community. I cannot answer to the past, I do know that since I have been on the board, the subject has come up and been proposed, and we are very engaged in the conversation. Again, we do have a lease agreement in front of someone's office in other areas and when this came up and was brought to our attention, we immediately responded with a letter asking for a little more time to try and find solutions for all of us, and this is throughout the state is my understanding. Let us try and find solutions so that we create this open space and

protect the heritage. This is historical to Payette Lake. Having housing out there would be a huge change and so we are just asking for some time to try and find something that we can do together for the future to take care of not only your responsibilities but also to create an opportunity for the residents of Valley County to potentially own this.

Secretary of State Denney: Thank you.

Governor Little: Anything else? Thank you, Commissioner.

Commissioner Maupin: Thank you for the opportunity.

Governor Little: Mr. Laski.

Mr. Jim Laski: Thank you Governor, Land Board, my name is Jim Laski. I have resided in Bellevue, Idaho for the last 25 years. I am an attorney. My wife Jennifer Card is a large animal veterinarian, served for five years on the State Board of Veterinary Medicine in the 2000s and we have two children who are now of college age. The purpose of my remarks today is to urge you not only to proceed with the disposition of Cougar Island as suggested by the Board but also to maintain the July 30 auction date, at least for my lot, regardless of whether the unleased lots are included in that auction or not. Ten summers ago, I had the opportunity to acquire the leasehold on lot 2 of Cougar Island. Since then, my family and I have spent as much time during the summer as possible enjoying the island and the unique beauty an Idaho mountain lake has to offer. Because of both the wild and delicate nature of Cougar Island, we have occupied our lot conscientiously and with a very light footprint. We have never used fertilizers; we have never created lawns or irrigated areas or incorporated unnatural landscaping. We take stewardship of the property and protecting the watershed very seriously. We have never rented out the property. Over the years, I have also spent considerable time and heartache with several of the good members of the Department of Lands digesting various appraisals, some of which resulted in close to 100% increases in my rental amounts, as well as trying to navigate the VAFO process with the goal of my family ultimately buying out the lease and keeping the home for future generations. I understand and respect your constitutional and statutory duty to maximize the long-term financial return on the cottage properties. I also understand that to meet this duty, your Board directed the Department of Lands to unify the estates so that the improvements and the underlying ground would no longer be held in separate estates by separate parties. That decision led to the VAFO program which unifies title through the auction process to maximize return on the properties. As your staff briefing shows, when the present 2024 VAFO process was adopted in 2018, 140 of the 168 Payette cottage sites, just like mine, have been disposed through the VAFO program. Since the 2024 cycle commenced, I have been an active lessee participant. After expressing interest, I was invited to participate in the 2020 auction and completed the application and paid non-refundable \$3,000 for an appraisal and title work. In spring of 2020, the COVID pandemic added some uncertainty to the process, but in August of 2020, Sid Anderson, then the Real Estate Chief suggested a fall auction could be held. When I submitted the auction administration agreement at the beginning of September, I was advised there would be no fall auction. I was again invited to participate in the 2021 cycle; to make application I had to pay for another appraisal. When the appraisal came in, I was advised that an auction would be held in late fall 2021. My wife and I completed a new auction administration agreement and I worked with DL Evans bank to get a commitment regarding financing. That is not an easy task for an off the grid, island property, no car access. At this point, I thought I was good to go, but in late

October I was advised that the Department wanted to auction the whole island, the VAFO lot of mine plus the ULA auction of the unleased lots together, and that none of the lots would be included in the December auction to allow more time for marketing. At that time, I expressed concern that the August 2021 appraisal that I obtained for the '21 process would only last for a year and was advised that at least my lot would be included in an auction before August 2022. Since then, I have worked diligently to maintain the commitment for financing from DL Evans and to press the Department of Lands for a firm date on the auction. I have also worked with United Payette on their steering committee – I believe the same United Payette that the Valley County Commissioner is discussing – toward a plan to acquire the unleased lots for conservation should they be included in the auction. This spring, I watched, read, and heard numerous news reports about the entire island being on the auction block, each of which spurred countless inquiries from friends and acquaintances. In May, at the request of the Department, we again completed an auction administration agreement, the third time in less than two years, and were advised that the auction would be scheduled for July 30th in Eagle. Then, just two weeks ago, Mr. Purkiss called to say the auction may be delayed again to allow for more marketing of the unleased lots, to check for septic availability on the unleased lots, and because Valley County objected to the auction of the island. With respect to Valley County's objection, on May 9th the Valley County Commissioners asked the Board to reconsider the auction of Cougar Island until such time as a long-term solution could be found. Per Idaho Code 58-313A the Land Board is required to determine whether the county has presented good cause to delay the sale. I would submit they have not. First, on May 14th, 2018, the Land Board presented the 2024 VAFO plan, which included the disposition of Cougar Island, to the Valley County Commission and at that time the commissioners declined to provide any form of comment. Also, I would note that the island has been on the auction block before, and Valley County has not commented in the past. Second, based on the May 9 letter, the county's primary objection is to the development of the four unleased lots, not the leased lot. They focus on water quality being adversely impacted by additional development, but not by the improvements on my leased lot. Moreover, based on the discussion with the county commissioners at their meeting a week ago on June 13th, at least one of the commissioners is hoping that I will forfeit my improvements at the end of my lease term, which obviously makes me feel a bit uncomfortable. He suggested taking over the house and using it as a public rental or for some sort of park outpost for camping, either of which would increase any adverse impacts on the water quality well beyond the relative minimal use the property gets now. Finally, the county suggests it is working with United Payette on a plan to find alternative solutions for Cougar Island. I am a member of the steering committee of United Payette, and I have been working with them closely for over the past year; at no time during that period have they suggested that a VAFO for my lot was objectionable to their organization or that they wish to acquire my improvements. Based on the foregoing, I would submit that Valley County has not provided good cause to delay my inclusion in the VAFO auction for July 30, 2022. We are all aware that property values in Idaho have increased significantly in 2020 and 2021, however now appear to be leveling off. As such the August 2021 appraisal represents a value at or near the top of the market thus maximizing the return on lot 2 for the endowment. Both my VAFO lot and the ULA lots have been marketed since at least early spring and state code only requires four weeks' notice for an auction. As such there is an ample time for marketing. Finally, further diligence by the Department with respect to septic, which I believe they have done and determined that there is only septic availability on lot 3 as well as mine, should have no impact on the timing of the VAFO auction for my lot. Importantly, the 2024 VAFO plan does not tie VAFO

auctions to ULA process auctions and only combines them when prudent based on third party interest in the lots and broker recommendation. I keep hearing that the island is unique and thus is not the same as other VAFO properties. I would submit that the fact that four new unleased lots were created by the Department on Cougar Island less than 10 years ago should not in fairness and equality impact my ability to participate in the VAFO process just like all other cottage leaseholders. It is not fair to me nor the interest of maximizing return to the endowment to allow a controversy over whether or not the newly created lots should be developed, remove me, or delay me from my ability to participate in the auction. Thus, if you are inclined to delay the ULA auction for the unleased lots, I request that you follow the 2024 VAFO plan and not combine the auctions. In any case, do not delay my lot from being included in the July 30th auction. Proceeding with the auction on lot 2 Cougar Island now, knowing you have at least one committed bidder for the property, will meet the stated goals of unifying the two estates and maximizing return to the endowment for legacy leased properties. Finally, if my leased lot is not included in the July 30 auction, it will impact me and my family both emotionally and financially. We have now paid for two appraisals for the state's sponsored appraiser to stay in the VAFO process; it is not a free process to participate in. Further delay means more unreimbursed costs for us to stay in the process. More importantly we spend considerable time, energy, and money working with DL Evans so that we can finance the acquisition of the lot should we be the prevailing bidder. This was set up for the fall of 2021, working in good faith with the Department, and as that auction was extended, I have been able to extend my commitment with them contingent on having an auction prior to August 2022 because it is based on the appraisal that was done a year ago. As we are all aware interest rates are rising rapidly. If this auction does not proceed for me as previously scheduled, we will likely lose the commitment from DL Evans and have to start all over. Perhaps we will lose the ability of the chance to keep the house we have enjoyed for years. In conclusion, I ask you to please treat me and my family as you have treated all of the other VAFO cottage site lease holders, include my leased lot in the auction scheduled for July 30, 2022, consistent with the presently pending auction agreement which was timely submitted and accepted by the Department of Lands in May 2022. Doing so would be completely consistent with the VAFO 2024 plan by unifying the estates and my leasehold and maximizing return to the endowment. Thank you for your attention in letting me speak before you and I will stand for questions if you have any.

Attorney General Wasden: Mr. Laski, I compliment you on your good sense of Idaho and that you live in Bellevue, a beautiful place and you have a place in McCall, a beautiful place, so well done. I noticed in your comments, you addressed some of the market issues. The market does seem to be peaking. Have you done additional financial analysis as to the long-term return that is our responsibility? I am just asking if you have done anything in that nature.

Mr. Laski: As I understand the VAFO process, the return on the investment is actually liquidating those lots and I think you would be liquidating them at the high point of the market based on a minimum bid which is consistent with the August 2021 appraisal.

Attorney General Wasden: Thank you.

Governor Little: Further questions? Thank you, Mr. Laski.

Mr. Laski: Thank you.

Governor Little: Mr. Purkiss, do you want to wrap this thing up for us?

Mr. Purkiss: There were a number of things brought up, one being the appraisal. When we take endowment land to market it is important to have an accurate appraisal and we have been working through that process. This appraisal that Mr. Laski has been referring to is set to expire. We also received more information about the island, about its inability to perc. We met with Central District Health and went out there and dug a couple of test pits. The only lot other than Mr. Laski's lot that can perc is the one highlighted up there which is lot 3. We anticipate that will have a significant impact on the appraisal of the whole island. We have the appraiser working on that now and should have that within a week. Our plan now is to bring it to market, to auction early September, between getting an appraisal and having everything published it is probably going to take at least 45 days. Again, a very unique island that is an underperforming asset for the endowment returning only 0.6%; we would like to see this sold here in early September. Mr. Bottles is here, if you have any questions about the market right now, but that concludes my presentation and recommendation.

Attorney General Wasden: Thank you, Mr. Purkiss. Our decision-making basis is that we are objective as to obtain the maximum long-term financial return, so I am interested in your thoughts as our representative and also interested in the experts that we retain to help us understand what these market conditions are. My understanding is that the market is at a significant high in its cycle, and that we do see some mellowing of that market. I am interested in your thoughts, advising us as to how we are able to obtain the maximum long-term financial return that is our duty, help us understand how we do that under these conditions with this parcel of property.

Mr. Purkiss: Thank you Governor, members of the Board, Mr. Attorney General. I have been talking to brokers in the area independent from Mr. Bottles, asking them what they thought about the market – is it softening too much? Is it too late to take this? All of them have said no, you need to bring this to market sooner rather than later because of the things happening with interest rates and then the softening of the financial markets that Chris was talking to you about earlier. I think now is the right time. I do not think waiting for the next cycle is prudent. This again is not generating very much revenue and getting it sold is in the best interest of the endowments. Then if it is okay, I will defer to Mr. Bottles.

Controller Woolf: Governor, before Mr. Purkiss steps down one question. What is the direction the Department is looking to do if it were September? A combination of keeping the five lots individually, or knowing what the perc results will be, what do you see going forward?

Mr. Purkiss: Governor, members of the board, Mr. Controller, as of right now we have it scheduled to do a parcel auction like we have done in the past, even with the Caldwell property, where we have taken them individually, have them go to auction, and then we take the island as a whole, we can even chunk it out into two separate properties. We will offer it in various ways and whichever one generates the most revenue at auction will be the winner.

Controller Woolf: Thank you.

Attorney General Wasden: Governor, I am interested in Mr. Bottles' expertise on this matter.

Mr. Mark Bottles: Good morning, Land Board and Governor. Number one, I think it is still a great time to sell. There is no doubt bumps in the roads, but for these high-end assets we are still seeing activity. We had that December auction, and that was crazy hot; the upbid was 80-471% over. I wish I could say it was just due to my and our team's marketing ability, but there is a lot of other factors going into it. We still see a lot of interest in recreational property, talking to people all the time in that activity. Speaking to the value, Mr. Wasden, we talk about it as a whole, and then we talk about it individually, and my job is consulting with folks and giving them advice on what to do. I think as a whole it is phenomenal. Individually, I will give you some perspective, and the appraisal reflects this, it was a higher price as a whole as it was individually. The disparity may even be bigger than that especially in light of just recent information on the septs. We only had one lot additional that perced and it was only for two bedrooms. They typically do those percing based on how many bedroom units. A two-bedroom lot on a private island probably limits the buyer pool where someone who says I want more bedrooms, that really limits them to that. From a marketability standpoint, on the additional lots, if we were to go to auction with it as a whole, I think the market is really good. If we did them individually, I think we might sell two or three lots; I am going to say two lots. I think it might be a challenge to sell the other three. The reason why I think it is worth more as a whole, just personally aside from the appraiser, when I talk to individuals who want to buy lots up there, that want to buy bigger lots, the value people want is they like the exclusivity of things. People want the wider lots because their neighbors are further away. The island in particular, it takes a unique buyer to buy that. I think it was mentioned you are not driving a car there, you have limitations, construction costs, all the other things you have are a lot more. That limits the pool. When I talked to a few buyers after the article in the paper, whether it was intentional or unintentional, my phone got lit up and asking what is going on with this. I had buyers saying they would be interested in it as a whole not as a subdivision is what they called it. They would rather have something that was more exclusive. My recommendation would be I am fine with the auction as a whole and I am fine auctioning it individually but if you are unable to sell say three of the lots and you cannot get the whole number, then I do not know that you sell it. If you came to me in six months after we sell two lots and said, can you get the balance of the money and say it is \$3 million bucks, I am not confident based on the information that I have with percing that I can get there because I have a camp site is what I have at that point. This is just my opinions here.

Attorney General Wasden: Thank you. You have worked with us for a long time, and we rely on what you say and appreciate your expertise and your willingness to let your hair down and tell us what you think.

Mr. Bottles: I appreciate that.

Governor Little: Thanks, Mark. Okay, that is the end of the testimony.

Board Action: A motion was made by Attorney General Wasden that the Land Board reaffirm its 2018 decision to dispose of Cougar Island at public auction in Valley or Ada counties. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

9. Asset Allocation Study 2022 – Presented by Janet Becker-Wold, Senior Vice President, Callan, and Jim Van Heuit, Senior Vice President, Callan

Recommendation: Approve the Asset Allocation Study updated by the Land Board's General Consultant (Callan).

Discussion:

Attorney General Wasden: Based upon the numbers on the rangeland, does that give us an idea of what we should be doing with rangeland when the return changes in about an 8-year period from 3.5 to 2.35?

Ms. Becker-Wold: The purpose of this analysis is not to suggest a change, it is just to reflect that the timber demand had gone up; you had that property appraised and that appraised value went up fairly significantly. Since that appraised value went up, the appreciation component was pretty healthy here, whereas there was not a commensurate reappraisal of the rangeland. We had to do that based almost solely on the income. Jim is that a fair statement?

Mr. Van Heuit: Yes, it is. We did have a reappraisal of rangeland but that only, on average over the time period that we studied, contributed 0.66% to the total return. The primary source of the return in the rangeland was from revenue.

Governor Little: Was from premium sales? Overbid?

Mr. Van Heuit: Yeah.

Governor Little: Do we still have the timber ground at \$1,500 and the range ground at \$45? That was the last Callan data I saw or Department data. A little hard to figure the yield if you do not know what it is valued at.

Mr. Van Heuit: The yields are historical and consistent with the historical data. The one distinction that we had on that is for timberland we used the high and low revenue forecasts and we assumed that the land would appreciate at our forecast greater inflation. Given that rangeland had not historically appreciated at the rate of inflation we just applied the historical value for appreciation that we had seen from the reappraisal.

Secretary of State Denney: One question for Jim. What does the current rate of inflation do to this? I know in 2014 the study it was 2.25 and it is much higher now. What impact does that have?

Mr. Van Heuit: Yes, for our forward-looking rate of inflation, we are currently using 2.25%. We are probably going to revise that up to about 2.5%. On the order of about 2.25-2.5% is a reasonable forecast for inflation. Remember we are looking at this on a strategic basis as opposed to a short-term basis, so this is on average over the next ten years. We anticipate that inflation will be higher for the remainder of 2022 and into 2023, but after that we believe that the current Federal Reserve hikes are going to be effective and reduce inflation down to somewhere in excess of 2%.

Ms. Becker-Wold: One of the things that the Land Board will see that is a little different, or a lot different, from what we did in the 2014 analysis, and was a subject of some discussion around

the 2017 study and the reinvestment subcommittee discussions that came after that in terms of deployment of the land bank assets, is that we did not include any ranges around this asset allocation. We just gave you exactly what we think that current asset allocation is expected to deliver in terms of return and risk. There are a lot of reasons around that. One is that setting ranges implies that you need to be in that range when the Land Board and the EFIB board have very little control in terms of how to move the asset allocation from where it is now to any other place even within a range because you have constitutional prohibitions of moving assets back out of the permanent fund and into lands. The only source of trying to get to any kind of a target would be land bank assets. The land bank assets are not going to be sufficient to move you anymore. I know that there is some money that could be coming in, but it is just not enough to move the needle. We just said instead of making this in a range, let us think about it as where we are and then where do we go from here in terms of how we invest any incremental new money. The way we have done that in the past, which I think is very consistent with the way we are thinking about it now, is using the expected return on land assets, in this case timberland, of that 3.35 on a real basis as the guidepost for additional investments in timber. None of that analysis says that timberland is not a good investment. On the contrary we think it is a good investment. It is not a good investment at any cost, at any price. We feel that the moderator on that decision should be the go forward expected return for timber on a real return basis. That is why we got rid of the ranges because you have no ability to actually do that, to really go back to that range. Investments in timber and rangeland are good diversifiers, but we believe they should meet this return hurdle. From the total endowment point of view, asset classes should be kind of a valuator regardless of their ownership, when I say ownership, I mean do they fall in the EFIB purview, or do they fall in the Department of Lands purview because really at the end of the day the Land Board owns all of the assets in the trust. We are trying to move to a way of thinking about this where IDL and EFIB are really one big pool of assets. Instead of thinking about them in terms of their location of ownership, think about the role those assets play in the total trust, which is the concept we were trying to get to in 2014, but it took us a little while to think that all the way through, take these confines off, use the hurdle rate as the moderator for asset allocation into lands and then look at the trust as a whole. What I am trying to show in the schematic at the bottom is that there is an intersection between these two pools. IDL has the private assets in rangeland and timber, EFIB controls the bonds and stocks in the public markets but commercial real estate, which was put in the portfolio after the 2014 analysis that said you should divest of the cabin sites. We took that and said we cannot really replicate a broad commercial real estate portfolio within IDL, but we can do it in the EFIB, but it still has a lot of characteristics in common with the private assets. It falls in that intersection between the two yet is under the direct purview of EFIB, yet ultimately under the purview of the Land Board. I hope that that conceptually makes some sense. We started to think if there are other things that could fall into that area that could be accretive to the total return, because at the end of the day what we are trying to do is provide a steady distribution and grow that over time. When I say steady, I mean really to put a floor on it. Years ago, when we got engaged in this analysis, we understood then and I think it still holds today is that one of the things that the beneficiaries have as a high priority is putting a floor to the extent possible on the level of distributions year to year, so they have some idea of how much money they are going to receive. That is particularly important to public schools, but the other beneficiaries as well. All of these policies combined – the investment policy, the distribution policy, the reserve policy – all play together to make sure that we can do that, that we can provide some sort of a floor, yet have a mechanism to grow the

distributions over time. This system has worked out beautifully because with the exception of very few years, and one of those was during the financial crisis, we have been able to do that, to grow distributions year to year and to keep that floor. This has all worked out very well, so if the Land Board approves this analysis, we would like to go back and revise the key documents, which is the strategic reinvestment plan and the investment policy statement, for the Land Board to reflect these new expectations and to update the hurdle rate.

Controller Woolf: Thank you, Janet, and Jim. I understand what you are talking about with what you showed in the 2014 asset allocation, you gave us target ranges for the various assets and you talk about because of the friction of what we have as a Board it is difficult to make those movements. Help me understand what Chris and the EFIB board have a little bit more flexibility to adjust and to move around. If I understand you correctly, you are saying even with that we would not be moving the needle that much, is that correct?

Ms. Becker-Wold: The EFIB board does have a lot of discretion to do things within their own portfolio and we try to coordinate that to some extent, to look at the total because we trying to keep our eyes on it.

Controller Woolf: My key part here is back in 2014 you gave us a target range for the various asset classes and here for the 2022 your recommendation is not to include that, and you gave your reasons, but I am trying to help understand how does EFIB...in your third bullet it says we are supposed to look at this as an enterprise, as a full thing here. How do we help identify what EFIB, who has a lot more flexibility, what direction do they need then to know what target classes, what is the target range? I feel that we still need some type of direction even if it is the EFIB financial portion.

Ms. Becker-Wold: That direction is that what we are really trying to do is meet the distribution objective which is 5% of the rolling 3-year average. This whole thing is guided by that distribution policy. We will continue to work on the asset allocation in the EFIB purview that will help meet that objective. We are trying to continue to grow the fund prudently, which means how can we take risk in a way that is not going to violate any of the priorities set by the distribution policy. While that does not seem very specific, there is a target return we are trying to hit, embedded in the distribution policy, which is a 5% plus 2.25 at a minimum; that is a 7.25% rate of return that we are trying to hit. Everything that Lands can do to improve their side, everything that we can do to improve the EFIB side, and anything that we can do together to improve it should move us towards that target.

Controller Woolf: You state at the end of 2021 that our Idaho timberland was 31% of the assets and I imagine with a financial market going up and down over time, is it a true statement that timberland class would continue to go down as an overall for the whole portfolio?

Ms. Becker-Wold: You are correct that the markets have been terrible this year. We are on pace to have the worst 6-month period since back almost in the Great Depression. This has been a huge correction in the markets. I remind the Land Board that this correction has only really taken us back in terms of the equity markets to the fall of 2021. We still had a phenomenal 10-year period of equity returns; we have only corrected literally back to last fall. If you think of this as a mountain we just kind of blew off the top of the volcano. The market is doing something that is a little different right now than what we normally see, which is that both equities and bonds would

be down at the same time. Some of that has been exacerbated by the COVID crisis because the Federal Reserve cut interest rates to zero. They stimulated a massive amount of quantitative easing into the economy, and all of that turned out to be highly inflationary. According to some people in the markets, they might have been a little behind the curve in terms of recognizing that inflation was not going to be transitory that it was going to be much more ingrained in the economy based on low interest rates. We are bursting bubbles all over the place. We are bursting a bond bubble, a cryptocurrency bubble, equity, real estate, they are doing everything all at the same time and they are doing it by raising interest rates. When interest rates rise, bond prices fall and that means you have a negative return from bonds. At the same time rising interest rates also impacts equities and impacts the economy and impacts earnings if we go into a recession. You can see how these things have aligned. But in terms of the asset allocation and the ability for this trust to sustain through this we have every confidence that you can because of all of the fail safes that are in place here. You have a balanced asset allocation on the EFIB side, you have steady income coming from timber, you have a good return as Jim highlighted, and we have healthy reserves that will protect the distributions.

Mr. Van Heuit: If I could just add one more comment, as you see here on slide 30 the 10-year expected compound return for the portfolio as a whole is 6.05%. To the extent that the timber return is below that, means that the financial assets will grow faster than the timber assets will and consequently we would expect under a normal environment for the timber allocation to fall as a percentage of total assets.

Ms. Becker-Wold: That is what it has done. I think in 2017 timber might have been as much as 41% and now it is down to 31; that is because of phenomenal growth in the financial assets.

Governor Little: Okay, further questions? Alright, thanks Janet.

Board Action: A motion was made by Attorney General Wasden that the Land Board approve the Asset Allocation Study updated by the Land Board's General Consultant (Callan). Controller Woolf seconded the motion. The motion carried on a vote of 4-1; Governor Little cast the opposing vote.

10. Land Bank Fund Transfer to Permanent Fund – Presented by Dustin Miller, Director

Recommendation: Approve the transfer of \$44,242,795 plus accrued interest amount of \$2,893,157 from the Land Bank to the permanent endowment fund.

Discussion: Controller Woolf asked whether this recommendation is for a one-time transfer or a transfer on each of those quarters. Director Miller replied that this is a one-time transfer. Secretary of State Denney inquired if the Department has anything in the pipeline, given the recommendation from Callan to invest in timberland, that the \$44 million could be used for in the next three quarters. Director Miller responded that there are five potential acquisitions, across the state, that the Department is looking at, but the timing is not right yet for these five acquisitions. Governor Little pointed out there is still plenty of money in the Land Bank. Director Miller elaborated that if this transfer is approved, it would leave a balance of about \$105 million. There is \$23 million that could potentially be used for transactions related to the University of Idaho's CAFE center, which would leave about \$82 million available. Cash inflows over the next two years could be about \$32 million to bring it to \$114 million in the fund.

Board Action: A motion was made by Attorney General Wasden that the Land Board approve the transfer of \$44,242,795 plus accrued interest in the amount of \$2,893,157 from the Land Bank to the permanent endowment fund as recommended. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

11. Approval of Upper McKinnon Timber Sale with Clearcut Harvest Units – *Presented by Jim Elbin, Division Administrator-Trust Land Management*

Recommendation: Approve the Upper McKinnon Timber Sale with clearcut harvest units exceeding 100 acres.

Discussion: Controller Woolf relayed his appreciation for openness and transparency; with clearcuts at 101 or 102 acres, the Department could have easily gone under that and avoided bringing this for Land Board approval.

Board Action: A motion was made by Attorney General Wasden that the Land Board approve the Upper McKinnon Timber Sale with clearcut harvest units exceeding 100 acres. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

12. Approval of Moose Drool Timber Sale with Clearcut Harvest Unit – *Presented by Jim Elbin, Division Administrator-Trust Land Management*

Recommendation: Approve the Moose Drool Timber Sale with clearcut harvest unit exceeding 100 acres.

Discussion: Controller Woolf wondered if there are any impacts of these clearcuts on the viewshed from Highway 3 heading north out of Bovill. Mr. Elbin said looking at unit 1 with the county road going right by it there will be some visibility; the terrain is generally rolling and flat so it should be minimal, and there has been a lot of timber management in that area.

Board Action: A motion was made by Attorney General Wasden that the Land Board approve the Moose Drool Timber Sale with clearcut harvest unit exceeding 100 acres. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

13. Personnel Matter

Board Action: A motion was made by Controller Woolf that 1) the Land Board approves for Director Miller a 3% salary increase as directed for all state employees by the 2022 Legislature, 2) the Land Board approves a \$1.75/hour increase above that, so that Director Miller's new hourly rate will be \$70.62, and 3) an effective date of June 12, 2022 for both, which will make it the first pay period in FY2023, with pay date of July 8, 2022. Attorney General Wasden seconded the motion. The motion carried on a vote of 5-0.

Information

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

14. Pre-Season Fire Forecast/Update – *Introduction by Craig Foss, State Forester/Division Administrator-Forestry and Fire*

Discussion:

Mr. Foss: Just a few notes just to kick us off here, as of yesterday [June 20, 2022] we have responded to 14 wildfires burning 30 acres. That represents about 41% of the 20-year average for number of fires and 16% of the 20-year average for the acres burned to date. At this time last year, in 2021, we had experienced 102 fires consuming 425 acres. Those number of fires, those 102 fires were about 278% of the 20-year average and the acres burned was about 216% of the 20-year average. And as you will hear from the weather forecast, much different situation than what we were facing last year. With regard to staffing, we provide our forest protective districts with funding sufficient to hire three benefited positions for eight months of service; three non-benefited five-month positions; and three non-benefited three-month positions. Our districts are given discretion based on time of the year, severity of fire conditions. Their personnel needs vary, so we allow them discretion in terms of how they hire as long as they stay within budget given. Over time, we have learned that this approach works well; it allows for local decision making for hiring and insures we are fiscally responsible, and we are able to deploy personnel when they are needed most.

Given the scarcity of resources that we all experienced in 2021, we were anticipating significant challenges going into this fire season. Fortunately, the combination of the increased starting wages, which you were influential in bringing about, as well as hazard pay and paid R and R, we have had a very successful year in terms of recruiting for the 2022 fire season. At this time, I am pleased to report that our agency and the TPAs have been able to fill the desired number of engine boss positions at all but three districts. Southwest here in Boise has hired two, they intended to hire three engine bosses. Maggie Creek in Kamiah, Idaho hired two and they intended to hire three. Then our Craig Mountain District has only been able to hire one engine boss and they had intended to hire three. All other seasonal firefighting positions at all of our districts, except the Southwest office and our helitack group out of the Coeur d'Alene office have been able to fill their seasonal crews. In those situations where we have shortfalls, we will use permanent staff, non-fire staff as well as permanent fire staff with engine boss qualifications to address the needs during the fire seasons.

A. Predictive Services Forecast – *Jim Wallman, Meteorologist, NIFC*

Discussion:

Mr. Wallman: Good morning, Governor, members of the Board. I am going to talk about the upcoming summer fire season for Idaho. For the record, my name is Jim Wallman, National Interagency Fire Center Predictive Services. Showing you an overview of the drought nationally, it is looking better for Idaho, and I will zero in on that in a second. But first, we are continuing with extreme to exceptional drought in much of the West, in the Southwest if you have been hearing in the news lately, however, we have been seeing some improvement up North. But it has stretched out onto the Plains. Locally here, just looking at statewide ranks for precipitation over the last year, close to average overall statewide. It has been looking pretty good and much of that we have been above normal for the last three months and has actually continued into the middle of June. We are doing a lot better for precipitation this spring. That has increased one,

the grass growth, and two, the reduction in drought has really improved as a result of that. On the next slide, statewide average temperatures, we have been much above normal, kind of near record territory top 10%, but a lot of that was at the end of last year from July through really February when we saw all those above normal temperatures. Recently with the cooler, wetter, weather we have been below normal temperatures for the last three months. Looking at the drought situation last year, much of Idaho was in drought or abnormally dry. This year we are looking a lot better because of the cooler and wetter spring that we had; drought has been removed from all of northern Idaho. We still have some drought in the southern portions of the state with the worst conditions along the Nevada and Utah borders.

Looking at what it is going to do for our rangeland fire probability, I know for those of you that are local or in the southern part of the state, we have had exceptional grass growth. This rangeland fire probability that I am showing here is a few weeks old, but one thing that it does show is the above normal potential for grass fires and range fires in the Treasure Valley and out into the Snake River Valley in eastern Idaho as well. Because this is old, one thing I am going to ask you to do is kind of extrapolate what we are seeing here just in the Treasure Valley and then include the whole southern portion of the state, that is what we are seeing for grass growth. I could not get an updated image and I apologize for that, but just to give you an idea we do have a lot of grass out in the southern portion of the state. The drought outlook for Idaho, really not much change. We are going into our drier summer periods, not looking at any change, just looking for general persistence in the southern portion of the state and then up north we are not expecting any drought to develop this summer. What we are expecting is maybe a typical summer, maybe a little above normal for temperatures. Going over these national significant fire potential outlooks monthly. We just did this one from June 1st. Our next one will be updated on July 1st, and we are working on the process of updating them right now. This looks out four months and combines current situation with forecast weather and climate, and these are really good for our planning purposes, severity requests, resource allocation, anything that is needed during the fire season. Looking at July, at least for Idaho, we are expecting near normal fire potential. It may even be on the lower end of normal because of the wet spring and cool spring we have had that has continued well into June. Even over the last weekend we had quite a bit of precipitation in some areas. Areas out in the Plains obviously above normal, but we are looking very good here at least in Idaho for July. As we move into August, some of this we are going to be reanalyzing, but with some of the grass growth that we have seen in southwest Idaho and portions of eastern Idaho expecting above normal potential as we get towards late July really into August when that grass cures and will be available to burn. We also have some areas of the east central Idaho mountains highlighted as well. That is something that we are not as confident in at this time, and we will be reassessing as we go to our next month's outlook that will be released on the first of July. And then into September we are keeping the above normal potential, significant fire potential out in the eastern portions of the state. We may have to reanalyze all of southern Idaho again for September because of the grass growth and to look at what is going to happen in September climatologically. Right now, we are looking at normal in southwest Idaho to above normal in the east and then continuing possibly in the lower end of normal in the northern part of the state. To sum it all up, most of the West remains in drought, but in Idaho less than 50% of the state is drought and most severe along the border. Southeast, eastern Idaho will have above normal potential into August and September also in southwest

Idaho in August. The biggest concern here from our perspective is the heavy grass load, once it cures as we get into August we are going to be watching.

Attorney General Wasden: Mr. Wallman, thank you for telling us what we need to know rather than what we want to hear.

Mr. Wallman: You are welcome, that is what we try to do.

B. Resource Readiness – *Josh Harvey, Bureau Chief-Fire Management*

Discussion:

Mr. Harvey: Good morning, Governor, members of the Land Board. For the record, my name is Josh Harvey. I am the Fire Management Chief for the Department of Lands, glad to be here this morning. It is always nice to follow good news, Predictive Services, we base a lot of our pre-planning off information throughout the winter and the updated information this morning also helps quite a bit. I have some guests with me today. I brought members of my fire bureau down to participate in this meeting as well as do some other activities this afternoon. If I could get the folks in the back row to stand up. They represent our operations, logistics, aircraft, business, and training functions within the fire bureau; these folks are responsible for most of the operations that happen within our fire program.

Governor Little: I hope we do not have a fire today.

Mr. Harvey: No fire today, but we could take care of it if one did occur. I will just jump right into it. You have the attachments there with the maps identifying where our resources are located. I will get a little more specific with that and start with our aircraft. We have contracted for aviation resources that will be located within the Coeur d'Alene, Grangeville, and McCall areas. These resources will be available statewide as always. They will be available to our interagency partners and neighboring states. We have exclusive use contracts in place for two Type 2 helicopters. One will be located in Coeur d'Alene and one in Lewiston. We are staffing two 7-person helitack crews to man those ships. Those helicopters will start their contract June 15 and July 1, we stagger that start. Both of those helicopters are Type 2 helicopters and capable of carrying approximately 300 gallons of water per drop, as well as the personnel assigned to it. We also have contracts in place for amphibious water scoopers. We will be bringing two of those on this year and they will be starting July 1st. They will be based out of Coeur d'Alene at least initially for this year. Both of those aircraft are capable of up to 800 gallons of water or retardant. They are also capable of in-flight mixing with Blaze Tamer, a gel used to make water wetter. It is much more efficient at suppressing fires. The difference between the gel and the retardant – the gel and water mixture is actually a direct fire suppressant; the retardant is more of an insulation and preventive measure that we use to keep fire from spreading.

Governor Little: Josh, are there any issues with applying this on waterways or forest ground?

Mr. Harvey: There are restrictions in place to keep it out of streams. Usually what we try to do is use our air attack platforms to really direct and limit...

Governor Little: We have an agreement with the Forest Service; there is no issue with using Blaze Tamer 380 on forest ground.

Mr. Harvey: Correct.

Governor Little: Okay, good.

Mr. Harvey: We also have contracts in place for four single engine airtankers. Initially those airtankers will be located in Grangeville and two will be in McCall. They are also capable of up to 800 gallons of water or retardant. These aircraft will also be available to our interagency partners and our neighboring states; when they get busy, we share those resources. We also have seven call-when-needed agreements in place for aircraft; it is more specifically for helicopters, but they are used directly for fire suppression and other resource projects. We have taken the steps to incorporate four drones into our fire bureau. We have six certified UAS pilots on staff to fly those aircraft. We have another several individuals that are in training to get carded to fly those aircraft. Those unmanned aerial platforms, we utilize those with infrared cameras, and they save a lot of money, thousands of dollars a day, in flying helicopters to do detection. The infrared cameras detect hotspots along the fire line or even outside the fire perimeter that can take quite a bit of time to detect by hand or in person.

As far as engines and staffing goes, we will be staffing 28 engines across our 10 districts this year. The timber protective associations will be staffing eight engines between the two districts. We also have provided funding for our districts to ensure that seven-day staffing is met once we get into the core part of fire season. Typically, our districts come on to seven-day staffing around July 4th depending on conditions. We will also be staffing a full 20-person Type 2 IA crew this year; we refer to this crew as the Teakean hand crew. This crew has been building towards a full 20-man crew for the last several years and proud to say that this year they will be a stand-alone resource. We also are going to be staffing a 6-person booster crew out of north Idaho this year; they will be based out of Sandpoint. That is a statewide resource as well as the Teakean crew. They will be ready at a moment's notice to respond anywhere within the state to support fire suppression. In total, this year we will be bringing on approximately 170 firefighters. This is a significant increase over years past where we have typically brought on 140 folks. I am glad to say we have been able to use that additional funding from last year's session to put more firefighters on the ground. On the national scale, IDL is a very active member of the Northern Rockies Coordinating Group, the Great Basin Coordinating Group, and the Northwest Compact. This includes the northwest territories, British Columbia, Alberta, Saskatchewan, Alaska, Washington, Oregon, Montana, and Wyoming. Through the Northwest Compact, we can share resources very easily and fast in comparison to other methodologies for moving resources around the state and the nation. It is our understanding this year that unlike the last two years, we will be able to utilize our neighbors to the north. The Canadians have already been a part of moving to Alaska and working in fire suppression there so that is also good news for this year.

There are still COVID concerns that are in place. The coordinating groups are addressing those, and we have mitigation measures that will be utilized when incident management teams are brought in on large fire events. As in years past, there will be more use of dispersed camping, less in-person contact in exchanging paperwork and filling out time and things like that to minimize risk. There are ongoing discussions nationally regarding resource availability. It is still in question, but the outlook for this year is much better than it has been in years past. I think we have had significant success over some of our neighboring agencies in hiring. There are still some struggles, my understanding the federal government has not hired to the level that they wanted to as far as

firefighters on the ground. As I mentioned, Predictive Services lends a big part in how we prepare for the spring, and contract resources are one of the tools that we utilize. The last couple of years we have contracted up to 11 engines preseason. Last year, we utilized 9 because we were able to bring on some more engine bosses and staff our engines at a higher level. This year, we are going to reduce that number to five. We have seen a significant decrease in our initial expensive contract resources. We have arrangements in place with the contractors in the northwest; in the event that we do see a more significant fire season, we can bring those resources on very easily and quickly. We do not anticipate bringing on a Type 2 20-man hand crew, as we have in the last couple of years. With Teakean being fully staffed this year, I believe we will be saving a significant amount of money in not having to bring on a contract crew early in the season.

Readiness reviews were just completed as Director Miller alluded to earlier. By code we are obligated to review 50% of our districts and both TPAs. The districts reviewed and the TPAs met or exceeded our minimum requirements for being ready for fire season. Our guard schools, our basic firefighting training this year, was held in person. The advanced guard school was hosted by interagency partners, and I believe those were also in person. Mr. Governor, as requested the last couple of years, we worked very closely with Shawn Keough and the ALC in developing a training program for our logging contractors. Our training program, Mr. Hicks is our training program manager. He spent a significant amount of time this winter in developing a program that is very comprehensive. It is very fast for our logging contractors; it is online readily available and very easy for them to take. There is also a separate program that was developed for industry's foresters. They like to assist in heavy equipment operations and there was training developed for them as well. It is all online, very easily accessible, and to date we have had 108 people that complete the training. This does not change our ability to sign up equipment and operators during the preseason, but as requested, we have taken some big steps in engaging our logging contractors in the woods and bringing those folks up to speed with some training.

All of our equipment will continue to be dispatched through our dispatch centers, but our districts also have the ability to sign up a piece of equipment on the spot and put it to work immediately. We continue to work with the Idaho Fire Chiefs Association in updating the mobilization agreement with our fire chiefs and our rural fire departments. It is the Idaho Cooperative Mobilization Agreement. This agreement is the framework for how these fire service organizations get mobilized and reimbursed for suppression assignments outside of their jurisdiction when they are mobilized through the national system. The current agreement is set to expire in 2022; under the Idaho Cooperative Agreement, I am working with the Idaho Fire Chiefs Association. IDL currently has 87 fire service organizations signed up. We continue to work with the National Guard on wildfire training. In 2022, IDL worked with the National Guard to conduct wildland fire management training for 60 guardsmen. The training is currently ongoing and is the same training provided annually to state, federal, and tribal wildland firefighters during our weeklong guard school. When completed, these individuals achieve wildland firefighter certification and can operate as multiple hand crews should the Governor make an emergency declaration. They are located out of the Orchard training center south of Boise. In '21 the National Guard helicopters were successfully used to support ongoing fire suppression in the northern part of the state. They did an outstanding job for us, much appreciated. The National Guard plans to provide up to four helicopters with air crews to support emergency response missions if needed for 2022. Also on a side note, we have been working with Department of Corrections the last couple of years; COVID prevented Corrections from being able to field hand

crews as they have in the past. This year it sounds like they will have personnel available, staffed, equipped, and trained to assist in the event that they are needed.

Fire prevention has been a point of focus for us the last couple of years. Our fire prevention program has grown in leaps and bounds. Last year, they took a big step in doing PSA announcements on gas station TVs; some of you may have seen those. Those PSAs reached approximately 1.2 million people over the course of the summer. They continue to work with our forestry assistance bureau and shared stewardship in identifying critical areas across the state where wildfire danger needs to be messaged to the public. They are currently installing 17 fire danger signs. We have conducted a home fire risk assessment class to educate 25 professionals, mostly private citizens, across the state to help identify home and property maintenance that homeowners can do on their own to prevent the risk of wildfire in their own backyards. We are currently working with the Idaho Transportation Department to establish protocols to use their reader boards over our highways during times of extreme fire behavior. We have initiated the use of reader boards as a pilot area down on the St. Joe to message the need for burn permits, fire danger, and other relevant information that needs to be put out in a timely manner. As you may have seen last week Governor, when you were at the fire cache, we have wrapped a couple of semi-truck trailers. I do not have a graphic with me here today, but they have QR codes right on the back of the semi-truck trailer so someone can click a picture of it, lead them directly to our burn permit system, and it is basically a rolling advertisement and reminder to the public to continually be on guard for threats and wildfire. We have also wrapped our Type 3 incident management team trailer to serve as a rolling billboard, and we are using other billboards across the state to get message out to the public. Mr. Governor, thank you for your visit to fire cache last week. I do not have much to report out on the fire cache readiness other than what you saw last week; they are ready to go for this fire season. Last year was truly a test for them; they definitely met the challenge, and they are ready to go for this year.

Governor Little: How many guardsmen and women have got red cards?

Mr. Harvey: I believe it is 60.

Governor Little: How many Corrections, if everything goes according to Hoyle, are available?

Mr. Harvey: It is my understanding they are anticipating two crews, but that could change. Mr. Finis is more of our Department of Corrections expert.

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

Discussion:

Mr. Finis: Good morning, Governor, members of the Land Board, Rick Finis, Southern Idaho Fire Program Liaison here to report on the RFPAs. To start, I will go back to Corrections. Orofino is looking at possibly staffing a 10-man module. They are down with staff up there; they only have one qualified and we are still working on south Idaho to see where they are going to be at.

This year, 2022, marks the 10th anniversary of the first RFPA in Mountain Home, the first Idaho RFPA. Since then, the RFPAs have responded to over 350 fires from east to west across southern Idaho. A fairly light season for them in 2021 with 31 reported fire responses. Currently we have one reported fire, not to be biblical, but it was a burning bush reported by Mr. Gary. I hope it is

not a harbinger of things to come down here. Currently we have 10 RFPAs in Idaho with Weiser River standing up this year. They finally got their approval from the IRS late last fall, and they have over 50 members at this time that have been trained. The 10 RFPAs protect approximately 9 million acres of private, state, and federal lands. We met with the Bingham County Commissioners last month; they are interested in having an RFA formed in the western, northern part of Bingham County, that blue circle up there. They had no landowners show up to the meeting, so they are going to start an outreach program.

Governor Little: We will work on that this week, Director Miller.

Director Miller: Yes, we will Governor.

Mr. Finis: They plan on having an outreach program and hope to have an informational meeting late fall. In 10 years, over 650 members have received basic wildland fire training through the BLM and now, with Weiser River, Forest Service is going to be much more involved. Over 350 members are red carded for this year and have received their red cards already. IDL continues to provide PPE equipment and apparatus to the RFPAs with our funding and additional funding from the Governor's Office of Species Conservation. This includes PPE, radios, and firefighting apparatus. Henry's Creek RFA this year will be receiving two Type 6 slip-ins through funding from OSC. With that I will stand for questions.

Governor Little: Questions? Hope they do not have to do anything this summer.

There being no further business before the Land Board, at 11:55 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

July 19, 2022
Regular Agenda

Subject

Proposed Legislation for the 2023 Legislative Session

Question Presented

Shall the Land Board approve the Department's three 2023 legislative proposals?

Background

The Idaho Department of Lands (Department) seeks Land Board approval of its three legislative proposals. Per direction from the Governor's Division of Financial Management, the proposals have been submitted through the Executive Agency Legislative System for consideration during the 2023 legislative session.

Discussion

Placer Mine Permit Modernization

The Department recommends amending Idaho Code § 47-13, Dredge Mining. The recommended changes include:

- Increasing application fees to cover administrative costs. Fees are currently \$50 for every ten acres with a maximum of \$1,000. This legislation increases the fee to \$500 for every ten acres with a maximum of \$2,000.
- Eliminating the reclamation bond limit of \$1,800 per acre and instead allowing actual cost reclamation bonds like those required by the Mined Land Reclamation Act.
- Changing the Dredge and Placer Mining Account to allow expenditures for administrative costs and technical corrections.

Application fees have not kept pace with the actual cost of reviewing and approving placer permits. In addition, bonding limitations passed in 1993 to mimic the bonding limitations in the Idaho Surface Mining Act are outdated and do not reflect the actual cost of reclamation. This creates a shortfall in reclamation funding when a permittee defaults on their reclamation obligations. The Dredge and Placer Mining Account currently can only be used for restoration of lands and watercourses damaged by placer or dredge mining operations, so administrative purposes are added to allow the fees collected to be used for those purposes. Lastly, a few technical corrections are needed.

Future placer mining permittees will be affected and may be concerned about the increased fees and increased bonding requirements. An average of only one permit per year has been issued over the last five years because most dredge and placer mining in Idaho is small scale exploration or recreational activity that does not require a permit under this statute. The Department will contact existing permittees and provide an opportunity for them to review and comment on the proposed legislation.

The Dredge and Placer Mining Account will see an annual increase of approximately \$400.

Mining operations permitted under the Mined Land Reclamation Act and associated rules currently pay similar application fees and must provide actual cost reclamation bonding. This does not appear to have affected the competitiveness of those mine operators. The cost of reclamation is generally quite high, so the application fee is not a significant expense by comparison.

Mine License Tax Redirect

The Department recommends amending Idaho Code § 47-12, License Tax for Privilege of Mining and Extracting Ores, to direct 100% of the state's Mine License Tax to the Abandoned Mine Reclamation Fund and amending § 47-17, Idaho Abandoned Mine Reclamation Act, to change the Abandoned Mine Reclamation Fund into an interest-bearing account.

The Abandoned Mine Reclamation Fund currently receives 34% of the mine license tax in Idaho. The remaining 66% of the mine license tax is deposited into the General Fund. This revenue has declined over the last seven years and is no longer sufficient to fund the Abandoned Mine Lands program. Without additional revenue, the Abandoned Mine Reclamation Fund is predicted to drop to zero in FY2027. This would leave the State of Idaho with no funding to address the hazards present at thousands of abandoned mines across the state. These hazards include open adits and shafts as well as mine waste and mine-impacted waters that may threaten human health and the environment.

The overall amount of tax paid will not be affected, so the mining companies paying the tax will not be impacted. For Fiscal Year 2021, the amount of General Fund revenue collected by the Mine License Tax was about \$24,000 out of over \$4.5 billion in total General Fund revenue, so the impact to the General Fund will be negligible.

The Abandoned Mine Reclamation Fund will receive approximately \$40,000 more every year based on average Mine License Tax returns from the last five years. Additional funding will be generated each year through interest earnings.

Abandoned Mine Lands Funding

The Department recommends amending Idaho Code § 47-6, Location of Mining Claims, to add a \$10 fee per federal mining claim in Idaho upon recordation at the county. This revenue would be placed in the Abandoned Mine Reclamation Fund established by Idaho Code § 47-1703.

The Abandoned Mine Reclamation Fund currently receives 34% of the mine license tax in Idaho. The remaining 66% of the mine license tax is deposited into the General Fund. This revenue has declined over the last seven years and is no longer sufficient to fund the Abandoned Mine Lands program. Without additional revenue, the Abandoned Mine Reclamation Fund is predicted to drop to zero in FY2027. This would leave the State of Idaho with no funding to address the hazards present at thousands of abandoned mines across the state. These hazards include open adits and shafts as well as mine waste and mine-impacted waters that may threaten human health and the environment.

Mining claimants would be affected due to the \$10 increase in federal mining claim filing fees. The Bureau of Land Management currently requires a yearly maintenance fee of \$165 per claim, and county recording fees start at \$10 for a current minimum cost of \$175 per claim. This would increase to \$185 with the additional \$10 fee for the Abandoned Mine Reclamation Fund.

In addition to these fees, the Bureau of Land Management requires new mining claims filed after September 1, 2019, to also pay \$60 per claim in additional fees for a total of \$225 in fees charged by Bureau of Land Management. The county recording fees of at least \$10 gives a current minimum cost of \$235 for new mining claims. This would increase to \$245 with the additional \$10 fee for the Abandoned Mine Reclamation Fund.

Claimants with 10 or fewer mining claims nationwide may receive a waiver for maintenance fees, but the Bureau of Land Management requires a \$15 fee for each claim that receives a waiver, and county recording fees of at least \$10 are still paid for a current minimum payment of \$25. This would increase to \$35 with the additional \$10 fee for the Abandoned Mine Reclamation Fund.

The Department of Lands will work with the Idaho Mining Association and the Idaho Association of Counties regarding this proposal.

Over 40,000 mining claims are currently active in Idaho. This would increase the Abandoned Mine Reclamation Fund by approximately \$400,000 per year. The \$10 fee only adds about 4% to the cost of filing a new mining claim.

Recommendation

Approve the Department's 2023 legislative proposals.

Board Action

Attachments

1. Proposed text changes to Idaho Code § 47-13, the Idaho Dredge and Placer Mining Protection Act
2. Proposed text changes to Idaho Code § 47-12, License Tax for Privilege of Mining and Extracting Ores and § 47-17, Idaho Abandoned Mine Reclamation Act
3. Proposed text changes to Idaho Code § 47-6, Location of Mining Claims



TITLE 47
MINES AND MINING

CHAPTER 13
DREDGE MINING

47-1312. POLICY. It is hereby declared to be the policy of the state of Idaho to protect the lands, streams and watercourses within the state, from destruction by dredge mining and by placer mining, and to preserve the same for the enjoyment, use and benefit of all of the people, and that clean water in the streams of Idaho is in the public interest.

[47-1312, added 1955 Init. Meas., sec. 1; am. 1969, ch. 281, sec. 1, p. 845.]

47-1313. DEFINITIONS. As used in this chapter:

(a) "Board" means the state board of land commissioners or such representative as may be designated by the board.

(b) "Director" means the director of the department of lands or such representative as may be designated by the director.

(c) "Disturbed land" means land, natural watercourses, or existing stockpiles and waste piles affected by placer or dredge mining, remining, exploration, stockpiling of ore or wastes from placer or dredge mining, or construction of roads, tailings ponds, structures, or facilities appurtenant to placer or dredge mining operations.

(d) "Mineral" means any ore, rock, or substance extracted from a placer deposit or from an existing placer stockpile or waste pile, but does not include coal, clay, stone, sand, gravel, phosphate, uranium, oil, or gas.

(e) "Motorized earth-moving equipment" means backhoes, bulldozers, front loaders, trenchers, core drills, suction dredges with an intake diameter exceeding eight (8) inches, and other similar equipment.

(f) "Natural watercourse" means any stream in the state of Idaho having definite bed and banks, and which confines and conducts continuously flowing water.

(g) "Permit area" means that area designated under section 47-1317, Idaho Code, as the site of a proposed placer or dredge mining operation, including all lands to be disturbed by the operation.

(h) "Person" means any person, corporation, partnership, association, or public or governmental agency engaged in placer or dredge mining, whether individually, jointly, or through subsidiaries, agents, employees, or contractors.

(i) "Placer deposit" means naturally occurring unconsolidated surficial detritus containing valuable minerals, whether located inside or outside the confines of a natural watercourse.

(j) "Placer or dredge exploration operation" means activities including, but not limited to, the construction of roads, trenches, and test holes, performed on a placer deposit for the purpose of locating and determining the economic feasibility of extracting minerals by placer or dredge mining.

(k) "Placer or dredge mining" or "dredge or other placer mining" means the extraction of minerals from a placer deposit, including remining for sale, processing, or other disposition of earth material excavated from previous placer or dredge mining. The term "dredge or other placer mining," wherever used in this chapter, is subject to this definition and all provisions regarding it.

(l) "Placer or dredge mining operation" means placer or dredge mining which disturbs in excess of one-half (1/2) acre of land.

(m) "Road" means a way, including bed, slopes, and shoulders, (1) constructed within the circular tract circumscribed by a placer or dredge mining operation, or (2) constructed solely for access to a placer or dredge mining operation or placer or dredge exploration operation, provided, that a way dedicated to public multiple use or being used by a governmental land manager or private landowner at the time of cessation of operations, and not constructed solely for access to a placer or dredge mining operation or placer or dredge exploration operation, shall not be considered a road for purposes of this act.

[47-1313, added 1984, ch. 102, sec. 2, p. 232.]

47-1314. DISTURBED LANDS TO BE RESTORED -- NOTICE AND RESTORATION OF PLACER OR DREDGE EXPLORATION OPERATIONS. (a) Any person conducting a placer or dredge mining operation shall, within one (1) year of permanent cessation of operations as to the whole or any part of the permit area, commence restoration of disturbed lands in the permit area or in any portion thereof as to which operations are permanently ceased. In accordance with a permit approved for the operation under section 47-1317, Idaho Code, surfaces shall be returned to a contour reasonably comparable to that contour existing prior to disturbance, topsoil shall be replaced where deemed appropriate by the board, and vegetation shall be planted reasonably comparable to that vegetation existing prior to disturbance. Any disturbed natural watercourse shall be restored to a configuration and pool structure conducive to good fish and wildlife habitat and recreational use.

(b) Any person desiring to conduct placer or dredge exploration operations using motorized earth-moving equipment shall, prior to or within seven (7) days of commencing exploration, notify the director in writing of the name and address of the person, and the location, anticipated size, and method of exploration. Such notice shall be subject to disclosure according to chapter 1, title 74, Idaho Code. Any placer or dredge exploration operation which causes a cumulative surface disturbance in excess of one-half (1/2) acre of land, including roads, shall be considered a placer or dredge mining operation. Lands disturbed by any placer or dredge exploration operation which causes a cumulative surface disturbance of less than one-half (1/2) acre of land, including roads, shall be restored to conditions reasonably comparable to conditions existing prior to the placer or dredge exploration operation.

[47-1314, added 1984, ch. 102, sec. 3, p. 233; am. 1990, ch. 213, sec. 64, p. 533; am. 2015, ch. 141, sec. 121, p. 471; am. 2018, ch. 76, sec. 1, p. 171.]

47-1315. WATER CLARIFICATION. Where any person conducts a placer or dredge mining operation where the water used in such mining process flows in, or into a natural watercourse, such person shall construct and use settling ponds of sufficient capacity and character and/or install and use filtration processes fully adequate to clarify the water used in the mining process to conform to the standards and rules of the state department of environmental quality regarding water quality as authorized under chapter [136](#), title 39, Idaho Code, before such water is discharged into the natural watercourse.

[47-1315, added 1955, Init. Meas., sec. 4; am. 1969, ch. 281, sec. 4, p. 845; am. 1984, ch. 102, sec. 4, p. 234; am. 2001, ch. 103, sec. 87, p. 328.]

47-1316. ADMINISTRATIVE AGENCY. The Idaho state board of land commissioners is hereby designated the administrative agency of this act and shall have the power and duty to adopt rules and regulations for its administration in accordance with the intent and purposes thereof, and to employ personnel necessary to effectually carry out this law. Such board may make such inquiries and investigations and conduct such hearings as the board shall deem advisable or necessary.

[47-1316, added 1955, Init. Meas., sec. 5; am. 1969, ch. 281, sec. 5, p. 845.]

47-1317. APPLICATION, PERMIT AND BOND REQUIRED. (a) Before any person may conduct a placer or dredge mining operation on lands or natural watercourses in the state of Idaho, such person shall file with the director an application for a permit upon a form provided by the director, and shall pay an application fee of ~~fifty~~ **five hundred** dollars (\$500.00), for each ten (10) acres or fraction thereof above involved in such application, provided that no application fee shall exceed ~~one~~ **two** thousand dollars (\$~~1,000~~2,000). Application fees shall be deposited in the dredge and placer mining account.

(b) The permit to issue in any such case shall be in a form provided and approved by the board. No such permit shall be issued to any applicant until the applicant files with the director an initial bond in an amount necessary to pay the estimated reasonable costs of reclamation required under the permit for each acre of land to be disturbed during the first season of operation plus ~~ten percent (10%). The amount of the bond shall not exceed one thousand eight hundred dollars (\$1,800) per acre of disturbed land~~ **indirect costs**. At the beginning of each calendar year or before operations begin, the operator shall notify the director of any increase or decrease in the acreage of disturbed lands which will result from planned placer mining activity within the next operating season. A correlated increase or decrease in the bond shall be required by the director for a change in disturbed acreage. In the event of failure by the permittee to reclaim disturbed lands in the permit area, the cost charged to the permittee shall be ~~the~~ **the estimated** reasonable costs of reclamation plus ~~ten percent (10%); provided that in no event shall any bond submitted pursuant to this section exceed one thousand eight hundred dollars (\$1,800) for any given acre of disturbed land~~ **indirect costs**. The determination by the board of reclamation costs shall constitute a final decision subject to judicial review as set forth in subsection ~~(d)~~(c) of section 47-1320, Idaho Code. The bond may be submitted in the form of a surety, cash, certificate of deposit, or other bond acceptable to the director, provided that any bond shall be in the applicable amount set forth above.

(c) It shall be unlawful for any person to conduct placer or dredge mining operations in this state without first having obtained a permit and bond as herein provided. The board shall determine whether a permit application and bond submitted by an applicant satisfies the requirements of this act and regulations promulgated thereto. Upon such determination, the board shall notify the applicant in writing of approval or denial of the permit application and bond. Any notice of rejection shall state the reasons for such rejection. An applicant may submit an amended permit application and bond.

(d) It shall be the duty of the board in its administration of this act to cause periodic inspections to be made of the operations under such permits to determine compliance with this law and to make rules and regulations with respect thereto and the cost and expense of making such inspections shall be borne by the permittee, which such costs and expenses shall constitute a lien upon equipment, personal property, or real property of the permittee and upon minerals produced from the permit area, and the

failure to pay the amount thereof on demand by the board shall be cause for termination of the permit. All inspection fees shall be deposited in the dredge and placer mining account.

(e) The board may release an applicant from the requirement that the applicant submit a bond if the director determines that the applicant has insured faithful performance of the requirements of this act and regulations promulgated thereto pertinent to land and watercourse restoration by submitting and having on file a current and valid bond with the United States government, which bond equals or exceeds the amount set forth above, provided that such release by the director shall not release an applicant from bonding under this act, should the permittee fail to continuously maintain a valid bond with the United States government or from compliance with any other requirement of this act or regulations promulgated thereto.

(f) Upon determination by the director that restoration has been satisfactorily completed on a portion of a permit area in accordance with the applicable approved permit and with subsection (a) of section 47-1314, Idaho Code, the board may reduce the bond amount to reflect the completed restoration.

(g) That if any applicant for such dredge or other placer mining operations as contemplated by this act be not the owner of the lands described in the application or any part thereof, the owner of such lands shall indorse his approval of the application, and no permit shall be issued in the absence of such approval by the owner of lands described in the application not owned by the applicant.

(h) No permit shall be issued proposing to alter or occupy the bed of a navigable stream or to dredge any stream or watercourse without notification to the department of water resources of the pending application. The department of water resources shall respond to said notification within twenty (20) days, and the response shall be included in any permit granted hereunder by a showing whether the permit constitutes a permit from the department of water resources or whether an additional permit from the department of water resources shall be required.

(i) No permit shall issue hereunder to dredge nor otherwise placer mine any lands owned by the state of Idaho, including the beds of navigable streams, and including the mineral reservations in lands sold by the state, unless a mineral lease shall be made of such terms and at such royalty to the state as its board of state land commissioners shall prescribe and determine.

(j) The Idaho state board of land commissioners shall have the power to deny any application for a permit on state land, stream or river beds, or on any unpatented mining claims, upon its determination that a dredge mining operation on the land proposed would not be in the public interest, giving consideration to economic factors, recreational use for such lands, fish and wildlife habitat and other factors which in the judgment of the state land board may be pertinent, and may deny an application upon notification by the department of water resources that the grant of such permit would result in permanent damage to a stream channel.

(k) Upon default, in the event that the amount of the bond is insufficient to reclaim the land in compliance with the act and the approved plan, the attorney general is empowered to commence legal action against the operator in the name of the board to recover the amount in excess of the bond necessary to reclaim the land in compliance with the act and the approved plan.

[47-1317, added 1955, Init. Meas., sec. 6; am. 1957, ch. 325, sec. 1, p. 685; am. 1969, ch. 281, sec. 6, p. 845; am. 1974, ch. 17, sec. 34, p. 308; am. 1976, ch. 150, sec. 4, p. 542; am. 1980, ch. 278, sec. 1, p. 722; am. 1984, ch. 102, sec. 5, p. 234; am. 1993, ch. 308, sec. 1, p. 1138.]

47-1318. TERMINATION OF PERMITS -- HEARING. Without in any manner affecting the penal and injunctive provisions of this act the Idaho state board of land commissioners is empowered to commence proceedings to terminate any permit to conduct dredge or other placer mining operations issued hereunder for any violation of the terms of this act, after having issued and served upon the permittee alleged to be committing such violation, a formal complaint which shall specify the provisions of this act which the permittee allegedly is violating, and a statement of the manner in and the extent to which said permittee is alleged to be violating the provisions of this act. Such notice may be served by certified mail, and return receipt signed by the permittee or his agent shall constitute service and time thereof of such notice. The permittee shall answer the complaint and request a hearing before a designated hearing officer within thirty (30) days from receipt of the complaint if matters asserted in the complaint are disputed. If the permittee fails to answer the complaint and to request a hearing, the matters asserted in the complaint shall be deemed admitted by the permittee, and the board may proceed to terminate the permit and forfeit the bond in an amount necessary to pay all costs and expense of restoring the lands and beds of streams damaged by dredge or other placer mining of the defaulting permittee. Upon request for a hearing by a permittee, the board shall schedule a hearing not less than thirty (30) days after the date the permittee requests a hearing. The provisions of chapter 52, title 67, Idaho Code, shall govern proceedings instituted pursuant to this section. The board may designate one (1) of its members, or a hearing officer or officers to conduct any hearings and enter recommended or preliminary orders, as determined by the board, on issues involving the administration of this act.

Upon entry of a final order terminating a permit or forfeiting a bond, the board shall assess the costs of the hearing against the defaulting permittee.

[47-1318, added 1955, Init. Meas., sec. 7; am. 1969, ch. 281, sec. 7, p. 845; am. 1986, ch. 82, sec. 1, p. 242; am. 1988, ch. 72, sec. 1, p. 102; am. 1993, ch. 216, sec. 44, p. 627.]

47-1319. BOND FORFEITURE ON DEFAULT. (a) The surety bond required by this act to be given by a permittee for dredge or other placer mining purposes under permit shall be exonerated and discharged upon the completion or termination of such mining operation as specified in the permit granted therefor and upon full compliance with the requirements of this act and the rules and regulations of said board of land commissioners made for the administration thereof.

(b) That in event the holder of any permit issued under this act fails to comply with the requirements of this act and the rules and regulations of the Idaho board of land commissioners for the administration hereof, then the applicable bond of such permittee shall be forfeited to the state of Idaho in such amount and to such extent as the state board of land commissioners shall estimate and determine will be necessary to pay all cost and expense of restoring the lands and beds of streams damaged by dredge or other placer mining of said defaulting permittee and covered by such bond and remaining unrestored, and such forfeited funds are to be deposited in the dredge and placer mining account, which is hereby created in the dedicated fund of the state treasury. All moneys deposited in the dredge and placer mining account pursuant to this section or other provisions of this chapter shall be utilized by the state board of land commissioners for the restoration of lands and watercourses damaged by placer or dredge mining operations **and to administer the provisions of this chapter.**

(c) No forfeiture of bond of a permittee shall be made until after procedures have been followed as provided in sections 47-1318 and 47-1320, Idaho Code, and the complaint is issued and findings of facts

and rulings of law in support of the order of forfeiture, if any, have been made and the time for appeal has expired.

[47-1319, added 1955, Init. Meas., sec. 8; am. 1957, ch. 325, sec. 2, p. 685; am. 1969, ch. 281, sec. 8, p. 845; am. 1984, ch. 102, sec. 6, p. 237; am. 1988, ch. 72, sec. 2, p. 103.]

47-1320. HEARING PROCEDURES AND APPEALS. (a) Process and procedure under this act shall be as summary and simple as reasonably may be and as far as possible in accordance with the rules of equity. Such proceedings shall be governed by the provisions of chapter 52, title 67, Idaho Code. The board, or any member thereof, or the hearing officer designated by such board, shall have power to subpoena witnesses and administer oaths. The district court shall have power to enforce by proper proceedings the attendance and testimony of witnesses, and the production for examination of books, papers and records. Witnesses subpoenaed by the board or a member thereof or the hearing officer shall be allowed such fees and traveling expenses as are allowed in civil actions in the district court, to be paid by the party in whose interest such witnesses are subpoenaed. The board, or any member thereof, or the hearing officer, shall make such inquiries and investigations as shall be deemed relevant. Each hearing shall be held at the county seat in any county where the dredge or other placer mining is being conducted or where any of the lands involved in the hearing are situate, or in the county of Ada, as the board may designate.

(b) If the hearing involves a permit or application for a permit, the final order of the board, together with the agency record, as provided in chapter 52, title 67, Idaho Code, shall be filed in the office of the director of the department of lands. A copy of the order shall be sent to the applicant or holder of the permit involved in such hearing by United States mail.

(c) Any applicant or permit holder aggrieved by any final decision or order of the board shall be entitled to judicial review in accordance with the provisions and standards set forth in chapter 52, title 67, Idaho Code.

[47-1320, added 1969, ch. 281, sec. 9, p. 845; am. 1984, ch. 102, sec. 7, p. 238; am. 1993, ch. 216, sec. 45, p. 628.]

47-1322. TITLE. This act may be cited as the "Idaho Dredge and Placer Mining Protection Act."

[47-1322, added 1955, Init. Meas., sec. 13; am. 1969, ch. 281, sec. 11, p. 845.]

47-1323. DREDGE MINING OF WATER BODIES MAKING UP THE NATIONAL WILD AND SCENIC RIVERS SYSTEM PROHIBITED. Dredge mining in any form shall be prohibited on:

- (1) The middle fork of the Clearwater river, from the town of Kooskia upstream to the town of Lowell; the Lochsa river from its junction with the Selway at Lowell forming the middle fork, upstream to the Powell ranger station; and the Selway river from Lowell upstream to its origin;
- (2) The middle fork of the Salmon river, from its origin to its confluence with the main Salmon river;
- (3) The St. Joe river, including tributaries, from its origin to its confluence with Coeur d'Alene lake, except for the St. Maries river and its tributaries.

[47-1323, added 1970, ch. 244, sec. 1, p. 659; am. 1977, ch. 114, sec. 1, p. 246.]

47-1324. ENFORCEMENT AND PENALTIES FOR VIOLATION. (a) The board may maintain an action in the name of the state of Idaho to enjoin any person from operating or maintaining a placer or dredge mining operation without holding a valid permit or bond as provided in this act or regulations promulgated thereto. The court, or a judge thereof at chambers, if satisfied from a complaint or by affidavits that the alleged acts have been or are being committed, may issue a temporary restraining order, without notice or bond, enjoining the defendant, his agents and employees, from operating or maintaining such placer or dredge mining operation without obtaining a permit and bond as provided in this act or regulations promulgated thereto. No showing of injury shall be required other than that this act is being violated by the operation or maintenance of a placer or dredge mining operation without the approved permit and bond. Upon a showing of good cause therefor, the court may require the defendant to undertake mitigation or restoration of the disturbed area in conformity with section 47-1314, Idaho Code, pending final disposition of the action. The action shall proceed as in other cases for injunctions. If at the trial the operation and maintenance of a placer or dredge mining operation without a permit or bond be established, and the court further finds that it is probable that the defendant will continue therein or in similar violations, the court shall enter a decree perpetually enjoining said defendant, his agents and employees from thereafter committing said or similar actions in violation of this act.

(b) The board may maintain an action in the name of the state of Idaho to enjoin any person from operating or maintaining a placer or dredge mining operation when, under an existing approved permit and bond, a permittee violates or exceeds the terms of the permit or violates a provision of this act, and the bond, if forfeited, would not be sufficient to adequately restore the land.

(c) In addition to the injunctive provisions above, the board may maintain a civil action against any person who violates any provision of this act to collect civil damages in an amount sufficient to pay for all the damages to the state caused by such violation, including but not limited to, costs of restoration in accordance with section 47-1314, Idaho Code, where a person is conducting placer or dredge mining without an approved permit or bond.

(d) Notwithstanding any other provisions of this act, any person who violates any of the provisions of this act or regulations promulgated thereto, or who violates any determination or order promulgated pursuant to the provisions of this act, shall be liable for a civil penalty of not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) for each day during which such violation continues. Such penalty shall be recoverable in an action brought in the name of the state of Idaho by the attorney general. All sums recovered shall be placed in the state treasury and credited to the dredge and placer mining account, to be administered by the board for the restoration of lands and watercourses damaged by placer or dredge mining operations.

(e) No administrative action or decision by the director or board shall be required prior to enforcement of any of the above remedies, provided that no permit shall be terminated and no bond shall be forfeited without administrative action as provided under sections 47-1318 and 47-1319, Idaho Code. No administrative action or decision by the ~~Idaho board of health and welfare~~ **state department of environmental quality** shall be required prior to enforcement of any of the above remedies by the state of Idaho against any person violating section 47-1315, Idaho Code.

(f) Any person who willfully or knowingly falsifies any records, plans, specifications, or other information required by the board or willfully fails, neglects, or refuses to comply with any provisions of this act shall be guilty of a misdemeanor punishable by a fine of not less than one thousand dollars

(\$1,000) and not more than five thousand dollars (\$5,000) or imprisonment not to exceed one (1) year, or both.

(g) All civil actions provided for in this section shall be filed in the district court of this state for the county wherein the violation, or some part thereof, occurs, or in the district court for the county wherein the defendant resides or has a principal place of business, or in the district court for the county of Ada if the defendant resides out-of-state, or in the appropriate court of the United States where the rules and statutes governing such courts permit.

[47-1324, added 1971, ch. 208, sec. 1, p. 917; am. 1984, ch. 102, sec. 8, p. 239; am. 1988, ch. 72, sec. 3, p. 104.]



TITLE 47
MINES AND MINING

CHAPTER 12
LICENSE TAX FOR PRIVILEGE OF MINING AND EXTRACTING ORES

47-1201. LICENSE TAX TO BE MEASURED BY ONE PERCENT OF THE NET VALUE OF ORES MINED -- DEFINITION OF ROYALTY. (a) Tax on mining or on receiving royalties. For the privilege of mining in this state, both placer and rock in place, every person, copartnership, company, joint stock company, trust, corporation or association, however and for whatever purpose organized, engaged in mining, upon or receiving royalties from any quartz vein or lode, or placer or rock in place mining claim, in this state containing gold, silver, copper, lead, zinc, coal, phosphate, limestone, or other precious and valuable metals or minerals, or metal or mineral deposits, shall pay to the state of Idaho, in addition to all other taxes provided by law, a license tax equal in amount to one percent (1%) of the net value of the royalties received or the ores mined or extracted as determined under section 47-1202, Idaho Code, said tax to accrue during the taxable year that the product is sold or used and shall on the last day of such taxable year become a lien on property in this state of such person, copartnership, company, joint stock company, trust, corporation, or association, said tax to be due and payable on or before the fifteenth day of the fourth month following the close of the taxable year.

(b) Definition of royalties. For the purpose of paragraph (a) of this section and chapter, the word "royalties" shall be construed to mean the amount in money or value of property received based upon the quantity or value of minerals extracted by any person, copartnership, company, joint stock company, trust, corporation, or association, having any right, title or interest in or to any tract of land, or any economic interest in minerals as defined by section 613 of the Internal Revenue Code, in this state for which permission has been given to another to explore, mine, take out and remove ore therefrom.

(c) Definition of taxable year. The term "taxable year" with respect to any taxpayer means the taxable year elected for income tax purposes under the provisions of section 63-3010, Idaho Code.

[47-1201, added 1935 (1st E.S.), ch. 65, sec. 1, p. 182; am. 1941, ch. 106, sec. 1, p. 188; am. 1972, ch. 99, sec. 1, p. 209; am. 1977, ch. 93, sec. 1, p. 189; am. 2001, ch. 207, sec. 1, p. 703.]

47-1202. NET VALUE OF ORE TO BE USED AS MEASURE OF TAX -- HOW DETERMINED. For the purpose of measuring and determining the amount of tax to be paid under the provisions of section 47-1201, Idaho Code, the royalties as defined in subsection (b) of section 47-1201, Idaho Code, or the net value of ore mined shall be computed under one (1) of the following methods at the election of the taxpayer. Such election, once made, shall be binding for all succeeding years unless the taxpayer secures permission from the state tax commission to change to another method:

(a) Ores mined within the state shall be valued by deducting from the gross value of the ore, all costs of mining and processing such ore, using the formula prescribed in section 613 of the Internal Revenue Code and Treasury Regulation 1.613-5 for computation of the net income from mining for depletion purposes, less the deduction of depletion as computed under section 613 of the Internal Revenue Code and Treasury Regulation 1.613-5; or

(b) Ores mined within the state shall be valued using the gross value determined by the U.S. Department of the Interior for computation of the value of minerals on public lands for federal royalty purposes, less the following deductions:

(1) all costs of mining and transporting such ore to the point at which the value for federal royalty purposes is determined by measurement of the quantity of ore mined; these costs to include only those directly incurred in and attributable to the actual mining and transportation operation in the state of Idaho, and

(2) the applicable portion of the federal deduction for depletion, allocated on the ratio of the gross value of the ore used for this computation, to the gross value of the ore used in the federal depletion computation.

[47-1202, added 1935 (1st E.S.), ch. 65, sec. 2, p. 182; am. 1941, ch. 106, sec. 2, p. 188; am. 1972, ch. 99, sec. 2, p. 209; am. 1973, ch. 43, sec. 1, p. 78; am. 1977, ch. 93, sec. 2, p. 190; am. 1996, ch. 381, sec. 1, p. 1294.]

47-1203. STATEMENT OF NET PROCEEDS FROM MINING OR EXTRACTING ORES -- OR FROM ROYALTY. (a) Every person, copartnership, company, joint stock company, trust, corporation, or association mining or receiving royalties from any quartz vein or lode, or placer or rock in place mining claim, containing gold, silver, copper, lead, zinc, coal, phosphate, limestone, or other precious or valuable minerals or metals, or mineral or metal deposits, must, on or before the fifteenth day of the fourth month following the close of the taxable year make a tax return to the state tax commission, stating specifically the items of income and the deductions allowed by this act. For the purpose of enforcing this act, the income tax returns filed in accordance with the provisions of the Idaho Income Tax Act shall be open to inspection by the officer designated to enforce this act.

(b) In the event the taxpayer is entitled to an automatic extension of time to file the income tax return under section 63-3033, Idaho Code, an automatic six (6) month extension is granted to file the return required under this act. In all cases of an extension of time in which to file any return, interest shall be paid on any tax due from due date to date of payment at the rate provided in section 63-3045, Idaho Code.

[47-1203, added 1935 (1st E.S.), ch. 65, sec. 3, p. 182; am. 1941, ch. 106, sec. 3, p. 188; am. 1972, ch. 99, sec. 3, p. 209; am. 1977, ch. 93, sec. 3, p. 191; am. 1982, ch. 179, sec. 1, p. 467; am. 2000, ch. 26, sec. 1, p. 45.]

47-1204. STATEMENT AS TO ENTIRE GROUP. Where the same person or persons are operating or leasing to another two (2) or more mines or mining claims under one (1) general system of mining or development, a duplicate copy of the statement herein provided, and the tax herein levied, shall be made as to such entire group and need not be made as to each particular mining claim constituting said group, as provided by section 63-2804.

[47-1204, added 1935 (1st E.S.), ch. 65, sec. 4, p. 182; am. 1972, ch. 99, sec. 4, p. 209.]

47-1205. DEFINITION OF VALUABLE MINERAL. The term "valuable mineral" for purposes of this act, shall be deemed to include not only gold, silver, copper, lead, zinc, coal, phosphate and limestone, but also any other substance not gaseous or liquid in its natural state, which makes real property more

valuable by reason of its presence thereon or thereunder and upon which depletion is allowable pursuant to section 613 of the Internal Revenue Code, provided, however, that sand and gravel are not included in this definition.

[47-1205, added 1977, ch. 93, sec. 4, p. 192.]

47-1206. PAYMENT OF MINE LICENSE TAX. (1) Except as provided in subsection (2), the license tax imposed by this chapter shall be paid to the state tax commission on or before the due date of the return and the commission shall remit the sums to the state treasurer, who shall place ~~sixty-six percent (66%) to the credit of the general fund of the state and thirty-four~~ **one hundred** percent (~~34~~**100**%) to the credit of the abandoned mine reclamation fund created by the provisions of section 47-1703, Idaho Code.

(2) The license tax imposed by this chapter only on mining operations that include a cyanidation facility, as defined by section 47-1503, Idaho Code, shall be paid to the state tax commission on or before the due date of the return and the commission shall remit the sums to the state treasurer who shall place ~~thirty-three percent (33%) to the credit of the general fund of the state,~~ thirty-three percent (33%) to the credit of the cyanidation facility closure fund created by the provisions of section 47-1513, Idaho Code, and ~~thirty-four~~ **sixty seven** percent (~~34~~**67**%) to the credit of the abandoned mine reclamation fund created by the provisions of section 47-1703, Idaho Code.

[47-1206, added 1935 (1st E.S.), ch. 65, sec. 6, p. 182; am. 1939, ch. 173, sec. 8, p. 320; am. 1969, ch. 311, sec. 1, p. 966; am. 1977, ch. 93, sec. 5, p. 192; am. 1999, ch. 44, sec. 1, p. 105; am. 2005, ch. 341, sec. 1, p. 1066.]

47-1208. TAX DEFICIENCY COLLECTION AND ENFORCEMENT PROCEDURES. The deficiency in tax and notice of deficiency as well as the collection and enforcement procedures provided by the Idaho income tax act, sections 63-3030A, 63-3033, 63-3038, 63-3039, 63-3040, 63-3042 through 63-3065A, 63-3068, 63-3069, 63-3071, 63-3072, 63-3073 and 63-3075 through 63-3078, Idaho Code, shall apply and be available to the state tax commission for enforcement of the provisions of this act and the assessment and collection of any amounts due. Said sections shall for this purpose be considered a part of this act and wherever liens or any other proceedings are defined as income tax liens or proceedings they shall, when applied in enforcement or collection under this act, be described as a license tax for the privilege of mining lien or proceeding. The state tax commission may be made a party defendant in an action at law or in equity by any person aggrieved by the unlawful seizure or sale of his property, or in any suit for refund or to recover an overpayment, but only the state of Idaho shall be responsible for any final judgment secured against the state tax commission, and said judgment shall be paid or satisfied out of the state refund account created by section 63-3067, Idaho Code.

[47-1208, added 1969, ch. 311, sec. 2, p. 966; am. 1977, ch. 93, sec. 6, p. 192; am. 1979, ch. 48, sec. 2, p. 138; am. 1982, ch. 179, sec. 4 2, p. 467; am. 1986, ch. 73, sec. 6, p. 207; am. 1986, ch. 92, sec. 1, p. 269.]

TITLE 47
MINES AND MINING

CHAPTER 17
IDAHO ABANDONED MINE RECLAMATION ACT

47-1701. PURPOSE OF ACT. It is the purpose of this act to provide for the reclamation of abandoned mines on state and federal lands and on certain private lands, thereby protecting human health, safety and welfare, conserving natural resources, aiding in the protection of wildlife, aquatic resources, domestic animals, and reducing soil erosion.

[47-1701, added 1994, ch. 220, sec. 1, p. 703; am. 1999, ch. 44, sec. 3, p. 105.]

47-1702. SHORT TITLE. This act may be known and cited as the "Idaho Abandoned Mine Reclamation Act."

[47-1702, added 1994, ch. 220, sec. 1, p. 703; am. 1999, ch. 44, sec. 4, p. 105.]

47-1703. FUNDING. This chapter shall govern the use of state and federal moneys specifically appropriated for abandoned mine reclamation. This chapter shall not require the state to expend or appropriate state moneys. The board may receive federal funds, state funds, and any other funds, and, within the limits imposed by a specific grant, expend them as directed by this chapter. All grants, funds, fees, fines, penalties, **interest** and other uncleared money which has been or will be paid to the state for abandoned mine reclamation shall be placed in the state treasury and credited to the abandoned mine reclamation fund, which is hereby created **as an interest-bearing, dedicated fund**. This fund shall be available to the board, by legislative appropriation, and shall be expended for the reclamation of lands affected by eligible mining operations.

[47-1703, added 1994, ch. 220, sec. 1, p. 703; am. 1999, ch. 44, sec. 5, p. 106; am. 2006, ch. 37, sec. 2, p. 104.]

47-1704. DEFINITIONS. (1) "Abandoned mine" means a mine deserted by the operator, having no regular maintenance, and not covered by a valid mining claim.

(2) "Affected land" means the land adjacent to an eligible mine that is, or may be, adversely affected by past mining operations.

(3) "Board" means the state board of land commissioners or such department, commission, or agency as may lawfully succeed to the powers and duties of such board.

(4) "Director" means the head of the department of lands or such officer as may lawfully succeed to the powers and duties of said director.

(5) "Eligible mine" means an abandoned mine located on land owned by the state or federal government or an abandoned mine located on private land when the owner of the private land has requested, and the board has granted, designation as an eligible mine.

(6) "Mine" means an area where valuable minerals were extracted from the earth and includes all associated development areas including, but not limited to, milling and processing areas, overburden

disposal areas, stock- 2 piles, roads, tailings ponds and other areas disturbed at the mining operation site.

(7) "Operator" means any person or persons, any partnership, limited partnership, or corporation, or any association of persons, either natural or artificial including, but not limited to, every public or governmental agency engaged in mining or mineral exploration operations, whether individually, jointly, or through subsidiaries, agents, employees, or contractors and shall mean every governmental agency owning or controlling the use of any mine when the mineral extracted is to be used by or for the benefit of such agency. It shall not include any governmental agency with respect to those mining or mineral exploration operations as to which it grants mineral leases or prospecting permits or similar contracts, but nothing herein shall relieve the operator acting pursuant to a mineral lease, prospecting permit or similar contract from the terms of this chapter.

(8) "Valuable mineral" shall have the same meaning as "valuable mineral" defined in section 47-1205, Idaho Code.

[47-1704, added 1994, ch. 220, sec. 1, p. 703; am. 1999, ch. 44, sec. 6, p. 106.]

47-1705. RESPONSIBILITY OF STATE BOARD OF LAND COMMISSIONERS. The state board of land commissioners is charged with the responsibility of administering this act in accordance with the purpose of the act and the intent of the legislature. The director of the department of lands shall, upon authorization of the board, exercise the powers and discharge the duties vested in the board by this act.

[47-1705, added 1994, ch. 220, sec. 1, p. 704.]

47-1706. DUTIES AND POWERS OF BOARD. In addition to the other duties and powers of the board prescribed by law, the board is granted and shall be entitled to exercise the following authority and powers and perform the following duties: (1) To reclaim any eligible mine and affected lands. Reclamation on federal lands shall be completed only upon consent of the federal agency responsible for the administration of those lands. Reclamation activities may include: (a) The reclamation and restoration of abandoned surface mined areas; (b) The reclamation of abandoned milling and processing areas; (c) The sealing, filling, and grading of abandoned deep mine entries; (d) The planting of land adversely affected by past mining to prevent erosion and sedimentation; (e) The prevention, abatement, treatment, and control of water pollution created by abandoned mine drainage; (f) The control of surface subsidence due to abandoned deep mines; and (g) Such other reclamation activities as may be necessary to accomplish the purposes of this act. (2) To administer and enforce the provisions of this act and the rules and orders promulgated thereunder as provided in this act. (3) To conduct and promote the coordination and acceleration of research, studies, surveys, experiments, demonstrations and training in carrying out the provisions of this act. In carrying out the activities authorized in this section, the board may enter into contracts with and make 3 grants to institutions, agencies, organizations and individuals, and shall collect and make available any information obtained therefrom. (4) To adopt and promulgate reasonable rules respecting the administration of this act and such rules as may be necessary to carry out the intent and purposes of this act. All such rules shall be adopted in accordance with and subject to the provisions of chapter 52, title 67, Idaho Code. (5) To enter upon eligible mines and affected lands at reasonable times, for inspection purposes and to determine whether the provisions of this act are being complied with. Inspections on private lands shall be conducted in the

presence of the landowner or his duly authorized employees or representatives, or with written permission of the landowner.

[47-1706, added 1994, ch. 220, sec. 1, p. 704.]

47-1707. PRIORITIES. Expenditure of funds from the abandoned mine reclamation account shall reflect the following priorities in the order stated: (1) The protection of public health, safety, and general welfare from the adverse effects of past mining practices. (2) The restoration of land and water resources previously degraded by the adverse effects of past mining practices.

[47-1707, added 1994, ch. 220, sec. 1, p. 705; am. 1999, ch. 44, sec. 7, p. 107.]

47-1708. INTERAGENCY COORDINATION. The board shall recognize other governmental, educational, and private organizations or agencies which have expertise and information regarding abandoned mines and affected lands. The board shall characterize, prioritize, and complete reclamation of eligible mines and affected lands in coordination with these agencies. In addition, the board may reasonably compensate them from the abandoned mine reclamation account for services that the board requests they provide.

[47-1708, added 1994, ch. 220, sec. 1, p. 705; am. 1999, ch. 44, sec. 8, p. 107.]

The logo of the Idaho Department of Lands is a large, stylized diamond shape. It is composed of several overlapping geometric shapes in shades of green, yellow, and grey. A horizontal banner with rounded ends is superimposed across the center of the diamond, containing the text "IDAHO DEPARTMENT OF LANDS" in a bold, white, sans-serif font.

IDAHO DEPARTMENT OF LANDS

TITLE 47
MINES AND MINING

CHAPTER 6
LOCATION OF MINING CLAIMS

47-601. MINING CLAIM LOCATIONS AUTHORIZED. Persons are authorized to locate mining claims upon that public domain in the state of Idaho which is open to location under the mining laws of the United States. The location of a mining claim shall be made by posting notice of location and by marking the boundaries as provided in section 47-602 of this chapter.

[47-601, added 1970, ch. 92, sec. 2, p. 227.]

47-602. METHOD OF LOCATING MINING CLAIM. The locator of a mining claim must at the time of making his location designate his claim by posting at one (1) corner of the claim his notice of location in writing in which there shall be stated:

1. The name of the locator or locators.
2. The name of the claim and whether located as a lode mining claim or as a placer mining claim.
3. The date of the location and the mining district, if any, and the county in which the claim is located.
4. The directions and distances which describe the claim.
5. The direction and distance from the corner where notice is posted to such natural object or permanent monument, if any such there be, as will fix and describe in the notice itself the site of the claim.

Before recording his notice of location, the locator must mark the boundaries of his mining claim by placing at each corner or angle of the claim a substantial monument or a post at least four (4) feet in height and four (4) inches square or in diameter. Each post and monument shall be marked with the name of the claim, the position or number of the corner or angle and the direction of the boundary lines. The locator shall mark the boundary lines so that they can be readily traced. Where it is impracticable to place a monument or post in its true position, a witness monument shall be erected and marked to indicate the true position of the corner or angle.

[47-602, added 1970, ch. 92, sec. 4, p. 227.]

47-604. NOTICE MUST BE RECORDED. Within ninety (90) days after the location of the claim the locator or his assigns must file for record in the office of the county recorder of the county in which the claim is situated, a copy of his notice of location. Failure to file notice of location for record within ninety (90) days after location of the claim shall constitute an abandonment of the claim.

[(47-604) 1895, p. 25, sec. 4; reen. 1899, p. 237, sec. 4; reen. R.C., sec. 3209; C.L., sec. 3209; C.S., sec. 5523; I.C.A., sec. 46-604; am. 1970, ch. 92, sec. 7, p. 92.]

47-605. RECORD OF ADDITIONAL CERTIFICATE. If at any time the locator of any mining claim heretofore or hereafter located, or his assigns, shall apprehend that his original certificate was defective, erroneous, or that the requirements of the law had not been complied with before filing, or shall be desirous of changing the surface boundaries, or of taking any part of an overlapping claim which has been abandoned, or in case the original certificate was made prior to the passage of this law, and he

shall be desirous of securing the benefits of this chapter, such locator or his assigns may file an additional certificate subject to the conditions of this chapter, and to contain all that this chapter requires an original certificate to contain: provided, that such amended location does not interfere with the existing rights of others at the time when such amendment is made.

[(47-605) 1895, p. 25, sec. 5; reen. 1899, p. 237, sec. 5; reen. R.C. & C.L., sec. 3210; C.S., sec. 5524; I.C.A., sec. 46-605.]

47-606. AFFIDAVIT OF PERFORMANCE OF LABOR -- NOTICE OF ACCEPTANCE OF WAIVER, SUSPENSION OR EXTENSION -- FEES -- EFFECT AS EVIDENCE. Within sixty (60) days after any time set or period allowed for the performance of labor, or making improvements upon any lode or placer claim, the person in whose behalf such work or improvement is performed or some person for him, must make and record an affidavit in substance as follows:

State of Idaho, county of, ss.

Before me, the subscriber, personally appeared, who being first duly sworn says, that at least dollars worth of work or improvements were performed or made upon claim, situate in mining district, County of, State of Idaho:

That such expenditure was made by, for, or at the expense of, owner of said claim, for the purpose of holding said claim; all stakes, monuments or trees marking boundaries of said claim are in proper place and position.

Subscribed and sworn to before me this day of,

The fee for administering the oath and recording the foregoing affidavit, when taken before any county recorder, shall be as provided by section 31-3205, Idaho Code.

Such affidavit, or a certified copy thereof in case the original is lost, shall be prima facie evidence of the performance of such labor. The failure to file such affidavit shall be considered prima facie evidence that such labor has not been done.

When the performance of annual labor upon any lode or placer claim is suspended, extended or waived by act of congress of the United States, and provision is therein made for filing or recording a notice, affidavit or statement by the claimant or other person for him, accepting the provisions of said act, then the same shall be filed as herein provided for affidavit of performance of annual labor, and the same fees shall be charged therefor and the same effect shall be given thereto, and the same presumptions shall arise therefrom as provided herein for said affidavit of performance of annual labor.

[(47-606) R.S., sec. 3101; am. 1899, p. 237, sec. 6; am. 1899, p. 440, sec. 2; reen. R.C., sec. 3211; am. 1913, ch. 72, sec. 1, p. 308; reen. C.L., sec. 3211; C.S., sec. 5525; I.C.A., sec. 46-606; am. 1945, ch. 114, sec. 1, p. 176; am. 1951, ch. 251, sec. 2, p. 540; am. 1957, ch. 171, sec. 1, p. 306; am. 1959, ch. 72, sec. 2, p. 157; am. 1970, ch. 92, sec. 8, p. 227; am. 1976, ch. 281, sec. 4, p. 964; am. 1982, ch. 207, sec. 1, p. 570; am. 2002, ch. 32, sec. 19, p. 57.]

47-607. LOCATION OF ABANDONED CLAIM. The location of abandoned claims shall be done in the same manner as if the location were of a new claim including the erection of new posts or monuments.

[(47-607) 1895, p. 25, sec. 7; reen. 1899, p. 237, sec. 7; reen. R.C., sec. 3212; C.L., sec. 3212; C.S., sec. 5526; I.C.A., sec. 46-607; am. 1970, ch. 92, sec. 9, p. 227.]

47-608. NOTICE MUST CLAIM ONLY ONE LOCATION. No location notice shall claim more than one location, whether the location is made by one or several locators, and if it purport to claim more than one location it is absolutely void.

[(47-608) 1895, p. 25, sec. 8; reen. 1899, p. 237, sec. 8; reen. R.C. & C.L., sec. 3213; C.S., sec. 5527; I.C.A., sec. 46-608.]

47-609. SECURITY TO SURFACE OWNERS -- INJUNCTION. When the right to mine is in any case separate from the ownership or right of occupancy of the surface ground, the owners or rightful occupants of the surface ground may demand satisfactory security from the miners, and if it be refused or not given, may enjoin such miners from working such ground until such security is given. The court granting the writ of injunction shall fix the amount and nature of the security.

[(47-609) 1895, p. 25, sec. 10; reen. 1899, p. 237, sec. 10; reen. R.C. & C.L., sec. 3214; C.S., sec. 5528; I.C.A., sec. 46-609.]

47-611. AFFIDAVIT OF LOCATORS. At or before the time of presenting a location notice for record, whether it be for a quartz lode or placer claim, one (1) of the locators named in the same must make and subscribe an affidavit, in writing on or attached to the notice, substantially in the following form, to wit:

State of Idaho, county of, ss.

I,, do solemnly swear that I am a citizen of the United States of America (or have declared my intentions to become such) or a corporation organized under the laws of Idaho, and that I am acquainted with the mining ground described in this notice of location, and herewith called the lode or placer claim; that the ground and claim therein described or any part thereof has not, to the best of my knowledge and belief, been previously located according to the laws of the United States and this state, or if so located, that the same has been abandoned or forfeited by reason of the failure of such former locators to comply in respect thereto with the requirements of said laws.

.....
Signature

Subscribed and sworn to before me this day of

.....
Signature

[(47-611) 1881, p. 262, sec. 5; R.S., sec. 3104; am. 1895, p. 25, sec. 13; reen. 1899, p. 237, sec. 13; reen. R.C., sec. 3216; C.L., sec. 3216; C.S., sec. 5530; I.C.A., sec. 46-611; am. 1970, ch. 92, sec. 11, p. 227; am. 2002, ch. 32, sec. 20, p. 58.]

47-612. MANNER OF RECORDING NOTICES. The location notice herein required to be recorded must be recorded in the office of the county recorder of the county in which the claim is located (when the legal fee therefor is tendered), in a book kept for that purpose. Said book must be indexed, with the names of all the locators arranged in alphabetical order, according to the family or surname of each.

[(47-612) 1881, p. 262, sec. 6; R.S., sec. 3105; am. 1895, p. 25, sec. 14; reen. 1899, p. 237, sec. 14; reen. R.C. & C.L., sec. 3217; C.S., sec. 5531; am. 1931, ch. 114, sec. 2, p. 195; I.C.A., sec. 46-612; am. 1937, ch. 7, sec. 1, p. 18; am. 1957, ch. 170, sec. 1, p. 305; am. 1970, ch. 92, sec. 12, p. 227; am. 1976, ch. 281, sec. 5, p. 966.]

47-613. CERTAIN SURVEYS MAY QUALIFY AS ANNUAL LABOR. Annual assessment work or labor upon a mining claim as required by the United States mining laws shall be defined to include, without being limited to, geological, geochemical and geophysical surveys conducted by qualified experts and verified by a detailed report filed for record in the office of the county recorder of the county in which the claim is located which sets forth fully (1) the location of the work performed in relation to the boundaries of the claim, (2) the nature, extent, and costs thereof, (3) the basic findings therefrom, and (4) the name, address, and professional background of the person or persons conducting the work. Surveys of this kind, however, may not be applied as labor for more than two (2) consecutive years or for more than a total of five (5) years on any one (1) mining claim, and each of these surveys shall be nonrepetitive of any previous survey on the same claim.

[47-613, added 1970, ch. 92, sec. 18, p. 227.]

47-614. DEFINITIONS. As used in section 47-613:

(1) the term "geological surveys" means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of geology as they relate to the search for and discovery of mineral deposits;

(2) the term "geochemical surveys" means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of chemistry as they relate to the search for and discovery of mineral deposits;

(3) the term "geophysical surveys" means surveys on the ground for mineral deposits through the employment of generally recognized equipment and methods measuring physical differences between rock types or discontinuities in geological formations;

(4) the term "qualified expert" means an individual qualified by education or experience to conduct geological, geochemical, or geophysical surveys.

[47-614, added 1970, ch. 92, sec. 19, p. 227.]

47-616. ADDITIONAL FEES FOR ABANDONED MINE LAND RECLAMATION. In addition to any recording fee, each filing pursuant to sections 47-604, 47-605, 47-606, 47-607, and 47-611 must be submitted with a filing fee in an amount of \$10 per claim. The county recorder shall collect the filing fee and, on or before the fifth working day of each month, deposit with the county treasurer all such fees collected during the preceding month. The county treasurer shall quarterly pay the money collected to the Idaho Department of Lands for deposit into the abandoned mine reclamation fund created pursuant to Idaho Code § 47-1703.

47-618. LODE AND PLACER CLAIMS -- OFFICIAL PATENT SURVEY AS LABOR ON IMPROVEMENT. It is hereby declared that an official patent survey of a lode or placer mining claim or claims by a United States mineral surveyor constitutes and is labor performed upon an improvement made upon or for the benefit of an unpatented lode or placer mining claim or claims.

[(47-618) C.S., sec. 5536-A, as added by 1929, ch. 194, sec. 1, p. 361; I.C.A. sec. 46-618.]

47-619. LODE AND PLACER CLAIMS -- OFFICIAL PATENT SURVEY AS CREDIT ON ANNUAL ASSESSMENT WORK. An official patent survey of a lode or placer mining claim or claims by a United

States mineral surveyor may be credited to annual assessment work or labor, but in no case shall the credit for such survey and its attendant expense exceed the required assessment for one (1) year on the claim or claims surveyed. When credit is sought for such work or improvement, the claimant must file in the recorder's office in the county in which such claim is situated the affidavit of such United States mineral surveyor, showing the cost of such survey, and when so filed the actual cost of such survey shall be deemed and considered as labor and improvements done and performed upon said claim or claims.

[(47-619) C.S., sec. 5536-B, as added by 1929, ch. 194, sec. 2, p. 361; I.C.A. sec. 46-619.]



STATE BOARD OF LAND COMMISSIONERS

July 19, 2022
Information Agenda

Subject

Proposed Rule for IDAPA 20.03.17 *Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands*

Background

Negotiated rulemaking for these rules was approved by the Land Board on February 15, 2022 (Attachment 1). Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled to be repealed and replaced in 2022 for review during the 2023 legislative session.

The Idaho Department of Lands (Department) manages the beds of navigable lakes and rivers for the benefit of the public. IDAPA 20.03.17 establishes a consistent process to authorize specific encroachments on state-owned submerged lands and collect annual rent for their use. These uses typically include marinas, community docks, non-navigational encroachments, and oversized private docks, which occupy the state's lakes.

Discussion

The Department's outreach for negotiated rulemaking included the following:

- Published the Notice of Negotiated Rulemaking in the Idaho Administrative Bulletin.
- Created a rulemaking webpage to post documents, scheduling information, and comments.
- Issued a press release.
- Emailed 143 customers and other interested parties.
- Mailed postcards to 236 customers.

Negotiated rulemaking meetings were held in McCall on April 27 and Coeur d'Alene on May 18, 2022. A total of 18 non-agency affiliated people attended these meetings, and two sets of written comments were received. Much of the discussion and one of the written comments centered on artificial high water mark versus ordinary high water mark. As defined in the rule, leasing would only occur on lands below the ordinary high water mark where the state owns the beds of the navigable waters. The other written comment objected to a paragraph that was moved from a different part of the rule but has been present since the rule was first adopted. The objection also was confusing permitting responsibilities under IDAPA 20.03.04 with leasing responsibilities under this rule. No changes were made based on written or oral comments. Some minor changes to the initial draft were made based on internal discussions and to further reduce word count.

Attachment 2 is the draft text that will be submitted for publication in the Administrative Bulletin as a proposed rule and is posted on the Department's rulemaking webpage. The rule is written in legislative format to allow the reader to easily identify changes.

The proposed rule reduces the overall regulatory burden by decreasing the total word count and the number of restrictive words. The proposed rule includes the following changes:

- The \$150 application fee in place since 2008 is increased to \$425. This will cover the Department's cost of reviewing and issuing these leases.
- Assignment fee is raised from \$150 to \$200 to cover Department costs.
- Late payment policy is updated, and payment extensions are eliminated.
- Appraisals, if needed, will be paid for by the applicant and will not be performed by qualified Department staff.

That is the extent of the substantive changes. The proposed rule will be open for public comment upon publication in the September Administrative Bulletin. The draft Notice of Proposed Rule is found in Attachment 3.

Attachments

1. February 15, 2022 Approved Memo
2. Proposed Rule
3. Draft Notice of Proposed Rule

The logo of the Idaho Department of Lands is a large, stylized diamond shape. It is composed of several overlapping layers of different colors: a light blue outer layer, a yellow layer, and a green layer. The text "IDAHO DEPARTMENT OF LANDS" is written in white, bold, capital letters across the center of the diamond.

IDAHO DEPARTMENT OF LANDS

STATE BOARD OF LAND COMMISSIONERS

February 15, 2022

Regular Agenda

Subject

Negotiated rulemaking for IDAPA 20.03.17 *Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands*

Question Presented

Shall the Land Board authorize the Department to initiate negotiated rulemaking for IDAPA 20.03.17 *Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands*?

Background

The Idaho Department of Lands (Department) manages the beds of navigable lakes and rivers for the benefit of the public. IDAPA 20.03.17 establishes a consistent process to authorize specific encroachments on state-owned submerged lands and collect annual rent for their use. These uses typically include marinas, community docks, nonnavigational encroachments, and oversized private docks, which occupy the state's lakes.

Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled to be repealed and replaced in 2022 for review during the 2023 legislative session.

Discussion

The Department anticipates reducing the overall regulatory burden by reducing both total word count and the number of restrictive words in the new rule chapter. The Department will review the rule with stakeholders to ensure that it is right-sized. Preliminary research justifies increasing the application fee and assignment fee to cover the actual costs of processing. These fees have not changed since they were approved in 2008.

A proposed timeline for the rulemaking process is provided in Attachment 1.

Recommendation

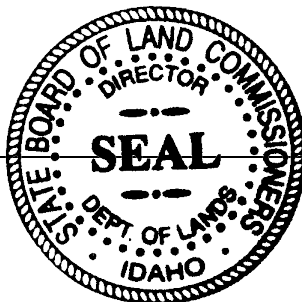
Authorize the Department to initiate negotiated rulemaking for IDAPA 20.03.17 *Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands*.

Board Action

A motion was made by Attorney General Wasden that the Land Board authorize the Department to initiate negotiated rulemaking for IDAPA 20.03.17 *Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands*. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

Attachments

1. Draft rulemaking timeline



**20.03.17 – RULES GOVERNING LEASES ON STATE-OWNED ~~SUBMERGED~~
LANDS AND FORMERLY SUBMERGED LANDS NAVIGABLE WATERWAYS**

000. LEGAL AUTHORITY.

This Chapter is adopted under the legal authorities of Title 58, Chapter 1, Idaho Code, Sections 58-104(6), 58-104(9), and 58-105; Title 58, Chapter 3, Idaho Code, Sections 58-304 through 58-312; Title 58, Chapter 6, Idaho Code; Title 58, Chapter 12; and Title 67, Chapter 52, Idaho Code. (3-18-22)

001. ~~TITLE AND SCOPE.~~

~~01. Title. These rules are titled IDAPA 20.03.17, “Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands.” (3-18-22)~~

~~021. Scope. These rules govern the issuance of leases on state-owned submerged lands-navigable waterways. (3-18-22)()~~

~~a. These rules also apply to state-owned islands raised from submerged lands, or filled submerged lands, or other formerly submerged lands that are no longer covered by water at any time during an ordinary year. (3-18-22)~~

~~b. While the State asserts the right to issue leases for all encroachments, navigational or non-navigational, upon, in or above the beds or waters of navigable lakes and rivers, nothing in these rules may be construed to vest in the state of Idaho any property, right or claim of such right to any private lands lying above the natural or ordinary high water mark of any navigable lake or river. (3-18-22)()~~

~~02. Rules Applicable to All Existing and Proposed Uses and Encroachments. These rules apply to all existing and proposed uses and encroachments, whether or not authorized by permit under the Lake Protection Act, Title 58, Chapter 13, Idaho Code, or the Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code. These rules provide that a lease may be required in addition to existing permits. See Section 020 of these rules for information about exceptions to lease requirements. ()~~

~~002. ADMINISTRATIVE APPEALS.~~

~~Any person aggrieved by any final decision or order of the Board is entitled to judicial review pursuant to the provisions of Title 67, Chapter 52, Idaho Code, and IDAPA 20.01.01, “Rules of Practice and Procedure Before the State Board of Land Commissioners.” (3-18-22)~~

0032. -- 009. (RESERVED)

010. DEFINITIONS.

~~01. Artificial High Water Mark. The high water elevation above the natural or ordinary high water mark resulting from construction of man-made dams or control works and impressing a new and higher vegetation line. (3-18-22)~~

~~0201. Board. The Idaho State Board of Land Commissioners or its designee. (3-18-22)~~

~~0302. Commercial Marina. A commercial navigational encroachment whose primary purpose is to provide moorage for rental or for free to the general public. (3-18-22)~~

~~0403. Commercial Navigational Encroachment. A navigational encroachment used for commercial purposes. (3-18-22)~~

~~0504. Community Dock. A structure that provides private moorage for more than two (2) adjacent littoral owners, or other littoral owners possessing a littoral common area with littoral rights including, but not limited to,~~

homeowners' associations. No public access is required for a community dock. (3-18-22)

0605. Department. The Idaho Department of Lands or its designee. (3-18-22)

0706. Director. The director of the Idaho Department of Lands or his designee. (3-18-22)

0807. Dock Surface Area. Includes docks, slips, piers, and ramps and is calculated in square feet. Dock surface area does not include pilings, submerged anchors, or undecked breakwaters. (3-18-22)

0908. Encroachments in Aid of Navigation. Includes docks, piers, jet ski and boat lifts, buoys, pilings, breakwaters, boat ramps, channels or basins, and other facilities used to support water craft and moorage on, in, or above the beds or waters of a navigable lake, river or stream. The term "encroachments in aid of navigation" ~~may be~~ is used interchangeably ~~herein~~ with ~~the term~~ "navigational encroachments." (3-18-22)()

1009. Encroachments Not in Aid of Navigation. Includes all other encroachments on, in, or above the beds or waters of a navigable lake, river or stream, including landfills, bridges, utility and power lines, or other structures not constructed primarily for use in aid of navigation. It also includes float homes and floating toys. The term "encroachments not in aid of navigation" ~~may be~~ is used interchangeably ~~herein~~ with ~~the term~~ "non-navigational encroachments." (3-18-22)()

~~11. Formerly Submerged Lands. The beds of navigable lakes, rivers, and streams that have either been filled or subsequently became uplands because of human activities including construction of dikes, berms, and seawalls. Also included are islands that have been created on submerged lands through natural processes or human activities since statehood, July 3, 1890. (3-18-22)~~

1210. Market Value. The most probable price at a specified date, in cash, or on terms reasonably equivalent to cash, for which the property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. (3-18-22)

1311. Natural or Ordinary High Water Mark. The line that the water impresses upon the soil by covering it for a sufficient period of time to deprive the soil of its vegetation and destroy its value for agricultural purposes. If, however, the soil, configuration of the surface, or vegetation has been altered by man's activity, the ordinary high water mark is located where it would have been if the alteration had not occurred. (3-18-22)

1412. Person. ~~An individual, corporation,~~ partnership, limited liability company, association, ~~corporation,~~ natural person, or entity trust, unincorporated organization or other legal entity qualified to do business in the state of Idaho and any federal, state, tribal, or municipal unit of government. (3-18-22)()

1513. Riparian or Littoral Rights. The rights of owners or lessees of land adjacent to navigable lakes, rivers or streams to maintain their adjacency to the lake, river, or stream and to make use of their rights as riparian or littoral owners or lessees in building or using aids to navigation but does not include any right to make any consumptive use of the waters. (3-18-22)

1614. Single-Family Dock. A structure providing noncommercial moorage that serves one (1) waterfront owner whose waterfront footage is no less than twenty-five (25) feet. (3-18-22)

15. State-Owned Navigable Waterways and Navigable Waterways. As used in these rules, the beds of all navigable waterways up to the natural or ordinary high water mark as of the date Idaho was admitted into statehood. This includes any such bed that was formerly submerged and subsequently filled and is now uplands because of human activity (e.g., dikes, berms, jetties) or by natural processes, and includes islands within navigable waterways resulting from human activity or by natural processes. ()

1716. Submerged Lands. The state-owned beds of navigable lakes, rivers, and streams below the natural or ordinary high water marks. (3-18-22)

17. Temporary Permit. A revocable instrument authorizing a specific use on navigable waterways usually issued for five (5) years or less, but that may be issued for up to ten (10) years. ()

18. Two-Family Dock. A structure providing noncommercial moorage that serves two (2) adjacent waterfront owners having a combined waterfront footage of no less than fifty (50) feet. Usually the structure is located on the common littoral property line. (3-18-22)

19. Uplands. The land bordering on navigable ~~lakes, rivers, and streams~~ waterways. (3-18-22)()

011. -- 019. (RESERVED)

020. APPLICABILITY.

Leases are required for all encroachments ~~on, in, or~~ defined in subsections 010.08 and 010.09 that are above, across, over, ~~state-owned submerged land~~ in, through, upon, and under the beds of navigable waterways except: (3-18-22)()

01. Single-Family ~~or Two-Family~~ Docks. Single-family ~~or two-family~~ docks that were constructed: on or before July 1, 1993, that occupy less than eleven hundred (1,100) square feet of dock surface area lakeward of the ordinary high water mark, and for which all required permits and approvals have been obtained. (3-18-22)

a. On or before July 1, 1993, that occupy less than eleven hundred (1,100) square feet of dock surface area, and for which all required permits and approvals have been obtained. ()

b. After July 1, 1993, that occupy less than seven hundred (700) square feet of dock surface area, and for which all required permits and approvals have been obtained. ()

~~02. Single-Family Docks.~~ Single family docks that were constructed after July 1, 1993, that occupy less than seven hundred (700) square feet of dock surface area lakeward of the ordinary high water mark, and for which all required permits and approvals have been obtained. (3-18-22)

032. Two-Family Docks. Two-family docks ~~that were constructed after July 1, 1993,~~ that occupy less than eleven hundred (1,100) square feet of dock surface area ~~lakeward of the ordinary high water mark,~~ and for which all required permits and approvals have been obtained. (3-18-22)()

043. Noncommercial Encroachments Free to the Public. ~~Noncommercial~~ encroachments ~~in aid of navigation-owned by any municipality, county, state, or federal agency~~ for which the complete use is offered free to the public. (3-18-22)()

054. Temporary Permits or Easements. Uses or encroachments that are customarily authorized by temporary permits or easements, such as roads, railroads, overhead utility lines, submerged cables, and pipelines. Information on easements can be found in IDAPA 20.03.09, "Easements on State-Owned ~~Submerged Lands and Formerly Submerged Lands~~ Navigable Waterways." (3-18-22)()

021. -- 024. (RESERVED)

025. POLICY.

01. Policy of the State of Idaho. It is the policy of the state of Idaho to regulate and control the use and disposition of ~~lands in~~ the beds of navigable ~~lakes, rivers and streams to the natural or ordinary high water mark thereof;~~ waterways so as to provide for their commercial, navigational, recreational or other public use; provided that the Board will take no action in derogation of or seeking to interfere with the riparian or littoral rights of ~~the owners of upland property abutting or adjoining such lands~~ landowners. (3-18-22)()

02. Director May Grant Leases. The Director may grant leases for uses that are in the public interest and consistent with these rules. (3-18-22)

03. Requests or Inquiries Regarding Navigability. The State owns the beds of all lakes, rivers, and streams that were navigable in fact at statehood. ~~The Department will respond to requests or inquiries as to which lakes, rivers, and streams are deemed navigable in fact. Additional~~ Information about lakes, rivers, and streams deemed navigable by the State of Idaho is available from the Department. (3-18-22)()

04. Stream Channel Alteration Permit or Encroachment Permit. Issuance of a lease is contingent upon the applicant obtaining a stream channel alteration permit if required by the Idaho Department of Water Resources, pursuant to Title 42, Chapter 38, Idaho Code, or an encroachment permit if required by the Department pursuant to the Lake Protection Act, Title 58, Chapter 13, Idaho Code, ~~and compliance with local planning and zoning regulations if applicable.~~ (3-18-22)()

~~05. Other Permits and Licenses. Issuance of a lease does not relieve an applicant from acquiring other permits and licenses that are required by law.~~ (3-18-22)

0605. Submerged Lands Lease Required Upon Notification. All persons using submerged lands in a manner that requires a submerged land lease must obtain such a lease from the Director when notified to do so. (3-18-22)

~~0706. Term of Lease, Renewal of Lease.~~ Leases are issued for a term of ten (10) years or as determined by the Board. Leases may be renewed for additional periods ~~to be as~~ determined by the Department based upon satisfactory performance during the present term. Renewals will be processed with a minimum of procedural requirements and will not be denied except in the most unusual circumstances or noncompliance with the terms and conditions of the previous lease. A lease application fee is required for leases that are renewed upon expiration. Lease renewals are initiated by the Department. (3-18-22)()

~~08. Director's Authorization to Issue and Renew Leases. The Director is authorized to issue and renew leases for the use of submerged lands in accordance with these rules.~~ (3-18-22)

~~0907. Rights Granted.~~ The lease grants only such rights as are specified in the lease. The right to use the ~~submerged or formerly submerged lands~~ navigable waterways for all other purposes that do not interfere with the rights authorized in the lease remains with the state. (3-18-22)()

~~10. Rules Applicable to All Existing and Proposed Uses and Encroachments. These rules apply to all existing and proposed uses and encroachments, whether or not authorized by permit under the Lake Protection Act, Title 58, Chapter 13, Idaho Code, or the Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code. These rules provide that a lease may be required in addition to existing permits. See Section 020 of these rules for information about exceptions to lease requirements.~~ (3-18-22)

~~1108. Waiver of Lease Requirements.~~ The Director may, in his discretion, waive lease requirements for single-family or two-family dock encroachments whose dock surface areas exceed square footages described in Subsections 020.01 through 020.03 ~~02~~ of these rules when the additional dock surface area square footage is necessary to gain or maintain access to water of sufficient depth to sustain dock use ~~for water craft customarily in use on that particular lake.~~ (3-18-22)()

~~1209. Private Moorage at Commercial Marinas.~~ (3-18-22)

a. This Subsection ~~(025.12)~~ does not apply to community docks. (3-18-22)()

b. Private moorage at commercial marinas is allowed as long as the requirements of IDAPA 20.03.04, ~~"Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho," Subsection~~ .015.03 are met. (3-18-22)()

c. The sale, lease, or rental of private moorage is ~~in no way not~~ an encumbrance on ~~any underlying public trust land~~ navigable waterways. All transactions related to private moorage are subject to the ~~limitations of the associated~~ submerged lands lease's terms. (3-18-22)()

d. Acquisition of private moorage must be documented with a disclosure that the transaction does not convey ~~public trust lands~~ navigable waterways and only conveys the right to use the designated portion of the marina. (3-18-22)()

e. The Department ~~will make no policy regarding~~ does not regulate the cost of private moorage ~~and the resolution of~~ or resolve disputes between ~~the involved parties~~ a marina and private moorage owners. (3-18-22)()

026. -- 029. (RESERVED)

030. LEASE APPLICATION, FEE, AND PROCEDURE.

01. **Fee.** The non-refundable lease application fee is ~~one hundred fifty~~ four hundred twenty-five dollars (~~\$150~~425) for new and existing encroachments. (3-18-22)()

~~02. **Fee Is Required.** A lease application and nonrefundable fee is required for new and existing encroachments. A lease application fee is required for leases that are renewed upon expiration.~~ (3-18-22)

032. Application to Lease and Fee. The lease application and fee must be submitted with the following information ~~from Subsections 030.03.a. through 030.03.e.~~, in sufficient detail for the Department to determine an appropriate lease rate ~~based on numbers of slips, square footage, or other permit information~~: (3-18-22)()

a. A ~~letter of request stating the purpose of the lease~~ completed application form. (3-18-22)()

b. A scale drawing of the proposed lease area with plans detailing all intended improvements, including reference to the nearest known property corner(s). An encroachment or stream channel alteration permit may satisfy this requirement. (3-18-22)()

~~c. The permit number of each existing applicable encroachment permit.~~ (3-18-22)

~~04. **Submittal of Application to Lease and Fee.** The lease application and fee must be filed in the local office of the Department or the Director's office.~~ (3-18-22)

~~05~~**03. Notification of Approval or Denial.** The Department will notify the applicant ~~will be notified~~ in writing if the lease application is approved or denied. ~~The applicant will also be notified of, and if~~ any additional requirements will be included. (3-18-22)()

~~06. **Request for Reconsideration.** Any applicant aggrieved with the Director's determination of rent or denial of a lease application may request reconsideration by the Director.~~ (3-18-22)

031. -- 034. (RESERVED)

035. RENTAL.

~~The~~ Rental rates ~~policy~~ for submerged land leases ~~is~~ are set by ~~the~~ Board. ~~This~~ policy, which is available on the Department website at <http://www.idl.idaho.gov/>. (3-18-22)()

01. **Standardized Rental Rates.** The Board sets standard submerged land lease rental rates for common uses such as commercial marinas, community docks, float homes, restaurants, and retail stores. Rental rates for commercial marinas and other uses that produce revenue for the lessee will commonly be calculated as a percentage of gross receipts, however, other methods may be used as ~~determined appropriate by~~ the Board deems appropriate. (3-18-22)()

02. **Nonstandard Rental Rates.** The Board directs the Department to use a percentage of market value or gross receipts, or other methods determined appropriate by the Board, as the submerged lands lease rental rate for ~~uses that are uncommon, especially for~~ non-navigational encroachments or other uncommon uses. (3-18-22)()

036. YEARLY REPORTING.

- 01. Annual Report.** Lessees must provide an annual report to the Department that includes: (3-18-22)
- a.** A schedule of moorage rental rates, including moorage sizes and types. (3-18-22)
 - b.** The number and size of all public boat and float home moorages. (3-18-22)
 - c.** The number and size of all private boat and float home moorages. (3-18-22)
 - d.** Current proof of insurance ~~that is~~^{as} required by the lease. (3-18-22)()
- 02. Failure to Report.** Failure to provide the annual report information is a violation of these rules. (3-18-22)

037. -- 039. (RESERVED)

040. LATE PAYMENT, ~~EXTENSIONS OF PAYMENT.~~

~~**01. Penalty for Late Payment of Rent.** Rent not paid by the due date is considered late. A penalty, calculated from the day after which payment was due, will be added to the rent. The penalty will be determined by the Board for the first month or any portion thereof and one percent (1%) of the rent due, including penalty, per month thereafter. (3-18-22)~~

~~**02. Extension in Time for Payment of Rent.** An extension in time in which to submit payment of rent may be granted for commercial submerged lands leases only. Such extensions may not exceed two (2) successive years, as required by Title 58, Chapter 3, Idaho Code, Section 58-305. (3-18-22)~~

~~**03. Request for Extension in Time for Payment of Rent.** Lessees must request extensions on forms supplied by the lessor and pay an extension fee to be determined by the Board. The lessee must also provide a statement from his banker or accountant verifying that money is not available for the payment of rent. (3-18-22)~~

~~**04. Interest Rate for Extension in Time for Payment of Rent.** If an extension is granted, rent plus interest at a rate established by the Board will be due no later than October 1 of the rent year. Specifically, interest will be the average monthly rate for conventional mortgages as quoted in the Federal Reserve Statistical Report; the rate to be rounded downward to the nearest one quarter percent (1/4%) on the tenth of each month following the release of data. (3-18-22)~~
~~and will result in the following monthly charges. ()~~

~~**a.** A late charge of \$25.00 or 1% of the unpaid principal obligation, whichever is greater. ()~~

~~**b.** An interest charge of 1% on the unpaid principal obligation. ()~~

~~**02. Late Charge Accrual.** The Department will send monthly statements with the outstanding balance that will remain on the account and will continue to accrue late charges and interest each month, or any portion of a month, until the balance is paid in full. All payments will be applied first to accrued interest and late charges, and then to principal. ()~~

041. -- 044. (RESERVED)

045. APPRAISAL PROCEDURES.

Appraisals may be used to determine the market value of adjacent uplands for calculating submerged lease rental rates. (3-18-22)

~~**01. Appraisal.** An appraisal will either be performed by qualified Department staff or an independent contract appraisal. Any appraisal must be under the control of the Department be conducted by a licensed appraiser~~

selected by the Department, although the applicant may propose an appraiser to the Department. The Department will provide appraisal instructions. The appraisal will be performed in a timely manner, and a copy sent to the Department and the applicant. The expense of the appraisal will be borne by the applicant. (3-18-22)()

~~02. Cost of Appraisal. The appraisal costs are the actual cost for Department personnel plus transportation, including per diem and administrative overhead, or the bid amount for the contract appraiser. An itemized statement of these costs will be provided to the applicant. The cost of the appraisal is in addition to those costs outlined in Section 035 of these rules and is billed separately from the application fee and rent.~~ (3-18-22)

046. -- 049. (RESERVED)

050. LEASE ~~MODIFICATION OR~~ AMENDMENT.

01. Encroachment Amendment. A lease ~~modification or~~ amendment must first be permitted authorized through an ~~amendment to the~~ lake encroachment ~~permit~~ or stream alteration permit or permit amendment, if ~~needed~~ required. (3-18-22)()

02. ~~Modification~~ Amendment of Existing Lease. ~~Modification or a~~ Amendment of an existing lease will be processed in the same manner as a new lease application, but no fee will be required. ~~Modification or a~~ Amendment includes change of use, location, size or scope of the lease site, but does not include ordinary maintenance, repair or replacement of existing structures or facilities. (3-18-22)()

03. Modification of Interior Facilities. If the proposed changes to a facility do not require a new encroachment permit, a lease ~~modification~~ amendment may still be needed as described in Subsection 050.02 of these rules. The lessee must give written notice to the Department at least ten (10) days in advance of making such changes. The Department will determine if a lease ~~modification~~ amendment is needed due to the proposed changes. When requested, the lessee must also furnish one (1) set of as-built plans to the Department within thirty (30) days following completion of changes. (3-18-22)()

051. -- 054. (RESERVED)

055. ASSIGNMENTS, ASSIGNMENT FEE.

01. Assignment of Lease. Leases may be assigned upon approval of the Director provided that the lease conforms with Subsection 025.02 and all other provisions of these rules. The assignor and assignee must complete the Department's standard assignment form and forward it to any Department office. (3-18-22)

02. Assignment Fee. The assignment fee is ~~one hundred fifty dollars~~ two hundred dollars (~~\$150~~200). (3-18-22)()

03. Permit Assignment. The encroachment permit/stream alteration permit pertinent to a lease must be assigned to a purchaser simultaneously with a lease assignment. A lease assignment will not be approved unless the permit is assigned. (3-18-22)

04. Approval Required for Assignment. An assignment is not valid until it has been approved by the Director. (3-18-22)

056. -- 059. (RESERVED)

060. CANCELLATION AND ADDITIONAL REMEDIES.

01. Cancellation of Lease for Violation of Terms. Any violation ~~of the terms~~ of the lease by the lessee, including non-payment of rent or any violation by lessee of any rule now in force or hereafter adopted by the Board may subject the lease to cancellation. The Department will provide the lessee ~~will be provided with~~ written notification ~~of any violation. The letter will~~ specifying ing the violation, corrective action necessary, and specify a reasonable time to make the correction. If the corrective action is not taken within the specified ~~reasonable period of~~ time, the Department

will notify the lessee of cancellation of the lease; ~~provided, however, that the notice is provided to lessee~~ no later than thirty (30) days prior to the ~~effective date of such~~ cancellation's effective date. (3-18-22)()

02. Lease Reinstatement of Lease. A lease may be reinstated within ninety (90) days after cancellation for non-payment by paying the rental, plus interest, and a reinstatement fee to be determined by the Board. (3-18-22)()

03. Cancellation of Lease for Use Other Than Intended Purpose. A lease not used for the purpose for which it was granted may be canceled. The Department will notify the lessee in writing of any proposed cancellation. The lessee has thirty (30) days to reply in writing to the Department to show cause why the lease should not be canceled. Within sixty (60) days, the Department will notify the lessee ~~in writing as to~~ of the Department's decision ~~concerning cancellation in writing~~. The lessee has thirty (30) days to appeal an adverse decision to the Director. (3-18-22)()

04. Removal of Improvements Upon Cancellation. Upon cancellation, the Director will provide the lessee with a specific amount of time, not to exceed six (6) months from the date of final notice, to remove any facilities and improvements. Failure to remove any facilities or structures within such time period established by the Director will be deemed a trespass on ~~submerged or formerly submerged lands~~ navigable waterways. (3-18-22)()

05. Additional Remedies Available. In addition to termination of the lease for the material default of the lessee, the lease may provide for other remedies to non-monetary breach of the lease including, but not limited to: (3-18-22)

- a. Civil penalties as determined by the Board and to be collected as additional rent; (3-18-22)
- b. The reasonable costs of remedial action undertaken by the Department as a result of the lessee's failure to perform a requirement of the lease. These costs will be collected as additional rent; and (3-18-22)
- c. Such other remedies as the Board deems appropriate. (3-18-22)

061. -- 064. (RESERVED)

065. BOND.

01. Bond Requirement Determined by Director. Bonds may be required for commercial navigational, community dock, and nonnavigational leases. The need for bond will be at the discretion of the Director, who will consider the potential for abandonment of the facility, harm to state-owned submerged land and water resources, the personal and real property of adjacent upland owners and the personal and real property owned by the encroachment owner that is appurtenant to and supportive of the encroachment. (3-18-22)()

02. Performance Bond. In the event a bond is necessary, the lessee must submit a performance bond in favor of the state of Idaho and in a format acceptable to the Director before a lease is issued. Acceptable bonds include surety, collateral, and letters of credit. The amount of bond is the estimated cost of restoration as established by the Director in consultation with the lease applicant on a case by case basis. To determine restoration costs, the Director may consider the potential for damage to land, to improvements, and the cost of structure removal. (3-18-22)

~~066. -- 069. (RESERVED)~~

~~070. LIABILITY AND INDEMNITY.~~

~~A lessee will indemnify and hold harmless the lessors, its departments, agencies and employees for any and all claims, actions, damages, costs, and expenses that may arise by reason of lessee's occupation of the leased premises, or the occupation of the leased premises by any of the lessee's agents, or by any person occupying the same with the lessee's permission.~~ (3-18-22)

~~071. 066. -- 074. (RESERVED)~~

075. OTHER RULES AND LAWS.

The lessee ~~will~~must comply with all applicable state, federal, and local rules and laws insofar as they affect the use of the lands described in the lease. (3-18-22)()

076. – ~~079~~ 999. (RESERVED)

~~080.~~ Binding On Heirs.

~~All of the terms, covenants, and conditions in a state lease are binding upon the heirs, executors, and assigns of the lessee.~~ (3-18-22)

~~081. – 084.~~ (RESERVED)

~~085.~~ Civil Rights.

~~The lessee may not discriminate against any person on the basis of such person's race, creed, color, sex, national origin or handicap.~~ (3-18-22)

~~086. – 999.~~ (RESERVED)



IDAHO DEPARTMENT OF LANDS

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20.03.17 - RULES GOVERNING LEASES ON STATE-OWNED NAVIGABLE WATERWAYS

DOCKET NO. 20-0317-2201

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled to be repealed and replaced in 2022 for review during the 2023 legislative session. The overall regulatory burden has been reduced by decreasing both total word count and the number of restrictive words in the new rule chapter. Application and assignment fees have been increased to cover the costs of reviewing applications. Late payment policy is updated, and payment extensions are eliminated. Appraisals, if needed, will now be paid for by the applicant and will not be performed by qualified Department staff.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

The \$150 application fee in place since 2008 is increased to \$425. This fee is being imposed pursuant to Sections 58-104, 58-127 and 58-603, Idaho Code. The \$150 assignment fee is increased to \$200. This fee is being imposed pursuant to Sections 58-104 and 58-127, 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 resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 6, 2022, Idaho Administrative Bulletin, Vol. 22-4, pages 39-40.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Eric Wilson at (208) 334-0261 or ewilson@idl.idaho.gov. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this 7th day of September, 2022.

Eric Wilson, Resource Protection and Assistance Bureau Chief
Idaho Department of Lands
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