



Idaho State Board of Land Commissioners

Brad Little, Governor and President of the Board

Phil McGrane, Secretary of State

Raúl R. Labrador, Attorney General

Brandon D Woolf, State Controller

Debbie Critchfield, Superintendent of Public Instruction

Dustin T. Miller, Secretary to the Board

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

Final Minutes

State Board of Land Commissioners Regular Meeting

June 20, 2023

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, June 20, 2023 at the State Capitol, House Hearing Room EW42, Lower Level, East Wing, 700 West Jefferson St., Boise, Idaho, and via webinar. The meeting began at 9:06 a.m. The Honorable Governor Brad Little presided. The following members were in attendance:

Honorable Governor Brad Little
Honorable Secretary of State Phil McGrane
Honorable Attorney General Raúl Labrador
Honorable State Controller Brandon Woolf
Honorable Superintendent of Public Instruction Debbie Critchfield

For the record, four Land Board members were present at the start of the meeting. Governor Little, Attorney General Labrador, Controller Woolf, and Superintendent Critchfield attended at the physical location. Secretary of State McGrane attended via Zoom webinar.

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

Trust Land Revenue

- A. Timber Sales – May 2023
- B. Leases and Permits – May 2023

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 reported that domestic financial markets were up modestly in May, but international markets declined as the U.S. dollar strengthened and industrial output, particularly in China, declined; there was also softening in the manufacturing sector. The increase in the U.S. market was primarily driven by excitement surrounding artificial intelligence; NVIDIA specifically

had a huge increase as they forecast stronger than expected revenue in the year ahead. Mr. Anton remarked that the portfolio was down 1.2% during the month of May and up 6.6% fiscal year-to-date; however, through Friday the portfolio had additional gains and the first two weeks of June the fund was up 10.7%. The gains in the first half of June were driven primarily by two things: Congress confirming the increase in the U.S. debt ceiling limits, and solid progress on reducing inflation without dramatically impacting the economy. A little over a year ago Headline CPI was at 9.1% and the annual rate during May was 4%, significant progress was made in bringing down inflation without causing a recession and without causing a dramatic increase in the unemployment rate. The unemployment rate was at 3.7% at the end of May. Mr. Anton mentioned that the Investment Board agreed to make two changes to the portfolio. The first is to replace large cap growth manager, Sands Capital. The rationale for that change is Sands Capital buys rapidly growing companies but companies that are not necessarily profitable; they have great revenue top line growth, but are not making any money, and because of that are very volatile. The Investment Board will look for a quality growth manager, that buys companies with strong balance sheets, that are profitable and growing. Mr. Anton said the second change to the portfolio is to add a third global manager. Currently there are two global managers, Fiera and Wellington; they are both growth-oriented, meaning buying stocks with companies that are growing. The Investment Board wants to add a value manager to balance that out. Mr. Anton noted those changes will be taking place over the next three months. Callan should have their search books completed by the middle of July, then the Investment Board will begin the interview process for those managers.

Governor Little commented on how many months it would take to get a large cap manager, observed the market could make a big run while those funds are out of the market and asked how the Investment Board handles that. Mr. Anton stated the funds will not be out of the market. The money is fully invested and remains with Sands while the search is being conducted.

Controller Woolf inquired how the search process works; does Callan provide a list of three or four potential replacements and then the Investment Board selects from that? Controller Woolf invited Mr. Anton to share with the Land Board how that works. Mr. Anton explained that Callan maintains an extremely large database; all the managers send them quarterly performance data, because they want to be recommended by Callan to their clients. Callan uses that database to conduct a search and prepare books with eight to ten prospects in the categories that the Investment Board wants. The Investments Board will have two independent search books. From that data, prospects will be narrowed to three or four and then interviews conducted. Once a manager is selected, EFIB will move into the legal process of negotiating an engagement agreement, working with the Attorney General's office, and then make the transition.

Governor Little asked about the real estate, how current it is, how often it is marked to market, and how much lag is the real value of real estate investments. Mr. Anton commented the portfolio has two private real estate managers, DWS and CBRE; appraisals are conducted quarterly. Every quarter EFIB looks at both the income and the market value of the investments and adjusts accordingly. Adjustments are fairly current, done within the last couple months. Both managers have taken some write-downs on market values given the higher interest rates and higher mortgage rates but there has been income that offsets some of those market value write-downs, because the real estate does generate income. Mr. Anton noted there may be additional small markdowns in the next couple of quarters, but the investments are in a good place.

For the record, Secretary of State McGrane joined the meeting at approximately 9:19 a.m.

Information

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

A. Predictive Services Forecast – Nick Nauslar, Fire Meteorologist, BLM

Discussion: Superintendent Critchfield asked what metrics go into defining in drought and out of drought. Mr. Nauslar replied that a host of authors across the United States, colleagues in other state, local and federal agencies, put that together each week. They look at rainfall, soil moisture, agricultural markers, stream flow, and based on that and past conditions they will delineate areas of different drought. Superintendent Critchfield inquired if that also takes in a comparison three years before now, or a percentage of what it had been. Mr. Nauslar responded that they look short term and long term. Some areas, especially in the Plains or eastern United States, will have flash drought where they will not get much rain for 3-4 weeks and they will rapidly go into drought. Typically, in the western United States, drought is a slower onset and most of it comes in the spring or summer if the usual winter precipitation is not seen. Superintendent Critchfield wondered if drought varies within a season, such as out of drought in June and in drought in July, and if that impacts predictive information. Mr. Nauslar commented it is possible to be in drought one week and out of drought the next week; it can happen quickly. The drought authors look at that and revise it every week. Mr. Nauslar quoted a former professor who said that drought does not always equate wildfire potential. That is one thing that is stressed, especially in southern Idaho. An area may not be in drought but because of all the rain and precipitation received, there is above normal wildfire potential due to the fuel loading.

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

Discussion: Mr. Harvey remarked that he appreciates following the forecasters. The Department works very closely throughout the wintertime and makes a lot of critical decisions on resources based off the information that they provide. Mr. Harvey provided a current fire update, that the Department has had 73 fires for 213 acres; 43 of those fires were human caused, 18 were lightning and 12 are still under investigation. The Department has two 13-person crews assisting Canada on their wildfires, as well as a couple of single resources acting as overhead. Mr. Harvey then continued with his presentation of materials provided. Controller Woolf asked what the length of term is for aviation contracts that are preset for helicopters, SEATs and FireBoss, and are those renewed each year with the same company or do they go out to bid. Mr. Harvey replied that aviation contracts are for 89 days each season and are good for three years. The Department has the option to extend contracts after three years, but then they do go out for public bid.

Governor Little inquired about when the Department measures the fuel in timber. Mr. Harvey answered that it takes place throughout the year. As staff is doing prescribed burning, they are checking fuel moistures and sending data back. Department staff also closely follows information that is posed on the National Interagency Fire Center (NIFC) website; it tracks both live fuel moistures and dead fuel moistures. Governor Little referred to the meteorological analysis in the Kootenai area, asking is that fuel drier than normal or have they had a little less snow? That will

determine the ferocity and the magnitude of big forest fires if that fuel is drier than normal. Mr. Harvey did not have an accurate answer now but said he will provide one after the meeting. The Department really starts paying attention to dead fuel moistures closer to fire season. Mr. Harvey remarked that Secretary of State McGrane participated in the south Idaho guard school this year for which the Department was very honored. Mr. Harvey extended appreciation to Superintendent Critchfield for her visit to the Coeur d'Alene Fire Cache; the Cache staff was extremely excited by her visit.

C. Rangeland Fire Protection Associations – *Josh Harvey, Bureau Chief-Fire Management*

Discussion: Governor Little asked if RFPAs have ever covered forest before, and Mr. Harvey answered yes. Controller Woolf inquired if the Department knows of any new RFPAs being created in the next year or two. Mr. Harvey said there are none known.

Director Miller acknowledged a group of employees from the fire bureau present at the meeting and asked them to stand. Director Miller offered his appreciation for their efforts during fire season.

Consent—Action Item(s)

4. Results of May 15, 2023 Minerals Lease Live Auction – *Presented by Mike Murphy, Program Manager-Minerals Leasing*

Recommendation: Direct the Department to award mineral lease E600116 to Premier, LLC.

Discussion: None.

5. Strategic Plan FY2024-FY2027 – *Presented by Dustin Miller, Director*

Recommendation: Direct the Department to submit its FY2024-FY2027 Strategic Plan to the Division of Financial Management by July 1, 2023.

Discussion: None.

6. 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.

7. Deficiency Warrant Authority for FY2024 Fire Suppression – *Presented by Dustin Miller, Director*

Recommendation: Authorize issuance of deficiency warrants to pay the fire suppression costs in FY2024.

Discussion: None.

8. Approval of Draft Minutes – May 16, 2023 Regular Meeting (Boise)

Consent Agenda Board Action: A motion was made by Controller Woolf that the Land Board adopt and approve the Consent Agenda. Superintendent Critchfield seconded the motion. The motion carried on a vote of 5-0.

At 10:06 a.m., a motion was made by Controller Woolf to resolve into Executive session pursuant to Idaho Code § 74-206(1)(b) and (f); (b) is 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, and (f) is 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. Controller Woolf requested that a roll call vote be taken, and that the Secretary record the vote in the minutes of the meeting. Superintendent Critchfield seconded the motion. *Roll Call Vote: Aye: McGrane, Labrador, Woolf, Critchfield, Little; Nay: None; Absent: None.*

Executive Session

A. 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.

B. Bear Lake Management

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.

For the record, Secretary of State McGrane left the meeting at approximately 10:57 a.m., at the conclusion of the Executive Session.

At 10:58 a.m., a motion was made by Controller Woolf to resolve out of Executive session and let the record reflect that no action was taken by the Land Board during the Executive Session. Superintendent Critchfield seconded the motion. A roll call vote was taken. *Roll Call Vote: Aye: Labrador, Woolf, Critchfield, Little; Nay: None; Absent: McGrane.*

Regular—Action Item(s)

9. Personnel Matter – No Board Materials

Discussion: Controller Woolf extended the Land Boards appreciation for the Director's service, his commitment, the work he has done on goals for the past year, and the goals he has lined up with his team. Controller Woolf commented Director Miller has a great staff and the Land Board recognizes his leadership. This 4% solid sustained is commensurate within Director Miller's own staff and with other agency directors throughout the state.

Board Action: A motion was made by Controller Woolf that the Land Board increase Director Dustin Miller's hourly pay rate by 4%, from \$70.62 to \$73.44, with an effective date of June 25th for the July 21st pay date. Superintendent Critchfield seconded the motion. The motion carried on a vote of 4-0.

10. Bear Lake Management (Order and MOU) – Presented by Mick Thomas-Division Administrator- Minerals, Navigable Waterways, Oil and Gas

Recommendation: Adopt the revised order regarding prohibited activities on the bed and banks of Bear Lake below the ordinary high water mark and provide direction to the Department on which MOU to proceed with, Draft 1 (Attachment 3) or Draft 2 (Attachment 4).

Public Comment: *[Editor's note: public comment is written in first-person format. This is not a verbatim transcript.]*

Governor Little: Sheriff Bart Heslington will present for 3 minutes. He is the sheriff of Bear Lake County. Sheriff, welcome.

Sheriff Bart Heslington: Thank you. That is an ominous little stopwatch up there [on screen]. First of all, Governor, Land Board members, I appreciate the opportunity to be here. I would be remiss if I did not acknowledge all of the hands that have gone into getting us to this process and I really appreciate that work. I would name names but invariably I would leave somebody out. My focus in pursuing this MOU essentially revolves around two primary issues. The first is the preservation of the tremendous resource that is Bear Lake. The second is the preservation of the public's right and ability to use that resource. The bottom line is that with any right comes responsibility; without responsible use and management we have no ability to preserve the resource. This necessitates the ability to control use so that it does not damage the resource and that one person's use does not infringe upon others' right to use the resource. The beauty of this proposed MOU is that it takes great strides in addressing those two issues of focus: preserving Bear Lake and preserving its public use. The proposed guidelines regarding activities have been established using a commonsense approach teamed with years of experience in mitigating points of conflict that arise at Bear Lake. Like many statutes, rules, and regulations, some of the limitations do just seem like common sense – litter, leaving of human waste, removal of native soils – but we all have enough life experience to know that common sense is often an oxymoron. The other guidelines and prohibitions are derived from identifying experience and activities that are primary sources of conflict, and frankly primary sources of safety concerns. The point of the restrictions is not to prevent the use of the lands but to promote safe and responsible use of those lands. The other key component is the ability to allow some sort of funding mechanism. Never has there been a regulation established that was worth anything if you did not have the ability to enforce it. Enforcement requires resources, manpower, and management; a funding mechanism not only allows for that, but it creates a dynamic in which those users creating the need for the regulation help to fund the infrastructure demands that the use creates. This in no way is intended to limit or prohibit use but is strictly aimed to preserving Bear Lake and the public right to use and enjoy the resource. Again, I thank you for your time and I respectfully ask for your endorsement of this proposed MOU.

Governor Little: Commissioner Rex Payne [Bear Lake County].

Commissioner Rex Payne: Thank you, Governor and members of the Land Board, appreciate the opportunity to come and visit with you today and talk to you a little bit about what our present concerns and position is on the public lands of Bear Lake. I was born and raised in Bear Lake County, about five miles from the lake, and as you can tell by the color of my hair, I have had a few years of experience. Lived all my life there except for a few years when I taught school in

Wyoming and went to school at Utah State, so 69 years that I have lived in the county. During that time period I have seen the lake grow immensely. When I was a youth there were only a couple of established recreational facilities on that lake; today we have numerous homes, homes of celebrities such as the families of Merlin Olson, Rich Little, NBA coach Dick Motta and others. Our valley is growing. Governor, if you come down now for Capital for a Day you can land in our airport during a snowstorm, because we do have instrument landing there, two runways and taxiways, and we are currently building four new hangars there. There is 21.7 miles of beach from Idaho line around the lake to the Utah line again. That is a lot of area to patrol and there has been a lot of usage on that lake. We have been told that up to 600 cars were allowed at a time on North Beach when the lake was high and there was not a lot of usage, now there is no limit, but that generally filled up by 10 o'clock on weekends. Then they would wait around until afternoon and then start coming again. Well, as far as the need goes, in recent years it was called to our attention that up Fish Haven Canyon there were some parties taking place up there by people that had come and established that. To take care of that, our sheriff invited police officers from Caribou, Bannock, Bingham, Fremont, and other counties to come and help patrol this on Raspberry Days. This has taken place now for five or six years. There is a lot of usage, there is a lot of need to control that. If in fact the public ever becomes aware that the state lands at this current time does not have anyone with authority to make the proper arrests and control that, we could be putting ourselves in a liability situation. We have talked a little bit about resources and the way to pay for this and certainly we are open to working with you on that, but the main thing is it is imperative that something is done immediately on these public lands and that there is a memorandum of understanding that is signed and a way of generating revenue for expenses. Thank you.

Governor Little: Thank you, Commissioner. We have David and Claudia Cottle from the Bear Lake Watch.

Claudia Cottle: You knew I was coming, that is why you got the 3-minute warning out. Appreciate all of you and the work that you have done and what it takes to manage the lands of Idaho, and we very much appreciate that, even though our little strip of Bear Lake whether it is exposed or not exposed is part of that state lands, and maybe pales in the fact of all the timberlands and other things you have to worry about. As the sheriff and Mick mentioned, this has been an ongoing matter that we personally have worked on for 20 years, and trying to make sure that we could get it resolved. We really appreciate that this has come to this point in time with you all and that you can make a decision and help us clarify that law and the uses of Bear Lake. I support everything that the sheriff and Commissioner Payne have spoken forth; these are big issues, and the lake is really a target of overuse and abuse. I think this will be a great help to bringing order, peace, and safety to our communities. As a citizen, and a person that lives along the lake with littoral rights, we appreciate that this will be resolved. Also, speaking for Bear Lake Watch, all the people that love Bear Lake want to see that lakebed treated with the respect and consideration that it should have. We do feel that users should pay and that we need to have some mechanisms to help our law enforcement. People come from all over the intermountain west, and we really do not have a way for those people to participate in paying for the wonderful services and things that they will enjoy if we can get this Land Board order and MOU put forward. I would encourage that we find a way to help fund that as well. And again, thank you very much for your time, pushing this matter forward, and all the rest of the things that you have done for Bear Lake. Thank you. Any questions?

Governor Little: Thanks for making the trip over; we appreciate that very much.

Controller Woolf: I want to thank our friends from Bear Lake coming up and their time. Little bit of disclaimer, grew up on the other side of the mountain, had many Bear Lake burns on North Beach as a family. I also want to thank the Department, our Attorney General's office for their teamwork in putting this together. The water is a little higher and there may not be an issue right now, but it will be, so we appreciate everyone's effort and work in putting this together.

Discussion: Controller Woolf stated that the Land Board received good legal direction and comments, and this MOU helps move forward from that guidance. This gives time to take care of other key things in the future with the legislature, if needed. Governor Little commented this issue is just going to magnify. The Department of Lands has 2.5 million acres of land and does not have the resources to patrol it all and this is a start. The sunset clause will allow the Department to work with the legislature to make sure everything is compliant with state law. Governor Little remarked the Land Board should never look at one of these without looking at what the ramifications will be on endowment lands; what is a fair way to fulfill that trust obligation and preserve the incredible resources under the responsibility of the Land Board.

Board Action: A motion was made by Controller Woolf that the Land Board adopt the revised order regarding prohibited activities on the bed and banks of Bear Lake below the ordinary high water mark and provide direction to the Department on which MOU to proceed with, which would be Draft 1 (Attachment 3). Controller Woolf made amendments to that MOU, to strike paragraph 4, and add an end date to the MOU of April 30, 2024. Superintendent Critchfield seconded the motion. The motion carried on a vote of 4-0.

There being no further business before the Land Board, at 11:20 a.m. a motion to adjourn was made by Superintendent Critchfield. Controller Woolf seconded the motion. The motion carried on a vote of 4-0.

