

STATE BOARD OF LAND COMMISSIONERS

March 21, 2023
Consent Agenda

Subject

DI600323, Disclaimer of Interest for the former bed of the Payette River, Boise County, Idaho.

Question Presented

Shall the Land Board approve Disclaimer of Interest DI600323?

Background

Idaho holds title to the beds and banks of navigable waterways below the ordinary high-water mark (OHWM). The State Board of Land Commissioners (Land Board) is the statutorily designated trustee of these lands. When a river moves due to accretion (the natural, gradual process whereby deposited material causes the river to move), title to the riverbed moves as well. These accreted lands are subject to adverse possession by the adjacent upland landowner through a quiet title action. Land Board policy directs the Idaho Department of Lands (Department) to work with these landowners and pursue disclaimers of interest for clearing title to the accreted land.

Discussion

Horseshoe Bend School District #73 has applied for a disclaimer of interest for one parcel of accretion land totaling 11.579 acres, more or less. This parcel is located within the original surveyed river meander lines of the Payette River adjacent to the applicant's deeded property in SE of Section 27 and NE of Section 34, Township 7 North, Range 2 East (Attachment 1-Map).

The Department identified the OHWM on site, which was then surveyed by a licensed surveyor for the applicant. The Department reviewed the survey, deeds, and tax documents (Attachments 2-3), and determined that the subject property is above the OHWM of the Payette River.

Horseshoe Bend School District #73 will grant the State of Idaho an easement 25 feet in width for a public use right-of-way along, and adjacent to, the existing OHWM of the Payette River. In addition, Horseshoe Bend School District #73 will grant the State of Idaho a disclaimer of interest for one parcel of land located below the ordinary high-water mark totaling 0.741 acres.

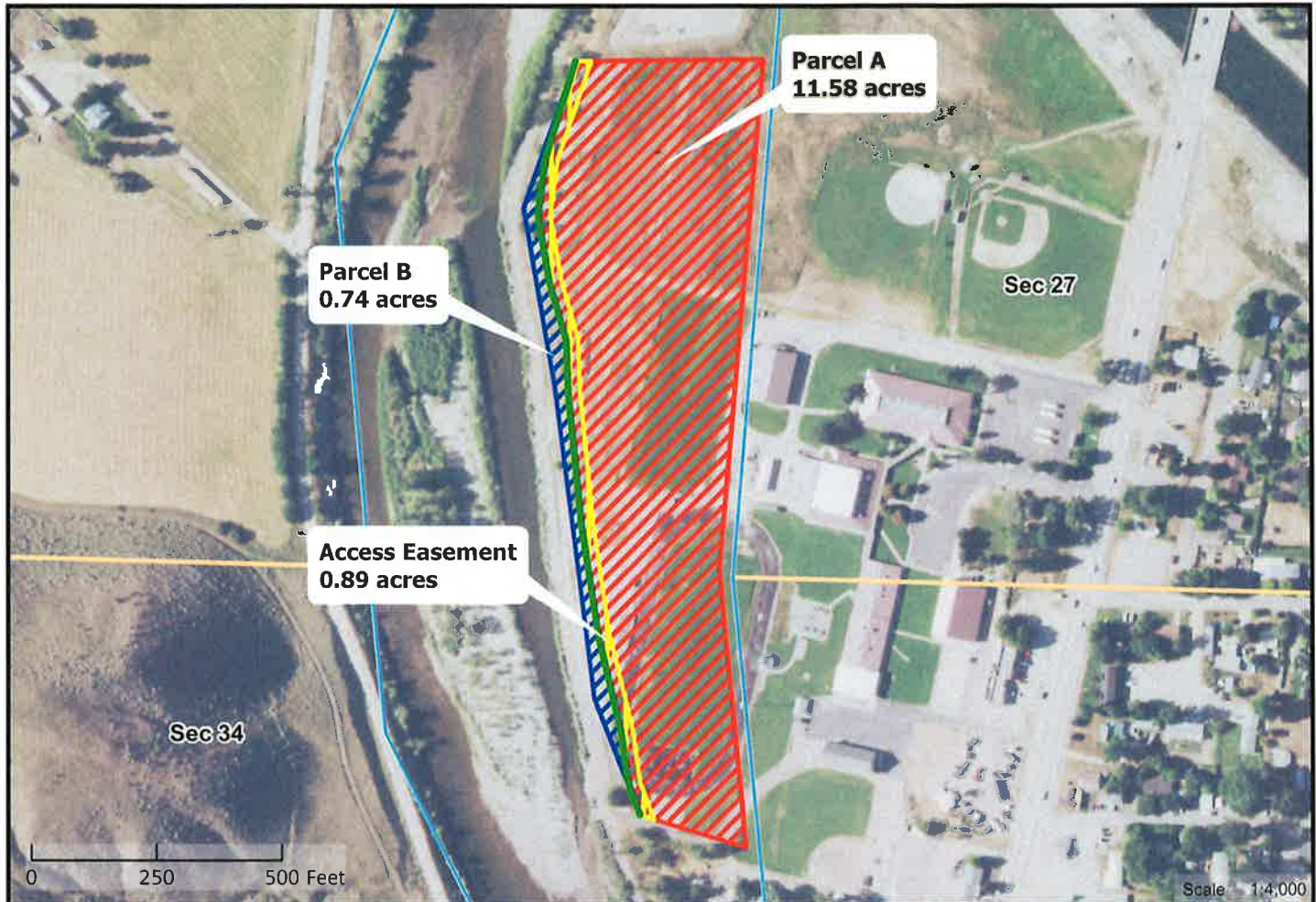
Recommendation

Direct the Department to issue a Disclaimer of Interest for one parcel totaling 11.579 acres of the former bed of the Payette River to Horseshoe Bend School District #73 following their payment to the Department of the remaining processing fee of \$300.

Board Action

Attachments

1. Map
2. Deeds for Riparian Lots
3. Property Tax History



- Section
- Ordinary High Water Mark
- Disclaimed BY State
- Disclaimed TO State
- Existing Disclaimers
- Meander Line
- Access Easement

DI600323

Sec. 27, 34 - T07N - R02E



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.

Instrument No. 47445

WARRANTY DEED

request
A.D., 1940

THIS INDENTURE, Made this 26th day of March in the year of our Lord one thousand nine hundred and forty, between LEWARD L. FOLWELL and LOUISE A. FOLWELL, husband and wife of Horseshoe Bend, County of Boise, State of Idaho, the parties of the first part, and Boise County Common School District Number Two near Horseshoe Bend, County of Boise, State of Idaho, the party of the second part.

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of One Hundred Fifty and no/100 Dollars, lawful money of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, have granted, bargained and sold, and by these presents do grant, bargain, sell, convey and confirm unto the said party of the second part, and to its heirs and assigns forever, all of the following described real estate situated in or near Horseshoe Bend, County of Boise, State of Idaho, to-wit:-

Said land is bound as follows: Beginning at a point which lies S. 13° 00' W. 708 feet and N. 75° 09' west 300 feet from the 1/16 corner in the south side of the Southeast Quarter of Section 27 of Township 7 North of Range 2 E. B. M.; thence N. 75° 09' W. 500 feet; thence N. 12° 49' E. 159.65 feet; thence S. 75° 13' E. 500 feet; thence S. 12° 49' W. 178.7 feet (to the point of beginning). Said land borders the present school ground on the West and is part of Lot 4 of Section 34, in Township 7 N., Rge. 2 E., B. M., Idaho, and contains 1.95 acres.

Said land is sold subject to no liens or taxes of any nature.

TOGETHER, with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all estate, right, title and interest in and to the said property, as well in law as in equity, of the said parties of the first part.

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises, together with the appurtenances, unto the party of the second part, and to its heirs and assigns forever and the said parties of the first part, and their heirs, the said premises in the quiet and peaceable possession of the said party of the second part, its heirs and assigns, against the said parties of the first part, and their heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will WARRANT and by these presents forever DEFEND.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hand and seals the day and year first above written.

LEWARD L. FOLWELL (SEAL)

LOUISE A. FOLWELL (SEAL)

STATE OF IDAHO }
COUNTY OF BOISE }

On this 26th day of March in the year 1940, before me John A. Fry, a Notary Public in and for said State, personally appeared Leward L. Folwell and Louise A. Folwell, Husband and wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(SEAL)

JOHN A. FRY
Notary Public for the State of Idaho, residing at
Horseshoe Bend, Idaho. Comm. expires June 16, 1941

STATE OF IDAHO }
COUNTY OF BOISE } SS

I hereby certify that this instrument was filed for record at request of Jno. Fry at 30 minutes past 3 o'clock P.M. this 27th day of March, A.D., 1940 in my office, and duly recorded in book 49 of Deeds at page 205.

KATHERINE M. BROGAN,
Ex-Officio Recorder.

Fees \$1.20.

211—CORPORATION WARRANTY DEED

Printed and for sale by Syme-York Company, Boise

THIS INDENTURE, Made this 21st day of May, in the year of our Lord
one thousand nine hundred and Seventy Three between

HOFF LUMBER COMPANY

a corporation duly organized and existing under the laws of the State of IDAHO

and having its principal office in Idaho at Horseshoe Bend in the County of

Boise, party of the first part, and

ELEMENTARY SCHOOL DISTRICT NO. 73

of Horseshoe Bend, County of Boise, State of

Idaho, party of the second part,

WITNESSETH, That the said party of the first part, having been hereunto duly authorized by resolution of its Board of Directors, for and in consideration of the sum of

-----TEN DOLLARS (\$10.00) and other good and valuable DOLLARS,
consideration.

lawful money of the United States of America, to it in hand paid by the said party of the second part, the receipt

whereof is hereby acknowledged, has granted, bargained and sold, and by these presents does grant, bargain, sell, convey

and confirm unto the said party of the second part, and to its heirs and assigns forever, all

the following described real estate situated in Horseshoe Bend, County of Boise

State of Idaho, to-wit:

Beginning at the East 1/16th corner common to Sections 27 and 34, said point bearing S. 89° 12' W., 1320.93 feet from the section corner common to Sections 26, 27, 34 and 35, T 7 N., R. 2 E., B.M.; thence S. 89° 12' W., 15.50 feet to a point; thence N. 10° 47' E 75.91 feet to a point; thence West 107.90 feet to the real point of beginning; thence continue West 99.50 feet to a point; thence N. 79° 13' W, 915.85 feet to a point; thence S. 9° 05' 30" E., 510.03 feet to a point; thence S. 23° 37' 30" E., 249.65 feet to a point; thence N. 12° 49' E., 143.70 feet to a point; thence S. 79° 13' E 324.40 feet to a point; thence N. 10° 47' E., 200.00 feet to a point; thence N. 79° 13' W., 74.88 feet to a point; thence N. 10° 47' E., 250.00 feet to a point; thence S. 79° 13' E., 316.48 feet to a point; thence S. 10° 47' W., 220.00 feet to a point; thence S. 79° 13' E., 128.00 feet to a point; thence N. 10° 47' E., 330.63 feet to the real point of beginning.

Said parcel contains 7.968 acres more or less, subject to easements of record or in use.

Together with all tenements, hereditaments and appurtenances thereto belonging, or in anywise appertaining, including all water rights appurtenant to the lands herein conveyed. Subject to all easements of record and rights of way in existence across said premises and reservations contained in United States Patents.

TOGETHER With all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all estate, right, title and interest in and to the said property, as well in law as in equity, of the said party of the first part.

TO HAVE AND TO HOLD, all and singular, the above mentioned and described premises, together with the appurtenances, unto the party of the second part, and to its heirs and assigns forever. And the said party of the first part, and its successors, the said premises in the quiet and peaceable possession of the said party of the second part, its heirs and assigns, against the said party of the first part, and its successors, and against all and

every person and persons whomsoever, lawfully claiming or to claim the same, shall and will warrant and by these presents forever defend.

IN WITNESS WHEREOF, The party of the first part has caused its corporate name to be hereunto subscribed by its President and its corporate seal to be affixed by its Assistant Secretary in pursuance to said resolution the day and year first above written.

SIGNED, SEALED AND DELIVERED IN PRESENCE OF

HOFF LUMBER COMPANY

By Theodore Hoff Jr.
Its President
Attest Robert G. Elordi
Its Assistant Secretary

STATE OF IDAHO, }
COUNTY OF BOISE } ss.

On this 21st day of May in the year 1973, before me

Robert G. Elordi, a Notary Public in and for the said State, personally appeared Theodore Hoff Jr., known to me to be the President of the corporation that executed this instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Robert G. Elordi
Notary Public for the State of Idaho,
Residing at Horseshoe Bend, Idaho.

My comm. expires 3/4/76



No. 87151

Corporation Warranty Deed

for _____ TO _____

Dated _____, 19____

STATE OF IDAHO, }
COUNTY OF Boise } ss.

I hereby certify that this instrument was filed for record at request of Edmund Taylor School Dist No. 73

at 15 minutes past 8 o'clock PM, this 19.73 day of May, A.D. 1973 in my office, and duly recorded in Book 74 of Deeds at page 39

By Janet J. Suffield Ex-Officio Recorder
Janet J. Suffield Deputy

Fees, \$ 1.00

Mail to Horseshoe Bend, Idaho 83609

SWNS-YORK CO., BOISE

QUIT CLAIM DEED

FOR VALUE RECEIVED, HORSESHOE BEND HYDROELECTRIC COMPANY, a Delaware corporation, does hereby convey, release, remise, and forever quit claim unto HORSESHOE BEND SCHOOL DISTRICT NO. 73, whose current address is P.O. Box 116 Horseshoe Bend, Idaho 83629, the following described premises, to-wit: see Exhibit "A" attached hereto and incorporated herein by this reference as though set forth in full, together with all appurtenances thereunto belonging.

DATED this 19th day of March, 1992.

HORSESHOE BEND HYDROELECTRIC COMPANY

By: [Signature]
Its Executive Vice President

STATE OF IDAHO)
County of Ada) ss.

On this 19th day of March, 1992, before me, the undersigned, a Notary Public in and for said State, personally appeared David P. Wierschi, known to me to be the Executive Vice President of Horseshoe Bend Hydroelectric Company, and known to me to be the person whose name is subscribed to the within instrument and who acknowledged to me that she/he executed the same on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Jean M. Hart
NOTARY PUBLIC FOR IDAHO
Residing at: Boise, Idaho
My Commission Expires: 10-15-93

EXHIBIT "A"

A tract of land in the SE $\frac{1}{4}$ of Section 27, T. 7 N., R. 2 E., B.M., Boise County, Idaho, more particularly described as follows:

Commencing at the section corner common to Sections 26, 27, 34 and 35, T. 7 N., R. 2 E., B.M., Boise County, Idaho, thence S. 89°12' W. along the section line common to said Sections 27 and 34, 1,293.94 feet (record - 1,295.60 feet) to a point; thence N. 10°47' E., 1,068.90 feet to a point; thence N. 46°41' W., 47.45 feet to a point on the Power Canal right-of-way, the real point of beginning; thence S. 87°32'30" W., 1,297.39 feet to a point on the high water line of the Payette River; thence S. 17°41'30" W. along said high water line, 316.58 feet to a point; thence S. 11°36' E. along said high water line, 370.78 feet to a point; thence S. 9°05'30" E. along said high water line, 118.24 feet to a point; thence S. 79°13' E., 915.85 feet to a point; thence North 104.00 feet to a point; thence N. 88°38'40" E. 228.30 feet to a point on the westerly right-of-way line of Highway 55; thence N. 10°47' E. along said right-of-way line, 915.34 feet to the real point of beginning. Said tract contains 25.53 acres more or less, subject to easements of record or in use.

Together with all tenements, hereditaments and appurtenances thereto belonging, except sprinkler pipes and pump, or in anywise appertaining, including all water rights appurtenant to the lands herein conveyed.

Subject to all easements of record and rights-of-way in existence across said premises, and reservations contained in United States Patents.

EXCEPTING THEREFROM THE FOLLOWING:

A parcel of land being a portion of the SE $\frac{1}{4}$ of Section 27, T. 7N., R. 2E., B.M., Boise County, Idaho, more particularly described as follows:

Beginning at an axle marking the Southeast corner of said Section 27;

thence North 89°40'16" West 1291.88 feet along the Southerly boundary of said Section 27 to a point on the centerline of U. S. Highway 55;

thence North 11°12'18" East 1043.52 feet along the centerline of said U. S. Highway 55 to a point;

thence North 69°51'47" West 40.49 feet to an iron pin on the Westerly right-of-way of said U. S. Highway 55 and the Southerly right-of-way of the Horseshoe Bend Hydroelectric Company canal, said point being the REAL POINT OF BEGINNING;

thence continuing along the Southerly right-of-way of said canal the following courses and distances to iron pins:

North 45°24'53" West 236.59 feet;

North 37°59'42" West 46.02 feet;

North 25°37'48" West 120.63 feet;

North 17°31'06" West 305.31 feet;

North 17°41'56" West 115.39 feet to an iron pin on the Southerly right-of-way of the Oregon Short Line Railroad;

Continued

EXHIBIT "A" continued...

thence continuing along the Southerly right of way of said Railroad extended, North 88°32'02" East 168.70 feet to a point on the Easterly right-of-way of said Horseshoe Bend Hydroelectric Company canal;

thence South 12°09'58" East 116.43 feet along the Easterly right-of-way of said canal to an iron pin on the Southerly right-of-way of said Oregon Short Line Rail road;

thence North 88°04'00" East 14.72 feet along the Southerly right-of-way of said Railroad and the Easterly right-of-way of said Canal to an iron pin;

thence continuing along the Easterly right-of-way of said Canal the following courses and distances to iron pins:

South 10°38'51" East 118.32 feet;
South 24°36'07" East 107.28 feet;
South 36°05'11" East 57.20 feet;
South 42°46'16" East 164.79 feet to an iron pin on the Westerly right-of-way of said U. S. Highway 55;

thence South 11°12'18" West 226.49 feet along the Westerly right-of-way of said Highway to the point of beginning, comprising 2.72 acres, more or less.

SUBJECT TO:

All existing easements and road rights-of-way of record or appearing on the above described parcel of land.

END OF EXHIBIT "A"

143096

BOISE COUNTY IDAHO SS
REQUEST OF

Security title
DATE 1 11 92

92 APR -3 PM 1:30

ANNE C. KOLAR

Dale Yankee
DEPUTY

FEES \$9.00



BOISE COUNTY TREASURER
BOISE COUNTY
 PO BOX 1300
 IDAHO CITY ID 83631
 TELEPHONE: (208) 392-4441

TAX HISTORY

PARCEL NUMBER
RPH00000278450

LEGAL DESCRIPTION
 HSB EXEMPT
 TAX 152,156,253,293 & 353
 LESS CANAL
 INST.#143094 & 143096
 SCHOOL

PRIMARY PROPERTY ADDRESS

BOISE COUNTY ELEMENTARY SCHOOL DISTRICT #73
 HORSESHOE BEND ID 83629

BALANCE DUE	INTEREST DATE 02/13/2023
\$ -	BALANCE AS OF 02/13/2023 08:00AM
TOTAL	

Year	Roll	Half	Type	Tax	Certification	Late Charge	Fee	Interest*	TOTAL
2022									
2021									
2020									
2019									
2018									
2017									
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