

State Board of Land Commissioners Open Meeting Checklist

Meeting Date: April 18, 2023

Regular Meetings

4/4/2023	Meeting Notice posted in prominent place in IDL's Boise Director's office five (5) or more calendar days before meeting.
4/4/2023	Meeting Notice posted in prominent place in IDL's Coeur d'Alene staff office five (5) or more calendar days before meeting.
4/4/2023	Meeting Notice posted in prominent place at meeting location five (5) or more calendar days before meeting.
4/4/2023	Meeting Notice published on Townhall Idaho website https://townhall.idaho.gov five (5) or more calendar days before meeting.
4/4/2023	Meeting Notice posted electronically on IDL's public website https://www.idl.idaho.gov five (5) or more calendar days before meeting.
4/13/2023	Agenda posted in prominent place in IDL's Boise Director's office forty-eight (48) hours before meeting.
4/13/2023	Agenda posted in prominent place in IDL's Coeur d'Alene staff office forty-eight (48) hours before meeting.
4/13/2023	Agenda posted in prominent place at meeting location forty-eight (48) hours before meeting.
4/13/2023	Agenda published on Townhall Idaho website https://townhall.idaho.gov forty-eight (48) hours before meeting.
4/13/2023	Agenda posted electronically on IDL's public website https://www.idl.idaho.gov forty-eight (48) hours before meeting.
1/3/2023	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 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 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

April 13, 2023

Date



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

NOTICE OF PUBLIC MEETING APRIL 2023

The Idaho State Board of Land Commissioners will hold a Regular Meeting on Tuesday, April 18, 2023 in the **State Capitol, Senate Hearing Room WW55, Lower Level, West Wing, 700 W. Jefferson St., Boise**. 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_OvSHkWX8Tm-ideaQ-mzetw

First Notice Posted: 4/4/2023-IDL Boise; 4/4/2023-IDL CDA

This notice is published pursuant to Idaho Code § 74-204. For additional information regarding Idaho's Open Meeting law, please see Idaho Code §§ 74-201 through 74-208.

Idaho Department of Lands, 300 N 6th Street, Suite 103, Boise ID 83702, 208.334.0242



Idaho State Board of Land Commissioners

Brad Little, Governor and President of the Board

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

State Board of Land Commissioners Regular Meeting

April 18, 2023 – 9:00 AM (MT)

Final Agenda

Capitol, Senate Hearing Room WW55, Lower Level, West Wing, 700 W. Jefferson St., Boise, Idaho

**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_OvSHkWX8Tm-jduaQ-mzetw

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

Trust Land Revenue

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

Status Updates

- C. Legislative Summary - Final
- D. Land Bank Fund

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

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

Consent—Action Item(s)

3. Forest Legacy—South Dawson Conservation Easement – *Presented by Archie Gray, Bureau Chief-Forestry Assistance*

4. Clark Fork Hatchery Surplus Property (Idaho Fish & Game) – *Presented by Zane Lathim, Program Specialist-Real Estate*

State Board of Land Commissioners

Final Agenda

Regular Meeting – April 18, 2023

Page 1 of 2

5. **Approval of Draft Minutes** – March 21, 2023 Regular Meeting (Boise)

Regular—Action Item(s)

6. **Approval of 3rd Extension, Chimney Sweep Pulp Timber Sale** – *Presented by Bill Haagenson, Deputy Director*

7. **FY2024 Timber Sales Plan** – *Presented by Bill Haagenson, Deputy Director*

8. **Land Bank Fund Transfer-Principal and Earned Interest** – *Presented by Dustin Miller, Director*

9. **Negotiated Rulemaking for IDAPA 20.05.01, Recreational Use of Endowment Land** – *Presented by Todd Wernex, Program Manager-Recreation*

10. **Disclaimer of Interest Delegation of Authority** – *Presented by Mick Thomas, Division Administrator-Minerals, Navigable Waterways, Oil and Gas*

Information

None

Executive Session

A. **State v. Garayalde**

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.



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

April 18, 2023
Trust Land Revenue

Timber Sales

During March 2023, the Department of Lands sold seven endowment timber sales at auction. All sales had competitive bidding. The net sale value represents a 27% 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
Davies Glades Cedar	SJ	16,590	70		\$ 3,624,286.00	\$ 4,805,381.00	\$288.44	IFG Timber LLC
Fools Gold Ton	PAY	4,305			\$ 439,117.42	\$ 566,551.00	\$131.60	Tamarack Mill
West Mud Ton	PAY	1,680			\$ 247,550.00	\$ 353,600.00	\$210.48	Tamarack Mill
Cherry Pit	POND	5,485			\$ 1,396,253.00	\$ 1,654,422.30	\$301.63	PotlatchDeltic
Muddy Water Cedar	PL	4,000			\$ 1,265,796.50	\$ 1,568,252.75	\$392.06	Stimson Lumber
Mineral Flats	PL	6,050			\$ 2,011,734.00	\$ 2,518,274.00	\$416.24	IFG Timber LLC
Big Cat OSR Cedar	MC	715			\$ 147,845.00	\$ 150,161.50	\$210.02	Empire Lumber
Endowment		38,825	70	0	\$ 9,132,581.92	\$11,616,642.55	\$298.67	

PROPOSED TIMBER SALES FOR AUCTION				
Sale Name	Volume MBF	Advertised Net Value	Area	Estimated Auction Date
North Operations				
Upper Twentymile	3,820	\$ 1,162,357.00	POL	4/13/2023
Coolin OSR Cedar	2,275	\$ 780,542.00	PL	4/18/2023
Golden Cedar	6,670	\$ 1,661,320.50	SJ	4/26/2023
Goldilogs	3,870	\$ 1,013,662.00	SJ	4/26/2023
TOTALS	16,635	\$ 4,617,881.50		
South Operations				
Snake 36	9,835	\$ 1,687,363	CLWR	4/4/2023
Independence OSR	2,645	\$ 561,478	MC	4/10/2023
White Cedar	4,775	\$ 1,375,747	CLWR	4/11/2023
High Valley	7,120	\$ 684,262	SW	4/20/2023
TOTALS	24,375	\$ 4,308,849		

VOLUME UNDER CONTRACT as of March 31, 2023

	Public School	Pooled	Total	3 Year Avg.
Active Contracts			150	163
Total Residual MBF Equivalent	336,872	158,291	495,163	537,626
Estimated residual value	\$97,081,520	\$44,821,942	\$141,903,462	\$134,578,812
Residual Value (\$/MBF)	\$288.19	\$283.16	\$286.58	\$250.32

TIMBER HARVEST RECEIPTS

	March		FY to date	April Projected	
	Stumpage	Interest	Harvest Receipts	Stumpage	Interest
	Public School	\$ 2,712,904.79	\$ 195,879.69	\$ 40,533,239.06	\$ 1,268,733.35
Pooled	\$ 3,089,616.04	\$ 174,533.63	\$ 27,407,837.12	\$ 909,893.01	\$ 46,491.69
General Fund	\$ 0.35	\$ 0.00	\$ 244.43	\$ 0.35	\$ 0.00
TOTALS	\$ 5,802,521.18	\$ 370,413.32	\$ 67,941,320.61	\$ 2,178,626.71	\$ 130,972.88

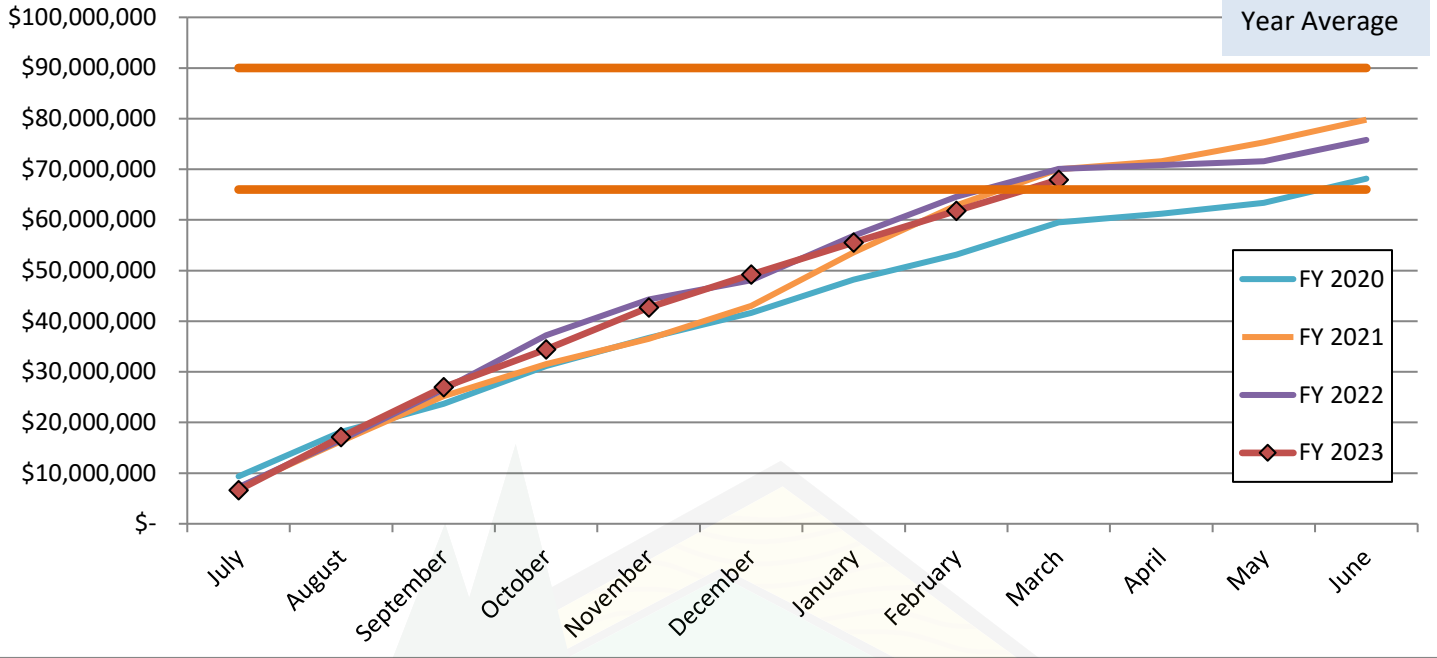
Status of FY2023 Timber Sale Program

	MBF Sawlog			Number Poles		
	Public School	Pooled	All Endowments	Public School	Pooled	All Endowments
	Sold as of March 31, 2023	117,350	39,122	156,472	8,910	370
Currently Advertised	25,550	33,445	58,995	2,852	2,058	4,910
In Review	28,344	15,331	43,675	7,910	0	7,910
Did Not Sell*	0	0	0	0	0	0
TOTALS	171,244	87,898	259,142	19,672	2,428	22,100
FY2023 Sales Plan			326,000			20,000
Percent to Date			79%			111%

* After three attempts at auction.

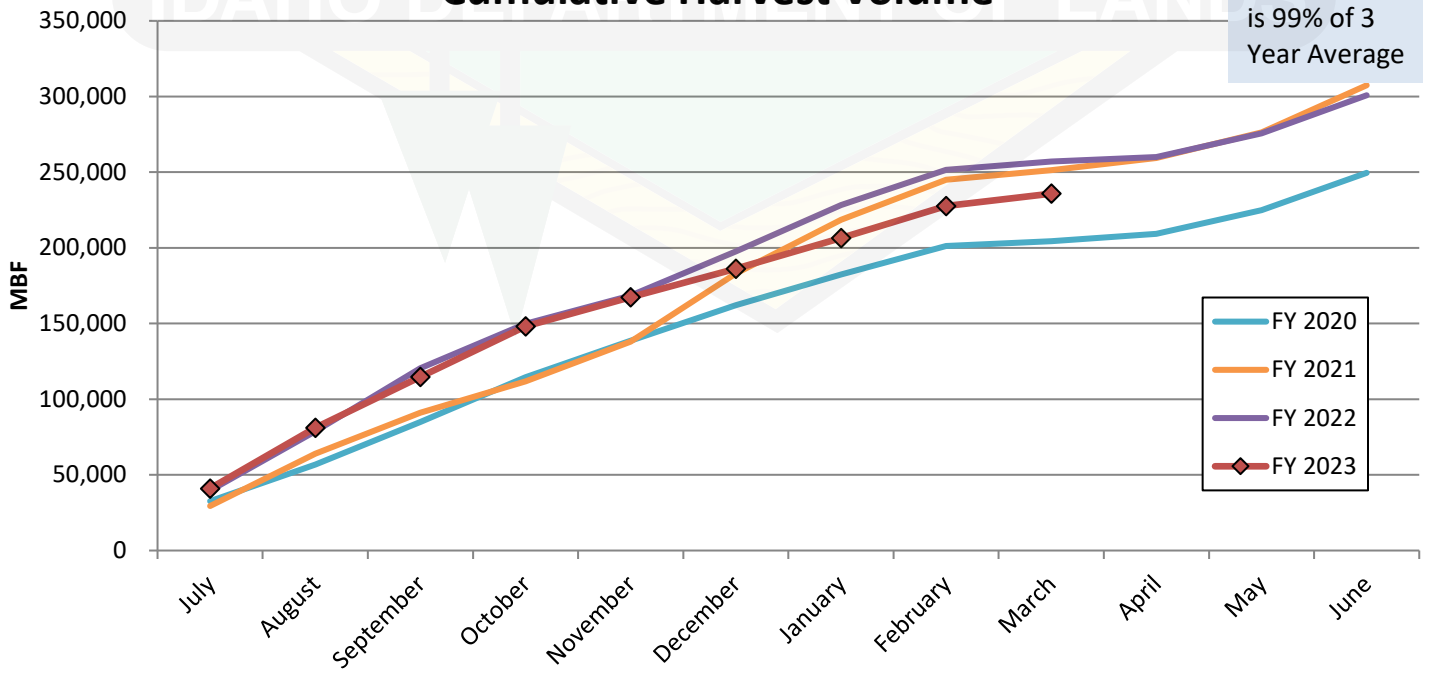
Cumulative Harvest Receipts

Current FYTD is 102% of 3 Year Average



Cumulative Harvest Volume

Current FYTD is 99% of 3 Year Average



Monthly Lumber and Stumpage Price



March 2023 6-month average price is \$278.45.
 March 2022 6-month average price was \$300.92.

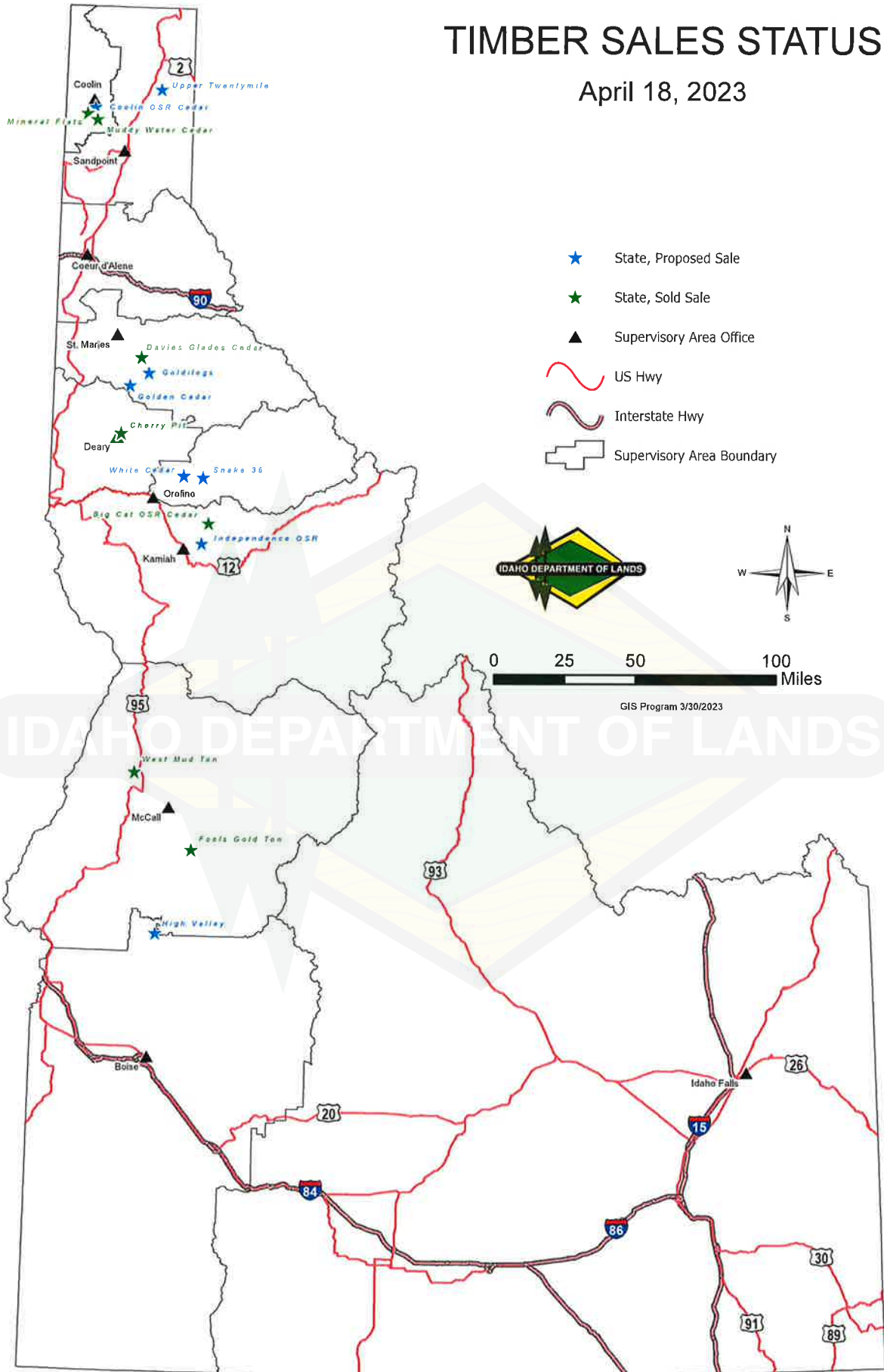
TIMBER SALE AGING REPORT

Fiscal Year	Volume MBF	% of Volume	# of Sales	% of Sales
18	3,922	1%	6	4%
19	16,497	3%	8	5%
20	31,081	7%	17	11%
21	101,838	22%	37	25%
22	181,003	38%	50	33%
23	138,642	29%	32	22%
TOTALS	472,983		150	

The differences in volume above, from the Volume Under Contract table on page 2, are due to thirteen (13) sales having more volume scaled than cruised.

TIMBER SALES STATUS

April 18, 2023



STATE BOARD OF LAND COMMISSIONERS

April 18, 2023

Endowment Transactions

Leases and Permits

FISCAL YEAR 2023 – LEASING & PERMITTING TRANSACTIONS BY MONTH – through March 31, 2023													
ACTIVITY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
SURFACE													
Agriculture	-	1	-	-	1	-	-	-	1				3
<i>Assignments</i>	-	-	-	-	-	-	-	-	-				0
Communication Sites	-	-	-	1	-	-	-	1	1				3
<i>Assignments</i>	1	2	-	-	-	-	-	-	-				3
Grazing	-	-	-	7	1	-	-	3	-				11
<i>Assignments</i>	3	2	-	1	-	-	5	2	-				13
Residential	-	4	-	1	-	-	-	2	-				7
<i>Assignments</i>	-	-	-	-	-	-	-	-	-				0
COMMERCIAL													
Alternative Energy	-	-	-	-	1	-	-	-	-				1
Industrial	-	-	-	-	-	-	-	7	-				7
Military	-	-	-	-	-	-	-	-	-				0
Office/Retail	1	-	-	-	-	-	-	-	-				1
Recreation	-	-	-	-	-	-	-	1	-				1
OTHER													
Conservation	-	-	-	2	-	-	-	-	-				2
Geothermal	-	-	-	-	-	-	-	-	-				0
Minerals	2	2	1	-	-	-	-	4	1				10
<i>Assignments</i>	1	-	-	-	-	-	1	-	-				2
Non-Comm Recreation	-	-	-	-	-	-	-	-	-				0
Oil & Gas	-	-	-	-	-	-	-	1	-				1
PERMITS													
Land Use Permits	6	5	4	6	2	3	7	5	4				42
TOTAL INSTRUMENTS	14	16	5	18	5	3	13	26	7	0	0	0	107

Real Estate

FISCAL YEAR 2023 – REAL ESTATE TRANSACTIONS BY MONTH – through March 31, 2023													
ACTIVITY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
Deeds Acquired	-	-	-	-	-	-	7	-	3				10
Deeds Granted	-	-	5	3	1	1	-	-	4				14
Deeds Granted - Surplus	-	-	-	-	-	-	-	-	-				0
Easements Acquired	-	1	-	-	-	-	-	-	-				1
Easements Granted	2	1	-	-	-	-	-	-	-				3

Notes :

Deeds Granted - Carey Act Parcels: 3 Acquired, 3 Granted

Deed Granted - Cottage Site: Priest Lake 2022 VAFO, \$9,800,000.00

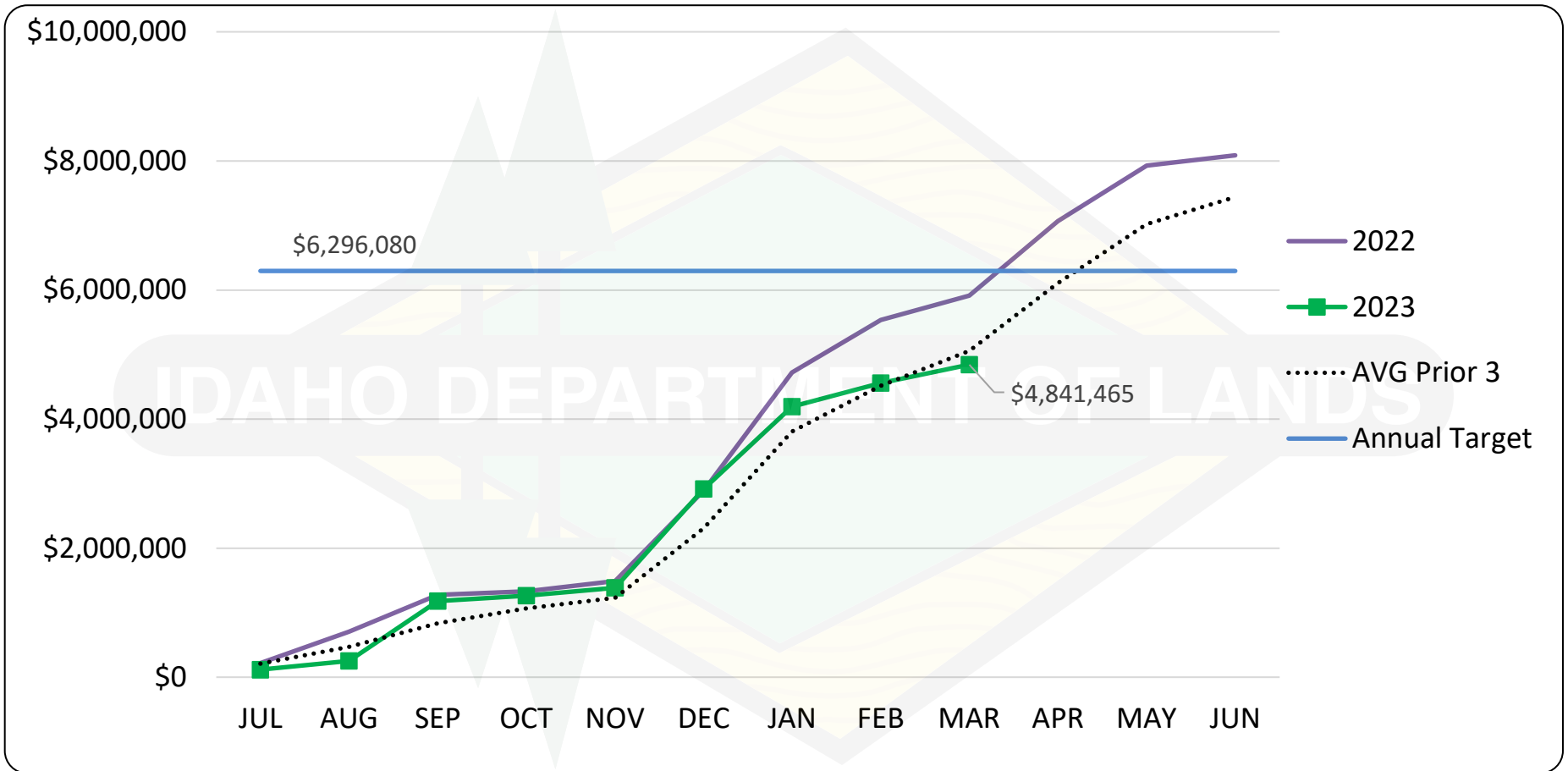
TRUST LAND MANAGEMENT DIVISION
FY2023 GROSS REVENUE (non-timber) - ACTUAL AND FORECASTED
through March 31, 2023

	ACTUAL RECEIPTS AS OF 3.31.2023	REVENUE EXPECTED BY 3.31.2023**	REVENUE EXPECTED BY 06.30.2023
SURFACE			
AGRICULTURE	\$ 498,534	\$ 505,000	\$ 505,000
COMMUNICATION SITES	\$ 1,001,689	\$ 897,440	\$ 1,009,239
GRAZING	\$ 193,096	\$ 155,000	\$ 1,870,000
RESIDENTIAL LEASES	\$ 787,893	\$ 921,699	\$ 1,095,851
COMMERCIAL			
COMMERCIAL ENERGY RESOURCES	\$ 26,420	\$ 47,763	\$ 47,763
COMMERCIAL INDUSTRIAL	\$ 147,780	\$ 68,350	\$ 74,504
COMMERCIAL MILITARY FACILITIES	\$ 168,078	\$ 21,590	\$ 91,117
COMMERCIAL OFFICE/RETAIL LEASES	\$ 749,150	\$ 476,352	\$ 527,352
COMMERCIAL RECREATION	\$ 1,105,880	\$ 855,620	\$ 899,978
OTHER			
CONSERVATION LEASES	\$ 70,285	\$ 65,000	\$ 65,000
GEOTHERMAL	\$ (5,339)	\$ -	\$ -
MINERAL LEASES	\$ 93,157	\$ 105,403	\$ 105,403
OIL AND GAS LEASES	\$ 4,842	\$ 2,774	\$ 4,874
Sub Total	\$ 4,841,465	\$ 4,121,990	\$ 6,296,081
REAL ESTATE SERVICES	\$ 183,632 *		
Grand Total	\$ 5,025,097		

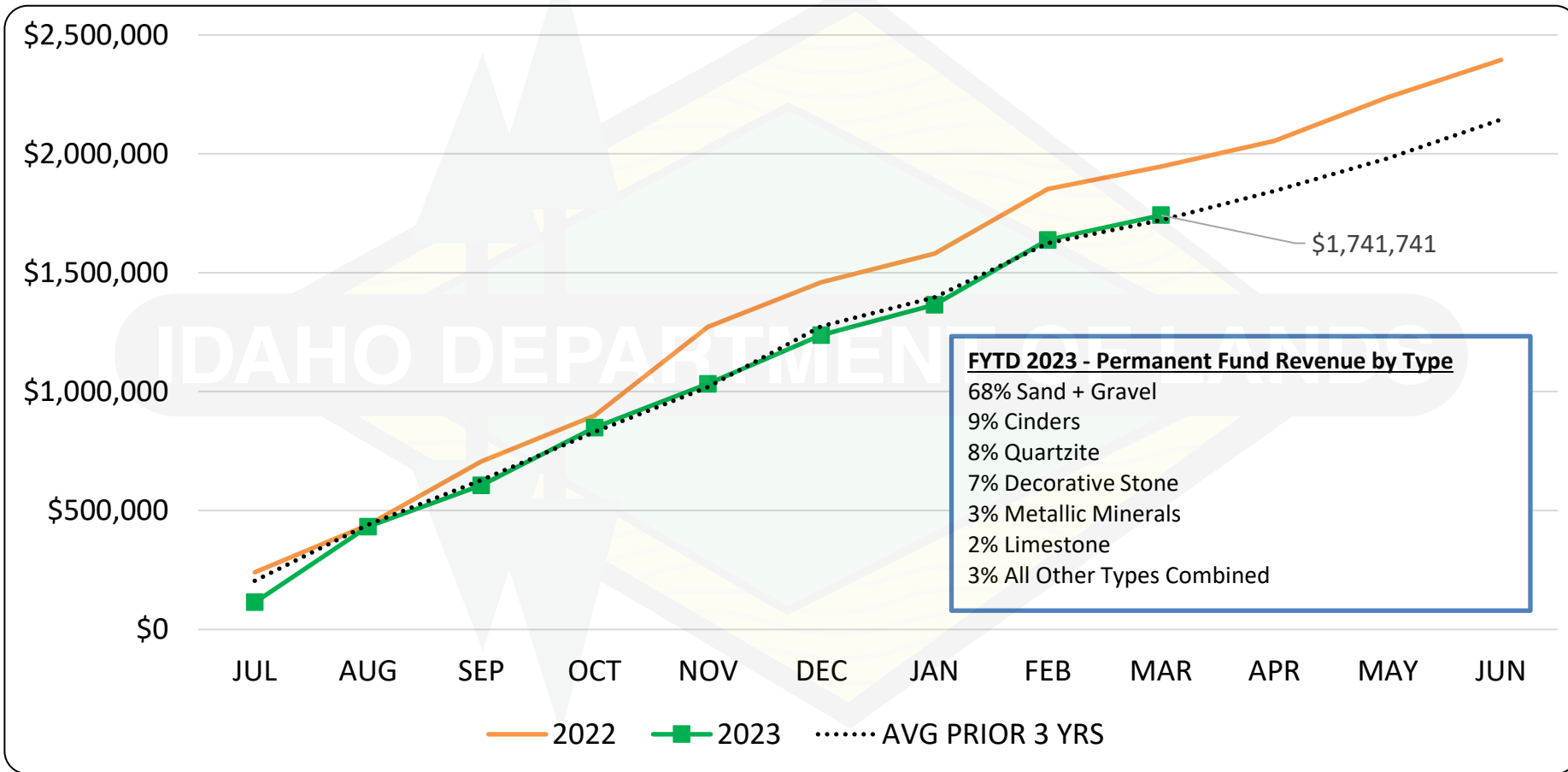
* This category is not included in the annual forecast.

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

Cumulative Trust Land Program Receipts Earnings Reserve - All Programs excluding Timber FY 2022 - FY 2023



Cumulative Trust Land Permanent Fund Revenue/Royalties (Does NOT include Land Bank or Timber Program Revenue) FY2022 - FYTD2023



STATE BOARD OF LAND COMMISSIONERS

April 18, 2023
2023 Legislative Summary

Status of legislation monitored by the Department of Lands

IDL Pending Rules

Non-Fee Rules

[Docket 20-0214-2201](#) – Rules for Selling Forest Products on State-Owned Endowment Lands

Status APPROVED.

Fee Rules

[Docket 20-0317-2201](#) – Rules Governing Leases on State-Owned Navigable Waterways

Status APPROVED.

IDL Budget

[H0277 APPROPRIATIONS – ENDOWMENT FUND INVESTMENT BOARD](#) – Relates to the appropriation to the Endowment Fund Investment Board for fiscal year 2024.

Status LAW.

[S1117 APPROPRIATIONS – DEPARTMENT OF LANDS](#) – Relates to the appropriation to the Department of Lands for fiscal year 2023.

Status LAW.

[S1123 APPROPRIATIONS – FUND CORRECTION](#) – Relates to the appropriation to various agencies to correct the fund source for fiscal year 2023.

Status LAW.

[S1174 APPROPRIATIONS – DEPARTMENT OF LANDS](#) – Relates to the appropriation to the Department of Lands for fiscal years 2023 and 2024.

Status LAW.

IDL Legislation

[H0120a OIL AND GAS](#) – Amends and repeals existing law to revise provisions regarding the Oil and Gas Conservation Commission, spacing units, oil and gas wells, the integration of tracts, reporting requirements, public data, confidentiality of well and trade information, rules, and royalties and to provide for minimum surface use bonds.

Status LAW.

Other Legislation Being Monitored

Endowment Land

[S1049 ENDOWMENT LAND](#) – Adds to existing law to provide for notice of restriction, regulation, and prohibition on endowment land and to provide for punishment and violations.

Status LAW.

Miscellaneous

[H0017 STATE PERSONNEL SYSTEM](#) – Amends existing law to revise the definition of "overtime work."

Status LAW.

[H0097 STATE CONTROLLER](#) – Amends and adds to existing law to provide that all state officers and agencies shall report agreements entered into to the State Controller.

Status LAW.

[H0102 HUMAN RESOURCES](#) – Amends existing law to provide for advancements in pay based on certain factors and to provide for retention bonuses in certain circumstances.

Status LAW.

[H0170a STATE GOVERNMENT](#) – Adds to existing law to prohibit state agencies from donating to or sponsoring a nongovernmental event or organization, to provide exceptions, and to provide a penalty.

Status House – passed 55-14-1. Senate – 14th Order for Amendment.

[H0174a ADMINISTRATIVE PROCEDURE ACT](#) – Adds to existing law to provide that agency policy statements and guidance documents shall not have the force and effect of law.

Status LAW.

[H0206a ADMINISTRATIVE RULES](#) – Amends, repeals, and adds to existing law to revise provisions regarding the legislative review of administrative rules.

Status LAW.

[H0274 COMMUNICATIONS SECURITY](#) – Adds to existing law to prohibit state employees from using or downloading TikTok on a state-issued device, to provide that the state shall implement controls to prevent the use of TikTok on state-issued devices, and to provide a penalty.

Status LAW.

[H0294 STATE GOVERNMENT](#) – Adds to existing law to prohibit a public entity from entering into certain contracts with companies owned or operated by the government of China.

Status LAW.

[HCR003 NATURAL RESOURCE ISSUES STUDY](#) – States findings of the Legislature and authorizes the Legislative Council to appoint a committee to undertake and complete a study of natural resource issues.

Status ADOPTED.

[S1021 PRIEST LAKE](#) – Amends existing law to prohibit certain outlet control structures.

Status LAW.

IDAHO DEPARTMENT OF LANDS

LAND BANK AGING REPORT

Current Remaining Principal Balance By Quarter Received - As of March 31, 2023

FY Quarter IN	Public School	Agriculture College	Normal Schools	State Hospital South	University of Idaho	All Endowments	FY Quarter EXPIRES
2019-01	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2024-01
2019-02	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2024-02
2019-03	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2024-03
2019-04	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2024-04
2020-01	\$ -	\$ -	\$ 12,895	\$ -	\$ -	\$ 12,895	2025-01
2020-02	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2025-02
2020-03	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2025-03
2020-04	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2025-04
2021-01	\$ 1,639,575	\$ -	\$ -	\$ -	\$ -	\$ 1,639,575	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	\$ 17,237,620	\$ -	\$ -	\$ -	\$ 27,378,340	2027-02
2022-03	\$ 9,890,500	\$ -	\$ -	\$ -	\$ -	\$ 9,890,500	2027-03
2022-04	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2027-04
2023-01	\$ 6,125,000	\$ -	\$ -	\$ -	\$ -	\$ 6,125,000	2028-01
2023-02	\$ 9,848,000	\$ -	\$ -	\$ 432,187	\$ -	\$ 10,280,187	2028-02
2023-03	\$ 9,800,000	\$ -	\$ -	\$ -	\$ -	\$ 9,800,000	2028-03
TOTAL PRINCIPAL REMAINING	\$ 55,539,515	\$ 17,237,620	\$ 12,895	\$ 432,187	\$ -	\$ 73,222,217	

LAND BANK CASH BALANCE (with Interest)	\$ 57,950,326	\$ 17,606,513	\$ 424,589	\$ 781,825	\$ -	\$ 76,763,253
---	----------------------	----------------------	-------------------	-------------------	-------------	----------------------



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 March 31, 2023

Month: 1.5% Fiscal year: 7.4%

The portfolio ended the month in positive territory despite considerable volatility during the month as Silicon Valley Bank and Signature Bank collapsed and Swiss authorities facilitated a forced marriage between UBS and Credit Suisse. Silicon Valley Bank was the sixteenth largest bank in the United States and was considered the lifeblood of high-tech startup funding. Swift action by the FDIC, Fed and Treasury to assure depositors that their funds were safe and accessible and the creation of a new Bank Term Funding Program aimed at safeguarding deposits provided investors with some assurance that this wasn't the beginning of a systemic banking crisis. While a full-blown crisis appears to have been averted, it is another sign that the higher interest rate regime designed to fight inflation is beginning to cause stress in the economy.

Status of endowment fund reserves

Distributions for FY2022 and FY2023 are well secured.

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

Compensation Committee – April 6, 2023

Land Board Audit Committee – April 25, 2023

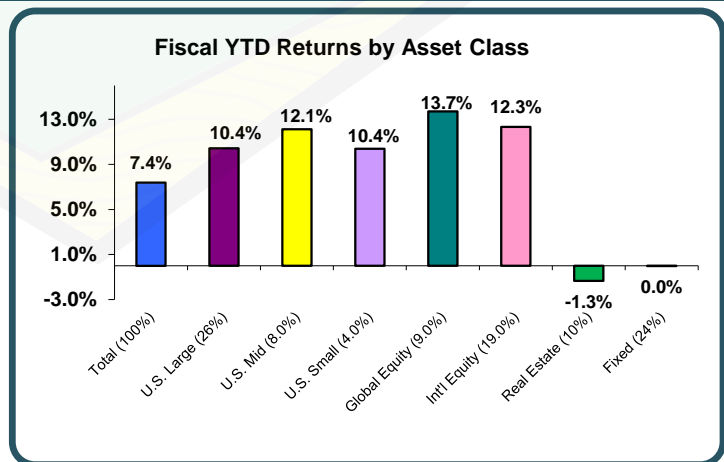
Board Meeting – May 16, 2023

	<u>Month</u>	<u>FYTD</u>
Beginning Value of Fund	2,836,040,564	\$ 2,723,562,805
Distributions to Beneficiaries	(8,359,583)	(75,486,247)
Land Revenue net of IDL Expenses	6,567,241	48,458,616
Change in Market Value net of Investment Mgt. Expenses	44,332,778	182,045,826
Current Value of Fund	\$ 2,878,581,000	\$ 2,878,581,000

	<u>Current</u> <u>Month</u>	<u>Calendar</u> <u>Y-T-D</u>	<u>Fiscal</u> <u>Y-T-D</u>	<u>One</u> <u>Year</u>	<u>Three</u> <u>Year</u>	<u>Five</u> <u>Year</u>	<u>Ten</u> <u>Year</u>
Gross Returns							
Total Fund	1.5%	4.5%	7.4%	-5.2%	12.1%	6.8%	7.6%
<i>Total Fund Benchmark*</i>	1.9%	4.9%	6.7%	-5.2%	10.7%	6.3%	7.2%
Total Fixed	2.1%	3.1%	0.0%	-5.4%	-1.2%	1.2%	1.4%
<i>BBG U.S. Agg. (Ag)</i>	2.5%	3.0%	-0.1%	-4.8%	-2.1%	1.2%	1.4%
Total Equity	1.5%	6.7%	11.7%	-6.4%	17.9%	8.8%	9.9%
<i>57% R3 29% Ax 14% AC</i>	2.7%	7.1%	10.0%	-7.3%	16.2%	7.7%	9.3%
Domestic Equity	0.5%	5.7%	10.8%	-7.8%	19.5%	10.0%	11.6%
<i>Russell 3000 (R3)</i>	2.7%	7.2%	9.7%	-8.6%	18.5%	10.5%	11.6%
Global Equity	3.6%	7.4%	13.7%	-4.4%	16.6%	9.0%	7.8%
<i>MSCI ACWI (AC)</i>	3.1%	7.3%	9.7%	-7.4%	15.4%	6.9%	8.1%
Int'l. Equity	2.4%	8.3%	12.3%	-4.6%	15.3%	6.3%	6.3%
<i>MSCI ACWI ex-US (Ax)</i>	2.4%	6.9%	10.0%	-5.1%	11.8%	2.5%	4.2%
Real Estate			-1.3%	4.8%	7.8%	7.4%	

* Benchmark:38% Russell 3000 19% ACWI ex-US 9% AC 24% BB Agg. 10% OD

	<u>Mkt Value</u>	<u>Allocation</u>
Domestic Equity	\$ 1,071.0	37.2%
Large Cap	728.7	25.3%
Mid Cap	225.1	7.8%
Small Cap	117.1	4.1%
Global Equity	279.2	9.7%
Int'l Equity	576.5	20.0%
Fixed Income	655.4	22.8%
Real Estate	288.3	10.0%
Cash	9.4	0.3%
Total Fund	\$ 2,878.6	100.0%



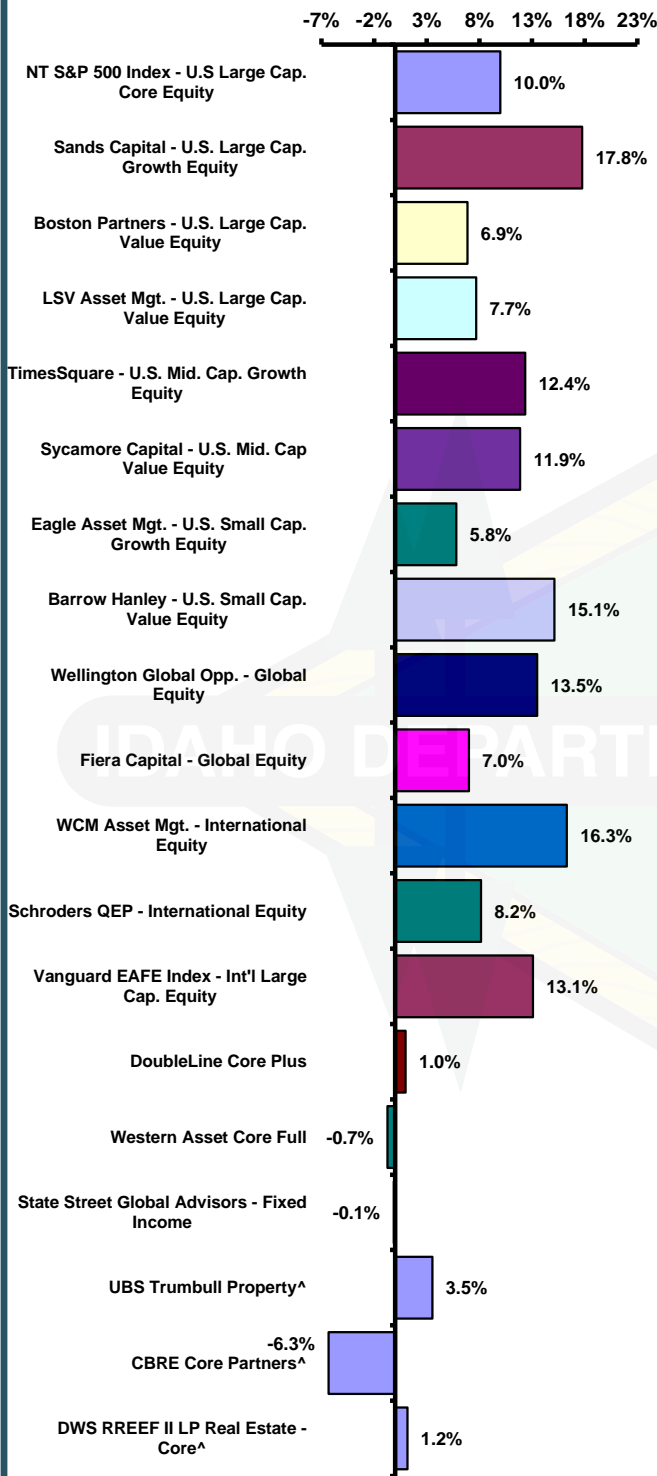
Endowment Fund Staff Comments:

The portfolio ended the month in positive territory despite considerable volatility during the month as Silicon Valley Bank and Signature Bank collapsed and Swiss authorities facilitated a forced marriage between UBS and Credit Suisse. Silicon Valley Bank was the sixteenth largest bank in the United States and was considered the lifeblood of high-tech startup funding. Swift action by the FDIC, Fed and Treasury to assure depositors that their funds were safe and accessible and the creation of a new Bank Term Funding Program aimed at safeguarding deposits provided investors with some assurance that this wasn't the beginning of a systemic banking crisis. While a full-blown crisis appears to have been averted, it is another sign that the higher interest rate regime designed to fight inflation is beginning to cause stress in the economy.

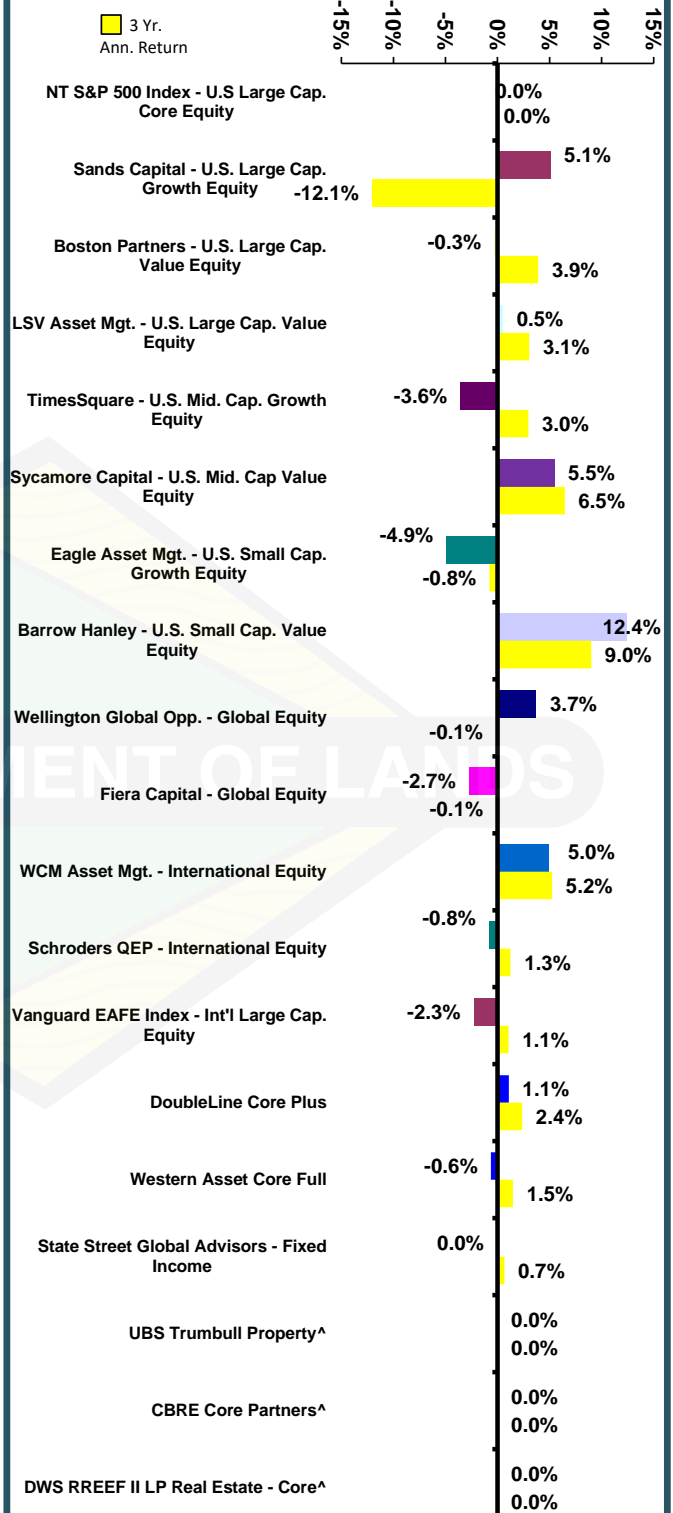
March 31, 2023

INVESTMENT REPORT

FYTD Manager Returns



Manager Relative Returns Fiscal YTD and 3-Yr Ave*



^ Most recent valuation. * I-T-D

STATE BOARD OF LAND COMMISSIONERS

April 18, 2023
Consent Agenda

Subject

Authorization to purchase one Forest Legacy Program conservation easement, known as South Dawson, comprising 655 acres of privately-owned forestland in Boundary County

Question Presented

Shall the Land Board authorize the Department to acquire the South Dawson conservation easement?

Background

- The Idaho State Board of Land Commissioners authorizes the Idaho Department of Lands to acquire such interests by voluntary, cooperative means and to create a conservation easement pursuant to Idaho Code Title 55, Chapter 21.
- The Cooperative Forestry Assistance Act (the "Act") of 1978 (16 U.S.C. 2101 et. seq.), as amended by Section 1217 and Title XII of the Food, Agriculture, Conservation Trade Act of 1990 (16 U.S.C. 2103c), established the federal Forest Legacy Program to protect environmentally important forestlands threatened with conversion to non-forest use.
- The Forest Legacy Program is funded through the Land and Water Conservation Fund, which was established by Congress in 1965, in part, to assist states in conserving vital working lands, wildlife habitats, and outdoor recreation. These funds come from a small portion of the royalties paid by energy companies drilling for oil and gas on public land on the Outer Continental Shelf.

Discussion

The Forest Legacy Program (FLP)—a federal program in partnership with states—seeks to keep working forests working (Attachment 1-FLP Fact Sheet). Through a federal grant, Idaho's FLP purchases conservation easements (CEs) on private forestlands that might otherwise be converted to non-forest uses. Idaho's FLP CEs are designed to conserve the economic and environmental values that forestlands provide without removing the property from private ownership.

The FLP is an entirely voluntary program that offers willing landowners the opportunity to capture part of the "development value" of their land while receiving assurance that the forestland will remain a working forest forever. Idaho's FLP CEs restrict development and subdivision, require sustainable forestry practices through the implementation of a Forest Stewardship Plan, and protect other environmental values. Federal grant funds provide up to

75% of the program costs for the purchase of CEs on private forestlands with a 25% non-federal match requirement. Eligible program costs include conservation easement value as well as associated due diligence expenses. Eligible non-federal cost-share includes fully donated CEs, bargain sale CEs, in-kind services, and non-federal cash contributions.

The South Dawson CE is part of the Moyie River Corridor FLP Project (Attachment 2- Map). There are seven properties in this project; this would be the first to close. Molpus Woodlands Group, on behalf of its client landowners Nordic Crystal Falls LLC, wishes to convey this CE to the Idaho Department of Lands to conserve this forestland in perpetuity, thereby protecting the economic and environmental values while keeping the property in private ownership. This CE acquisition will be a bargain sale in which the 25% non-federal match will consist of donated easement value. The table below summarizes the conservation easement costs.

Landowner	Appraised CE Value	Landowner Donation	FLP Contribution
South Dawson	\$2,072,000	\$506,000	\$1,566,000

The South Dawson conservation easement is consistent with the goals and objectives of Idaho's FLP and will protect the following significant conservation values:

- Timber:** Idaho's Forest Action Plan identifies the area where the project lands are located as one of the highest priority areas for forestland protection in the state. According to Boundary County's Comprehensive Plan, the harvest of timber and other products from forestland in Boundary County is essential to the local economy.
- Wildlife Habitat:** Project lands contain some of the most valuable wildlife habitat in Idaho, supporting an abundant assortment of game and non-game species including federally-listed threatened species such as grizzly bear and Canada lynx.
- Public Recreation:** The conservation easement terms ensure that these lands will remain accessible to the general public for non-commercial recreational uses including hunting, trapping, fishing, biking, hiking, cross-country skiing, and wildlife viewing.
- Landscape Scale Conservation Impact:** The Moyie River Corridor project is located in an area of high conservation priority. Over twenty existing FLP conservation easements are located within 10 miles of this property.

The project has garnered broad public support by various public and private entities (Attachment 3-Public Support). These forestlands have substantial and significant conservation and economic values that are of great importance to the people of Idaho. The protection of these values will yield a significant public benefit.

Recommendation

Authorize the Idaho Department of Lands to acquire the South Dawson conservation easement.

Board Action

Attachments

1. Forest Legacy Program Fact Sheet
2. Map
3. Public Support





Forest Legacy Program Fact Sheet

The Forest Legacy Program (FLP) is a program that seeks to protect privately owned, economically and environmentally important forestlands that are threatened by conversion to non-forest uses. FLP is a voluntary program that, through the purchase of conservation easements, operates on the “willing buyer, willing seller” principle. Lands covered by a FLP conservation easement stay in private ownership and continue to be managed for traditional uses such as forest management.

1. What is a conservation easement?

A legal instrument through which certain rights, such as subdivision and development, are transferred from a landowner to a non-profit organization or government agency.

The grantee organization does not gain the right to subdivide or develop; rather, it holds those restrictions “in trust” and ensures that no one uses the rights restricted by the grantor.

A conservation easement is perpetual and runs with the land. Idaho Code Title 55, Chapter 21 is Idaho’s Uniform Conservation Easement Act.

2. Where does FLP funding come from?

- FLP is funded through the Land and Water Conservation Fund (LWCF), which was established in 1965, in part, to assist states in conserving vital working lands, wildlife habitats and outdoor recreation.
- Each year, a small percentage of royalties paid by energy companies drilling for oil and gas on public land on the Outer Continental Shelf is deposited into the LWCF account in the federal treasury. The premise of LWCF is essentially to protect one natural resource in exchange for the depletion of another.
- The U.S. Forest Service (USFS) administers the program at the national level and provides grants from LWCF to states to carry out the FLP.

3. What qualifies projects for consideration?

- Meets FLP’s primary objective to keep working forests working
- 75% forested
- Privately owned
- Includes a minimum 25% non-federal match
- Must be within a Priority Landscape Area as identified in Idaho’s Forest Action Plan
- Must be carried out in partnership with another state agency or land trust organization

4. How are projects evaluated and selected?

- Projects are evaluated using the following criteria:
 - Importance: criteria reflect the environmental, economic and social values the forest provides
 - Threat: criteria evaluate the likelihood of conversion from forest to non-forest uses that would result in a loss of forest values and public benefits
 - Strategic: criteria reflect the relevance to conservation efforts in a broader perspective (contributes to a conservation strategy and complements other intact forests)
- Projects are evaluated and ranked by a national review panel in Washington DC. The review panel, comprised of 6 state agency representatives and 6 USFS representatives from across the U.S., is tasked with ranking all projects submitted nationwide.

5. How are conservation easement values determined?

- A conservation easement purchase price is determined by an appraisal which conforms to the guidelines of two professional appraisal standards: the Uniform Standards of Professional Appraisal Practice (USPAP) and the Uniform Appraisal Standards of Federal Land Acquisitions (UASFLA or “Yellow Book”). Prior to the acquisition, the FLP requires an independent appraisal review.
- Appraisers meet rigorous private and federal appraisal standards, education, and training and must have considerable experience appraising projects of the same type and complexity.

6. How are federal funds conveyed for Forest Legacy acquisitions?

- Federal funds are directly distributed by the USFS to a title company that handles the closing transaction and recording of the conservation easement.
- The federal funding used to purchase a conservation easement cannot be higher than the appraised fair market value.

7. Who holds title to the FLP easement?

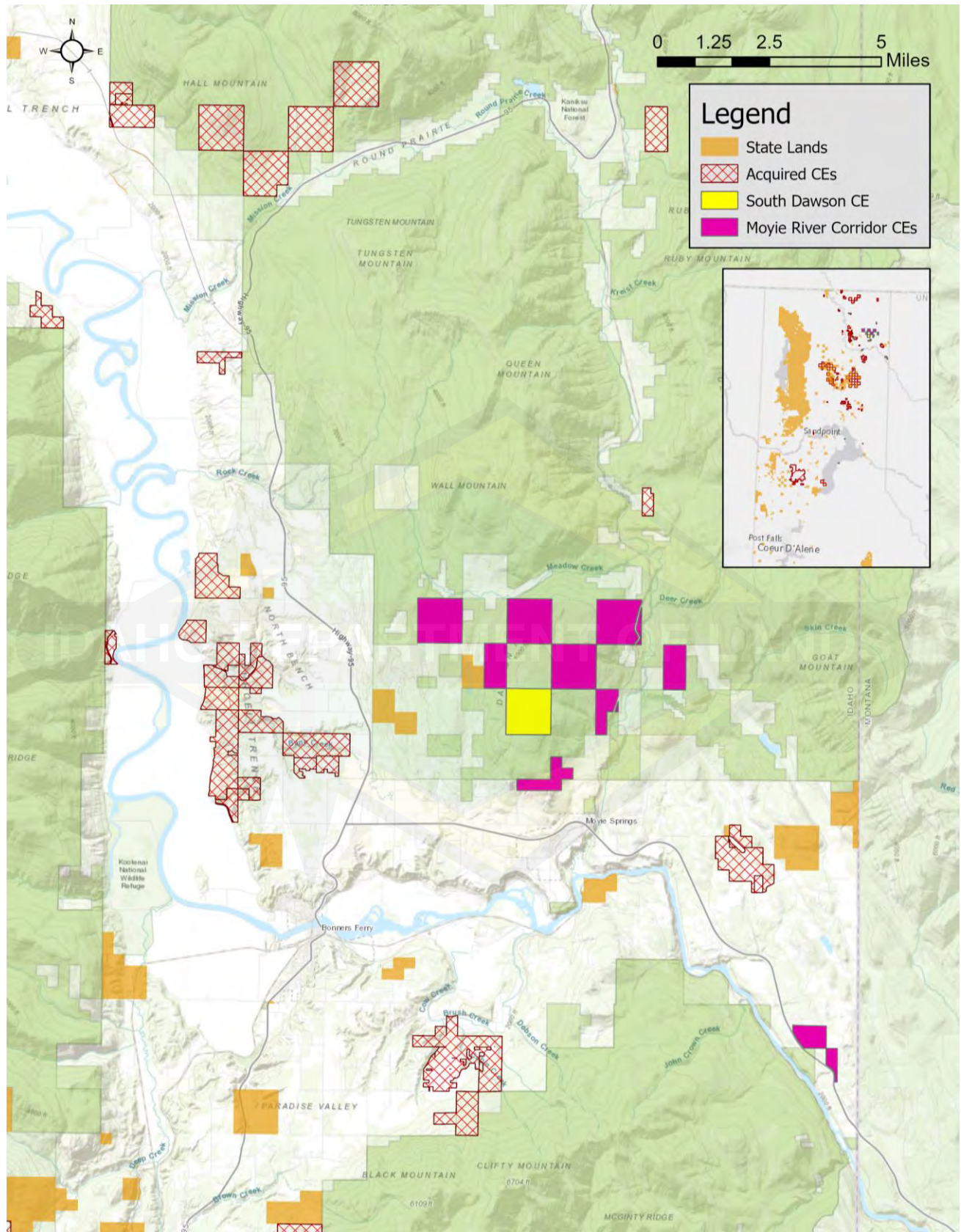
The State of Idaho

8. How do conservation easements impact property taxes?

The property is still in private ownership and taxed as such. Current property taxes are not impacted.

For more information, visit:

<http://www.idl.idaho.gov/forestry/forest-legacy-program>



Public Support of the FY2020-21 Moyie River Corridor Project in Boundary County

The following local, state and federal government agencies and local, state and regional conservation organizations provided written letters in support of the purchase of a conservation easement on the Moyie River Corridor project lands:

- City of Bonners Ferry
- City of Moyie
- Former Idaho State Senator, Jim Woodward
- Former Idaho State Senator, Shawn Keough
- Foust Logging, Inc.
- Idaho Department of Fish and Game
- Idaho Forest Owners Association
- Idaho Forest Group
- Inland Forest Management
- Stimson Lumber Co.
- Trans-border Grizzly Bear Project
- US Fish & Wildlife Service
- US Forest Service – Idaho Panhandle National Forest
- Vital Ground Foundation
- Yellowstone to Yukon Conservation Initiative

The Boundary County Commissioner's received a project update on 11/7/2022.

STATE BOARD OF LAND COMMISSIONERS

April 18, 2023
Consent Agenda

Subject

Request to declare and dispose of surplus property owned by the Idaho Fish and Game Department

Question Presented

Shall the Land Board authorize the Idaho Department of Lands (Department) to declare and dispose of the Idaho Fish and Game Department property known as the former Clark Fork Fish Hatchery?

Background

The Idaho Department of Fish and Game (IDFG) requested approval via a letter dated November 4, 2022, for the State Board of Land Commissioners (Land Board) to declare its undivided interest in the Clark Fork Fish Hatchery (Hatchery) as surplus property, pursuant to the Surplus Property Act, Idaho Code §§ 58-331–335 (Attachment 1).

The Hatchery consists of approximately 20 acres of land with improvements, located in Bonner County, near the town of Clark Fork (Attachment 2-Map). The parcel is irregular in shape, with legal access to East Spring Creek Road, which runs adjacent to the western property boundary. The improvements on the property include three residential buildings, three freestanding garage/shop structures, and three buildings associated with the use as a fish hatchery, as well as the concrete fish rearing raceways. Many of the buildings contain hazardous materials in the form of lead-based paint and asbestos containing materials, according to a report commissioned by IDFG in May 2016. Only one of the three residential structures is habitable.

The land was acquired by IDFG in 1936 and served as a fish hatchery from the 1930s until operations ceased in 2000, due to the Infectious Pancreatic Necrosis Virus, and the fact that the hatchery fish could not be protected from the disease. Since 2000, the facility has served as a workstation for regional IDFG staff and as a residence for contractors working on IDFG projects. Operations moved in 2021 to other facilities in the region and the Hatchery is no longer needed for the purposes of IDFG.

IDFG holds three non-consumptive water rights on the property, historically used for fish propagation. The Department will ascertain the continued viability of the water rights and determine whether such water rights can be used for other state needs or purposes. The beneficial use identified for these water rights is fish propagation. IDFG stopped rearing fish on this station due to critical viral disease concerns in 2000. Due to the potential risk of

amplifying and spreading disease, IDFG believes this property should be deed-restricted to preclude any future use for fish propagation.

The Hatchery was appraised by H. Scott Calhoun of H.S. Calhoun, LLC in January 2023, and has an "as-is" market value of \$400,000.

Discussion

Pursuant to Idaho Code § 58-331, custody and control of the property will be transferred to, and title will be vested in, the Land Board for disposition. Per Idaho Code § 58-332, the Department, on behalf of the Land Board, will notify other state agencies to determine if they are interested in purchasing the property. If no other state agencies express interest in the property, the Department will offer the property to tax-supported agencies, including federal, city, and county agencies, to determine if there is any interest in purchasing it. If no tax-supported entity expresses interest, the Department will offer the property at public auction in Bonner or Ada County. If the property does not sell at auction, the Department will advertise the property and accept adequate and valuable consideration in a negotiated sale.

Recommendation

Direct the Department to offer the Hatchery property for disposition in accordance with the Surplus Property Act, Idaho Code §§ 58-331–335, and authorize the Department to offer the Hatchery at public auction in Bonner or Ada County.

Board Action

Attachments

1. IDFG Surplus Request, dated November 4, 2022
2. Map



IDAHO DEPARTMENT OF FISH AND GAME

600 S Walnut / P.O. Box 25
Boise, Idaho 83707

Brad Little / Governor
Ed Schriever / Director

November 4, 2022

State Board of Land Commissioners
954 West Jefferson Street
P.O. Box 83720
Boise, ID 83720-0050

RE: Request for Surplus Land Sale

Dear Ladies and Gentlemen:

The Idaho Department of Fish and Game and its Commission (IDFG) declared as surplus to its needs, the following property:

1. Clark Fork Hatchery – 20 acre, Bonner County

T56N, R2E, BM. Sec. 27, portion of E½SE¼ described as follows: Commencing at a point which lies S 89° 39' W 1,067.8 feet and 72 feet N of the SE corner of Sec. 27, thence N 6° 30' E 600 feet, thence N 63° 52' E 600 feet, thence N 22° 35' E 1,192 feet, thence N 89° W 574 feet, thence S 24°29' W 300 feet, thence S 49° 27' W 126.6 feet, thence S 21° 54' W 572.2 feet, thence S 14° 58' W 225 feet, thence S 20° 31' W 191.2 feet, thence S 6° 30' W 695.5 feet, thence N 89° 39' E 150.9 feet to the place of beginning. Subject to a right-of-way 12 feet in width for an existing pipeline running in a N-S direction and owned by the city of Clark Fork.

The property was originally acquired and used as a fish hatchery. Hatchery operations ceased in 2000 because fish present in the facilities source water carried Infectious Pancreatic Necrosis Virus, and the hatchery fish could not be protected from the disease. Since 2000, the facility has served as a work station for Regional IDFG staff and as a residence for contractors working on IDFG projects. Operations moved in 2021 to other facilities in the region and the property is no longer needed.

The property was acquired using IDFG funds obtained through the sale of hunting, fishing, and trapping licenses. IDFG is aware of the following special features of the property:

1. Known hazards: A Site Evaluation conducted in 2016 identified hazardous construction materials (lead paint and asbestos) to be present in some of the structures on the property (complete report available as needed)
2. Existing utilities: The property has electric and phone on site. There is currently a plan for Avista Power Company to replace the existing 3-phase power with a single phase power system.
3. Leasehold interests and existing leases: None

Keeping Idaho's Wildlife Heritage

Equal Opportunity Employer • 208-334-3700 • Fax: 208-334-2114 • Idaho Relay (TDD) Service: 1-800-377-3529 • <https://idfg.idaho.gov>

ATTACHMENT 1

4. Mineral and Water Rights: IDFG holds three water rights (96-2166, 96-4564, and 96-8454; see Attachment A). The beneficial use identified for these water rights is fish propagation. The Department stopped rearing fish on this station due to critical viral disease concerns; the Department also would not want another owner to rear fish on this station because of the potential to amplify and spread disease
5. Improvement: The site totals 20 acres and includes 3 residences 2 hatchery buildings, and multiple accessory buildings in addition to the concrete fish rearing raceways (Attachment B).
6. Easements and encumbrances: There are three easements that pertain to the property. Two of them are documented in Attachment C. The third is documented in the warranty deed (Attachment D), which has language “reserving the right to use the present road as now constructed from the highway on the Western boundary of said tract in an Easterly direction to the buildings located East of the tract hereby conveyed and being in the East Half of the Southeast Quarter (E1/2 SE1/4) of said Section 27, the said road to be used as a private crossing only, and not as a public highway, subject, however, to the right of the grantee herein to change the location of said road and the bridge across Spring Creek and provide the grantors with another suitable roadway for reaching said tract of land without expense to the grantors.” The neighbor to the hatchery has access to his property through this easement.

We hereby request that the above described lands be approved for sale. If you have any questions, please feel free to contact Lands Program Coordinator Casey Pozzanghera at 208-287-2713. I thank you in advance for your time.

Sincerely,

Michael S Pearson,
CGFM, CPA Chief, Bureau
of Administration

Digitally signed by Michael S
Pearson, CGFM, CPA Chief,
Bureau of Administration
Date: 2022.11.04 07:56:02 -06'00'

Michael S. Pearson, CGFM, CPA

MP/CBP

Attachments:

- A. Water Rights
- B. Site Improvements
- C. Easements
- D. Warranty Deed

Attachment A – Water Right Reports

WATER RIGHT REPORT

Close

8/11/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. **96-2166**

Owner Type Name and Address

Current Owner STATE OF IDAHO
DEPT OF FISH & GAME
C/O OFFICE OF THE ATTORNEY GENERAL
MICHAEL ORR
PO BOX 83720
BOISE, ID 83720-0010
(208) 334-2400

Priority Date: 04/17/1946

Basis: License

Status: Active

Source Tributary

SPRING CREEK LIGHTNING CREEK

Beneficial Use From To Diversion Rate Volume

FISH PROPAGATION / / 3 CFS

Total Diversion 3 CFS

Location of Point(s) of Diversion:

SPRING CREEK NESE Sec. 27 Township 56N Range 02E BONNER County

Place(s) of use:

Place of Use Legal Description: FISH PROPAGATION BONNER County

<u>Townshi</u>	<u>Rang</u>	<u>Sectio</u>	<u>Lo</u>	<u>Trac</u>	<u>Acre</u>	<u>Lo</u>	<u>Trac</u>	<u>Acre</u>	<u>Lo</u>	<u>Trac</u>	<u>Acre</u>	<u>Lo</u>	<u>Trac</u>	<u>Acre</u>
<u>p</u>	<u>e</u>	<u>n</u>	<u>t</u>	<u>t</u>	<u>s</u>	<u>t</u>	<u>t</u>	<u>s</u>	<u>t</u>	<u>t</u>	<u>s</u>	<u>t</u>	<u>t</u>	<u>s</u>
56N	02E	27			SESE									

Conditions of Approval:

1. TRIBS. FOR THIS RT. ARE LIGHTNING CK. & CLARK FORK R.

Dates:

Licensed Date: 02/23/1948

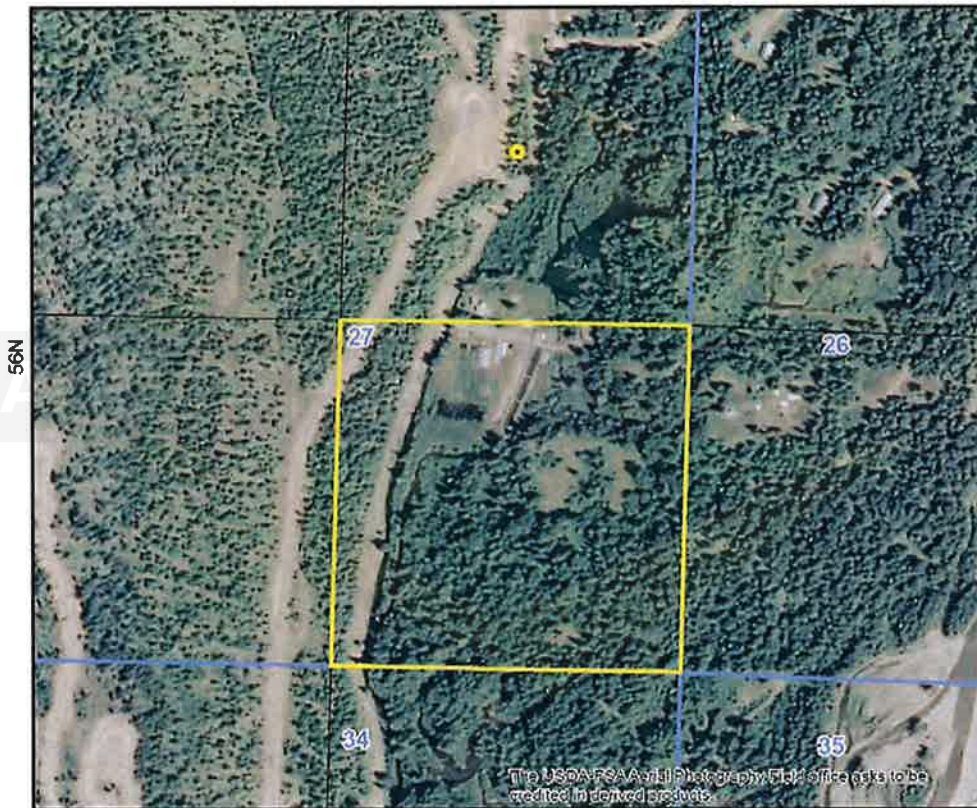
State of Idaho
Department of Water Resources






**Water Right
96-2166**

FISH PROPAGATION


The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.

02E



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.05 0.1 0.2 Miles



Map produced on August 11, 2021

WATER RIGHT REPORT

Close

8/11/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 96-4564

Owner Type Name and Address

Current Owner STATE OF IDAHO
DEPT OF FISH & GAME
C/O OFFICE OF THE ATTORNEY GENERAL
MICHAEL ORR
PO BOX 83720
BOISE, ID 83720-0010
(208) 334-2400

Priority Date: 01/01/1934

Basis: Statutory Claim

Status: Active

Source Tributary

SPRING CREEK LIGHTNING CREEK

Beneficial Use From To Diversion Rate Volume

FISH PROPAGATION 1/01 12/31 15 CFS

Total Diversion 15 CFS

Location of Point(s) of Diversion:

SPRING CREEK NESE Sec. 27 Township 56N Range 02E BONNER County

Place(s) of use:

Place of Use Legal Description: FISH PROPAGATION BONNER County

<u>Townshi</u>	<u>Rang</u>	<u>Sectio</u>	<u>Lo</u>	<u>Tract</u>	<u>Acre</u>	<u>Lo</u>	<u>Trac</u>	<u>Acre</u>	<u>Lo</u>	<u>Trac</u>	<u>Acre</u>	<u>Lo</u>	<u>Trac</u>	<u>Acre</u>
<u>p</u>	<u>e</u>	<u>n</u>	<u>t</u>	<u>s</u>	<u>t</u>	<u>t</u>	<u>s</u>	<u>t</u>	<u>t</u>	<u>s</u>	<u>t</u>	<u>t</u>	<u>s</u>	<u>t</u>
56N	02E	27		NES			SESE							
				E										

Conditions of Approval:

1. Fish propagation use at Clark Fork Hatchery.

State of Idaho
Department of Water Resources






**Water Right
96-4564**

FISH PROPAGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.

02E



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.075 0.15 0.3 Miles



Map produced on August 11, 2021

Keeping Idaho's Wildlife Heritage

WATER RIGHT REPORT

Close

8/11/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 96-8454

Owner Type Name and Address

Current Owner STATE OF IDAHO
DEPT OF FISH & GAME
C/O OFFICE OF THE ATTORNEY GENERAL
MICHAEL ORR
PO BOX 83720
BOISE, ID 83720-0010
(208) 334-2400

Priority Date: 04/09/1986

Basis: License

Status: Active

Source Tributary

GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
FISH PROPAGATION	1/01	12/31	0.19 CFS	137.5 AFA
Total Diversion			0.19 CFS	137.5 AFA

Location of Point(s) of Diversion:

GROUND WATER SESE Sec. 27 Township 56N Range 02E BONNER County

Licensed Diversion Capacity: 0.19

Place(s) of use:

Place of Use Legal Description: FISH PROPAGATION BONNER County

<u>Townshi</u>	<u>Rang</u>	<u>Sectio</u>	<u>Lo</u>	<u>Tract</u>	<u>Acre</u>	<u>Lo</u>	<u>Trac</u>	<u>Acre</u>	<u>Lo</u>	<u>Trac</u>	<u>Acre</u>	<u>Lo</u>	<u>Trac</u>	<u>Acre</u>
<u>p</u>	<u>e</u>	<u>n</u>	<u>t</u>		<u>s</u>	<u>t</u>	<u>t</u>	<u>s</u>	<u>t</u>	<u>t</u>	<u>s</u>	<u>t</u>	<u>t</u>	<u>s</u>
56N	02E	27		NES			SESE							
				E										

Conditions of Approval:

1. 033 Use of water under this right is subject to policies set forth in the State of Idaho Water Plan, including Policy No. 32F.
2. 027 Use of water under this right shall be non-consumptive.

Keeping Idaho's Wildlife Heritage

3. 09C Return flow if discharged to a subsurface system must be authorized by a separate injection well permit, and return flow if discharged to a surface water system shall meet Idaho Water Quality Standards.
4. R03 Measuring devices of a type approved by this Department shall be maintained at the point of diversion and point of effluent discharge.
5. The facility volume is 865.6 cubic feet.

Dates:

Licensed Date: 06/15/1994

Decreed Date:

Permit Proof Due Date: 7/1/1987

Permit Proof Made Date: 11/5/1986

Permit Approved Date: 6/16/1986



IDAHO DEPARTMENT OF LANDS

Keeping Idaho's Wildlife Heritage

Equal Opportunity Employer • 208-334-3700 • Fax: 208-334-2114 • Idaho Relay (TDD) Service: 1-800-377-3529 • <https://idfg.idaho.gov>

State of Idaho
Department of Water Resources




**Water Right
96-8454**

FISH PROPAGATION


The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.

02E



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.075 0.15 0.3 Miles



Map produced on August 11, 2021

Keeping Idaho's Wildlife Heritage

Attachment B – Site Improvements



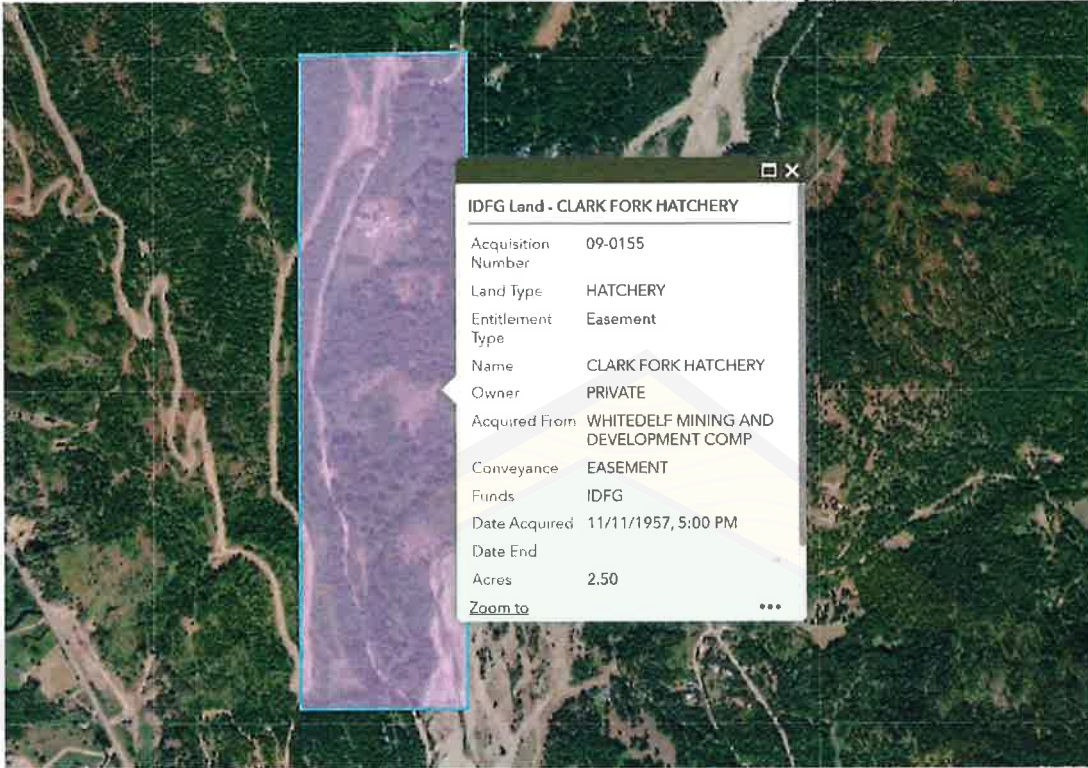
IDAHO DEPARTMENT OF LANDS

Keeping Idaho's Wildlife Heritage

Equal Opportunity Employer • 208-334-3700 • Fax: 208-334-2114 • Idaho Relay (TDD) Service: 1-800-377-3529 • <https://idfg.idaho.gov>

Attachment C – Easements

IDFG ACNO: 09-0155 Clark Fork Fish Hatchery (Easement)



09-0155: T56N, R2E, A right-of-way along Spring Creek for maintenance of check dams within the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Sec. 27 and E $\frac{1}{2}$ NE $\frac{1}{4}$ of Sec. 34. (Easement: Total 2.5 acres)

Acquired from: WHITEDELPH MINING AND DEVELOPMENT COMP - 11/12/1957; cost = \$1.00

IDFG ACNO: 09-0156 Clark Fork Fish Hatchery (Easement)



A strip of land 10 feet wide, west of and immediately adjacent to the pipeline easement held by the City of Clark Fork, beginning eight feet west of the following described center line: Beginning at a point on the south line of Section 27, T56N, R2E, BM. 970.0 feet west of the southeast corner of Section 27, then N 14°39' E 1,970.0 feet; then N 24°39' E approximately 184 feet to the north line of the property owned by the Idaho Department of Fish and Game to the true point of beginning and then continuing N 24°39' E approximately 465 feet to the south line of the acre tract owned by the City of Clark Fork.

A reference to a pipeline easement for the Village of Clark Fork is referenced in the warranty deed.

Attachment D - Warranty Deed

Recorded Sept 17, 1942

THIS INDENTURE, made this 1st day of May, in the year of our Lord one thousand nine hundred and thirty-six, between FERN SLAVERS, GORDON DAUGHARTY, Jr., MORN DAUGHARTY, and ETHEL LOUISE DAUGHARTY FLEMING, being all of the heirs of JOSEPHINE DAUGHARTY, deceased, parties of the first part, and State of Idaho, Department of Fish and Game the party of the second part.

WITNESSETH: That the said parties of the first part, for and in consideration of the sum of SEVEN HUNDRED AND NO/100 DOLLARS (\$700.00), 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 successors and assigns forever, all the following described real estate situated in the County of Bonner, State of Idaho, to-wit:

A portion of the East Half of the Southeast quarter (E1/2SE1/4) of Section 27, Township 50 North Range 2 East E. M., described as follows:

Beginning at a point South 89° 39' West 1037.6 feet and 72 feet North of the Southeast Corner of Section 27, Township 50 North, Range 2 East E. M.; running thence North 6° 30' East 600 feet; thence North 63° 52' East 600 feet; thence North 22° 35' East 1192 feet; thence North 39° West 574 feet; thence South 24° 29' West 300 feet; thence South 49° 27' West 126.8 feet; thence South 21° 54' West 572.2 feet; thence South 14° 52' West 225 feet; thence South 20° 31' West 191.2 feet; thence South 6° 30' West 695.5 feet; thence North 89° 39' East 150.9 feet to the place of beginning containing twenty (20) acres more or less.

Excepting therefrom all public roads constructed, used or now existing on said premises.

Subject to an easement heretofore granted to the Village of Clarke Fork for the purpose of constructing, maintaining and operating a pipe line over and across said premises for the carrying of water in connection with the operation and maintenance of a water system by said Village.

Reserving the right to use the present road as now constructed from the highway on the Western boundary of said tract in an Easterly direction to the buildings located East of the tract hereby conveyed and being in the East Half of the Southeast quarter (E1/2SE1/4) of said

Section 27, the said road to be used as a private crossing only, and not as a public highway, subject, however, to the right of the grantee herein to change the location of said road and the bridge across Spring Creek and provide the grantors with another suitable roadway for reaching said tract of land without expense to the grantors.

TOGETHER, with all and singular the tenements, hereditaments and appurtenances hereto 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 premises and described premises, together with the appurtenances, unto the part, of the second part, and to his successors 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 part, of the second part, its successors and assigns, against the said parties of the first part, and their heirs, and against all and every person and persons whatsoever, 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 hands and seals this 1st day of April above written.

Signed, sealed and delivered in the Presence of:

_____	<u>Gordon Langharty Jr.</u>
<u>W.E. Johnston</u>	<u>Tom Slawson</u>
<u>A.E. Johnston</u>	<u>Mark Langharty</u>
<u>Oliver F. Wolf</u>	<u>Ethel Louise Langharty</u>

STATE OF IDAHO)
County of Blaine,)

On this 2 day of May, in the year 1936,
before me, W.E. Johnston, a Notary Public in and for
said County and State, personally appeared FERN SLAVENS, known to
me to be the person whose name is subscribed to the within instru-
ment, and acknowledged to me that she executed the same.

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

W.E. Johnston
Notary Public for Idaho
Residing at Clark Fork Idaho

My Commission Expires December 5th, 1936.

STATE OF Montana)
County of Sanders) ss

On this 1st day of May, in the year 1936,
before me, C.B. Jursan, a Notary Public in and for
said County and State, personally appeared GORDON DAUGHARTY, Jr.,
known to me to be the person whose name is subscribed to the with-
in instrument, and acknowledged to me that he 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.

C.B. Jursan
Notary Public for
Residing at:
My Commission expires:

NOTARY PUBLIC, FOR THE STATE OF MONTANA, RESIDING AT PLAINS,
SANDERS COUNTY. MY COMMISSION EXPIRES APRIL 19, 1939.

STATE OF Idaho)
County of Bonner) ss

On this 2 day of May, in the year 1936,
before me, W.E. Johnston a Notary Public in and for
said County and State, personally appeared MURK DAUGHARTY, known
to me to be the person whose name is subscribed to the within
instrument, and acknowledged to me that he executed the same.

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

W.E. Johnston

Notary Public for
Residing at: Clark Fork Idaho
My Commission expires:
My Commission Expires December 31st, 1937

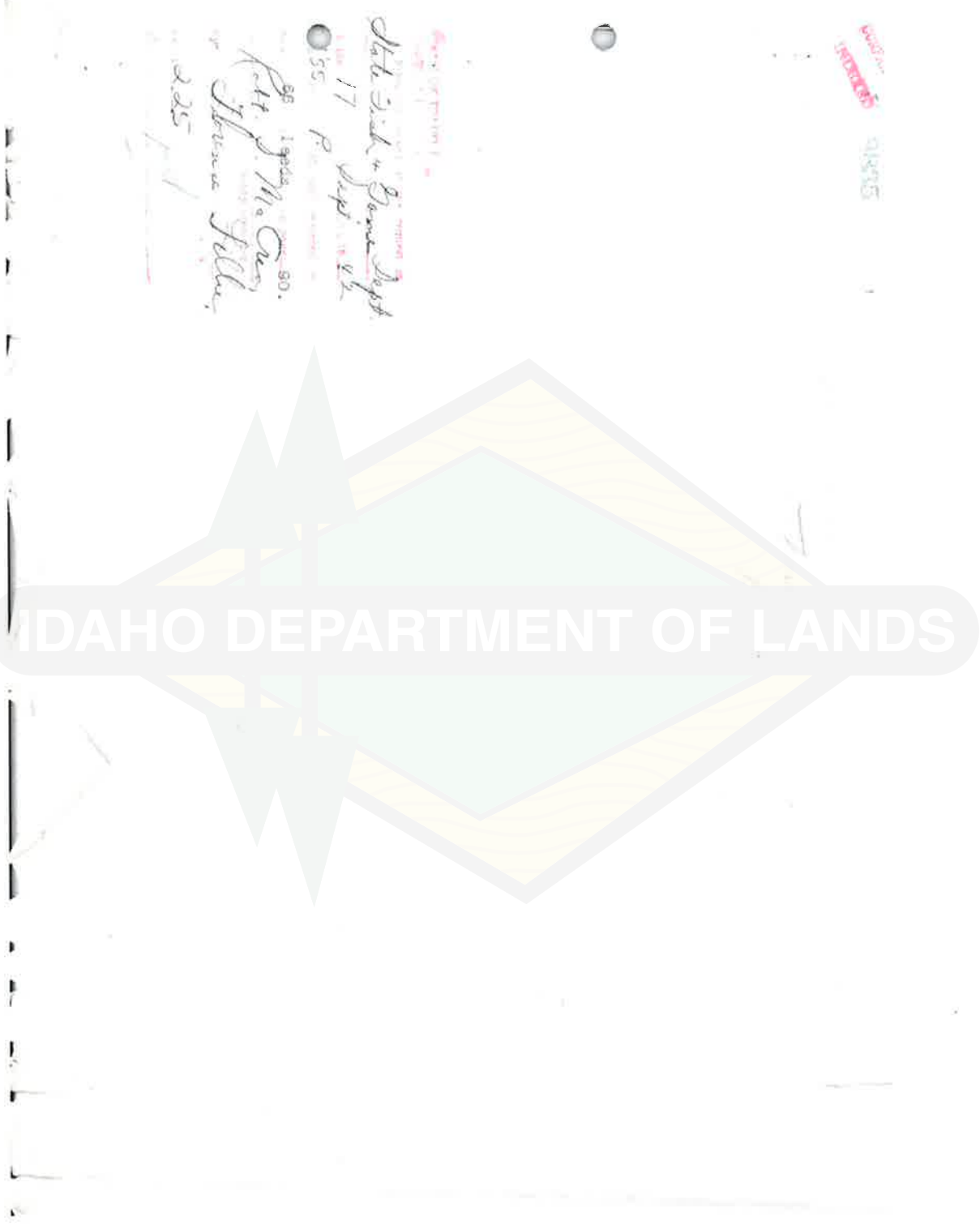
STATE OF Washington)
County of Pend Oreille) ss

On this 2nd day of May, in the year 1936,
before me, Oscar F. Wolf a Notary Public in and for
said County and State, personally appeared ETHEL LOUISE DAUGHARTY
FLEMING, known to me to be the person whose name is subscribed to
the within instrument, and acknowledged to me that she executed
the same.

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

Oscar F. Wolf

Notary Public for Washington
Residing at: Metalline Falls
My Commission expires: Sept. 19, 1937



IDAHO DEPARTMENT OF LANDS

Keeping Idaho's Wildlife Heritage

Equal Opportunity Employer • 208-334-3700 • Fax: 208-334-2114 • Idaho Relay (TDD) Service: 1-800-377-3529 • <https://idfg.idaho.gov>



IDFG Surplus Disposition

Clark Fork Hatchery

Sec. 27 - T57N - R02E

Bonner County, Idaho

3/1/2023



State Surplus Property

Private



ATTACHMENT 2

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.



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.

Draft Minutes

State Board of Land Commissioners Regular Meeting

March 21, 2023

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, March 21, 2023 at the Boise City Council Chambers, Boise City Hall, 3rd Floor, 150 N. Capitol Blvd., Boise, Idaho, and via webinar. The meeting began at 9:01 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, all Land Board members were present. Governor Little, Secretary of State McGrane, and Attorney General Labrador attended at the physical location; Controller Woolf and Superintendent Critchfield attended via Zoom webinar.

Deputy Director Bill Haagenson was acting Secretary to the Board, sitting in for Director Dustin Miller. Mr. Haagenson introduced a group of new employees in town for onboarding, which includes the opportunity to attend a Land Board meeting, and asked those employees to stand up and be recognized. Governor Little welcomed everyone.

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

Regular—Action Item(s)

1. Brisbie LLC Land Exchange-Final Approval – Presented by Zane Lathim, Program Specialist-Real Estate

Recommendation: Approve the exchange and direct the Department to complete and close the as-proposed Brisbie, LLC land exchange.

Discussion:

Attorney General Labrador: This does not make any sense to me. You spent a great deal of time explaining to us why it is beneficial to the state to acquire the property in the north, but what is going to be the hidden cost to the state to convey these mineral rights and other things. You

claim there is going to be a tax benefit to the conveyor? It seems like such an uneven exchange that there is something we are not hearing about. I am trying to figure this out.

Mr. Lathim: Brisbie LLC is the land holding entity for Meta, more commonly known as Facebook. Meta is constructing a large data center at considerable expense, in the hundreds of millions of dollars. Brisbie's mission is to provide a property with the certainty of full fee title to Meta for the construction of the facility. Brisbie feels that the certainty of a consolidated estate on their property in Ada County is equitable with the value of the land that they are trading to us.

Attorney General Labrador: What is going to be the cost to the state in tax benefits to Meta because of the land exchange?

Deputy Director Haagenon: In terms of the lands we would acquire, the tax impact to the county for 125 acres of timberland would be in the range of \$3-4 per acre per year. The tax impacts on the acquired parcel in Ada County, I cannot answer how they will be taxed moving forward under that ownership.

Attorney General Labrador: We do not know those tax implications but what is the state going to be giving this company in benefits once they acquire all this land and they start building. We always hear about the economic impact, but there is always a cost to the state when we give tax benefits and other things to large corporations; do we know what that benefit is going to be?

Deputy Director Haagenon: A difficult question to answer because that is outside of our domain, what happens with other benefits or tax issues related to the future of that data center.

Governor Little: This is a large capital-intensive project. What has happened in other areas is somebody will come in from outside, buy the mineral rights, and then the purchaser of those mineral rights will wrest money out of the person doing the capital project to either politically stop it or to wring money out them. This looks like a really unbalanced exchange, but it is a half-billion-dollar project and that is why they are donating part of the value back; they are paying an ample sum to have the surety that nobody can stop their project.

Attorney General Labrador: One more follow up, who owns the mineral rights and who owns the surface rights?

Mr. Lathim: The State of Idaho owns the mineral rights on the 205-acre parcel in Ada County, and Brisbie LLC owns the surface rights.

Secretary McGrane: It was good that you presented it as more of a donation. I am inclined to support it because clearly it is in the best interest of the beneficiaries to add an additional 125 acres. Looking back at the meeting minutes from September, it felt more equitable because it did not talk about the relative values, just 125 acres versus 205 acres of mineral rights, whereas now we have the appraisals, and it is well over 100 times difference. I can appreciate where having fee simple title is valuable to the landowner in this case. When you look at the law and the constitution as it relates to land exchanges, it infers a sense of equity to make sure that the beneficiaries are not duped in any way, in any of these exchanges. This does seem beneficial to the state, but it also seems strange.

Controller Woolf: I am looking at Attachment 3, on the exchange part, does that border other state land or is that U.S. Forest Service land?

Mr. Lathim: The Brisbie property that we will be trading into is bordered on the east and west sides by existing endowment land.

Controller Woolf: I appreciate the good questions and the dialogue. One thing, from the Western Watersheds case, is that we must take into consideration only what is in the best interest of the beneficiaries. We cannot consider anything else.

Superintendent Critchfield: I appreciate the discussion and the understanding that as someone that owns land you would have a reasonable expectation that you would own everything that belongs within that parcel of land, so this seems fair and reasonable.

Board Action: A motion was made by Superintendent Critchfield that the Land Board approve the Department to move forward with the exchange. Controller Woolf seconded the motion. The motion carried on a vote of 4-1; Attorney General Labrador cast the opposing vote.

2. Benewah Land Exchange-Due Diligence Approval – *Presented by Zane Lathim, Program Specialist-Real Estate*

Recommendation: Approve proceeding with due diligence for the Benewah County land exchange proposal.

Discussion:

Governor Little: For the new Land Board members, we have done exchanges in the last few years where Benewah County has been a loser. We have taken private land and made it state land, and in my mind even though we have a constitutional obligation to do each one of these an arm's length transaction, if I had my druthers between helping a county that we have taken property away from them, I am going to default to that, because Benewah County has been a loser two of our last land exchanges, I think.

Deputy Director Haagenon: Yes, well acquisitions, Governor; two acquisitions.

Governor Little: Commissioner Short, do you want to briefly add anything?

Commissioner Short: Yes, Governor. Currently the property that we talk about trading to the state, we have not collected any taxes on it since 1943, and the county has no rock pits of their own. We are trying to correct that and help the saddle club with their lease and that type of thing so people can use that property.

Secretary McGrane: As a county person, I appreciate your comments, Governor. If there is balancing to be pursued, I would favor us acquiring more lands than less even if that requires funding from the land bank to get the right balance. I want to make sure that the county is whole in this process, but that fits in with what Commissioner Short said. Whatever we can do to help facilitate what the county needs, and more land seems better for us in the long term.

Controller Woolf: Based on our previous agenda item dealing with minerals and leases, any idea how much we are earning off the current leases, the rodeo grounds and rock quarry?

Mr. Lathim: We are in the \$500-600 per year range for both of those, so \$1,000-\$1,200 a year.

Board Action: A motion was made by Secretary of State McGrane that the Land Board authorize the Department to proceed with due diligence on the Benewah County land exchange. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

3. Negotiated Rulemaking IDAPA 20.01.01, Rules of Practice and Procedure Before the State Board of Land Commissioners – *Presented by Scott Phillips, Policy and Communications Chief*

Recommendation: Authorize the Department to initiate negotiated rulemaking for IDAPA 20.01.01 *Rules of Practice and Procedure Before the State Board of Land Commissioners*.

Discussion:

Attorney General Labrador: Is this the usual rulemaking process, are we making amendments to the rulemaking process, does the Land Board usually give you this much authority? I just want to understand all those things.

Mr. Phillips: This is very consistent with how we have done rulemaking in the past. We routinely go to the Board per the Governor's Zero-Based Regulation 5-year schedule. We review 20% of our rules every year; we come to you seeking authorization to begin the negotiated process. We go through the public process, and we bring the results of that process back to the Board for adoption as a pending rule. This is business as usual for us.

Attorney General Labrador: During this rulemaking process, do my attorneys participate with you in this process? I would feel more comfortable if Scott Campbell and others are helping with this so we can look at the rulemaking process from the legal perspective.

Mr. Phillips: Yes, our deputy attorneys general are part of the process. We started working with Angela Kaufmann last year on understanding the sideboards of the Board's authorities versus House Bill 629. We also met with the staff from Idaho Office of Administrative Hearings, and your attorneys will be part of our process as well.

Superintendent Critchfield: I understand the public comment requirement within the rulemaking process; explain what that looks like from the Land Board perspective.

Mr. Phillips: As we enter the negotiated rulemaking process, we will post information about the rulemaking on social media, we will include information on our website, we have outreach lists of interested parties that we maintain that we will be emailing about the effort, we will invite those folks to provide comment, we will invite them to the public meetings that we hold, and then we will review that information vis-à-vis the draft that we develop and make changes that are appropriate to the draft of the rulemaking.

Superintendent Critchfield: Will those notes and meeting summaries be available to us?

Mr. Phillips: Yes, they will be posted to our website for all citizens to review.

Board Action: A motion was made by Secretary of State McGrane that the Land Board authorize the Department to initiate negotiated rulemaking. Superintendent Critchfield seconded the motion. The motion carried on a vote of 5-0.

Consent—Action Item(s)

4. **Timber License Plate Fund** – Presented by Jennifer Okerlund, Director, Idaho Forest Products Commission

Recommendation: Direct the Department to proceed with the recommended educational projects developed jointly with the Idaho Forest Products Commission.

Discussion:

Controller Woolf: Thank you, Jennifer. In the past, we participated with the Forest Products group in a political or new leaders' tour. I noticed just the education tour for this year. Is there an opportunity for that to come back or did we lose interest in that?

Jennifer Okerlund: This year, due to budget constraints, the commission, which typically puts on an exceptionally large opinion leader tour, was forced to remove that from our general budget, which off-set our small request for use of the timber plate fund. We are hoping to bring that back in future years as our budget balances. We will be working with the Department of Lands, helping them pull together a smaller tour for leaders this year.

Controller Woolf: Thank you. It was a valuable thing for me when I first came on the Board and it was helpful to learn all about, not just from the Land Board's perspective, the whole forest products industry.

5. **Disclaimer of Interest Request DI600323-Horseshoe Bend Schools, Payette River** – Presented by Mick Thomas, Division Administrator-Minerals, Navigable Waters, Oil and Gas

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.

Discussion:

Superintendent Critchfield: Is it typical practice, in this case where we are doing business with the school district, to charge them processing fees? I know it is only \$300, but, nonetheless.

Mr. Thomas: We do not delineate the fee coverage between schools or private industry or anyone else in that way.

6. **Approval of Draft Minutes** – February 21, 2023 Regular Meeting (Boise)

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

For the record, Superintendent Critchfield left the meeting at approximately 9:42 a.m. to attend other business.

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

Trust Land Revenue

A. Timber Sales – February 2023

Discussion:

Secretary McGrane: This is more of a learning moment for me, I noticed compared to last month's board meeting we are down. Does that mean certain contracts were completed?

Deputy Director Haagenson: If the volume under contract went down, that would mean that sales had closed.

Governor Little: Would you have your timber staff look at the inland composite lumber price and measure that to our species. You see these up-bids on cedar; if we have a lot of cedar, we should be exceeding that. How our bogey that we are measuring against, how that matches up with our species composition and distance from mills, and high lead, and the other things. A report on that next month would be great.

Deputy Director Haagenson: Governor, cedar is a major driver for us; we will try to put some data together for you.

Governor Little: We implemented a plan two years ago and hired new foresters to get more of the harvest done. How does that match up with the graph that shows that we are the same volume as we were two years ago before we added foresters to get more volume.

Deputy Director Haagenson: The Board approved our new Forest Asset Management Plan in 2019. The Department saw ahead of time that our recommended harvest level was likely to go up and we started two years before to incrementally ramp up towards that new level. We did the FAMP and brought that forward for Land Board approval; we are now in year four of the implementation of that FAMP, selling 326 million board feet. Next year we are going to 328 million board feet and that would complete our implementation, coincidentally just in time to start the process again. But it takes time for that; each timber sale contract can have a period of two to four years and it takes time for that additional volume to move through the system and be realized as revenue.

B. Leases and Permits – February 2023

Discussion:

Governor Little: My one question is actual receipts versus revenue expected. Commercial military facilities are eight times what we forecast; what are we not getting right with our forecasting.

Deputy Director Haagenson: It varies by category, but speaking specifically about commercial and military, we did have about \$83,000 in land use permits for new uses and other activities that we are now working to get under lease. Those new activities would not have been captured at that time in our forecast.

Governor Little: Do we know they are coming?

Deputy Director Haagenon: It depends, Governor. If we know they are coming and have relative certainty that they are going to be realized, we would include them in the forecast.

Controller Woolf: Last year we saw a big uptick on the sand and gravel. Seems like it is down a little bit this year. Is that just what the market is driving?

Deputy Director Haagenon: Last year was a highly active year in the construction world with heavy demand for that resource and that has dipped a little bit this year.

Status Updates

C. Legislative Summary

Discussion: None.

8. Endowment Fund Investment Board Report – Presented by Chris Halvorson, EFIB Investment Officer

A. Manager's Report

B. Investment Report

Discussion:

Chris Halvorson: Good morning, Governor Little and Land Board members. Exhibit A, the monthly status report to the Land Board, for the month of February the fund was down 2.1% making our fiscal year return 5.8%. The markets have been off a little bit in March; our month-to-date number is -1.5%, fiscal year-to-date return 4.25%. The Federal Reserve has been raising rates up until recently; during the month of February up almost 4% on the 10-year Treasury, which is the gauge of the bond market. Inflation went from 6.4% to 6%. It is the same old story, trying to fight inflation with higher interest rates and making that balancing act of not slowing the economy down into a recession. In March we had a bank crisis, the most notable one is Silicon Valley Bank in California. Just a quick reminder, banks take in deposits and then they loan out money. They hold a fraction of their money in reserve to offset loans when they go down in value. Many loans lately have been written down; as loans go down in value, reserves must go up at the banks. For banks to make any kind of earnings, they have had to portfolio long-dated securities. A long Treasury a year or two ago was yielding 2% or 2.5%. Now you can get over 5%, a big shift in rates. This has really impacted banks, and the bank problem has been compounded by the frequency of valuation on their bank loan portfolios. We look at our securities daily, they report their assets either quarterly or semi-annually. What has happened? Silicon Valley went to receivership, and they are going to sell off their assets. For certain bond holders, there will be recovery of funds. Silicon Valley Bank also had equity; they had a stock listing. The endowment fund had Silicon Valley exposure in the equity market through index funds, around 0.3% of the index. Our exposure to these banks for equities is very small, \$400,000; we had a \$280,000 bond hold by Western Asset Management for Silicon Valley Bank and that currently is valued at about 50 cents on the dollar. Securities have been stressed in banks. After a week of digesting the quality of the banks and the earnings and how strong the reserves are, bank stocks are doing well; it is as if the crisis has passed, but there has been more scrutiny on the finances and the reserves of banks. Back to the Silicon Valley example, they knew they were running into a crisis with reserves, they had lined up investors but the investors at the last minute backed out because they could not raise enough capital to keep the bank going. That is what happened with Credit Suisse in Switzerland. They had investors lined up, they got an investment over the

weekend, but it was not substantial enough to keep the bank afloat, so the Swiss government intervened and forced the merger of UBS Bank and Swiss Bank in Europe. The endowment fund did not have any equity exposure to Swiss Bank. It is interesting that the Swiss Bank shareholders are going to recover some of their assets; they have a fixed exchange rate of equity for equity. Each Swiss Bank shareholder is going to get 22.48 shares for each Credit Suisse Bank share held; currently each Credit Suisse share is worth about a dollar. The equity did not get wiped out, but what got wiped out at Credit Suisse is AT1 capital, additional paid in, tier 1 capital. They go to the capital markets to get this money, but it is deemed absorbable for losses, and that was totally wiped out. We do have Credit Suisse bonds and those are all going to UBS.

Attorney General Labrador asked about the green versus the red on Exhibit B. We measure the performance of the fund relative to benchmark. For example, on the current month the total fund was -2.1% for February, but the benchmark was -2.4%; when we beat the benchmark the color is green. When we are behind the benchmark, the color is red. It is a quick way to say green, we are doing well, or red, there are performance issues.

Governor Little: Besides State Street, who does your fixed income?

Mr. Halvorson: We have two types of fixed income management throughout our portfolios. Just a reminder for Land Board members, we also advise the funds of the State Insurance Fund. The State Insurance Fund is a combination of both passive fixed income index funds and active fixed income in areas of securitized credit, which would be mortgages and credit card receivables, and things like that. Our active managers are Western Asset Management in California and DoubleLine. We have money at State Street, passively managed. Total fixed income, as you can see on Exhibit B, page 1, about three-quarters of the way down, we have \$645 million in fixed income. About a third of that is passive and the rest of it is active.

Attorney General Labrador: You explained this a little bit, but what exactly is our exposure on bank holdings right now?

Mr. Halvorson: Our current exposure is we have about \$3 million of Credit Suisse bonds which will go to UBS. Those should be money good; those are fine. On Silicon Valley Bank, last week we had about \$830,000. Most equity positions have been sold. We are going to unfortunately take a market value loss on our equities. The bonds, which are \$380,000 par, are worth about half of that. That is in an active manager account. The manager will take discretion on when to dispose of those assets, which will favor us the best.

Secretary McGrane: Last month I asked about the comparison to benchmark on real estate and this month I noticed we got rid of the benchmark on real estate. That seems like a solution, maybe not the long-term best solution. I am wondering if we will get a new benchmark.

Mr. Halvorson: I am glad you brought that to my attention. The problem with real estate is it is valued once a quarter, and everything works with a lag. We measure real estate to a benchmark, but the benchmark data is available fast. There is a lag time difference, which could be up to a quarter, between the benchmarks and the actual manager performance. When we had that in the report last month, it was a quarter behind manager return with the current benchmark; it looked bad. That is not a fair comparison of apples to apples. When the benchmark numbers are solid and reportable, we will put them back in the report, which will probably be next month. There is something developing in real estate in that real estate funds are now getting valued

once a month. I expect that the indexes are going to have to keep up with the managers and those valuations will become timelier and not have these lag effects. This is a big issue with private equity as well, which is even worse because that is valued on when they do a deal. There are not particularly good comps out there for valuations. We are doing our best, but we did not want to unfairly portray the situation with those lags. On this report, we take all our data from our custodian. Our custodian, Northern Trust, is the official book and record of our assets. We do not want to just put some number in there. We want to use the official numbers from our custodian Northern Trust.

Information

9. 2024 Grazing Lease Rate – Presented by Jason Laney, Section Manager-Real Estate/Leasing

Discussion:

Secretary McGrane: I have been told that there is a lag related to the market to how our calculation based on the 1993 formula operates. You can appreciate the struggle here when we see inflation rising dramatically in every sector and we are seeing a decrease in our lease rates.

Jason Laney: I agree with that assessment. The lag time is primarily due to the indices that we are using, from 2022 USDA reports. There is some inflation captured in those numbers. Part of the reason we have that lag time is a mandate in rule that we are to notify lessees within 6 months of a rate increase. Those two factors result in a two-year lag in our grazing rate.

Attorney General Labrador: Explain why a Prices Paid Index increase results in a lower price in lease rate.

Mr. Laney: It is how the formula is structured. An increase in the Prices Paid Index will decrease that rate. Cattle prices and forage prices will increase the rate. An increase in the Prices Paid Index is more heavily weighted, and even if we see a significant increase in cattle prices, it sometimes does not offset the Prices Paid Index when prices really go up.

Secretary McGrane: I am assuming we do not see that with private leases, when someone is grazing private ground that it would not decrease in this type of circumstance, would it?

Mr. Laney: We have private lease rate numbers that are reported by the USDA every year. They are self-reported by folks that graze, in a survey that is sent out annually. We have seen that the private lease rate steadily ticks up or stays stable year to year. For example, in 2022 and 2021 it was \$19 per AUM. It was \$18.50 in 2020.

10. Disclaimer of Interest Delegation of Authority – Presented by Mick Thomas, Division Administrator-Minerals, Navigable Waters, Oil and Gas

Discussion:

Secretary McGrane: Is it necessary, based on legal review, when the proposed right-of-way is greater than 25-foot? From my perspective it seems fine if we have a greater right-of-way.

Mr. Thomas: Anything outside of the 25 foot requires Land Board approval.

Controller Woolf: Back in 2014 we did something similar with timber sales. All the timber sales used to come before the Land Board, and we set up criteria that if there are certain circumstances met then the Department needs to bring those before the Board. I like this concept, if there are certain criteria met then they would need to come before us.

Secretary McGrane: Just for education, why the increase in disclaimers of interest?

Governor Little: Real estate is worth more money.

Mr. Thomas: Governor Little nailed it. There is more real estate activity now in Idaho. As people want to sell that property, they realize there is a clouded title, and they want to resolve it.

Secretary McGrane: More just for education on my part, I follow the disclaimer of interest and the navigable waterways. If the waterway shifts such that it consumes private land, what happens in the inverse?

Mr. Thomas: Normally if the channel moves, there is give and take. Accretion is unpredictable but it takes a while. In this case, there is a significant amount of property, 11 acres or so, that became upland. Often with disclaimers, there is a give and take where we have gained property. We would gain property on the other side of the river for example.

11. Master Fire Agreement Update – Presented by Craig Foss, State Forester and Division Administrator- Forestry and Fire

Discussion:

Secretary McGrane: Just to confirm your closing there, it seems like you are at a meeting of the minds, you are just ironing out the final details. For the next five years, after your two years of negotiations, we are finally here.

Craig Foss: That is correct. This will be a five-year agreement from the date of signing.

Governor Little: When we do these swaps, is there real estate in Idaho where previously the Department of Lands was in charge of initial attack, but the Forest Service is going to be in charge of initial attack, and they may decide we are going to let the fire burn. What is our risk there?

Mr. Foss: There are areas in this proposed agreement where we had been protecting federal lands through offset. Now those lands will go back under federal protection. That is a conversation that we had intensely through our negotiations process. It is my understanding that they are aware of the different land ownerships around their lands and, while they do have areas where they have special management objectives, it is certainly our expectation there will be aggressive initial attack.

Governor Little: When the Department comes to the Land Board about their next budget recommendation are we going to have to deploy more resources to cover this added real estate that we will be responsible for?

Mr. Foss: After the really bad 2015 fire season, we were given money to conduct an analysis of our fire program. We said we would hold off on requesting additional resources for our program until we had that analysis. Once we got that analysis, we put together a series of requests. This

year is the final year of those requests. Our goal is to implement everything that we have been given over the past three years and conduct another analysis of our program in a couple of years, and then based on that analysis bring forward new requests. Our intent is not to continue to bring forward large requests to the Land Board and the Legislature in the near future.

Governor Little: Director Miller and I have been involved in this and I have been pleasantly surprised by the Forest Service Chief's willingness to get their people to the table and get this negotiated. Initially it looked like Forest Service fire trucks would be going this way, and state fire trucks going this way, passing each other on the way to a fire. We are not going to have that issue because of your good work.

Executive Session

None

There being no further business before the Land Board, at 10:30 a.m. a motion to adjourn was made by Secretary of State McGrane. The motion carried by unanimous consent.



IDAHO DEPARTMENT OF LANDS

STATE BOARD OF LAND COMMISSIONERS

April 18, 2023
Regular Agenda

Subject

Chimney Sweep Pulp timber sale 3rd extension

Questions Presented

Shall the Land Board approve the request by Clearwater Paper Corporation for a third contract extension subject to Land Board determined conditions?

Background

At its October 18, 2007 meeting, the Land Board adopted a policy that outlines conditions required for timber sale extensions as follows:

Any sale contract extension, after the 2nd extension, will only be granted by a vote of the Idaho Board of Land Commissioners, may only be granted under "extreme" circumstances, and may contain such conditions as the State Board of Land Commissioners may, at its sole discretion impose. Such conditions may include, but are not limited to, restrictions on bidding on new state sales, establishing various operational schedules, and/or requiring additional financial assurances. "Extreme" circumstances include but are not limited to, catastrophic acts of nature (fire, blowdown, floods, earthquakes, etc.) that physically restrict the purchaser's access to the sale area, destruction of a purchaser's milling facilities or equipment by fire or catastrophic acts of nature, or by a court order related to compliance with state or federal environmental laws that are out of the purchaser's control. Depressed market conditions will not be considered "extreme" circumstances.

Discussion

The Chimney Sweep Pulp timber sale was sold via auction on May 18, 2017 to Clearwater Paper Corporation at appraised prices with no other bids.

Approximately 50% of the acres were harvested during the initial contract period of four years that ended on May 18, 2021. The Department agreed to grant a one-year extension on that date (Attachment 1).

Approximately 94% of the acres were harvested at the end of the first extension. The Department agreed to a second extension (Attachment 2) as the purchaser completed all development work, had less than 25% of the sale volume remaining to be harvested, and provided a cash payment for the remaining estimated value on the sale including interest.

The Department currently holds the following amount of money in cash and/or bonding:

Initial Deposit – Cash	\$20,942.80
Payment Bond – Surety	\$27,600.00
Performance Bond – Surety	\$31,500.00
Second Extension Pre-payment – Cash	\$37,482.09 (original amount)

The Department received a letter requesting a third extension (Attachment 3). Third extensions are and should remain a rare occurrence. In this unique situation, the Department recommends a third extension for the following reasons:

1. The remaining volume is in log decks on a road, 100% of the acres have been harvested, and the remaining activity does not prevent the Department from implementing silvicultural activities necessary for the next timber rotation.
2. Most of the remaining logs to be hauled are a specialty product that would be difficult to sell to another purchaser or offer in a direct sale.

Recommendation

Approve the Chimney Sweep Pulp timber sale third extension under the following conditions:

1. The contract term is extended for three months from current expiration date of May 18, 2023 to August 18, 2023.
2. Clearwater Paper Corporation shall pay the estimated stumpage interest for the additional three month extension on May 18, 2023. This payment will not be added to the second extension pre-payment nor be applied to monthly statements. The current estimate is \$8,978.26. If Clearwater Paper Corporation removes some volume before May 18, 2023 then this may decrease based on the interest rate calculation on that date.
3. If Clearwater Paper Corporation does not meet contract requirements by August 18, 2023 all or a portion of the initial deposit, performance bond, and remaining second extension pre-payment will be forfeited as determined by the Department.

Board Action

Attachments

1. First Extension
2. Second Extension
3. Third Extension Request



Clearwater Paper Corporation
803 Mill Road
P.O. Box 1126
Lewiston, ID 83501

April 14, 2021

Sale # TS-10-4227

Chimney Sweep Pulp

Neal Young,

Neal would you please extend the Chimney Sweep Pulp sale for one year. We were unable to complete the sale in the allotted time due to contractor scheduling and weather delays.

We would like to get the road construction crew, doing the work that needs to be done on Spur 253, before July 1st. We will be working on the Indian Creek side first as it should dry out sooner than unit 1.

We plan on starting in unit 4 and then progress through the remaining units 3,5,6,7, and unit 2. Will be doing the cleanup and compliance work in units 4,6,and 2, from the line skidding. We will start July 1st and expect to be finished in this area by September 1st.

We will then move to unit one and finish the cat ground and process and load and haul the line logs that were left from last season. All compliance work will be done before we leave this area. Work should start by the 1st of September and should be completed by September 30th.

Will then move to Caribou creek and finish all work left in units 8,9,10,&11 to close out the sale. We should be starting this work by September 30th and be completed by October 31st.

Plan to start this work as soon as possible after the first of July and continue until finished. All work should be completed by the 15th of November.

Thank You

A handwritten signature in black ink that reads "Robert M. Kennedy". The signature is written over a horizontal line.

Robert Kennedy
Log Buyer

DEPARTMENTAL MEMO
TIMBER SALE CONTRACT EXTENSION
TS104227 Chimney Sweep Pulp

CONTRACT HOLDER: CLEARWATER PAPER CORPORATION

AREA: 266 acres

FUND: Public Schools 100%

CONSIDERATION: Stumpage interest rate may increase per contract term

DATES OF CONTRACT: 18th day of May, 2017, through 18th day of May, 2021.

REMARKS: Approximately 60% of the volume has been harvested from approximately 50% of the sale acres. All development work is complete. Logging operations would resume after July 1 and are expected to be complete by the end of 2021. There are no delinquent or outstanding balances on this sale. This is the first request for extension for the sale. The Area recommends extension of the sale for a duration of one year.

Extension is recommended to 18th day of May, 2022.

RYD

Neil Young
04/14/2021

RECOMMENDATION APPROVED: *Eric R. Brown 5/10/2021*
TB 5/10/21

RECOMMENDATION DENIED: _____

OTHER ACTION:

DEPARTMENTAL MEMO
TIMBER SALE CONTRACT EXTENSION
TS104227 Chimney Sweep Pulp

CONTRACT HOLDER: CLEARWATER PAPER CORPORATION
AREA: 266 acres
FUND: Public Schools 100%
CONSIDERATION: Stumpage interest rate may increase per contract term
DATES OF CONTRACT: 18th day of May, 2017, through 18th day of May, 2022.

REMARKS: Approximately 113% of the appraised volume has been harvested from approximately 94% of the sale acres. All development work is complete. Logging operations would resume after July 1 and are expected to be complete by the end of August 2022. There are no delinquent or outstanding balances on this sale. This is the second request for extension for the sale. Payment of \$37,482.09 for the estimated remaining stumpage has been received. The Area recommends extension of the sale for a duration of one year.

Extension is recommended to 18th day of May, 2023.

Neil Young
04/29/2022

RECOMMENDATION APPROVED: 

RECOMMENDATION DENIED: _____

OTHER ACTION:

PRIEST LAKE
SUPERVISORY AREA
4053 Cavanaugh Bay Road
Coolin, ID 83821
Phone (208) 443-2516
Fax (208) 443-2162



DUSTIN T. MILLER, DIRECTOR
EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF LAND COMMISSIONERS
Brad Little, Governor
Lawrence E. Denney, Secretary of State
Lawrence G. Wasden, Attorney General
Brandon D Woolf, State Controller
Sherri Ybarra, Sup't of Public Instruction

April 13, 2022

CLEARWATER PAPER CORPORATION
601 W Riverside Avenue Suite 1100
Spokane, WA 99201

Robert.Kennedy@clearwaterpaper.com

Dear Mr. Kennedy:

Your request for second extension will be approved provided CLEARWATER PAPER CORPORATION pays, in full, the net value of the estimated 421 mmbf of remaining sawlog and pulp. This payment also includes the estimated stumpage interest per IDL policy and fire suppression charges.

Please remit a check in the amount of \$37,482.09 by 4/30/2022. Upon receipt of payment this contract will be extended for 1 year to May 18th, 2023. See the attached for itemized charges.

Also, CLEARWATER PAPER CORPORATION will be charged for addition volume hauled or credited in kind for volume hauled less than the estimated 421 mmbf.

Sincerely,

A handwritten signature in black ink, appearing to read "Neil Young".



Neil Young
Lands Resource Specialist, Sr.
Idaho Department of Lands
4053 Cavanaugh Bay Road, Coolin, ID 83821
Office: (208) 443-2516

"Working Lands, Trusted Stewards"



**CLEARWATER
PAPER®**

Clearwater Fiber, LLC
2851 Wilma Road
Clarkston, WA 99403

Re: TS-10-4227

Chimney Sweep Pulp

Neal Young,

Neal would you please extend the Chimney Sweep Pulp sale for one year. We were unable to complete the sale in the allotted time due to contractor scheduling and delays due to Covid.

We would like to get started in Unit 8 and progress to Unit 9. We will have a crew working the cleanup and finishing the compliance work in 10 & 11.

Start date is as soon as weather allows after July 1st and hope to have all work completed no later than August 31st.

Thank You

Robert M. Kennedy

Log Buyer

Second Contract Extension Prepayment Estimate

Remaining Volume	<u>421</u>
Average Stumpage Rate	<u>\$65.36</u>
Remaining Stumpage Value	<u>\$27,516.56</u>

Estimated Stumpage Interest \$9,915.01 12 month extension back
to date of sale (per policy)

Fire Suppression Charges \$50.52

Total Prepayment \$37,482.09 Second Extension





CLEARWATER
PAPER | Pulp + Paperboard
Division

Clearwater Paper Corporation
803 Mill Road
P.O. Box 1126
Lewiston, ID 83501

April 5, 2023

Re: TS-10-4227

Chimney Sweep Pulp Sale

Neal Young,

Neal, I would like to request an extension on this sale for these reasons. When we were finishing the skidding in units 8 and 9 we were unable to hire trucks to move the wood to the mill. We decked all the wood in the units and planned to start hauling around the 15th of April. I just found out yesterday that the load limits will not be lifted before the 15th, and possibly not till the first of May, therefore we will need more time to get the timber removed.

Timeline of events for completion.

1. will start trucking as soon as the load limits are lifted from the county road.
2. Will need some additional time after logs are removed to pile slash and blade roads.
3. When all slash is piled we will pull ditches and blade the road and be ready for final inspection.
4. Estimated time for completion is June 1, 2023.

Thank You

A handwritten signature in blue ink that reads "Robert M. Kennedy".

Robert M. Kennedy

Log Buyer

STATE BOARD OF LAND COMMISSIONERS

April 18, 2023
Regular Agenda

Subject

Department of Lands Fiscal Year 2024 (FY24) Timber Sales Plan

Questions Presented

Shall the Board approve the FY24 Timber Sales Plan?

Discussion

The proposed FY24 Timber Sales Plan, letter of transmittal, and public comment letters are attached (Attachments 1, 2, and 3). The Timber Sales Plan outlines volume targets and harvest proposals.

The proposed FY24 Timber Sales Plan of 328 MMBF continues implementation of the Land Board approved 2019 Forest Asset Management Plan (FAMP).

The volume in the FY24 Timber Sales Plan is determined primarily by a 200-year sustained harvest forecast developed in 2018 and 2019 utilizing Stand Based Inventory data, Woodstock optimization models, and the Continuous Forest Inventory (CFI) data configured Forest Vegetation Simulator (FVS) growth model. The Department recommends that the annual sale level for FY24 be established as displayed in the table below:

Supervisory Area	Annual Sale Volume FY24 Recommended
Priest Lake	28 MMBF
Pend Oreille Lake	35 MMBF
Mica	18 MMBF
St. Joe	80 MMBF
Ponderosa	40 MMBF
Clearwater	55 MMBF
Maggie Creek	30 MMBF
Payette Lakes	21 MMBF
Southwest Idaho	16 MMBF
Eastern Idaho	5 MMBF
Total	328 MMBF

Because of unforeseen natural events like wildfires, wind throw, insect infestations, and disease, volumes for individual supervisory areas may vary from year to year.

As part of the FY24 Timber Sales Plan, the Department will offer a minimum of 20,000 cedar poles for sale. These poles will be offered as part of the Cedar Sales program.

Additional cedar product and pulp volumes may be available for removal at the option of the sale purchaser or in accordance with Land Board policy.

The draft proposed FY24 Timber Sales Plan was posted for public review on the Department's public timber sale website on January 18, 2023, in accordance with the Land Board's public involvement policy. The Department received four written public comments to the Plan.

Recommendation

Direct the Department to proceed with implementation of the FY24 Timber Sales Plan.

Board Action

Attachments

1. Proposed FY24 Timber Sales Plan
2. Transmittal Letter
3. Public Comment Letters

FISCAL YEAR 2024 PROPOSED TIMBER SALES PLAN



IDAHO DEPARTMENT OF LANDS FY24 TIMBER SALE PLAN

July 1, 2023 – June 30, 2024

TABLE OF CONTENTS

Types of Sales 2

Supervisory Area Offices 3-4

Administrative Rules and Timber Sale Financing & Purchasing 5

 Priest Lake 7-11

 Pend Oreille Lake 12-16

 Mica 17-18

 St. Joe 19-24

 Clearwater 25-28

 Ponderosa 29-32

 Maggie Creek 33-35

 Payette Lakes 36-37

 Southwestern Idaho 38-39

 Eastern Idaho 40

Draft

IDAHO DEPARTMENT OF LANDS FY24 TIMBER SALE PLAN

July 1, 2023 – June 30, 2024

[Types of Sales](#)

Timber Sales Timber sales contain an estimated volume of at least 1,000 MBF and exceed the net appraised stumpage value for salvage sales established by the state board of land commissioners. Timber sales are designed to produce maximum stumpage returns to the endowment funds consistent with prudent long-term management practices.

Timber sales are advertised for four weeks in a newspaper in the county where the sale is located, and are sold at public auction.

Direct Sales Direct Sale net appraised stumpage value does not exceed the maximum value established by the State Board of Land Commissioners. This type of sale is to be used to harvest isolated or by-passed parcels of timber of insufficient value and volume to justify a salvage sale. The direct sale is not used where two or more potential purchasers may be interested in bidding on the forest products offered for sale.

The direct sale of forest product stumpage is made without advertisement as authorized by the Director.

IDAHO DEPARTMENT OF LANDS FY24 TIMBER SALE PLAN

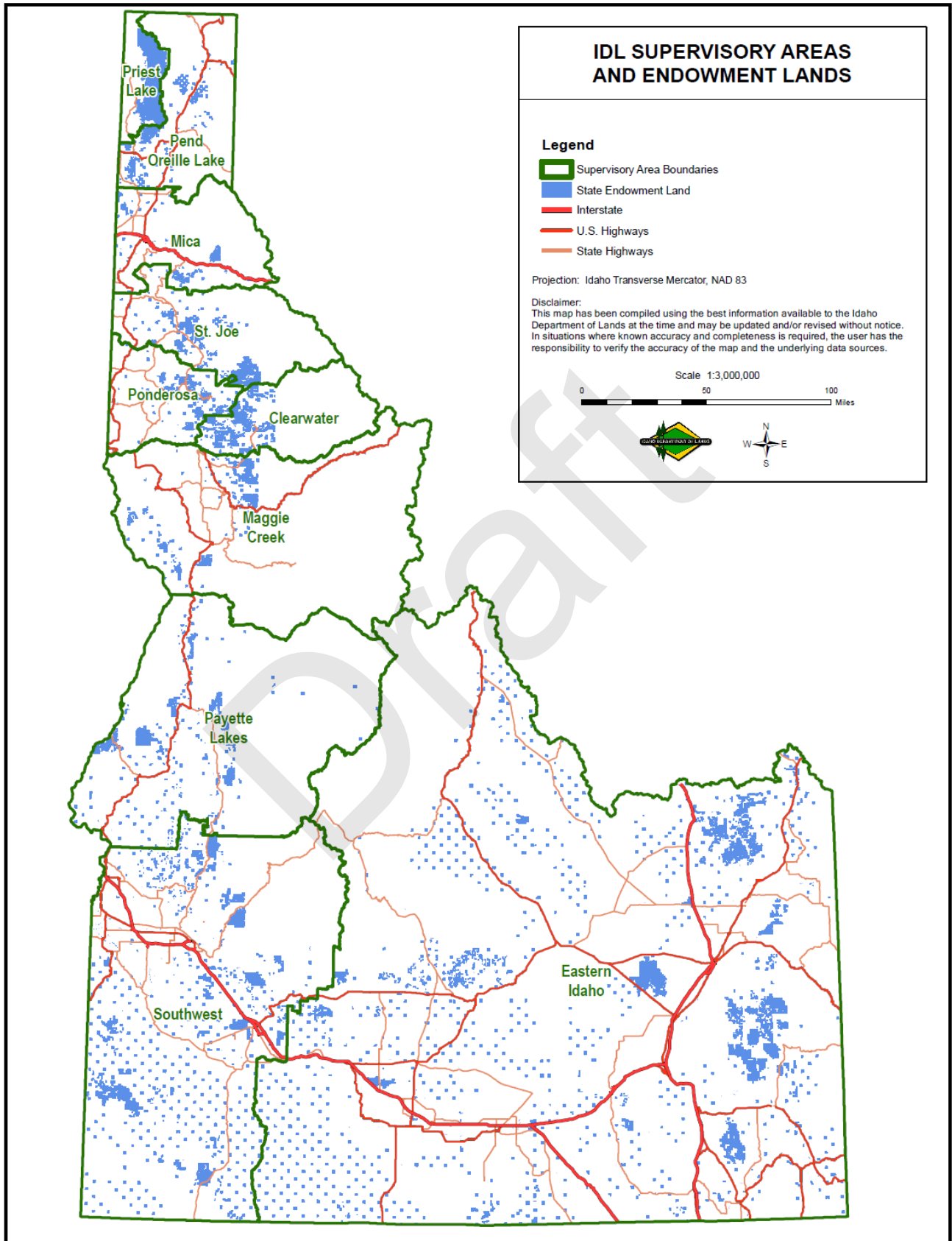
July 1, 2023 – June 30, 2024

[Supervisory Area Offices](#)

SUPERVISORY AREA	AREA SUPERVISOR	PHONE
Priest Lake 4053 Cavanaugh Bay Road Coolin, ID 83821	Dan Brown	(208) 443-2516
Pend Oreille Lake 2550 Highway 2 West Sandpoint, ID 83864	Erik Sjoquist	(208) 263-5104
Mica 3706 Industrial Avenue S Coeur d'Alene, ID 83815	Andrew Smyth	(208) 769-1577
St. Joe 1806 Main Avenue St. Maries, ID 83861	Tony Brede	(208) 245-4551
Ponderosa 3130 Highway 3 Deary, ID 83823	Chris Tretter	(208) 877-1121
Clearwater 10230 Highway 12 Orofino, ID 83544	Jay Sila	(208) 476-4587
Maggie Creek 913 Third Street Kamiah ID 83536	Dave Schwartz	(208) 935-2141
Payette Lakes 555 Deinhard Lane McCall, ID 83638	Scott Corkill	(208) 634-7125
Southwest/South Central 8355 W. State Street Boise, ID 83703	Dean Johnson	(208) 334-3488
Eastern Idaho 3563 Ririe Highway Idaho Falls, ID 83401	Pat Brown	(208) 525-7167

IDAHO DEPARTMENT OF LANDS FY24 TIMBER SALE PLAN

July 1, 2023 – June 30, 2024



IDAHO DEPARTMENT OF LANDS FY24 TIMBER SALE PLAN

July 1, 2023 – June 30, 2024

Administrative Rules and Purchaser Sale Requirements

Links to detailed information on the internet are provided below.

Administrative Rules of the Department of Lands

[20.02.14 – Selling Forest Products on State-Owned Endowment Lands](#)

For information regarding timber sale procedures, bidding procedures, bonding requirements and insurance requirements, click on the link below.

[Purchaser Sale Requirements](#)

Draft

Idaho Department of Lands Fiscal Year 2024 Proposed Timber Sale Plan

This Fiscal Year 2024 Proposed Timber Sale Plan will be presented to the Idaho Board of Land Commissioners at the April 2023 Land Board meeting for approval.

All timber sales listed on the 2024 Proposed Timber Sale Plan have been available for public review on the Notice of Proposed Future Sales on the IDL timber sale website since May 2021.

Comments regarding this proposed plan will be accepted until March 31, 2023. Send comments, preferably via email, to:

Spencer Hanson
Idaho Department of Lands
Timber Sale Program Manager
Email address: shanson@idl.idaho.gov
3284 W. Industrial Loop
Coeur d'Alene, ID 83815



Draft

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Priest Lake
Supervisory Area**

Sale Name:

4 Corner Flat

Estimated Auction: Spring 2024
 Location: 3 Miles S. of Coolin
 Drainages: Priest River
 Class I Streams: No
 Class II Streams: No
 Silvicultural Prescription: Seedtree
 Harvest System: Ground Based

APPROXIMATE
 ACREAGE: 766 acres VOLUME: 2,200 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. N2SW, Pts W2SE, S2SW	27	059N	004W
Pts. N2SW, Pts. N2SE, S2SW, S2SE	28	059N	004W
Pts. SE	29	059N	004W
Pts. NENE	32	059N	004W
N2NE, SENE, NENW, NESE, Pts. SWNE, Pts. NWNW, Pts. SENW, Pts. NWSE, Pts. SESE	33	059N	004W
Pts. NWNE, Pts. E2NW, Pts. NWSW, W2NW	34	059N	004W

Sale Name:

Big Cool

Estimated Auction: Winter 2024
 Location: 1.5 Miles SW of Coolin
 Drainages: Priest River
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Seedtree
 Harvest System: Ground Based and Cable Yarding

APPROXIMATE
 ACREAGE: 315 acres VOLUME: 2,200 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. SWSW	15	059N	004W
Pts. N2SW, Pts. SWSW, Pts. S2SE, SESW	16	059N	004W
Pts. SESE	17	059N	004W
Pts. NENE	20	059N	004W
NENW, Pts. N2NE, Pts. SENE, Pts. NWNW, Pts. SENW	21	059N	004W

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Priest Lake
Supervisory Area**

Sale Name:

Chicopee Cedar

Estimated Auction: Summer 2023
 Location: 8 Miles SE of Coolin
 Drainages: Middle Fork
 Class I Streams: Yes
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Seedtree
 Harvest System: Ground Based and Cable Yarding

APPROXIMATE
 ACREAGE: 292 acres VOLUME: 3,400 MBF
 1,000 Poles

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. S2NW, Pts. SW, Pts. W2SE	03	058N	003W
Pts. N2NE, Pts. SWNE, Pts. N2NW, Pts. SENW, Pts. NESW, Pts. N2SE, SENE	10	058N	003W
Pts. NW, Pts. N2SW, Pts. SESW, Pts. W2SE	11	058N	003W

Sale Name:

Little Goblin

Estimated Auction: Spring 2024
 Location: 10 Miles NE of Coolin
 Drainages: Indian Creek
 Class I Streams: Yes
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Seedtree
 Harvest System: Ground Based and Cable Yarding

APPROXIMATE
 ACREAGE: 180 acres VOLUME: 3,500 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. SESE	07	061N	003W
Pts. S2SW, Pts. SWSE	08	061N	003W
N2NW, SWNW, NWSW, Pts. W2NE, Pts. SENW, Pts. NESW, Pts. S2SW	17	061N	003W
Pts. Gov Lots 2, 3, 4, Pts. Gov Lots 3, 4, Pts. N2NE, Pts. E2NW, Pts. E2SW, Pts. SE,	18	061N	003W
S2NE, Pts. Gov Lots 2, 3, 4, Pts. Gov Lots 3, 4, Pts. N2NE, Pts. E2NW, Pts. E2SW,	18	061N	003W
Pts. SE, S2NE Pts. E2SE	13	061N	004W

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Priest Lake
Supervisory Area**

Sale Name:

NOSR DP

Estimated Auction: Winter 2024
 Location: 5 Miles SE of Coolin
 Drainages: North Fork East River
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Overstory Removal
 Harvest System: Ground Based and Cable Yarding

APPROXIMATE
 ACREAGE: 298 acres VOLUME: 2,000 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. Gov Lots 2, Pts. SWNE, Pts. E2SW, Pts. NWSE, Pts. S2SE	02	058N	004W
Pts. Gov Lots 1, 2, 3, Pts. NE, Pts. SENW, Pts. NESW, Pts. SE	19	059N	003W
Pts. SWNW	20	059N	003W
Pts. E2NE, Pts. NESE	24	059N	004W

Sale Name:

Peakabou Pulp

Estimated Auction: Spring 2024
 Location: 23 Miles NE of Coolin
 Drainages: Caribou Creek
 Class I Streams: Yes
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut
 Harvest System: Ground Based and Cable Yarding

APPROXIMATE
 ACREAGE: 656 acres VOLUME: 5,000 MBF
 8,000 Pulp

Timber Sale Legal Description

Subsection	Section	Township	Range
NESW, NWSE, Pts. S2NE, Pts. S2NW, Pts. NWSW, Pts. S2SW, Pts. NESE, Pts. S2SE	17	063N	003W
Pts. NE, Pts. SENW, Pts. NESW, Pts. N2SE, Pts. SESE	18	063N	003W
Pts. W2NE, Pts. N2NW, Pts. SENW, Pts. NESW, Pts. SE	20	063N	003W
Pts. N2NE	29	063N	003W
Pts. NESW, Pts. S2SW, Pts. SWSE	13	063N	004W
Pts. E2NE	23	063N	004W
Pts. N2NW, Pts. SWNW, Pts. E2SW, Pts. W2SE	24	063N	004W
Pts. W2NE, Pts. NW	25	063N	004W
Pts. E2NE, Pts. S2SW	26	063N	004W
Pts. N2NW	35	063N	004W

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Priest Lake
Supervisory Area**

Sale Name:

Sergent Fenton

Estimated Auction: Summer 2023
 Location: 4 Miles NE of Coolin
 Drainages: Fenton Creek
 Class I Streams: Yes
 Class II Streams: Yes
 Silvicultural Prescription: Seedtree
 Harvest System: Ground Based and Cable Yarding

APPROXIMATE
 ACREAGE: 254 acres VOLUME: 3,500 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. Gov Lots 4	01	059N	004W
Pts. Gov Lots 1, 2, 5, 6	02	059N	004W
Pts. Gov Lots 1, 3, Pts. W2NE, Pts. E2SW, Pts. W2SE	26	060N	004W
Pts. NE, Pts. NENW, Pts. SESW, Pts. SE	35	060N	004W
Pts. SWNE, Pts. S2NW, Pts. N2SW, Pts. SWSW	36	060N	004W

Sale Name:

Uleda Creek Cedar

Estimated Auction: Summer 2023
 Location: 8 Miles SE of Coolin
 Drainages: Middle Fork East River
 Class I Streams: Yes
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Seedtree
 Harvest System: Ground Based and Cable Yarding

APPROXIMATE
 ACREAGE: 178 acres VOLUME: 2,700 MBF
 1,000 Poles

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. E2SW, Pts. W2SE	15	058N	003W
Pts. NE, Pts. NENW, Pts. NESE	22	058N	003W
Pts. W2NW, Pts. N2SW	23	058N	003W

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Priest Lake
Supervisory Area**

Sale Name:

Two Bear Over

Estimated Auction: Summer 2023

Location: 13 Miles N. of Coolin

Drainages: Bear Creek

Class I Streams: Yes

Class II Streams: Yes

Silvicultural Prescription: Clearcut, Overstory Removal

Harvest System: Ground Based and Cable Yarding

APPROXIMATE

ACREAGE:
916 acres

VOLUME:
3,500 MBF

Subsection	Timber Sale Legal Description	Section	Township	Range
	Pts. Gov Lots 2, 3, 4, Pts. SWNE, Pts. S2NW, Pts. SW, Pts. SE	02	061N	004W
	Pts. Gov Lots 1, 2, 6, Pts. SENE, Pts. SE	03	061N	004W
	Pts. Gov Lots 1, Pts. N2NE, Pts. SENE, Pts. NENW, Pts. S2NW, Pts. N2SW, Pts. SWSW	10	061N	004W
	Pts. NWNE, Pts. N2NW, Pts. SWNW	11	061N	004W
	Pts. Gov Lots 3, Pts. E2SW, Pts. SE	19	062N	003W
	Pts. Gov Lots 1, 2, Pts. E2NW	14	062N	004W
	Pts. Gov Lots 2	15	062N	004W
	Pts. Gov Lots 1, 2, 3, 4, Pts. W2SE	22	062N	004W
	Pts. W2NE, Pts. SENW, Pts. NESW, Pts. SWSW, Pts. W2SE, SESW	24	062N	004W
	Pts. NWNE, Pts. NW, Pts. N2SW	25	062N	004W
	Pts. SENE	26	062N	004W
	Pts. Gov Lots 2	34	062N	004W
	Pts. SWSE	35	062N	004W

Supervisory Area Totals: Priest Lake

Supervisory Area Acres: 3,855 acres
 Supervisory Area Total Sawlog: 28,000 MBF
 Supervisory Area Total Cedar Poles: 2,000 Cedar Poles
 Supervisory Area Total Pulp: 8,000 MBF

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Pend Oreille Lake
Supervisory Area**

Sale Name:

Careywood Chop Cedar

Estimated Auction: Fall 2023
 Location: 3 miles east of Careywood
 Drainages: Careywood Creek
 Class I Streams: Yes
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Overstory Removal, Seedtree
 Harvest System: Ground based

APPROXIMATE
 ACREAGE: 249 acres
 VOLUME: 5,395 MBF
 430 Poles

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. W2SE, Pts. SESE	09	T54N	R02W
Pts. N2, Pts. SW, Pts. N2SE	16	T54N	R02W
NWSW, Pts. NE, Pts. NW, Pts. NESW, Pts. S2SW, Pts. N2SE	16	T54N	R02W

Sale Name:

East Elmira Cedar

Estimated Auction: Summer 2023
 Location: 2 miles east of Elmira
 Drainages: Bloom Lake
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Overstory Removal
 Harvest System: Ground based and prescriptive

APPROXIMATE
 ACREAGE: 172 acres
 VOLUME: 3,310 MBF
 220 Poles

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. Gov Lots 3, 4, Pts. SENW, Pts. NESW, Pts. S2SW	01	T59N	R01W
Pts. NW, Pts. N2SW	12	T59N	R01W

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Pend Oreille Lake
Supervisory Area**

Sale Name:

Lower Curtis Cedar

Estimated Auction: Winter 2024
 Location: 6 miles south of Priest River, ID
 Drainages: Curtis Creek
 Class I Streams: Yes
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Overstory Removal
 Harvest System: Ground based and prescriptive

APPROXIMATE
 ACREAGE: 220 acres VOLUME: 6,367 MBF
 350 Poles

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. Gov Lots 4, Pts. SWNE, Pts. SENW, Pts. SW, Pts. W2SE	24	T55N	R05W
Pts. Gov Lots 1, 2, 3, 4, Pts. NWNE, Pts. N2NW, Pts. SWNW, Pts. SESW, Pts. W2SE	25	T55N	R05W

Sale Name:

More Otts Cedar

Estimated Auction: Summer 2023
 Location: 6 miles southwest of Sandpoint, ID
 Drainages: Otts Basin
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Overstory Removal
 Harvest System: Ground based and prescriptive

APPROXIMATE
 ACREAGE: 649 acres VOLUME: 6,650 MBF
 200 Poles

Timber Sale Legal Description

Subsection	Section	Township	Range
Gov Lot 2, Pts. Gov Lots 3, 4, Pts. SESW, Pts. E2SE, SENW, NESW, W2SE	07	T56N	R02W
Gov Lot 4, Pts. Gov Lots 1, 2, 3, NENW, Pts. SENW, Pts. E2SW	18	T56N	R02W
Pts. Gov Lots 1, 2, 3	19	T56N	R02W
Pts. S2SE	12	T56N	R03W
Pts. N2NE, Pts. SENE	13	T56N	R03W

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Pend Oreille Lake
Supervisory Area**

Sale Name:

Ridge Runner

Estimated Auction: Spring 2024
 Location: 5 miles northeast of Naples, ID
 Drainages: Highland Creek
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Seedtree
 Harvest System: Ground based and prescriptive

APPROXIMATE
 ACREAGE: 86 acres VOLUME: 1,785 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. S2	20	T61N	R01W

Sale Name:

River View

Estimated Auction: Summer 2023
 Location: 1 mile southeast Priest River
 Drainages: Pend Orielle River
 Class I Streams: No
 Class II Streams: No
 Silvicultural Prescription: Clearcut
 Harvest System: Ground based

APPROXIMATE
 ACREAGE: 110 acres VOLUME: 1,840 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. Gov Lots 2, 3, Pts. SENW, Pts. SESW	05	T55N	R04W
Pts. N2NW, Pts. SWNW	08	T55N	R04W

Sale Name:

Rocky Pine Cedar

Estimated Auction: Winter 2024
 Location: 6.5 miles northeast of Priest River, ID
 Drainages: Pine Creek
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Overstory Removal, Seedtree
 Harvest System: Gound based and cable

APPROXIMATE
 ACREAGE: 171 acres VOLUME: 2,400 MBF
 400 Poles

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. SESW	21	T57N	R04W
Pts. W2NW, Pts. S2SW	27	T57N	R04W
Pts. NE, Pts. NW, Pts. E2SE	28	T57N	R04W
Pts. NWNW	34	T57N	R04W

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Pend Oreille Lake
Supervisory Area**

Sale Name:

Steep Ranger

Estimated Auction: Fall 2023
 Location: 8 miles north of Priest River, ID
 Drainages: Ranger Creek
 Class I Streams: Yes
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Seedtree
 Harvest System: Ground based and cable

APPROXIMATE
 ACREAGE: 125 acres VOLUME: 2,400 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. SESW, Pts. SE	09	T57N	R04W
Pts. SWNE, Pts. NESW, Pts. S2SW, Pts. W2SE	10	T57N	R04W
Pts. N2NW	15	T57N	R04W

Sale Name:

Sundance Kid

Estimated Auction: Fall 2023
 Location: 5 miles west of Naples, ID
 Drainages: Highland Creek
 Class I Streams: Yes
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Overstory Removal, Seedtree
 Harvest System: Ground Based

APPROXIMATE
 ACREAGE: 262 acres VOLUME: 4,855 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. Gov Lots 4	05	T60N	R01W
Pts. N2NE, Pts. SWNE, Pts. E2SW, Pts. SE, SENE	30	T61N	R01W
Pts. NE, Pts. NWNW, Pts. S2NW, Pts. SW	32	T61N	R01W

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Pend Oreille Lake
Supervisory Area**

Sale Name:

The Last Sand Cedar

Estimated Auction: Spring 2024
Location: 4 miles east of Elmira, ID
Drainages: Sand Lake
Class I Streams: No
Class II Streams: Yes
Silvicultural Prescription: Clearcut, Overstory Removal
Harvest System: Ground based and prescriptive

APPROXIMATE

ACREAGE:
160 acres

VOLUME:
1,560 MBF
100 Poles

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. Gov Lots 1, 2, 3, N2SE, Pts. S2NE, Pts. SENW, Pts. E2SW, Pts. SWSE	06	T59N	R01E

Draft

Supervisory Area Totals: Pend Oreille Lake

Supervisory Area Acres: 2,204 acres
Supervisory Area Total Sawlog: 36,565 MBF
Supervisory Area Total Cedar Poles: 1,700 Cedar Poles

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Mica
Supervisory Area**

Sale Name:

Bear Basin

Estimated Auction: Fall 2023
 Location: 3 Miles NE Pinehurst
 Drainages: Bear Creek
 Class I Streams: Yes
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut
 Harvest System: Tractor and Cable

APPROXIMATE
 ACREAGE: 479 acres VOLUME: 6,000 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. S2SW, Pts. SE	22	049N	002E
Pts. S2NW, Pts. N2SW, Pts. SWSW	23	049N	002E
NWNW	26	049N	002E
N2NE, NENW, S2NW, Pts. NWNW	27	049N	002E

Sale Name:

Stateline Cable

Estimated Auction: Spring 2024
 Location: 5 Miles S Stateline
 Drainages: Cable Creek
 Class I Streams: Yes
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Seedtree
 Harvest System: Tractor and Cable

APPROXIMATE
 ACREAGE: 295 acres VOLUME: 3,000 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Govt. Lots 1&2, NENE, Pts. W2NE, Pts. SENE, Pts. E2NW, Pts. N2SE, Pts. SWSE, SESE	36	050N	006W

Sale Name:

Twin Chilco OSR

Estimated Auction: Spring 2024
 Location: 1 Mile E Chilco
 Drainages: Sage Creek, Twin Lakes
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Overstory Removal
 Harvest System: Tractor

APPROXIMATE
 ACREAGE: 375 acres VOLUME: 3,000 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Govt. Lots 1-3, N2NE, NENW, Pts. S2NE, Pts. SENW, Pts. NESW, Pts. NWSE	16	052N	003W
NW	36	053N	005W

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Mica
Supervisory Area**

Sale Name:

West Latour

Estimated Auction: Spring 2024
 Location: 5.5 Miles S Rose Lake
 Drainages: Latour Creek
 Class I Streams: Yes
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Overstory Removal
 Harvest System: Tractor and Cable

APPROXIMATE
 ACREAGE: 574 acres VOLUME: 6,000 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Govt. Lots 2, 5, 6, 8, 12, 13, Pts. Govt. Lots 1, 3, 4, 7, 9, 11, 14, Pts. SWNE, Pts. S2NW, Pts.	03	047N	001W
Pts. Govt. Lots 1, 5-13, Pts. SENE, Pts. SWSE, Pts. SESW, Pts. NWSW	04	047N	001W
Pts. SENW, Pts. SESW, Pts. SWSE	27	048N	001W
Pts. Govt. Lot 1	33	048N	001W
Pts. Govt Lot 1, Pts. NENW	34	048N	001W
Pts. Govt. Lots 1&3	16	47N	01W
Pts. Govt. Lot 8	9	47N	01W

Supervisory Area Totals: Mica

Supervisory Area Acres: 1,722 acres
 Supervisory Area Total Sawlog: 18,000 MBF

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**St. Joe
Supervisory Area**

Sale Name:

Finns Elk

Estimated Auction: Spring 2024
 Location: 6 mile NE of Santa, Id
 Drainages: Pokey, Davis, and Garveson creeks
 Class I Streams: Yes
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Seedtree, Shelterwood
 Harvest System: Ground Based, Cable

APPROXIMATE
 ACREAGE: 323 acres VOLUME: 9,040 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. SENW, NESW, S2SW, W2SE, SWNE	2	44 N	1 W
Pts. NE, E2NW, NESW, N2SE, SESE	20	45 N	1 E
Pts. NW	32	45 N	1 E

Sale Name:

First Place Cedar

Estimated Auction: Spring 2024
 Location: 5 miles W of Fernwood
 Drainages: Tyson Creek, Little Carpenter Creek, Carpenter Creek
 Class I Streams: Yes
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut
 Harvest System: Ground Based, Cable

APPROXIMATE
 ACREAGE: 216 acres VOLUME: 6,715 MBF
 730 Poles

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. SW, Pts. N2SE, Pts. SWSE	15	43N	01W
Pts. N2NW	22	43N	01W
Pts. S2SW	24	43N	01W
Pts. N2NW, Pts. SWNW	25	43N	01W
Pts. E2NE, Pts. N2SW, Pts. SWSW	5	43N	01W

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**St. Joe
Supervisory Area**

Sale Name:

Huckleberry Grouse

Estimated Auction: Winter 2024
 Location: 4.9 mi. SE Calder, ID
 Drainages: Mica, Marble
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Seedtree
 Harvest System: Ground Based, Cable

APPROXIMATE
 ACREAGE: 310 acres VOLUME: 7,790 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. Govt. Lots 3-5, Pts. SWNE, Pts. SENW	6	44N	03E
Pts. Govt. Lots 1-4, Pts. W2NE, Pts. N2NW, Pts. SWSE	36	45N	02E

Sale Name:

Keel Over OSR

Estimated Auction: Fall 2023
 Location: 4 Miles South of Clarkia, ID
 Drainages: West Fork Saint Maries River
 Class I Streams: Yes
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Overstory Removal, Seedtree
 Harvest System: Ground Based, Cable

APPROXIMATE
 ACREAGE: 258 acres VOLUME: 6,595 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. SESE	23	42N	01E
Pts. SWSW	24	42N	01E
Pts. W2NW, Pts. NWSW	25	42N	01E
Pts. NENE, Pts. S2NE, Pts. SE	26	42N	01E
Pts. N2NE	35	42N	01E

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**St. Joe
Supervisory Area**

Sale Name:

Lively Alderaan

Estimated Auction: Spring 2024
 Location: 5 Miles SW of Emida ID.
 Drainages: Willow Creek
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Shelterwood
 Harvest System: Ground Based, Cable

APPROXIMATE
 ACREAGE: 157 acres VOLUME: 3,612 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. NWNE, Pts. S2NE, Pts. NENW, Pts. S2NW, Pts. N2SW, Pts. N2SE	14	T43N	R03W
Pts. N2NESE, Pts. SENESE	15	T43N	R03W

Sale Name:

Mid Olson

Estimated Auction: Winter 2024
 Location: 5 Miles NE of Fernwood, ID
 Drainages: Olson Creek
 Class I Streams: Yes
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Overstory Removal, Shelterwood
 Harvest System: Ground Based, Cable

APPROXIMATE
 ACREAGE: 414 acres VOLUME: 7,249 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. SW, Pts. SWSE	25	44N	01E
Pts.	26	44N	01E
Pts.	35	44N	01E
Pts. NWNE, Pts. N2NE, Pts. SWNW	36	44N	01E

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**St. Joe
Supervisory Area**

Sale Name:

Retired Sawing Cedar

Estimated Auction: Fall 2023
 Location: Floodwood
 Drainages: Cedar Creek-Floodwood Creek
 Class I Streams: Yes
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut
 Harvest System: Ground Based, Cable

APPROXIMATE
 ACREAGE: 171 acres VOLUME: 8,150 MBF
 2,660 Poles

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. NWNE, Pts. NENW	10	41N	4E
Pts. S2NW, Pts. NESW, Pts. W2SW	3	41N	5E
Pts. SENE, Pts. SE	4	41N	5E

Sale Name:

Smith Sandwich

Estimated Auction: Fall 2023
 Location: 20.5 Miles SE of Clarkia
 Drainages: North Fork Clearwater
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Seedtree
 Harvest System: Ground Based, Cable

APPROXIMATE
 ACREAGE: 225 acres VOLUME: 7,814 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. SW	36	41N	04E
Pts. SW	11	41N	05E
Pts. NWNW, Pts. SW	13	41N	05E
Pts. E2NE	23	41N	05E
Pts. NE, Pts. W2NW	24	41N	05E
Pts. NWNE, Pts. N2NW	25	41N	05E
Pts. N2NE	26	41n	05e
Pts. N2NE, Pts. E2NW	28	41N	05E
Pts. S2NW, Pts. N2SW	31	41N	05E
Pts. SW	4	41N	05E
Pts. SENE, Pts. N2SW	20	41N	5E
Pts. SWNE, Pts. S2NW, Pts. NWSW, Pts. S2SE	21	41N	5E

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**St. Joe
Supervisory Area**

Sale Name:

Stanton Something Cedar

Estimated Auction: Fall 2023

Location: 33 Road Miles E of Clarkia ID

Drainages: Stanton Creek, Dworshak Reservoir

Class I Streams: Yes

Class II Streams: Yes

Silvicultural Prescription: Clearcut, Overstory Removal, Shelterwood

Harvest System: Ground Based, Cable, Shovel

APPROXIMATE

ACREAGE:
520 acres

VOLUME:
10,730 MBF
175 Poles

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. SESW, Pts. SWSE	1	41N	04E
Pts. S2NE, Pts. S2	11	41N	04E
Pts. NE, Pts. NENW, Pts. W2SW, Pts. SESW, Pts. N2SE	12	41N	04E
Pts. NENW	13	41N	04E
Pts. NENE, Pts. NENW	14	41N	04E
Pts. SW	26	41N	04E
Pts. NESE, Pts. S2SE	27	41N	04E
Pts. NESE	33	41N	04E
Pts. Govt. Lots 3-4, Pts. NE, Pts. NWSW, Pts. N2SE	34	41N	04E
Pts. NWNW, Pts. SWNW	35	41N	04E

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**St. Joe
Supervisory Area**

Sale Name:

Syringa Spots

Estimated Auction: Summer 2023
 Location: 6 Miles S. of St. Maries
 Drainages: Syringa Cr.
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Shelterwood
 Harvest System: Ground Based, Cable

APPROXIMATE
 ACREAGE: 366 acres VOLUME: 12,200 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. Govt. Lots 1-4, Pts. E2NW	18	45N	01W
Pts. SESE	12	45N	02W
Pts. E2NE, Pts. W2, Pts. SE	13	45N	02W



Supervisory Area Totals: St. Joe

Additional Small Volume Sales: 105 MBF
 Supervisory Area Acres: 2,960 acres
 Supervisory Area Total Sawlog: 80,000 MBF
 Supervisory Area Total Cedar Poles: 3,565 Cedar Poles

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Clearwater
Supervisory Area**

Sale Name:

13 Mile II

Estimated Auction: Fall 2023
 Location: 10 Miles Northeast of Orofino, ID
 Drainages: Whiskey Cr.
 Class I Streams: Yes
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Overstory Removal
 Harvest System: Ground based, Cable Yarding

APPROXIMATE
 ACREAGE: 220 acres VOLUME: 5,400 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. NWNW	15	37N	3E
Pts. NE, Pts. SW, Pts. N2SE, Pts. SESE	16	37N	3E
Pts. N2SE, Pts. SESE	17	37N	3E
Pts. N2NE, Pts. SENE	21	37N	3E
Pts. N2NW, Pts. SWNW	22	37N	3E

Sale Name:

Benton East Salvage

Estimated Auction: Spring 2024
 Location: Benton Butte
 Drainages: Benton Creek
 Class I Streams: No
 Class II Streams: No
 Silvicultural Prescription: Clearcut
 Harvest System: Salvage. Ground based, cable yarding, prescriptive.

APPROXIMATE
 ACREAGE: 250 acres VOLUME: 7,800 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. S2N2, Pts. N2SW, Pts. SE	35	41N	05E

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Clearwater
Supervisory Area**

Sale Name:

Canyon Divide

Estimated Auction: Summer 2023
 Location: 9 mi NE from Orofino
 Drainages: Canyon Creek
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Seedtree
 Harvest System: Ground Based

APPROXIMATE
 ACREAGE: 238 acres VOLUME: 5,501 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. SESE	07	037N	003E
Pts. S2	08	037N	003E
Pts. S2NW, Pts. N2SW	09	037N	003E

Sale Name:

Cougar Track

Estimated Auction: Fall 2023
 Location: 7 miles NW of Headquarters, ID
 Drainages: Cougar Creek
 Class I Streams: Yes
 Class II Streams: Yes
 Silvicultural Prescription: Seedtree
 Harvest System: prescriptive

APPROXIMATE
 ACREAGE: 210 acres VOLUME: 6,060 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. S2N2, Pts. SW, Pts. N2SE	16	39N	05E
Pts. SENE, Pts. NESE, Pts. S2SE	17	39N	05E

Sale Name:

Lakefront Yard

Estimated Auction: Winter 2024
 Location: 9 mi northwest of Headquarters, ID
 Drainages: Dworshak Reservoir - North Fork Clearwater River
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut
 Harvest System: Ground based, cable yarding.

APPROXIMATE
 ACREAGE: 106 acres VOLUME: 4,680 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. E2NE, Pts. NESW, Pts. SE	32	39N	4E
Pts. NWNW	33	39N	4E

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Clearwater
Supervisory Area**

Sale Name:

Lower Slocum

Estimated Auction: Summer 2023
 Location: 12 mi NE from Orofino
 Drainages: Whiskey Creek
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, ROW, Seedtree
 Harvest System: Ground based and cable yarding

APPROXIMATE
 ACREAGE: 163 acres VOLUME: 4,896 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. SESE	02	037N	003E
Pts. S2SE	03	037N	003E
Pts. NE	10	037N	003E
Pts. NENE, Pts. S2NE, Pts. SENW	11	037N	003E

Sale Name:

Snake Farm

Estimated Auction: Winter 2024
 Location: 6 miles west of Headquarters, ID
 Drainages: Snake Creek
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Overstory Removal, Seedtree
 Harvest System: Ground Based, Cable yarding

APPROXIMATE
 ACREAGE: 413 acres VOLUME: 8,962 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. NE, Pts. N2SWNW, Pts. SENW	24	038N	004E
Pts. Govt. Lots 1-2 & 4, Pts. SESW	19	038N	005E
Pts. SWNW, Pts. W2SW, Pts. SESW	29	038N	005E
Pts. Govt. Lots 1, Pts. W2NE, Pts. SENE, Pts. E2NW, Pts. N2SE, Pts. SESE	30	038N	005E
Pts. E2NE	31	038N	005E
Pts. W2NW	32	038N	005E

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Clearwater
Supervisory Area**

Sale Name:

Upper Reeds Creek

Estimated Auction: Spring 2024
 Location: 1 mile S of Headquarters, ID
 Drainages: Reeds Creek
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut
 Harvest System: Prescriptive

APPROXIMATE
 ACREAGE: 206 acres VOLUME: 7,005 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. E2NE, Pts. SWNE, Pts. SE	36	38N	5E
Pts. Govt. Lots 3 & 4, Pts. E2SW	30	38N	6E
Pts. Govt. Lots 1 & 2, Pts. NENW	31	38N	6E

Sale Name:

West Y Cedar

Estimated Auction: Summer 2023
 Location: 12 miles North of Orofino, Idaho
 Drainages: Dworshak Reservoir
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Seedtree
 Harvest System: Ground based

APPROXIMATE
 ACREAGE: 170 acres VOLUME: 4,722 MBF
 1,000 Poles

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. S2NE, Pts. E2SW, Pts. SE	10	38N	02E
Pts. SWNW, Pts. W2SW	11	38N	02E

Supervisory Area Totals: Clearwater

Supervisory Area Acres: 1,976 acres
 Supervisory Area Total Sawlog: 55,026 MBF
 Supervisory Area Total Cedar Poles: 1,000 Cedar Poles

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Ponderosa
Supervisory Area**

Sale Name:

A Cedar

Estimated Auction: Fall 2023
 Location: 11 miles northeast of Southwick, ID
 Drainages: Long Meadow Creek
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Overstory Removal
 Harvest System: Cable and ground-based harvest systems

APPROXIMATE
 ACREAGE: 158 acres VOLUME: 1,430 MBF
 2,840 Poles

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. SENE; Pts. E2SW; Pts. SE	25	39N	01E
Pts. Govt. Lots 2-4	30	39N	02E

Sale Name:

Benedict Cedar

Estimated Auction: Summer 2023
 Location: 12 miles northeast of Elk River, ID
 Drainages: Isabella Creek, Stony Creek, Breakfast Creek
 Class I Streams: Yes
 Class II Streams: Yes
 Silvicultural Prescription: Single Tree Select
 Harvest System: Helicopter

APPROXIMATE
 ACREAGE: 609 acres VOLUME: 10,500 MBF
 12,360 Poles

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. Govt. Lot 4, Pts. SESW, Pts. S2SE	07	41N	04E
Pts. E2SW, Pts. W2SE, Pts. SESE	08	41N	04E
Pts. SWSW	09	41N	04E
Pts. W2W2	16	41N	04E
Pts. N2, Pts. E2SW, Pts. SE	17	41N	04E
Pts. Govt. Lot 1, Pts. N2NE, Pts. NENW	18	41N	04E
Pts. N2, Pts. N2SW, Pts. SESW, Pts. N2SE	20	41N	04E
Pts. SWNW, Pts. NWSW	21	41N	04E

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Ponderosa
Supervisory Area**

Sale Name:

Bovill Scatter

Estimated Auction: Summer 2023
 Location: 3 miles south of Bovill, Id
 Drainages: Ruby Creek
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Overstory Removal
 Harvest System: Cable and Ground-Based

APPROXIMATE
 ACREAGE: 440 acres VOLUME: 6,575 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. S2NE, Pts. N2SE	7	40N	01 E
Pts. N2NW	16	40N	01E
Pts. NE, Pts. SENW, Pts. NESW, Pts. NWSE	17	40N	01E
Pts. NWNE, Pts. S2NE, Pts. NW, Pts. N2SW, Pts. SESW, Pts. SE	8	40N	01E
Pts. S2SW	9	40N	01E

Sale Name:

JR Vassar

Estimated Auction: Fall 2023
 Location: 2 miles west of Bovill, ID
 Drainages: Hog Meadow Creek
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Overstory Removal
 Harvest System: Ground-based Harvest Systems

APPROXIMATE
 ACREAGE: 179 acres VOLUME: 3,660 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. Govt. Lots 6&7, Pts. E2SW	34	41N	01W
Pts. SWNE, Pts. W2NW, Pts. SENW, Pts. N2SW, Pts. SWSW, Pts. NWSE	35	41N	01W

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Ponderosa
Supervisory Area**

Sale Name:

Silver Spur

Estimated Auction: Fall 2023
 Location: 11 miles northeast of Southwick, ID
 Drainages: Long Meadow Creek, Elk Creek
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Overstory Removal
 Harvest System: Cable and ground-based harvest systems

APPROXIMATE
 ACREAGE: 368 acres VOLUME: 7,205 MBF

Subsection	Timber Sale Legal Description	Section	Township	Range
Pts. SWNE, Pts. S2NW, Pts. SW, Pts. NWSE		23	39N	01E
Pts. SESE		24	39N	01E
Pts. NENE, SWNE, Pts. SENW, Pts. NESW, Pts. NWSE		25	39N	01E
Pts. Gov Lot 4		19	39N	02E
Pts. Gov Lot 1		30	39N	02E
Pts. Gov Lots 3-4, Pts. NE, Pts. E2NW, Pts. E2SW, Pts. N2SE, Pts. SWSE		31	39N	02E
Pts. SWNW, Pts. NWSW		32	39N	02E

Sale Name:

Swamp Witch

Estimated Auction: Spring 2024
 Location: 7 miles southeast of Elk River, ID
 Drainages: Pick and Pan Ck, Swamp Ck
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Overstory Removal
 Harvest System: Cable and Ground-based

APPROXIMATE
 ACREAGE: 138 acres VOLUME: 5,560 MBF

Subsection	Timber Sale Legal Description	Section	Township	Range
Pts. SESE		21	39N	03E
Pts. S2SW, Pts. SWSE		22	39N	03E
Pts. N2NW, Pts. SWNW, Pts. NWSW		27	39N	03E
Pts. NENE		28	39N	03E

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Ponderosa
Supervisory Area**

Sale Name:

Y Schwartz Cedar

Estimated Auction: Winter 2024

Location: 4 miles northwest of Deary, ID

Drainages: Schwartz Creek

Class I Streams: Yes

Class II Streams: Yes

Silvicultural Prescription: Clearcut

Harvest System: Cable and ground-based harvest systems

APPROXIMATE

ACREAGE:
128 acres

VOLUME:
4,905 MBF
1,230 Poles

Subsection	Timber Sale Legal Description	Section	Township	Range
Pts. NW, Pts. NWSW		27	041N	02W
Pts. NENE, Pts. S2NE, Pts. SWNW, Pts. NWSW, Pts. N2SE		28	041N	02W
Pts. S2NE, Pts. N2SE, Pts. SESE		29	041N	02W
Pts. E2NE		32	041N	02W
Pts. W2NW		33	041N	02W

Supervisory Area Totals: Ponderosa

Additional Small Volume Sales: 165 MBF
 Supervisory Area Acres: 2,020 acres
 Supervisory Area Total Sawlog: 40,000 MBF
 Supervisory Area Total Cedar Poles: 16,430 Cedar Poles

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Maggie Creek
Supervisory Area**

Sale Name:

Brown Back Mountain

Estimated Auction: Fall 2023
 Location: 7 Miles SE of Weippe, Idaho
 Drainages: Blonde Creek, Trout Creek, Pete & Charlie Creek
 Class I Streams: Yes
 Class II Streams: Yes
 Silvicultural Prescription: Shelterwood
 Harvest System: Ground Based & Cable Yarding

APPROXIMATE
 ACREAGE: 445 acres VOLUME: 8,000 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. Govt. Lots 3, 4, Pts. SWNE, Pts. SENW, Pts. NESW, Pts. S2SW, SWNW, NWSW	02	34N	05E
Govt. Lot 1, Pts. Gov Lot 2, Pts. SENE, Pts. E2SE	03	34N	05E
Pts. N2NE	10	34N	05E
Pts. NWNW	11	34N	05E
NESE, Pts. SESW, Pts. NWSE, Pts. S2SE	34	35N	05E
Pts. NWSW	35	35N	05E

Sale Name:

Cottonwood Heights

Estimated Auction: Winter 2024
 Location: 5 Miles S of Weippe, Idaho
 Drainages: Lolo Creek
 Class I Streams: No
 Class II Streams: No
 Silvicultural Prescription: Seedtree, Single Tree Select
 Harvest System: Ground Based

APPROXIMATE
 ACREAGE: 175 acres VOLUME: 1,230 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. S2NE, Pts. S2	11	34N	04E

Sale Name:

Found In Space

Estimated Auction: Summer 2023
 Location: 4 Miles NE of Weippe, Idaho
 Drainages: Grassshopper Creek
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Shelterwood
 Harvest System: Ground Based

APPROXIMATE
 ACREAGE: 230 acres VOLUME: 5,415 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts.	31, 32	36N	05E

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Maggie Creek
Supervisory Area**

Sale Name:

Lovin Lacey Cedar

Estimated Auction: Winter 2024
 Location: 7 Miles SE of Weippe, Idaho
 Drainages: Miles Creek
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Shelterwood
 Harvest System: Ground Based

APPROXIMATE
 ACREAGE: 322 acres VOLUME: 5,000 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts.	9	34N	04E
Pts. SENE, Pts. NESE	8	34N	05E

Sale Name:

Model T Coulee

Estimated Auction: Winter 2024
 Location: 2 Miles NW of Weippe, Idaho
 Drainages: Jim Ford Creek
 Class I Streams: Yes
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Overstory Removal, Seedtree, Shelterwood
 Harvest System: Ground Based & Cable Yarding

APPROXIMATE
 ACREAGE: 720 acres VOLUME: 5,430 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts.	3, 4, 5, 6,	35N	04E

Sale Name:

School Section OSR Cedar

Estimated Auction: Summer 2023
 Location: 6 Miles E of Kamiah, Idaho
 Drainages: Maggie Creek, Tom Taha Creek
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Overstory Removal
 Harvest System: Ground Based

APPROXIMATE
 ACREAGE: 287 acres VOLUME: 3,425 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
	36	34N	04E

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Maggie Creek
Supervisory Area**

Sale Name:

Sill Creek Entirety

Estimated Auction: Spring 2024
 Location: 2 Miles SE of Clearwater, Idaho
 Drainages: Sill Creek
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Shelterwood
 Harvest System: Ground Based & Cable Yarding

	APPROXIMATE	
ACREAGE:		VOLUME:
201 acres		3,015 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. SWNE, Pts. NW, Pts. E2SW, Pts. W2SE, Pts. SESE	29	31N	05E

Draft

Supervisory Area Totals: Maggie Creek

Supervisory Area Acres: 2,380 acres
 Supervisory Area Total Sawlog: 31,515 MBF

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Payette Lakes
Supervisory Area**

Sale Name:

Dry Sky Ton

Estimated Auction: Summer 2023
 Location: 10 miles NW of Council, ID
 Drainages: Olive, Dry, and Fir Creek
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Overstory Removal, Seedtree, Shelterwood, Single Tree Select
 Harvest System: Ground based and cable

APPROXIMATE
 ACREAGE: 606 acres
 VOLUME: 6,482 MBF
 36,688 Tons

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. NWNW, Pts. SWSW	16	17N	2W
Pts. NENW, Pts. Govt. Lots 1&2, Pts. SENW, Pts. NESW, Pts. Govt. Lot 3	18	17N	2W
Pts. Govt. Lot 1, Pts. W2NE, Pts. SENE	20	17N	2W
Pts. SESW, Pts. SWSE, Pts. Govt. Lot 10	6	17N	2W
Pts. Govt. Lot 1, Pts. W2NE, Pts. NENW, Pts. Govt. Lots 2&3, Pts. SENW, Pts. NESW	7	17N	2W
Pts. Govt. Lots 4&5, Pts. SESW, Pts. E2SE	7	17N	2W
Pts. W2SW	8	17N	2W
Pts. NENE	13	17N	3W
Pts. Govt. Lots 1,3,4, Pts. W2NE, Pts. W2, Pts. W2SE,	17	7N	2W

Sale Name:

JP North Ton

Estimated Auction: Summer 2023
 Location: 6 miles NW of New Meadows, ID
 Drainages: Weiser River
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Overstory Removal, Seedtree
 Harvest System: Ground based

APPROXIMATE
 ACREAGE: 323 acres
 VOLUME: 1,840 MBF
 10,414 Tons

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. W2NE, Pts. W2, Pts. NWSE	36	20N	1E

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Payette Lakes
Supervisory Area**

Sale Name:

Meadow Handle Ton

Estimated Auction: Fall 2023
 Location: 7.6 Miles SE McCall
 Drainages: Jug Creek
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Seedtree
 Harvest System: Skyline, Tractor

APPROXIMATE
 ACREAGE: 559 acres VOLUME: 7,805 MBF
 44,177 Tons

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. NWNE, Pts. NW, Pts. N2SW, Pts. SESW, Pts. W2SE	16	17N	4E
Pts. NENE	17	17N	4E
Pts. S2NE, Pts. SENW, Pts. NESW, Pts. S2SW, Pts. E2SE	4	17N	4E
S2SE	5	17N	4E
Pts. E2	8	17N	4E
Pts.	9	17N	4E

Sale Name:

Warm Mosquito Ton

Estimated Auction: Spring 2024
 Location: 8 miles W of New Meadows, ID
 Drainages: Weiser
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Shelterwood
 Harvest System: Ground based

APPROXIMATE
 ACREAGE: 515 acres VOLUME: 4,695 MBF
 26,573 Tons

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts. SWNE, Pts. Govt. Lots 3&4, Pts. S2NW, Pts. SW, Pts. N2SE, Pts. SWSE	2	18N	1W
Pts. S2NE, Pts. N2SE	16	19N	01W
Pts. NE, Pts. S2NW, Pts. N2SW, Pts. SESW, Pts. SE	15	19N	1W

Supervisory Area Totals: Payette Lakes

Additional Small Volume Sales: 178 MBF
 Supervisory Area Acres: 2,003 acres
 Supervisory Area Total Sawlog: 21,000 MBF
 Supervisory Area Total Sawlog (Ton): 117,852 Tons

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Southwest
Supervisory Area**

Sale Name:

Murray Scriver

Estimated Auction: Summer 2023
 Location: 5 miles SE of Smiths Ferry, ID
 Drainages: South Fork Murray Creek
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut
 Harvest System: Tractor/Jammer

	APPROXIMATE	
ACREAGE:		VOLUME:
306 acres		4,345 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts.	1, 2, 11, 12	10N	03E
Pts.	36	11N	03E

Sale Name:

Upper Shrits

Estimated Auction: Spring 2024
 Location: 5 miles NW of Banks, ID
 Drainages: Shirts Creek
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut, Single Tree Select
 Harvest System: Tractor/Jammer

	APPROXIMATE	
ACREAGE:		VOLUME:
779 acres		7,070 MBF

Timber Sale Legal Description

Subsection	Section	Township	Range
Pts.	2, 3, 4, 9,	09N	02E

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Southwest
Supervisory Area**

Sale Name:

Wild Howell

Estimated Auction: Summer 2023
 Location: 5 miles NW of Crouch, ID
 Drainages: Howell Creek
 Class I Streams: No
 Class II Streams: Yes
 Silvicultural Prescription: Clearcut
 Harvest System: Tractor/Jammer

APPROXIMATE

ACREAGE:
427 acres

VOLUME:
4,590 MBF

Subsection	Timber Sale Legal Description	Section	Township	Range
Pts.		1, 2, 3, 4	09N	03E
Pts.		28, 33, 34,	10N	03E

Draft

Supervisory Area Totals: Southwest

Supervisory Area Acres: 1,512 acres
 Supervisory Area Total Sawlog: 16,005 MBF

IDAHO DEPARTMENT OF LANDS FISCAL YEAR 2024 TIMBER SALE PLAN

July 1, 2023 - June 30, 2024

**Eastern Idaho
Supervisory Area**

Sale Name:

Frenchys Hollow Ton

Estimated Auction: Spring 2024
 Location: 20 miles east of Downey, ID
 Drainages: Walker Gulch
 Class I Streams: Yes
 Class II Streams: Yes
 Silvicultural Prescription: Overstory Removal
 Harvest System: Ground Based

	APPROXIMATE	
ACREAGE:		VOLUME:
700 acres		5,000 MBF
		32,500 Tons

Subsection	Timber Sale Legal Description	Section	Township	Range
Pts. SESE		35	10S	38E
Pts.		36	10S	38E
Pts. E2		11	11S	38E
Pts.		13	11S	38E
Pts. NENE		14	11S	38E
Pts.		2	11S	38E
Pts.		17	11S	39E
Pts. S2N2, Pts. S2		18	11S	39E
Pts.		19	11S	39E
Pts.		20	11S	39E
Pts.		29	11S	39E

Supervisory Area Totals: Eastern Idaho

Supervisory Area Acres: 700 acres
 Supervisory Area Total Sawlog: 5,000 MBF
 Supervisory Area Total Sawlog (Ton): 32,500 Tons

Statewide Totals

Grand Total Acres: 21,332 acres
 Grand Total Sawlog: 331,111 MBF
 Grand Total Sawlog (Ton): 150,352 Tons
 Grand Total Cedar Poles: 24,695 Cedar Poles

**TRUST LAND MANAGEMENT DIVISION
TIMBER MANAGEMENT BUREAU**
3284 W. Industrial Loop
Coeur d'Alene, ID 83815
Phone (208) 769-1525
Fax (208) 769-1524



DUSTIN T. MILLER, DIRECTOR
EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF LAND COMMISSIONERS

*Brad Little, Governor
Phil McGrane, Secretary of State
Raúl Labrador, Attorney General
Brandon D Woolf, State Controller
Debbie Critchfield, Sup't of Public Instruction*

January 18, 2023

Idaho Forest Products Industry:

The Idaho Department of Lands' fiscal year (FY) 2024 [proposed timber sale plan](#) has been posted on the department's timber sale website. The plan will be presented to the Idaho State Board of Land Commissioners for their approval at the April 18th meeting.

If you would like to comment or express your opinion regarding the fiscal year 2024 sale plan, please send, preferably via email, a signed copy of your comments to:

Spencer Hanson
shanson@idl.idaho.gov

You may address your comments to Dustin T. Miller, IDL Director, or to Spencer Hanson, Timber Sale Program Manager. If you prefer to send comments to the Director, please copy me so that all written comments are included in the package submitted to the Land Board. All comments will be forwarded to the Director and included in the FY 2024 timber sale plan package submitted to the Land Board.

Public comments to the IDL Timber Sale Plan are not always positive so supportive comments are always appreciated.

Sincerely,

A handwritten signature in blue ink that reads "Spencer Hanson".

Spencer Hanson
Program Manager – Timber Sales
Idaho Department of Lands
3284 West Industrial Loop
Coeur d'Alene, ID 83815
(208) 666-8609



ASSOCIATED LOGGING CONTRACTORS, INC.

P. O. Box 671 | Coeur d'Alene, Idaho 83816
Phone 208-667-6473 | alc@idahologgers.com
www.idahologgers.com

March 31, 2023

To: Jeremy Shawver
Lands Section Manager – Timber Sales and Contract Admin
Idaho Department of Lands
3284 West Industrial Loop
Coeur d'Alene, ID 83815

Jeremy,

Please accept this letter of support for the Idaho Department of Lands Proposed Fiscal Year 2024 Timber Sales Plan.

The Associated Logging Contractors of Idaho is a non-profit trade organization whose 518 member businesses are professional timber harvesters and trucking companies located across the state. Our members live and work in Idaho's forested communities and are neighbors to the lands managed by Idaho Dept. of Lands (IDL). We support IDL's sustainable harvesting of the state's timber lands which meets the mandate to provide returns to the various beneficiaries of those endowment lands.

We appreciate working with staff at IDL and with the Land Board members and their staff and look forward to doing our part to achieve the goals withing the proposed 2024 Timber Sales Plan.

Thank you for this opportunity to comment.

Sincerely,

Shawn Keough
Executive Director



Spencer Hanson
Timber Sale Program Manager
Idaho Department of Lands
3284 West Industrial Loop
Coeur d'Alene, ID 83815

March 3, 2023

Dear Mr. Hanson,

Alta Forest Products would like to express our support of the Idaho Department of Lands Proposed FY 2024 Timber Sale Plan. It is encouraging to see the consistent execution of forest management and advertisement of forest products that the IDL provides. The FY 2024 Proposed Plan supports the mission of the IDL and generates valuable return to the Endowment.

Alta Forest Products appreciates the IDL's mission and the quality work performed by its dedicated staff. We are committed to supporting the IDL timber sale program into the future and we appreciate all opportunities to share feedback and suggestions.

We are excited about the progress made with the Delivered Products timber sale program and look forward to participating in this program in the near future. We are confident these sales will maximize competition and eventual return to the endowment. Lastly, we appreciate all efforts made to bundle sale packages which are appealing to multiple bidders, especially considering species composition and size.

The IDL timber sale program provides a critical timber supply to our local forest industry. We see the importance of this sustainable fiber supply to our own operations and are grateful for future opportunities to work together. Thank you for the opportunity to provide comments on the Proposed FY 2024 Timber Sale Plan. We wish you and all IDL staff a successful year.

Sincerely,

A handwritten signature in blue ink, appearing to read "Luke Machtolf".

Luke Machtolf, CF
Procurement Forester

A handwritten signature in blue ink, appearing to read "Eric Oien".

Eric Oien
Director of Procurement



STIMSON LUMBER COMPANY

7600 Mineral Drive, Ste. 400
Coeur d'Alene, ID 83815
(208) 765-1414
(208) 772-5636

Dustin T. Miller
Director
Idaho Department of Lands
PO Box 83720
Boise, ID 83702

February 7, 2023

Dear Director Miller:

Stimson is a privately held forest products company that operates mills and owns lands in Oregon, Washington, Montana, and Idaho. The availability of timber through the Idaho Department of Lands (IDL) Timber Sale program is very important to us and we appreciate the opportunity to comment on the Fiscal Year 2024 proposed State Timber Sale Plan.

Stimson supports the active management of Idaho's Endowment Timber lands. The monies received from active timber management on these lands are crucial to the beneficiaries of the Endowment Trust Lands. Stimson fully supports the FY 2024 proposed State Timber Sale Plan. The continued management of the State's Endowment lands provides a much needed supply of raw material for the three saw mills that Stimson owns and operates in the state of Idaho.

Once again, I would like to thank you for the opportunity to comment on the Fiscal Year 2024 State Timber Sale Plan.

Sincerely,

David Brummer
Regional Procurement and Marketing Manager
Stimson Lumber Company



P.O. Box 108 MOYIE SPRINGS, ID 83845 IDFG.COM 208.267.3166

April 11, 2023

Spencer Hanson
Timber Sale Program Manager
Idaho Dept. of Lands
3284 W. Industrial Loop
Coeur d' Alene, ID.
83815

Re: Idaho Dept. of Lands Fiscal Year 2024 Timber Sale Program

Dear Spencer,

On behalf of Idaho Forest Group, I offer the following comments to the proposed FY '24 IDL timber sale program:

IFG Timber and Idaho Forest Group are currently the largest holder of Idaho Dept. of Lands timber sale contracts. We continue to count on the success of the IDL timber sale program to fulfill a large portion of our agency timber portfolio. The Idaho Dept. of Lands manages their timber lands in such an efficient and cost effective manner that positive revenues are generated to fund Idaho's school endowment. Also, forest health, growth and yield are paramount in the silvicultural objectives on these lands. We view our relationship as one of mutual respect: for the job of forestry that IDL foresters perform as well as for the moneys we bid and the services we and our contractors provide.

In looking at the 4 Northern Supervisory areas: Priest Lake, Pend Oreille, Mica and St. Joe, it continues to be gratifying to see that the sale volume and targets set are increasing in both pace and scale. The target for the F.Y. '24 program for these supervisory areas appears to be approx. 2.50 MMBF higher when compared to the F.Y. '23 plan. On the Southern portion of the IDL wood-basket: Clearwater, Ponderosa, Maggie Creek and Payette Lakes supervisory areas, the situation is the same with FY'24 targets being modestly higher than FY '23 target levels. Spencer, this is and continues to be an outstanding performance of forest land management. It is why we support and applaud the agency for it's efforts towards healthier and more resilient forests in Idaho. Your entire forestry and support staff should be very proud. We wish the U.S. Forest Service with it's significantly larger land base would look to your methodologies for getting projects implemented. That is why we continue to be so supportive of the Good Neighbor program.

Both Idaho Forest Group with our facilities as well as our timber harvesting and hauling contractors depend on predictable harvest levels to maintain viability AND to make economic investments for the future. As a top lumber producer in Idaho, our employees and their families depend on your timber for our continued success and their continued employment. In the future as in the past, you have our assurance that should you need any assistance with your efforts to continue your success, we will be there for you.

As you are aware, our road building, logging and forest management contractors are all affiliated with the "Pro Logger" program and are LEAP certified. We continue to strive for professionalism in our forest management and hauling activities. We rely on these professionals to execute IDL contracts in a timely, orderly and professional manner. We feel that our relationship with the IDL continues to be paramount in our mutual success which can be measured by a high level of generated revenues, efficient completion of projects and continuous and predictable harvest levels.

Thank you very much for the opportunity to comment on the FY '24 IDL proposed timber sale program.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy P. Dougherty", is written over a light blue circular stamp.

Timothy P. Dougherty - Agency Resource Manager

STATE BOARD OF LAND COMMISSIONERS

April 18, 2023
Regular Agenda

Subject

Transfer of Land Bank Funds

Question Presented

Shall the Land Board approve the transfer of \$2,847,310 of principal and accrued interest from the Land Bank to the permanent endowment fund?

Background

The Land Board adopted the Strategic Reinvestment Plan (Plan) at its May 17, 2016 meeting. The Plan provides direction for reinvestment of Land Bank funds resulting from the disposal of endowment land. In July 2017, July 2018, and May 2020 the Land Board reviewed and reaffirmed the Plan.

The Land Board's reinvestment strategy also provides direction to promptly transfer funds that will mature prior to potential land acquisitions, or that exceed what is required for acquisitions.

The Department has reinvested approximately \$99.7 million in five timberland acquisitions including over 54,000 acres of productive timberland. Most of the acquired timberland consists of young timber stands that will support increased endowment timber sale volume over time.

As of March 31, 2023 there was a total Land Bank balance of \$76,763,253 (Attachment 1). Funds may remain in the Land Bank for five years before mandatory transfer to the permanent endowment fund. The first required transfer would occur in the first quarter of FY2025. With Land Board approval of this recommended transfer, the next required transfer would occur in the first quarter of FY2026.

Discussion

The Department continues to seek potential transactions for productive timberland and/or to secure legal access to existing endowment lands in alignment with the direction provided by the Land Board in May 2020:

"...focus on acquisitions that increase the total amount of working forests in Idaho, consistent with the Land Board's fiduciary duty."

This recommended transfer includes \$12,895 of principal for the Normal School endowment, and \$2,834,415 of accrued interest for the Public School, Agricultural College, Normal School, and State Hospital South endowments.

The proposed transfer includes the approximate interest accrued by the fund balances that were expended for the recent timberland acquisition and the farmland acquisition for the University of Idaho CAFE Center (Agricultural College endowment). The proposed transfer remains consistent with the methodology of transferring principal and the associated accrued interest together.

Transfer of the Land Bank funds is consistent with current Land Board direction and the constitutional mandate to maximize long-term returns. The proposed transfer would allow investment of additional funds in financial assets while maintaining an amount in the Land Bank sufficient for potential acquisition of working timberland and/or legal access to existing endowment lands.

The Land Board's Investment Subcommittee is directed, in part, to "Coordinate consideration of investment issues that cross both the endowment fund and endowment lands." The Investment Subcommittee met on April 12, 2023 and approved the Department's recommendation to transfer \$2,847,310 of principal and accrued interest from the Land Bank to the permanent endowment fund.

Recommendation

The Department recommends transfer of \$2,847,310 of principal and interest from the Land Bank to the permanent endowment fund.

Board Action

Attachments

1. March 31, 2023 Land Bank Aging Report

LAND BANK AGING REPORT

Current Remaining Principal Balance By Quarter Received - As of March 31, 2023

FY Quarter IN	Public School	Agriculture College	Normal Schools	State Hospital South	University of Idaho	All Endowments	FY Quarter EXPIRES
2019-01	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2024-01
2019-02	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2024-02
2019-03	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2024-03
2019-04	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2024-04
2020-01	\$ -	\$ -	\$ 12,895	\$ -	\$ -	\$ 12,895	2025-01
2020-02	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2025-02
2020-03	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2025-03
2020-04	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2025-04
2021-01	\$ 1,639,575	\$ -	\$ -	\$ -	\$ -	\$ 1,639,575	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	\$ 17,237,620	\$ -	\$ -	\$ -	\$ 27,378,340	2027-02
2022-03	\$ 9,890,500	\$ -	\$ -	\$ -	\$ -	\$ 9,890,500	2027-03
2022-04	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2027-04
2023-01	\$ 6,125,000	\$ -	\$ -	\$ -	\$ -	\$ 6,125,000	2028-01
2023-02	\$ 9,848,000	\$ -	\$ -	\$ 432,187	\$ -	\$ 10,280,187	2028-02
2023-03	\$ 9,800,000	\$ -	\$ -	\$ -	\$ -	\$ 9,800,000	2028-03
TOTAL PRINCIPAL REMAINING	\$ 55,539,515	\$ 17,237,620	\$ 12,895	\$ 432,187	\$ -	\$ 73,222,217	

LAND BANK CASH BALANCE (with Interest)	\$ 57,950,326	\$ 17,606,513	\$ 424,589	\$ 781,825	\$ -	\$ 76,763,253
---	----------------------	----------------------	-------------------	-------------------	-------------	----------------------

STATE BOARD OF LAND COMMISSIONERS

April 18, 2023
Regular Agenda

Subject

Negotiated rulemaking to promulgate a new rule chapter related to recreational use of endowment land and implement Senate Bill 1049

Question Presented

Shall the Land Board authorize the Department to initiate negotiated rulemaking for a new rule chapter related to recreational use of endowment land (IDAPA 20.05.01)?

Background

The Idaho Department of Lands (Department) manages 2.5 million acres of state endowment trust land, with more than 96% of all endowment land accessible by foot, watercraft, or vehicle. About 2.3 million acres are available for hunting, fishing, hiking, camping, or other recreation.

State Board of Land Commissioners' (Land Board) policy allows for public recreation on endowment land, provided those activities do not degrade the land, interfere with management activities, or otherwise negatively affect the long-term financial return to beneficiaries (Attachment 1). The Land Board seeks to keep endowment land open for recreational use by the public when such use does not impede the Land Board's constitutional mandate to maximize long-term returns for the beneficiaries.

Unfortunately, bad actors sometimes damage endowment land and degrade its potential for making money for the beneficiaries. Repairing the land can be expensive. While most recreational users behave responsibly, occasionally members of the public cause substantial damage to gates, fences, timber, or areas closed to motorized vehicles. Currently, the only charges available for law enforcement to bring when there is abuse of endowment land are heavy-handed misdemeanor or felony charges.

Discussion

During the 2023 regular session, the Idaho Legislature passed Senate Bill 1049, a stakeholder-sponsored bill designed to curb recreational impacts on endowment land (Attachment 2). A diverse group of stakeholders, including the Idaho State ATV Association, Idaho Sportsmen, Idaho Recreation Council, Idaho Farm Bureau Federation, and Idaho Outfitters and Guides Association developed the legislation.

Authored principally by David Claiborne of Idaho Recreation Council, Senate Bill 1049 seeks to disincentivize the abuse or misuse of endowment land, preserving its revenue-

generating potential for the beneficiaries. The legislation, which was signed into law by the Governor on March 20, 2023, creates a new section of Idaho Code that will become effective on July 1, 2023.

The legislation requires rulemaking to specify prohibited activities that are subject to a warning ticket for minor first offenses, with second violations under the statute being punished with an infraction and \$250 fine.

Citizens' due process rights are further protected by requiring the Department to post visible signage in the area where recreation use restrictions may apply, publish the restrictions on the agency's website, and make the information available at the Department's nearest Supervisory Area office.

If approved by the Land Board, the Department will engage stakeholders in the negotiated rulemaking process and post rule drafts on our website to keep participants well informed. The Department will seek to reach consensus on the rule text to meet deadlines for review by the 2024 Idaho Legislature. A proposed timeline for the rulemaking process is provided in Attachment 3.

Recommendation

Authorize the Department to initiate negotiated rulemaking for a new rule chapter related to recreational use of endowment land (IDAPA 20.05.01).

Board Action

Attachments

1. Land Board Recreation Policy (August 18, 2018)
2. Senate Bill 1049 with Statement of Purpose and Fiscal Note
3. Draft rulemaking timeline



LAND BOARD POLICY
Idaho Department of Lands
Agency Guidance Document
[Recreation Program](#)
Boise Staff Office
(208) 334-0200
comments@idl.idaho.gov

Land Board Recreation Policy

In accordance with [Executive Order 2020-02, Transparency in Agency Guidance Documents](#), guidance documents promulgated by the department are not new laws. They represent an interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

Agency Contact

Lands Program Specialist OHV/Recreation

A large, faded version of the Idaho Department of Lands logo is centered on the page, serving as a watermark. It features the same diamond shape with a mountain, tree, and water, and a central bar with the text "IDAHO DEPARTMENT OF LANDS" in white capital letters.

IDAHO DEPARTMENT OF LANDS

State Board of Land Commissioners

Recreation Policy

Background

Article IX, Section 8 of the Idaho Constitution mandates that state endowment trust lands are to be managed to secure the maximum long-term financial return to the endowment beneficiaries. Revenue-generating activities on endowment lands and earnings on invested funds provide millions of dollars annually in support of Idaho's public school system and numerous other state of Idaho institutions. In addition to providing financial support to the beneficiaries of nine endowment funds, endowment lands may also benefit the citizens of Idaho by providing access for recreational pursuits, so long as recreation activities are consistent with the constitutional mandate.

The members of the State Board of Land Commissioners (Land Board) are the trustees of endowment lands and the funds they generate. The Land Board provides direction to the Idaho Department of Lands (IDL) in the management of endowment lands.

Land Board Recreation Policy

Idaho has a history and culture of valuing outdoor recreation opportunities and access to lands not privately owned. The outdoor recreation industry contributes hundreds of millions of dollars to Idaho's economy each year. The accessibility of millions of acres of endowment lands for recreation helps strengthen Idaho's economy.

The Land Board recreation policy directs IDL in carrying out the Land Board's fiduciary obligations while managing for recreational activities on endowment lands where those activities do not conflict with the Land Board's fiduciary obligations.

The Land Board supports a policy of allowing the general public continued recreational access to legally accessible endowment lands, as long as the recreational activities do not degrade the lands, interfere with management activities, or otherwise negatively affect the long-term financial return to endowment beneficiaries. The Land Board authorizes the IDL director to implement limitations to certain recreational activities on endowment lands, including closure when necessary, to protect the public or the underlying value and productivity of the endowment land. The Land Board directs IDL to develop internal policies and procedures to bring uniformity to how endowment land managers handle recreation-related management decisions across the state.

Recreation Funding

- A portion of every Off-Highway Vehicle registration fee currently is directed to IDL to "provide off-highway vehicle opportunities and to repair damage directly related to off-highway vehicle use" (Idaho Code § 67-7126(4)).

- The Land Board directs IDL to pursue mechanisms to compensate the endowment beneficiaries for dispersed recreational uses of endowment lands as a means to help protect continued recreational access to legally accessible endowment lands for the general public.
- Non-exclusive leasing and land use permitting will give due consideration to net revenue and risks to the endowments.

Partnerships

- The Land Board directs IDL to work with law enforcement agencies to ensure compliance with recreation management objectives on endowment lands.
- The Land Board directs IDL to partner with other agencies and organizations to assist in the development of managed and/or organized recreation opportunities on endowment lands.

References

Idaho Constitution, Article IX Section 8
Idaho Constitution, Article I Section 23
Idaho Code § 67-7126(4)

The Idaho State Board of Land Commissioners approved this policy on August 21, 2018.



IN THE SENATE

SENATE BILL NO. 1049

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

RELATING TO ENDOWMENT LAND; AMENDING CHAPTER 1, TITLE 58, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 58-156, IDAHO CODE, TO PROVIDE FOR NOTICE REGARDING ANY RESTRICTION, REGULATION, OR PROHIBITION OF SPECIFIED ACTIVITIES ON STATE ENDOWMENT LANDS AND TO PROVIDE FOR VIOLATIONS AND PENALTIES; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 1, Title 58, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 58-156, Idaho Code, and to read as follows:

58-156. ENDOWMENT LAND -- CLOSURE, RESTRICTION, REGULATION, OR PROHIBITION. (1) Whenever the state board of land commissioners has promulgated rules pursuant to chapter 52, title 67, Idaho Code, for the closure of endowment lands or for restricting, regulating, or prohibiting specified activities on state endowment lands, the board shall provide notice of such closure, restriction, regulation, or prohibition to the public as follows:

(a) Notices shall be posted on the Idaho department of lands website and made available at the department's supervisory area offices; and

(b) Notices shall also be posted at gates or road or trail entry points onto the endowment land to which they apply and shall state:

(i) "Use restrictions apply" or similar wording; and

(ii) A website address and phone number for contacting the department.

(2) Violation of any properly posted closure, restriction, regulation, or prohibition of endowment lands promulgated by the state board of land commissioners pursuant to subsection (1) of this section shall be punishable as follows:

(a) A warning ticket and advisory of the applicable closure, restriction, regulation, or prohibition shall be issued to the violator if it is the violator's first offense under this section within five (5) years.

(b) If the violation is the violator's second violation of this section within five (5) years of any prior conviction or warning under this section, the violation shall be an infraction punishable by a fine of two hundred fifty dollars (\$250).

(c) If the violation is the violator's third violation of this section within five (5) years of any prior conviction or warning under this section, the violation shall be a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000) or imprisonment in the county jail for no more than six (6) months or both.

(d) For any offense that is accompanied by any actual physical harm, injury, or damage to personal property or natural resources, the viola-

1 tion shall be treated as criminal trespass pursuant to section 18-7008,
2 Idaho Code, and subject to the penalties for criminal trespass with dam-
3 age set forth in section 18-7008(3) (b) .

4 (3) For any conviction under subsection (2) (b) or (c) of this section,
5 the court shall additionally impose an order of restitution directing that
6 the violator pay restitution to the Idaho department of lands in an amount
7 sufficient to repair, replace, or correct any actual physical harm, injury,
8 or damage to personal property or natural resources resulting from the vio-
9 lation.

10 (4) For any conviction under subsection (2) (b) or (c) of this section,
11 the court may, in its discretion, additionally impose an order requiring the
12 violator to undergo boating, off-road, and/or snowmobile operator education
13 classes offered by the Idaho department of parks and recreation.

14 SECTION 2. An emergency existing therefor, which emergency is hereby
15 declared to exist, this act shall be in full force and effect on and after
16 July 1, 2023.

The logo of the Idaho Department of Lands is centered on the page. It features a stylized mountain range in the background, with a central diamond shape containing a green field and a yellow field. A horizontal banner across the middle of the logo contains the text "IDAHO DEPARTMENT OF LANDS" in white, uppercase letters.

IDAHO DEPARTMENT OF LANDS

REVISED

STATEMENT OF PURPOSE

RS30068 / S1049

This legislation adds a new section to Idaho Code, Title 58, Chapter 1, to deal with closures and restrictions on State endowment land. The purpose of this legislation is to protect State land from being abused and misused. This legislation states that the State Board of Land Commissioners provides notice to the public of any restrictions, closures, prohibitions, and regulations on State endowment land. Proper posting is required, and fines and restitution requirements are outlined.

FISCAL NOTE

There is no expected fiscal impact to the State General Fund or to local governments since it will not add to the administrative budget already set.

The logo for the Idaho Department of Lands is centered on the page. It features a large, stylized mountain range in shades of green and yellow. A horizontal banner across the middle of the mountains contains the text "IDAHO DEPARTMENT OF LANDS" in white, bold, uppercase letters. The background of the page is a faint, circular seal of the State of Idaho, with the words "STATE OF IDAHO" and "1890" visible around the perimeter.

IDAHO DEPARTMENT OF LANDS

Contact:

Senator Mark Harris
(208) 332-1341
Mr. David Claiborne
Sawtooth Law Offices
(208) 629-7447

DISCLAIMER: This statement of purpose and fiscal note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).



Draft Rulemaking Timeline

IDAPA 20.05.01

Recreational Use of Endowment Land

April 18, 2023	Approval from Land Board to start negotiated rulemaking (regular agenda)
May 5, 2023	Last day to submit <i>Notice of Intent to Promulgate Rules</i> to the Office of the Administrative Rules Coordinator (OARC) for publication in June
May TBD, 2023	Post information on IDL website about this rulemaking
June 7, 2023	<i>Notice of Intent to Promulgate Rules</i> publishes in the Idaho Administrative Bulletin; public comment period opens
June TBD, 2023	Negotiated rulemaking public meetings
July TBD, 2023	Negotiated rulemaking public meetings
July 31, 2023	End of comment period for negotiated rulemaking
August 15, 2023	Present update on this rulemaking to the Land Board (information agenda)
August 18, 2023	Last day to submit proposed rule to DFM for the 2024 Legislature
September 1, 2023	Last day to submit <i>Notice of Proposed Rule</i> to OARC for the 2024 Legislature
October 4, 2023	Proposed rule publishes in the Idaho Administrative Bulletin and 21-day public comment period begins
October TBD, 2023	Public hearing
October 25, 2023	End of public comment period on proposed rule
November 21, 2023	Request approval from Land Board to adopt pending rule (regular agenda)
November 24, 2023	Submit <i>Notice of Pending Rule</i> to OARC for publication in January 2024 Administrative Bulletin
	Pending rule to be reviewed during the 2024 legislative session

Note: All dates are subject to change.

STATE BOARD OF LAND COMMISSIONERS

April 18, 2023
Regular Agenda

Subject

Delegation of Authority for Disclaimers of Interest

Question Presented

Shall the Land Board delegate routine Disclaimers of Interest to the Director?

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. Since the state does not have clear title to these lands, these accreted lands are subject to adverse possession by the adjacent upland landowner through a quiet title action. Land Board policy from 1984 directs the Idaho Department of Lands (Department) to work with landowners to pursue disclaimers of interest (disclaimer) for clearing title to the accreted land. See Attachment 1, Disclaimer of Interest Procedures.

Discussion

In recent years, the number of disclaimer requests from landowners has increased. Current Land Board policy is to present each disclaimer to the Land Board as a Consent Agenda item. In seeking greater efficiency, the Department worked with the Office of the Attorney General to research whether disclaimers could be processed without Land Board action.

Idaho Code § 58-119(1) provides that the Department shall have power "To exercise, under the general control and supervision of the state board of land commissioners all the rights, powers and duties vested by law in the state board of land commissioners, except the supervision of public investments [EFIB], the administration of the Carey Act and the administration of chapter 26, title 42, Idaho Code." Under that provision, the Land Board could delegate its authority regarding disclaimers to the Department.

Idaho Code § 58-119A further clarifies the authority for the Department to issue disclaimers without obtaining formal approval from the Land Board: "The department of lands may enter into an agreement with an owner of land adjacent to accreted land along a navigable river for the issuance of a disclaimer of interest as to the accreted land by the state in exchange for a reservation of a public use right-of-way along the navigable river. Any proposed agreement that seeks to reserve a public use right-of-way in excess of, or less than, a width of twenty-five (25) feet shall be approved by the state board of land commissioners prior to finalization of the agreement."

In the proposed revised process, the Department would maintain the current research and field inspection tasks required for the disclaimer process, including obtaining and evaluating tax and deed records. The Department would utilize its website to provide appropriate transparency regarding potential disclaimers. The Department would coordinate the disclaimer process, where possible, to allow for public access to the rights-of-way received.

Rather than presenting each disclaimer to the Land Board, the Director would approve or deny each disclaimer as long as the following conditions are met:

- Gross acreage of the disclaimed parcel is not over 25 acres.
- There are no existing structures (non-agricultural) in the proposed disclaimer area.
- Land Board staff has reviewed the disclaimer to determine if the disclaimer warrants being brought before the Land Board as a consent item.
- If requested, information gathered as part of the disclaimer process, such as tax and deed records, will be provided to Land Board staff.
- The proposed public use right-of-way is not less than or greater than twenty-five feet (25') in width.
- The Department has not received public inquiries or media questions regarding the proposed disclaimer.

Recommendation

Delegate the approval of Disclaimers of Interest to the Director as long as the above six conditions are met.

Board Action

Attachments

1. Disclaimer of Interest Procedures



Disclaimer of Interest Procedures

This guidance document is not a new law. This document is an agency interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

Agency Contact

Navigable Waterways Program Manager, Boise Staff Office

I. Disclaimer of Interest Procedures

Section 5 – Legal Authorities.....	2
Section 10 – Navigable Waters Ownership	5
Section 15 – Processing Disclaimers	9
Section 30 – Identifying the Ordinary High Water Mark.....	15

II. Attachments

1. September 11, 1984 Land Board Directive.....	20
2. October 21, 1997 Land Board Directive.....	21
3. June 12, 2007 Land Board Directive.....	23
4. May 7, 2007 Attorney General Opinion 07-1.....	25
5. November 7, 2007 Memorandum of Understanding between IDWR and IDL.....	36
6. List of Navigable Lakes and Rivers.....	43
7. Disclaimer of Interest Information Sheet.....	47



Section 5 – Legal Authorities

This guidance document is not a new law. This document is an agency interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

Agency Contact

Navigable Waterways Program Manager, Boise Staff Office

Contents

I. Authorities and Statutes	2
II. Case Law	2
III. Land Board Directives	4
IV. Attorney General Opinions	4
V. Interagency Agreements	4

I. Authorities and Statutes

Idaho Admissions Act of July 3, 1890

Idaho Code § 58-12, Idaho Code, Public Trust Doctrine

Idaho Code § 73-116, Common Law in Force

Idaho Code § 58-104, Idaho Land Board - Powers and Duties

Idaho Code § 58-119A, Reservation of Public Use Right-of-Way for Disclaimers of Interest

Idaho Code § 58-132, Extension and Declaration of Powers and Duties of State Board of Land Commissioners

Idaho Code § 58-601, Rights of Way for Ditches and Reservoirs

Idaho Code § 36-1601, Public Waters – Highways for Recreation

II. Case Law

Pollard v. Hagen, 44 U.S. 212, (1844) (All new states enter the union under equal footing. Therefore, all of the states own the lands beneath the navigable rivers and lakes.)

Shively v. Bowlby, 152 U.S. 1, (1894) (State obtained title to lands below ordinary high water mark of navigable bodies of water at statehood.)

Illinois Central Railway Co. v. Illinois, 146 U.S. 387 (1892) (State as administrator of trust of beds of navigable bodies of water does not have power to abdicate its role as trustee in favor of private parties.)

Scott v. Lattig, 227 U.S. 229, 33 S.Ct. 242 (1913) (Snake River is navigable and state owns the bed. This case reaffirmed the equal footing doctrine in Idaho.)

Callahan v. Price, 26 Idaho 745, 146 P.2d 732 (1915) (Salmon River is navigable, and establishes the idea of the public trust doctrine in Idaho.)

Northern Pacific RR Co. v. Hirzel, 29 Idaho 438, 161 P.2d 854 (1916) (Snake and Clearwater Rivers are navigable for title purposes, and “public lands” in article 9, section 8 of the Idaho Constitution does not include the beds of navigable waterways.)

Burrus v. Rutledge, 34 Idaho 606, 202 P.2d 1067 (1921) (Public has rights on water despite ownership of lands beneath the water.)

Smith v. Long, 76 Idaho 265, 281 P.2d 483 (1955) (The meander line is not intended as either a boundary line or a determination of the ordinary high water mark.)

Hayden Lake Protective Association, Inc. v. Dalton Gardens Irrigation District et al, Kootenai County, Judge Spear (1962) (Ordinary high water mark of Hayden Lake is 2239 feet above sea level.)

Rutledge v. State, 94 Idaho 121,482 P.2d 515 (1971) (Formerly submerged lands of the State may be acquired by adverse possession.)

West v. Smith, 95 Idaho 550, 511 P.2d 1326 (1973) (Riparian landowners have unobstructed access to the navigable waters along all points of riparian land.)

Southern Idaho Fish and Game v. Picabo Livestock, 96 Idaho 360, 528 P.2d 1295 (1974) (Test for navigability for public right of way; Court decision essentially codified in § 36-1601.)

Ritter v. Standal, 98 Idaho 446, 566 P.2d 769 (1977) (Authority of State Board of Land Commissioners over navigable waters is affirmed.)

Heckman Ranches, Inc. v. State, 99 Idaho 793, 589 P.2d 540 (1979) (Determining ordinary high water mark, agricultural purposes does not mean grazing.)

Kootenai Environmental Alliance, Inc., Appellant v. Panhandle Yacht Club, Inc., 105 Idaho 622, 671 P.2d 1085 (1983) (Public Trust Doctrine is affirmed and further defined in Idaho.)

Idaho Forest Industries, Inc. v. State, 112 Idaho 512, 733 P.2d 733 (1987) (Public trust arises only in land below natural high water mark of navigable waters.)

Erickson v. State, 132 Idaho 208, 970 P.2d 1 (1998) (State is the presumed owner of property below the ordinary high water mark, so burden of proof for an adverse claim of ownership is upon the adjacent upland owner.)

Idaho v. United States, 533 U.S. 262, 121 S.Ct. 2135 U.S. (2001) (Coeur d'Alene tribe owns the lower one-third of Lake Coeur d'Alene and the St. Joe River inside the reservation boundaries.)

City of Coeur d'Alene v. Lake Coeur d'Alene Property Owners Association et al, 143 Idaho 443, 147 P.3d 75 (2006) (Elevation of Lake Coeur d'Alene is no higher than 2128 at all points on the lake, and public may use the lakebed below this elevation.)

III. Land Board Directives

September 11, 1984 Department shall issue disclaimers of interest instead of a quit claim deed for formerly submerged lands that are now above the ordinary high water mark (Attachment 1).

October 21, 1997 The fee for a disclaimer of interest is the greater of \$600 or the actual cost of processing the application. (Attachment 2).

June 12, 2007 Department shall reserve a 25-foot wide public use right-of-way along navigable rivers when issuing Disclaimers of Interest, while allowing the Department to propose alternatives to the Land Board due to unusual circumstances. Alternatives to the 25-foot wide public use right-of-way will be presented to the Land Board for approval (Attachment 3).

IV. Attorney General Opinions

Attorney General Opinion 07-1, Clarifies state's role in managing public trust lands, the legal basis for that role, and how it applies to the 25-foot public use easement reserved in disclaimers of interest (Attachment 4).

V. Interagency Agreements

Memorandum of Understanding, Idaho Department of Water Resources and Idaho Department of Lands (Attachment 5).



Section 10 – Navigable Waters Ownership

This guidance document is not a new law. This document is an agency interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

Agency Contact

Navigable Waterways Program Manager, Boise Staff Office

Contents

I. Ownership and Title	5
II. Movements of Navigable Waters	6
III. Clearing Title on, or Adjacent to, Navigable Waters	7
IV. Islands	7

I. Ownership and Title

A. Navigability for Title

The State of Idaho owns the beds and banks of all navigable waters below the Ordinary High Water Mark (OHWM), assuming the waterways were navigable at the time of statehood (Attachment 6). These sovereign lands were acquired by virtue of the Equal Footing Doctrine established by the Pollard v. Hagen case and included in the Idaho Admissions Act. Navigable waters are administered by the Idaho Department of Lands (IDL) for the benefit of the public in accordance with the Public Trust Doctrine. The Shively v. Bowlby case established that states obtain title to navigable waters at statehood. The Scott v. Lattig and Callahan v. Price cases established the Equal Footing Doctrine and the Public Trust Doctrine in Idaho. The Public Trust Doctrine was further defined in Kootenai Environmental Alliance, Inc. v. Panhandle Yacht Club, Inc. (KEA), and is now in statute as Idaho Code § 58-12. The courts, however, are the final arbiters of the Public Trust Doctrine (KEA). All lakes and streams that are navigable for title purposes are also navigable as a right-of-way. While IDL has a list of waterways considered navigable, the list is not set in stone. The criteria for navigable waters includes its use for commerce or navigation at or prior to statehood. Only the Land Board, the courts, or a combination of the two, have the authority to change the list of navigable waterways.

The concept of public trust lands derives from a law instituted by the Roman Emperor Justinian in 530 A.D. The law stated that running water, the sea, and consequently the shores of the sea were common to all mankind. This concept was carried forward into English Law and then to the original 13 states, or colonies at the time. Idaho Code § 73-116 incorporates the Common Law of England into Idaho Code. The KEA case used common law principles in discussing the Public Trust Doctrine.

B. Meander Lines

Meander lines are shown on the land records system as a heavy, dashed, blue line. They are from the original surveys of navigable waters. These surveys were conducted from about 1867 to the early 1900's. Many surveys were done by the United States General Land Office (GLO).

These survey lines are general representations of the meandering nature of the shorelines, thus the term meander lines. They are also called GLO lines. The meander lines also allowed upland lot sizes to be determined for the public land surveys needed prior to orderly settlement. The Government Lots were thus established along navigable waters. Meander lines are not ownership lines, as established in the Smith v. Long case. The Bureau of Land Management (BLM) has copies of the original surveys and survey notes that are often helpful for studying the GLO lines. The state only owns those lands below the current ordinary high water mark of navigable streams. Generally speaking, the ownership moves with the rivers, and the actual ordinary high water mark is the ownership boundary.

C. Navigability for Right-of-Way

Some streams were declared navigable as a right-of-way after statehood. The State of Idaho does not claim ownership of the beds and banks of these navigable waters, but they may be navigated by the public without interference from the underlying and adjacent landowners. This is affirmed by the Burrus v. Rutledge case. Eagle Creek (Shoshone County), Pritchard Creek (Shoshone County), and Silver Creek (Blaine County) are the only three streams with this designation (Attachment 6), and all three are a result of legal actions. Southern Idaho Fish and Game v. Picabo Livestock is the landmark case for navigability as a right of way, and it was later placed in statute as Idaho Code § 36-1601. Further designations may only be done by order of the State Board of Land Commissioners or by court order.

II. Movements of Navigable Waters

Navigable waters, especially rivers, have changed locations since statehood and since the original meander lines were surveyed. Navigable waters move either through accretion or avulsion. The law presumes accretion unless substantive evidence of avulsion can be provided. Different types of rivers and different geological settings influence how and when rivers move around, so the breaking point between accretion and avulsion cannot be defined with precision.

A. Accretion

Accretion is a natural movement that generally occurs as material is deposited on the inside of a river bed and material is eroded on the outside of a river bend. The ownership of the river and adjacent uplands moves with the river through accretion.

B. Avulsion

Avulsion is a sudden change of course in a river, often from a catastrophic flood. The old channel is abandoned, and a new channel is cut through former upland areas. A remnant of upland should exist between the old and new channels. The ownership lines do not change if avulsion occurs, so the state does not have clear title to the new segment of river channel. Claims of avulsion have to be dealt with on a case by case basis.

III. Clearing Title on, or Adjacent to, Navigable Waters

Two methods exist for a landowner to clear title to property when the location of the meander lines and the actual OHWM of a navigable lake or stream are different:

1. Quiet Title action through the courts; and
2. Disclaimer of Interest from the Idaho Department of Lands (Attachment 7). See Section 15.

The reason for the difference in location may be movement of the river or inaccuracies in the establishment of the meander lines. Either reason should be handled the same. IDL prefers to clear up title issues through disclaimers of interest when possible. This preference, however, should not result in IDL approving a Disclaimer of Interest that is not sufficiently protective of the public trust. The Illinois Central Railway Co. v. Illinois established that the state cannot abdicate its role as public trustee in favor of private parties.

IV. Islands

Islands create some of the more interesting situations that can arise concerning ownership of navigable rivers. An island in this discussion is limited to an area that is above the OHWM but is surrounded by riverbed. Gravel or sand bars that are present during low flow, but are covered during ordinary high water, are not islands because they are completely below the OHWM. Islands are classified as two different types, and how they are treated during the disclaimer process will vary accordingly.

A. Islands Present Before Statehood

If an island was present before statehood then it usually belongs to the federal government. These islands should be meandered or described in the original GLO surveys. The Bureau of Land Management is often the land management agency in charge of such islands. Some islands in the Snake, Boise, and Payette Rivers are still owned by the BLM. If the island was large enough to be settled, like Eagle Island on the Boise River, then the island has become private land through various federal homestead or settlement acts.

B. Islands Formed After Statehood

If an island formed after statehood, then it belongs to the state unless one of two things has occurred. One exception is when the river moves through avulsion and creates an island. As described earlier, ownership lines do not change if avulsion occurs. A newly created island would continue to be owned by the prior upland landowner. The river may simply extend a new arm out and around a parcel of former upland. The other exception is if a landowner has been paying taxes on an island and either occupying it or farming it for a number of years. This latter exception should be carefully applied. Paying taxes alone does not guarantee private ownership. Using an island for a private hunting preserve does not constitute occupancy.

Growing crops for many years indicates that private ownership is a possibility. Generally speaking, this situation may come up when the river actually did move through avulsion. Since

the state's interest is mainly the area below the OHWM, gaining clear title and pedestrian easements may be worth ceding ownership of the island and avoiding a legal fight. Consultation with the Program Manager is advised.





Section 15 – Processing Disclaimers of Interest

This guidance document is not a new law. This document is an agency interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

Agency Contact

Navigable Waterways Program Manager, Boise Staff Office

Contents

I. Why Disclaimers of Interest Are Used	9
II. Tools Used for Disclaimers	10
III. Disclaimer Requests	11
IV. Final Application Package	13
V. Approval/Denial Process.....	13

I. Why Disclaimers of Interest Are Used

- A. Through the disclaimer process, IDL has an opportunity to determine where the state ownership of navigable waters is located. As established in the Rutledge v. State case, former public trust lands are subject to adverse possession by adjacent upland landowners if the public trust lands have lost their public trust values. Essentially, if the public trust lands are no longer within or below the ordinary high water mark (OHWM), then they may not be public trust lands anymore. The title to these lands is clouded, and the current location of the public trust lands must be identified in order to clear the title to the adjacent uplands and the river.

- B. Disclaimers do not have the expense and uncertainty of adverse possession or quiet title actions, which is why IDL prefers to use disclaimers. Deeds and quit claim deeds were issued in the past and can be found on the land records system. Since IDL does not necessarily own the lands, however, that is no longer considered an appropriate method for clearing the titles. It also brings into question the Land Board's requirement to auction land instead of just disposing of it. The doctrine of accretion, reliction, and avulsion governs ownership along rivers and only adjacent landowners generally have a legal claim to uplands that have been formed through accretion. The Land Board directed IDL to use disclaimers on September 11, 1984 (Attachment 1).

II. Tools Used for Disclaimers

A. Disclaimer of Uplands to Adjacent Upland Landowners

Uplands that lie within the original surveyed meander lines, but above the current OHWM, may be disclaimed from IDL to the legal owner of the adjacent upland property. If two or more upland owners claim the same accretion land, they must sort out their differences before IDL will process a disclaimer. A written letter, quit claim deed, or other documentation is needed to ensure that the parties involved have reached agreement on the new boundaries. Generally, the $\frac{1}{4}$ - $\frac{1}{4}$ lot lines are extended across the accretion land to divide it between adjacent landowners. In some situations, a boundary line perpendicular to the river is a more equitable solution. When an entire former river channel is surrounded by two different landowners, splitting the accretion land down the middle may be the best solution. While department personnel can offer their opinion on the most logical division of accretion land, the department must not take sides in any dispute between upland owners. The department should only get involved if a landowner attempts to claim ownership of land below the OHWM.

B. Acquired Disclaimer of Interest

Portions of the current river below the current OHWM that lie outside the original meander line will be disclaimed from the adjacent upland landowner to the state. This is done in conjunction with the other type of disclaimer described above.

C. 25 Foot Public Easements

Since statehood, alterations of navigable waters have resulted from artificial means such as dikes, fill, irrigation diversions, and dams. These actions have diminished the public trust lands, and the identification of the OHWM is not a straightforward task. The IDL will, however, often use the existing OHWM providing the requesting party will grant a 25 foot public use right of way along and adjacent to the existing ordinary high water mark along rivers (Attachment 3). The reservation of this easement is also allowed by Idaho Code § 58-119A. This easement is generally not reserved along navigable lakes. It is also generally not reserved along rivers with an artificial high water mark due to a downstream dam. IDL must be the recipient of the easement, pursuant to Attorney General Opinion No. 07-1.

The easement may differ in dimension or location, or it may not be reserved at all in certain circumstances. These exceptions must be carefully weighed against the needs of the public trust and should be in the minority of situations. Moving greenbelts away from the river for the convenience of a developer is not sufficient reason for diminishing the public trust. Any deviation from the 25 foot easement must be thoroughly documented by the Area Office and this information must be included in the Land Board Memo.

Although landowners often argue that public trails past their houses will increase crime and devalue their properties, numerous studies cited by the National Park Service, other states and municipalities, and other governmental and private entities have shown that the opposite is true. Well designed and maintained trail systems increase nearby property values and have lower crime rates than the adjacent urban areas.

D. Conservation Easements

These easements can sometimes be used to settle disagreements over where the OHWM is located, or other issues associated with a disclaimer. For example, the easement could cover an area next to the river that exhibits public trust characteristics, such as a cottonwood grove, pond, slough, or wetland, and evidence regarding the location of the OHWM is unclear. Under a conservation easement, the land remains privately owned, but the easement requires that the land remain in a natural condition. Public access is often allowed, albeit from the 25 foot easement and not across the landowners undisputed uplands. IDL must be the recipient of the easement, pursuant to Attorney General Opinion No. 07-1. These easements are not very common, and consultation with the Program Manager is suggested.

III. Disclaimer Requests

A. Identify Supervisory Area

Requesting parties should be directed to contact the appropriate IDL Supervisory Area Office to determine if the subject property qualifies for a disclaimer. Disclaimers are initiated by landowners and are voluntary. If the property had a disclaimer in the past, in most cases a new disclaimer is not necessary. The wording of the prior disclaimer should specifically state that the ownership lines will move with the river in the future.

B. Application

If Area personnel determine a subject land parcel qualifies for a disclaimer of interest, and the requesting party is interested in pursuing the disclaimer, the Area will supply them with an Application For Disclaimer of Interest. No other work should be done on the disclaimer until a completed application and the nonrefundable application fee of \$300 is received by the Area. In most cases, a site visit is not needed prior to receiving a completed application and the application fee. The name on the application must be the owner of record for the upland property.

C. Time Recording

After the completed form and \$300 application fee are received, the Area will place copies of the form and deposit slip in the LMR Document Exchange and request a disclaimer number and a project number. All time spent on the disclaimer will then be coded on employee time sheets to the project number under the Public Trust PCA. The project

number will be used through the end of the disclaimer process. The total time spent will be used to help determine any processing costs due by the requestor in excess of the base \$600 fee (\$300 application fee and minimum \$300 final processing fee).

D. Preliminary Office Review

Area personnel will examine the IDL land records and other available resources such as aerial photos, prior recorded surveys, and adjacent disclaimers. An office meeting with the applicant should be held to review the data and make a preliminary determination. This determination should include uplands that IDL would disclaim to the applicant, riverbed that the applicant would disclaim to IDL, the 25 foot public use right-of-way the applicant would grant to IDL, and the fees must also be discussed during this meeting. All of the requesting party's contiguous land adjacent to the river should be included in the disclaimer process.

The requesting party must be informed that the subject property will require a survey by a licensed surveyor, and an IDL representative must determine the location of the OHWM.

E. Field Survey of the OHWM

An IDL representative will visit the site with the surveyor to establish the OHWM. The angle points where the OHWM survey begins and ends and where the OHWM changes bearing are the only points that need to be surveyed. The requesting party may accompany the surveyor, but they are not required to be present. The OHWM can be marked with stakes or flagging during this site visit, and the surveyor can follow up independently with the actual survey and placement of monuments or pins. See Section 30 of these Procedures for more details concerning the identification of the OHWM.

F. Survey Requirements

The surveyor will need to prepare a record of survey, and a metes and bounds description, which show:

1. The present OHWM and the original meander line as surveyed by the GLO and tied to the nearest section or quarter corner.
2. Upland areas within the original meander lines to be disclaimed from the state to the property owner. The size of the area in acres must be determined;
3. Current riverbed outside the original meander lines to be disclaimed from the property owner to the state. If possible, the acres to be acquired by the state should be determined;
4. 25 foot wide public use right-of-way dedicated to IDL;
5. Conservation easements dedicated to IDL;

IV. Final Application Package

In addition to the application form and initial \$300 fee, a complete final application package for a disclaimer of interest will be reviewed by Area staff and must contain the following:

A. Letter of Request

A letter of request for the Disclaimer of Interest including the acreage of accretion land requested and the exact name and address requested to appear on the disclaimer. This must be the owner of record for the adjacent uplands; and

B. Survey and Legal Description

A full size copy of the record of survey and a copy of the legal descriptions as identified in Subsection III.F, Survey Requirements. A digital copy of the legal descriptions (MS Word) and survey (PDF) will be required; and

C. Tax Payment History

Tax payment history for the last five years, if available; and

D. Proof of Ownership

Proof of ownership of the upland property adjacent to the area to be disclaimed. A copy of the last deed of record is preferable.

V. Approval/Denial Process

A. Area Approval or Rejection

Area personnel should carefully review the survey for discrepancies between what was determined on the ground and what the survey indicates. Area personnel will then submit legal descriptions to Land Records staff for accuracy validation. Survey errors or inaccuracies must be corrected by the applicant prior to the application moving forward. Area personnel will send a letter to the applicant requesting corrections or additional information required.

Once the Area has determined that an application package is complete and contains all the information in Subsection IV, they will prepare a draft Land Board Memo with attachments and draft the disclaimer and/or easement documents. The application package, draft documents, and proof of the \$300 application fee will then be forwarded to the Program Manager.

B. Approval/Review by Program Manager

The Program Manager will review the disclaimer application package and draft documents for consistency with the Land Board policy and these procedures. The project number will also be used by the Program Manager for time reporting. The application package will then

be sent to the Attorney General's office for review. Once the package has been through legal review, the Program Manager will then schedule the disclaimer for the next available Land Board meeting. The Program Manager will request from Fiscal a total of the time and cost spent on the project number to help determine what the final processing fee should be. Four hours of the Technical Records Specialist's time should be added for final document preparation, mailing, signatures, and recordation. The final amount shall be inserted into the Board Memo. The total minimum cost of a disclaimer is \$600. Since a \$300 application fee has already been paid, the final processing fee will be a minimum of \$300.

If the disclaimer application package is complete, the Program Manager will forward it to the Director's staff for inclusion on the Land Board agenda.

C. Bureau Action

Following approval by the Land Board, the Program Manager will request that the Area obtain a recorded Record of Survey to include as an attachment to the disclaimer(s) and/or easement. The Program Manager will then submit the application package to the Technical Records Specialist for final execution. The Technical Records Specialist will use the project code for time sheet entry. The Technical Records Specialist will then include the disclaimer in the action log and send two original acquired easements, two originals of land being disclaimed to IDL if applicable, and a draft of the disclaimer from IDL to the applicant. All original documents must be signed and notarized by the applicant and returned to IDL along with the final processing fee as per the approved Board Memo.

After the signed documents and processing fee are received by IDL the two original documents will be sent to the approving authorities for signature.

The fully signed documents will then be recorded by The Technical Records Specialist in the county where the disclaimer property is located. If more than one document has been signed, all the documents must be recorded simultaneously. Following recordation, support staff will scan for land records updating. One original will be returned to the applicant, and the other will be retained by the Bureau. A copy of the final documents will be forwarded to the Area office.

The Technical Records Specialist will close out the project number and give a final summary to the Program Manager electronically. The Program Manager will use the compiled information on Disclaimers to adjust these procedures or provide training as needed.



Section 30 – Identifying the Ordinary High Water Mark

This guidance document is not a new law. This document is an agency interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

Agency Contact

Navigable Waterways Program Manager, Boise Staff Office

Contents

I. Definitions.....	15
II. Identifying the Ordinary High Water Mark.....	16
III. Inspection Report.....	19

I. Definitions

Many terms are used to describe the boundaries of state ownership on navigable waters, but “ordinary high water mark” (OHWM) is the term that must be consistently used when discussing disclaimers. This is not the water level in summer. It is not the “average” high water mark. It is not generally considered a flood level unless development has encroached on the river. It can only be firmly established by examining evidence in the field. The Idaho Supreme Court in Heckman Ranches, Inc. v. State defined the OHWM as **“the line which the water impresses upon the soil for sufficient period of time to deprive the soil of its vegetation and destroy its value for agricultural purposes”**. The Heckman Ranches case defined agricultural purposes used in this context as raising agricultural crops and not just grazing livestock. This definition of OHWM is also incorporated into similar definitions in Idaho Code and the administrative rules:

“The high water elevation in a lake over a period of years, uninfluenced by man-made dams or works, at which elevation the water impresses a line on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes.” (Idaho Code § 58-1302(c), and IDAPA 20.03.04.010.23)

“... the line that water impresses on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes. When the soil, configuration of the surface, or vegetation has been altered by man's activity, the natural or ordinary high water mark shall be located where it would have been if no alteration had occurred.” (Idaho Code § 58-1202(2))

The term "natural or ordinary high water mark" as herein used shall be defined to be the line which the water impresses on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes. (Idaho Code § 58-104(9))

II. Identifying the Ordinary High Water Mark

An important concept to remember is that the OHWM is not strictly determined by any one thing. It is determined by a preponderance of evidence, which can be quite varied on rivers. This evidence includes:

1. Agricultural use, as in growing crops, often indicates land is above the OHWM.
2. Sandy or gravelly areas without well developed A and B soil horizons can suggest the area is below the OHWM. Steep rivers in a canyon will often have a scour line on the banks that has stripped the soils and exposed mostly rock. The OHWM is often the highest scour line, as per the definitions in statute and rule.
3. Small, or large, steps in the riverbank may mark the OHWM.
4. Vegetation, especially naturally occurring perennial vegetation, may or may not be useful. Grasses and small willows will often grow all the way down to the low water line, and thus may not be very useful. Plants associated with upland environments may be helpful, but ponderosa pines have been observed happily growing below the ordinary high water mark of large rivers. The river may not stay at the high stage long enough to drown the trees. A large number and variety of upland plants, however, may indicate the area is above the OHWM. Annuals are generally not very indicative.

In a straight, fast stretch of river, the OHWM may often be located near the base of mature cottonwoods, willow trees, or other large deciduous trees. In backwater areas or wide, slow stretches, many large trees may be located below the OHWM. A large number of small cottonwood seedlings or saplings may indicate an area is below the OHWM. Research into cottonwood regeneration indicates that these trees most often reproduce in sandy areas exposed by running water.

5. Lichen lines on the trunks of larger trees, when present, may indicate water levels that are sustained during high water. If high water persists long enough, it will kill off the submerged lichen on the trunk. After the water recedes, a discernable horizontal line may be left on the tree trunk. These lines can also sometimes be seen on fence posts or other objects with lichen. The lines are especially helpful during the summer following an ordinary high water flow.
6. Moss on rocks or riprap along a shoreline may also have a discernable line created by consistent levels of high water. Bridge piers or abutments can also be used. The moss will grow where the rock or concrete has been submerged long enough for the moss to grow. The moss may dry out between inundations, but it is just dormant. The moss often stops growing at a depth where the scouring action is too great for it to stay put, or where the water depths are too great for it to grow. More than one moss line may be present. The

OHWL may be one of the higher moss lines, and not one of the lower moss lines.

7. Flood debris is an important line of evidence. Grass, driftwood, sticks, garbage, and other flotsam often accumulate at the OHWM. Extreme flood events may, however, carry debris higher than the OHWM.
8. Fences may also be considered evidence of the OHWM, especially old fence lines. Fences are often put up to define ownership boundaries, and they are often located at the edge of arable fields near the river.
9. If an easement will be part of the disclaimer package, then the location of the OHWM may be influenced by where a path could reasonably be constructed. The Public Trust Doctrine partly governs the decisions regarding the OHWM.
10. The top of an old dike could be a good place to locate the OHWM, and then the dike can be used for a greenbelt or pedestrian access. Newly constructed dikes could be ignored, as per Idaho Code § 58-1202(2).
11. Anecdotal evidence can sometimes be helpful. Local residents may have a good idea of how high the river usually gets.
12. Flow gauge records can be used, but correlation between the OHWM at a disclaimer location and a specific, preferably nearby, gauging station would be needed. The gauge should be close to the area of interest so the two locations will be more likely to experience the same high water timing and conditions. If major tributaries are between the disclaimer location and the gauge, then the two locations could have different high flow timing or conditions. The best data is available at <http://waterdata.usgs.gov/id/nwis/current?type=flow>. Data tables can be downloaded into excel and analyzed to determine what appears to be an ordinary high flow. The highest daily peak flow (peak streamflow) in a given year is the best data to use. If direct observations of rivers can be made at a specific location and at the suspected ordinary high flows, then the flow recorded from that gauge and the OHWM at that location can be correlated. The flows that correlate to an OHWM on Idaho rivers often have a recurrence interval of four (4) to seven (7) years.
13. Some dam controlled rivers, such as the Lower Boise, do have a designated discharge for ordinary high water. It is 6,500 cubic feet per second (cfs) as measured at the Glenwood Bridge. This flow was determined by the U.S. Army Corps of Engineers as the level required to maintain a free flowing channel in the Lower Boise River. It is also the level used by the Idaho Department of Water Resources for determining where Stream Channel Alteration Permits may be needed. For reference, flood stage on the Lower Boise is 7,000 cfs. The 10-year flood event is 7,200 cfs, the 50-year flood event is 11,000 cfs, and the 100-year flood event is 16,600 cfs.
14. Air photos may be used to help determine the current location of the OHWM, and the evolution of the OHWM through time. The Boise River has the best catalogue of photos. It was flown in 1996 when the river ran at the designated ordinary high water of 6,500 cfs. If flowing water covers ground in those photos, then it should probably be below the OHWM.

Standing water in fields or riparian areas, however, may or may not be below the OHWM. Most river air photos are not flown during high water, but they can still be used to identify where scouring flows appeared to exist during high water. The entire state was photographed recently with high resolution color orthophotography. These can be compared with past air photos to determine how the river is moving over time, or what encroachments may be helping the river to move. The photos can also be used to help determine if past river movements were through avulsion or accretion. If you anticipate a substantial number of disclaimer requests in the future, then you may want to consider contacting other agencies and having some photos taken at an approximation of ordinary high water. The USGS Earth Explorer website has a huge volume of aerial imagery: <https://earthexplorer.usgs.gov/>

15. IDL's land records system with the orthophoto overlay is an important tool for determining how the current location of the river compares with the original surveys. They also indicate what areas have already been addressed by disclaimers or quit claim deeds. These previous disclaimers could be used as starting points if they are adjacent to the parcel of interest, and if the previously marked OHWM has not moved since that disclaimer was completed. The datasheets must also be examined to determine if ownership has been handled through deeds in the past. Not all of these appear on the map view.
16. Arcview maps with GCDBs and state land records on top of recent color orthophotos are good maps to use in the field. GPS locations of angle points can later be overlaid on the same map.
17. 7.5 minute topographic maps and other maps can be useful to see topographic contours and how rivers have changed over time. They are also used for the location map in the Land Board package.
18. Previous surveys from the county recorder's office.
19. County assessor maps can also be used to gather information. These records are most helpful when determining who is eligible to acquire accretion land. County parcel boundaries and the fact that someone has paid taxes on current riverbed are not the strongest pieces of information for determining the location of the OHWM. Navigable waters are generally not subject to adverse possession, and counties will let a landowner pay taxes on anything they wish. Unless a landowner tells the county otherwise, they could pay dozens of years of taxes on land that they do not own. It does not prove ownership, and the counties do not give refunds after such mistakes are identified.
20. Public use of the area should be documented. This has been used in past court cases to justify public easements.

III. Inspection Report

An inspection report is required for inspections identifying the ordinary high water mark. This report may be needed to defend the disclaimer. Also, if the landowner chooses to not go forward with a disclaimer, the notes can be saved for later use. It is common for these properties to change hands, and new owners often come in with a new request. Having the prior documentation on hand will save a lot of time and effort in processing the new disclaimer request. If a few years elapse between a survey of the OHWM and the submittal of a complete disclaimer package, the survey pins should be relocated in the field to make sure nothing substantive has changed. Movements of 20 feet or more within a few years is not unusual.

A. Ordinary High Water Mark

Two things should be documented:

1. The approximate location of the OHWM on an air photo or map. GPS points can be taken and then imported later onto an orthophoto base. This can then be compared with the survey when it is received. This will allow IDL to check if the location of the OHWM was changed after being flagged with the surveyor.
2. The evidence used to establish the OHWM along the property. If the landowner does not believe the OHWM was properly established, this information can be used to explain why the OHWM was established. The information can also be used, if needed, to defend IDL's decisions in a quiet title action.

B. Land Uses

Land uses of the former and current riverbed should also be documented. Improvements, pastures, croplands, irrigation influences, wetlands, and other features can help determine what should be considered upland or riverbed. Land uses can also influence what the state or the landowner wants to claim ownership of.

STATE BOARD OF LAND COMMISSIONERS

September 11, 1984

SUBJECT

Issuance of a disclaimer for non-state lands lying between
meander line survey ^{and} ordinary high water mark.

AUTHORITY

Idaho Code Section 6-402

DISCUSSION

The state lacks a substantive claim to title of lands lying above the ordinary high water mark and below the meander line as surveyed in the GLO surveys. The issuance of Quit Claim Deeds to these lands may indicate on the surface that the State has an interest which is being disposed of contrary to laws covering disposal of state lands. When these deeds are platted on official plats indication is also made that state interests may have been disposed of improperly.

RECOMMENDATION

The department recommends that when Quit Claim Deeds are requested for lands to which the state has no claim of title, the state issue a disclaimer instead of a Quit Claim Deed specific to those lands above the ordinary high water mark.

BOARD ACTION

Approved. SEP 11 1984

STATE BOARD OF LAND COMMISSIONERS
October 21, 1997

SUBJECT

This is a request to increase the administrative fees charged for processing disclaimer of interest requests for accretion land along navigable rivers and lakes.

RECOMMENDATION

The department recommends that the minimum fees for disclaimers of interest be raised from \$200.00 to \$600.00 effective November 1, 1997; however, the fee could be greater if the department incurs costs in excess of \$600.00. This is for non endowment land that lies between the ordinary high water mark and the meander lines established by the original surveys by the General Land Office, the predecessor to the Bureau of Land Management.

OVERVIEW

The department began issuing quitclaim deeds for accretion lands to adjacent landowners in 1975 for \$10.00 which was the deed fee in use at that time. This process continued until 1984 when the department presented to the Land Board a proposal to issue disclaimers of interest rather than quitclaim deeds. This was done to clarify that the department was not conveying a property interest and, in doing so, bypassing the laws pertaining to disposal of state lands as outlined in Idaho Code, Title 58-313. This proposal was approved on September 11, 1984. The department established a policy at that time to charge a \$200.00 fee or the cost of the inspection, whichever is greater. In the intervening 13 years, the largest amount an applicant paid for a disclaimer of interest was \$400.00.

The department is currently developing a policy (Operations Memorandum) for processing disclaimers of interest. In doing so, it is necessary to review the existing fee structure which has been in operation for 13 years. In 1984, the only document that the department prepared was the disclaimer of interest which was issued to the applicant. Now, there is also one and, sometimes two acquired easements for unimproved pedestrian access or an improved greenbelt easement to be prepared by the department. Most of the time there is also a disclaimer of interest for a portion of the current river bed to be disclaimed to the state from the applicant which is usually prepared by department personnel. In addition, in some cases a conservation easement is also prepared in cooperation with the Idaho Fish and Game Department. That adds up to a lot more department personnel time involved in inspecting the properties and preparing the necessary documents.

IDAHO STATE BOARD OF LAND COMMISSIONERS
Request to Increase Administrative Fees for Processing
Disclaimers of Interest for Accretion Land
October 21, 1997
Prepared: October 8, 1997 (8:53a.m.)
Page 1 of 2

The work that goes into preparing and completing a disclaimer of interest request can be fairly simple to complex depending on 1.) the number of documents to be prepared; 2.) the completeness and accuracy of the survey provided by the applicant and the surveyor; 3.) the number of individuals that have to be contacted during the preparation of the documents, i.e., the applicant, the surveyor, an attorney, a title company representative, etc. After doing some research and questioning of the usual people ordinarily involved in processing a disclaimer of interest application, it appears that the administrative costs accumulated in the processing of an average request ranges between \$500.00 and \$700.00.

The action the department takes in issuing these disclaimers of interest are extremely helpful to the adjacent landowner in clearing title to their property as title companies require some sort of documentation that they (the landowner) have clear title to their property before they can build on it or sell it. If the landowner had to go through a quiet title process through the court system, it would be considerably more expensive. Department staff believe the fees should be related to the costs we have in preparing the disclaimer request versus producing revenue since the properties are not endowment land. The disclaimer of interest is a much better process than a quiet title suit in the courts for clearing title to properties which the state has no property rights.

BOARD ACTION

APPROVED OCT 21 1997

IDAHO DEPARTMENT OF LANDS

ATTACHMENTS

1. Copy of Land Board Minutes dated September 11, 1984

DFM

DFM:mh
September 30, 1997

c:\mary\mml\lbmemodi.wpd

IDAHO STATE BOARD OF LAND COMMISSIONERS
Request to Increase Administrative Fees for Processing
Disclaimers of Interest for Accretion Land
October 21, 1997
Prepared: October 8, 1997 (8:53a.m.)
Page 2 of 2

STATE BOARD OF LAND COMMISSIONERS
June 12, 2007
Regular Agenda

SUBJECT

Adoption of a formal policy regarding the reservation of a 25-foot wide public use right-of-way in exchange for disclaimers of interest along navigable rivers.

BACKGROUND

The State owns the beds and banks of navigable rivers below the ordinary high water mark (OHWM). The OHWM, however, is not a permanently fixed location. Many of the navigable rivers have changed course since the original meander surveys in the 19th and 20th centuries. Where the course of the river has changed and the former riverbed is now dry uplands, the land no longer retains public trust values and the State no longer has an interest in retaining title to these lands. The State should, however, protect the public trust by maintaining public access along the existing bed of the river.

Prior to September 11, 1984 the Department issued quit claim deeds for former riverbeds. On the above date the State Board of Land Commissioners (Land Board) directed the Department to issue disclaimers of interest instead of quit claim deeds when clearing title to former riverbeds. In 1986 the Department began reserving 25-foot wide public access easements along the upland side of the newly surveyed ordinary high water marks. This practice has continued on most disclaimers issued statewide. (Refer to Attachment 6, Issuance History for River Disclaimers.) Disclaimers are initiated by landowners and are voluntary. Both parties must agree on the terms of the disclaimer.

The easement reservation began along the Boise River. The popularity of the greenbelt system, and rapid growth in the 1980's, dictated that the Department attempt to protect the public trust values of the river, while simultaneously helping to clear ownership and make way for riverside development. The law governing riparian and littoral rights indicates that rivers or lakes cannot be diked, diverted, or filled in, and then claimed by an adjacent owner as private uplands. These activities have historically taken place along the Boise River and have clouded the exact location of the OHWM. In addition, dam construction upstream has altered the historic flow patterns, further complicating the establishment of the correct OHWM. Most other rivers in the State have these same issues of bank alteration and changed high water marks. These uncertainties underscore the give and take of the disclaimer process.

DISCUSSION

The Department's current practice in resolving ownership issues is to generally accept the current location of the river, as defined by the OHWM identified by Department personnel. In exchange for accepting the current location of the river, a 25-foot wide public use right-of-way is reserved to the State or a local municipality on the upland adjacent to the OHWM. This serves to protect the public trust values associated with rivers, by providing river access to the public. In some instances the easement differs in dimension or location based on site specific facts. In a few extraordinary circumstances, the easement is not reserved at all. These rare exceptions are carefully weighed by the Department against the needs of the public trust.

Land Board records reveal no indication of a specific adopted policy related to the reservation of public easements, in conjunction with disclaimers of interest, along navigable rivers. What is apparent, however, is that Land Board members from the 1980's up through the present have vigorously supported the easement reservation associated with disclaimers. Land Board members routinely ask if the easement reservation is part of the disclaimer package.

Perhaps the greatest benefit of the easement reservation process has been the establishment of a greenbelt from Lucky Peak Dam to the City of Eagle; the envy of many other western states. As title to other lands adjacent to navigable rivers are cleared up throughout Idaho, other residents can enjoy the same benefits. After 20 years of successful implementation of this practice, the Department requests that the Land Board adopt a formal policy that directs the Department to reserve a 25-foot wide public use right-of-way when issuing disclaimers of interest.

This item was last before the Land Board at the March 13, 2007 meeting (Attachment 1). The Land Board directed the Department to seek an Attorney General's opinion regarding the policy of asking for a 25-foot wide public use right-of-way from the riparian landowner, who seeks a Disclaimer of Interest on the former public trust property as a condition of the State of Idaho granting the disclaimer.

RECOMMENDATION

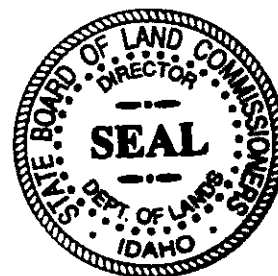
Consistent with the recommendation as presented at the March 13, 2007 Board meeting, direct the Department to reserve a 25-foot wide public use right-of-way along navigable rivers when issuing Disclaimers of Interest, while allowing the Department to propose alternatives to the Land Board due to unusual circumstances. Alternatives to the 25-foot wide public use right-of-way will be presented to the Land Board for approval.

BOARD ACTION

A motion was made by Attorney General Wasden to move the adoption of the suggested formal policy regarding reservation of a 25-foot wide public use right-of-way along navigable rivers. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 3-2, with Governor Otter and Superintendent Luna voting nay.

ATTACHMENTS

1. March 13, 2007 Land Board Memorandum
2. March 23, 2007 Letter from Judy Peavey Derr, President, Foundation for Ada/Canyon Trail Systems
3. April 17, 2007 Letter from Tom Dale, Chair, Community Planning Association
4. May 25, 2007 Email from Brian Hoff
5. June 3, 2007 Letter from Stephanie Burgess, Meridian
6. Issuance History for River Disclaimers
7. Attorney General Opinion No. 07-1, May 7, 2007





STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

ATTORNEY GENERAL OPINION NO. 07-1

To: George Bacon, Director
Idaho Department of Lands
STATEHOUSE MAIL

Per Request for Attorney General's Opinion

INTRODUCTION

At the March 13, 2007, meeting of the State Board of Land Commissioners ("Board"), a formal Attorney General's opinion was requested regarding the legal basis for the Board's practice of requiring a 25-foot public easement in exchange for a disclaimer of the State's ownership of formerly submerged lands.

QUESTIONS PRESENTED

You ask the following questions:

1. What is the Board's role with respect to management of submerged lands?
2. What are the legal principles that establish the State's interest to lands adjacent to navigable streams?
3. What is the legal basis for the Board's long-standing practice of requiring the exchange of a 25-foot public use easement for the grant of a disclaimer of the State's interest to formerly submerged lands?
4. Does the exchange of a 25-foot public use easement for the grant of a disclaimer of the State's interest to formerly submerged lands constitute a taking of private property for a public purpose?

CONCLUSIONS

1. The State of Idaho received title to the submerged lands underlying navigable water bodies below the ordinary high water mark (“OHWM”) under the Equal Footing Doctrine upon statehood. Submerged lands are held in trust by the State for the benefit of the public. The Board was statutorily designated as the trustee of submerged lands within Idaho.

2. The legal principles of accretion, reliction and avulsion govern the ownership of submerged and formerly submerged lands below and adjacent to navigable waterways.

3. The legal basis for the Board’s long-standing practice of requiring the exchange of a 25-foot public use easement for the grant of a disclaimer of the State’s interest in formerly submerged lands is in the nature of the settlement of a private boundary dispute based upon competing proprietary claims.

4. The exchange of a 25-foot public use easement for the grant of a disclaimer of the State’s interest in formerly submerged lands does not constitute a taking of private property for a public purpose without just compensation because the easement represents valuable consideration for the State’s relinquishment of its claim to ownership of the parcel of land in dispute.

ANALYSIS

A. Under the Public Trust Doctrine, the Board Serves as a Trustee With a Fiduciary Responsibility to Assure Public Access to the Beds and Banks of Navigable Waterways

Under the Equal Footing Doctrine,¹ the State obtained title to the beds and banks of navigable water bodies upon its admission into the Union in 1890. The power to direct, control and dispose of submerged lands is vested in the Board pursuant to Idaho Code § 58-104(9). The State’s ownership and the Board’s management responsibilities are not without limitation. In Kootenai Environmental Alliance v. Panhandle Yacht Club, 105 Idaho 622, 671 P.2d 1085 (1983) (“KEA”), the Idaho Supreme Court ruled that Idaho’s submerged lands are subject to the common law Public Trust Doctrine. In KEA,

¹ The Idaho Admission Act provides that Idaho was “admitted into the Union on an equal footing with the original states in all respects whatever.” Idaho Admission Act, ch. 656, § 1, 26 Stat. 215 (1890). The United States Supreme Court in Shively v. Bowlby, 152 U.S. 1, 14 S. Ct. 548, 38 L. Ed. 331 (1894), determined that one aspect of admission of a state on equal footing with the original states was the title to the beds of navigable waters below the OHWM.

the Idaho Supreme Court reviewed the common law history of the Public Trust Doctrine and its application in various other jurisdictions to synthesize the parameters of the Public Trust Doctrine to be applied in Idaho.

The Public Trust Doctrine requires that the State, through the Board, hold title to the beds and banks of navigable water bodies below the OHWM for the use and benefit of the public. 105 Idaho at 625, 671 P.2d at 1088. The beneficial uses reserved to the public historically included navigation, commerce and fishing. *Id.* More recently, courts have recognized a broader range of public uses including public recreational activities such as fishing, hunting and swimming. *Id.*² Courts have recognized that the public trust is dynamic and can expand with the development and recognition of new public uses. *Id.*

The core element of the State's public trust responsibility is that, as trustee on behalf of the public, the State may not abdicate its responsibility for submerged lands in favor of private parties. *Id.* Nor can the Board dispose of public trust lands unless explicitly authorized by the legislature. Under the Lake Protection Act, title 58, chapter 13, Idaho Code, the Board is limited to approving encroachments or issuing leases on the submerged lands of navigable lakes consistent with the Public Trust Doctrine. However, such encroachments must be in aid of commerce, navigation and recreation and must not substantially impair the public interest in the remaining submerged lands and waters. 105 Idaho at 626, 671 P.2d at 1089.

From Massachusetts, Wisconsin and California, the Idaho Supreme Court fashioned the remaining factors for determining whether the alienation of state-owned submerged lands violates the Public Trust Doctrine. From Massachusetts jurisprudence, the Idaho Supreme Court chose the following requirement:

[P]ublic trust resources may only be alienated or impaired through open and visible actions, where the public is *in fact* informed of the proposed action and has substantial opportunity to respond to the proposed action before a final decision is made thereon.

105 Idaho at 628, 671 P.2d at 1091.

² Idaho's legislature recognized this broad scope of interests to be protected in the enactment of the Lake Protection Act, title 58, chapter 13, Idaho Code. Idaho Code § 58-1301 states in pertinent part that: "The legislature of the state of Idaho hereby declares that the public health, interest, safety and welfare requires that all encroachments upon, in or above the beds or waters of navigable lakes of the state be regulated in order that the protection of property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty and water quality be given due consideration and weighed against the navigational or economic necessity or justification for, or benefit to be derived from the proposed encroachment."

From Wisconsin jurisprudence, the Idaho Supreme Court established that the final determination whether an alienation or impairment of state-owned submerged lands violates the Public Trust Doctrine will be made by the judiciary. 105 Idaho at 629, 671 P.2d at 1092. In so doing, the court will not supplant its judgment for that of the State, but will take a “close look” at the State’s action. *Id.* In determining whether the State’s action violates the public trust, the court will weigh the effect of the proposed project on the public trust resources impacted such as navigation, fishing, recreation or commerce. *Id.* The court will also look at the impact of the proposed project along with the cumulative impact of the existing impediments to full use of the public trust resource on the specific public trust resources impacted by the alienation or impairment. 105 Idaho at 629-30, 671 P.2d at 1092-93.

Examining California law, the Idaho Supreme Court determined that the allocation of public trust resources could be subject to future modification based on changed circumstances. The court determined that even where the State has appropriately allocated a public trust resource to a private use, a change in circumstances could change the validity of the allocation of that public trust resource. 105 Idaho at 631, 671 P.2d at 1094. Therefore, the grant of a private use to the State’s submerged lands remains subject to the Public Trust Doctrine. *Id.* The State’s alienation or impairment of the formerly submerged beds and banks must take into account the highly dynamic nature of the boundary lines along navigable rivers and the difficulty of drawing a firm boundary line. The following analysis sets forth the legal and factual complexities inherent in evaluating State ownership of the beds and banks of navigable waterways below the OHWM. These complexities add uncertainty to the Board’s exercise of its fiduciary responsibility as trustee of the public trust.

B. The Ownership of the State’s Public Trust Resources Cannot Easily Be Factually or Legally Ascertained

As previously noted, the State owns the beds and banks of presently or formerly submerged lands that were part of navigable waterways below the OHWM at the time the State was admitted into the Union. Idaho Forest Industries, Inc. v. Hayden Lake Watershed Improvement District, 112 Idaho 512, 733 P.2d 733 (1987) (“IFI”). The location of the OHWM was established by Idaho common law in Raide v. Dollar, 34 Idaho 682, 203 P. 469 (1921). In Dollar, the court determined that:

The high water mark of the river, not subject to tide, is the line which the river impresses on the soil by covering it for sufficient periods to deprive it of vegetation and to destroy its value for agriculture.

34 Idaho at 689, 203 P. at 471. This standard was subsequently codified at Idaho Code § 58-104(9) which provides in pertinent part:

The term “natural or ordinary high water mark” as herein used shall be defined to be the line which the water impresses on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes.

Thus, determining the State’s ownership is predicated upon the physical location of the line that water impresses on the soil by covering it for sufficient periods to deprive it of vegetation at the time of statehood. Because of man’s modification of river flows and intervening hydrologic events, establishment of the OHWM is highly complex and difficult.

Original government land surveys used meander lines as a surveying technique to determine the approximate acreage of upland lots abutting navigable rivers and lakes. The meander line in a government survey was used because it was virtually impossible to survey the actual OHWM along a river. Meander lines are an approximation of the OHWM along a navigable river. However, the meander line is not intended as either a boundary line or a determination of the OHWM. Smith v. Long, 76 Idaho 265, 281 P.2d 483 (1955).

An owner of riparian property may attempt to prove that the State does not own title to property because it is above the OHWM. In addition, a riparian owner may also attempt to prove that they have acquired ownership of formerly submerged lands under the theory of accretion. Accretion has been defined as the addition of riparian property by the gradual deposit, by water, of solid material causing to become dry land what was previously covered by water. Aldape v. Akins, 105 Idaho 254, 668 P.2d 130 (1983). The adjoining riparian owner acquires title to alluvial deposits between the water and the land bordering thereon. Nesbitt v. Wolfkiel, 100 Idaho 396, 398, 598 P.2d 1046, 1048 (1979). The law presumes a change in the submerged lands occurred as a result of accretion, but the presumption may be rebutted by evidence that the change that occurred was avulsive.³ *Id.*

Formerly submerged lands of the State may also be acquired by adverse possession. Rutledge v. State, 94 Idaho 121, 482 P.2d 515 (1971). However, in order for formerly submerged lands to be adversely possessed, the lands must have lost their value

³ Avulsion is the sudden and perceptible loss to land by the action of water or a sudden change in the bed or the course of a stream. Joplin v. Kitchens, 87 Idaho 530, 394 P.2d 313 (1964). If avulsion is the cause of the shift in the river’s bed, title remains as before the change of course. *Id.*

as a public trust resource. 94 Idaho at 123, 482 P.2d at 517. This can occur where the formerly submerged lands have dried up and been put to a public use over a long period of time. *Id.* In Rutledge, for example, the former bed of the river had been developed as a motel property. 94 Idaho at 121, 482 P.2d at 515.

There is a defense, however, to a claim of title to the formerly submerged lands under a claim of adverse possession. In IFI, Justice Huntley's concurrence⁴ cited with approval the principle that man-made alterations below the OHWM will not result in the loss of public trust resources. Justice Huntley noted that the Rutledge case only addressed adverse possession resulting from natural forces without the contribution of man-made alterations to the natural river system. 112 Idaho at 521, 733 P.2d at 742. In establishing the rationale for this precedent, Justice Huntley stated that if artificial modification of river systems could result in adverse possession: "the state would be left vulnerable to surreptitious drain and fill operations which would destroy important wetlands and rob Idahoans of the associated resources and values." *Id.* Relating this precedent to the public trust obligation, Justice Huntley noted that:

If we held otherwise, adverse claimants could accomplish by wrongful, unilateral action what the state itself could not accomplish by voluntary conveyance, namely the alienation of public trust land for purely private purposes.

Id.

C. The Board's Long-Standing Practice of Requiring the Exchange of a 25-Foot Public Use Right-of-Way for the Grant of a Disclaimer of the State's Interest to Formerly Submerged Lands is a Programmatic Means of Resolving Boundary Disputes Consistent With the Board's Fiduciary Duty to Protect Public Trust Lands

Given the complexity and expense of resolving disputes between the State and riparian owners, the Board often chooses to compromise disputes relative to the State ownership of submerged land.⁵ The State's disclaimer process provides a legally

⁴ Justice Huntley's concurring opinion was joined in by Justices Donaldson and Bistline. Therefore, the concurring opinion is binding precedent.

⁵ The Board does not always choose to compromise disputes regarding the ownership of claimed submerged lands. In those cases, the Board does not enter into the disclaimer process. Examples where the State has litigated its ownership of submerged lands include: Erickson v. State, 132 Idaho 208, 970 P.2d 1 (1998) (the State contested an allegation of the OHWM of Lake Coeur d'Alene below 2128'); Idaho Forest Industries, Inc. v. Hayden Lake Watershed Improvement District, 112 Idaho 512, 733 P.2d 733 (1987) (the State challenged the ownership of portions of Hayden Lake); State of Idaho v. U.S.

defensible means of resolving disputed claims between the riparian owner and the Board. Claims to the State's formerly submerged lands constitute an expansion of the adjoining riparian owner's property, not a contraction of the riparian owner's claim to title. The State in its role as the trustee exercising its fiduciary responsibility to the citizens of the State of Idaho must ensure that the public trust asset is not compromised. Thus, the Board adopted the policy of requiring a 25-foot public right-of-way when disclaiming title to formerly submerged lands. The right-of-way preserves the public trust value while providing clear title to the adjoining landowner.

The Department's disclaimer policy is analogous to the resolution of a private boundary dispute by two contiguous real property owners. The Idaho Supreme Court has consistently recognized the validity of agreements between adjoining property owners to establish a disputed property line by agreement. In Downing v. Boehringer, 82 Idaho 52, 349 P.2d 306 (1960), the Idaho Supreme Court explained the doctrine of boundary agreement as follows:

[W]here the location of a true boundary line on the ground is unknown to either of the parties, and is uncertain or in dispute, [the] coterminous owners [of the parcels involved] may orally agree upon a boundary line. When such an agreement is executed and actual possession is taken under it, the parties and those claiming under them are bound thereby.

82 Idaho at 56, 349 P.2d at 308.

In boundary by agreement, the parties forego litigation in the form of a quiet title action or adverse possession action and compromise on the appropriate boundary. The compromise may involve the payment of compensation or a compromise dividing the disputed property line along an agreed allocated basis.

The same may be said of the Department's disclaimer process. A dispute exists as to the exact location of coterminous properties, with the riparian owner holding title to the landward parcel and the State holding title to the waterward parcel. The owner of the riparian parcel seeks for various reasons to establish title to formerly submerged State

Department of the Interior, No. 97-0426-BLW (D. Idaho 2002) (Deer Flat Refuge) (the State challenged the federal government's ownership of federal reserve water rights); Heckman Ranches, Inc. v. State, 99 Idaho 793, 589 P.2d 540 (1979) (State challenged contention of the OHWM of the Salmon River). These cases constitute a significant commitment of State resources both in terms of cost and time. These cases also include only those which have been subject to substantial litigation. The Department administratively denies ownership of State-owned submerged lands which are not challenged through the courts.

lands.⁶ If the Department determines that the disclaimer sought is not of a significant importance, the disclaimer process goes forward. As compensation for the uncertainty in locating the precise demarcation between State-owned submerged lands and contiguous riparian land, the State receives compensation in the form of a 25-foot public use easement. If the riparian owner does not agree that the compensation sought by the Department is fair, the riparian owner is under no obligation to complete the disclaimer process.

The Board's long-standing practice of requiring the exchange of a 25-foot public use right-of-way for the grant of a disclaimer of the State's interest to formerly submerged lands is a legitimate compromise in settlement of a disputed property line between adjacent property owners. It is a voluntary agreement entered into between willing parties to resolve a disputed boundary line. It does not constitute a claim by the State against the riparian owner, nor does it represent the Department or the Board acting in its regulatory capacity. Rather, it represents the Board exercising its proprietary interest to State submerged lands.

D. The Exchange of a 25-Foot Public Use Right-of-Way for the Grant of a Disclaimer of the State's Interest to Formerly Submerged Lands Does not Constitute a Taking of Private Property for a Public Purpose

The Takings Clause of the Fifth Amendment provides: "Nor shall private property be taken for public use, without just compensation." U.S. Const. amend. V. The aim of the clause is to prevent the government "from forcing some people alone to bear the public burdens which, in all fairness and justice, should be borne by the public as a whole." Armstrong v. United States, 364 U.S. 40, 49, 80 S. Ct. 1563, 1569, 4 L. Ed. 2d 1554 (1960).

A taking can occur directly through the exercise of the governmental power of eminent domain. *See, e.g., United States v. 564.54 Acres of Land*, 441 U.S. 506, 99 S. Ct. 1854, 60 L. Ed. 2d 435 (1979). A taking can also occur indirectly when the government acts in a manner which causes an inverse condemnation. First English Evangelical Lutheran Church of Glendale v. Los Angeles County, 482 U.S. 304, 107 S. Ct. 2378, 96 L. Ed. 2d 250 (1987). Inverse condemnation can occur in two manners. Inverse condemnation can occur through a direct physical invasion of a party's property known as a physical taking. Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419, 102 S. Ct. 3164, 73 L. Ed. 2d 868 (1982). In addition, inverse condemnation can occur by virtue of the government's restriction on land use through its regulatory

⁶ Historically, parties seeking disclaimers have done so to clear title to facilitate lending or sale or to establish an ownership interest for purposes of subdivision.

authority. Penn Central Transportation Company v. New York City, 438 U.S. 104, 98 S. Ct. 2646, 57 L. Ed. 2d 631 (1978).

As previously noted, the Board's long-standing practice of requiring an exchange of a 25-foot public use easement for the granting of a disclaimer of the State's interest to formerly submerged lands is an exercise of the State's proprietary role as the owner of the State's public trust resource.⁷ Therefore, cases relating to takings based upon the State's regulatory authority are inapplicable.

Since these lands were formerly submerged lands, they remain impressed with the public trust. Actions to protect the public trust are not the imposition of state regulation over private parties. The State is giving up its interest to formerly submerged lands over which it could exert a claim. In doing so, the State retains the right of public access over a small portion of those formerly submerged lands thereby satisfying its fiduciary role to the public. The Board's policy requiring the exchange of a 25-foot public use easement in exchange for a disclaimer constitutes the settlement of the State's claim to title to formerly submerged lands. The riparian owner gains unencumbered title to the State's formerly submerged lands. The State satisfies its fiduciary responsibility under the public trust by providing public access but surrenders its legally cognizable defenses to the riparian owner's claim to title. A riparian owner that enters into a disclaimer agreement with the State has entered into a legally binding contractual agreement regarding the coterminous boundary of the riparian land and public trust land. This agreement is not a regulatory function and therefore cannot constitute a taking of private property for a public purpose.

CONCLUSION

The Board has a fiduciary responsibility under the Public Trust Doctrine to maintain public access to the submerged lands underlying navigable waterways. Private interests may attempt to claim formerly submerged lands. However, due to the complexity of the legal and factual prerequisites to a claim of title, the Board is justified in requiring compensation in the form of a 25-foot public use right-of-way from the party claiming title. This compensation is a settlement of a disputed boundary and does not constitute the taking of private property for a public purpose. The Board is acting in a proprietary capacity in compromising a disputed claim to public trust resources.

⁷ Courts have recognized that takings cannot occur by the State's exercise of its proprietary powers founded on the Public Trust Doctrine. See Marine One, Inc. v. Manatee County, 898 F.2d 1490 (11th Cir. 1990) (rescission of marine construction permits was exercise of the state's proprietary interest in submerged lands and therefore not a taking of private property).

AUTHORITIES CONSIDERED

1. United States Constitution:

Fifth Amendment.

2. United States Statute:

Idaho Admission Act, ch. 656, § 1, 26 Stat. 215 (1890).

3. Idaho Code:

§ 58-104(9).

§ 58-1301.

Title 58, chapter 13.

4. U.S. Supreme Court Cases:

Armstrong v. United States, 364 U.S. 40, 80 S. Ct. 1563, 4 L. Ed. 2d 1554 (1960).

First English Evangelical Lutheran Church of Glendale v. Los Angeles County, 482 U.S. 304, 107 S. Ct. 2378, 96 L. Ed. 2d 250 (1987).

Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419, 102 S. Ct. 3164, 73 L. Ed. 2d 868 (1982).

Penn Central Transportation Company v. New York City, 438 U.S. 104, 98 S. Ct. 2646, 57 L. Ed. 2d 631 (1978).

Shively v. Bowlby, 152 U.S. 1, 14 S. Ct. 548, 38 L. Ed. 331 (1894).

United States v. 564.54 Acres of Land, 441 U.S. 506, 99 S. Ct. 1854, 60 L. Ed. 2d 435 (1979).

5. Idaho Cases:

Aldape v. Akins, 105 Idaho 254, 668 P.2d 130 (1983).

Downing v. Boehringer, 82 Idaho 52, 349 P.2d 306 (1960).

Erickson v. State, 132 Idaho 208, 970 P.2d 1 (1998).

Heckman Ranches, Inc. v. State, 99 Idaho 793, 589 P.2d 540 (1979).

Idaho Forest Industries, Inc. v. Hayden Lake Watershed Improvement District, 112 Idaho 512, 733 P.2d 733 (1987).

Joplin v. Kitchens, 87 Idaho 530, 394 P.2d 313 (1964).

Kootenai Environmental Alliance v. Panhandle Yacht Club, 105 Idaho 622, 671 P.2d 1085 (1983).

Nesbitt v. Wolfkiel, 100 Idaho 396, 598 P.2d 1046 (1979).

Raide v. Dollar, 34 Idaho 682, 203 P. 469 (1921).

Rutledge v. State, 94 Idaho 121, 482 P.2d 515 (1971).


Smith v. Long, 76 Idaho 265, 281 P.2d 483 (1955).

State of Idaho v. U.S. Department of the Interior, No. 97-0426-BLW (D. Idaho 2002).

6. **Other Cases:**

Marine One, Inc. v. Manatee County, 898 F.2d 1490 (11th Cir. 1990).

DATED this 7th day of May, 2007.



LAWRENCE G. WASDEN
Attorney General

Analysis by:

C. NICHOLAS KREMA
Deputy Attorney General
Department of Lands

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE IDAHO DEPARTMENT OF WATER RESOURCES
AND THE IDAHO DEPARTMENT OF LANDS**

**RELATIVE TO FOREST PRACTICES,
NAVIGABLE WATERS, THE IDAHO DREDGE AND PLACER MINING ACT
AND
THE STREAM CHANNEL PROTECTION ACT**

This Memorandum of Understanding (MOU) is entered into by the Idaho Department of Lands (IDL) and the Idaho Department of Water Resources (IDWR). The provisions contained in this MOU pertain to stream channel alterations, in conjunction with forest practices and dredge and placer mining, which impact navigable waters, endowment lands and/or non-federal forestlands. This MOU supercedes the amended Memorandum of Understanding dated July 9, 2002.

I. PURPOSE:

It is the policy of the State of Idaho to protect the lands, lakes, streams, and rivers within the State of Idaho, and the State of Idaho acquired title upon statehood to the bed of all navigable waters, and endowment lands.

II. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:

The State Board of Land Commissioners, through IDL, has authority under the Idaho Forest Practices Act, Title 38, Chapter 13, Idaho Code, to regulate forest practices; and has authority under the Idaho Dredge and Placer Mining Act, Title 47, Chapter 13, Idaho Code, to protect lands, lakes and streams from damage resulting from dredge and placer mining.

IDWR has authority under Title 42, Chapter 38, Idaho Code, to regulate the alteration of stream channels for the health, safety and welfare of the public and to protect stream channels from alteration for protection of fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, and water quality; and has authority under Title 58, Chapter 4, Idaho Code, to interpose any objections to timber sales on state land because of any interference with the conservation of the irrigation water of any watershed.

Silviculture activities including discharges of dredge and fill material for construction and maintenance of forest roads are not prohibited by or subject to regulation under Section 404 of the Clean Water Act and its implementing regulations. *See* 33 U.S.C. § 1344; 33 C.F.R. Part 323. This exemption does not relieve IDL from obtaining other approvals required under the Clean Water Act regulations.

**2007 MOU BETWEEN THE
IDAHO DEPARTMENT OF WATER RESOURCES
AND THE IDAHO DEPARTMENT OF LANDS**

The responsibilities of IDWR and IDL must be coordinated to provide service to the citizens of Idaho, to administer the policies of the State and to avoid waste and duplication of effort.

III. INTER-AGENCY PROCEDURES:

IDWR and IDL shall, annually, hold IDWR Regional – IDL Area level meetings in the spring at the respective IDL Supervisory Area Offices. The Idaho Department of Environmental Quality, Idaho Department of Fish and Game (Regional Fishery Biologist), and the US Army Corps of Engineers will be invited to attend these spring meetings. Combination of these Area meetings for efficiency reasons is encouraged when endorsed by both IDL and IDWR.

The purpose of the annual meetings is to exchange information on programs, inform each other of pending activities as provided for in sections of this agreement and to discuss matters pertaining to the accomplishment of mutual objectives of stream channel protection.

IDWR and IDL staff shall meet and develop an Administrative Procedures and Guidance Document relative to the Forest Practices Act and the Stream Channel Protection Act to be used as a guide to field staff and to provide a list of principal contacts. Each Department and their respective staff will handle their own activities and utilize their own resources, including the expenditure of their own funds, in pursuing these objectives. Each Department will carry out its separate activities in a coordinated and mutually beneficial manner.

IV. OPERATIONS ON ENDOWMENT OR PUBLIC TRUST LANDS:

IDAHO DEPARTMENT OF WATER RESOURCES SHALL:

a. Consider IDL activities that are reviewed at the annual spring meetings or follow-up notification, that meet the requirements of the Forest Practices Act, the Stream Channel Protection Act, and IDAPA 37.03.07, as complying with IDWR procedural requirement for such activities. Any IDL activities (including but not limited to Section V.a. of this MOU) presented at the meeting will not require submission of a Stream Channel Alteration Permit application. IDWR reserves the right to comment on the timing and methods used to complete these projects, to ensure channel stability, for the protection of fish and wildlife habitat, water quality, aquatic life, recreation, and aesthetic beauty.

b. Provide to IDL a copy of all joint applications for permits to alter a stream channel within 20-work days from receipt, in PDF electronic format, which would alter streams on or adjacent to endowment lands, on or adjacent to lands administered by IDL or occupying the beds of navigable streams or beds of lakes and non-federal reservoirs. Notify IDL of activities on non-state lands, which develop subsequent to the annual

**2007 MOU BETWEEN THE
IDAHO DEPARTMENT OF WATER RESOURCES
AND THE IDAHO DEPARTMENT OF LANDS**

spring meetings that may affect IDL lands, streams or programs. IDL shall consider this notification as meeting the intent of Sections 42-3803 and 42-3804, Idaho Code.

c. Upon request, furnish to IDL copies of all drawing, maps, and specifications relating to applications submitted to IDWR.

d. Include special terms and conditions in permits, which will affect endowment lands or state owned beds of navigable streams as requested by IDL.

e. Provide assistance in identifying the ordinary high water mark on navigable rivers for establishment of jurisdiction purposes for the Stream Channel Protection Act and for title purposes. IDWR and IDL recognize that rivers are dynamic and established land surveys do not always reflect the mean or ordinary high water mark under the Stream Channel Protection Act.

f. Comment to IDL regarding approval under the Stream Channel Protection Act after receiving comments solicited from other agencies in connection with proposals to alter or occupy beds of navigable rivers or as part of dredge and placer mining activities and refer applications or applicants desiring a permit to alter or occupy beds or waters of navigable lakes, non-federal reservoirs, located on navigable rivers to IDL.

g. Upon request by IDL, deny a permit which IDL determines will adversely affect endowment lands.

h. Inform IDL of law, rule and policy changes relating to the Stream Channel Protection Act and provide training to IDL employees concerning Stream Channel Alteration requirements as necessary.

IDAHO DEPARTMENT OF LANDS SHALL:

a. Meet or exceed the procedural requirement of IDWR Stream Channel Alteration Rules and Regulations and Minimum Standards (Rules), adopted by the Idaho Water Resource Board (IWRB), to protect stream channels on State of Idaho Lands and on other lands administered by IDL.

b. Provide maps to IDWR Regional Stream Channel Coordinator at the annual meetings. These maps will identify predetermined areas, including stream name and legal description, where IDL activities may have an effect on stream channels. Such activities may include, but are not limited to, proposed timber sales, mining operations, roads, culverts, bridge construction, maintenance projects, stream channel restoration projects and fishery habitat improvement projects.

c. Provide a Joint Application for Permit (IDWR form No. 3804B) to IDWR for activities not covered under either the IDAPA 37.03.07.055 or .064 proposed to be

**2007 MOU BETWEEN THE
IDAHO DEPARTMENT OF WATER RESOURCES
AND THE IDAHO DEPARTMENT OF LANDS**

carried out in protected reaches of streams designated in an IWRB adopted comprehensive river plan. For example, stream channel relocation and reconstruction activities require filing a Joint Application for Permit.

d. Notify, in writing, IDWR Regional Stream Channel Specialist or Regional Manager of activities that develop subsequent to the annual meeting that are located in or will likely affect a perennial stream channel, including applications for lease or easements in navigable waters or endowment lands.

e. Review and comment on IDWR annual Recreational Suction Dredging Permit and Attachments and consider it as an activity jointly authorized, review and comment on other Joint Applications submitted and accept an application to IDWR to alter a stream channel as an application to IDL to occupy or alter the bed of a navigable stream or river, including approval as joint review for projects not requiring IDL lease agreements or easements. Indicate whether or not permits from IDL are required, or whether IDL approvals are to be part of IDWR approval.

f. Furnish to IDWR and other interested parties where applicable copies of all applications for dredge and placer mining permits, surface mine reclamation plans, riverbed mineral leases, easements, logging operations or any proposal to alter or occupy the bed of any stream or river.

g. Prepare permits, lease easements as required by Land Board policy, include on each permit issued a statement indicating that a permit from IDWR may be required and provide copies to IDWR when stream channel alterations are proposed.

h. Deny permits, leases or easements upon request of IDWR if IDWR determines that the project would damage a stream channel.

V. OPERATIONS ON PRIVATE LANDS:

IDAHO DEPARTMENT OF WATER RESOURCES SHALL:

a. Consider a completed Notification of Forest Practices and completed Supplemental Notification Form for private timber harvest activities as a stream channel alteration permit, provided all activities meet the requirements of the Forest Practices Act and the Stream Channel Protection Act and IDAPA 37.03.07. Projects not installed or maintained to meet these criteria must be removed.

Projects qualifying for approval under the Notification of Forest Practices and completed Supplemental Notification Form are:

- Installation of round, squash culverts, open arch or open box culverts, forty (40) square feet open end area or less.
- Installation of culverts, less than sixty (60) feet in length, constructed in non-fish-bearing, perennial streams.

**2007 MOU BETWEEN THE
IDAHO DEPARTMENT OF WATER RESOURCES
AND THE IDAHO DEPARTMENT OF LANDS**

- Construction of bridges on nonpublic roads, seventy-five (75) feet or less in length, that do not require placement of piers within the mean high water marks; cause an encroachment of the stream channel with fill material, or cause wetlands to be filled.
- Construction or reconstruction of fords less than seventy-five (75) feet in overall length and twenty-five (25) feet in width.
- Removal of perennial stream crossing culverts (40 square feet open ended area or less). Removal of culverts must be done during low flows and if practical, during dry stream conditions created by temporary diversion or dewatering. All fill over the culvert, perched material, and fill encroaching on the channel must be removed using machinery equipped with a bucket and placed in stable locations, above the high water mark, seeded and mulched. Once the culvert is removed, the banks need to be sloped back to a stable configuration, seeded and mulched.

Applicants must provide a description of the project, the location by stream name, quarter/quarter, section, township and range. Applicants must also verify that the project is exclusively for forest practices activities and will be installed and maintained in accordance with applicable regulations of the Stream Channel Protection Act and Forest Practices Act.

All new or reconstructed stream crossing structures in any stream supporting a fishery must provide for fish passage.

b. Process Stream Channel Alteration Permits for projects involving Forest Practices and other projects that do not meet the criteria under item V.a. above. When the banks must be armored, when in-channel structures are required to ensure stream stability in conjunction with installation or removal of stream crossings, when using machinery equipped with a blade or operating machinery within the stream channel for stabilization, improved fish passage or placement of woody debris for fish habitat and anytime state water quality standards cannot be met, a Stream Channel Alteration Permit and a Section 404 permit is required.

c. Investigate and enforce any violation of the Stream Channel Protection Act that cannot be resolved under the Forest Practices Act or as requested by IDL. IDWR reserves the right to undertake a separate enforcement action any time it is determined necessary for protection of fish and wildlife habitat and water quality as required by law.

d. Inform IDL of law, rule and policy changes relating to the Stream Channel Protection Act and provide training to IDL employees concerning Stream Channel Alteration requirements as necessary.

e. Include a statement on permits indicating whether the permit also constitutes approval from IDL, that an additional authorization is necessary from IDL, or that a permit is not required, as requested by IDL.

**2007 MOU BETWEEN THE
IDAHO DEPARTMENT OF WATER RESOURCES
AND THE IDAHO DEPARTMENT OF LANDS**

THE IDAHO DEPARTMENT OF LANDS SHALL:

a. Meet or exceed the procedural requirement of IDWR Stream Channel Alteration Rules and Regulations and Minimum Standards (Rules), adopted by the Idaho Water Resource Board (IWRB), to protect stream channels on State of Idaho Lands and on other lands administered by IDL.

b. Review and comment on IDWR annual Recreational Suction Dredging Permit and Attachments and consider it as an activity jointly authorized, review and comment on other Joint Applications submitted and accept an application to IDWR to alter a stream channel as an application to IDL to occupy or alter the bed of a navigable stream or river, including approval as joint review for projects not requiring IDL lease agreements or easements. Indicate whether or not permits from IDL are required, or whether IDL approvals are to be part of IDWR approval.

c. Ensure that the completed Notification of Forest Practices and Supplemental Notification Form meet stream channel alteration permit criteria for forest practices and stream channel crossing projects. IDL will furnish IDWR's Stream Channel Specialist and other interested parties a copy of all completed Supplemental Notifications.

d. Consider failure to follow requirements of the Forest Practices Act a violation of permit conditions and report to IDWR related NOV's pertaining to stream crossings and stream channel alterations. Work not in compliance with the Notice of Forest Practices and Supplemental Notification Form will be considered a violation of the Stream Channel Protection Act.

e. Coordinate oversight and enforcement with IDWR when violations do not fall under the Forest Practices Act. Violations of the Forest Practices Rules require corrective action and potential mitigation. Normally accepted restoration and mitigation practices for violations of the Forest Practices Act pertaining to stream crossings and stream channel alterations are:

- The removal of materials placed within a stream channel as a result of a silviculture violation.
- Stabilization and re-vegetation of all areas disturbed as a result of a silviculture violation.
- IDL or Idaho Department of Fish and Game fishery enhancement projects permitted by IDWR for the installation or removal of large woody debris from impacted stream channels. Placement of material in a stream channel for activities other than culverts and bridges, and not directed under a Notice of Violation issued by IDWR or IDL, may require filing of an application under Section 42-3803, Idaho Code.

f. Refer applicants not covered by a Forest Practices Notification, and desiring to alter a stream channel to IDWR.

2007 MOU BETWEEN THE
IDAHO DEPARTMENT OF WATER RESOURCES
AND THE IDAHO DEPARTMENT OF LANDS

g. Furnish to IDWR and other interested parties where applicable copies of all applications for dredge and placer mining permits, surface mine reclamation plans, riverbed mineral leases, easements, logging operations or any proposal to alter or occupy the bed of any stream or river.


h. Consider an approved Stream Channel Alteration Permit for the removal of gravel bar or bed material from non-navigable rivers by a flood control district for flood control purposes as final state approval for this activity. IDL has determined that the requirements of the Dredge and Placer Mining Act, Title 47, Chapter 13, or the Surface Mining Act, Title 47, Chapter 15, do not apply, regardless of the disposition or sale of the material removed for this purpose. The operator is not mining materials from a placer deposit and the activity is not a surface mining operation.

i. Inform IDWR of law, rule and policy changes established by the Board of Land Commissioners relating to navigable streams, to dredge and surface mining and the Forest Practices Act. IDL will provide training for IDWR staff as necessary.

j. Deny permits, leases or easements upon request of IDWR if IDWR determines that the project would damage a stream channel.

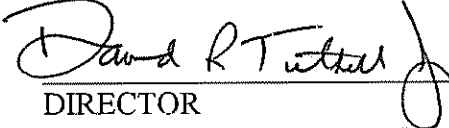
VI. MAINTENANCE AND REVISION PROCEDURES:

The Idaho Department of Lands and Idaho Department of Water Resources will hold a state level meeting in Boise, whenever mutually agreed to be necessary, to discuss a broad policy, standards and procedures of mutual interest and to consider the adequacy of the terms of this memorandum. This Memorandum of Understanding may be amended by mutual consent of the parties hereto as often as necessary to maintain the stated objectives and may be terminated by either party by providing written notice thirty (30) days prior to the termination date.



DIRECTOR
Idaho Department of Lands

11-7-07
Date



DIRECTOR
Idaho Department of Water Resources

Oct 25, 2007
Date

LAKES CONSIDERED NAVIGABLE FOR STATE TITLE PURPOSES

<u>NO.</u>	<u>NAME</u>	<u>COUNTY</u>	<u>AUTHORITY FOR DESIGNATION</u>
1.	Alturas Lake	Blaine	State
2.	Anderson Lake	Kootenai	State
3.	Bear Lake	Bear Lake	State, Coast Guard
4.	Beaver Lake	Bonner	State
5.	Bell's Lake	Benewah	State
6.	Benewah Lake	Benewah	State
7.	Black Lake	Kootenai	State
8.	Blue Lake	Bonner	State
9.	Blue Lake	Kootenai	State
10.	Bonner Lake	Boundary	State
11.	Boulder Lake	Valley	State
12.	Box Lake	Valley	State
13.	Brush Lake	Boundary	State
14.	Cave Lake	Kootenai	State
15.	Chase Lake	Bonner	State
16.	Chatcolet Lake	Benewah	State, Coast Guard
17.	Cocolalla Lake	Bonner	State
18.	Coeur d'Alene Lake	Kootenai	State, Coast Guard
19.	Fernan Lake	Kootenai	State, Coast Guard
20.	Fish Lake	Clearwater	State
21.	Glidden Lake	Shoshone	State
22.	Granite Lake	Bonner	State
23.	Granite Lake	Valley	State
24.	Hauser Lake	Kootenai	State
25.	Hayden Lake	Kootenai	State
26.	Henry's Lake	Fremont	State
27.	Herman Lake	Boundary	State
28.	Hidden Lake	Kootenai	State, Coast Guard
29.	Kelso Lake	Bonner	State
30.	Killarney Lake	Kootenai	State
31.	Louie Lake	Valley	State
32.	Medicine Lake	Kootenai	State
33.	Mirror Lake	Bonner	State
34.	Mud Lake	Jefferson	State
35.	Payette Lake	Valley	State
36.	Payette Lake, Little	Valley	State
37.	Payette Lake, Upper	Valley	State
38.	Pend Oreille Lake	Bonner	State, Coast Guard, Federal Court (194 Fed. Rep. 643, 600 F. Supp. 802), State Court (54 Idaho 700)

<u>NO.</u>	<u>NAME</u>	<u>COUNTY</u>	<u>AUTHORITY FOR DESIGNATION</u>
39.	Perkins Lake	Blaine	State
40.	Perkins Lake	Boundary	State
41.	Priest Lake	Bonner	State
42.	Priest Lake, Upper	Bonner	State
43.	Redfish Lake	Custer	State
44.	Redfish Lake, Little	Custer	State
45.	Riordan Lake	Valley	State
46.	Robinson Lake	Boundary	State
47.	Rose Lake	Kootenai	State
48.	Round Lake	Benewah	State
49.	Round Lake	Bonner	State
50.	Samuels Lake	Bonner	State
51.	Sheppard Lake	Bonner	State
52.	Spirit Lake	Kootenai	State
53.	Stanley Lake	Custer	State
54.	Stevens Lake, Upper	Shoshone	State
55.	Stevens Lake, Lower	Shoshone	State
56.	Swan Lake	Kootenai	State
57.	Thompson Lake	Kootenai	State
58.	Turtle Lake	Benewah	State
59.	Twin Lake, Lower	Kootenai	State
60.	Twin Lake, Upper	Kootenai	State
61.	Warm Lake	Valley	State
62.	Williams Lake	Lemhi	State

IDAHO DEPARTMENT OF LANDS

RIVERS CONSIDERED NAVIGABLE

<u>NO.</u>	<u>NAME</u>	<u>TYPE OF NAVIGABILITY</u>	<u>SECTION (B.M.)</u>	<u>AUTHORITY</u>
1.	Blackfoot	Title	E boundary T3S, R38E	State
2.	Boise	Title	All	State, State Court (94 Idaho 121)
3.	Boise, Middle Fork	Title	Through T5N, R8E	State
4.	Boise, North Fork	Title	Through T5N, R7E	State
5.	Boise, South Fork	Title	Through T3N, R11E	State
6.	Buffalo	Title	Through S21, T13N, R44E	State
7.	Clark Fork	Title	All	State, Coast Guard (to a entrance into point 4 miles above Pend Oreille Lake)
8.	Clearwater	Title	All	State, Coast Guard, State Court (29 Idaho 401, 438)
9.	Clearwater, Middle Fork	Title	All	State
10.	Clearwater, North Fork	Title	Through T40N, R7E	State, Coast Guard (upstream to Beaver Creek)
11.	Coeur d'Alene	Title, R/W	Through T51N, R3E	State, State Court (12 Idaho 723)
12.	Eagle Creek	Right-of-Way		State Court (20 Idaho 695)
13.	Kootenai	Title	All	State, Coast Guard (from Canadian border to Bonners Ferry)
14.	Lochsa	Title	Through T33N, R7E	State
15.	Moyie	Title	All	State, Federal Court (157 Supp. 931)
16.	Pack	Title	Downstream from NPRR bridge to its mouth	Coast Guard
17.	Payette	Title	All	State
18.	Payette, N Fork	Title	To Payette Lake	State
19.	Payette, S Fork	Title	Through T9N, R9E	State
20.	Pend Oreille	Title	All	State, Coast Guard
21.	Priest	Title	All	State
22.	Pritchard Creek	Right-of-Way		State Court (20 Idaho 695)
23.	St. Joe	Title	Through T45N, R7E (mouth to hwy. bridge 3/4 mile east of St. Joe City)	State, Coast Guard
24.	St. Maries	Title	Through S9, T45N, R2W	State
25.	Salmon	Title	Through T10N, R13E	State, State Court (26 Idaho 745, 99 Idaho 793)
26.	Salmon, Middle Fork	Title	Through S12, T14N, R9E	State
27.	Salmon, South Fork	Title	Through T20N, R6E	State
28.	Selway	Title	Through T32N, R7E	State
29.	Silver Creek	Right-of-Way		State Court (96 Idaho 360)
30.	Snake	Title, R/W	All	State, Coast Guard (Idaho-Washington border to Guffy Dam Site), Federal Court (227 US 229), State Court (29 Idaho 438)

<u>NO.</u>	<u>NAME</u>	<u>TYPE OF NAVIGABILITY</u>	<u>SECTION (B.M.)</u>	<u>AUTHORITY</u>
31.	Snake, Henry's Fork	Title	All	State
32.	Spokane	Title	Cd'A Lake to Post Falls Dam	State, Federal Court (775 F.2d 305)



DISCLAIMER PROCEDURE

The State of Idaho owns the beds and banks of all navigable waters below the ordinary high water mark, assuming the waterways were navigable at the time of statehood. These sovereign lands were acquired by virtue of the Equal Footing Doctrine and are administered by the Idaho Department of Lands (IDL) for the benefit of the public in accordance with the Public Trust Doctrine.

Two methods exist to clear title to property in areas where the navigable waterways have changed:

- 1) Quiet Title action through the courts
- 2) Disclaimer of Interest from the Department of Lands

The procedure for acquiring a disclaimer of interest is as follows:

1. Contact the appropriate IDL Supervisory Area Office to determine if the subject property qualifies for issuance of a disclaimer.
2. If the property qualifies, the subject property will require a legal survey. An IDL representative will visit the site with the surveyor to establish the Ordinary High Water Mark (OHWM). The applicant may also be present.
3. In cases where the present river has moved onto lands outside the GLO meander line survey, the IDL will require the requesting party to disclaim to the State, that portion of the present riverbed lying outside the GLO meander line survey. The plat and legal description must show the location and acres of the riverbed parcel to be disclaimed to the state.
4. Since statehood, accretions have resulted from artificial means such as diking, filling, irrigation diversions, dam construction, etc. Due to the uncertainties associated with identifying an OHWM and to avoid extensive research and potential litigation, the IDL will generally use the existing OHWM providing the requesting party will grant a 25-foot public use right of way along and adjacent to the existing ordinary high water line. This serves to protect the public trust values associated with rivers and the disclaimed lands by providing public access.
5. The surveyor will need to prepare a record of survey, and a metes and bounds description, which shows: 1) the areas to be disclaimed from the state to the property owner; 2) the areas to be disclaimed from the property owner to the state; and 3) the 25-foot public use right of way. These documents must show the present OHWM in relation to the original meander line as surveyed by the federal government land office (GLO) and be tied to the nearest section or quarter corner.
6. When the survey has been completed, submit the following documents to the Department of Lands office:
 - (a) A letter of request for the Disclaimer of Interest. Include the acreage of accretion land requested and the exact name and address you wish to appear on the disclaimer.

(b) A full size copy of the record of survey and a copy of the legal descriptions. A digital copy of the record of survey (PDF format) and legal descriptions (MS Word format) will also need to be provided for document preparation.

(c) Tax payment history.

(d) Proof of ownership of the upland property adjacent to the area to be disclaimed; a copy of the property deed is preferable. The applicant must be the legal owner.

(e) \$300 application fee, which is a portion of the minimum \$600 processing fee.

7. After approval by the State Board of Land Commissioners the applicant will be billed the remainder of the processing fee. This fee is the actual cost of the field inspection and preparation of the required documents, minus the application fee, but not less than \$300. The final documents for signature will also be sent to the applicant. After all signatures are obtained, IDL will record all the related instruments.



IDAHO DEPARTMENT OF LANDS

Idaho Department of Lands Management Areas

Priest Lake Supervisory Area
4053 Cavanaugh Bay Road
Coolin, ID 83821
(208) 443-2516

Mica Supervisory Area
3258 West Industrial Loop
Coeur d'Alene, ID 83815
(208) 769-1577

St. Joe Supervisory Area
1806 Main Avenue
St. Maries, ID 83861
(208) 245-4551

Ponderosa Supervisory Area
3130 Highway 3
Deary, ID 83823
(208) 877-1121

Craig Mountain Forest Protective District
P.O. Box 68,
014 East Lorahama
Craigmont, ID 83523
(208) 924-5571

Payette Lakes Supervisory Area
555 Deinhard Lane
McCall, ID 83638
(208) 634-7125

Southwest Supervisory Area
8355 West State Street
Boise, ID 83714
(208) 334-3488

Kootenai Valley Forest Protective District
6327 Main Street
Bonners Ferry, ID 83805
(208) 267-5577

Pend Oreille Supervisory Area
2550 Highway 2 West
Sandpoint, ID 83864-7305
(208) 263-5104

Cataldo Forest Protective District
80 Hilltop Overpass Road
Kingston, ID 83839
(208) 682-4611

**Idaho Department of Lands
Coeur d'Alene Staff Office**
3284 West Industrial Loop
Coeur d'Alene, ID 83815
(208) 769-1525

**Idaho Department of Lands
Director's Office**
300 North 6th Street, Suite 103
Boise, ID 83702
(208) 334-0200

Clearwater Supervisory Area
10230 Highway 12
Orofino, ID 83544
(208) 476-4587

Maggie Creek Supervisory Area
913 Third Street
Kamiah, ID 83536
(208) 935-2141

Eastern Supervisory Area
3563 Ririe Highway
Idaho Falls, ID 83401
(208) 525-7167

Jerome Field Office
324 South 417 East, Suite 2
Jerome, ID 83338
(208) 324-2561

