

## State Board of Land Commissioners Open Meeting Checklist

Meeting Date: November 21, 2023

### Regular Meetings

11/1/2023	Meeting Notice posted in prominent place in IDL's Boise Director's office five (5) or more calendar days before meeting.
11/1/2023	Meeting Notice posted in prominent place in IDL's Coeur d'Alene area/staff office five (5) or more calendar days before meeting.
11/1/2023	Meeting Notice posted in prominent place at meeting location five (5) or more calendar days before meeting.
11/1/2023	Meeting Notice published on Townhall Idaho website <a href="https://townhall.idaho.gov">https://townhall.idaho.gov</a> five (5) or more calendar days before meeting.
11/1/2023	Meeting Notice posted electronically on IDL's public website <a href="https://www.idl.idaho.gov">https://www.idl.idaho.gov</a> five (5) or more calendar days before meeting.
11/16/2023	Agenda posted in prominent place in IDL's Boise Director's office forty-eight (48) hours before meeting.
11/16/2023	Agenda posted in prominent place in IDL's Coeur d'Alene area/staff office forty-eight (48) hours before meeting.
11/16/2023	Agenda posted in prominent place at meeting location forty-eight (48) hours before meeting.
11/16/2023	Agenda published on Townhall Idaho website <a href="https://townhall.idaho.gov">https://townhall.idaho.gov</a> forty-eight (48) hours before meeting.
11/16/2023	Agenda posted electronically on IDL's public website <a href="https://www.idl.idaho.gov">https://www.idl.idaho.gov</a> forty-eight (48) hours before meeting.
1/3/2023	Land Board annual meeting schedule posted – Boise Director's office, Coeur d'Alene area/staff office, and IDL's public website <a href="https://www.idl.idaho.gov">https://www.idl.idaho.gov</a> .

### 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 area/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 <a href="https://townhall.idaho.gov">https://townhall.idaho.gov</a> twenty-four (24) hours before meeting.
	Meeting Notice and Agenda posted electronically on IDL's public website <a href="https://www.idl.idaho.gov">https://www.idl.idaho.gov</a> 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 area/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 <a href="https://townhall.idaho.gov">https://townhall.idaho.gov</a> twenty-four (24) hours before meeting.
	Meeting Notice and Agenda posted electronically on IDL's public website <a href="https://www.idl.idaho.gov">https://www.idl.idaho.gov</a> 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

November 16, 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

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# NOTICE OF PUBLIC MEETING NOVEMBER 2023

The Idaho State Board of Land Commissioners will hold a Regular Meeting on Tuesday, November 21, 2023 in the **State Capitol, Lincoln Auditorium (WW02), 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.**

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

[https://idl.zoom.us/webinar/register/WN\\_LJLHPaMJSleIrHBbFxZNTQ](https://idl.zoom.us/webinar/register/WN_LJLHPaMJSleIrHBbFxZNTQ)

First Notice Posted: 11/1/2023-IDL Boise; 11/1/2023-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

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State Board of Land Commissioners Regular Meeting

November 21, 2023 – 9:00 AM (MT)

Final Agenda

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

*Please note location.*

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

**Trust Land Revenue**

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

**2. Endowment Fund Investment Board** – Presented by Tom Wilford, Chairman; Chris Anton, Manager of Investments; Jerry Aldape, Chair-Audit Committee

*Introduction of Endowment Fund Investment Board*

- A. FY2023 Annual Report
- B. Land Board Audit Committee Report
- C. Manager's Monthly Report

**3. Performance Review of Total Endowment** – Presented by Dustin Miller, Director

**Consent—Action Item(s)**

**4. Results of October 4, 2023 Commercial Recreation Lease Live Auction** – Presented by Jason Laney-Section Manager-Real Estate

**5. Results of October 4, 2023 Residential Cottage Site Lease Live Auction** – Presented by Jason Laney-Section Manager-Real Estate

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State Board of Land Commissioners  
Final Agenda  
Regular Meeting – November 21, 2023  
Page 1 of 2

6. **Approval of Draft Minutes** – October 17, 2023 Regular Meeting (Boise)

**Regular—Action Item(s)**

7. **Statement of Investment Policy Annual Review** – *Presented by Bill Haagenson, Deputy Director*

8. **Strategic Reinvestment Plan Review** – *Presented by Bill Haagenson, Deputy Director*

9. **Disclaimer of Interest Request DI200000-Fodge Pulp, Inc., Kootenai River** – *Presented by Eric Wilson, Bureau Chief-Resource Protection and Assistance*

10. **Adoption of Pending Fee Rule IDAPA 20.03.01, Rules Governing Dredge and Placer Mining Operations in Idaho** – *Presented by Eric Wilson, Bureau Chief-Resource Protection and Assistance*

11. **Adoption of Pending Fee Rule IDAPA 20.03.03, Rules Governing Administration of the Reclamation Fund** – *Presented by Eric Wilson, Bureau Chief-Resource Protection and Assistance*

12. **Adoption of Pending Fee Rule IDAPA 20.03.05, Navigable Waterways Mineral Leasing in Idaho** – *Presented by Eric Wilson, Bureau Chief-Resource Protection and Assistance*

13. **Adoption of Pending Rule IDAPA 20.05.01, Recreational Use of Endowment Land** – *Presented by Todd Wernex, Program Manager-Recreation*

14. **Adoption of Pending Rule IDAPA 20.01.01, Rules of Practice and Procedure Before the State Board of Land Commissioners** – *Presented by Scott Phillips, Policy and Communications Chief*

**Information**

None

**Executive Session**

None



# 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

November 21, 2023

Trust Land Revenue

### Timber Sales

During October 2023, the Department of Lands sold eight endowment timber sales at auction. Six of the sales had competitive bidding. Two endowment timber sales did not sell at auction. The net sale value represents a 12% 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
Purdue Delivered Products	POND	1,320		45	\$ 866,075.00	\$ 866,075.00	\$634.49	Multiple
Uleda Creek Cedar	PL	2,860			\$ 557,859.00	\$ 558,939.00	\$195.43	IFG Timber
Lower Slocum	CLW	5,150			\$ 529,143.50	\$ 768,969.00	\$149.31	IFG Timber
Murray Scriver	SWI	3,995			\$ 487,175.50	\$ 487,175.50	\$121.95	Woodgrain Inc
River View	POL	1,800			\$ 482,049.50	\$ 523,358.00	\$290.75	IFG Timber
White Red Cedar	POL	1,765			\$ 643,198.00	\$ 764,099.70	\$432.92	Bell Timber Inc
Syringa Spots	SJ	13,095			\$ 3,365,848.50	\$ 3,576,784.35	\$273.14	Stimson Lumber
Silver Spur	POND	6,610	120		\$ 1,244,650.00	\$ 1,597,330.00	\$237.34	IFG Timber
<b>Endowment</b>		<b>36,595</b>	<b>120</b>	<b>45</b>	<b>\$ 8,175,999.00</b>	<b>\$ 9,142,730.55</b>	<b>\$248.71</b>	

PROPOSED TIMBER SALES FOR AUCTION				
Sale Name	Volume MBF	Advertised Net Value	Area	Estimated Auction Date
<b>North Operations</b>				
East Elmira Cedar	3,970	\$1,422,173.50	POL	11/7/2023
Benedict Cedar	8,750	\$3,764,303.00	POND	11/15/2023
Two Bear Over	3,000	\$886,501.00	PL	11/28/2023
Cousin Eddy	3,970	\$407,861.00	PL	11/28/2023
<b>TOTALS</b>	<b>19,690</b>	<b>\$6,480,838.50</b>		
<b>South Operations</b>				
Dry Sky Ton	6,745	\$733,303.39	PAY	11/1/2023
Found In Space	5,630	\$785,701.50	MC	11/6/2023
Cougar Track	6,385	\$788,983.50	CLW	11/8/2023
<b>TOTALS</b>	<b>18,760</b>	<b>\$2,307,988.39</b>		

**VOLUME UNDER CONTRACT as of October 31, 2023**

	Public School	Pooled	Total	3 Year Avg.
Active Contracts			<b>195</b>	176
Total Residual MBF Equivalent	358,160	183,557	<b>541,717</b>	529,333
Estimated residual value	\$109,254,781	\$58,954,523	<b>\$168,209,304</b>	\$140,138,180
Residual Value (\$/MBF)	\$305.04	\$321.18	<b>\$310.51</b>	\$264.74

**TIMBER HARVEST RECEIPTS**

	October		FY to date	November Projected	
	Stumpage	Interest	Harvest Receipts	Stumpage	Interest
<b>Public School</b>	\$ 3,835,654.84	\$ 420,297.53	\$ 21,411,980.33	\$ 5,686,001.01	\$ 556,256.85
<b>Pooled</b>	\$ 2,274,053.47	\$ 174,236.45	\$ 11,859,570.73	\$ 2,899,092.38	\$ 179,439.02
<b>General Fund</b>	\$ 0.75	\$ 0.00	\$ 4.52	\$ 0.75	\$ 0.00
<b>TOTALS</b>	\$ 6,109,709.06	\$ 594,533.98	\$ 33,271,555.58	\$ 8,585,094.14	\$ 735,695.87

**Status of FY2023 Timber Sale Program**

	MBF Sawlog			Number Poles		
	Public School	Pooled	All Endowments	Public School	Pooled	All Endowments
Sold as of October 31, 2023	208,880	108,778	317,658	22,222	5,933	28,155
Currently Advertised	3,970	0	3,970	0	0	0
In Review	4,420	0	4,420	0	0	0
Did Not Sell*	0	0	0	0	0	0
<b>TOTALS</b>	<b>217,270</b>	<b>108,778</b>	<b>326,048</b>	<b>22,222</b>	<b>5,933</b>	<b>28,155</b>
FY2023 Sales Plan			326,000			20,000
Percent to Date			100%			141%

\* After three attempts at auction.

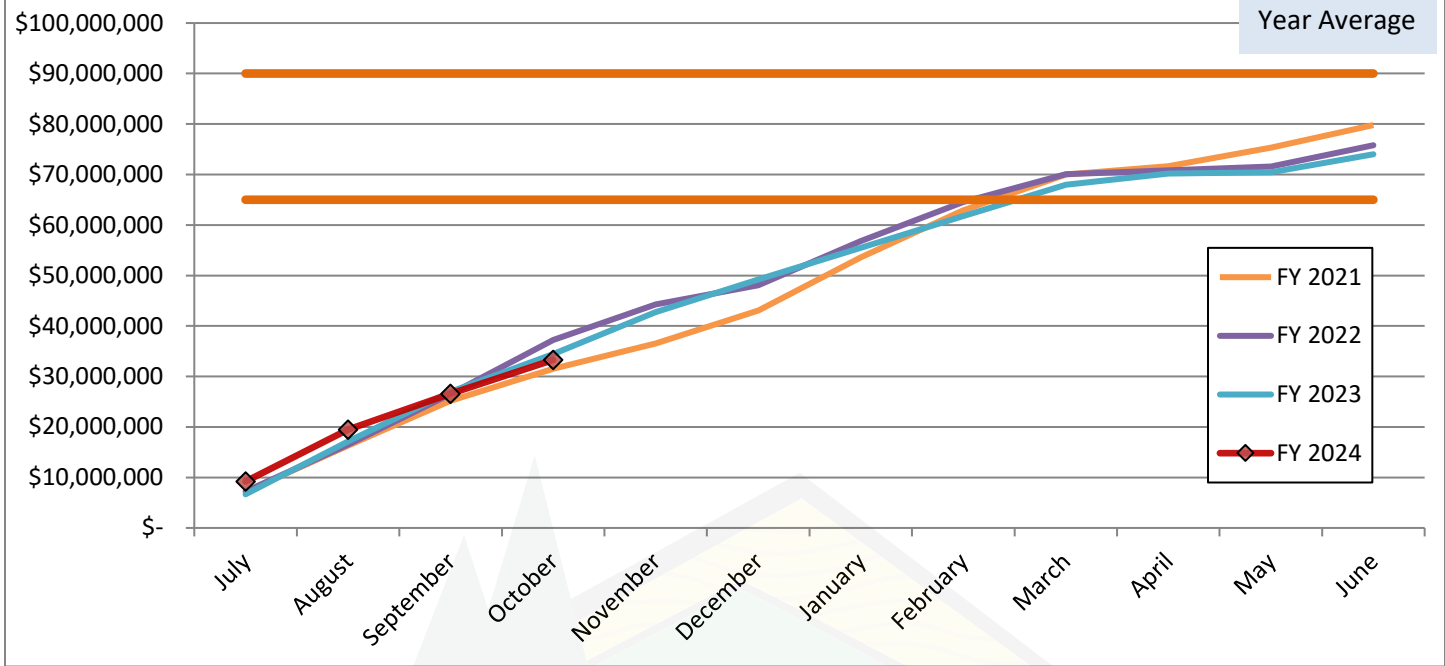
**Status of FY2024 Timber Sale Program**

	MBF Sawlog			Number Poles		
	Public School	Pooled	All Endowments	Public School	Pooled	All Endowments
Sold as of October 31, 2023	50,810	22,009	72,819	1,520	3,520	5,040
Currently Advertised	32,933	11,842	44,775	11,784	71	11,855
In Review	25,650	6,095	31,745	4,300	0	4,300
Did Not Sell*	0	0	0	0	0	0
<b>TOTALS</b>	<b>109,393</b>	<b>39,946</b>	<b>149,339</b>	<b>17,604</b>	<b>3,591</b>	<b>21,195</b>
FY2024 Sales Plan			328,000			20,000
Percent to Date			46%			106%

\* After three attempts at auction.

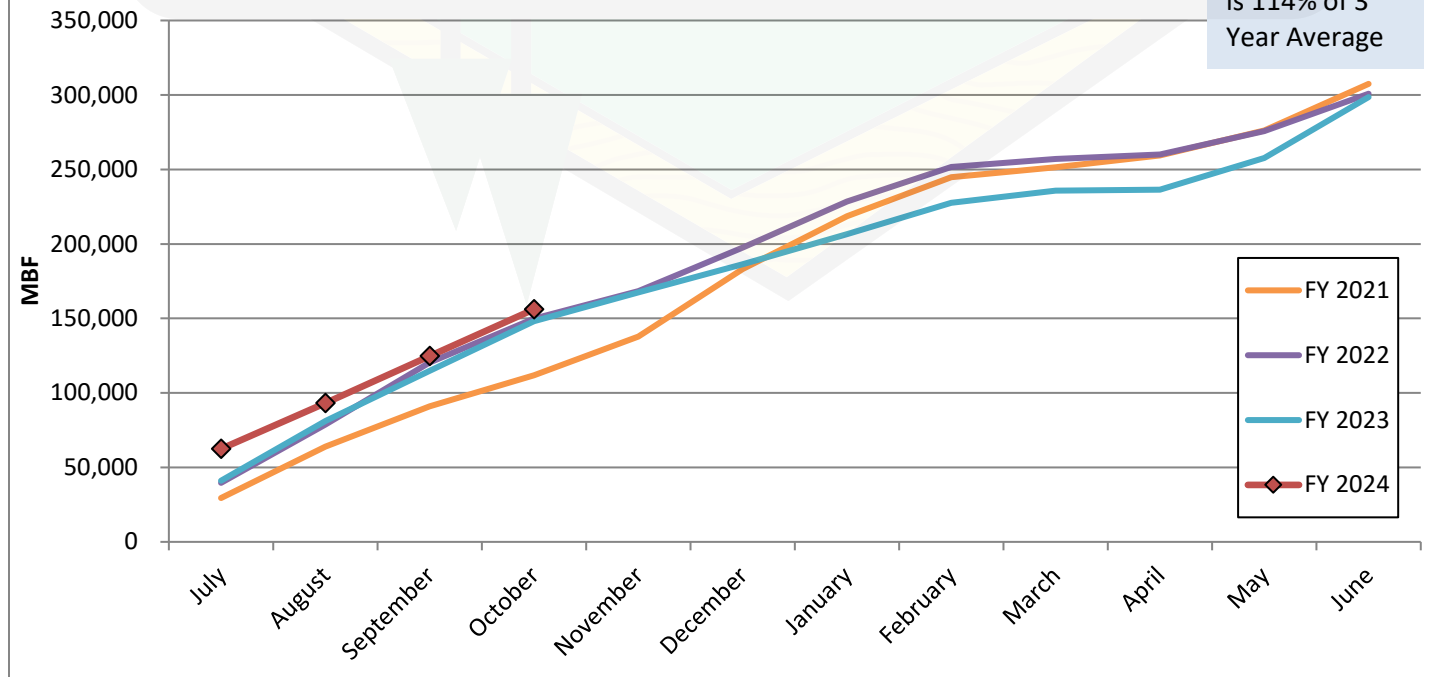
## Cumulative Harvest Receipts

Current FYTD is 97% of 3 Year Average



## Cumulative Harvest Volume

Current FYTD is 114% of 3 Year Average





## Monthly Lumber and Stumpage Price



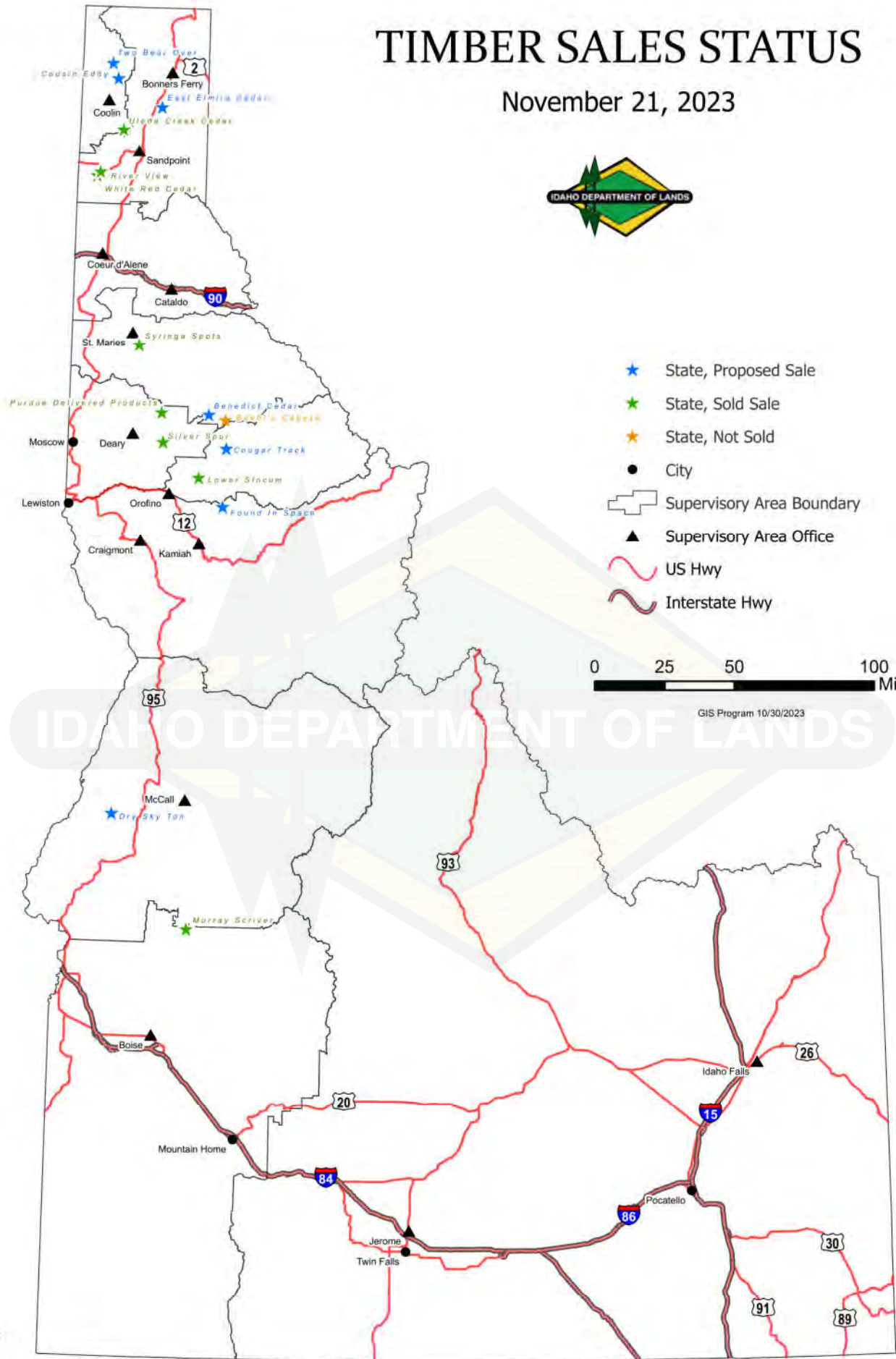
October 2023 6-month average price is \$281.28.

October 2022 6-month average price was \$304.14.

IDAHO DEPARTMENT OF LANDS

# TIMBER SALES STATUS

November 21, 2023



- ★ State, Proposed Sale
- ★ State, Sold Sale
- ★ State, Not Sold

- City
- ▭ Supervisory Area Boundary
- ▲ Supervisory Area Office
- ~ US Hwy
- ~ Interstate Hwy



GIS Program 10/30/2023

IDAHO DEPARTMENT OF LANDS

**STATE BOARD OF LAND COMMISSIONERS**

November 21, 2023  
Endowment Transactions

**Leases and Permits**

FISCAL YEAR 2024 – LEASING & PERMITTING TRANSACTIONS BY MONTH														
through October 31, 2023														
ACTIVITY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD	
<b>SURFACE</b>														
Agriculture	1	-	-	-	-	-	-	-	-	-	-	-	1	
<i>Assignments</i>	-	-	-	-	-	-	-	-	-	-	-	-	0	
Communication Sites	1	2	-	-	-	-	-	-	-	-	-	-	3	
<i>Assignments</i>	-	-	-	-	-	-	-	-	-	-	-	-	0	
Grazing	-	-	-	1	-	-	-	-	-	-	-	-	1	
<i>Assignments</i>	-	3	-	-	-	-	-	-	-	-	-	-	3	
Residential	-	-	-	7	-	-	-	-	-	-	-	-	7	
<i>Assignments</i>	1	-	-	3	-	-	-	-	-	-	-	-	4	
<b>COMMERCIAL</b>														
Alternative Energy	-	-	-	-	-	-	-	-	-	-	-	-	0	
Industrial	1	-	-	-	-	-	-	-	-	-	-	-	1	
Military	-	-	-	-	-	-	-	-	-	-	-	-	0	
Office/Retail	-	-	-	-	-	-	-	-	-	-	-	-	0	
Recreation	-	-	-	-	-	-	-	-	-	-	-	-	0	
<i>Assignments</i>	-	-	-	-	-	-	-	-	-	-	-	-	0	
<b>OTHER</b>														
Conservation	-	-	-	-	-	-	-	-	-	-	-	-	0	
<i>Assignments</i>	-	-	-	1	-	-	-	-	-	-	-	-	1	
Geothermal	-	-	-	-	-	-	-	-	-	-	-	-	0	
Minerals	2	1	1	-	-	-	-	-	-	-	-	-	4	
<i>Assignments</i>	-	-	-	2	-	-	-	-	-	-	-	-	2	
Exploration Location	-	-	32	-	-	-	-	-	-	-	-	-	32	
Non-Comm Recreation	2	-	-	-	-	-	-	-	-	-	-	-	2	
Oil & Gas	-	-	-	-	-	-	-	-	-	-	-	-	0	
<b>PERMITS</b>														
Land Use Permits	1	9	10	9	-	-	-	-	-	-	-	-	29	
<b>TOTAL INSTRUMENTS</b>	<b>9</b>	<b>15</b>	<b>43</b>	<b>23</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>90</b>	

**Real Estate**

FISCAL YEAR 2024 – REAL ESTATE TRANSACTIONS BY MONTH – through October 31, 2023														
ACTIVITY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD	
Deeds Acquired	-	-	1	-	-	-	-	-	-	-	-	-	1	
Deeds Granted	-	-	4	3	-	-	-	-	-	-	-	-	7	
Deeds Granted - Surplus	-	-	-	-	-	-	-	-	-	-	-	-	0	
Easements Acquired	1	-	-	-	-	-	-	-	-	-	-	-	1	
Easements Granted	-	-	1	-	-	-	-	-	-	-	-	-	1	
<i>Notes : Deeds granted:</i>														
<i>Priest Lake August 2023 VAFO</i>														
<i>1) Huckleberry Heaven North, LLC, Sales price = \$2,450,000.00</i>														
<i>2) Frederick Daniel Leaf and Lisa Ann Leaf, husband and wife, Sales price = \$1,603,000.00</i>														
<i>3) PL Kabin, LLC, Sales price = \$1,220,000.00</i>														

**TRUST LAND MANAGEMENT DIVISION**  
**FY2024 GROSS REVENUE (non-timber) - ACTUAL AND FORECASTED**  
**through October 31, 2023**

	REVENUE AS OF 10.31.2023	REVENUE EXPECTED BY 10.31.2023*	REVENUE EXPECTED BY 06.30.2024
<b>SURFACE</b>			
AGRICULTURE	\$ 126,750	\$ 63,625	\$ 592,000
COMMUNICATION SITES	\$ 275,140	\$ -	\$ 1,190,000
GRAZING	\$ 84,751	\$ 8,300	\$ 1,680,200
RESIDENTIAL LEASES	\$ 82,351	\$ -	\$ 1,017,395
<b>COMMERCIAL</b>			
COMMERCIAL ENERGY RESOURCES	\$ -	\$ 68,300	\$ 95,840
COMMERCIAL INDUSTRIAL	\$ 61,530	\$ 3,000	\$ 142,000
COMMERCIAL MILITARY FACILITIES	\$ -	\$ 7,000	\$ 151,000
COMMERCIAL OFFICE/RETAIL LEASES	\$ 104,536	\$ 584,000	\$ 991,600
COMMERCIAL RECREATION	\$ 75,420	\$ 475,000	\$ 1,014,000
<b>OTHER</b>			
CONSERVATION LEASES	\$ 20	\$ 500	\$ 73,000
GEOTHERMAL	\$ -	\$ -	\$ 5,012
MINERAL LEASES	\$ 15,281	\$ 2,250	\$ 113,000
OIL AND GAS LEASES	\$ 1,217	\$ 351	\$ 3,926
<b>Sub Total</b>	<b>\$ 826,996</b>	<b>\$ 1,212,326</b>	<b>\$ 7,068,973</b>
REAL ESTATE SERVICES (ER)	\$ -	**	
<b>Grand Total - Earnings Reserve</b>	<b>\$ 826,996</b>		

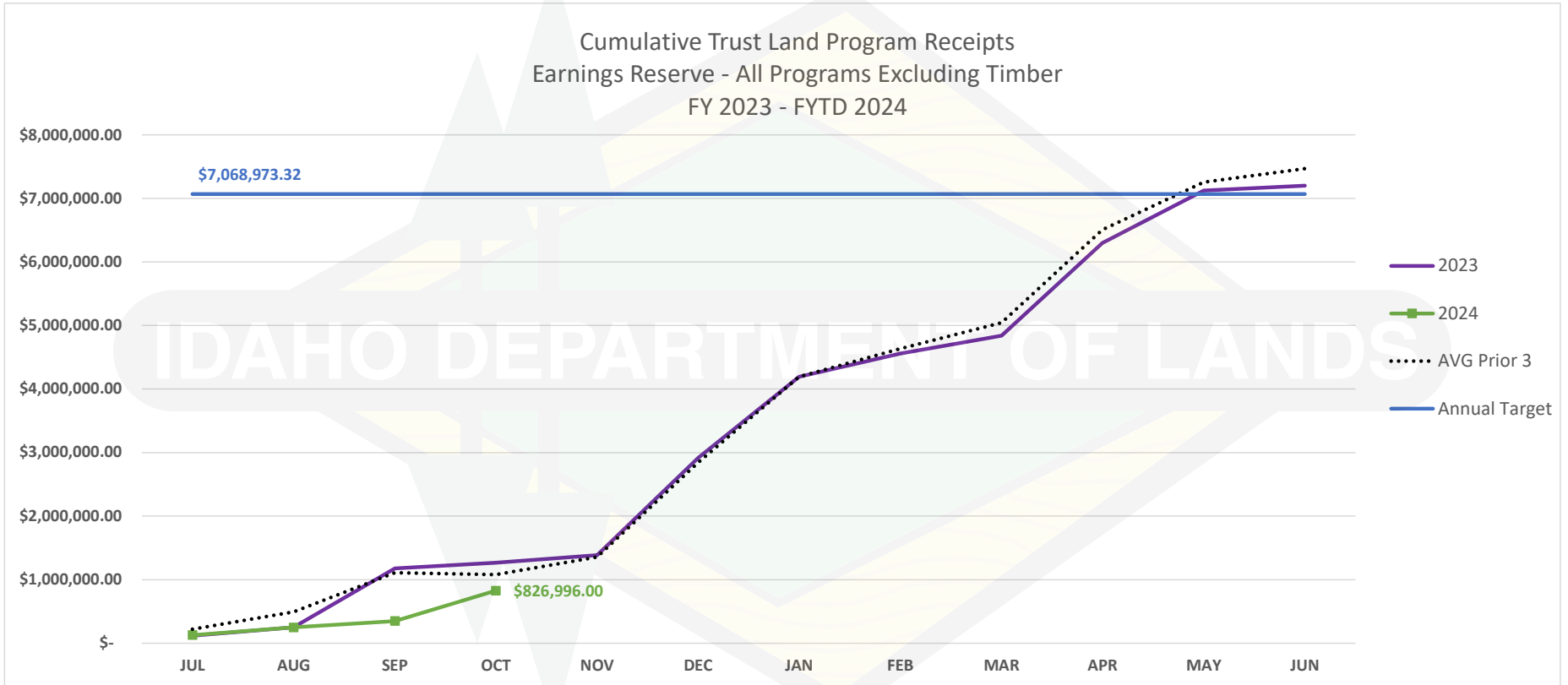
PERMANENT FUND REVENUE	
<b>MINERALS (PF)</b>	<b>\$ 936,057</b> ***

\*These figures are based on historic timing of revenue/billing as well as estimates of upcoming lease and permit revenue.

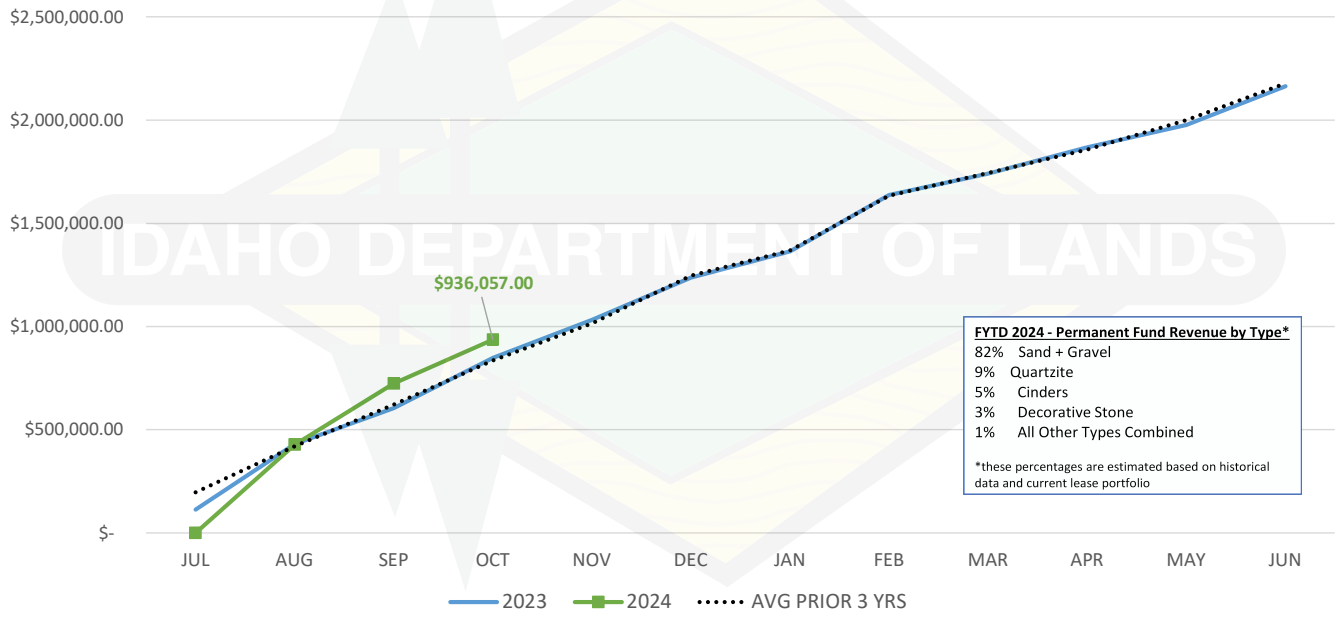
\*\* This category is not included in the annual forecast.

\*\*\*This category is not included in the annual forecast and represents minerals revenue to the permanent fund.

Cumulative Trust Land Program Receipts  
 Earnings Reserve - All Programs Excluding Timber  
 FY 2023 - FYTD 2024



Trust Land Permanent Fund Revenue & Royalties  
 (Excluding Land Bank and Timber Program)  
 FY2023 - FYTD2024



Annual Report to the  
Board of Land Commissioners



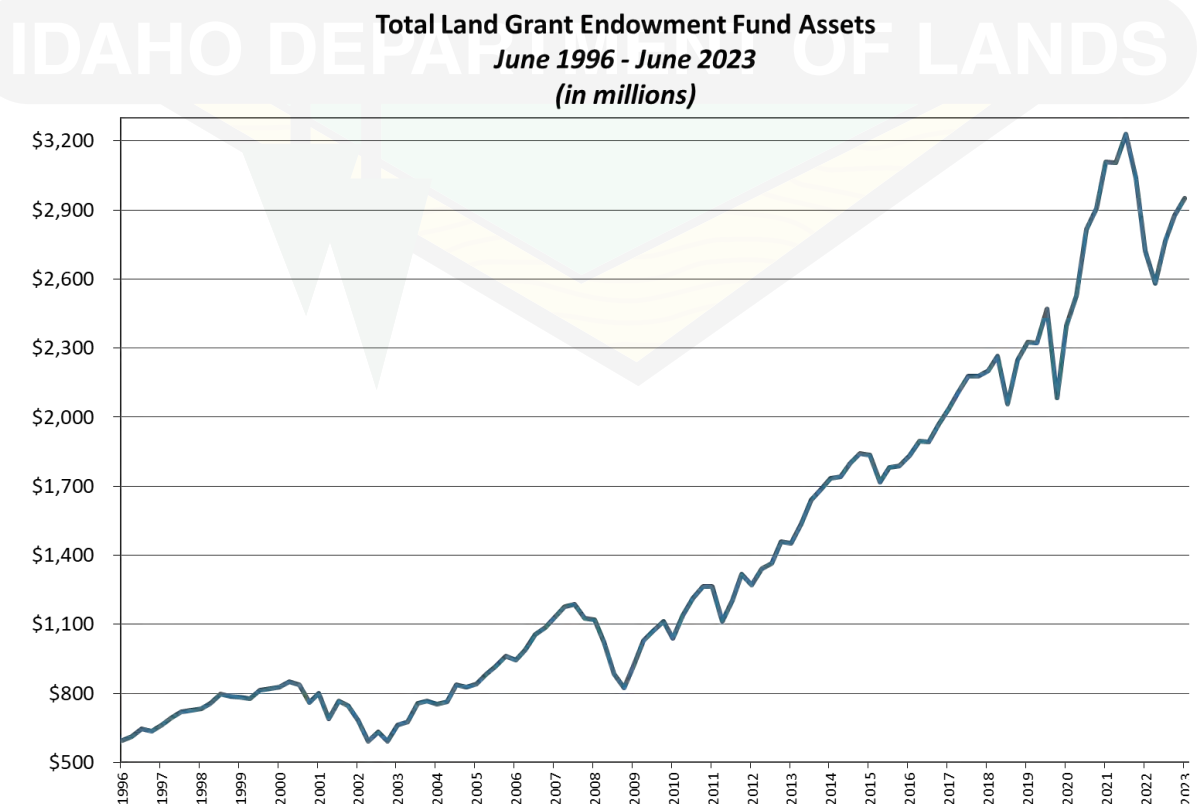
November 21, 2023

## SUMMARY OF RESULTS

The Endowment Fund grew by 8.2% or \$223.0 million to \$2,946.6 million as of June 30, 2023. Earnings reserve levels, with the exceptions of Public School and State Hospital South, were above target at fiscal year-end which enabled the Idaho Board of Land Commissioners to approve the transfer of \$28.1 million from earnings reserves into permanent funds. The Endowment Fund had investment gains of 10.9%, which ranked in the top 22<sup>nd</sup> percentile in the Callan Public Fund Sponsor Database. Costs to manage the fund totaled \$11.4 million or 0.39% of assets. Net land revenue declined by 5.8% to \$53.2 million and beneficiary distributions increased by 13.9% to \$100.3 million.

## CHANGES IN NET POSITION AND FUND BALANCE

Changes in the net position of the Endowment Fund are the result of investment gains or losses in the Endowment Fund portfolio, revenue generated from land assets, beneficiary distributions and Department of Lands and EFIB expenses. The Endowment Fund balance changed by \$223.0 million, -\$384.3 million and \$711.6 million during the fiscal years ended June 30, 2023, 2022 and 2021, respectively. Net position and fund balance totaled \$2,946.6 million, \$2,723.6 million and \$3,107.9 million as of June 30, 2023, 2022 and 2021, respectively.



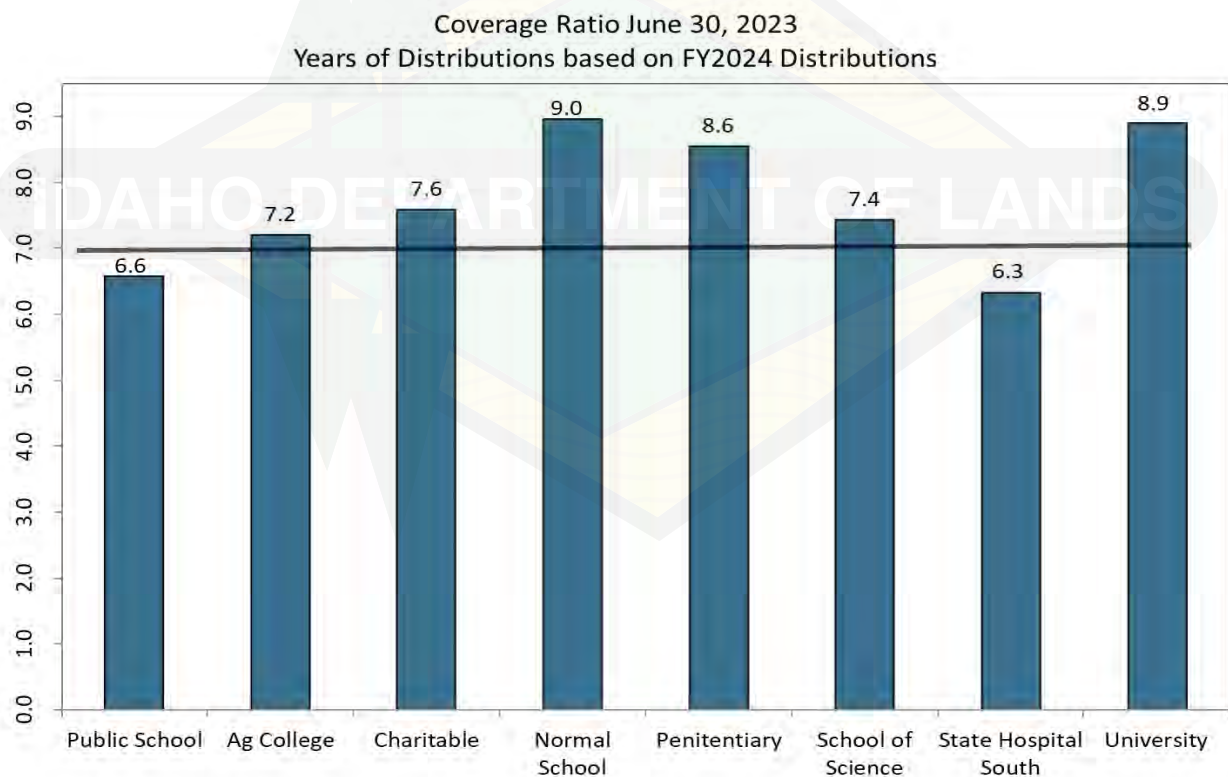


## EARNINGS RESERVES

The Idaho State Board of Land Commissioners has established target earnings reserve levels that equate to seven years of distributions for all endowment beneficiaries. When earnings reserves exceed the target levels, excess amounts may be transferred from earnings reserve funds into the corresponding permanent funds. Subsequent to fiscal year-end, the Idaho State Board of Land Commissioners approved the transfer of \$28.1 million from earnings reserves into permanent funds.

Total earnings reserve levels were \$719.9 million, \$593.2 million and \$1,198.8 million as of June 30, 2023, 2022 and 2021, respectively. As of June 30, 2023, the earnings reserve balances for Public School and State Hospital South were below target earnings reserve levels.

The table below highlights the earnings reserve levels expressed in years of distributions for each beneficiary.

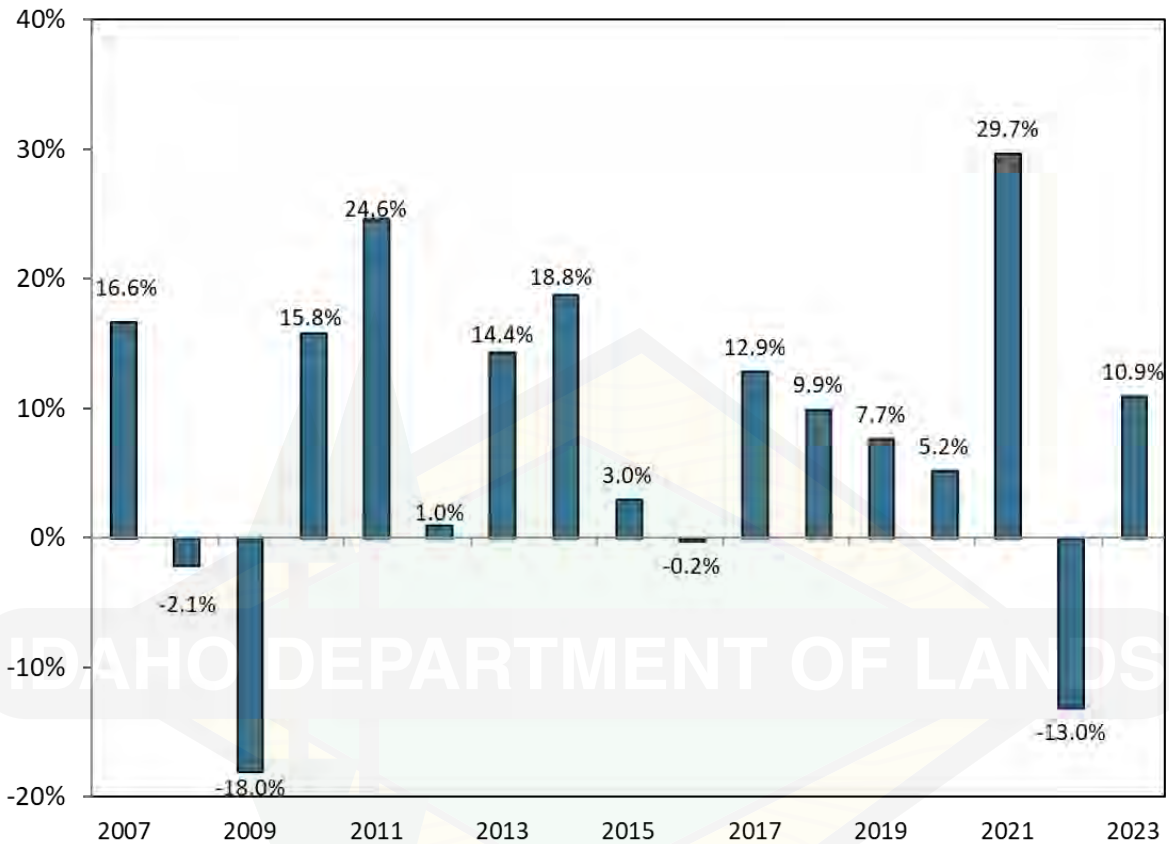


## INVESTMENT RESULTS

The Endowment Fund portfolio generated investment returns before fees of 10.9%, -13.0% and 29.7% in fiscal years end June 30, 2023, 2022 and 2021, respectively. The average annual investment returns were 10.9%, 7.8%, 7.2%, and 8.0% during the last one, three, five and ten-

year periods. These investment returns ranked in the top 22<sup>nd</sup>, 55<sup>th</sup>, 31<sup>st</sup> and 30<sup>th</sup> percentile in the Callan Public Fund Sponsor Database for the one, three, five and ten-year periods.

### Annual Gross Fund Returns



Annualized Gross Fund Returns, Ending June 30, 2023					
	FY 2023	3 Years	5 Years	7 Years	10 Years
<b>Total Fund</b>	10.9%	7.8%	7.2%	8.4%	8.0%
<i>Benchmark (38% Russell 3000, 19% ACWI ex-US, 9% ACWI, 10% ODCE, 24% BBC Aggregate)</i>	10.6%	7.3%	6.8%	7.9%	7.6%
<b>Total Equity</b>	18.2%	12.2%	9.7%	11.5%	10.4%
Domestic Equity	18.7%	13.7%	10.7%	12.9%	12.1%
Large Cap.	19.1%	13.1%	10.6%	12.8%	12.2%
Mid Cap.	17.4%	15.7%	12.0%	13.4%	12.0%
Small Cap.	18.8%	13.2%	8.6%	12.6%	11.2%
International Equity	15.7%	9.4%	7.2%	9.0%	7.0%
Global Equity	20.8%	12.1%	10.4%	10.7%	8.7%
<i>MSCI ACWI Index</i>	16.5%	11.0%	8.1%	9.9%	8.8%
<b>Total Real Estate</b>	-5.4%	6.0%	6.1%		
<i>NCREIF ODCE Index</i>	-3.1%	8.4%	7.5%		
<b>Total Fixed Income</b>	-0.5%	-2.9%	1.1%	0.7%	1.6%
<i>Fixed-Income Benchmark (BBC U.S. Aggregate)</i>	-0.9%	-4.0%	0.8%	0.4%	1.5%

## ASSET ALLOCATION

The target asset allocation for the Endowment Fund portfolio is 66% equity, 24% fixed income, and 10% real estate. The equity portion of the portfolio currently includes 38% U.S. equity, 19% international equity and 9% global equity. The fixed income portion of the portfolio includes 11% in the Bloomberg Aggregate Index and 13% in an actively managed core plus strategies. The real estate portion of the portfolio is invested in private core real estate strategies.

## INVESTMENT MANAGEMENT

The EFIB engages the services of an investment consultant who acts as an independent fiduciary and provides advice in areas such as investment policies and guidelines, asset allocation strategies, portfolio risk/return modeling and hiring and monitoring of investment managers. Callan has served as EFIB's investment consultant since 2007. They were reappointed in 2019 after a national consultant search.

The EFIB engages investment managers who are given full discretion to make investment decisions subject to policies and guidelines specific to the investment strategy they are managing. As of June 30, 2023, the EFIB engaged twenty investment managers including Barrow Hanley, Boston Partners, CBRE Investment Management, Clearwater Advisors, DoubleLine Capital, DWS, Eagle Asset Management, LSV Asset Management, Northern Trust Investments, PineStone Asset Management, Sands Capital, Schroders, State Street Global Advisors, Sycamore/Victory Capital, TimesSquare Capital Management, UBS Realty Investors, Vanguard, WCM Investment Management, Wellington and Western Asset Management.

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## COST OF INVESTMENT MANAGEMENT

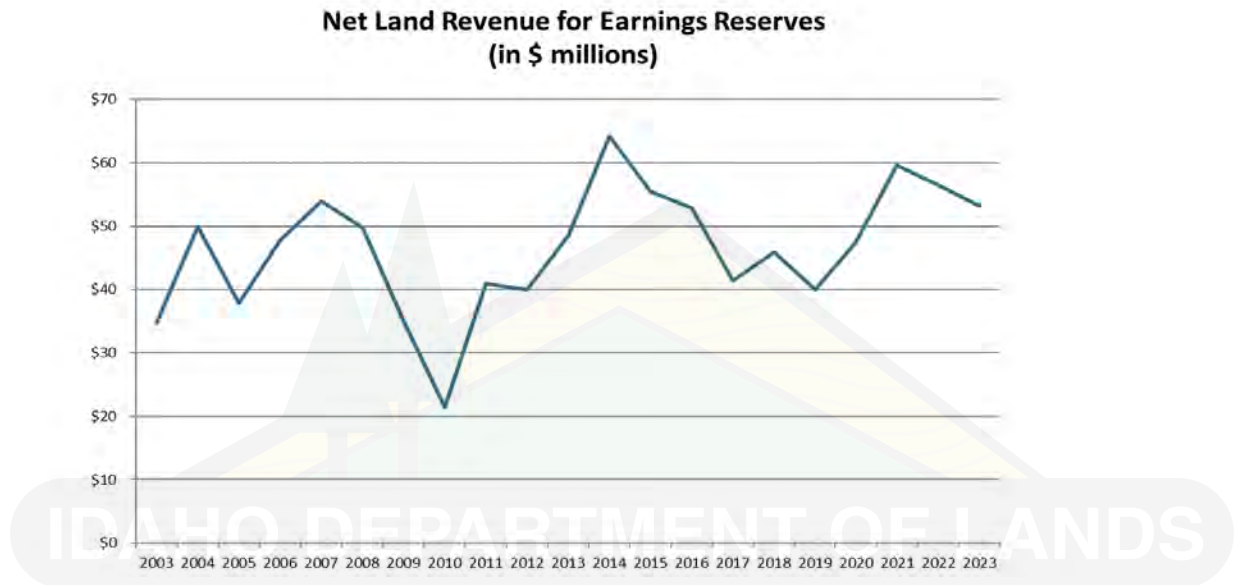
The cost for investment management was \$11.4 million, \$12.7 million and \$12.1 million in fiscal years 2023, 2022 and 2021, respectively. Investment management expenses as a percentage of year-end Endowment Fund net positions equates to 0.39%, 0.47% and 0.39% in fiscal years 2023, 2022 and 2021, respectively. The table below provides a breakdown of investment management expenses.

### Cost of Investment Management

Investment Management Operating Costs	2023	2022	2021
Internal Investment Costs	\$ 605,128	\$ 564,256	\$ 523,664
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Total expenditures	11,390,656	13,073,781	11,518,294
Change in Manager Fee Accrual	32,183	(365,920)	535,488
Total Accrual Basis Expense	\$ 11,422,839	\$ 12,707,861	\$ 12,053,782

## NET LAND REVENUE

Net land revenue (land revenue less Department of Lands expenses) totaled \$53.2 million, \$56.5 million and \$59.6 million in fiscal years 2023, 2022 and 2021, respectively. The decline in net land revenue from fiscal 2014 through 2019 is primarily the result of the sales of leased cabin sites located near Payette and Priest Lakes. The Idaho Department of Lands has increased the annual volume of timber harvested over the last few years, but net revenue has declined recently due to lower timber prices.



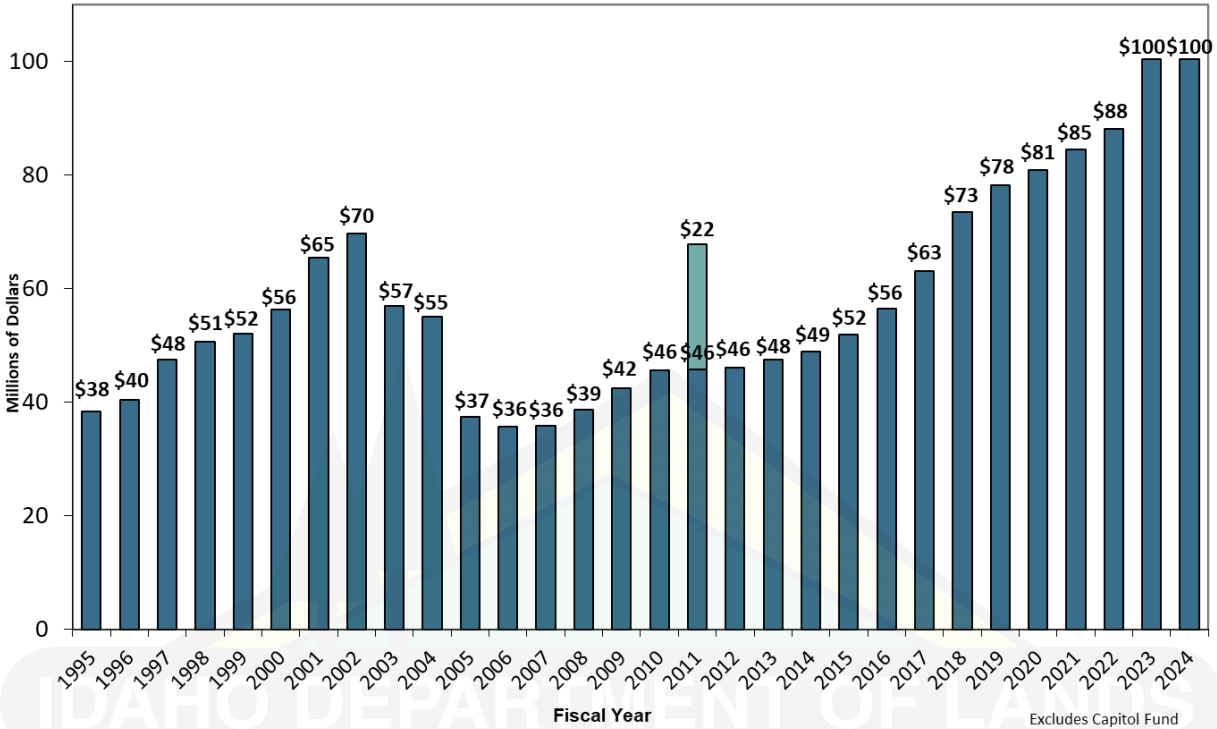
## BENEFICIARY DISTRIBUTIONS

The Endowment Fund exists to provide distributions to beneficiaries in perpetuity. For all endowments, except Capitol Permanent, the Idaho State Board of Land Commissioners has established a beneficiary distribution policy. The current policy provides for annual distributions at a rate of 5% of the three-year moving average of the Permanent Fund balance (with the exception of State Hospital South which is 7%) and allows for adjustments to distributions based on factors including the level of Earnings Reserve Funds and transfers to the Permanent Funds.

Distributions to land-grant beneficiaries totaled \$100.3 million, \$88.1 million and \$84.5 million in fiscal years 2023, 2022 and 2021, respectively. The Board of Land Commissioners approved distributions of \$100.3 million and \$103.2 million in fiscal years 2024 and 2025, respectively. The table below provides a summary of land-grant beneficiary distributions.

# Beneficiary Distributions 1995-2024

*(includes special Public School distribution in 2011 of \$22M)*



On July 1, 2004, the Capitol Permanent Fund was pooled with the Endowment Fund for investment purposes. Additions to the Capitol Permanent Fund include revenue from timber lands, license plate royalties, and investment income. The EFIB authorizes distributions from the Capitol Permanent Fund to the Capitol Maintenance Reserve Fund. Distribution from the Capitol Permanent Fund to the Capitol Maintenance Reserve Fund totaled \$1.83 million, \$1.63 million and \$1.56 million in fiscal years 2023, 2022 and 2021, respectively. Distributions from the Capitol Maintenance Reserve Fund are determined by the Capitol Commission, subject to legislative appropriation. Distributions from the Capital Maintenance Reserve Fund to the Capitol Commission were \$1,021,819, \$125,000, and \$2,450,000 in fiscal years 2023, 2022 and 2021, respectively.

## CREDIT ENHANCEMENT PROGRAM

On July 1, 2002, the State of Idaho’s Credit Enhancement Program for school district bond financing was established. This program, in accordance with Idaho Code Section 57-728 and in conjunction with Idaho Code Chapter 53, Title 33, requires the Public School Endowment Fund to purchase up to \$300 million in notes of the State that may be issued to avoid default on school district bonds. This credit enhancement allows eligible voter-approved school bonds to be issued

with AAA ratings, which historically has been above the State's AA+ rating. The enhanced credit rating results in lower borrowing costs for Idaho school districts. EFIB has committed to provide credit enhancement on up to \$1.2 billion in school bonds, with a limit of \$40 million per school district. There were \$538.9 million, \$596.5 million, and \$608.1 million in bonds guaranteed by the Credit Enhancement Program as of June 30, 2023, 2022 and 2021, respectively.

## **RISKS**

The Endowment Fund is aware that macroeconomic and geopolitical risks broadly affect financial markets, and it works closely with its consultant and investment managers to monitor important trends and address risks assumed in the portfolio. It also recognizes the recent escalation of cyber security risk and consistently reviews and monitors best practices used to mitigate these risks.



**IDAHO DEPARTMENT OF LANDS**



**State of Idaho Endowment Fund**  
**IDAHO DEPARTMENT OF LANDS**

*REPORT OF  
INDEPENDENT AUDITORS  
AND FINANCIAL STATEMENTS  
JUNE 30, 2023 AND 2022*

*Administered by the Endowment Fund Investment Board*



## TABLE OF CONTENTS

	Page
INDEPENDENT AUDITORS' REPORT	1-4
MANAGEMENT'S DISCUSSION AND ANALYSIS	5-13
FINANCIAL STATEMENTS	
Governmental Balance Sheets and Statements of Net Position-Governmental Activities	14
Governmental Statements of Revenues, Expenditures and Changes in Governmental Fund Balances and Statements of Governmental Activities	15
Notes to Financial Statements	16-38
REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS	39-40
SUPPLEMENTARY SCHEDULES	
Supplementary Schedules of Statements of Net Position by Endowment	41-44
Schedules of the Gain Benchmark	45-46





## INDEPENDENT AUDITORS' REPORT

Endowment Fund Investment Board  
State of Idaho Endowment Funds  
Boise, Idaho

### Report on the Audit of the Financial Statements

#### **Opinions**

We have audited the accompanying financial statements of the governmental activities and the general fund of the State of Idaho Endowment Funds administered by the Endowment Fund Investment Board (the EFIB), a component unit of the State of Idaho, as of and for the years ended June 30, 2023 and 2022, and the related notes to the financial statements, which collectively comprise the State of Idaho Endowment Funds' basic financial statements as listed in the table of contents.

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities and the general fund of the State of Idaho Endowment Funds as of June 30, 2023 and 2022, and the respective changes in financial position for the years then ended in accordance with accounting principles generally accepted in the United States of America.

#### **Basis for Opinions**

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS) and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Our responsibilities under those standards are further described in the Auditors' Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the State of Idaho Endowment Funds and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

#### **Responsibilities of Management for the Financial Statements**

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the State of Idaho Endowment Funds' ability to continue as a going concern for twelve months beyond the financial statement date, including any currently known information that may raise substantial doubt shortly thereafter.

***Auditors' Responsibilities for the Audit of the Financial Statements***

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinions. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and *Government Auditing Standards* will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS and *Government Auditing Standards*, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the State of Idaho Endowment Funds' internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the State of Idaho Endowment Funds' ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control related matters that we identified during the audit.

***Required Supplementary Information***

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis be presented to supplement the basic financial statements. Such information is the responsibility of management and, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with GAAS, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

***Supplementary Information***

Our audits were conducted for the purpose of forming opinions on the financial statements that collectively comprise the State of Idaho Endowment Funds' basic financial statements. The accompanying supplementary schedules of statements of net position by endowment are presented for purposes of additional analysis and are not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. The information has been subjected to the auditing procedures applied in the audits of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with GAAS. In our opinion, the supplementary schedules of statements of net position by endowment are fairly stated, in all material respects, in relation to the basic financial statements as a whole.

***Other Information***

Management is responsible for the other information included in the annual report. The other information comprises the schedules of the gain benchmark but does not include the basic financial statements and our auditors' report thereon. Our opinions on the basic financial statements do not cover the other information, and we do not express an opinion or any form of assurance thereon.

In connection with our audits of the basic financial statements, our responsibility is to read the other information and consider whether a material inconsistency exists between the other information and the basic financial statements, or the other information otherwise appears to be materially misstated. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report.

**Other Reporting Required by Government Auditing Standards**

In accordance with *Government Auditing Standards*, we have also issued our report dated August 15, 2023, on our consideration of the State of Idaho Endowment Funds' internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the State of Idaho Endowment Funds' internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering State of Idaho Endowment Funds' internal control over financial reporting and compliance.



*CliftonLarsonAllen LLP*

**CliftonLarsonAllen LLP**

Boise, Idaho  
August 15, 2023



IDAHO DEPARTMENT OF LANDS

The Management Discussion and Analysis highlights the financial performance of the State of Idaho Land Grant Endowment Fund (“Endowment Fund”) for the fiscal years ended June 30, 2023, 2022 and 2021.

## **BACKGROUND**

When Idaho became the 43<sup>rd</sup> state in 1890, the Congress of the United States endowed certain lands to be used to generate income for education and other important purposes. At statehood, 3.6 million acres of land were granted to the State of Idaho (“State”) and 2.5 million acres remain. Proceeds from the sale of land and income generated by the land have accumulated in the Endowment Fund which provides financial support for its beneficiaries.

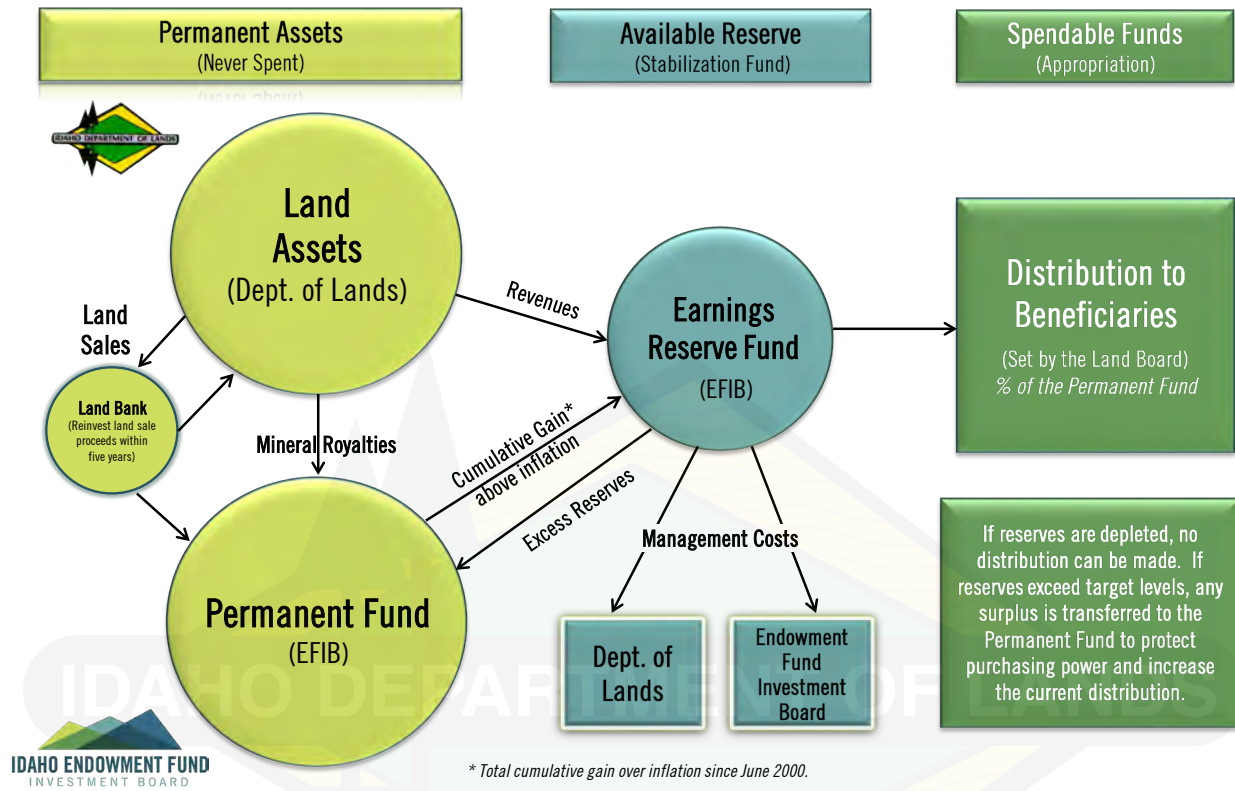
The Endowment Fund supports the following beneficiaries: Public Schools, University of Idaho Agricultural College, Charitable Institutions (Idaho State University, Juvenile Corrections Center, State Hospital North, Veterans’ Home, School for the Deaf and Blind), Normal School (Idaho State University, Lewis-Clark State College), Penitentiary, University of Idaho School of Science, State Hospital South, University of Idaho and the Capitol Permanent Fund.

The Endowment Fund Investment Board (“EFIB”) was created by the Idaho Legislature in 1969 and is charged with administration and investment management responsibilities for the Endowment Fund according to policies established by the Idaho State Board of Land Commissioners. In addition, EFIB provides investment management services for funds associated with other state agencies including SIF (formerly known as the State Insurance Fund), Idaho Department of Environmental Quality, Idaho Department of Fish and Game, Idaho State Parks & Recreation and the Idaho Department of Lands. Financial results related to non-Land Grant Endowment Funds are not included in these financial statements.

## **THE ENDOWMENT FUND STRUCTURE**

The Endowment Fund is structured to include Permanent Funds and Earnings Reserve Funds for each beneficiary. Permanent Funds are to remain intact and grow at least at the rate of inflation. Under legislation passed by the Idaho Legislature in 1998, Earnings Reserve Funds were established to pay distributions to beneficiaries and cover expenses for the Idaho Department of Lands and EFIB. Most land revenue is considered an addition to the Earnings Reserve Funds, while distributions to beneficiaries and the payment of Idaho Department of Lands and EFIB expenses are considered depletions. Each June 30, the proportionate change in market value of the Endowment Fund portfolio is allocated to each endowment’s Earnings Reserve Fund and gains up to the rate of inflation to each endowment’s Permanent Fund. This allocation methodology is specified in Idaho Code Section 57-720 and reflected in the following table.

## STRUCTURE OF IDAHO'S ENDOWMENT ASSETS

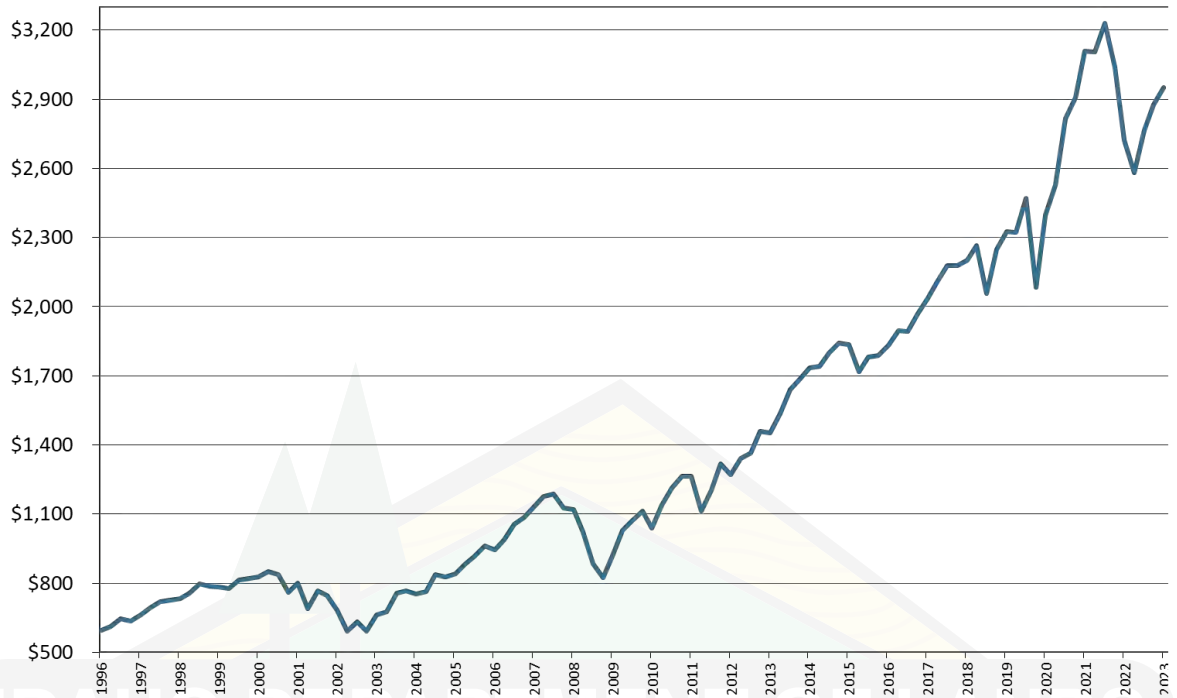


### FINANCIAL HIGHLIGHTS:

#### CHANGES IN NET POSITION AND FUND BALANCE

Changes in the net position of the Endowment Fund are the result of investment gains or losses in the Endowment Fund portfolio, revenue generated from land assets, beneficiary distributions and Department of Lands and EFIB expenses. The Endowment Fund balance changed by \$223.0 million, -\$384.3 million and \$711.6 million during the fiscal years ended June 30, 2023, 2022 and 2021, respectively. Net position and fund balance totaled \$2,946.6 million, \$2,723.6 million and \$3,107.9 million as of June 30, 2023, 2022 and 2021, respectively.

**Total Land Grant Endowment Fund Assets**  
*June 1996 - June 2023*  
*(in millions)*



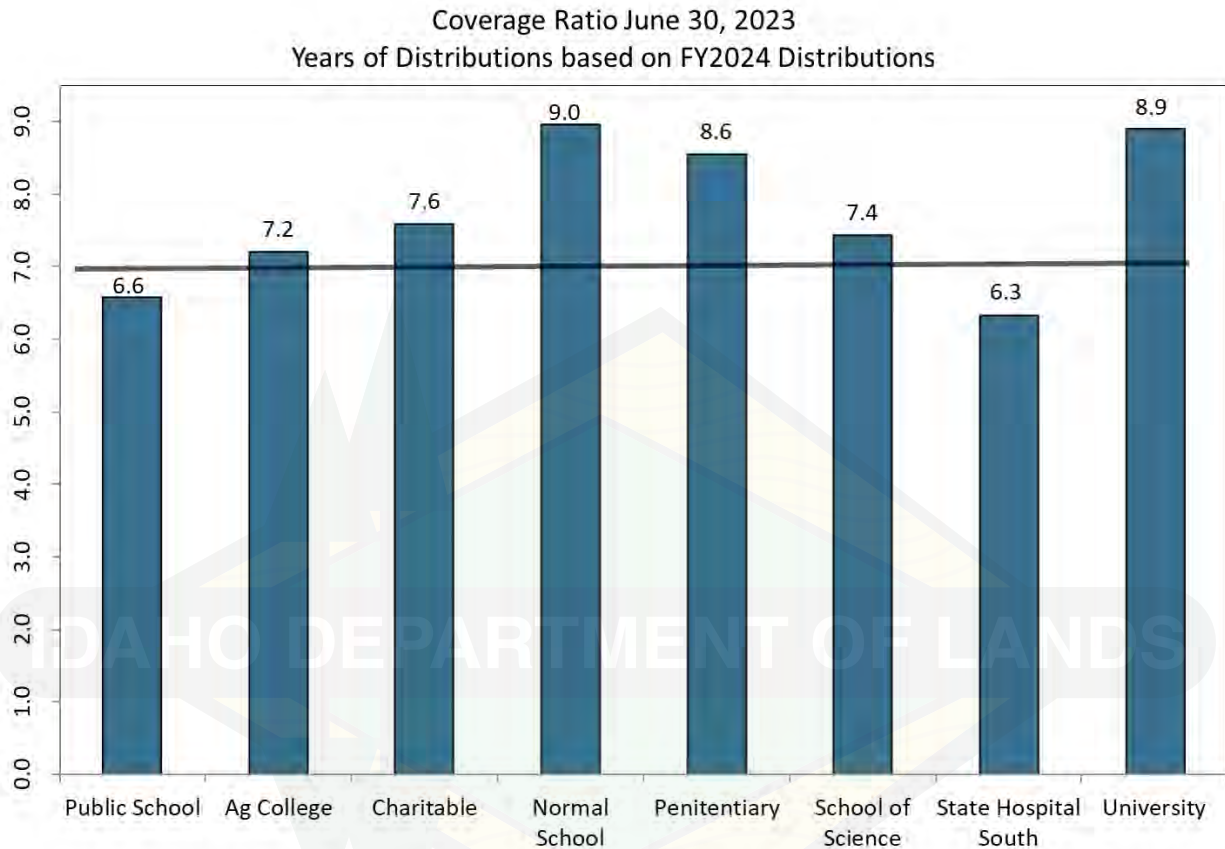
**EARNINGS RESERVES**

The Idaho State Board of Land Commissioners has established target earnings reserve levels for the Earnings Reserve Funds. The target earnings reserve levels equate to seven years of beneficiary distributions for Public Schools, Agricultural College, Charitable Institutions, Normal School, Penitentiary, School of Science, State Hospital South, and the University of Idaho. When earnings reserves exceed the target earnings reserve levels, excess amounts may be transferred from Earnings Reserve Funds into the corresponding Permanent Funds.

Total earnings reserve levels were \$719.9 million, \$593.2 million and \$1,198.8 million as of June 30, 2023, 2022 and 2021, respectively. As of June 30, 2023, the earnings reserve balances for Public School and State Hospital South were below target earnings reserve levels.

*Earnings Reserves cont.:*

The table below highlights the earnings reserve levels expressed in years of distributions for each beneficiary.

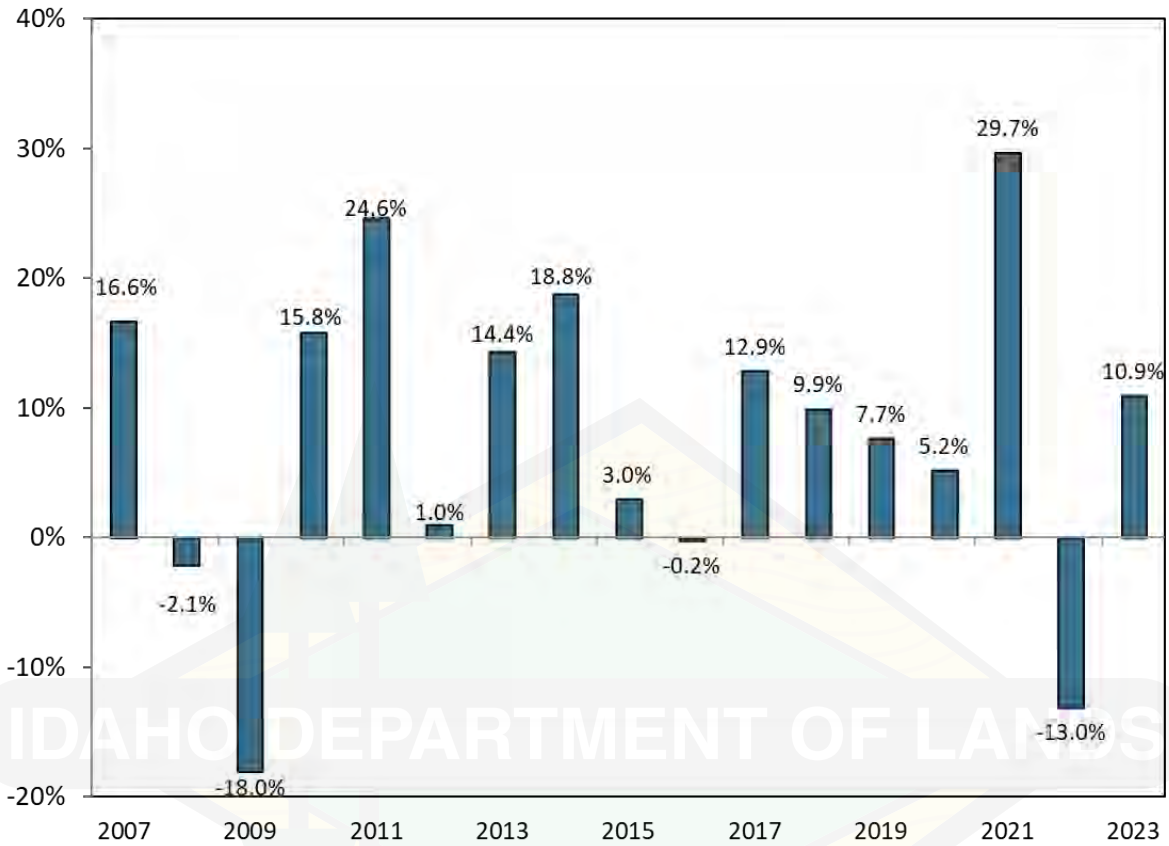


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### Annual Gross Fund Returns



### Annualized Gross Fund Returns, Ending June 30, 2023

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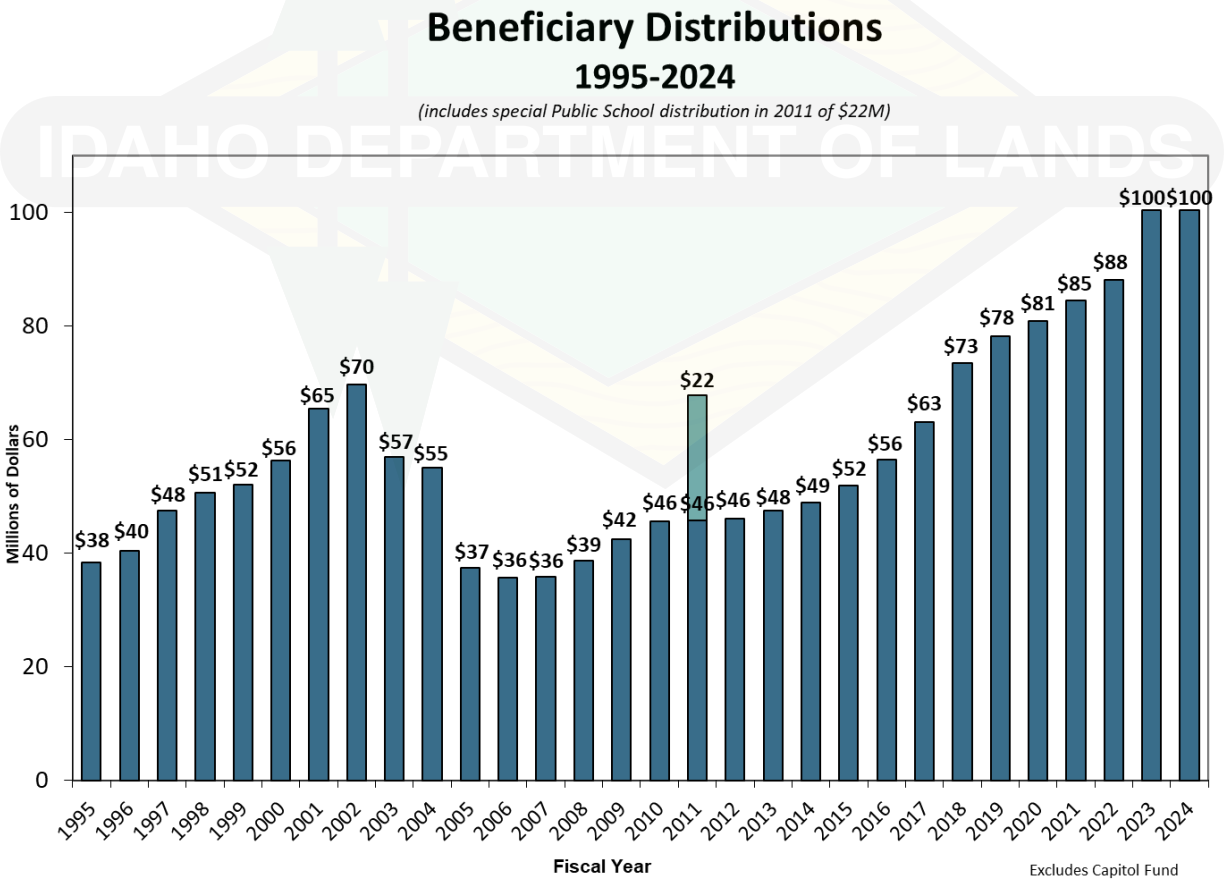
**Net Land Revenue for Earnings Reserves  
(in \$ millions)**



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The Endowment Fund exists to provide distributions to beneficiaries in perpetuity. For all endowments, except Capitol Permanent, the Idaho State Board of Land Commissioners has established a beneficiary distribution policy. The current policy provides for annual distributions at a rate of 5% of the three-year moving average of the Permanent Fund balance (with the exception of State Hospital South which is 7%) and allows for adjustments to distributions based on factors including the level of Earnings Reserve Funds and transfers to the Permanent Funds.

Distributions to land-grant beneficiaries totaled \$100.3 million, \$88.1 million and \$84.5 million in fiscal years 2023, 2022 and 2021, respectively. The Board of Land Commissioners approved distributions of \$100.3 million and \$103.2 million in fiscal years 2024 and 2025, respectively. The table below provides a summary of land-grant beneficiary distributions.



On July 1, 2004, the Capitol Permanent Fund was pooled with the Endowment Fund for investment purposes. Additions to the Capitol Permanent Fund include revenue from timber lands, license plate royalties, and investment income. The EFIB authorizes distributions from the Capitol Permanent Fund to the Capitol Maintenance Reserve Fund. Distribution from the Capitol Permanent Fund to the Capitol Maintenance Reserve Fund totaled \$1.83 million, \$1.63 million and \$1.56 million in fiscal years 2023, 2022 and 2021, respectively. Distributions from the Capitol Maintenance Reserve Fund are determined by the Capitol Commission, subject to legislative appropriation. Distributions from the Capital Maintenance Reserve Fund to the Capitol Commission were \$1,021,819, \$125,000, and \$2,450,000 in fiscal years 2023, 2022 and 2021, respectively.

### **CREDIT ENHANCEMENT PROGRAM**

On July 1, 2002, the State of Idaho's Credit Enhancement Program for school district bond financing was established. This program, in accordance with Idaho Code Section 57-728 and in conjunction with Idaho Code Chapter 53, Title 33, requires the Public School Endowment Fund to purchase up to \$300 million in notes of the State that may be issued to avoid default on school district bonds. This credit enhancement allows eligible voter-approved school bonds to be issued with AAA ratings, which historically has been above the State's AA+ rating. The enhanced credit rating results in lower borrowing costs for Idaho school districts. EFIB has committed to provide credit enhancement on up to \$1.2 billion in school bonds, with a limit of \$40 million per school district. There were \$538.9 million, \$596.5 million, and \$608.1 million in bonds guaranteed by the Credit Enhancement Program as of June 30, 2023, 2022 and 2021, respectively.

### **RISKS**

The Endowment Fund is aware that macroeconomic and geopolitical risks broadly affect financial markets, and it works closely with its consultant and investment managers to monitor important trends and address risks assumed in the portfolio. It also recognizes the recent escalation of cyber security risk and consistently reviews and monitors best practices used to mitigate these risks.

### **USING THIS ANNUAL REPORT**

The annual report consists of the independent auditors' report, financial statements, notes to the financial statements and supplementary schedules. The financial statements, notes to the financial statements and supplementary schedules are prepared by the EFIB staff and are intended to give the reader a complete understanding of the Endowment Fund. The financial statements consist of the Governmental Balance Sheets and Statements of Net Position, the Governmental Statements of Revenues, Expenditures and Changes in Governmental Fund Balances and the Statements of Governmental Activities. The notes to the financial statements are an integral part of the financial statements and provide additional information on the Endowment Fund and its operations.

STATE OF IDAHO ENDOWMENT FUND  
 GOVERNMENTAL BALANCE SHEETS AND STATEMENTS OF NET POSITION -  
 GOVERNMENTAL ACTIVITIES  
 JUNE 30, 2023 AND 2022



<b>Assets:</b>	2023	2022
Investments, at Fair Value	\$ 2,946,748,491	\$ 2,723,493,232
Receivable for Unsettled Trades	37,138,694	59,034,380
Receivable From Idaho Department of Lands	1,433,240	1,001,580
Accrued Interest and Dividends Receivable	7,292,932	6,383,324
Prepaid Expenses to the Department of Lands	6,283,786	5,579,480
<b>Total Assets</b>	<b>\$ 2,998,897,143</b>	<b>\$ 2,795,491,996</b>
<b>Liabilities:</b>		
Payable for Unsettled Trades	\$ 49,788,543	\$ 69,454,870
Investment Manager Expenses Payable	2,506,505	2,474,321
<b>Total Liabilities</b>	52,295,048	71,929,191
<b>Fund Balances:</b>		
Nonexpendable - Permanent Funds	2,226,677,101	2,130,376,793
Expendable - Earnings Reserve Funds	719,924,996	593,186,012
<b>Total Fund Balances</b>	2,946,602,097	2,723,562,805
<b>Total Liabilities and Fund Balances</b>	<b>\$ 2,998,897,145</b>	<b>\$ 2,795,491,996</b>
<p><i>The EFIB has one liability that is not included in the Statement of Net Position, which makes it different from modified accrual to full accrual basis. The difference is the Lease payable that is required to be disclosed through GASB Statement No. 87. The Lease liability for 2023 and 2022 were \$0 and \$38,333, respectively. This liability is offset by a corresponding asset, Lease - Right to Use, and therefore not included in the Statement of Net Position.</i></p>		
<b>Statement of Net Position:</b>		
Restricted for Permanent Trust - Nonexpendable	\$ 2,226,677,101	\$ 2,130,376,793
Restricted for Permanent Trust - Expendable	719,924,996	593,186,012
<b>Total Net Position - Governmental Activities</b>	<b>\$ 2,946,602,097</b>	<b>\$ 2,723,562,805</b>

See Notes to Financial Statements

STATE OF IDAHO ENDOWMENT FUND  
 GOVERNMENTAL STATEMENTS OF REVENUES, EXPENDITURES AND CHANGES IN  
 GOVERNMENTAL FUND BALANCES AND STATEMENTS OF GOVERNMENTAL ACTIVITIES  
 FOR THE FISCAL YEARS ENDED JUNE 30, 2023 AND 2022



<b>Revenues:</b>	2023	2022
Receipts from the Department of Lands		
Permanent Receipts	\$ 6,399,138	\$ 53,797,648
Earnings Reserve Receipts	81,279,200	83,905,915
Net Income (Loss) from Investments	276,203,901	(393,665,129)
<b>Total Revenues</b>	<b>363,882,239</b>	<b>(255,961,566)</b>
 <b>Expenditures:</b>		
Department of Lands	28,083,290	27,408,829
E F IB	11,422,839	12,707,860
<b>Total Expenditures</b>	<b>39,506,129</b>	<b>40,116,689</b>
 <b>Revenues Over (Under) Expenditures</b>	<b>324,376,110</b>	<b>(296,078,255)</b>
 <b>Other Financing Uses</b>		
Distributions to Beneficiaries	101,336,819	88,201,500
<b>Net Increase (Decrease) in Fund Balance</b>	<b>223,039,291</b>	<b>(384,279,755)</b>
 <b>Fund Balance - Beginning of Year</b>	<b>2,723,562,805</b>	<b>3,107,842,560</b>
<b>Fund Balance - End of Year</b>	<b>\$ 2,946,602,097</b>	<b>\$ 2,723,562,805</b>

See Notes to Financial Statements

## NOTE 1 - GENERAL DESCRIPTION OF THE FUND

The Endowment Fund Investment Board (the EFIB) is charged with administration and investment management responsibilities for the State of Idaho Endowment Fund (the “Endowment Fund”), which is comprised of Permanent and Earnings Reserve Funds for beneficiaries including Public School, Agricultural College, Charitable Institutions, Normal School, Penitentiary, School of Science, State Hospital South, and University of Idaho Endowment Funds, as well as the Capitol Permanent Fund and Capitol Maintenance Reserve Fund.

The Endowment Fund is part of the State of Idaho’s financial reporting and is included in the State’s Annual Comprehensive Financial Report (ACFR). The Endowment Fund is invested according to investment policies recommended by the EFIB Board and established by the Idaho State Board of Land Commissioners.

The EFIB has no control over assets held by the Idaho Department of Lands (IDL); therefore, the EFIB gives accounting recognition only when transactions related to endowment land assets are completed by IDL.

### Endowment Fund Investment Reform Legislation

On July 1, 2000, the EFIB significantly changed operations and reporting of the Endowment Fund, under legislation enacted by the Idaho Legislature in 1998.

The legislation provides that:

- (1) The EFIB, as trustees, will control, manage and invest the Endowment Fund according to policies established by the Idaho State Board of Land Commissioners.
- (2) The application of the Uniform Prudent Investor Act replaces the previous, more restrictive, investment criteria.
- (3) An Earnings Reserve Fund was established to create a buffer to preserve the Permanent Fund balances.
- (4) Administrative costs are to be paid from earnings of the Endowment Fund instead of from annual General Fund appropriations.
- (5) Distributions to beneficiaries are determined by the Idaho State Board of Land Commissioners and are to be paid from the Earnings Reserve Funds, which include investment earnings, net capital gains and certain receipts from IDL.

In March 2004, legislation was enacted which establishes an objective that the Permanent Funds of each endowment grow from June 2000 levels at least at the cumulative rate of inflation plus deposits. Further, it provides that any income and market appreciation of the Permanent Funds can only be transferred to the Earnings Reserve Funds if that objective has been achieved.



## NOTE 2 - SIGNIFICANT ACCOUNTING POLICIES

### *Financial Reporting Entity*

The financial statements reflect the assets of the Endowment Fund and are prepared in accordance with Governmental Accounting Standards Board (GASB) pronouncements.

The Endowment Fund is part of the State of Idaho reporting entity based on certain GASB criteria. These statements present only the Endowment Fund and are not intended to present the financial position and results of operations of the State of Idaho in conformity with generally accepted accounting principles in the United States of America.

### *Basis of Presentation*

The Endowment Fund is accounted for and reported as a Permanent Fund as defined by GASB and uses the modified accrual basis of accounting. Under this method, revenues are recognized when they are earned, and expenditures are recognized when they are incurred. The statement of net position and the statement of activities display information about the Endowment Fund and includes the financial activity of the overall reporting entity. These statements report all activities of the Endowment Fund as a governmental type activity. Given the type of assets and liabilities held by Endowment Fund, there are no adjustments required to convert from modified accrual basis to full accrual basis as required by GASB.

### *Estimates*

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

### *Investments*

According to policies established by the State Board of Land Commissioners, the EFIB is authorized to invest the Endowment Fund in certain fixed income, real estate and equity investments as defined by the investment policy of the EFIB and consistent with Idaho Code Section 57-723. This section states in part, "The EFIB and its investment manager(s) or custodian(s) shall be governed by the Idaho Uniform Prudent Investor Act (Chapter 5, Title 68, Idaho Code), and shall invest and manage the assets of the respective trusts in accordance with that act and the Idaho constitution." In accordance with this code section, the EFIB's investment policy, specifies that the Endowment Funds may be invested in equities (61% to 71% of the investment portfolio, with a target of 66%), fixed income (21% to 27% of the investment portfolio, with a target of 24%), and real estate (7% to 13% of the investment portfolio, with a target of 10%).

The following is a list of investments by asset class allowed by the general investment policy:

- (1) Cash Equivalents: Treasury bills; money market funds; STIF funds; commercial paper; banker's acceptances; repurchase agreements; certificates of deposit.
- (2) Fixed Income: U.S. government and agency securities; bank loans; corporate notes and bonds; residential mortgage backed bonds; commercial mortgage backed bonds; municipal bonds, infrastructure securities, USD and non-USD fixed income securities of foreign governments and corporations; planned amortization class collateralized mortgage obligations; or other "early tranche" CMO's; Sequential pay CMO's; collateralized loan obligations, asset backed securities; convertible notes and bonds; Securities defined under Rule 144A and Section 4(2) of Securities Act of 1933; or securities eligible for inclusion in the Bloomberg Barclays Aggregate Bond Index.
- (3) Equities: Common stocks; convertible preferred stocks; preferred stocks; REITS; American depository receipts (ADRs); stocks of non-U.S. companies (ordinary shares).
- (4) Real Estate: Domestic, private, open-end, core comingled funds, REITS.
- (5) ETFs, Mutual Funds and Collective Funds which invest in securities as allowed in this statement or as permitted in Investment Manager Guidelines. Investment managers will advise the MOI of their intent to utilize ETFs prior to their purchase, what specific ETFs they intend to use and the purposes they serve.
- (6) Futures, Options and Swaps: The EFIB may use financial index futures and options in order to adjust the overall effective asset allocation of the entire portfolio or it may use swaps, futures or options to hedge interest rate or currency exposure. For example, S&P 500 and 10-Year Treasury futures may be used to equitize idle cash and to passively rebalance the portfolio. Futures and options positions are not to be used for speculation, and the EFIB must specifically approve the program for each type of use. Derivative exposure must have sufficient cash, cash equivalents, offsetting derivatives or other liquid assets to cover such exposures Investment securities are stated at fair value, which is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between two market participants at the measurement date. Purchase and sale transactions are recorded on the trade date.
- (7) Derivative securities: Derivative securities are defined as synthetic securities whose price and cash flow characteristics are based on the cash flows and price movements of other underlying securities. Most derivative securities are derived from equity or fixed income securities and are packaged in the form of options, futures, and interest rate swaps, among others. Since it is anticipated that new derivative products will be created each year, it is not the intention of this document to list specific derivatives that are prohibited from investment, rather it will form a general policy on derivatives. Unless a specific type of derivative security is allowed in the Investment Manager Guidelines, the Investment Manager(s) must seek written permission from the EFIB to include derivative investments in the Fund's portfolio. The Investment Manager(s) must present detailed written information as to the expected return and risk characteristics of such investment vehicles.

Investment securities are stated at fair value, which is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between two market participants at the measurement date. Purchase and sale transactions are recorded on the trade date.

In fiscal years 2023 and 2022, the EFIB utilized index futures for cash equitization and passive rebalancing. Index futures obligate the buyer to purchase an asset (or the seller to sell an asset) at a predetermined future date and price. Futures contracts detail the quality and quantity of the underlying asset and are standardized to facilitate trading on a futures exchange.

The table below summarizes the various contracts in the portfolio as of June 30, 2023. The notional value of these instruments is not recorded in the financial statements.

Derivatives	Expiration Date	Contracts	Notional Value	Unrealized Gain/(Loss)
Swaps	Various	11	\$46,164,530	\$762,700
Equity Contracts	Various	1	\$7	\$0
Foreign Exchange Contracts	Various	38	(\$109)	(\$583,194)
Interest Rate Contracts	Various	14	\$703	\$0

The table below summarizes the various contracts in the portfolio as of June 30, 2022. The notional value of these instruments is not recorded in the financial statements.

Derivatives	Expiration Date	Contracts	Notional Value	Unrealized Gain/(Loss)
Swaps	Various	24	\$82,939,069	\$2,699,148
Equity Contracts	Various	2	\$129,230	\$0
Foreign Exchange Contracts	Various	51	(\$255)	(\$468,424)
Interest Rate Contracts	Various	14	\$709	\$0

*Expendable and Nonexpendable Net Position*

The net position of the Earnings Reserve Funds is the expendable assets of the Endowment Fund. These expendable assets are used for distributions to beneficiaries and distributions for expenses of the EFIB and the IDL. The net position of the Permanent Funds is the nonexpendable assets.

*Income from Investments*

Income from investments is recognized when earned and includes interest, dividends, other income, and market appreciation (realized and unrealized). Income from investments is allocated and distributed to each fund participating in the investment pool in the same ratio that each fund's average daily balance bears to the total daily balance of all funds. Income from investments is recorded on an accrual basis.

Within each endowment, income from investments is further allocated to its Permanent Fund and Earnings Reserve Fund in accordance with Idaho Code Sections 57-723A and 57-724A. The definition of “income” to be allocated depends on whether or not the Permanent Fund portion of an endowment fund has exceeded its “Gain Benchmark” as defined in statute at the end of the fiscal year.

The Gain Benchmark, as specified in Idaho Code Section 57-724, represents the desired or targeted value of principal or corpus in each endowment fund (excluding Capitol Permanent). It is determined by starting with the balance at June 30, 2000, and adding deposits (mainly extracted minerals from endowment land and the sale of endowment land), the annual impact of inflation based on the twelve month average of the Consumer Price Index – All Urban (CPI), and certain reinvested income transfers from Earnings Reserve that are designated by the Land Board as a permanent increases in corpus. The level of the Gain Benchmark determines whether income from investments in the Permanent Fund should be retained to offset inflation and previous losses or is eligible to be transferred to the Earnings Reserve as distributable income. The Permanent Funds at the end of FY2023 were at the gain benchmark and at the end of FY2022 were greater than the gain benchmark.

#### *Losses in Principal of the Permanent Funds*

At the end of each fiscal year, the EFIB is required to calculate whether the fair market values of the Permanent Funds are below the principal or Loss Benchmark level as defined in statute (June 30, 2000 value adjusted for deposits – primarily revenues from extracted minerals and proceeds of land sales).

A loss in principal of the Public School Permanent Fund is made up as follows:

- (1) The State Board of Land Commissioners may transfer any funds in the Public School Earnings Reserve Fund that they determine will not be needed for administrative costs or scheduled distributions in the following fiscal year to the Public School Permanent Fund, to make up for any prior losses in value.
- (2) If funds transferred from the Earnings Reserve Fund are insufficient to make up all losses in value to the Public School Permanent Fund, the remaining loss shall be made up, within ten years, by legislative transfer or appropriation. If subsequent gains, as determined pursuant to the statute, or transfers from the Earnings Reserve Fund, make up for any remaining loss before this ten-year period expires, then no legislative transfer or appropriation shall be necessary.

A loss in principal of the Permanent Funds other than the Public School Permanent or Capitol Permanent Funds shall be made up from Earnings Reserve Fund monies that the State Board of Land Commissioners determines will not be needed for administrative costs or scheduled distributions to each endowment’s respective beneficiary.

Federal law requires that losses to the Agricultural College fund must be made up by the State, but the requirement to restore losses to that endowment has not been established in statute.

There is no statutory requirement to make up losses or calculate a Gain or Loss Benchmark in the Capitol Permanent Fund.

#### *Distributions to Beneficiaries*

With the exception of the Capitol Funds, distributions to the other eight beneficiaries are authorized annually by the State Board of Land Commissioners and are made in equal installments on approximately the 10th of each month. Distributions to the Capitol Maintenance Reserve Fund from the Capitol Permanent Fund are authorized by the EFIB and distributed in July of each fiscal year. Distributions from the Capitol Maintenance Reserve Fund are authorized by the Capitol Commission.

#### *Pensions*

For purposes of measuring the net pension liability and pension expense, information about the fiduciary net position of the Public Employee Retirement System of Idaho Base Plan (Base Plan) and additions to or deductions from Base Plan's fiduciary net position have been determined on the same basis as they are reported by the Base Plan. For this purpose, benefit payments (including refunds of employee contributions) are recognized when due and payable in accordance with the benefit terms. Investments are reported at fair value, see Note 10.

#### *Other*

Investments have risks that the other parties to securities transactions do not fulfill their contractual obligations. The EFIB attempts to minimize such risks by diversifying the portfolio investments, monitoring investment grade and quality, and purchasing primarily investment grade fixed income securities.

The EFIB does not intend to use market timing as an investment strategy. However, the investment policy provides the flexibility for tactical asset allocation and rebalancing using capitalizations, investment styles, sectors, and other factors.

NOTE 3 - INVESTMENTS

Investments at June 30, 2023 and 2022:

Fund Investments	2023		2022	
	Cost	Fair Value	Cost	Fair Value
Barrow, Hanley	\$ 53,846,187	\$ 65,250,185	\$ 45,122,059	\$ 52,001,283
Boston Partners	114,550,891	141,406,860	111,621,806	131,423,125
CBRE	101,551,610	91,728,401	103,795,028	105,169,663
Clearwater Advisors	2,150,181	2,150,181	860,473	860,473
DoubleLine Capital - Core Plus	197,962,808	178,188,875	195,685,816	176,691,383
Eagle Asset Management	50,447,865	60,448,832	52,911,034	53,864,850
Fiera Capital Global	-	-	84,496,947	117,213,894
LSV Asset Management	117,611,075	141,525,561	115,961,234	137,771,630
Northern Trust Money Market Fund*	10,776,158	10,776,159	12,995,900	12,995,900
NTG IS&P 500 Index	168,950,924	347,514,425	161,643,589	290,608,746
Pinestone Global Equity	89,093,845	139,354,287	-	-
RREEF America REIT II IN	142,575,544	163,792,620	141,377,096	190,544,384
Sands Capital Management	139,645,393	153,403,996	159,157,932	126,994,027
Schroders QEP International Value	221,519,311	229,686,780	233,811,050	211,475,134
State Street Global Advisors	350,726,496	314,942,090	289,584,675	263,010,594
Sycamore Capital Mid Cap	101,166,952	114,449,849	105,515,961	112,619,316
TimesSquare Capital Management	97,194,645	120,649,612	97,381,812	100,274,832
UBS Trumbull Property	12,082,097	13,304,529	37,839,381	45,122,987
Vanguard Dev Market Index Fund	89,428,737	96,861,605	81,291,420	77,445,670
WCM Focused Growth	176,931,274	234,925,635	188,062,984	214,312,112
Wellington Global	125,691,225	141,202,444	134,230,597	118,154,830
Western Asset Management - US Core	183,198,324	172,535,716	185,303,775	174,517,909
<b>Total Fund Investments</b>	<b>2,547,101,542</b>	<b>2,934,098,642</b>	<b>2,538,650,569</b>	<b>2,713,072,742</b>
Pending Trades:				
Receivable for Investments Sold	(37,138,694)	(37,138,694)	(59,034,380)	(59,034,380)
Payable for Investments Purchased	49,788,543	49,788,543	69,454,870	69,454,870
<b>Total Net Investments</b>	<b>\$ 2,559,751,391</b>	<b>\$ 2,946,748,491</b>	<b>\$ 2,549,071,059</b>	<b>\$ 2,723,493,232</b>

\*This is cash that is not allocated to an investment manager

CUSTODIAL CREDIT RISK - The EFIB minimizes exposure to custodial credit risk by requiring that investments, to the extent possible, be clearly marked as to EFIB ownership and further to the extent possible, be held in the EFIB's name. At June 30, 2023, all Endowment Fund investments were insured or registered investments, or investments held by the EFIB or their agent in the EFIB's name.

The State Treasurer, per the State Constitution, is the custodian of the investments of the Public School Endowment Fund. Investments for the Endowment Fund are held under a safekeeping agreement with the Trust Department of the Northern Trust Company.

CONCENTRATION OF CREDIT RISK – The EFIB minimizes exposure to concentration of credit risk by establishing concentration of credit risk limits in investment manager portfolio guidelines. As of June 30, 2023 and 2022, the Endowment Fund did not hold any credit positions exceeding 5% of the total portfolio, other than securities issued or guaranteed by the United States government.

As of June 30, 2023 and 2022, the Endowment Funds held \$71.8 million and \$82.6 million, respectively, in a comingled Treasury-only money market fund rated AAAM by S&P with a modified adjusted duration of 0.1 years. These balances as of June 30, 2023 and 2022, include \$10.8 million and \$61.0 million of general cash and \$13.0 million and \$69.6 million of cash held in accounts allocated to the Funds’ bond and equity managers, respectively.

As of June 30, 2023 and 2022, the Endowment Fund’s fixed income investments had the following characteristics:

**Credit Ratings Summary by Market Value-Moody's**  
 As of June 30, 2023

Investment Type	Modified Duration	Aaa	Agy	Aa	A	Baa	Ba	B	>B	NR/Not Available	Total
Asset Backed Securities	2.8	\$ 1,301,214	\$ -	\$ 1,754,622	\$ 3,240,394	\$ 7,589,991	\$ 1,449,339	\$ -	\$ 3,406,641	\$ 2,227,935	\$ 20,970,136
Bank Loans	0.2	-	-	-	-	-	351,778	400,560	-	-	752,338
Commercial Mortgage-Backed	3.5	7,283,903	-	2,144,500	2,758,176	1,696,910	485,640	209,159	201,850	1,119,180	15,899,318
Corporate Bonds	5.8	3,031,848	-	7,099,527	65,805,053	83,599,032	11,746,856	4,313,149	987,214	809,542	177,392,221
Corporate Convertible Bonds	-0.5	-	-	-	45,938	331,364	306,431	-	-	-	683,733
Funds - Corporate Bond	0.0	-	-	12,324,505	-	-	-	-	-	-	12,324,505
Funds - Government Agencies	0.0	-	2,548,961	-	-	-	-	-	-	-	2,548,961
Funds - Other Fixed Income	0.0	-	-	-	-	-	17,482,864	13,174,508	-	-	30,657,372
Government Agencies	3.7	8,415,770	203,907	838,736	531,044	263,285	144,308	162,567	-	127,234	10,686,851
Government Bonds	8.3	178,663,778	5,297,423	78,549	521,326	11,185,424	1,153,336	156,279	69,526	-	197,125,641
Government Mortgage Backed Secur	7.9	-	165,133,428	-	-	-	-	-	-	-	165,133,428
Gov't-issued Commercial Mortgage-B	6.1	305,987	4,019,427	-	-	-	-	-	-	-	4,325,414
Index Linked Government Bonds	5.8	1,960,941	-	-	-	-	-	-	-	-	1,960,941
Municipal/Provincial Bonds	8.4	377,216	-	1,349,669	491,615	-	-	-	47,689	138,338	2,404,527
Non-Government Backed C.M.O.s	3.4	4,312,576	-	774,188	231,150	748,165	637,319	-	5,094,353	3,184,340	14,982,091
<b>Total</b>		<b>\$ 205,653,233</b>	<b>\$ 177,203,146</b>	<b>\$ 26,364,296</b>	<b>\$ 73,624,696</b>	<b>\$ 105,414,171</b>	<b>\$ 33,757,871</b>	<b>\$ 18,416,222</b>	<b>\$ 9,807,273</b>	<b>\$ 7,606,569</b>	<b>\$ 657,847,477</b>

**Credit Ratings Summary by Market Value-Moody's**  
 As of June 30, 2022

Investment Type	Modified Duration	Aaa	Agy	Aa	A	Baa	Ba	B	>B	NR/Not Available	Total
Asset Backed Securities	2.5	\$ 983,242	\$ -	\$ 1,813,163	\$ 2,581,898	\$ 10,621,468	\$ 1,730,982	\$ -	\$ 4,065,449	\$ 2,087,018	\$ 23,883,220
Bank Loans	0.0	-	-	-	-	-	238,621	394,724	-	-	633,345
Commercial Mortgage-Backed	3.6	6,069,222	-	2,820,004	3,979,938	2,256,084	934,000	1,013,183	96,095	1,265,096	18,433,622
Corporate Bonds	7.1	3,073,267	-	5,710,101	54,641,307	81,999,269	12,042,832	4,424,923	1,177,031	823,530	163,892,260
Corporate Convertible Bonds	9.0	-	-	-	47,570	-	327,638	-	-	-	375,208
Funds - Corporate Bond	7.0	-	-	12,912,075	-	-	-	-	-	-	12,912,075
Funds - Government Agencies	2.0	-	1,675,501	-	-	-	-	-	-	-	1,675,501
Funds - Other Fixed Income	4.6	-	-	-	-	-	17,097,491	22,441,448	-	-	39,538,938
Government Agencies	3.9	7,475,320	458,751	904,765	357,134	882,149	165,073	-	-	405,450	10,648,643
Government Bonds	8.2	154,592,324	3,868,272	459,586	1,580,001	10,441,721	1,055,519	128,942	-	-	172,126,365
Government Mortgage Backed Secur	8.4	389,467	132,731,832	-	-	-	-	-	-	122,247	133,243,546
Gov't-issued Commercial Mortgage-B	5.8	-	2,580,893	-	-	-	-	-	-	-	2,580,893
Municipal/Provincial Bonds	8.6	396,025	-	1,525,552	508,398	100,484	-	-	-	144,411	2,674,869
Non-Government Backed C.M.O.s	3.8	2,396,983	-	-	294,810	1,718,477	712,555	-	4,285,602	3,566,833	12,975,261
<b>Total</b>		<b>\$ 175,375,850</b>	<b>\$ 141,315,249</b>	<b>\$ 26,145,246</b>	<b>\$ 63,991,056</b>	<b>\$ 108,019,652</b>	<b>\$ 34,304,711</b>	<b>\$ 28,403,220</b>	<b>\$ 9,624,177</b>	<b>\$ 8,414,585</b>	<b>\$ 595,593,746</b>

\*The Ba column includes bonds that are split rate and meet the minimum requirement of one of the two ratings agencies specified in the EFIB Statement of Investment Policy.

CREDIT RISK - EFIB Investment policy limits fixed income securities to: U.S. government and agency securities; bank loans; corporate notes and bonds; residential mortgage backed bonds; commercial mortgage backed bonds; municipal bonds, infrastructure securities, USD and non-USD fixed income securities of foreign governments and corporations; planned amortization class collateralized mortgage obligations; or other “early tranche” CMO’s; Sequential pay CMO’s; collateralized loan obligations, asset backed securities; convertible notes and bonds; Securities defined under Rule 144A and Section 4(2) of Securities Act of 1933; or any other fixed income securities eligible for inclusion in the Bloomberg Barclays U.S. TIPS Index or Bloomberg Barclays Aggregate Bond Index.

INTEREST RATE RISK - Managers will provide EFIB with the expected portfolio duration in their portfolio guidelines. If the duration of the portfolio differs from expectations, managers are to be required to report these occurrences to Staff and these disclosures are to be made available to the Board.



IDAHO DEPARTMENT OF LANDS



FOREIGN CURRENCY RISKS – The EFIB’s Investment Policy Statement permits investments in international securities. The Endowment Fund’s exposure to foreign currency risk is as follows:

Investment and Country	Currency	2023	2022
		Fair Value	Fair Value
Argentina	ARS	\$ 605	\$ 60,396
Australia	AUD	14,198,263	14,876,907
Brazil	BRL	5,261,807	2,454,849
Canada	CAD	22,497,983	23,582,838
Chile	CLP	-	69,318
Chinese Yuan	CNY	(951,596)	(1,068,000)
Chinese Yuan (HK)	CNH	-	547,474
Czech Republic	CZK	103,482	-
Denmark	DKK	22,721,952	12,522,555
European Monetary Union	EUR	119,523,788	85,159,786
Great Britain	GBP	81,534,313	53,461,852
Hong Kong	HKD	25,062,662	38,329,820
Hungary	HUF	756,310	677,852
India	INR	215,767	223,880
Indonesia	IDR	3,514,800	2,811,633
Israel	ILS	893	257,221
Japan	JPY	64,231,796	51,008,648
Malaysia	MYR	557,390	357,890
Mexico	MXN	7,782,086	5,899,658
New Zealand	NZD	-	52,919
Norway	NOK	3,356,401	5,293,768
Poland	PLN	337,902	790,262
Russia	RUB	15,710	20,759
Singapore	SGD	5,663,746	1,987,260
South Africa	ZAR	1,763,114	2,229,621
South Korea	KRW	10,214,784	12,888,518
Sweden	SEK	17,303,661	16,641,778
Switzerland	CHF	38,768,809	52,110,996
Taiwan	TWD	11,133,813	14,163,346
Thailand	THB	1,575,465	1,990,359
Turkey	TRY	135	149,369
<b>Total</b>		<b>\$ 457,145,841</b>	<b>\$ 399,553,532</b>

**NOTE 4 – INCOME FROM INVESTMENTS**

Per Idaho Code Section 57-724A, income distributed to the Earnings Reserve Fund includes the Permanent Fund’s total cumulative income (interest, dividends and market appreciation/depreciation) above its Gain Benchmark (original principal, adjusted for deposits and inflation). The Permanent Fund retains any income to the extent of inflation and any cumulative losses carried forward from the previous year.

The Components of net income/(loss) from investments for Fiscal Year 2023 and their allocation are shown below:

**Permanent Fund Income**  
For the Fiscal Year Ended June 30, 2023

Endowment	Net Increase in Fair Value	Income Retained to Offset Inflation or Losses *	Cap Perm Fund Interest and Dividends	Total Investment Income
Public School	\$ -	\$ 79,783,966	\$ -	\$ 79,783,966
Agricultural College	-	484,353	-	484,353
Charitable	-	2,556,416	-	2,556,416
Normal School	-	5,630,267	-	5,630,267
Penitentiary	-	(2,705,122)	-	(2,705,122)
School of Science	-	(1,083,429)	-	(1,083,429)
State Hospital South	-	3,985,852	-	3,985,852
University of Idaho	-	(513,169)	-	(513,169)
Capitol Permanent **	2,993,266	-	595,070	3,588,336
<b>Total</b>	<b>\$ 2,993,266</b>	<b>\$ 88,139,134</b>	<b>\$ 595,070</b>	<b>\$ 91,727,470</b>

\* For all Permanent funds (except Capitol Permanent), any cumulative total income vs. the Gain Benchmark is allocated to the Earning Reserve Fund as part of Allocation of Permanent Fund Gain in the table below).

\*\*The Capitol Permanent Fund retains its interest and dividends.

**Earnings Reserve Fund Income**  
For the Fiscal Year Ended June 30, 2023

Endowment	Net Increase in Fair Value	Interest, Dividends and Other Income	Allocation of Permanent Fund Gain *	Total Investment Gain
Public School	\$ 29,244,338	\$ 28,402,006	\$ 29,753,227	\$ 87,399,571
Agricultural College	849,107	876,742	3,002,893	4,728,742
Charitable	3,378,518	3,181,039	9,834,433	16,393,990
Normal School	4,037,824	3,359,088	7,067,703	14,464,615
Penitentiary	1,438,273	1,457,730	8,409,577	11,305,580
School of Science	2,854,026	2,994,466	12,982,638	18,831,130
State Hospital South	3,223,757	2,809,876	6,663,411	12,697,044
University of Idaho	3,177,843	2,843,070	11,528,222	17,549,136
Capitol Maintenance **	916,816	189,807	-	1,106,623
<b>Total</b>	<b>\$ 49,120,502</b>	<b>\$ 46,113,824</b>	<b>\$ 89,242,105</b>	<b>\$ 184,476,431</b>

\* All Endowments (except Capitol Permanent), are allocated the Permanent Fund's total cumulative income over the Gain Benchmark.

\*\*The Capitol Maintenance Fund retains its proportionate share of interest and dividends and the net increase or decrease in fair value.

The Components of income from investments for Fiscal Year 2022 and their allocation are shown below:

**Permanent Fund Income**  
 For the Fiscal Year Ended June 30, 2022

Endowment	Net Decrease in Fair Value	Interest, Dividends and Other Income	Cap Perm Fund Interest and Dividends	Total Investment Income
Public School	\$ (220,709,759)	\$ 28,776,270	\$ -	\$ (191,933,490)
Agricultural College	(7,222,134)	933,726	-	(6,288,408)
Charitable	(25,701,825)	3,323,814	-	(22,378,011)
Normal School	(25,347,698)	3,310,084	-	(22,037,614)
Penitentiary	(11,900,424)	1,529,096	-	(10,371,328)
School of Science	(24,744,312)	3,190,529	-	(21,553,783)
State Hospital South	(21,134,778)	2,761,618	-	(18,373,160)
University of Idaho	(21,957,528)	2,851,014	-	(19,106,514)
Capitol Permanent **	(6,082,878)		853,236	(5,229,642)
<b>Total</b>	<b>\$ (364,801,336)</b>	<b>\$ 46,676,151</b>	<b>\$ 853,236</b>	<b>\$ (317,271,949)</b>

\* For all Permanent funds (except Capitol Permanent), any cumulative total income vs. the Gain Benchmark is allocated to the Earning Reserve Fund as part of Allocation of Permanent Fund Gain in the table below).

\*\*The Capitol Permanent Fund retains its interest and dividends.

**Earnings Reserve Fund Income**  
 For the Fiscal Year Ended June 30, 2022

Endowment	Net Decrease in Fair Value	Interest, Dividends and Other Income	Allocation of Permanent Fund Gain *	Total Investment Loss
Public School	\$ (56,848,219)	\$ 9,736,329		\$ (47,111,890)
Agricultural College	(1,665,379)	293,504		(1,371,875)
Charitable	(5,976,123)	1,064,733		(4,911,390)
Normal School	(6,552,835)	1,100,434		(5,452,400)
Penitentiary	(2,754,345)	501,148		(2,253,197)
School of Science	(5,496,751)	1,009,861		(4,486,890)
State Hospital South	(6,426,862)	1,099,868		(5,326,994)
University of Idaho	(4,972,181)	896,513		(4,075,667)
Capitol Maintenance **	(1,613,601)	210,726	-	(1,402,876)
<b>Total</b>	<b>\$ (92,306,296)</b>	<b>\$ 15,913,115</b>	<b>\$ -</b>	<b>\$ (76,393,180)</b>

\* All Endowments (except Capitol Permanent), are allocated the Permanent Fund's total cumulative income over the Gain Benchmark.

\*\*The Capitol Maintenance Fund retains its proportionate share of interest and dividends and the net increase or decrease in fair value.

**NOTE 5 – CLIENT EXPENDITURES**

Four clients, representing twelve additional perpetual funds in Fiscal Year 2023 and 2022, are included in the same comingled investment pool as the Endowment Fund and their assets totaled \$176 million and \$162 million as of June 30, 2023 and 2022, respectively. These balances are not included in the EFIB financial statements.

In fiscal year 2023, expenses of the EFIB were paid from the Earnings Reserve Funds and by the EFIB’s other clients. The portions paid by the other clients were paid under investment management contracts and are not considered an expenditure of the Endowment Funds and are therefore not included as expenditures or as reimbursements in these financial statements. Total expenditures were \$681,222 and \$790,157 for the fiscal years ended June 30, 2023 and 2022, respectively.

**NOTE 6 – BENEFICIARY DISTRIBUTIONS**

Distributions to beneficiaries for the Fiscal Years ended June 30, 2023 and 2022 are shown below.

<b>Beneficiary</b>	<b>Total Fund Distributions</b>	
	<b>2023</b>	<b>2022</b>
Public School	\$ 61,532,200	54,798,000
Agricultural College	1,927,500	1,660,000
Charitable Institutions	7,008,000	6,179,000
Normal School	6,568,700	5,487,500
Penitentiary	3,139,600	2,689,500
School of Science	6,672,700	5,735,500
State Hospital South	7,586,400	6,425,000
University of Idaho	5,879,900	5,102,000
Subtotal	100,315,000	88,076,500
Capitol Maintenance	1,021,819	125,000
Total Distributions	\$ 101,336,819	\$ 88,201,500

Pursuant to Idaho Code Section 66-1106, the Charitable Institutions Endowment Fund income is distributed to five institutions according to the factors shown below. Distributions to these sharing institutions for the years ended June 30, 2023 and 2022, were as follows:

<b>Charitable Institutions</b>			
<b>Beneficiaries</b>	<b>Factor</b>	<b>2023 Distribution</b>	<b>2022 Distribution</b>
Idaho State University Fund	8/30	\$ 1,868,800	\$ 1,647,733
State Juvenile Corrections Institutions	8/30	1,868,800	1,647,733
School for the Deaf and Blind Fund	1/30	233,600	205,967
Veterans Home Fund	5/30	1,168,000	1,029,833
State Hospital North Fund	8/30	1,868,800	1,647,734
Total		<u>\$ 7,008,000</u>	<u>\$ 6,179,000</u>

Pursuant to Idaho Code Section 33-3301B, the Normal School Endowment Fund Income is distributed to the two institutions shown below. Distributions to these sharing institutions for the years ended June 30, 2023 and 2022:

<b>Normal School</b>			
<b>Beneficiaries</b>	<b>%</b>	<b>2023 Distribution</b>	<b>2022 Distribution</b>
Idaho State University, Pocatello	50%	\$ 3,284,350	\$ 2,743,750
Lewis-Clark State College, Lewiston	50%	3,284,350	2,743,750
Total		<u>\$ 6,568,700</u>	<u>\$ 5,487,500</u>

**NOTE 7 – CREDIT ENHANCEMENT PROGRAM FOR SCHOOL DISTRICT BONDS**

On July 1, 2002, the State of Idaho’s Credit Enhancement Program for school district bonds became effective. This program, in accordance with Idaho Code Section 57-728 and in conjunction with Idaho Code Chapter 53, Title 33, currently requires the Public School Endowment Fund to purchase up to \$300 million in notes of the State of Idaho that are issued to avoid the default of a voter-approved school district bond that has been guaranteed by the program.

The capacity of the School Bond Credit Enhancement Program to guaranty payments on general obligation school bonds is \$300 million and the bond principal that can be guaranteed is \$1.2 billion. The maximum available to any one district for bond principal is \$40 million.

As of June 30, 2023, \$538.9 million of bonds guaranteed by the Credit Enhancement Program remained outstanding. Expected principal and interest payments in the coming year total \$65.7 million. As of June 30, 2022, \$596.5 million of bonds guaranteed by the Credit Enhancement Program remained outstanding.

The Public School Endowment Fund would only be required to loan monies to the State to make payments on school bonds after several other potential funding sources have been exhausted. If a school district does not make timely prepayment of debt service on guaranteed bonds, the State

Treasurer is required to make the payment, if possible, by intercepting monies due to that school district from the State, including General Fund payments and distributions from the Public School Endowment Fund. If these funds are not sufficient to meet the debt service payment, the State Treasurer is required to utilize any available funds from the state sales tax account. If all these sources prove insufficient to make the payment, the Treasurer may borrow the remaining amount from the Public School Endowment Fund, at a rate of 400 basis points above one-year Treasury Bills. This loan from the Endowment Fund would be repaid by the intercept of future state funds due to the school district and other sources.

Since July 2009, the EFIB has charged an application fee to offset administrative costs and a guaranty fee that is deposited in the Public School Endowment Fund for providing the ongoing credit enhancement. Application fees for fiscal year 2023 totaled \$500 and guaranty fees, included in Income from Investments, totaled \$1,327. Application fees for fiscal year 2022 totaled \$1,000 and guaranty fees, included in Income from Investments, totaled \$15,335.

#### **NOTE 8 – BUDGETARY COMPARISON**

Budgets are adopted on a cash basis for the Endowment Fund. The budget for administrative expenses (personnel, operating and capital outlay) from the Earnings Reserve Funds is approved by the legislature on an annual basis. Expenses for consulting fees, bank custodial fees, and portfolio-related external costs are continually appropriated by the Idaho Legislature on an annual basis. The EFIB is not required by law to adopt or publish an overall budget for operations.

#### **NOTE 9 – MISCELLANEOUS REVENUE**

By law, certain miscellaneous State revenue is required to be deposited in the Public School Permanent Fund:

- Unclaimed estates, dividends and stock certificates from Idaho corporations (Idaho Constitution Section 4 Article IX)
- Five percent of federal land sales, net of sale expenses (Section 7 of the Idaho Admission Bill)
- Anonymous political contributions in excess of \$50 (Idaho Code Section 67-6610)
- Unqualified election expenses of political parties paid from state income tax funds (Idaho Code Section 34-2505)
- Royalties arising from extraction of minerals from navigable waterways (Idaho Code Section 58-104)

In fiscal 2023, the Public School Permanent Fund received \$1,268 from 6 anonymous political contributions over \$50 and 1 donation of \$360.

In fiscal year 2022, the Public School Permanent Fund received \$45,052 representing the net proceeds from the sale of federal land in Idaho. Also, in fiscal 2022, the Public School Permanent Fund received \$2,271 from 13 anonymous political contributions over \$50.

These miscellaneous revenues are included in Receipts from the Department of Lands.

The Capitol Maintenance Reserve Fund receives a portion of the additional fees charged for the special Idaho Capitol vehicle license plate (Idaho Code Section 49-420A). In fiscal 2023 and 2022, this revenue totaled \$203,475 and \$182,895, respectively and is included in Receipts from Department of Lands.

## NOTE 10 – PENSION AND OTHER POST-EMPLOYMENT BENEFITS

### *Plan Description*

The EFIB contributes to the Base Plan which is a cost-sharing multiple-employer defined benefit pension plan administered by Public Employee Retirement System of Idaho (PERSI or System) that covers substantially all employees of the State of Idaho, its agencies and various participating political subdivisions. The cost to administer the plan is financed through the contributions and investment earnings of the plan. PERSI issues a publicly available financial report that includes financial statements and the required supplementary information for PERSI. That report may be obtained on the PERSI website at [www.persi.idaho.gov](http://www.persi.idaho.gov).

Responsibility for administration of the Base Plan is assigned to the PERSI Board comprised of five members appointed by the Governor and confirmed by the Idaho Senate. State law requires that two members of the Board be active Base Plan members with at least ten years of service and three members who are Idaho citizens not members of the Base Plan except by reason of having served on the Board.

### *Pension Benefits*

The Base Plan provides retirement, disability, death and survivor benefits of eligible members or beneficiaries. Benefits are based on members' years of service, age, and highest average salary. Members become fully vested in their retirement benefits with five years of credited service. Members are eligible for retirement benefits upon attainment of the ages specified for their employment classification. The annual service retirement allowance for each month of credited service is 2.0% of the average monthly salary for the highest consecutive 42 months.

The benefit payments for the Base Plan are calculated using a benefit formula adopted by the Idaho Legislature. The Base Plan is required to provide a 1% minimum cost of living increase per year provided the Consumer Price Index increases 1% or more. The PERSI Board has the authority to provide higher cost of living increases to a maximum of the Consumer Price Index movement or 6%, whichever is less; however, any amount above the 1% minimum is subject to review by the Idaho Legislature.

### *Member and Employer Contributions*

Member and employer contributions paid to the Base Plan are set by statute and are established as a percent of covered compensation and earnings from investments. Contribution rates are determined by the PERSI Board within limitations, as defined by state law. The Board may make periodic changes to employer and employee contribution rates (expressed as percentages of annual covered payroll) if current rates are actuarially determined to be inadequate or in excess to accumulate sufficient assets to pay benefits when due.

The contribution rates for employees are set by statute at 60% of the employer rate. As of June 30, 2023 and 2022, the rate was 7.16% for employees and 11.94% for employer contribution rate. The employer contribution rate is set by the Retirement Board and was of covered compensation. The EFIB's contributions were \$56,990 and \$52,556, for the fiscal years ended June 30, 2023 and 2022, respectively.

The EFIB portion of the net pension liability was calculated and determined to be immaterial to the financial statements and the EFIB has no legal obligation to fund this shortfall. The EFIB has determined to not include the net pension liability and associated deferred inflow and outflow of resources on its financial statements. The EFIB's proportionate share of the net pension liability can be found on the PERSI website.

#### **NOTE 11 – LEASES**

The EFIB implemented GASB Statement No. 87, Leases in FY2022. The objective of this Statement is to better meet the information needs of financial statement users by improving accounting and financial reporting for leases by governments. Under this Statement, a lessee is required to recognize a lease liability and an intangible right-to-use lease asset. These amounts are disclosed in the Governmental Balance Sheets and Statements of Net Position – Governmental Activities, which are offset and noted that these are payable in a modified accrual basis. The EFIB entered into a 10 year lease for office space effective 7/1/2014 and expires on 6/30/2024. The current net present value of that lease is \$0. This amount is based on a 3% discount rate over the life of the lease. For FY2023 and FY2022, the principal paid was \$38,333, and \$38,334, and the interest paid was \$11,683, and \$10,226, respectively.



**NOTE 12 – LAND BANK**

The Land Bank Fund was established under Idaho Code Section 58-133 to allow the State Board of Land Commissioners to hold proceeds from the sale of state endowment land pending the purchase of other Idaho land for the benefit of the beneficiaries of that endowment. These proceeds may be held for a period not to exceed five years from the effective date of the sale. Funds in the Land Bank are invested in the State Treasurer’s Idle Pool and any investment earnings are added to the original proceeds. Land Bank Fund assets are not included in the balances of the Endowment Funds since they are being held primarily for purchase of land that will be managed by IDL. The authority to acquire land using Land Bank assets rests with the State Board of Land Commissioners.

As of June 30, 2023 and 2022, the Land Bank Fund balances were \$74.5 million and \$105.5 million, respectively. During fiscal year 2023, \$2.8 million was transferred out of the fund to the Permanent Funds in the endowment by direction of the Land Board. The Land Bank balances by endowment, as of June 30, 2023 were as follows:

FY Quarter Received	Land Bank As of June 30, 2023				Total	FY Quarter Expires
	Public School	Agriculture College	Normal School	State Hospital South		
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	-	432,187	73,209,322	
Interest	872,477	417,043	11,257	13,532	1,314,309	
Land Bank Cash Balance with Interest	\$ 56,411,992	\$ 17,654,663	\$ 11,257	\$ 445,719	\$ 74,523,631	

These balances relate to land sales made in fiscal years 2021, 2022 and 2023. If by the end of the fifth year, the proceeds from a land sale have not been spent or encumbered to purchase other land within the State, the proceeds are deposited in the Permanent Fund along with accumulated investment earnings.

## NOTE 13 - INVESTMENTS MEASURED AT FAIR VALUE

The framework for measuring fair value provides a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1) and the lowest priority to unobservable inputs (Level 3). The three levels of the fair value hierarchy are described as follows:

*Level 1* – Inputs to the valuation methodology are unadjusted quoted prices for identical assets or liabilities in active markets that the Fund has the ability to access.

*Level 2* – Inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly, such as:

- quoted prices for similar assets or liabilities in active markets;
- quoted prices for identical or similar assets or liabilities in inactive markets;
- inputs other than quoted prices that are observable for the asset or liability;
- inputs that are derived principally from or corroborated by observable market data by correlation or other means.

*Level 3* – Inputs to the valuation methodology are unobservable and significant to the fair market value measurement. There were no Level 3 assets to report.

STATE OF IDAHO ENDOWMENT FUND  
NOTES TO FINANCIAL STATEMENTS  
JUNE 30, 2023 AND 2022



	Total Investments	Fair Value Measurements Using 6/30/2023 (value before accruals)		
		Quoted Prices in Active Markets for Identical (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
<b>Investments by Fair Value Level</b>				
<b>Debt Securities</b>				
Asset Backed Securities	\$ 20,970,136	\$ -	\$ 20,970,136	\$ -
Bank Loans	752,338	-	752,338	-
Commercial Mortgage-Backed	15,899,318	-	15,899,318	-
Corporate Bonds	177,392,221	-	177,392,221	-
Corporate Convertible Bonds	683,733	-	683,733	-
Funds - Corporate Bond	12,324,505	-	12,324,505	-
Funds - Government Agencies	2,548,961	-	2,548,961	-
Funds - Other Fixed Income	30,657,372	-	30,657,372	-
Government Agencies	10,686,851	-	10,686,851	-
Government Bonds	197,125,641	-	197,125,641	-
Government Mortgage Backed Securities	165,133,428	-	165,133,428	-
Gov't-issued Commercial Mortgage-Backe	4,325,414	-	4,325,414	-
Index Linked Government Bonds	1,960,941	-	1,960,941	-
Municipal/Provincial Bonds	2,404,527	-	2,404,527	-
Non-Government Backed C.M.O.s	14,982,091	-	14,982,091	-
Total Debt Securities	657,847,477	-	657,847,477	-
<b>Preferred Stock Securities</b>				
Consumer Discretionary	211,443	211,443	-	-
Financials	1,017,106	1,017,106	-	-
Materials	508,701	508,701	-	-
Total Preferred Stock Securities	1,737,250	1,737,250	-	-
<b>Equity Securities</b>				
Common Stock Funds	96,861,605	96,861,605	-	-
Communication Services	107,413,901	107,413,901	-	-
Consumer Discretionary	229,073,331	229,073,331	-	-
Consumer Staples	100,054,438	100,054,438	-	-
Energy	71,285,585	71,285,585	-	-
Financials	283,653,373	283,653,373	-	-
Health Care	253,168,279	253,168,279	-	-
Industrials	277,734,967	277,734,967	-	-
Information Technology	376,211,858	376,211,858	-	-
Materials	85,124,755	85,124,755	-	-
MISCELLANEOUS	74,831	74,831	-	-
Real Estate	34,803,444	34,803,444	-	-
Utilities	30,283,499	30,283,499	-	-
Equity ETFs	619,075	619,075	-	-
Total Equity Securities	1,946,362,941	1,946,362,941	-	-
<b>Derivatives</b>				
Swaps	762,700	762,700	-	-
Foreign Exchange Contracts	(590,443)	(590,443)	-	-
Options on Futures	7,249	7,249	-	-
Total Derivatives	179,506	179,506	-	-
Total Investments by Fair Value Level	\$ 2,606,127,174	\$ 1,948,279,697	\$ 657,847,477	\$ -
<b>Investments Measured at amortized cost</b>				
Money Market Fund	71,795,766			
<b>Investments Measured at the Net Asset Value (NAV)</b>				
Real Estate (private)	268,825,550			
Total Investments	<u>\$ 2,946,748,491</u>			

	Total Investments	Fair Value Measurements Using 6/30/2022 (value before accruals)		
		Quoted Prices in Active Markets for Identical (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
<b>Investments by Fair Value Level</b>				
<b>Debt Securities</b>				
Asset Backed Securities	\$ 23,883,220	\$ -	\$ 23,883,220	\$ -
Bank Loans	633,345	-	633,345	-
Commercial Mortgage-Backed	18,433,622	-	18,433,622	-
Corporate Bonds	163,892,260	-	163,892,260	-
Corporate Convertible Bonds	375,208	-	375,208	-
Funds - Corporate Bond	12,912,075	-	12,912,075	-
Funds - Government Agencies	1,675,501	-	1,675,501	-
Funds - Other Fixed Income	39,538,938	-	39,538,938	-
Government Agencies	10,648,643	-	10,648,643	-
Government Bonds	172,126,365	-	172,126,365	-
Government Mortgage Backed Securities	133,243,546	-	133,243,546	-
Gov't-issued Commercial Mortgage-Backe	2,580,893	-	2,580,893	-
Municipal/Provincial Bonds	2,674,869	-	2,674,869	-
Non-Government Backed C.M.O.s	12,975,261	-	12,975,261	-
Total Debt Securities	595,593,746	-	595,593,746	-
<b>Preferred Stock Securities</b>				
Consumer Discretionary	498,222	498,222	-	-
Financials	657,771	657,771	-	-
Materials	78,573	78,573	-	-
Utilities	94,647	94,647	-	-
Total Preferred Stock Securities	1,329,213	1,329,213	-	-
<b>Equity Securities</b>				
Communication Services	111,702,453	111,702,453	-	-
Consumer Discretionary	183,322,812	183,322,812	-	-
Consumer Staples	85,138,963	85,138,963	-	-
Energy	70,386,181	70,386,181	-	-
Financials	204,692,416	204,692,416	-	-
Health Care	268,517,523	268,517,523	-	-
Industrials	211,383,592	211,383,592	-	-
Information Technology	351,508,258	351,508,258	-	-
Materials	79,949,187	79,949,187	-	-
Other	1,185,935	1,185,935	-	-
Real Estate	32,668,488	32,668,488	-	-
Utilities	27,632,951	27,632,951	-	-
Common Stock Fund	79,333,707	79,333,707	-	-
Equity ETFs	526,627	526,627	-	-
Total Equity Securities	1,707,949,093	1,707,949,093	-	-
<b>Derivatives</b>				
Swaps	2,699,149	2,699,149	-	-
Foreign Exchange Contracts	(319,813)	(319,813)	-	-
Options on Futures	(148,611)	(148,611)	-	-
Total Derivatives	2,230,725	2,230,725	-	-
Total Investments by Fair Value Level	\$ 2,307,102,777	\$ 1,711,509,031	\$ 595,593,746	\$ -
<b>Investments Measured at amortized cost</b>				
Money Market Fund	82,630,365			
<b>Investments Measured at the Net Asset Value (NAV)</b>				
Real Estate (private)	333,760,090			
Total Investments	\$ 2,723,493,232			

Debt and equity securities classified in Level 1 of the fair value hierarchy are valued using prices quoted in active markets for those securities. Debt securities classified in Level 2 of the fair value hierarchy are valued using a matrix pricing technique. Matrix pricing is used to value securities based on the securities' relationship to benchmark quoted prices. The valuation method for investments measured at the net asset value (NAV) per share (or its equivalent) is described below.

### NET ASSET VALUE (NAV)

Real estate investment fund - This type includes three real estate funds; UBS TPI, CBRE and DB RAR II invest primarily in U.S. commercial real estate. Net Asset Value (NAV) is determined in accordance with accounting principles generally accepted in the United States, NCREIF Real Estate Information Standards, and market-based accounting rules where appropriate and applicable. Net Asset Value (NAV) is based on the fund's gross asset value less the value of any debt or other outstanding liabilities, whether held directly or indirectly through another entity or entities, anticipated distributions and similar items, as determined by the Advisor at its discretion.

Investments Measured at the NAV:

Investments Measured at the NAV 6/30/2023				
	Fair Value	Unfunded Commitments	Redemption Frequency (if Currently Eligible)	Redemption Notice Period
<i>Real Estate Funds</i>				
UBS TPI	\$ 13,304,529	-	Quarterly	60 Days
CBRE	91,728,401		Quarterly	60 Days
DB RAR II	<u>163,792,620</u>	-	Quarterly	45 days
Total Investments measured at the NAV	<u>\$ 268,825,550</u>			

Investments Measured at the NAV for 2022:

Investments Measured at the NAV 6/30/2022				
	Fair Value	Unfunded Commitments	Redemption Frequency (if Currently Eligible)	Redemption Notice Period
<i>Real Estate Funds</i>				
UBS TPI	\$ 45,122,987	-	Quarterly	60 Days
CBRE	105,169,663		Quarterly	60 Days
DB RAR II	<u>183,467,440</u>	7,076,934	Quarterly	45 days
Total Investments measured at the NAV	<u>\$ 333,760,090</u>			

**NOTE 14 - COMMITMENTS**

For endowments other than the Capitol Funds, the Board of Land Commissioners has approved, and the legislature has appropriated, the following distributions to beneficiaries for FY 2024.

	<u>FY 2024</u>
Public School	\$ 61,532,200
Agricultural College	1,927,500
Charitable Institutions	7,008,000
Normal School	6,568,700
Penitentiary	3,139,600
School of Science	6,672,700
State Hospital South	7,586,400
University of Idaho	5,879,900
Total	<u>\$ 100,315,000</u>

The EFIB authorizes distributions from the Capitol Permanent Fund to the Capitol Maintenance Reserve Fund, effective July 1 of each fiscal year. For fiscal year 2024, the EFIB authorized a regular distribution of \$1,871,600 based on approximately 5% of the Capitol Permanent Fund balance.

**NOTE 15 - SUBSEQUENT EVENTS**

On August 15, 2023, the Board of Land Commissioners approved beneficiary distributions for fiscal year 2025. Fiscal year 2025 beneficiary distributions have not yet been appropriated by the legislature and will be considered by the legislature in its 2024 session.

<u>Beneficiaries</u>	<i>Distributions Proposed FY 2025</i>
Public School	\$ 63,039,600
Agricultural College	1,993,200
Charitable Institutions	7,116,000
Normal School	7,273,200
Penitentiary	3,154,800
School of Science	6,722,400
State Hospital South	7,776,000
University of Idaho	6,146,400
Total	<u>\$ 103,221,600</u>



**INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING  
AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL  
STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS***

Endowment Fund Investment Board  
State of Idaho Endowment Funds  
Boise, Idaho

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities and the general fund of the State of Idaho Endowment Funds administered by the Endowment Fund Investment Board (the EFIB), a component unit of the State of Idaho, as of and for the year ended June 30, 2023, and the related notes to the financial statements, which collectively comprise the State of Idaho Endowment Funds' basic financial statements, and have issued our report thereon dated August 15, 2023.

***Report on Internal Control Over Financial Reporting***

In planning and performing our audit of the financial statements, we considered the State of Idaho Endowment Funds' internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of State of Idaho Endowment Funds' internal control. Accordingly, we do not express an opinion on the effectiveness of State of Idaho Endowment Funds' internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that were not identified.

***Report on Compliance and Other Matters***

As part of obtaining reasonable assurance about whether the State of Idaho Endowment Funds' financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

***Purpose of This Report***

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

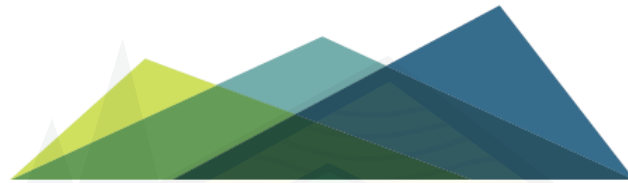
*CliftonLarsonAllen LLP*

**CliftonLarsonAllen LLP**

Boise, Idaho  
August 15, 2023

IDAHO DEPARTMENT OF LANDS





# **IDAHO ENDOWMENT FUND**

INVESTMENT BOARD

IDAHO DEPARTMENT OF LANDS

## **Supplementary Schedules**

STATE OF IDAHO ENDOWMENT FUND  
 SUPPLEMENTARY SCHEDULE OF STATEMENT OF NET POSITION BY ENDOWMENT  
 FOR THE FISCAL YEAR ENDED JUNE 30, 2023



	Public School	Agricultural College	Charitable Institutions	Normal School
<b>PERMANENT NET POSITION</b>				
Permanent Net Position, beginning of year	\$ 1,292,281,595	\$ 41,193,785	\$ 146,681,656	\$ 149,887,990
Program Revenues:				
Receipts from Dept. of Lands	4,584,478	93,481	19,853	449,683
Income from Investments	79,783,966	484,353	2,556,416	5,630,267
Total Program Revenue	84,368,444	577,834	2,576,269	6,079,950
Transfer to Earnings Reserve	-	-	-	-
Transfer from Earnings Reserve	-	-	-	-
Increase in Net Position	84,368,444	577,834	2,576,269	6,079,950
Permanent Net Position, end of year	1,376,650,039	41,771,619	149,257,925	155,967,940
<b>EARNINGS RESERVE NET POSITION</b>				
Earnings Reserve Net Position, beginning of year	356,112,597	11,237,360	39,802,020	43,952,169
Program Revenues:				
Receipts from Dept. of Lands	50,217,420	410,971	6,254,020	9,273,327
Income from Investments	87,399,571	4,728,742	16,393,990	14,464,615
Total Program Revenues	137,616,991	5,139,714	22,648,010	23,737,942
Program Expenses:				
Distribution for Expenses-Lands	20,016,167	328,624	1,447,794	1,393,817
Distribution for Expenses-EFIB	6,945,195	215,951	781,302	816,238
Distributions to Beneficiaries	61,532,200	1,927,500	7,008,000	6,568,700
Total Program Expenses	88,493,561	2,472,075	9,237,096	8,778,755
Net Program Revenue	49,123,430	2,667,639	13,410,914	14,959,187
Transfer to Permanent Fund	-	-	-	-
Transfer from Permanent Fund	-	-	-	-
Increase/(Decrease) in Net Position	49,123,430	2,667,639	13,410,914	14,959,187
Earnings Reserve Net Position, end of year	405,236,027	13,904,999	53,212,934	58,911,356
<b>TOTAL NET POSITION</b>	<b>\$ 1,781,886,066</b>	<b>\$ 55,676,618</b>	<b>\$ 202,470,859</b>	<b>\$ 214,879,296</b>

STATE OF IDAHO ENDOWMENT FUND  
 SUPPLEMENTARY SCHEDULE OF STATEMENT OF NET POSITION BY ENDOWMENT  
 FOR THE FISCAL YEAR ENDED JUNE 30, 2023



Penitentiary	School of Science	State Hospital South	University of Idaho	Capitol	Total
\$ 67,537,001	\$ 140,867,184	\$ 125,737,265	\$ 130,395,997	\$ 35,794,320	\$ 2,130,376,793
920	13,553	344,728	16,773	875,669	6,399,138
(2,705,122)	(1,083,429)	3,985,852	(513,169)	3,588,336	91,727,470
(2,704,202)	(1,069,876)	4,330,580	(496,396)	4,464,005	98,126,609
-	-	-	-	(1,826,300)	(1,826,300)
-	-	-	-	-	-
(2,704,202)	(1,069,876)	4,330,580	(496,396)	2,637,705	96,300,309
64,832,799	139,797,307	130,067,845	129,899,601	38,432,026	2,226,677,101
18,434,164	37,722,335	40,979,495	34,922,124	10,023,747	593,186,012
1,358,523	2,122,471	3,972,980	7,466,002	203,485	81,279,200
11,305,580	18,831,130	12,697,043	17,549,136	1,106,623	184,476,431
12,664,103	20,953,601	16,670,024	25,015,138	1,310,108	265,755,631
723,799	1,639,247	1,321,938	1,036,397	175,507	28,083,289
358,576	737,071	686,333	690,810	191,362	11,422,839
3,139,600	6,672,700	7,586,400	5,879,900	1,021,819	101,336,819
4,221,975	9,049,018	9,594,671	7,607,107	1,388,688	140,842,947
8,442,128	11,904,583	7,075,352	17,408,031	(78,580)	124,912,684
-	-	-	-	-	-
-	-	-	-	1,826,300	1,826,300
8,442,128	11,904,583	7,075,352	17,408,031	1,747,720	126,738,984
26,876,292	49,626,918	48,054,848	52,330,155	11,771,467	719,924,996
\$ 91,709,091	\$ 189,424,225	\$ 178,122,693	\$ 182,229,756	\$ 50,203,492	\$ 2,946,602,097

STATE OF IDAHO ENDOWMENT FUND  
 SUPPLEMENTARY SCHEDULE OF STATEMENT OF NET POSITION BY ENDOWMENT  
 FOR THE FISCAL YEAR ENDED JUNE 30, 2022



	Public School	Agricultural College	Charitable Institutions	Normal School
<b>PERMANENT NET POSITION</b>				
Permanent Net Position, beginning of year	\$ 1,172,538,806	\$ 36,597,193	\$ 131,029,575	\$ 130,530,070
Program Revenues:				
Receipts from Dept. of Lands	34,573,278	-	16,093	6,461,533
Income from Investments	(191,933,490)	(6,288,408)	(22,378,011)	(22,037,614)
Total Program Revenue	(157,360,212)	(6,288,408)	(22,361,918)	(15,576,080)
Transfer to Earnings Reserve	-	-	-	-
Transfer from Earnings Reserve	277,103,000	10,885,000	38,014,000	34,934,000
Increase in Net Position	119,742,788	4,596,592	15,652,082	19,357,920
Permanent Net Position, end of year	1,292,281,595	41,193,785	146,681,656	149,887,990
<b>EARNINGS RESERVE NET POSITION</b>				
Earnings Reserve Net Position, beginning of year	707,828,757	24,377,043	87,070,001	80,914,506
Program Revenues:				
Receipts from Dept. of Lands	54,415,771	1,372,298	4,522,944	11,043,162
Income from Investments	(47,111,890)	(1,371,875)	(4,911,390)	(5,452,400)
Total Program Revenues	7,303,880	422	(388,446)	5,590,762
Program Expenses:				
Distribution for Expenses-Lands	19,403,518	347,567	1,804,640	1,255,923
Distribution for Expenses-EFIB	7,715,522	247,538	881,894	875,675
Distributions to Beneficiaries	54,798,000	1,660,000	6,179,000	5,487,500
Total Program Expenses	81,917,040	2,255,105	8,865,534	7,619,098
Net Program Revenue	(74,613,160)	(2,254,683)	(9,253,980)	(2,028,337)
Transfer to Permanent Fund	(277,103,000)	(10,885,000)	(38,014,000)	(34,934,000)
Transfer from Permanent Fund	-	-	-	-
Increase/(Decrease) in Net Position	(351,716,160)	(13,139,683)	(47,267,980)	(36,962,337)
Earnings Reserve Net Position, end of year	356,112,597	11,237,360	39,802,020	43,952,169
<b>TOTAL NET POSITION</b>	<b>\$ 1,648,394,192</b>	<b>\$ 52,431,145</b>	<b>\$ 186,483,677</b>	<b>\$ 193,840,159</b>

STATE OF IDAHO ENDOWMENT FUND  
 SUPPLEMENTARY SCHEDULE OF STATEMENT OF NET POSITION BY ENDOWMENT  
 FOR THE FISCAL YEAR ENDED JUNE 30, 2022



Penitentiary	School of Science	State Hospital South	University of Idaho	Capitol	Total
\$ 56,927,628	\$ 122,699,280	\$ 107,805,710	\$ 108,477,912	\$ 42,473,319	\$ 1,909,079,493
701	46,686	6,540,715	5,970,599	188,043	53,797,649
(10,371,328)	(21,553,783)	(18,373,160)	(19,106,514)	(5,229,642)	(317,271,949)
(10,370,627)	(21,507,097)	(11,832,445)	(13,135,915)	(5,041,599)	(263,474,300)
-	-	-	-	(1,637,400)	(1,637,400)
20,980,000	39,675,000	29,764,000	35,054,000	-	486,409,000
10,609,373	18,167,903	17,931,555	21,918,085	(6,678,999)	221,297,300
67,537,001	140,867,184	125,737,265	130,395,997	35,794,320	2,130,376,793
42,957,060	86,383,914	82,868,448	76,213,528	10,149,810	1,198,763,067
2,533,952	3,546,733	1,632,314	4,655,845	182,895	83,905,914
(2,253,197)	(4,486,890)	(5,326,994)	(4,075,667)	(1,402,876)	(76,393,180)
280,755	(940,157)	(3,694,680)	580,178	(1,219,981)	7,512,734
727,610	1,468,344	1,230,619	965,448	205,160	27,408,829
406,541	842,579	774,654	750,134	213,323	12,707,860
2,689,500	5,735,500	6,425,000	5,102,000	125,000	88,201,500
3,823,651	8,046,423	8,430,273	6,817,582	543,483	128,318,189
(3,542,896)	(8,986,579)	(12,124,953)	(6,237,404)	(1,763,463)	(120,805,455)
(20,980,000)	(39,675,000)	(29,764,000)	(35,054,000)	-	(486,409,000)
-	-	-	-	1,637,400	1,637,400
(24,522,896)	(48,661,579)	(41,888,953)	(41,291,404)	(126,063)	(605,577,055)
18,434,164	37,722,335	40,979,495	34,922,124	10,023,747	593,186,012
\$ 85,971,165	\$ 178,589,519	\$ 166,716,761	\$ 165,318,121	\$ 45,818,067	\$ 2,723,562,805

STATE OF IDAHO ENDOWMENT FUNDS  
 SCHEDULE OF THE GAIN BENCHMARK  
 FOR THE FISCAL YEAR ENDED JUNE 30, 2023



<i>Endowment</i>	<i>Fiscal Year</i>	<i>Beginning Benchmark</i>	<i>Deposits</i>	<i>Reinvested Income</i>	<i>Inflation Impact</i>	<i>Ending Benchmark</i>
<b>Public School</b>	2001-2022	555,954,750	111,516,472	207,877,000	415,864,661	1,291,212,883
	2023	1,291,212,883	4,584,478	-	80,852,678	1,376,650,039
<b>Agricultural College</b>	2001-2022	14,787,041	62,101	12,643,000	11,729,999	39,222,141
	2023	39,222,141	93,481	-	2,455,997	41,771,619
<b>Charitable Institutions</b>	2001-2022	54,513,960	413,476	42,134,000	43,382,379	140,443,815
	2023	140,443,815	19,853	-	8,794,257	149,257,925
<b>Normal School</b>	2001-2022	47,258,942	31,272,028	28,656,000	39,166,953	146,353,923
	2023	146,353,923	449,683	-	9,164,334	155,967,940
<b>Penitentiary</b>	2001-2022	18,258,289	35,289	26,203,000	16,514,907	61,011,485
	2023	61,011,485	920	-	3,820,394	64,832,799
<b>School of Science</b>	2001-2022	54,836,451	465,233	34,732,000	41,512,935	131,546,619
	2023	131,546,619	13,553	-	8,237,136	139,797,307
<b>State Hospital South</b>	2001-2022	23,442,162	34,072,949	37,197,000	27,366,720	122,078,831
	2023	122,078,831	344,728	-	7,644,286	130,067,845
<b>University</b>	2001-2022	42,442,536	6,267,620	39,170,000	34,348,975	122,229,131
	2023	122,229,131	16,773	-	7,653,697	129,899,601

IDAHO DEPARTMENT OF LANDS

STATE OF IDAHO ENDOWMENT FUNDS  
 SCHEDULE OF THE GAIN BENCHMARK  
 FOR THE FISCAL YEAR ENDED JUNE 30, 2022



<i>Endowment</i>	<i>Fiscal Year</i>	<i>Beginning Benchmark</i>	<i>Deposits</i>	<i>Reinvested Income</i>	<i>Inflation Impact</i>	<i>Ending Benchmark</i>
<b>Public School</b>	2001-2021	555,954,750	76,943,194	207,877,000	331,763,862	1,172,538,806
	2022	1,172,538,806	34,573,278	-	84,100,799	1,291,212,883
<b>Agricultural College</b>	2001-2021	14,787,041	62,101	12,643,000	9,105,051	36,597,193
	2022	36,597,193	-	-	2,624,948	39,222,141
<b>Charitable Institutions</b>	2001-2021	54,513,960	397,383	42,134,000	33,984,232	131,029,575
	2022	131,029,575	16,093	-	9,398,147	140,443,815
<b>Normal School</b>	2001-2021	47,258,942	24,810,495	28,656,000	29,804,633	130,530,070
	2022	130,530,070	6,461,533	-	9,362,320	146,353,923
<b>Penitentiary</b>	2001-2021	18,258,289	34,588	26,203,000	12,431,751	56,927,628
	2022	56,927,628	701	-	4,083,156	61,011,485
<b>School of Science</b>	2001-2021	54,836,451	418,547	34,732,000	32,712,282	122,699,280
	2022	122,699,280	46,686	-	8,800,653	131,546,619
<b>State Hospital South</b>	2001-2021	23,442,162	27,532,234	37,197,000	19,634,314	107,805,710
	2022	107,805,710	6,540,715	-	7,732,406	122,078,831
<b>University</b>	2001-2021	42,442,536	297,021	39,170,000	26,568,355	108,477,912
	2022	108,477,912	5,970,599	-	7,780,620	122,229,131

IDAHO DEPARTMENT OF LANDS



## INDEPENDENT ACCOUNTANTS' REPORT

Idaho Department of Lands  
Boise, Idaho

We have performed the procedures enumerated below, which were agreed to by Idaho Department of Lands, solely to assist you with respect to the allocation procedures for the year ended June 30, 2023.

Management of Idaho Department of Lands has agreed to and acknowledge that the procedures performed are appropriate to meet the intended purpose of observing the allocation methodology of Idaho Department of Lands. This report may not be suitable for any other purpose. The procedures performed may not address all the items of interest to a user of this report and may not meet the needs of all users of this report and, as such, users are responsible for determining whether the procedures performed are appropriate for their purposes.

The procedures and the associated findings are as follows:

### **Procedures**

1. Revenues: Obtain IBIS Report 'Endowment Revenue by Beneficiary' and the DAFR 8180 reports and perform the following for the year ended June 30, 2023:
  - a. Agree revenue in total by each of the nine endowments per the IBIS report to the Department of Lands (IDL) Income Statement.
  - b. Recalculate the allocation of the nine asset activities to the seven asset classes per the methodology outlined in the "Endowment Lands Income Statement Methodology" Document dated June 30, 2023 for revenues.
  - c. Agree revenues in total for each of the recalculated seven asset classes to the IDL Income Statement.

### **Findings**

1. None noted.

### **Procedures**

2. Project Expense: Obtain the 'Income Statement Expense Query – FYE Final' which includes the Business Services, Forest Resources, and Trust Lands expenditures and project codes in an Excel workbook. Perform the following for the year ended June 30, 2023:
  - a. Agree project expenses in total by each of the nine endowments per the above reports to the IDL Income Statement.
  - b. Recalculate the allocation of the nine asset activities to the seven asset classes per the methodology included in the "Endowment Lands Income Statement Methodology" Document dated June 30, 2023 for project expenses.
  - c. Agree project expenses in total for each of the recalculated seven asset classes to the IDL Income Statement.



- d. Obtain listing of projects with transactions recorded to project expense during the year ended June 30, 2023, and agree total to project expense on IDL Income Statement for the year ended June 30, 2023.
  - i. Obtain defined project allocation percentages for each project selected and recalculate recorded allocation to respective endowments.
  - ii. Report any discrepancies.

**Findings**

2. None noted.

**Procedures**

3. Non-Project Expense: Obtain DAFR 8290 Report and perform the following for the year ended June 30, 2023:
  - a. Recalculate the allocation of the nine asset activities to the seven asset classes per the methodology outlined in the "Endowment Lands Income Statement Methodology" Document dated June 30, 2023 for indirect expenses.
  - b. Agree non-project expenses in total for each of the recalculated seven asset classes to the IDL Income Statement.
  - c. Recalculate the allocation of the total non-project expenses by asset class to each of the nine endowments based on the methodology included in the "Endowment Lands Income Statement Methodology" Document dated June 30, 2023 for direct expenses.
  - d. Agree non-project expenses by endowment for each of the recalculated nine endowments to the IDL Income Statement.

**Findings**

3. None noted.

**Procedures**

4. Overhead: Obtain DAFR 8290 Report and perform the following for the year ended June 30, 2023:
  - a. Agree total overhead per the "Income Statement Expense Query – FYE Final" to the IDL Income Statement.
  - b. Recalculate the allocation of the total overhead expenses to each of the nine endowments and each of the seven asset classes based on the methodology included in the "Endowment Lands Income Statement Methodology" Document dated June 30, 2023 for overhead.

**Findings**

4. None noted.

We were engaged by Idaho Department of Lands to perform this agreed-upon procedures engagement and conducted our engagement in accordance with attestation standards established by the AICPA. We were not engaged to and did not conduct an examination or review engagement, the objective of which would be the expression of an opinion or conclusion, respectively, on the allocation procedures. Accordingly, we do not express such an opinion or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

We are required to be independent of Idaho Department of Lands and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements related to our agreed-upon procedures engagement.

This report is intended solely for the information and use of Idaho Department of Lands and is not intended to be, and should not be, used by anyone other than this party.

*CliftonLarsonAllen LLP*

**CliftonLarsonAllen LLP**

Boise, Idaho  
August 10, 2023

IDAHO DEPARTMENT OF LANDS



Thomas J. Wilford :: Chairman  
Jerry F. Aldape                      Mary Pat Thompson  
Robert M. Donaldson              Chuck Winder  
Joseph Forney                      Kenny Wroten  
Irving Littman                      Brian Yeargain  
  
Chris J. Anton :: Manager of Investments

## Monthly Report to the Board of Land Commissioners

### Investment performance through October 31, 2023

**Month: -2.7%      Fiscal year: -6.0%**

Stronger than anticipated economic data during the third quarter generated upward pressure on long-dated bond yields. Higher U.S. Treasury yields are anticipated to contribute to further tightening of financial conditions and were one of the primary causes of losses in both the bond and stock markets for the third consecutive month. The Fed maintained the target for the fed funds rate at 5.25%-5.50% when it met at the beginning of November. The Fed acknowledged the strong pace of economic activity during the quarter but indicated that job gains have moderated since earlier in the year and that they expect tight financial conditions to be a headwind for the economy. Although Chair Jerome Powell left open the possibility of further rate increases in the future, he now views the risk of either overtightening or doing too little as more balanced.

#### **Status of endowment fund reserves**

Distributions for FY2023 and FY2024 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**

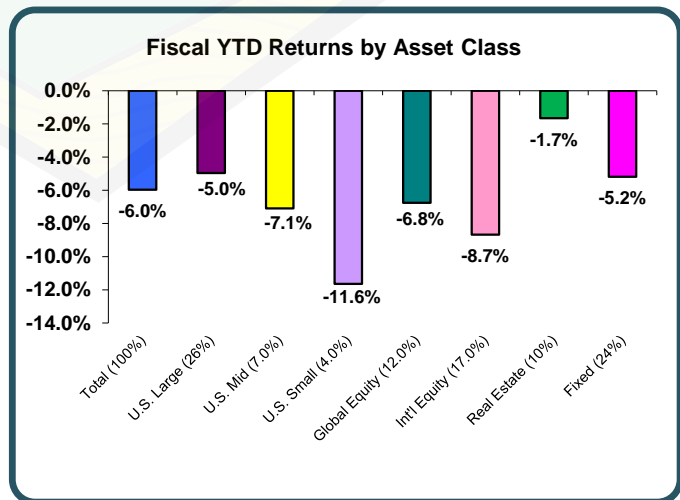
Board Meeting – February 15, 2024

	<u>Month</u>	<u>FYTD</u>
<b>Beginning Value of Fund</b>	<b>2,831,515,846</b>	<b>\$2,947,604,447</b>
Distributions to Beneficiaries	(8,359,583)	(33,688,332)
Land Revenue net of IDL Expenses	9,496,428	19,305,144
Change in Market Value net of Investment Mgt. Expenses	(74,756,257)	(175,324,824)
<b>Current Value of Fund</b>	<b>\$ 2,757,896,434</b>	<b>\$2,757,896,434</b>

<u>Gross Returns</u>	<u>Current Month</u>	<u>Calendar Y-T-D</u>	<u>Fiscal Y-T-D</u>	<u>One Year</u>	<u>Three Year</u>	<u>Five Year</u>	<u>Ten Year</u>
<b>Total Fund</b>	-2.7%	1.5%	-6.0%	4.3%	4.0%	6.5%	6.4%
<i>Total Fund Benchmark*</i>	-2.4%	2.6%	-5.7%	5.5%	4.0%	6.0%	6.1%
<b>Total Fixed</b>	-1.9%	-2.7%	-5.2%	0.6%	-4.9%	0.2%	1.0%
<i>BBG U.S. Agg. (Ag)</i>	-1.6%	-2.8%	-4.8%	0.4%	-5.1%	0.3%	1.0%
<b>Total Equity</b>	-3.3%	5.1%	-6.9%	8.0%	7.3%	9.0%	8.3%
<i>57% R3 29% Ax 14% AC</i>	-3.1%	6.6%	-6.4%	9.8%	7.1%	7.9%	7.9%
<b>Domestic Equity</b>	-2.9%	6.3%	-6.1%	5.6%	8.7%	9.9%	10.0%
<i>Russell 3000 (R3)</i>	-2.7%	9.4%	-5.8%	8.4%	9.2%	10.2%	10.5%
<b>Global Equity</b>	-3.0%	6.3%	-6.8%	11.8%	6.5%	10.1%	6.9%
<i>MSCI ACWI (AC)</i>	-3.0%	6.7%	-6.3%	10.5%	6.7%	7.5%	6.8%
<b>Int'l. Equity</b>	-4.4%	1.9%	-8.7%	10.9%	4.7%	6.7%	4.8%
<i>MSCI ACWI ex-US (Ax)</i>	-4.1%	1.0%	-7.7%	12.1%	3.0%	3.5%	2.5%
<b>Real Estate</b>			-1.7%	-10.4%	5.7%	5.2%	
<i>NCRIEF ODSE Index</i>			-2.7%	-10.0%	8.0%	6.5%	

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

	<u>Mkt Value</u>	<u>Allocation</u>
<b>Domestic Equity</b>	<b>\$ 1,007.6</b>	<b>36.5%</b>
Large Cap	715.7	26.0%
Mid Cap	188.9	6.8%
Small Cap	103.0	3.7%
<b>Global Equity</b>	<b>327.9</b>	<b>11.9%</b>
<b>Int'l Equity</b>	<b>454.6</b>	<b>16.5%</b>
<b>Fixed Income</b>	<b>685.4</b>	<b>24.9%</b>
<b>Real Estate</b>	<b>265.7</b>	<b>9.6%</b>
Cash	<u>15.7</u>	<u>0.6%</u>
<b>Total Fund</b>	<b><u>\$ 2,757.9</u></b>	<b><u>100.0%</u></b>

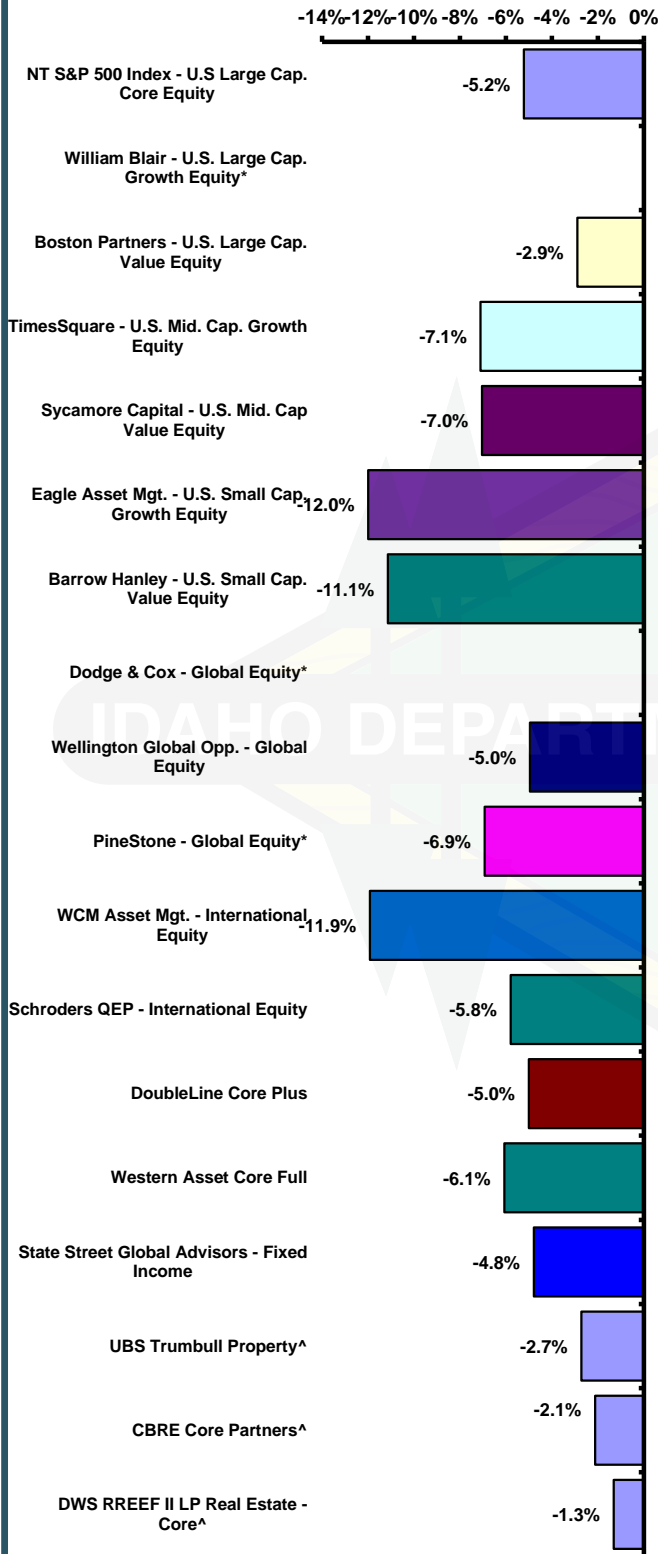


### Endowment Fund Staff Comments:

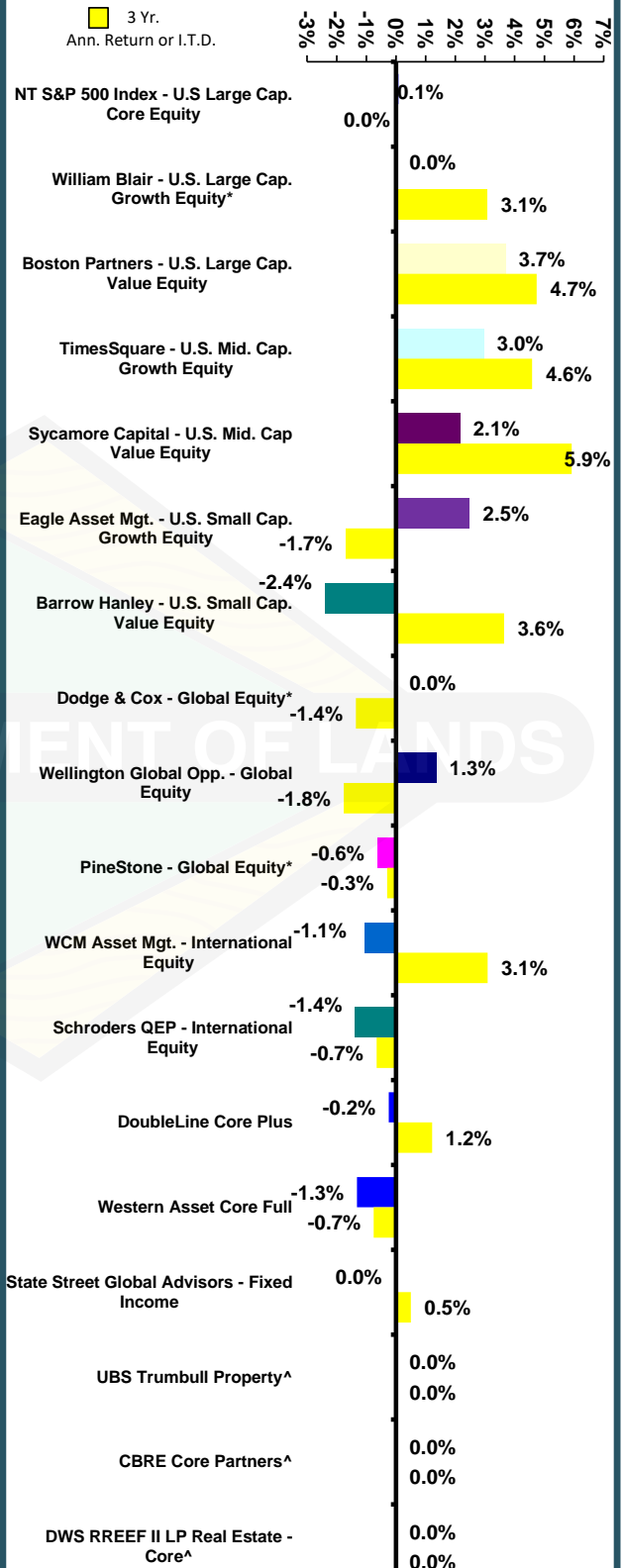
Stronger than anticipated economic data during the third quarter generated upward pressure on long-dated bond yields. Higher U.S. Treasury yields are anticipated to contribute to further tightening of financial conditions and were one of the primary causes of losses in both the bond and stock markets for the third consecutive month. The Fed maintained the target for the fed funds rate at 5.25%-5.50% when it met at the beginning of November. The Fed acknowledged the strong pace of economic activity during the quarter but indicated that job gains have moderated since earlier in the year and that they expect tight financial conditions to be a headwind for the economy. Although Chair Jerome Powell left open the possibility of further rate increases in the future, he now views the risk of either overtightening or doing too little as more balanced.

# INVESTMENT REPORT

## FYTD Manager Returns



## Manager Relative Returns Fiscal YTD and 3-Yr Ave



^ Most recent valuation. \* I-T-D if no 3-yr. history

# STATE BOARD OF LAND COMMISSIONERS

November 21, 2023

## Subject

Performance Review of Total Endowment

## Background

As part of the Asset Allocation and Governance Review in 2014, Callan LLC (Callan) recommended that a total return be calculated for the endowment portfolio by aggregating the market values and cash flows of the financial assets and the land assets.

The revised Statement of Investment Policy adopted by the State Board of Land Commissioners (Land Board) in November 2022 requires that performance reports be generated annually by the General Consultant, Callan, for review by the Land Board.

## Discussion

Callan calculated the total return of the financial assets and the land assets for the fiscal year ending June 30, 2023 (Attachment 1). The combined net return was 8.14%, above last year's net return of **-0.55%**. The combined return includes the land asset net return of 4.27% (down from 28.18% in fiscal year 2022) and the financial asset net return of 10.41% (up from **-13.41%** in fiscal year 2022).

Callan also compiled a report of the land returns by asset class for the fiscal year ending June 30, 2023 (Attachment 2).

## Attachments

1. Investment Manager Returns
2. Investment Measurement Service Quarterly Review

## Investment Manager Returns

The table below details the rates of return for the Fund's investment managers over various time periods ended June 30, 2023. Negative returns are shown in red, positive returns in black. Returns for one year or greater are annualized. The first set of returns for each asset class represents the composite returns for all the fund's accounts for that asset class.

### Returns for Periods Ended June 30, 2023

	Last Year	Last 3 Years	Last 8 Years	Last 10 Years	Last 15 Years
<b>EFIB Plan (Net)</b>	<b>10.41%</b>	<b>7.29%</b>	<b>6.84%</b>	<b>7.51%</b>	<b>7.03%</b>
EFIB Target	10.87%	7.46%	7.03%	7.68%	6.97%
<b>Land (Net)</b>	<b>4.27%</b>	<b>11.91%</b>	<b>6.85%</b>	-	-
<b>Total Plan + Land</b>	<b>8.14%</b>	<b>8.95%</b>	<b>6.80%</b>	<b>7.56%</b>	<b>7.19%</b>
CPI + 3.5%	6.47%	9.28%	6.62%	6.21%	5.74%



IDAHO DEPARTMENT OF LANDS

June 30, 2023

Idaho Board of Land Commissioners

Investment Measurement Service  
Quarterly Review



IDAHO DEPARTMENT OF LANDS



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**Table of Contents**  
**June 30, 2023**

---

**Total Land Portfolio**

Asset Allocation Across Investment Managers	2
Investment Manager Performance	3

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**Individual Accounts**

Total Land Portfolio	6
Farmland	7
Commercial Real Estate	8
Rangeland	9
Residential Real Estate	10
Timberland	11
Land Bank	12

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<b>Callan Research/Education</b>	<b>13</b>
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<b>Disclosures</b>	<b>16</b>
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**IDAHO DEPARTMENT OF LANDS**



## Investment Manager Asset Allocation

The table below contrasts the distribution of assets across the Fund's investment managers as of June 30, 2023, with the distribution as of June 30, 2022. The change in asset distribution is broken down into the dollar change due to Net New Investment and the dollar change due to Investment Return.

### Asset Distribution Across Investment Managers

	June 30, 2023		Net New Inv.	Inv. Return	June 30, 2022	
	Market Value	Weight			Market Value	Weight
Farmland	46,107,680	2.51%	5,418,409	7,835,871	32,853,400	1.81%
Commercial Real Estate	36,044,000	1.96%	(1,076,149)	1,076,149	36,044,000	1.98%
Rangeland	63,385,840	3.45%	(3,120,745)	3,120,745	63,385,840	3.49%
Residential Real Estate	6,657,313	0.36%	(27,193,255)	15,088,068	18,762,500	1.03%
Timberland	1,610,439,200	87.66%	(24,587,253)	75,026,453	1,560,000,000	85.88%
Land Bank	74,523,631	4.06%	(33,093,703)	2,153,733	105,463,601	5.81%
<b>Total Land Portfolio Assets</b>	<b>\$1,837,157,664</b>	<b>100.0%</b>	<b>\$(83,652,696)</b>	<b>\$104,301,019</b>	<b>\$1,816,509,341</b>	<b>100.0%</b>



IDAHO DEPARTMENT OF LANDS

Cash flows, including market values and management fees, were provided by Idaho Department of Lands using their internal methodology which may be subject to change. The cash flows and categorizations have not been independently verified by Callan for accuracy or consistency with industry standards. Specific dates for each individual cash flow were not provided. To convert the non-specific cash flow information to a format that could be used in performance calculations, Callan assumed all cashflows occurred at mid-quarter to arrive at quarterly performance numbers. Performance figures are calculated using a modified BAI methodology.

## Investment Manager Returns

The table below details the rates of return for the Fund's investment managers over various time periods ended June 30, 2023. Negative returns are shown in red, positive returns in black. Returns for one year or greater are annualized. The first set of returns for each asset class represents the composite returns for all the fund's accounts for that asset class.

### Returns for Periods Ended June 30, 2023

	Fiscal Year	Last 3 Years	Last 5 Years	Last 8 Years
Farmland	23.76%	11.26%	9.13%	7.73%
Farmland (Net)	23.33%	10.40%	8.32%	6.93%
Commercial Real Estate	3.02%	32.63%	22.46%	22.30%
Commercial Real Estate (Net)	1.93%	29.02%	18.11%	17.50%
Rangeland	5.02%	6.15%	5.84%	5.51%
Rangeland (Net)	2.07%	2.85%	2.47%	2.27%
Residential Real Estate	194.97%	74.38%	42.64%	31.52%
Residential Real Estate (Net)	174.71%	65.84%	36.22%	27.05%
Timberland	4.85%	14.50%	10.94%	8.92%
Timberland (Net)	3.26%	12.69%	9.04%	6.99%
Timberland (Net Real Return)	0.26%	6.53%	4.94%	3.75%
Land Bank	2.48%	1.10%	1.53%	1.29%
Land Bank (Net)	2.48%	1.10%	1.37%	1.19%
Total Land excluding - Land Bank	6.03%	14.71%	11.04%	9.28%
Total Land excluding - Land Bank (Net)	4.37%	12.78%	9.02%	7.25%
<b>Total Land Portfolio (Gross)</b>	<b>5.84%</b>	<b>13.69%</b>	<b>10.33%</b>	<b>8.75%</b>
Total Land Portfolio (Net Nominal)	4.27%	11.91%	8.45%	6.85%
Total Land Portfolio (Net Real Return)	1.24%	5.79%	4.37%	3.61%
CPI All Urban Cons	2.97%	5.78%	3.90%	3.12%

Cash flows, including market values and management fees, were provided by Idaho Department of Lands using their internal methodology which may be subject to change. The cash flows and categorizations have not been independently verified by Callan for accuracy or consistency with industry standards. Specific dates for each individual cash flow were not provided. To convert non-specific cash flow information to a format that could be used in performance calculations, Callan assumed all cash flows occurred at mid-quarter to arrive at quarterly performance numbers. Performance figures are calculated using a modified BAI methodology.

## Investment Manager Returns

The table below details the rates of return for the fund's investment managers over various time periods ended June 30, 2023. Negative returns are shown in red, positive returns in black. Returns for one year or greater are annualized.

### Returns for Periods Ended June 30, 2023

	Fiscal Year			Last 3 Years			Last 5 Years		
	Inc%	App%	Tot%	Inc%	App%	Tot%	Inc%	App%	Tot%
Farmland (Net)	1.13	22.04	23.33	0.79	9.56	10.40	0.82	7.45	8.32
Commercial Real Estate (Net)	1.93	0.00	1.93	2.23	25.12	29.02	2.57	14.56	18.11
Rangeland (Net)	2.07	0.00	2.07	1.53	1.29	2.85	1.68	0.77	2.47
Residential Real Estate (Net)	0.31	174.17	174.71	2.29	62.18	65.84	1.20	34.63	36.22
Timberland (Net)	3.26	0.00	3.26	4.04	8.44	12.69	3.94	4.98	9.04
Total Land excluding - Land Bank (Net)	3.11	1.23	4.37	3.79	8.77	12.78	3.66	5.24	9.02
<b>Total Land Portfolio (Net Nominal)</b>	<b>3.07</b>	<b>1.17</b>	<b>4.27</b>	<b>3.57</b>	<b>8.15</b>	<b>11.91</b>	<b>3.47</b>	<b>4.87</b>	<b>8.45</b>

IDAHO DEPARTMENT OF LANDS



**Total Land Portfolio  
Real Estate Portfolio  
Quarterly Changes in Market Value**

	<b>Beg. of Period Market</b>	<b>+ Capital Contri- butions</b>	<b>+ Accounting Income</b>	<b>- Mgmt. Fees</b>	<b>+ Appre- ciation</b>	<b>- Dist. of Income &amp; Real. Gains</b>	<b>- Return of Capital</b>	<b>= End of Period Market</b>
09/2015	1,443,485,863	6,737,772	18,523,024	6,333,665	337,900	12,176,749	6,737,772	1,443,836,373
12/2015	1,443,836,373	6,737,772	18,523,024	6,333,665	337,900	12,176,749	6,737,772	1,444,186,883
03/2016	1,444,186,883	6,737,772	18,523,024	6,333,665	337,900	12,176,749	6,737,772	1,444,537,394
06/2016	1,444,537,394	6,737,772	18,523,024	6,333,665	337,900	12,176,749	6,737,772	1,444,887,904
09/2016	1,444,887,904	17,424,042	32,190,512	8,130,079	(0)	24,850,095	16,715,247	1,444,807,037
12/2016	1,444,807,037	18,903,334	15,698,109	7,356,406	1,328,500	8,309,338	18,830,890	1,446,240,346
03/2017	1,446,240,346	22,212,151	19,044,141	5,379,154	3,715,150	13,609,788	22,112,365	1,450,110,481
06/2017	1,450,110,481	2,138,318	8,164,265	7,920,565	1,040,305	2,151,292	25,100	1,451,356,412
09/2017	1,451,356,412	7,987,519	25,025,187	7,148,261	22,668,989	17,852,656	7,770,000	1,474,267,190
12/2017	1,474,267,190	27,995,332	15,811,240	6,762,941	0	8,717,002	27,995,332	1,474,598,487
03/2018	1,474,598,487	8,541,139	22,386,935	5,296,596	5,419,200	16,719,764	8,490,000	1,480,439,401
06/2018	1,480,439,401	78,855	12,198,615	7,934,209	2,245,000	3,737,745	0	1,483,289,917
09/2018	1,483,289,917	4,427,157	27,185,702	7,787,652	1,058,260	19,372,629	3,870,000	1,484,930,755
12/2018	1,484,930,755	67,627,619	27,115,724	7,470,723	635,124	19,508,037	67,586,953	1,485,743,509
03/2019	1,485,743,509	399,277	17,226,842	6,758,073	0	10,504,483	0	1,486,107,072
06/2019	1,486,107,072	6,569,563	5,390,356	7,746,173	0	1,663,268	0	1,488,657,550
09/2019	1,488,657,550	4,738,506	25,378,329	7,305,825	1,520,460	17,889,361	4,252,500	1,490,847,159
12/2019	1,490,847,159	13,148,892	20,454,696	7,201,795	0	12,942,040	12,793,400	1,491,513,512
03/2020	1,491,513,512	1,322,706	20,787,792	5,109,919	0	15,502,537	866,000	1,492,145,554
06/2020	1,492,145,554	82,794	11,608,931	8,195,122	991,000	3,024,439	52,134	1,493,556,584
09/2020	1,493,556,584	9,028,312	26,558,371	7,082,523	2,355,507	19,812,782	5,179,720	1,499,423,749
12/2020	1,499,423,749	6,875,282	19,945,233	6,107,898	1,715,133	13,963,369	6,595,000	1,501,293,130
03/2021	1,501,293,130	41,106	28,748,815	4,917,035	0	23,707,561	0	1,501,458,455
06/2021	1,501,458,455	88,258	12,505,453	7,897,403	5,985,554	4,595,048	31,785,592	1,475,759,677
09/2021	1,475,759,677	2,485,304	27,857,846	7,197,275	344,021,970	21,256,879	5,522,228	1,816,148,415
12/2021	1,816,148,415	56,792,534	24,477,047	7,067,087	0	17,476,725	33,390,720	1,839,483,464
03/2022	1,839,483,464	9,890,500	24,059,044	4,907,504	4,950,000	19,053,723	9,890,500	1,844,531,281
06/2022	1,844,531,281	12,032,292	8,120,964	7,579,676	8,566,878	2,012,286	47,150,112	1,816,509,341
09/2022	1,816,509,341	201,639	26,565,124	7,123,186	12,656,900	19,051,829	0	1,829,757,989
12/2022	1,829,757,989	73,058,406	26,565,124	7,123,186	0	19,051,829	72,856,767	1,830,349,737
03/2023	1,830,349,737	9,800,000	20,885,364	5,508,083	8,685,000	15,014,732	9,800,000	1,839,397,286
06/2023	1,839,397,286	687,560	8,943,506	7,776,329	0	1,247,049	2,847,310	1,837,157,664
	0	411,529,486	634,991,364	219,125,338	1,874,396,393	421,305,282	443,328,959	1,837,157,664

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**Farmland  
Real Estate Portfolio  
Quarterly Changes in Market Value**

	<b>Beg. of Period Market</b>	<b>+</b>	<b>Capital Contri- butions</b>	<b>+</b>	<b>Accounting Income</b>	<b>-</b>	<b>Mgmt. Fees</b>	<b>+</b>	<b>Appre- ciation</b>	<b>-</b>	<b>Distri- butions</b>	<b>=</b>	<b>End of Period Market</b>
09/2015	22,300,000		0		120,774		42,052		337,900		78,722		22,637,900
12/2015	22,637,900		0		120,774		42,052		337,900		78,722		22,975,800
03/2016	22,975,800		0		120,774		42,052		337,900		78,722		23,313,700
06/2016	23,313,700		0		120,774		42,052		337,900		78,722		23,651,600
09/2016	23,651,600		33,835		250		34,085		0		0		23,651,600
12/2016	23,651,600		0		317,855		156,334		0		161,521		23,651,600
03/2017	23,651,600		0		95,266		(86,168)		0		181,434		23,651,600
06/2017	23,651,600		1,815		45,299		47,114		0		0		23,651,600
09/2017	23,651,600		26,045		2,000		28,045		1,013,640		0		24,665,240
12/2017	24,665,240		0		184,432		24,082		0		160,350		24,665,240
03/2018	24,665,240		0		193,527		36,305		0		157,222		24,665,240
06/2018	24,665,240		68,355		45,637		113,992		0		0		24,665,240
09/2018	24,665,240		28,429		3,783		32,212		675,760		0		25,341,000
12/2018	25,341,000		0		268,519		29,938		0		238,581		25,341,000
03/2019	25,341,000		0		92,268		38,806		0		53,462		25,341,000
06/2019	25,341,000		17,078		46,317		63,395		0		0		25,341,000
09/2019	25,341,000		6,818		23,432		30,250		1,520,460		0		26,861,460
12/2019	26,861,460		0		260,698		53,276		0		207,422		26,861,460
03/2020	26,861,460		0		74,463		33,249		0		41,214		26,861,460
06/2020	26,861,460		30,660		48,115		78,775		0		0		26,861,460
09/2020	26,861,460		3,345,981		8,814		43,245		1,013,640		0		31,186,650
12/2020	31,186,650		0		355,491		49,798		0		305,693		31,186,650
03/2021	31,186,650		0		118,050		45,133		0		72,917		31,186,650
06/2021	31,186,650		47,152		37,619		84,771		0		0		31,186,650
09/2021	31,186,650		433,443		4,391		107,594		1,336,510		0		32,853,400
12/2021	32,853,400		0		298,669		57,172		0		241,497		32,853,400
03/2022	32,853,400		0		196,798		127,877		0		68,921		32,853,400
06/2022	32,853,400		107,350		20,487		127,837		0		0		32,853,400
09/2022	32,853,400		0		162,283		37,730		7,241,900		124,554		40,095,300
12/2022	40,095,300		6,012,380		162,283		37,730		0		124,554		46,107,680
03/2023	46,107,680		0		197,899		32,046		0		165,853		46,107,680
06/2023	46,107,680		0		71,506		35,991		0		35,515		46,107,680
	0		10,159,341		3,819,248		1,668,822		36,453,510		2,655,597		46,107,680

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**Commercial Real Estate  
Real Estate Portfolio  
Quarterly Changes in Market Value**

	<b>Beg. of Period Market</b>	<b>+ Capital Contri- butions</b>	<b>+ Accounting Income</b>	<b>- Mgmt. Fees</b>	<b>+ Appre- ciation</b>	<b>- Income &amp; Real. Gains</b>	<b>- Return of Capital</b>	<b>=</b>	<b>End of Period Market</b>
09/2015	31,502,435	0	599,175	305,676	0	293,500	0	31,502,435	
12/2015	31,502,435	0	599,175	305,676	0	293,500	0	31,502,435	
03/2016	31,502,435	0	599,175	305,676	0	293,500	0	31,502,435	
06/2016	31,502,435	0	599,175	305,676	0	293,500	0	31,502,435	
09/2016	31,502,435	0	1,299,490	635,627	0	663,863	0	31,502,435	
12/2016	31,502,435	69,844	344,145	413,989	0	0	0	31,502,435	
03/2017	31,502,435	0	422,777	339,925	3,715,150	82,852	17,265,000	17,952,585	
06/2017	17,952,585	0	340,718	(42,035)	1,040,305	382,753	0	18,992,890	
09/2017	18,992,890	0	316,491	256,468	(140,000)	60,023	0	18,852,890	
12/2017	18,852,890	0	670,074	391,642	0	278,432	0	18,852,890	
03/2018	18,852,890	51,139	174,715	225,854	0	0	8,490,000	10,362,890	
06/2018	10,362,890	0	198,210	122,475	2,245,000	0	0	12,683,625	
09/2018	12,683,625	0	547,489	123,176	0	424,313	0	12,683,625	
12/2018	12,683,625	40,666	201,040	241,706	0	0	0	12,683,625	
03/2019	12,683,625	78,448	136,408	214,856	0	0	0	12,683,625	
06/2019	12,683,625	1,878,697	130,604	122,115	0	8,489	0	14,562,322	
09/2019	14,562,322	0	235,904	149,796	0	86,108	1,560,500	13,001,822	
12/2019	13,001,822	0	487,229	135,221	0	352,008	0	13,001,822	
03/2020	13,001,822	0	140,558	102,366	0	38,192	0	13,001,822	
06/2020	13,001,822	0	197,913	188,332	95,000	9,581	0	13,096,822	
09/2020	13,096,822	0	529,153	181,024	0	348,129	0	13,096,822	
12/2020	13,096,822	46,099	99,243	145,342	0	0	0	13,096,822	
03/2021	13,096,822	41,106	141,946	183,052	0	0	0	13,096,822	
06/2021	13,096,822	41,106	141,946	183,052	4,045,000	0	0	17,141,822	
09/2021	17,141,822	0	647,070	106,949	0	540,121	0	17,141,822	
12/2021	17,141,822	0	1,265,096	60,610	0	1,204,486	0	17,141,822	
03/2022	17,141,822	0	212,663	112,749	0	99,914	0	17,141,822	
06/2022	17,141,822	11,573,820	(1,133,740)	104,780	8,566,878	0	0	36,044,000	
09/2022	36,044,000	0	426,454	116,990	0	309,465	0	36,044,000	
12/2022	36,044,000	0	426,454	116,990	0	309,465	0	36,044,000	
03/2023	36,044,000	0	80,295	75,762	0	4,533	0	36,044,000	
06/2023	36,044,000	0	142,945	75,832	0	67,113	0	36,044,000	
	0	13,820,925	11,219,992	6,307,347	51,069,768	6,443,838	27,315,500	36,044,000	

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**Rangeland  
Real Estate Portfolio  
Quarterly Changes in Market Value**

	<b>Beg. of Period Market</b>	<b>+ Capital Contri- butions</b>	<b>+ Accounting Income</b>	<b>- Mgmt. Fees</b>	<b>+ Appre- ciation</b>	<b>- Dist. of Income &amp; Real. Gains</b>	<b>- Return of Capital</b>	<b>=</b>	<b>End of Period Market</b>
09/2015	61,000,000	0	742,508	439,390	0	303,118	0	61,000,000	
12/2015	61,000,000	0	742,508	439,390	0	303,118	0	61,000,000	
03/2016	61,000,000	0	742,508	439,390	0	303,118	0	61,000,000	
06/2016	61,000,000	0	742,508	439,390	0	303,118	0	61,000,000	
09/2016	61,000,000	418,712	15,744	434,456	0	0	0	61,000,000	
12/2016	61,000,000	0	651,041	417,971	0	233,070	0	61,000,000	
03/2017	61,000,000	99,786	366,069	465,855	0	0	0	61,000,000	
06/2017	61,000,000	0	1,943,241	668,142	0	1,275,099	0	61,000,000	
09/2017	61,000,000	0	298,769	285,833	0	12,936	0	61,000,000	
12/2017	61,000,000	0	388,362	375,616	0	12,746	0	61,000,000	
03/2018	61,000,000	0	495,725	347,673	0	148,052	0	61,000,000	
06/2018	61,000,000	0	1,761,042	618,366	0	1,142,676	0	61,000,000	
09/2018	61,000,000	199,366	237,272	436,638	0	0	0	61,000,000	
12/2018	61,000,000	0	635,741	533,906	0	101,835	0	61,000,000	
03/2019	61,000,000	0	510,128	507,905	0	2,223	0	61,000,000	
06/2019	61,000,000	0	1,780,339	527,962	0	1,252,377	0	61,000,000	
09/2019	61,000,000	0	640,720	407,518	0	233,202	0	61,000,000	
12/2019	61,000,000	355,492	146,409	501,901	0	0	0	61,000,000	
03/2020	61,000,000	0	915,943	368,220	0	547,723	0	61,000,000	
06/2020	61,000,000	0	1,561,026	834,043	0	726,983	0	61,000,000	
09/2020	61,000,000	254,602	246,869	501,471	0	0	0	61,000,000	
12/2020	61,000,000	234,183	386,704	620,887	0	0	0	61,000,000	
03/2021	61,000,000	0	776,352	457,148	0	319,204	0	61,000,000	
06/2021	61,000,000	0	1,404,069	544,811	0	859,258	0	61,000,000	
09/2021	61,000,000	140,822	328,488	469,310	2,400,000	0	0	63,400,000	
12/2021	63,400,000	151,814	329,645	481,459	0	0	0	63,400,000	
03/2022	63,400,000	0	748,455	379,517	0	368,938	0	63,400,000	
06/2022	63,400,000	0	1,486,842	669,986	0	816,856	14,160	63,385,840	
09/2022	63,385,840	201,639	308,358	509,998	0	0	0	63,385,840	
12/2022	63,385,840	201,639	308,358	509,998	0	0	0	63,385,840	
03/2023	63,385,840	0	876,053	305,270	0	570,783	0	63,385,840	
06/2023	63,385,840	0	1,627,975	483,554	0	1,144,421	0	63,385,840	
	0	2,258,055	24,145,773	15,422,975	63,400,000	10,980,853	14,160	63,385,840	

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**Residential Real Estate  
Real Estate Portfolio  
Quarterly Changes in Market Value**

	<b>Beg. of Period Market</b>	<b>+ Capital Contri- butions</b>	<b>+ Accounting Income</b>	<b>- Mgmt. Fees</b>	<b>+ Appre- ciation</b>	<b>- Dist. of Income &amp; Real. Gains</b>	<b>- Return of Capital</b>	<b>= End of Period Market</b>
09/2015	149,700,000	0	1,313,522	497,503	(0)	816,019	6,737,772	142,962,228
12/2015	142,962,228	0	1,313,522	497,503	0	816,019	6,737,772	136,224,456
03/2016	136,224,456	0	1,313,522	497,503	(0)	816,019	6,737,772	129,486,683
06/2016	129,486,683	0	1,313,522	497,503	0	816,019	6,737,772	122,748,911
09/2016	122,748,911	381,271	(180,856)	200,415	0	0	16,590,224	106,158,687
12/2016	106,158,687	0	2,567,931	520,013	1,328,500	2,047,918	16,327,104	91,160,083
03/2017	91,160,083	0	1,067,980	278,000	0	789,980	527,000	90,633,083
06/2017	90,633,083	0	733,100	239,660	0	493,440	25,100	90,607,983
09/2017	90,607,983	191,474	215,266	406,740	21,795,349	0	7,770,000	104,633,332
12/2017	104,633,332	0	1,377,513	479,530	0	897,983	27,995,332	76,638,000
03/2018	76,638,000	0	780,233	332,140	5,419,200	448,093	0	82,057,200
06/2018	82,057,200	0	585,635	499,043	0	86,592	0	82,057,200
09/2018	82,057,200	329,362	249,555	578,917	382,500	0	3,870,000	78,569,700
12/2018	78,569,700	0	756,605	543,893	635,124	212,712	25,136,124	54,068,700
03/2019	54,068,700	320,829	529,033	849,862	0	0	0	54,068,700
06/2019	54,068,700	0	443,413	41,011	0	402,402	0	54,068,700
09/2019	54,068,700	479,188	(3,659)	475,529	0	0	2,692,000	51,376,700
12/2019	51,376,700	0	1,011,713	450,284	0	561,429	12,793,400	38,583,300
03/2020	38,583,300	457,506	385,625	843,131	0	0	866,000	37,717,300
06/2020	37,717,300	0	425,416	358,076	896,000	67,340	52,134	38,561,166
09/2020	38,561,166	268,009	101,300	369,309	1,341,867	0	5,179,720	34,723,313
12/2020	34,723,313	0	854,422	432,045	1,715,133	422,377	6,595,000	29,843,446
03/2021	29,843,446	0	286,337	271,448	0	14,889	0	29,843,446
06/2021	29,843,446	0	286,337	271,448	1,940,554	14,889	0	31,784,000
09/2021	31,784,000	410,319	(5,357)	404,962	3,560,440	0	1,500,720	33,843,720
12/2021	33,843,720	23,250,000	617,713	316,799	0	300,914	33,390,720	23,703,000
03/2022	23,703,000	0	328,088	244,143	4,950,000	83,945	9,890,500	18,762,500
06/2022	18,762,500	0	1,427,136	231,706	0	1,195,430	0	18,762,500
09/2022	18,762,500	0	298,266	236,566	5,415,000	61,700	0	24,177,500
12/2022	24,177,500	0	298,266	236,566	0	61,700	16,405,187	7,772,313
03/2023	7,772,313	0	191,590	188,563	8,685,000	3,027	9,800,000	6,657,313
06/2023	6,657,313	23,525	199,946	223,471	0	0	0	6,657,313
	0	26,111,483	21,082,634	12,513,281	207,764,667	11,430,836	224,357,354	6,657,313

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**Timberland  
Real Estate Portfolio  
Quarterly Changes in Market Value**

	<b>Beg. of Period Market</b>	<b>+</b>	<b>Capital Contri- butions</b>	<b>+</b>	<b>Accounting Income</b>	<b>-</b>	<b>Mgmt. Fees</b>	<b>+</b>	<b>Appre- ciation</b>	<b>-</b>	<b>Distri- butions</b>	<b>=</b>	<b>End of Period Market</b>
09/2015	1,174,000,000		0		15,734,434		5,049,044		0		10,685,391		1,174,000,000
12/2015	1,174,000,000		0		15,734,434		5,049,044		0		10,685,391		1,174,000,000
03/2016	1,174,000,000		0		15,734,434		5,049,044		0		10,685,391		1,174,000,000
06/2016	1,174,000,000		0		15,734,434		5,049,044		0		10,685,391		1,174,000,000
09/2016	1,174,000,000		0		31,000,749		6,825,496		0		24,175,253		1,174,000,000
12/2016	1,174,000,000		2,503,786		11,714,928		5,848,099		0		5,866,829		1,176,503,786
03/2017	1,176,503,786		4,320,365		16,937,064		4,381,542		0		12,555,522		1,180,824,151
06/2017	1,180,824,151		2,111,403		4,896,281		7,007,684		0		0		1,180,824,151
09/2017	1,180,824,151		0		23,950,872		6,171,175		0		17,779,697		1,180,824,151
12/2017	1,180,824,151		0		12,859,562		5,492,071		0		7,367,491		1,180,824,151
03/2018	1,180,824,151		0		20,321,021		4,354,624		0		15,966,397		1,180,824,151
06/2018	1,180,824,151		0		9,088,810		6,580,333		0		2,508,477		1,180,824,151
09/2018	1,180,824,151		0		25,565,025		6,616,709		0		18,948,316		1,180,824,151
12/2018	1,180,824,151		42,450,829		24,456,789		5,501,880		0		18,954,909		1,223,274,980
03/2019	1,223,274,980		0		15,276,769		4,827,971		0		10,448,798		1,223,274,980
06/2019	1,223,274,980		4,673,788		2,317,902		6,991,690		0		0		1,223,274,980
09/2019	1,223,274,980		0		23,812,783		6,242,732		0		17,570,051		1,223,274,980
12/2019	1,223,274,980		0		17,882,294		6,061,113		0		11,821,181		1,223,274,980
03/2020	1,223,274,980		0		18,638,361		3,762,953		0		14,875,408		1,223,274,980
06/2020	1,223,274,980		0		8,956,431		6,735,896		0		2,220,535		1,223,274,980
09/2020	1,223,274,980		0		25,452,127		5,987,474		0		19,464,653		1,223,274,980
12/2020	1,223,274,980		0		18,095,125		4,859,826		0		13,235,299		1,223,274,980
03/2021	1,223,274,980		0		27,260,805		3,960,254		0		23,300,551		1,223,274,980
06/2021	1,223,274,980		0		10,534,222		6,813,321		0		3,720,901		1,223,274,980
09/2021	1,223,274,980		0		26,825,218		6,108,460		336,725,020		20,716,758		1,560,000,000
12/2021	1,560,000,000		0		21,880,875		6,151,047		0		15,729,828		1,560,000,000
03/2022	1,560,000,000		0		22,475,223		4,043,218		0		18,432,005		1,560,000,000
06/2022	1,560,000,000		351,122		6,094,245		6,445,367		0		0		1,560,000,000
09/2022	1,560,000,000		0		24,778,014		6,221,904		0		18,556,110		1,560,000,000
12/2022	1,560,000,000		50,439,200		24,778,014		6,221,904		0		18,556,110		1,610,439,200
03/2023	1,610,439,200		0		19,176,978		4,906,442		0		14,270,536		1,610,439,200
06/2023	1,610,439,200		664,035		6,293,446		6,957,481		0		0		1,610,439,200
	0		107,514,528		564,257,671		182,274,840		1,510,725,020		389,783,179		1,610,439,200

Cash flows, including market values and management fees, were provided by Idaho Department of Lands using their internal methodology which may be subject to change. The cash flow and categorizations have not been independently verified by Callan for accuracy or consistency with industry standards. Specific dates for each individual cash flow were not provided. To convert the non-specific cash flow information to a format that could be used in performance calculations, Callan assumed all cashflows occurred at mid-quarter to arrive at quarterly performance numbers. Performance figures are calculated using a modified BAI methodology.

**Land Bank  
Real Estate Portfolio  
Quarterly Changes in Market Value**

	<b>Beg. of Period Market</b>	<b>+ Capital Contri- butions</b>	<b>+ Accounting Income</b>	<b>- Mgmt. Fees</b>	<b>+ Appre- ciation</b>	<b>- Dist. of Income &amp; Real. Gains</b>	<b>- Return of Capital</b>	<b>= End of Period Market</b>
09/2015	4,983,428	6,737,772	12,610	0	0	0	0	11,733,810
12/2015	11,733,810	6,737,772	12,610	0	0	0	0	18,484,193
03/2016	18,484,193	6,737,772	12,610	0	0	0	0	25,234,575
06/2016	25,234,575	6,737,772	12,610	0	(0)	0	0	31,984,958
09/2016	31,984,958	16,590,224	55,135	0	0	10,979	125,023	48,494,315
12/2016	48,494,315	16,329,704	102,209	0	0	0	2,503,786	62,422,442
03/2017	62,422,442	17,792,000	154,985	0	0	0	4,320,365	76,049,062
06/2017	76,049,062	25,100	205,626	0	0	0	0	76,279,788
09/2017	76,279,788	7,770,000	241,789	0	0	0	0	84,291,577
12/2017	84,291,577	27,995,332	331,297	0	0	0	0	112,618,206
03/2018	112,618,206	8,490,000	421,714	0	0	0	0	121,529,920
06/2018	121,529,920	10,500	519,281	0	0	0	0	122,059,701
09/2018	122,059,701	3,870,000	582,578	0	0	0	0	126,512,279
12/2018	126,512,279	25,136,124	797,030	619,400	0	0	42,450,829	109,375,204
03/2019	109,375,204	0	682,236	318,673	0	0	0	109,738,767
06/2019	109,738,767	0	671,781	0	0	0	0	110,410,548
09/2019	110,410,548	4,252,500	669,149	0	0	0	0	115,332,197
12/2019	115,332,197	12,793,400	666,353	0	0	0	0	128,791,950
03/2020	128,791,950	865,200	632,842	0	0	0	0	130,289,992
06/2020	130,289,992	52,134	420,030	0	0	0	0	130,762,156
09/2020	130,762,156	5,159,720	220,108	0	0	0	0	136,141,984
12/2020	136,141,984	6,595,000	154,248	0	0	0	0	142,891,232
03/2021	142,891,232	0	165,325	0	0	0	0	143,056,557
06/2021	143,056,557	0	101,260	0	0	0	31,785,592	111,372,225
09/2021	111,372,225	1,500,720	58,036	0	0	0	4,021,508	108,909,473
12/2021	108,909,473	33,390,720	85,049	0	0	0	0	142,385,242
03/2022	142,385,242	9,890,500	97,817	0	0	0	0	152,373,559
06/2022	152,373,559	0	225,994	0	0	0	47,135,952	105,463,601
09/2022	105,463,601	0	591,748	0	0	0	0	106,055,349
12/2022	106,055,349	16,405,187	591,748	0	0	0	56,451,580	66,600,704
03/2023	66,600,704	9,800,000	362,549	0	0	0	0	76,763,253
06/2023	76,763,253	0	607,688	0	0	0	2,847,310	74,523,631
	0	251,665,154	10,466,046	938,073	4,983,428	10,979	191,641,945	74,523,631

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## Quarterly Highlights

The Callan Institute provides research to update clients on the latest industry trends and carefully structured educational programs to enhance the knowledge of industry professionals. Visit [www.callan.com/research-library](http://www.callan.com/research-library) to see all of our publications, and [www.callan.com/blog](http://www.callan.com/blog) to view our blog. For more information contact Barb Gerraty at 415-274-3093 / [institute@callan.com](mailto:institute@callan.com).

## New Research from Callan's Experts

**[2023 Private Credit Fees and Terms Study](#)** | Catherine Beard and Jared Ungar assess private credit partnerships in our first fees and terms study for this asset class.

**[2Q23 Real Assets Reporter: Life Sciences Investments](#)** | Christine Mays describes life sciences investments and the role they can play in institutional portfolios.

**[The Critical Underlying Technology Behind Digital Assets: A Primer for Institutional Investors](#)** | This paper provides background on key concepts around digital assets: blockchains and distributed ledgers; cryptography; validation protocols; smart contracts; and tokenization.

## Blog Highlights

**[Biodiversity: A Relatively New Theme for ESG-Focused Investors](#)** | Biodiversity investments include companies that support the sustainable use of natural resources and ecosystem services or technologies, or products or services that reduce biodiversity threats or restore natural habitats.

**[Higher Interest Rates Meet Lower Valuations: Implications for the CRE Industry](#)** | The commercial real estate (CRE) industry, already facing challenges with economic uncertainty, the shift to remote work, and recent layoffs by many major office tenants, now confronts higher interest rates and plummeting pricing.

**[How to Improve DC Plans with DEI](#)** | For defined contribution (DC) plan sponsors, understanding the diversity within the employee population supports inclusiveness and equality in access and opportunities.

## Webinar Replays

**[Research Cafe: ESG Interview Series](#)** | During this interview, Aaron Quach, Callan ESG team member, interviews Jan Mende, Callan real assets specialist and author of our white paper on energy transition. They will discuss the growing opportunities for investment within the energy transition space and how they can be incorporated into the portfolios of institutional investors.

## Quarterly Periodicals

**[Private Equity Update, 1Q23](#)** | A high-level summary of private equity activity in the quarter through all the investment stages

**[Active vs. Passive Charts, 1Q23](#)** | A comparison of active managers alongside relevant benchmarks over the long term

**[Market Pulse, 1Q23](#)** | A quarterly market reference guide covering trends in the U.S. economy, developments for institutional investors, and the latest data on the capital markets

**[Capital Markets Review, 1Q23](#)** | Analysis and a broad overview of the economy and public and private markets activity each quarter across a wide range of asset classes

**[Hedge Fund Update, 1Q23](#)** | Commentary on developments for hedge funds and multi-asset class (MAC) strategies

**[Real Assets Update, 1Q23](#)** | A summary of market activity for real assets and private real estate during the quarter

**[Private Credit Update, 1Q23](#)** | A review of performance and fundraising activity for private credit during the quarter

## Events

A complete list of all upcoming events can be found on our website: [callan.com/events-education](https://callan.com/events-education).

Please mark your calendar and look forward to upcoming invitations:

**Webinar: The End of the Low-Yield Environment**  
Aug 9, 2023 – Virtual

**2023 October Workshops**  
Oct. 24, 2023 – New York  
Oct. 26, 2023 – Chicago

**2024 National Conference**  
April 8-10, 2024 – San Francisco

For more information about events, please contact Barb Gerraty: 415-274-3093 / [gerraty@callan.com](mailto:gerraty@callan.com)

## Education: By the Numbers

50+

Unique pieces of research the Institute generates each year

525

Attendees (on average) of the Institute's annual National Conference

3,700

Total attendees of the "Callan College" since 1994

## Education

Founded in 1994, the "Callan College" offers educational sessions for industry professionals involved in the investment decision-making process.

**Introduction to Investments**  
Sept. 26-28 – Virtual

This program familiarizes institutional investor trustees and staff and asset management advisers with basic investment theory, terminology, and practices. This course is designed for individuals with less than two years of experience with asset-management oversight and/or support responsibilities.

**Alternative Investments**  
Aug. 23-24 – Virtual

Alternative investments like private equity, hedge funds, and real estate can play a key role in any portfolio. In our "Callan College" on Alternatives, you will learn about the importance of allocations to alternatives, and how to consider integrating, evaluating, and monitoring them.

Our virtual sessions are held over two to three days with virtual modules of 2.5-3 hours, while in-person sessions run either a full day or one-and-a-half days. Virtual tuition is \$950 per person and includes instruction and digital materials. In-person tuition is \$2,350 per person and includes instruction, all materials, breakfast and lunch on each day, and dinner on the first evening with the instructors.

Additional information including registration can be found at: [callan.com/events-education](https://callan.com/events-education)



"Research is the foundation of all we do at Callan, and sharing our best thinking with the investment community is our way of helping to foster dialogue to raise the bar across the industry."

Greg Allen, CEO and Chief Research Officer





## List of Callan's Investment Manager Clients

Confidential – For Callan Client Use Only

Callan takes its fiduciary and disclosure responsibilities to clients very seriously. We recognize that there are numerous potential conflicts of interest encountered in the investment consulting industry, and that it is our responsibility to manage those conflicts effectively and in the best interest of our clients. At Callan, we employ a robust process to identify, manage, monitor, and disclose potential conflicts on an ongoing basis.

The list below is an important component of our conflicts management and disclosure process. It identifies those investment managers that pay Callan fees for educational, consulting, software, database, or reporting products and services. We update the list quarterly because we believe that our fund sponsor clients should know the investment managers that do business with Callan, particularly those investment manager clients that the fund sponsor clients may be using or considering using. Please note that if an investment manager receives a product or service on a complimentary basis (e.g., attending an educational event), they are not included in the list below. Callan is committed to ensuring that we do not consider an investment manager's business relationship with Callan, or lack thereof, in performing evaluations for or making suggestions or recommendations to its other clients. Please refer to Callan's ADV Part 2A for a more detailed description of the services and products that Callan makes available to investment manager clients through our Institutional Consulting Group, Independent Adviser Group, and Fund Sponsor Consulting Group. Due to the complex corporate and organizational ownership structures of many investment management firms, parent and affiliate firm relationships are not indicated on our list.

Fund sponsor clients may request a copy of the most currently available list at any time. Fund sponsor clients may also request specific information regarding the fees paid to Callan by particular fund manager clients. Per company policy, information requests regarding fees are handled exclusively by Callan's Compliance department.

### Manager Name

abrdrn (Aberdeen Standard Investments)

ABS Global Investments

Acadian Asset Management LLC

Adams Street Partners, LLC

Aegon Asset Management

AllianceBernstein

Allspring Global Investments, LLC

AlphaSimplex Group, LLC

Altrinsic Global Advisors, LC

American Capital Management, Inc.

American Century Investments

Amundi US, Inc.

Antares Capital LP

Apollo Global Management, Inc.

AQR Capital Management

Ares Management LLC

Ariel Investments, LLC

Aristotle Capital Management, LLC

### Manager Name

Atlanta Capital Management Co., LLC

AXA Investment Managers

Baillie Gifford International, LLC

Baird Advisors

Barings LLC

Baron Capital Management, Inc.

Barrow, Hanley, Mewhinney & Strauss, LLC

BentallGreenOak

Beutel, Goodman & Company Ltd.

Bissell Ballantyne LLC

BlackRock

Blackstone Group (The)

Blue Owl Capital, Inc.

BNY Mellon Asset Management

Boston Partners

Brandes Investment Partners, L.P.

Brandywine Global Investment Management, LLC

Brightwood Capital Advisors, LLC

**Manager Name**

Brookfield Asset Management Inc.

Brown Brothers Harriman &amp; Company

Capital Group

Cardinal Capital, LLC

CastleArk Management, LLC

CIBC Asset Management Inc.

ClearBridge Investments, LLC

Cohen &amp; Steers Capital Management, Inc.

Columbia Threadneedle Investments North America

Comvest Partners

CQS

Credit Suisse Asset Management, LLC

D.E. Shaw Investment Management, LLC

DePrince, Race &amp; Zollo, Inc.

Diamond Hill Capital, Inc.

Dimensional Fund Advisors L.P.

Doubleline

DWS

EARNEST Partners, LLC

Epoch Investment Partners , Inc. \* (See new name)

Fayez Sarofim &amp; Company

Federated Hermes, Inc.

Fidelity Institutional Asset Management

Fiera Capital Corporation

First Eagle Investment Management, LLC

First Hawaiian Bank Wealth Management Division

First Sentier Investors

Fisher Investments

Franklin Templeton

Fred Alger Management, LLC

GAM (USA) Inc.

Glenmede Investment Management, LP

GlobeFlex Capital, L.P.

GoldenTree Asset Management, LP

Goldman Sachs

Golub Capital

Great Lakes Advisors, LLC

Guggenheim Investments

GW&amp;K Investment Management

Harbor Capital Advisors

**Manager Name**

Hardman Johnston Global Advisors LLC

Heitman LLC

Hotchkis &amp; Wiley Capital Management, LLC

Impax Asset Management LLC

Income Research + Management

Insight Investment

Intech Investment Management LLC

Intercontinental Real Estate Corporation

Invesco

J.P. Morgan

Janus

Jarislowsky Fraser Global Investment Management

Jennison Associates LLC

Jobs Peak Advisors

KeyCorp

Kohlberg Kravis Roberts &amp; Co. (KKR)

Lazard Asset Management

LGIM America

Lincoln National Corporation

Longview Partners

Loomis, Sayles &amp; Company, L.P.

Lord, Abbett &amp; Company

LSV Asset Management

MacKay Shields LLC

Macquarie Asset Management (MAM)

Manulife Investment Management

Marathon Asset Management, L.P.

MetLife Investment Management

MFS Investment Management

MidFirst Bank

Mondrian Investment Partners Limited

Montag &amp; Caldwell, LLC

Morgan Stanley Investment Management

MUFG Union Bank, N.A.

Natixis Investment Managers

Neuberger Berman

Newton Investment Management

Northern Trust Asset Management

Nuveen

Oaktree Capital Management, L.P.

**Manager Name**

P/E Investments

Pacific Investment Management Company

Pacific Ridge Capital Partners, LLC

Pantheon Ventures

Parametric Portfolio Associates LLC

Partners Group (USA) Inc.

Pathway Capital Management, LP

PFM Asset Management LLC

PGIM

PGIM DC Solutions

PGIM Fixed Income

PGIM Quantitative Solutions LLC

Pictet Asset Management

PineBridge Investments

Polen Capital Management, LLC

Pretium Partners, LLC

Principal Asset Management

Putnam Investments, LLC

Raymond James Investment Management

RBC Global Asset Management

Regions Financial Corporation

Robeco Institutional Asset Management, US Inc.

S&amp;P Dow Jones Indices

Sands Capital Management

Schroder Investment Management North America Inc.

Segall Bryant &amp; Hamill

**Manager Name**

Silvercrest Asset Management Group

SLC Management

Smith Graham &amp; Co. Investment Advisors, L.P.

Sprucegrove Investment Management Ltd

State Street Global Advisors

Strategic Global Advisors, LLC

\*TD Global Investment Solutions – TD Epoch

T. Rowe Price Associates, Inc.

The TCW Group, Inc.

Thompson, Siegel &amp; Walmsley LLC

Tri-Star Trust Bank

UBS Asset Management

VanEck

Vanguard Group, Inc. (The)

Versus Capital Group

Victory Capital Management Inc.

Virtus Investment Partners, Inc.

Vontobel Asset Management

Voya

Walter Scott &amp; Partners Limited

WCM Investment Management

Wellington Management Company, LLP

Western Asset Management Company LLC

Westfield Capital Management Company, LP

William Blair &amp; Company LLC

Xponance, Inc.

## Important Disclosures

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The statements made herein may include forward-looking statement regarding future results. The forward-looking statement herein: (i) are best estimations consistent with the information available as of the date hereof and (ii) involve known and unknown risks and uncertainties. Actual results may vary, perhaps materially, from the future result projected in this document. Undue reliance should not be placed on forward-looking statements.

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The issues considered and risks highlighted herein are not comprehensive and other risks may exist that the user of this document may deem material regarding the enclosed information. Any decision you make on the basis of this document is sole responsibility of the client, as the intended recipient, and it is incumbent upon you to make an independent determination of the suitability and consequences of such a decision.

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Past performance is no guarantee of future results.

# STATE BOARD OF LAND COMMISSIONERS

November 21, 2023

Consent Agenda

## Subject

Commercial Recreation Lease Live Auction – October 4, 2023

## Question Presented

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

## Background

During the open application period for expiring commercial recreation lease M300004, the Idaho Department of Lands (Department) received two applications for the new lease, M300014. Pursuant to Idaho Code § 58-310 and Department procedure, when two or more eligible applicants apply to lease the same state endowment trust land, the Department shall hold a live auction. Department staff conducted the live auction and determined the high bidder for this lease in accordance with existing statutes, rules, and procedures.

## Discussion

For the purposes of securing a single lessee for lease M300014, a live auction was held in the Department's Coeur d'Alene Staff Office on October 4, 2023. The successful premium bid for this auction was \$4,000. This lease was offered for a 10-year term. Attachment 1 summarizes the results of the live auction.

Auction participants were notified of the time period (20 days from the date of the auction) within which an appeal to the State Board of Land Commissioners (Land Board) was available to each participant. The 20-day appeal period has expired, and no appeals to the Land Board were received by the Department.

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

## Recommendation

Direct the Department to award commercial recreation lease M300014 to the high bidder, Bryan Peterson.

## **Board Action**

## **Attachments**

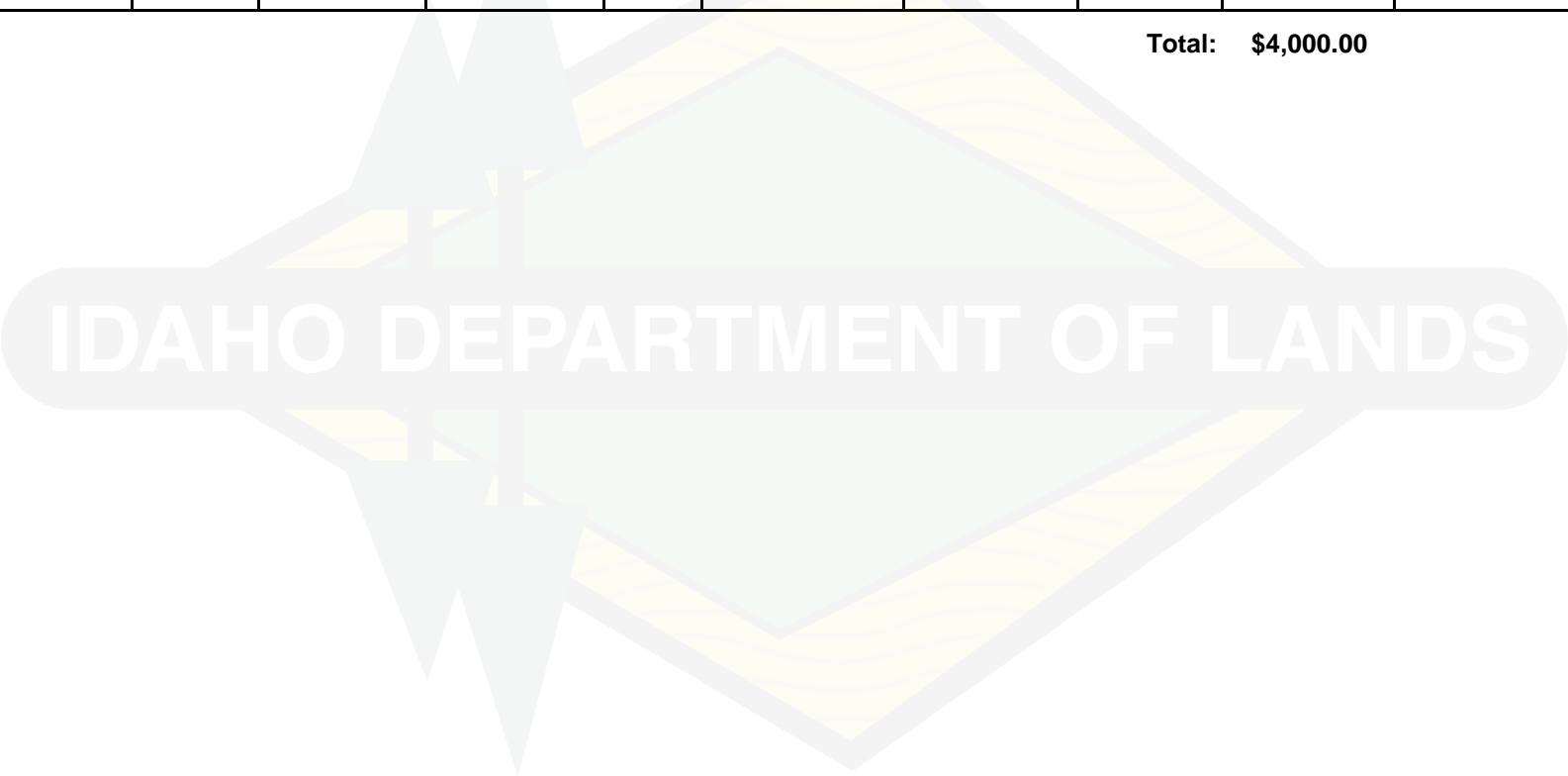
1. Summary of Auction Results
2. Site Map



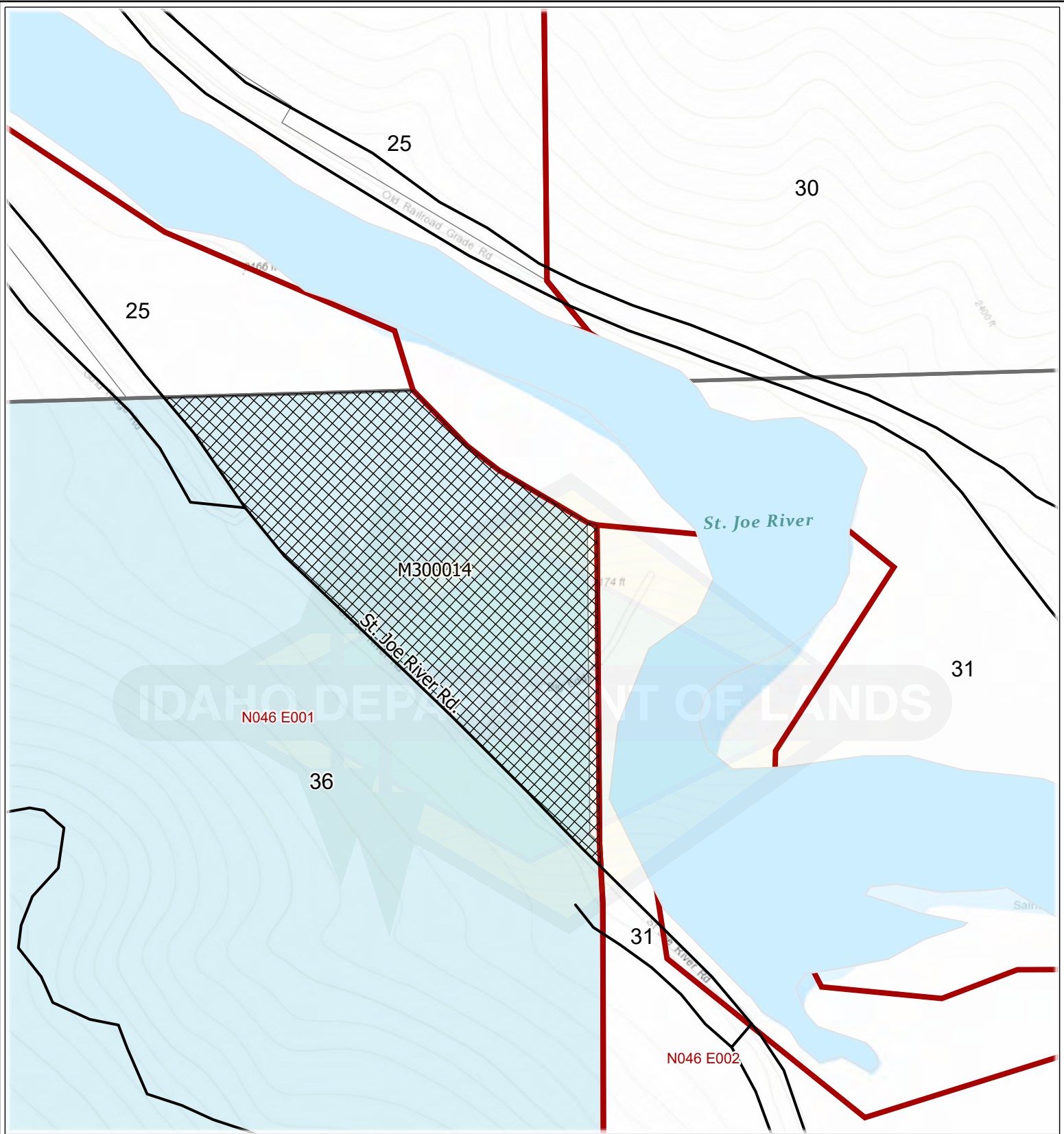
**Summary of October 4, 2023 Commercial Recreation Lease Live Auction**

Supervisory Area	Lease Number	Endowment	Lease Term (Years)	Acres	Improvement Value	# of Participants	# of Bids	High Bid Amount	High Bidder
St. Joe	M300014	PS	10	10.57	\$0.00	2	7	\$4,000.00	Bryan Peterson

**Total: \$4,000.00**







N046 E001

M300014

St. Joe River

31

36

31

N046 E002

- Township
- Section
- State
- Private
- Subject Lease
- Existing Roads

**M300014**

Town 46N & Range 1E Sec 36  
St. Joe Supervisory Area

11/1/2023

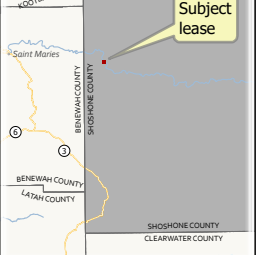


**Map Notes**

Projection: Idaho Transverse Mercator, NAD 83  
Map Notes and Data Sources

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

**Vicinity Map**



# STATE BOARD OF LAND COMMISSIONERS

November 21, 2023

Consent Agenda

## Subject

Residential Lease Live Auction – October 4, 2023

## Question Presented

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

## Background

During the open application period for expiring residential cottage site lease R100334, the Idaho Department of Lands (Department) received two applications for the new lease, lease R100406. Pursuant to Idaho Code § 58-310 and Department procedure, when two or more eligible applicants apply to lease the same state endowment trust land, the Department shall hold a live auction. Department staff conducted the live auction and determined the high bidder for this lease in accordance with existing statutes, rules, and procedures.

## Discussion

For the purposes of securing a single lessee for lease R100406, a live auction was held in the Department's Coeur d'Alene Staff Office on October 4, 2023. The successful premium bid for this auction was \$25,000. This lease was offered for a 1-year term. Attachment 1 summarizes the results of the live auction.

Auction participants were notified of the time period (20 days from the date of the auction) within which an appeal to the State Board of Land Commissioners (Land Board) was available to each participant. The 20-day appeal period has expired, and no appeals to the Land Board were received by the Department.

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

## Recommendation

Direct the Department to award residential cottage site lease R100406 to the high bidder, Kristina France.

## **Board Action**

## **Attachments**

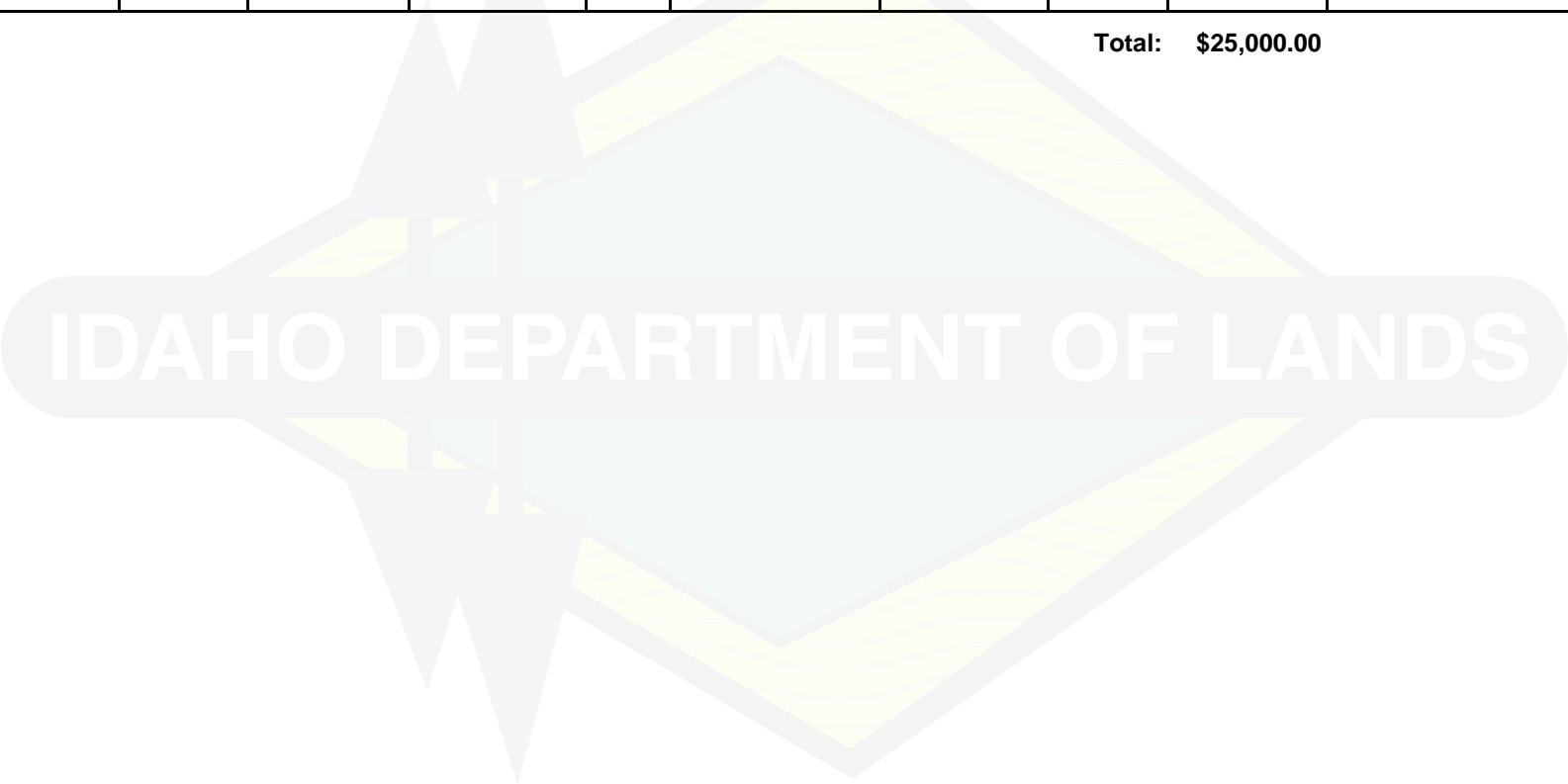
1. Summary of Auction Results
2. Site Map

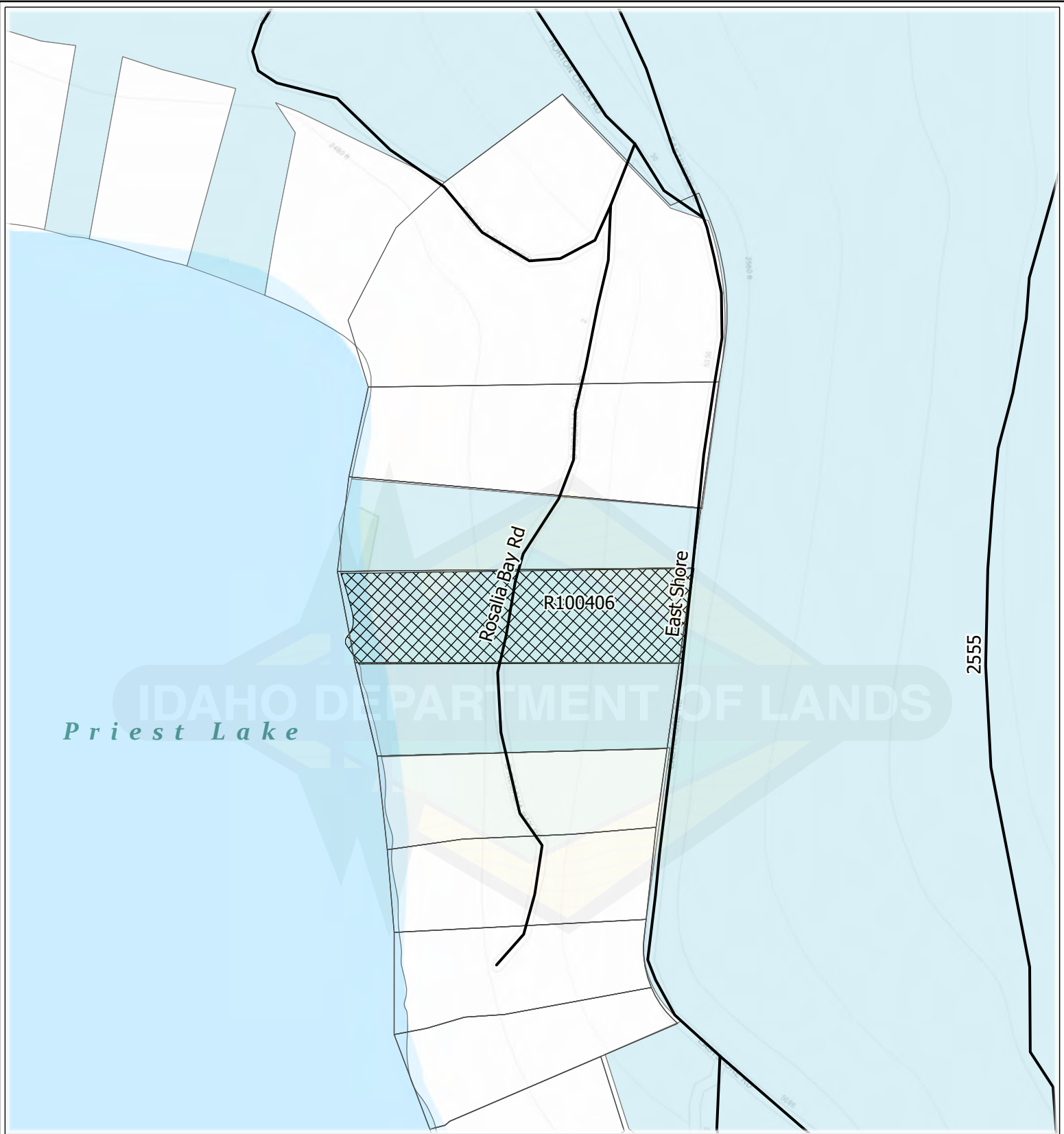


Summary of October 4, 2023 Residential Cottage Site Lease Live Auction

Supervisory Area	Lease Number	Endowment	Lease Term (Years)	Acres	Improvement Value	# of Participants	# of Bids	High Bid Amount	High Bidder
Priest Lake	R100406	PS	1	1.94	\$220,000.00	2	24	\$25,000.00	Kristina France (via proxy)

**Total: \$25,000.00**





- State
- Private
- Subject Lease
- Existing Roads
- County Parcels

**R100406**

Town 60N & Range 4W Sec 3  
 Priest Lake Supervisory Area

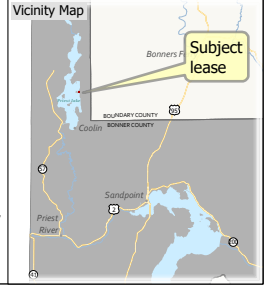
11/1/2023



**Map Notes**

Projection: Idaho Transverse Mercator, NAD 83  
 Map Notes and Data Sources

**Disclaimer:**  
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## 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

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*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

October 17, 2023

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, October 17, 2023 at the State Capitol, Lincoln Auditorium WW02, Lower Level, West Wing, 700 West Jefferson St., Boise, Idaho, and via webinar. The meeting began at 9:00 a.m. The Honorable Governor Brad Little presided. The following members were in attendance:

Honorable Governor Brad Little

Honorable Attorney General Raúl Labrador

Honorable State Controller Brandon Woolf

Honorable Superintendent of Public Instruction Debbie Critchfield

For the record, Governor Little, Attorney General Labrador, Controller Woolf, and Superintendent Critchfield attended at the physical location. Secretary of State McGrane was absent, administering other state business.

Director Miller welcomed ten Department employees in the audience who are participating in new employee onboarding, interacting with the executive team. These employees are from diverse parts of the state and operate in varied programs. Director Miller asked them to stand and be recognized and thanked them for being here. Governor Little greeted everyone.

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

##### **Trust Land Revenue**

A. Timber Sales – September 2023

B. Leases and Permits – September 2023

**Discussion:** None.

## **Status Update**

### **C. Fire Season Report-Final**

**Discussion:** Controller Woolf expressed kudos to the Department's fire team and their work keeping it to 2,600 acres burned; that is incredible. Controller Woolf mentioned the master agreement, recognizing this is the first year the Department can track and know the impact of it, and asked if the federal partners track what happened on their side based on this master agreement? Controller Woolf inquired if the Department could get that data and data analytics going forward. Director Miller replied that the Department tends to track things more closely than federal agencies do, which is not to say that they are not tracking this. Director Miller commented that there were some big fires in Idaho this year on Forest Service lands, on the Salmon-Challis Forest and on the main Salmon River, and others on the federal side that got quite large. The Department will ask the federal partners what their metrics look like this year, can they do a cost benefit analysis to see if they had any savings on their end.

Superintendent Critchfield thanked the Director for the breakdown of costs shown on the bottom table of page 2; she understood the \$4.6 million is reimbursable to the State, but where does the \$17 million come from? How is that addressed? Director Miller explained the \$4.6 million is reimbursable costs to the Department for sending Department resources off-district to places where the host district pays for those costs, it could be Forest Service, Bureau of Land Management (BLM), or another state. The rest of the cost breakdown includes prepayment for aviation resources based on the estimated number of days aircraft will be needed. The Department employs additional contract engines to help with resource scarcity. In the 2021 fire season when everything north of the Salmon River was burning, the Department and federal agencies had several large fires, and having those extra engines helped greatly with resource scarcity and providing that quick initial attack. Director Miller said Type 3 team fires are going to see more costs because firefighters are working longer trying as quickly as possible to suppress the fires. Governor Little clarified that the Superintendent's question might be about the money in the fire account that is already appropriated by the legislature; the Governor asked how much money is left in that fund. Director Miller responded that the legislature prefunded the fire suppression account to \$100 million last year. In 2023, the Department spent \$17 million of that, after the \$4.6 million reimbursement. Governor Little calculated there is \$83 million left. Director Miller indicated the Department has some outstanding payments that are either owed by or owed to the Department from previous fire seasons; that total is around \$35 million and includes the \$4.6 million reimbursable. Governor Little asked what the fund will have going into next fire season. Director Miller replied roughly \$64 million in the suppression account. Governor Little recalled that was more or less what the State spent in 2021. Governor Little asked if any land assets are doing prescribed burns this fall. Director Miller answered the Department conducts prescribed burns every year, and the BLM and Boise National Forest are doing a significant amount of burning as well. Governor Little commented that the Department's prescribed burns are paid for from operations, not the suppression account. Director Miller confirmed that is correct.

### **D. Land Bank Fund**

**Discussion:** None.

For the record, Scott Campbell, Division Chief-Energy and Natural Resources, Office of the Attorney General, introduced Allison Olson to Land Board members. Ms. Olson is a new deputy attorney general who will assist the Department with legal services.

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

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

**Discussion:** Mr. Anton stated that September was a challenging month for the Endowment Fund portfolio, both bonds and stocks declined during the month. Stocks suffered their worst month of 2023 as the S&P 500 was down 4.9%. Overall, the portfolio was down 3.3% for the month, and down 3.4% fiscal year-to-date. Through yesterday [10/16], the fund moved up a little, but still down 2.9%. Mr. Anton described the decline in both stocks and bonds beginning with good news that inflation continues to moderate. Peak inflation rate was slightly above 9%. Last month's headline inflation and PCE [Personal Consumption Expenditures] inflation was at 3.7% and 3.9% respectively; they continue to decline. Mr. Anton shared the bad news is that inflation remains above the Federal Reserve's target of 2%. The Federal Reserve communicated that they are going to keep rates higher for longer, to continue to try to bring inflation down to 2%. As a result, bond yields went up, which pushed bond prices down. The treasury rate is at a 10-year high as of this morning; the yield on 10-year treasuries is about 4.85%. That increase in rates put pressure on stocks and caused investors to be concerned that the higher interest rates would continue to slow the economy and put pressure both on corporations that have to refinance their debt as well as consumers that have to borrow. Mr. Anton mentioned another challenge in September was an increase in oil prices of approximately 10%, which put further pressure on inflation and increased the odds that the Federal Reserve would keep rates higher for longer. Governor Little noted there is no bogey for real estate in the EFIB Investment Report and suggested a discussion with the Investment Board. Mr. Anton explained there is a benchmark for real estate; it is difficult to report on it due to the sizable lag in when that is published. There are times when the benchmark comes out six months late; it makes the numbers look rather odd. Mr. Anton said he and the Investment Board will give some thought on how to best report that.

**Consent—Action Item(s)**

- 3. **Approval of Draft Minutes** – September 1, 2023 Special Meeting (Boise)
- 4. **Approval of Draft Minutes** – September 19, 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. Superintendent Critchfield seconded the motion. The motion carried on a vote of 4-0.



## Regular—Action Item(s)

### 5. Commercial Real Estate Advisor – Presented by Bill Haagenson, Deputy Director

**Recommendation:** Authorize the Department and the Investment Subcommittee to develop and issue an RFP for a commercial real estate advisor, review the responses, interview candidate firms, and make a recommendation to the Land Board.

**Discussion:** None.

**Board Action:** A motion was made by Controller Woolf that the Land Board authorize the Department and Investment Subcommittee to develop and issue an RFP for a commercial real estate advisor, review the responses, interview candidate firms, and make a recommendation to the Land Board. Superintendent Critchfield seconded the motion. The motion carried on a vote of 4-0.

### 6. IT Modernization – Presented by Dustin Miller, Director

**Recommendation:** Approve the transfer of Department IT resources to ITS in fiscal year 2025, with the following conditions:

- The Department and ITS enter into an agreement that provides certainty regarding support for Department IT needs.
- Service level agreements are adequate for support of special needs, such as during fire season.
- The Department's application development team will remain assigned to the existing project backlog for the next three years or until completed, if beyond three years.
- The Department will continue to receive a similar level of application development support beyond the three-year term.

**Discussion:** None.

**Board Action:** A motion was made by Controller Woolf that the Land Board approve the transfer of the Department IT resources to ITS in fiscal year 2025, with the four conditions listed as bullet items under the recommendation on page 2 of the Land Board memo. Superintendent Critchfield seconded the motion. The motion carried on a vote of 4-0.

## Information

None

## Executive Session

None

There being no further business before the Land Board, at 9:30 a.m. a motion to adjourn was made by Controller Woolf. Superintendent Critchfield seconded the motion. The motion carried on a vote of 4-0.

# STATE BOARD OF LAND COMMISSIONERS

November 21, 2023

Regular Agenda

## Subject

Annual Review of Statement of Investment Policy

## Question Presented

Shall the Land Board approve the revised Statement of Investment Policy for the combined Endowment assets?

## Background

In November 2014, the State Board of Land Commissioners (Land Board) accepted the Asset Allocation and Governance Review from Callan Associates (Callan). The report included a recommendation to develop:

A comprehensive Investment Policy Statement...for the combined Trust that identifies the investment objectives, risk management processes, risk tolerance (including connecting the risk taken in the asset allocation with that expressed in the distribution policy), the adopted asset allocation and rebalancing ranges, decision-making and the roles of each party involved in the investment process, how performance will be monitored and measured for each asset type, and the establishment of appropriate metrics and peer groups where relevant for both the land and financial assets.

Callan, working with the Idaho Department of Lands (Department) and the Endowment Fund Investment Board (EFIB), developed a Statement of Investment Policy for the combined Endowment assets, which was approved by the Land Board at the May 17, 2016 meeting. The Statement of Investment Policy and appendices are subject to annual review and approval by the Land Board's Investment Subcommittee and the Land Board.

## Discussion

The Department worked with EFIB and Callan to review and revise the Statement of Investment Policy and appendices (Attachment 1), previously approved at the November 15, 2022 Land Board meeting, to make corrections, align with current practices, and provide clarity. The following items were among the revisions:

- Asset class valuations and percentages of total portfolio as of June 30, 2023.
- Minor revisions to text throughout the document to provide clarity or make corrections.
- Revisions to asset class descriptions for farmland and rangeland to remove reinvestment-related information.

The changes to the Statement of Investment Policy were approved by the Investment Subcommittee on October 31, 2023.

### **Recommendation**

Approve the revised Statement of Investment Policy.

### **Board Action**

### **Attachments**

1. Revised Statement of Investment Policy and appendices



# Statement of Investment Policy

## Idaho Land Grant Endowments

As overseen by the:

**Idaho Board of Land Commissioners**



IDAHO DEPARTMENT OF LANDS INCLUDES FUNDS MANAGED BY THE ENDOWMENT FUND INVESTMENT BOARD



INCLUDES LAND MANAGED BY THE IDAHO DEPARTMENT OF LANDS

November ~~1521~~, ~~2022~~2023

This Statement of Investment Policy was initially published May 17, 2016 and is updated annually.

# Table of Contents

- I. Introduction..... 1
- II. Purpose..... 1
- III. Constitutional and Statutory Requirements ..... 1
  - A. Land Board..... 1
  - B. Sole Interest of the Beneficiaries ..... 2
  - C. Prudent Investments and Fiduciary Duties ..... 2
  - D. Sales, Exchanges, and the Land Bank ..... 2
  - E. Other Constitutional Requirements and Statutes..... 3
- IV. Investment Goals..... 3
  - A. General Objective..... 3
  - B. Considerations..... 3
  - C. Investment Return Objective ..... 4
  - D. Distribution Policy ..... 4
- V. Investment Risk and Strategic Asset Allocation ..... 4
  - A. Asset Class Diversification Asset Classes..... 4
  - B. Review of Asset Classes and Asset Allocation ..... 4
  - C. Strategic Asset Allocation..... 5
  - D. Strategic Policies..... 6
- VI. Investment Governance Structure ..... 6
  - A. Land Board Responsibility ..... 6
  - B. Investment Governance and Investment Policy for the Financial Assets ..... 9
  - C. Investment Governance for Land Assets..... 10
  - D. Role of the Legislature..... 12
- VII. Asset Class Policies for Land Assets..... 12
  - A. Investment Objective for the Land Assets ..... 12
  - B. Key Elements of the Land Strategy..... 13
  - C. Timberland ..... 14
  - D. Rangeland..... 16
  - E. Residential Real Estate ..... 18
  - F. Farmland..... 19
  - G. Idaho Commercial Real Estate..... [21](#)~~21~~~~20~~
  - H. Minerals/Oil & Gas ..... [22](#)~~22~~~~21~~

I.	Transition of Lands .....	<a href="#">23</a> <del>23</del> <del>22</del>
J.	Land Bank .....	24
VIII.	Distribution Policy .....	25
A.	Objectives .....	25
B.	Considerations.....	<a href="#">26</a> <del>25</del>
C.	Policy Description .....	<a href="#">26</a> <del>26</del> <del>25</del>
IX.	Monitoring and Reporting .....	26
A.	Philosophy .....	26
B.	Deviation from Policies.....	<a href="#">27</a> <del>27</del> <del>26</del>
C.	Financial Assets .....	27
D.	Land Assets .....	<a href="#">28</a> <del>28</del> <del>27</del>
E.	Total Endowment .....	29
X.	Key Documents .....	30
XI.	Appendices: .....	31
A.	Structure of the Endowment.....	32
B.	Constitution and State Statutes .....	33
C.	EFIB Investment Policy .....	34
D.	Use of External Advisors.....	<a href="#">45</a> <del>45</del> <del>43</del>
E.	Decision-Making Structure Chart .....	<a href="#">46</a> <del>46</del> <del>44</del>
F.	EFIB’s Distribution Principles.....	<a href="#">47</a> <del>47</del> <del>45</del>

IDAHO DEPARTMENT OF LANDS

## I. Introduction

The State Board of Land Commissioners (Land Board) hereby establishes this Statement of Investment Policy (Statement) for the investment and management of the land grant endowment assets (Endowment Assets or Endowment) of the State of Idaho. The Endowment Assets were created by The Idaho Admissions Act in 1889 which granted the new state approximately 3,600,000 acres of land for the sole purpose of funding fourteen specified beneficiaries including nine different trusts or endowments.

This Statement provides policies for the investment and management of financial and land assets which together comprise the Endowment Assets. Financial Assets consist primarily of the invested revenues from the endowment lands (collectively, Financial Assets). Land Assets include timberland, rangeland, farmland, commercial real estate, residential (cabin sites) real estate, minerals, and oil and gas (collectively, Land Assets) located in Idaho.

## II. Purpose

This Statement of Investment Policy is set forth by the Land Board to accomplish the following:

- Establish a clear understanding for all involved parties regarding the management and investment goals and objectives for the Endowment Assets.
- ~~Offer~~ Establish guidance and limitations to all involved parties regarding the management and investment of Endowment Assets.
- Define and assign the responsibilities of participants involved in the investment process.
- Establish a basis for evaluating investment and management results.
- Manage Endowment Assets according to prudent standards as established in the Idaho Constitution and trust law.
- Establish the relevant investment horizon for which the Endowment Assets will be managed.

## III. Constitutional and Statutory Requirements

The investment and management of the Endowment Assets will be in accordance with the Idaho Constitution, all applicable laws of the State of Idaho, and other pertinent legal restrictions. In the event this Statement is inconsistent with Constitutional or Statutory Requirements (Requirements), those Requirements will control.

### A. Land Board

Article IX, Section 7 of the Constitution establishes the Land Board: “The governor, superintendent of public instruction, secretary of state, attorney general and state controller shall constitute the state board of land commissioners, who shall have the direction, control and disposition of the public lands of the state, under such regulations as may be prescribed by law.”

## **B. Sole Interest of the Beneficiaries**

All Endowment Assets of the State of Idaho must be managed “in such manner as will secure the maximum long-term financial return” to the trust beneficiaries.

## **C. Prudent Investments and Fiduciary Duties**

The Land Board and its agents, including staff, the Idaho Department of Lands (IDL), the Endowment Fund Investment Board (EFIB), consultants, advisors, and investment managers shall exercise the judgment and care of a prudent investor as required under the prudent investor rule set forth in the Uniform Prudent Investor Act (Act), Idaho Code §§ 68-501 to 68-514.

Endowment Assets shall be invested and managed with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent expert acting in like capacity and familiar with such matters would use in the investment and management of assets of like character with like aims.

The Act states, in part, that: “A trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution”; and, “A trustee’s investment and management decisions respecting individual assets must be evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.”

The duty of prudence requires trustees to bring the appropriate level of expertise to the administration of the trust. An implied duty of trustees is also to preserve and protect the assets with a long-term perspective sensitive to the needs of both current and future beneficiaries.

## **D. Sales, Exchanges, and the Land Bank**

Article IX, Section 8 of the Idaho Constitution includes the following restrictions regarding the sale of lands:

- All land disposals must occur via public auction
- A maximum of 100 sections (64,000 acres) of state lands may be sold in any year
- A maximum of 320 acres may be sold to any one individual, company, or corporation (160 acres for University endowment lands per Article IX, Section 10)
- No state lands may be sold for less than the appraised price
- Granted or acquired lands may be exchanged on an equal value basis with other lands subject to certain restrictions
- Forest and certain other land may not be sold per Idaho Code § 58-133, which states, “All state-owned lands classified as chiefly valuable for forestry, reforestation, recreation, and watershed protection are reserved from sale and set aside as state forests.”



Article IX, Section 4 of the Idaho Constitution provides for the deposit of the proceeds from the sale of school lands into a land bank fund to be used to acquire other lands within the state for the benefit of endowment beneficiaries, subject to a time limit established by the legislature.

Idaho Code § 58-133 provides conditions for use of the Land Bank Fund. In summary, the Land Bank Fund exists to hold the proceeds from the sale of state endowment land pending the purchase of other land in Idaho for the benefit of the endowment beneficiaries. Funds in the Land Bank, including earnings, are continually appropriated to the Land Board. If the funds have not been utilized for land acquisition within five years, they are transferred to the permanent endowment fund of the respective endowment. The Land Board may transfer any portion of the funds in the Land Bank to the Permanent Fund at any time.

## **E. Other Constitutional Requirements and Statutes**

Additional constitutional articles and state statutes are described throughout this Statement. [Appendix B](#) includes the entirety of the constitutional articles and statutes that apply to the investment and management of Endowment Assets.

# **IV. Investment Goals**

## **A. General Objective**

The stated mission for Endowment Assets is to provide a perpetual stream of income to the beneficiaries by managing assets with the following objectives:

- Maximize long-term financial return at a prudent level of risk.
- Provide relatively stable and predictable distributions to the beneficiaries.
- [Ensure distributions maintain equity for current and future generations of beneficiaries.](#) ~~Constrain distributions to protect future generations' purchasing power.~~
- Maintain sufficient liquidity for anticipated expenditures [and anticipated/expected distributions.](#) ~~?~~

## **B. Considerations**

Primary considerations impacting the fulfillment of the investment mission and objectives include the following:

- Constitutional and statutory requirements as noted previously. Constitutional restrictions are considered permanent given the process required to amend the Constitution (approval by a two-thirds majority in the House of Representatives and Senate followed by ratification by the citizens of Idaho via a general election ballot or a constitutional convention).
- Managing revenue and profit-generating activities within a government agency.

- Each trust holds its Financial Assets in a commingled pool (with shares owned by several trusts) but its Land Assets in specific and unique tracts.

## C. Investment Return Objective

As perpetual assets, per State Constitution and statute, the Endowment has a perpetual investment horizon. The investment return objective for the Endowment Assets is to earn over a long period an annualized real return, net of fees, expenses, and costs, above spending and inflation (per Idaho Code § 57-724) as well as population growth (per Land Board policy). Given the current financial and land asset mix, the Endowment is expected to earn a real net return of ~~3.6%~~ 4.2% annually over the long term.

## D. Distribution Policy

The Distribution Policy adopted by the Land Board (further described in Section VIII) sets annual distributions to beneficiaries. The interaction of investment and distribution policies should balance the needs of current and future beneficiaries. The Land Board's policy is to distribute a conservative estimate of long-term sustainable income and hold sufficient reserves of undistributed income to absorb down cycles in endowment earnings. It is a priority to avoid reductions in distributions because most beneficiaries depend on endowment distributions to fund ongoing operations.

# V. Investment Risk and Strategic Asset Allocation

## A. Asset Class Diversification Asset Classes

Risk, as it relates to stability of distributions, shall be managed primarily by holding reserves of undistributed income. Risk, as it relates to the volatility of earnings of the Endowment Assets, shall be managed primarily through diversification. Subject to land disposal restrictions ~~and the statutory prohibition on selling timberland~~, the Endowment Assets will be diversified both by asset class and within asset classes to the extent practical. The purpose of diversification is to provide reasonable assurance that no single asset class will have a disproportionate impact on the Endowment. Both quantitative measures and qualitative judgment will be used in assessing and managing risk.

## B. Review of Asset Classes and Asset Allocation

In setting strategic asset allocations, the Land Board will focus on ensuring the Endowment Assets' expected long-term returns will be sufficient to meet expected long-term obligations with a prudent level of risk. Approximately every eight years, the Land Board will evaluate the asset allocation mix and conduct an asset allocation study (last completed in 2022) to determine the long-term strategic allocations to meet risk/return objectives.

Significant changes in capital market assumptions, portfolio characteristics, timber income expectations, or the Distribution Policy may cause the Land Board to accelerate the timing of an asset allocation study.

For example, the illiquidity of much of the Land Assets may require the target asset mix of the Financial Assets be adjusted due to significant land sales or acquisitions or the appreciation of the Financial Assets at a faster or slower rate than the appreciation of the Land Assets.

EFIB will review the Distribution Policy annually. When key assumptions in the Distribution Policy, such as expected earnings and volatility change, EFIB will recalculate the risk of shortfalls in future distributions and provide recommendations on policy adjustments to the Land Board.

### C. Strategic Asset Allocation

In 2022, the Land Board commissioned an update of the asset allocation study based on the schedule directed by this investment policy statement. The purpose was to update the return forecasts for land and financial assets and the expected return and risk for the total endowment trust. The update was accepted by the Land Board in June 2022. ~~The updated asset allocation study eliminated the desired percentage ranges and target allocations for each asset class in the total endowment because specifying ranges and target allocations implies the ability to move assets in a frictionless way.~~

The current asset mix for the total endowment is presented in Exhibit 1 below:

**Exhibit 1: Asset Allocation**

Asset Class	Actual Asset Allocation June 30, <del>2022</del> 2023	Valuation June 30, <del>2022</del> 2023
Financial Assets	<del>59.83%</del> 61.62%	<del>\$2,706,071,292</del> \$2,950,630,761
Timberland*	<del>34.49%</del> 33.64%	<del>\$1\$1,610,439,200,560,000,000</del>
Rangeland*	<del>1.40%</del> 1.32%	\$63,385,840
Cash Equivalents (Land Bank)	<del>2.33%</del> 1.56%	<del>\$105,463,601</del> \$74,523,631
Residential Real Estate	<del>0.41%</del> 0.14%	<del>\$18,762,500</del> \$6,657,313
Commercial Real Estate	<del>0.80%</del> 0.75%	\$36,044,000
Farmland	<del>0.73%</del> 0.96%	<del>\$32,853,400</del> \$46,107,680
Total	100%	<del>\$4,522,580,633</del> \$4,787,788,425
Expected Return (net)	<del>6.05</del> 6.71%	
Expected Risk (Standard Deviation)	<del>10.11</del> 9.61%	
Inflation Assumption	<del>2.25%</del> 2.50	

Percent may not total ~~exactly to~~ 100% due to rounding

Based on Callan’s ~~2022-2023~~ Capital Market Expectations, over a 10-year period, the current asset allocation is expected to generate a nominal return in excess ~~of 6.16.7%~~ net of fees. Using an inflation assumption of ~~2.50~~2.5% results in an expected real net return of ~~3.85~~4.21%. The volatility level (standard deviation) associated with this asset mix is approximately ~~10.1~~9.6%. The Land Board recognizes the actual 10-year return ~~can may~~ deviate significantly from this expectation—both positively and negatively.

The Land Board acknowledges the link between the asset allocation and the Distribution Policy. If an asset allocation mix is selected that deviates from the risk and return ~~in~~<sup>of</sup> the current asset allocation, the Land Board, in consultation with EFIB, will assess the impact on the Distribution Policy and change the Distribution Policy as necessary. In broad terms, changes in long-term expected return will impact the estimated level of sustainable distributions while changes in risk, as measured by volatility of returns, will impact the desired level of reserves.

EFIB will review the asset allocation for the Financial Assets per the EFIB Investment Policy and present it to the Land Board as an informational item.

## **D. Strategic Policies**

In addition to asset allocation, the Land Board may from time to time authorize or adopt strategic policies. “Strategic Policies” are actions by the Land Board to allow investment in asset types that have not been singled out as “asset classes” in the asset allocation process, to overweight a particular sector within an asset class, or to employ particular strategies in the investment of the Endowment Assets. The purposes of these actions are either to increase the return above the expected return or to reduce risk. Any such policy would include consideration of the change in risk, the change in return, and the impact on the Distribution Policy.

## **VI. Investment Governance Structure**

The Idaho Constitution provides that the endowment funds are held in trust and administered by the Land Board as trustees. The Constitution further provides that the Idaho Legislature may establish a statutory structure for administration that is consistent with the nature of the trusts. Accordingly, the Idaho Legislature created a structure that established EFIB as the manager of the Financial Assets, established the appropriations process for the payment of trust management expenses, and created IDL to serve as the manager of the Idaho Land Assets of each trust. The constitutional and statutory provisions, together with Land Board policy, establish the governance structure for Endowment Assets.

### **A. Land Board Responsibility**

Management of the Endowment Assets is entrusted to the Land Board which serves as the sole fiduciary of both the Land Assets and Financial Assets. The Land Board is ultimately responsible for all management and investment activities. The powers and duties of the Land Board are fully described in Idaho Code § 58-104.

In exercising these responsibilities, in addition to EFIB and IDL, the Land Board may hire personnel and agents and delegate investment functions to those personnel and agents consistent with constitutional and statutory provisions. Where the Land Board does not or cannot delegate investment powers or duties, the Land Board will either satisfy itself that it is familiar with such matters or will retain persons who are familiar with such matters to consult or assist the Land Board in the exercise of those responsibilities. Where the Land Board delegates a responsibility, it will be delegated to a person who is

familiar with such matters, and the Land Board will monitor and review the actions of those to whom responsibilities are delegated.

## **1. General Roles and Responsibilities**

The Land Board's general role and responsibilities regarding investments include, but are not limited to the following:

- Direct and oversee the conduct and operations of EFIB and IDL.
- Appoint and consult with expert advisors (including EFIB and IDL) for each critical function for which the Land Board has responsibility. In this context, the term "expert advisor" shall mean a person engaged in the business for which he holds himself out to be an expert and who is experienced in that field.
- Plan and establish strategic policies to coordinate the management of state endowment lands with the management of the endowment funds.
- Provide reports on the status and performance of state endowment lands and the respective endowment funds to the state affairs committees of the Senate and the House of Representatives within fourteen days after a regular session of the legislature convenes.
- Make strategic decisions, primarily concerning asset allocation, and establish and/or approve endowment land asset investment and management policies and strategies.
- Periodically review this master investment policy and any sub-policies.
- Monitor the compliance of EFIB and IDL with the investment policies and strategy determined by the Land Board and the execution of the strategy.
- Hire agents in addition to IDL and EFIB to assist the Land Board in the implementation of strategy or investment policies.
- Approve the IDL annual budget request for consideration by the governor and legislature (including review of appropriation requests to IDL from Earnings Reserves).
- Approve allocation of Earnings Reserve Funds as provided in Idaho Code § 57-723A (Distribution Policy), specifically how much is: distributed annually to beneficiaries; retained for future distribution; and, transferred to the Permanent Fund to build corpus.
- Approve the annual timber sale plan and certain timber sales that fall outside of the IDL director's authority.
- Review the IDL director's monthly timber sale activity report showing the proposed sales for the next month.
- Approve large routine land investment decisions that exceed the authority of the IDL director.
- Approve certain other land investment decisions that exceed the authority delegated to the IDL director.
- Approve rulemaking and legislation for IDL.
- Review decisions of the IDL director upon appeal in contested matters.

## **2. Land Board Investment Subcommittee**

### ***a) Structure of the Investment Subcommittee***

The Land Board established and authorized the Subcommittee in December 2014. The current composition of the Subcommittee is one EFIB member (selected by the EFIB chair), the EFIB manager of investments, and the IDL director.

***b) General Roles and Responsibilities of the Investment Subcommittee***

The Investment Subcommittee provides review and advice to the Land Board. The primary purpose of the Investment Subcommittee is to coordinate ~~consideration of~~ investment issues that cross both the Land Assets and the Financial Assets, including the following:

- Administer the contract for the general consultant and other consultants, as assigned by the Land Board.
- Work with the general consultant to identify the Land Board’s advisor(s) and consultants, including the Land Investment Advisor(s), Land Acquisition Advisor(s), Commercial Real Estate Broker, and the Land Board’s Commercial Real Estate Investment Advisor.
- Work with the general consultant and recommend the Statement of Investment Policy and Asset Management Plan to the Land Board.
- Recommend policy regarding implementation of land exchanges on endowment lands.
- Recommend policy (consistent with Idaho Code § 58-133) regarding the use of proceeds from the disposal of assets (e.g., cabin sites, commercial real estate, grazing lands). This may include deposit in the Permanent Fund or holding of proceeds in the Land Bank Fund to acquire additional endowment land assets in Idaho (excluding commercial buildings [consistent with past Land Board decision](#)), access to currently owned endowment lands, or to block-up ownership of endowment lands.

**3. Use of Outside Experts**

The Land Board employs outside advisors and consulting firms to provide specialized expertise, assist IDL with transactions, and verify or review IDL’s and EFIB’s investment and operational activities and procedures.

***a) Non-Discretionary Investment Consultants***

The Land Board may hire a qualified independent consultant or consultants (including a general consultant) for strategic and annual plan reviews, review of new investment initiatives, investment policy development and review, asset allocation, advisor selection and monitoring, and performance measurement. Investment consultants will be fiduciaries with respect to the services provided and will act in a non-discretionary capacity with no decision-making authority.

***b) Commercial Real Estate Advisor***

The Land Board may use a commercial real estate advisor to advise on the Idaho commercial property portfolio or transition properties. The commercial real estate advisor will provide analysis and management expertise on the retention, leasing, disposition, and management of the properties. The commercial real estate advisor will be a fiduciary with respect to the services provided and act in a non-discretionary capacity with no decision-making authority.

***c) Land Acquisition Advisors***

The Land Board may use land acquisition advisors to source land acquisitions, facilitate completion of due diligence work, and make recommendations. Due diligence services may include appraisals, review appraisals, timber cruise and check cruise, financial evaluation, mineral and water right identification, encumbrance review, survey, and title review. Land acquisition advisors will be fiduciaries with respect to the services provided and act in a non-discretionary capacity with no decision-making authority.

**d) Land Investment Advisor**

The Land Board may use a land investment advisor(s) to independently review certain land investment decisions proposed by IDL (land disposal, land acquisition, exchange, and new tenant improvements) that are over ~~\$100,000~~ \$250,000. The land investment advisor will review the post-audit completed by IDL for transactions over \$1,000,000. The land investment advisor may be used for independent review of IDL procedures. The land investment advisor will be a fiduciary with respect to the services provided and act in a non-discretionary capacity with no decision-making authority.

**e) Auditor**

Idaho Code § 57-720 requires the Financial Assets of the endowment be reviewed by an independent auditor. The independent auditor also reviews the application of agreed upon procedures for the IDL income statement. To oversee this process, and any other audits it deems prudent, the Land Board has established the Land Board Audit Committee, consisting of the attorney general (or designee), the state controller (or designee), and three members of EFIB, appointed by its Chair.

## **B. Investment Governance and Investment Policy for the Financial Assets**

Idaho Code § 57-718 created EFIB which formulates policy for and manages the investment of the Financial Assets, which consists primarily of the invested revenues from the endowment lands. As permitted in Idaho Code § 57-720, the fund assets of all nine endowments, both Permanent Funds and Earnings Reserve Funds, may be combined in a single investment pool.

### **1. Mission of EFIB**

The mission of EFIB is to provide professional investment management services to its stakeholders consistent with its constitutional and statutory mandates.

### **2. Structure of EFIB**

Per Idaho Code § 57-718, EFIB consists of nine members appointed by the governor and confirmed by the Senate. These members are one state senator, one state representative, one professional educator, and six members of the public familiar with financial matters.

### **3. General Roles and Responsibilities of EFIB and Agents**

With a citizen board and small staff, EFIB will make strategic allocations and generally avoid making tactical calls. The Board and staff will concentrate on the following activities:

- Making strategic decisions, primarily concerning asset allocation.
- Establishing investment policy for the funds.

- Recommending Distribution Policy and transfers of Earnings Reserves to the Land Board.
- Establishing Distribution Policy for the Capitol Permanent Fund.
- Selecting, monitoring, and terminating investment managers, consultants, and custodians.
- Selecting and directing staff.
- Approving an investment management expense budget from Earnings Reserves for consideration by legislative appropriation.
- Overseeing a credit enhancement process to reduce interest rates on Idaho school bonds through the pledge of certain assets of the Public School Endowment Fund.
- Maintaining a reporting system that provides a clear picture of the status of the Financial Assets.

#### **4. Professional Staff**

EFIB will maintain a staff with investment expertise, including a Manager of Investments (MOI) who is a fiduciary to EFIB. The MOI is responsible for directing and monitoring the investment management of the Financial Assets.

#### **5. Use of Outside Experts**

The Financial Assets will be invested by professional investment firms. No funds will be managed internally. EFIB will also employ one or more outside consulting firms to provide specialized expertise and assist in, among other things, asset allocation, manager selection and monitoring, and performance measurement.

#### **6. Investment Policy Statement for Financial Assets**

EFIB will maintain a detailed Investment Policy that pertains specifically to the management and investment of the Financial Assets ([Appendix C](#)). The Land Board is not required to approve this investment policy as this duty is delegated to EFIB.

### **C. Investment Governance for Land Assets**

Idaho Code § 58-101 created IDL to serve as the internal investment and asset manager of the Land Assets of each trust. This role includes authorization to make certain investment decisions consistent with the established governance structure and includes day-to-day operating responsibilities for the Land Assets. This is in contrast to the EFIB structure where implementation and day-to-day decision making is delegated to external investment managers subject to approved guidelines and contracts.

The Land Assets include timberland, rangeland, farmland, commercial real estate, residential real estate, minerals, and oil and gas (collectively “Land Assets”) located in Idaho.

#### **1. Mission of IDL**

The mission of IDL is to professionally and prudently manage Idaho’s Land Assets to maximize long-term financial returns to public schools and other trust beneficiaries and to provide professional assistance to the citizens of Idaho to use, protect, and sustain their natural resources. ~~IDL also has various regulatory, technical assistance, and resource protection roles.~~



## 2. Structure of IDL

IDL operates under the direction of the Land Board and is the administrative arm of the Idaho Oil and Gas Conservation Commission. IDL is led by a director who is employed by and is directed by the Land Board. The director's staff includes a deputy director, a division administrator for Forestry and Fire (currently serves as State Forester), a division administrator for Trust Land Management, a division administrator for Minerals, Navigable Waters, and Oil & Gas, a division administrator for Operations, a ~~division administrator for Business Services~~, and a policy and communications chief—collectively, the executive staff. Each of the positions identified above supervises various professional, technical, and administrative support staff.

## 3. General Roles and Responsibilities

IDL manages more than 2.4 million acres of Idaho Land Assets (and additional acreage of retained mineral rights) under a constitutional mandate to maximize long-term financial returns for the sole benefit of public schools and certain other state institutions enumerated in statute.

The director and staff will concentrate on the following investment-related activities:

- Serving as the instrumentality of the Land Board.
- Implementing the strategic direction established by the Land Board concerning Land Assets.
- Making strategic decisions (where authorized) and providing recommendations to the Land Board concerning management of Land Assets.
- Establishing policies and procedures for IDL programs.
- Selecting and directing staff.
- Developing a land and resource management expense budget from Earnings Reserves for Land Board approval and consideration for legislative appropriation. Earnings Reserves is only a portion of the IDL budget.
- Monitoring and reporting progress toward strategic goals, including preparing an annual income statement following agreed upon procedures and calculating annual returns for major asset classes and all asset classes combined.

Decision-making authority for endowment land asset management resides with the Land Board except as delegated to the IDL director. Program management resides with the director's staff and their subordinates. IDL establishes policies and procedures for routine programmatic activities at the bureau and program levels.

IDL has delegated authority to approve the following:

- Normal timber sales that fall within established Land Board policies and salvage sales.
  - Exceptions include sales with clear-cut harvests over 100 acres; sales with development credits exceeding 50% of the net appraised value or 33% of the gross appraised value; and sales with written citizen concerns.

- Approval of certain routine land investment decisions. Routine land investment decisions include access acquisition, forest and range improvements, reforestation, and building maintenance.
  - Transactions <~~\$500,000~~ \$1,250,000 the IDL director may authorize.
  - Transactions >~~\$500,000~~ \$1,250,000 require Land Board approval.
- Approval of certain other land investment decisions. Other land investment decisions include land disposal, land acquisition, and new tenant improvements.
  - Transactions <~~\$100,000~~ \$250,000 the IDL director may authorize.
  - Transactions >~~\$100,000~~ \$250,000 require Land Board approval.

#### **4. Professional Staff**

IDL staff consists of trained professionals and technical experts in various fields, such as forestry, range, real estate, minerals, oil & gas, fire, accounting, finance, procurement, GIS, IT, and other specialties. IDL staff members who are involved with management of Endowment Assets or related accounting or financial management are fiduciaries.

#### **5. Use of Outside Experts**

IDL may use outside experts at its discretion and the Land Board's discretion. IDL may use the Land Board's expert advisors when in need of the special expertise provided by the advisors and when the use of a specific advisor will not conflict with the Land Board's use of the advisor. IDL may review information and recommendations provided to the Land Board by outside experts including the Commercial Real Estate Investment Advisor, Commercial Real Estate Broker, Land Acquisition Advisor(s), and the Land Investment Advisor(s). The chart in [Appendix D](#) below depicts the relationship between the Land Board, IDL, and outside experts.

### **D. Role of the Legislature**

The Idaho Legislature is responsible for the following:

- Enacting laws to establish the methodology for restoring losses to the Public School and Agricultural College funds.
- Appropriating Earnings Reserve Funds for operation of IDL and EFIB.
- Considering approved endowment distributions in setting beneficiary appropriations.
- Establishing the statutory structure for administration of endowment assets that is consistent with the nature of the trusts and the constitutional duties of the Land Board.

## **VII. Asset Class Policies for Land Assets**

### **A. Investment Objective for the Land Assets**

The primary objective for the Land Assets is the generation of maximum long-term return at a prudent level of risk using traditional land grant asset types. The Land Assets diversify the Financial Assets given

the low correlations of timberland and rangeland to public capital markets. The Land Assets also lower the volatility of the total investment portfolio considering timberland and rangeland returns have historically exhibited lower volatility than equity asset classes. During periods of negative financial returns, Land Assets can provide a positive revenue stream to help maintain Earnings Reserves and stable Endowment distributions.

Investment objectives are long-term return objectives. The investment objective for the land portfolio recognizes that timberland is a primary driver of the overall return for land and that income from timberland and, to a lesser degree, all other lands are the primary generator of investment returns. The individual investment objectives for timberland, rangeland, and farmland reflect the long-term investment characteristics (return, correlation, and volatility) compared to other asset classes. Investment objectives also consider the existing base of land holdings along with management constraints, notably sales restrictions, acreage limitations, and the rent-setting and leasing processes. The return objectives should not be viewed in isolation but in relationship to one another.

The Land Assets are managed to achieve a real net return target of at least 3% over a long-term holding period (Land Assets Return Objective). The Land Assets Return Objective includes both income and appreciation, is net of all asset level expenses and fees, net of internal management costs (e.g., the cost of IDL management), net of all fees and costs of program management (e.g., legal and audit), and net of inflation as measured by the Consumer Price Index. While the Land Assets Return Objective includes both income and appreciation, the return is expected to be generated primarily from income.

Specific investment objectives and guidelines for each land category are summarized below. The Land Board shall review periodically its expectations for the land categories and assess how the updated expectations affect the probability that the Endowment will achieve the established investment objectives.

## **B. Key Elements of the Land Strategy**

### **1. Active and Profitable Management**

Land Assets are actively managed based on profitability, which means that some parcels will be managed more intensively than others. The portfolio is managed by IDL and, except in unusual circumstances, no external managers are used. Active management includes the following primary activities:

- Maximize net income while protecting and enhancing the long-term value and productivity of the Land Assets. (IDL shall produce a quarterly income statement which allows for evaluation of income versus management and operating expenses by trust beneficiary, program, and asset class as a way to evaluate returns and profitability.)
- Acquire, through purchase or trade, land whose expected risk adjusted return meets or exceeds the return objectives outlined in this Statement and whose uses are aligned with IDL's management expertise.

- Dispose, through sale or trade, land whose expected long-term return does not meet the return objectives outlined in this Statement.
- Make incremental investments to enhance the value of existing assets when the expected risk adjusted return is favorable.

## **2. Leverage is Prohibited**

Debt is not used in acquisition of Land Assets. All assets are unencumbered by debt.

## **3. Diversification**

There is limited ability to diversify the Land Assets by geography, land type, investment style, investment manager (IDL is the sole manager), or vintage year since most Land Assets were acquired at statehood. Diversification of income source shall be pursued by encouraging multiple bidders for timber sales. There is limited opportunity to actively diversify the tenant base in rangeland, commercial real estate, residential real estate, farmland, and other land types that are leased since leases are simply awarded to the highest bidder.

Timberland shall be managed for age class and species diversity across the timberland asset to maximize long-term returns. An individual timber stand may have trees of similar age, but other timber stands represent other age classes, ensuring a relatively even flow of forest products over time. An even flow of various forest products is considered a priority to maintain a vibrant and diverse customer base to maximize the sale prices of timber over time and resulting income distributions. Offering a variety of timber sale sizes, types, and locations across the state also helps to maintain a diverse customer base. Geographic diversity of the land base and intensive forest management provide some protection against catastrophic fire, disease, and insect outbreak.

## **4. Illiquidity and Rebalancing**

Land Assets represent a large part of the total Endowment portfolio and are illiquid compared to publicly traded equities. Strategic rebalancing to maintain the total Endowment portfolio within the desired asset allocation ranges will be actively pursued where possible through sales, exchanges, and acquisitions. However, constitutional and statutory requirements regarding land sales and exchanges limit the ability to rebalance the Land Asset portion of the portfolio.

# **C. Timberland**

## **1. Definition**

Timberland is defined as land capable of growing successive crops of commercial forest products for harvest.

## **2. Overall Financial Objective and Benchmark**

The return on timberland comes from biological growth, upward product class movement, timber price appreciation and land price appreciation. The overall objective of timberland investments is to attain a real net income return of at least 3.35% over a long-term holding period. The net return target is net of

all asset level expenses and fees, net of internal management costs (e.g., the cost of IDL management), and net of all fees and costs of program management (e.g., legal and audit).

### **3. Allowable Investments**

Timberland in Idaho and investments in timberland improvements, including but not limited to planting seedlings, spraying, pre-commercial thinning, fertilization, intermediate silvicultural treatments, road construction, and maintenance projects are allowed, as are investments in easements or other means of achieving cost-effective access to productive timberlands.

New timberland acquisitions shall be subject to a thorough due diligence process (by IDL or a land advisor, consistent with the established governance structure) to determine the following:

- If the expected financial return generated by income exceeds the minimum hurdle rate of 3.35% real net;
- Whether the return profile is sufficient relative to the risk taken, including an analysis of the transaction in terms of long-term financial return and risk to the Endowment;
- Whether the transaction would facilitate improved management or improve the overall Endowment land ownership pattern in the area;
- The existence of any potential risks, including but not limited to environmental or title-related issues.

Parcels posing any significant risk as described in the due diligence analysis and those not meeting the minimum hurdle rate shall be avoided. The presence of minerals including sand and gravel can enhance the net return from timberland. Land Bank funds used for acquisition can only to be used on behalf of the endowment from which the funds originated. The minimum return requirement for new investments will be reviewed and updated as necessary based on the Strategic Reinvestment Plan.

New investments in timberland must be owned 100% by the endowment. Joint ventures are not allowed. Acquisition of land with a conservation easement in place is allowed provided the Land Board has full decision-making authority regarding implementation of land management practices.

### **4. Considerations**

Idaho Code § 58-133 requires that all state-owned lands classified as chiefly valuable for forestry, reforestation, recreation, and watershed protection be reserved from sale and set aside as state forests. Timberland can be exchanged but only for other timberland.

IDL has an established public involvement process, approved by the Land Board, which requires that annual timber sale plans be published and public comment opportunities be made available. Small sales (less than 1,000,000 board feet or less than \$150,000 in value) and salvage sales are exempt from the policy.

### **5. Management**

Timberland is directly managed by IDL. Management shall comply with all applicable laws, such as the Idaho Forest Practices Act. Management objectives include the following:

- Manage the timberland asset prudently, efficiently, and with accountability to the beneficiaries.
- Reduce risk and increase prospects for sustainable annual income.
- Achieve a rate of return consistent with policy objectives.
- Produce forest products that meet market demands.
- Identify and acquire additional timberlands that maintain or enhance the value of the timberland asset class.
- Identify and dispose of or transition underperforming timberland assets to increase economic performance and improve land asset diversity.
- Achieve financial and forest health objectives identified in the Asset Management Plan and the Forest Asset Management Plan.

## **6. Valuation**

The land expectation value (LEV) method (constant real annual cash flow / real annual discount rate) approach or other commercially acceptable methods approved by the Land Board shall be used for the valuation of the timberland asset class. The timberland asset class shall be valued using the LEV method every three years by an independent expert for the purpose of calculating program returns, not for the purpose of acquisition or disposition of specific timberland parcels. MAI appraisals must be used for valuation of individual parcels in the event of an exchange.

## **7. Monitoring Standards**

IDL will report cash flows for the timberland asset class to the general consultant for performance reporting purposes. The reporting will follow institutional reporting standards and conventions. Income, appreciation (based on LEV), and total return shall be calculated by the general consultant. All return calculations will be net of all fees and expenses of managing the asset class. The most recent independent valuation will be adjusted for capital expenditures, sales, and acquisitions during the reporting period.

## **D. Rangeland**

### **1. Definition**

Rangeland is defined as lands supporting natural vegetation—generally grasses, forbs, and small brush suitable for grazing by domestic livestock and wildlife.

### **2. Overall Financial Objective and Benchmark**

The overall objective of rangeland investments is to attain a positive real net return over a long-term holding period. The positive real net rate of return includes primarily income and is net of all asset level expenses and fees, net of internal management costs (e.g., the cost of IDL management), net of all fees and costs of program management (e.g., legal and audit) and net of inflation as measured by the Consumer Price Index. Given its low expected return, rangeland is not an institutional asset class.

### **3. Allowable Investments**

Additional investment may take the form of investments in rangeland improvements and easements or other means of access to improve productivity. Rangeland improvements refers to actions that improve

the manageability and productivity of the asset including but not limited to fencing, weed control, access improvement, and water development.

New investments in Rangeland are not anticipated or being actively targeted. Should a new investment opportunity arise, it shall be subject to a thorough due diligence process (by IDL or a land advisor, consistent with the established governance structure) to determine the following:

- ~~If the expected financial return generated by income exceeds the minimum hurdle rate of a 3.35% real net return;~~
- Whether the return profile is sufficient relative to the risk taken, including an analysis of the transaction for long-term financial return and risk to the Endowment;
- Whether the transaction would facilitate improved management or improve the overall Endowment land ownership pattern in the area;
- The existence of any potential risks, including but not limited to environmental or title-related issues.

Parcels posing any significant risk as described in the due diligence analysis shall be avoided, and those not meeting the minimum hurdle rate shall be avoided. Land Bank funds used for acquisition can only to be used on behalf of the endowment from which the funds originated. ~~The minimum return requirement for new investments will be reviewed and updated as necessary based on the Strategic Reinvestment Plan.~~

#### **4. Considerations**

Idaho Code § 58-138 requires that the written agreement of a lessee be obtained prior to entering into an exchange involving leased lands.

Rangeland may be be sold or exchanged exchanged or sold subject to acreage limitations—a lifetime maximum of 320 acres may be sold to any one individual, company, or corporation. For rangeland, this limitation is a significant barrier to repositioning or reducing the size of the rangeland portfolio given its size at over 1.4 million acres. Any disposal of rangeland should consider its optionality for future conversion to a higher and better use, including reclassification and potential mineral extraction. Some endowments are restricted to a lifetime maximum of 160 acres sold to any one individual, company, or corporation. Article IX of the Idaho Constitution describes the limitations on the sale of endowment land.

#### **5. Management**

Rangeland is directly administered by IDL. Livestock forage productivity and availability varies significantly across the state due to factors such as climate, vegetation types, topography, and access to water. Some Endowment parcels are of sufficient size and productivity to stand alone as a grazing unit; however, most are managed in a manner consistent with adjoining federal and private lands because of normal livestock and grazing management practices. Some rangeland parcels are leased in combination with timberland uses. The presence of minerals such as sand and gravel can enhance the net return from rangeland. Management objectives for rangeland include the following:

- Manage the rangeland asset prudently, efficiently, and with accountability to the beneficiaries.
- Develop and manage long-term grazing leases that achieve a rate of return consistent with policy objectives and market rates.
- Identify and dispose of or transition underperforming rangeland assets to increase economic performance and improve land asset diversity.
- Minimize contractual and environmental risks.
- Identify programmatic or statutory changes that maximize income.
- Achieve objectives identified in the Asset Management Plan and the Grazing Program Business Plan.

## **6. Valuation**

The land expectation value (LEV) method (constant real annual cash flow/real annual discount rate) approach shall be used for the valuation of rangeland. Rangeland shall be valued using the LEV method every three years by an independent expert. MAI appraisals must be used for individual parcels in the event of an exchange or sale.

## **7. Monitoring Standards**

IDL will report cash flows for the rangeland asset class to the general consultant for performance reporting purposes. The reporting will follow institutional reporting standards and conventions. Income, appreciation, and total return shall be calculated by the general consultant. All return calculations will be net of all fees and expenses of managing the asset class. The most recent independent value will be adjusted for capital expenditures, sales, and acquisitions during the reporting period.

## **E. Residential Real Estate**

### **1. Definition**

Idaho has leased residential sites since 1932. These properties are vacant endowment land where lessees are authorized to construct and own improvements, typically cabins and single-family homes. Parcels in asset classes such as timberland and rangeland may transition to residential real estate and be reclassified as development occurs in the vicinity.

### **2. Overall Financial Objective and Benchmark**

Leases shall be at least 4% of the appraised value depending on the length of the lease term. The overall objective of residential real estate investments is to attain, for each sale, net distributions to the endowment that are at or above appraised value and cover all costs of the sale and internal management costs.

### **3. Allowable Investments**

The Land Board and IDL are implementing a disposition strategy for the residential portfolio subject to a long-term plan that was approved in December 2010 ~~and subsequently~~, revised in 2016, [and revised again in 2022](#). Future investment in cottage sites is not allowed with the exception that current land may be transitioned to residential real estate.



#### **4. Considerations**

While the Land Board has directed a disposition strategy for the residential portfolio, complete disposition is unlikely in the next five years. The viability of an ongoing lease program, with consideration of ongoing related expenses, shall be evaluated by IDL and reviewed by the Land Board as the current disposal process is completed. [As stated previously, land currently in other asset classes may transition to residential real estate, resulting in an ongoing portfolio of residential real estate.](#)

#### **5. Management**

Cottage sites are directly managed by IDL. Management objectives include the following:

- Execute the approved Cottage Site Plan to unify the estate in a business savvy manner to maximize return to the endowments.
- For the duration of the cottage site leasing program, develop and manage residential leases that appropriately compensate the endowments.
- Identify additional high-value (undeveloped) residential real estate for potential auction to maximize return to the endowments.
- Identify and transition residential real estate that may return more value to the trust if transitioned to a higher and better use.

#### **6. Valuation**

All properties will be appraised to establish lease rates prior to sale. Until reappraisal, existing appraisal data will be used for valuation of the asset class.

#### **7. Monitoring Standards**

IDL will report cash flows for the residential real estate asset class to the general consultant for performance reporting purposes. The reporting will follow institutional reporting standards and conventions. Income, appreciation, and total return shall be calculated by the general consultant. All return calculations will be net of all fees and expenses of managing the asset class. The most recent independent value will be adjusted for capital expenditures, sales, and acquisitions during the reporting period.

### **F. Farmland**

#### **1. Definition**

Farmland is defined as land under cultivation or capable of being cultivated. The farmland asset includes lands used for cultivating grains, vegetables, and hay, as well as vineyards and orchards.

#### **2. Overall Financial Objective and Benchmark**

The overall objective of farmland investments is to attain a real net return of 4% over a long-term holding period. The rate of return includes both income and appreciation, is net of all asset level expenses and fees, net of internal management costs (e.g., the cost of IDL management), net of all fees and costs of program management (e.g., legal and audit), and net of inflation as measured by the Consumer Price Index.

### 3. Allowable Investments

Investments in Idaho farmland, improvements such as irrigation or structures, and easements or other means of access to productive farmlands are allowed.

New investments in farmland are not anticipated or being actively targeted; ~~however, opportunistic purchases will be considered. Should a new investment opportunity arise, it~~ New investments shall be subject to a thorough due diligence process (by IDL or a land advisor, consistent with the established governance structure) to determine: ~~if the expected financial return from income and appreciation exceeds the minimum hurdle rate of 4.5% real net and~~

- Whether the return profile is sufficient relative to the risk taken, including an analysis of the transaction for long-term financial return and risk to the Endowment;
- The existence of any potential risks, including but not limited to environmental or title-related issues.

~~whether the return profile is sufficient relative to the risk taken. The due diligence process includes an analysis of to analyze the transaction in terms of long-term financial return and risk to the Endowment and determines the existence of any potential risks including but not limited to environmental or title-related issues.~~ Parcels posing any significant risk as described in the due diligence analysis ~~and those not meeting the minimum hurdle rate~~ shall be avoided.

Land Bank funds used for acquisition can only to be used on behalf of the endowment from which the funds originated. ~~The minimum return requirement for new investments will be reviewed and updated as necessary based on the Strategic Reinvestment Plan.~~

Investments in farmland must be owned 100% by the Endowment. Joint ventures are not allowed. Acquisition of land with a conservation easement in place is allowed provided the Land Board has full decision-making authority regarding implementation of land management practices.

### 4. Considerations

Farmland may be sold or exchanged subject to acreage limitations—a lifetime maximum of 320 acres may be sold to any one individual, company, or corporation (160 acres for the University endowment). Article IX of the Idaho Constitution describes the limitations on the sale of endowment land.

### 5. Management

The asset class is directly managed by IDL through agriculture leases which may be cash, crop share, or flex with adjustment based on yield or price. Some agriculture parcels are leased in combination with grazing uses. Management objectives include the following:

- Achieve return consistent with policy objective.
- Focus on income and current cash yield through the management of existing properties. Cash lease structure will be preferred.
- Enroll endowment lands in federal agricultural programs when appropriate.

- Achieve objectives identified in the Asset Management Plan for Endowment Assets (and any related plans developed) and the Farmland Program Business Plan.

## **6. Valuation**

The portfolio will be valued using NASS Farmland Data. This is appropriate as farmland holdings are a small portion of the Endowment Assets. All properties shall be valued by an MAI appraiser prior to sale.

## **7. Monitoring Standards**

IDL will report cash flows for the farmland asset class to the general consultant for performance reporting purposes. The reporting will follow institutional reporting standards and conventions. Income, appreciation, and total return shall be calculated by the general consultant. All return calculations will be net of all fees and expenses of managing the asset class. The most recent independent value will be used adjusted for capital expenditures, sales, and acquisitions during the reporting period.

## **G. Idaho Commercial Real Estate**

### **1. Definition**

Idaho Commercial Real Estate is a discrete portfolio of office buildings, parking lots, retail, and other transition land properties located in Idaho.

### **2. Overall Financial Objective and Benchmark**

The majority of the Idaho Commercial Real Estate portfolio was sold as recommended by the Commercial Real Estate Advisor and approved by the Land Board in February 2016. Of the properties identified in the 2016 sales plan that did not sell, IDL will continue to pursue prudent disposition as recommended. Certain properties may be retained by the Land Board for strategic purposes. Additional properties may transition to the commercial real estate portfolio from other asset classes.

### **3. Allowable Investments**

~~Effective~~ [Per Land Board direction from](#) December 2014, no new Idaho Commercial Real Estate properties may be acquired. There may be expenditures to maintain or re-position existing properties in preparation for sale or lease. Leasing of existing endowment lands for commercial and industrial purposes will continue, as will transition of lands into commercial real estate from other asset classes.

### **4. Management**

The portfolio is overseen by IDL and managed primarily through outside agents, including hiring and oversight of property managers and leasing agents, approving leases and budgets, approving capital expenditures, and executing capital plans. The Commercial Real Estate Advisor may be used to assist in advising, hiring, and managing property managers.

### **5. Valuation**

All properties will be valued by appraisal prior to sale. In the interim, the value established by the Commercial Real Estate Advisor will be used for performance measurement and evaluation purposes.

## **6. Monitoring Standards**

IDL will report cash flows for the commercial real estate asset class to the general consultant for performance reporting purposes. The reporting will follow institutional reporting standards and conventions. Income, appreciation, and total return shall be calculated by the general consultant. All return calculations will be net of all fees and expenses of managing the asset class. Property will be valued using a combination of appraised values and values established by the Commercial Real Estate Advisor. The most recent independent value will be adjusted for capital expenditures, sales, and acquisitions during the reporting period.

## **H. Minerals/Oil & Gas**

### **1. Definition**

Mineral resources are concentrations of materials that are of economic interest in or on the crust of the earth. Oil and gas reserves and resources are defined as volumes that will be commercially recovered in the future.

### **2. Overall Financial Objective and Benchmark**

The asset class will be managed prudently to maximize financial return while complying with all applicable laws and regulations. Royalty payments are transferred to the Permanent Fund while other payments, such as lease or bonus payments, go to the Earnings Reserve Fund.

### **3. Allowable Investments**

Acquisition of mineral rights together with or independent of surface rights is allowed. Acquisition of mineral rights together with surface rights is preferred to avoid a split estate. Acquisition of mineral rights is expected to occur primarily through land exchanges.

### **4. Management**

The asset class is directly managed by IDL, and management shall comply with all applicable federal and state statutes, such as the federal Clean Water Act, Idaho Surface Mining Act, Oil and Gas Conservation Act, and Idaho Dredge and Placer Mining Protection Act. Management objectives include the following:

- Manage the mineral asset prudently, efficiently, and with accountability to the endowments.
- Minimize contractual and environmental risks associated with extractive industries.
- Lease lands for potential mineral products that capitalize on market demands.
- Retain mineral rights when land parcels are disposed.
- Seek opportunities to unify the mineral estate.
- Identify programmatic or statutory changes that maximize income from mineral assets.

### **5. Valuation**

The value of Idaho's mineral estate is unknown at this time. Determining the type and volume of locatable minerals in Idaho could be achieved with a cooperative effort between the Idaho Department of Lands, Idaho Geological Survey, and the mineral industry.

## **6. Monitoring Standards**

IDL will report cash flows for the minerals asset class to the general consultant for performance reporting purposes. All net income calculations will be net of all fees and expenses of managing the asset class. Because receipts from minerals extracted flow directly to the Permanent Fund, they are not included in IDL's report of return on assets. The receipts are reported in IDL's annual report.

### **I. Transition of Lands**

#### **1. Definition**

Lands within traditional asset classes already owned by the Endowment may become suitable for a higher and better use than the current asset classification. Often these properties exhibit high property values and low annual revenues and may be encroached upon by urban development. The major data sources used to identify lands suitable for transition may include:

- Appraised values above the value normally indicative of the current use.
- Regional land-use planning studies.
- Resource trends and demographic changes.

#### **2. Overall Financial Objective and Benchmark**

The objective for lands identified as potential transition lands will be to lease the parcels, typically for commercial and/or industrial uses, or sell the parcels. Evaluation of the options for lease or sale will be completed on a case-by-case basis. Once the land is transitioned, it will be included under the predominant revenue producing asset class.

#### **3. Allowable Investments**

Lands suited for transition are those currently owned by the endowments. Lands should not be acquired where the primary reason for acquisition is transition, though transition lands may exist within an acquisition. In select cases, improvements such as obtaining zoning and other entitlements may be pursued for ground leasing purposes, to maximize value, or to ready the parcel for sale.

Investment in improvements shall be subject to a thorough due diligence process (by IDL or a land advisor, consistent with the established governance structure) to determine the long-term financial return and risk to the Endowment; whether the return profile is sufficient relative to the risk taken; whether the transaction would facilitate improved management; and the existence of any potential risks including but not limited to environmental or title-related issues. Investments in improvements posing any significant risk as described in the due diligence analysis shall be avoided.

#### **4. Management**

Transitional activities will focus first on land at the high-end of market values (best markets) and then on land possessing best market potential within the next five to ten years (emerging markets). Transition plans will identify land holdings in the best markets, identify emerging markets, and, to the extent practical, parcels held in these markets. Land holdings in the best markets will also include a plan for achieving value potential. Timely disposition of parcels suitable for transition will be a management

objective to increase asset value and, where the parcels are not income-producing, reduce their “drag” on performance.

Underperforming assets may also present transition opportunities. IDL will identify and analyze such lands to determine the best solution to resolve the underperformance. Such analysis will consider:

- Whether management costs can be minimized;
- Whether the lands can be managed differently to increase performance;
- Whether the parcel has the potential for a higher and better use; and
- Whether the endowment is the best long-term owner of the asset.

## **5. Valuation**

Properties suitable for transition will be valued based on the traditional asset class to which they belong or as transitioned. Properties will be valued by appraisal prior to sale or on a predetermined schedule pursuant to the terms of the lease or other approved plan.

## **6. Monitoring Standards**

IDL will report cash flows for the lands suitable for transition, together with the asset class in which the lands currently exist, to the general consultant for performance reporting purposes. Lands with potential for transition currently classified as rangeland will be monitored and reported as part of the rangeland asset class. The reporting will follow institutional reporting standards and conventions. Income, appreciation, and total return shall be calculated by the general consultant. All return calculations will be net of all fees and expenses of managing the asset class. The most recent independent value will be used adjusted for capital expenditures, sales, and acquisitions during the reporting period.

## **J. Land Bank**

### **1. Definition**

The Land Bank Fund (Land Bank) exists to hold the proceeds from the sale of state endowment land (pending the purchase of other land) or to transfer to the Financial Assets for the benefit of the endowment beneficiaries, per Idaho Code § 58-133.

### **2. Overall Financial Objective and Benchmark**

The Land Board does not control the investment of the funds held in the Land Bank. The Land Bank is invested by the State Treasurer under a financial objective or benchmark established by the Treasurer.

### **3. Considerations**

Funds deposited in the Land Bank, including interest, are continually appropriated to the Land Board. If the funds have not been utilized for land acquisition within five years, they are transferred to the Permanent Fund of the appropriate endowment unless the five-year time limit is extended by the legislature.

Land Bank funds may be used to acquire lands within traditional asset classes. Land Bank funds may also be used to secure access to endowment lands through purchase of easements or parcels of land. When purchasing a parcel of land to obtain access, the acquired parcel may in some cases produce minimal financial return. An easement may represent an expense without any resulting income directly related to the acquisition. In those cases, the evaluation of the acquisition and the projected returns would consider the additional net income that can be attributed to the access secured, rather than the financial return of only the access parcel.

#### **4. Allowable Investments**

Land Bank funds are invested by the State Treasurer in the IDLE pool. IDLE funds are invested according to the IDLE Investment Policy.

#### **5. Management**

IDL, in its capacity as the administrative arm of the Land Board, manages deposits to and withdrawals from the Land Bank. Fees for investment management are deducted by the Treasurer.

#### **6. Valuation**

The Land Bank is valued by the State Treasurer.

#### **7. Monitoring Standards**

IDL will report balances and cash flows for the Land Bank to the general consultant for performance reporting purposes. The reporting will follow institutional reporting standards and conventions. Income, appreciation, and total return shall be calculated by the general consultant. All return calculations will be net of all fees and expenses of managing the asset class. Transaction history will be used to account for expenditures and deposits into the Land Bank. For purposes of transparency, the balance in the Land Bank shall be reported as a contingent asset in the notes of the financial statements for the Financial Assets.

## **VIII. Distribution Policy**

### **A. Objectives**

The ultimate purpose of Idaho's land grant endowments is to provide a perpetual stream of income to the beneficiaries. To guide the determination of future distributions for Idaho endowments, the following objectives, in priority order, are established by the Land Board:

- Avoid reductions in total endowment distributions.
- Maintain adequate Earnings Reserves to protect distributions from temporary income shortfalls.
- Grow distributions and permanent corpus faster than inflation and population growth.

## B. Considerations

In determining distributions, the Land Board, with assistance from EFIB, considers the following for each endowment:

- Actual and expected return on the fund and income from the land.
- Expected volatility of fund and land income.
- Adequacy of distributable reserves to compensate for volatility of income.
- Each beneficiary's ability to tolerate declines in distributions.
- Need for inflation and purchasing power protection for future beneficiaries.
- Legal restrictions on spending principal.

## C. Policy Description

Based on the above objectives and considerations and the expected returns of the entire portfolio (lands and funds), the Land Board establishes the following Distribution Policy:

- Distributions are determined individually for each endowment (currently 5% for all endowments except State Hospital South at 7%).
- Distributions are calculated as a percent of the three-year rolling average Permanent Fund balance for the most recently completed three fiscal years. The Land Board may adjust this amount depending on the amount in the Earnings Reserves, transfers to the Permanent Fund, and other factors.
- The levels of Earnings Reserves deemed adequate for future distributions are:
  - 7 years – All endowments (Public School, Agricultural College, Charitable Institutions, Normal School, Penitentiary, School of Science, State Hospital South, and University of Idaho)
- The Land Board may transfer any balance in an Earnings Reserve Fund in excess of an adequate level to the corresponding Permanent Fund and designate whether the transfer will or will not increase the Gain Benchmark.
- The principal of the permanent endowment funds, adjusted for inflation, will never be distributed, to protect the future purchasing power of the beneficiaries.

The Distribution Policy was developed based on many analyses, assumptions, and constraints, and its administration requires interpretation of nuances. EFIB has documented these in the Distribution Principles included in [Appendix F](#).

# IX. Monitoring and Reporting

## A. Philosophy

The Land Board and its agents shall use a variety of compliance, verification, and performance measurement tools to monitor, measure, and evaluate how well the Endowment Assets are being



managed. Monitoring, reporting, and evaluation frequencies shall range from real-time performance to daily, weekly, monthly, quarterly, semi-annual, and annualized performance.

The Land Board seeks to answer three fundamental fiduciary questions through the performance monitoring and reporting system:

- Are the assets being prudently managed? More specifically, are assets being managed in accordance with established laws, policies, and procedures, and are IDL and EFIB (and by extension the EFIB's investment managers) in compliance with established policies and their mandates?
- How have the assets performed relative to Land Board approved investment objectives?
- Are the assets being profitably managed? More specifically, has performance affected distributions positively and advanced security of the corpus?

## **B. Deviation from Policies**

If there is a deviation from Land Board investment policies, the IDL and EFIB staff are required to provide the Land Board with a report explaining how the deviation was discovered, the reasons for the deviation, and the impact on endowment performance, if any, and steps taken to mitigate future instances.

## **C. Financial Assets**

### **1. Reporting at EFIB Level<sup>1</sup>**

The EFIB Investment Policy requires that performance reports be generated by the investment consultant at least quarterly and communicated to EFIB staff and the EFIB Board. The investment performance of the total Financial Assets, as well as asset class components, will be measured against commonly accepted performance benchmarks as outlined in the EFIB Investment Policy. Consideration shall be given to the extent to which the investment results are consistent with the investment objectives, goals, and guidelines as set forth in this statement.

Investment managers shall be reviewed regularly, by EFIB staff and the general fund consultant, regarding performance, personnel, strategy, research capabilities, organizational and business matters, and other qualitative factors that may impact their ability to achieve the desired investment results.

### **2. EFIB Reporting to the Land Board**

Each month, EFIB staff will provide the following to the Land Board:

- Investment performance, both absolute and relative to benchmark.
- An evaluation of the sufficiency of Earnings Reserve balances (measured by coverage ratio: reserve balance divided by the distribution).
- A summary of any significant actions by EFIB.

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<sup>1</sup> EFIB Investment Policy (see [Appendix C](#)). Management and approval of this policy is a duty delegated to EFIB.

- Any compliance/legal issues, areas of concern, or upcoming events.

Part-way through the fiscal year, typically at the May meeting, EFIB shall provide the Land Board with a brief financial summary of fiscal year-to-date activity.

After the end of the fiscal year, typically at the November meeting, EFIB shall provide the Land Board with the following:

- A financial summary for the recently completed fiscal year.
- The report of the Land Board Audit Committee regarding control deficiencies identified by the independent auditor.
- An update on EFIB's Strategic Plan.
- Investment performance for the fund versus strategic (longer-term) measures.
- A report on EFIB meetings, including number of meetings and attendance.

## **D. Land Assets**

### **1. IDL Internal Processes**

IDL staff shall report to the director using the standard reports as described below that are provided to the Land Board. All of the information is reviewed by the director prior to submission to the Land Board.

Each program administered by IDL is managed by a bureau chief and a program manager. Policies and procedures governing daily activities are in place at the bureau or program level but are generally implemented by operations staff.

Decisions related to routine investment and management decisions are typically made at the area office level (or program level) with review by both the operations chiefs and bureau chiefs, subject to the established governance structure.

In the case of more complex investment and management decisions, staff involvement typically includes area office staff, operations chiefs, bureau chiefs, and executive staff to assure adequate due diligence and independent review. More than one member of the executive staff is likely to be involved in the analysis of the information and the final decision. Where necessary, the director retains final decision-making authority as delegated by the Land Board and described in the established governance structure.

### **2. IDL Reporting to the Land Board**

Each month, IDL reports the following:

- Trust Land Management Division activity and information including timber sale revenue and activity and non-timber revenue and activity.
- Updates for ongoing special projects as needed.
- Legal and compliance issues and their status.
- Information necessary for Land Board review and approval of specific items.

IDL also reports the Land Bank Fund balance to the Land Board quarterly.

As previously described, IDL functions under the authority of the Land Board with the Land Board having final approval of many of IDL's policies and management decisions, up to and including review and approval of the IDL budget request prior to submission.

Each month, IDL brings matters forward for Land Board review and approval. Items are discussed first with senior Land Board staff members then placed on the consent agenda, where routine items may be approved without discussion, or the regular agenda, which addresses policy and programmatic items the Land Board may wish to discuss prior to making a decision.

Certain confidential matters may be presented for the Land Board in executive session at the discretion of the Land Board, pursuant to Idaho Code § 74-206.

IDL also produces an annual report to the Land Board, the state affairs committees of the legislature, as well as the public. IDL's overall strategic plan is updated annually and presented to the Land Board prior to submission to the Division of Financial Management.

The Land Board requires IDL staff to prepare and deliver an Asset Management Plan and Business Plans for each land type that explain how the Land Assets will be managed to achieve the Land Board approved investment objectives. This provides the Land Board a focused opportunity to:

- Question and comment on IDL staff's investment and management plans.
- Request additional information and support about IDL staff's investment and management intentions.
- Express its confidence and approval in the Strategic Plan, Asset Management Plan, and Business Plans.

The Land Board requires certain IDL procedures to be audited every 3-5 years:

- Land Transactions >\$1,000,000 shall be subject to a post-audit every ~~three (3)~~ five (5) years, and the Land Board's Land Investment Advisor shall review such post-audit and provide a report to the Land Board.

## **E. Total Endowment**

Performance reports generated by the general consultant shall be compiled annually for review by the Land Board. The investment performance of the Endowment, as well as asset class components, will be measured against performance benchmarks outlined in this Statement of Investment Policy and the EFIB Investment Policy.

## X. Key Documents

To assist the Land Board, EFIB Staff, and IDL Staff, the following key documents will be produced or reviewed according to the schedule in Exhibit 2.

### Exhibit 2: Key Documents

Document Name	Document Source	Review Schedule
<b>Performance Review of Fund</b>	General Consultant and EFIB Staff	Monthly and Quarterly
<b>Performance Review Total Endowment</b>	General Consultant, IDL Staff, and EFIB Staff	Annually
<b>Statement of Investment Policy</b>	General Consultant, IDL Staff, and EFIB Staff <i>Reviewed by Investment Sub-Committee</i>	Annually
<b>IDL Program Business Plans</b>	IDL Staff	1-5 Years as specified in each plan
<b>IDL Asset Management Plan</b>	IDL Staff	Every 5 Years
<b>Strategic Reinvestment Plan</b>	General Consultant <i>Reviewed by Investment Sub-Committee</i>	Every 3 Years
<b>IDL Strategic Plan</b>	IDL Staff	Annually
<b>Asset Allocation</b>	General Consultant	Every 8 years
<b>Monthly Timber Sale Activity Report</b>	IDL Staff	Monthly
<b>Annual Timber Sale Plan</b>	IDL Staff	Annually
<b>Ten Year Forecast of Land Income</b>	IDL Staff	Annually
<b>IDL Annual Budget</b>	IDL Staff	Annually
<b>EFIB Strategic Plan</b>	EFIB Staff	Annually
<b>EFIB Meeting Report</b>	EFIB Staff	Annually
<b>Audit Committee Report</b>	Audit Committee	Annually

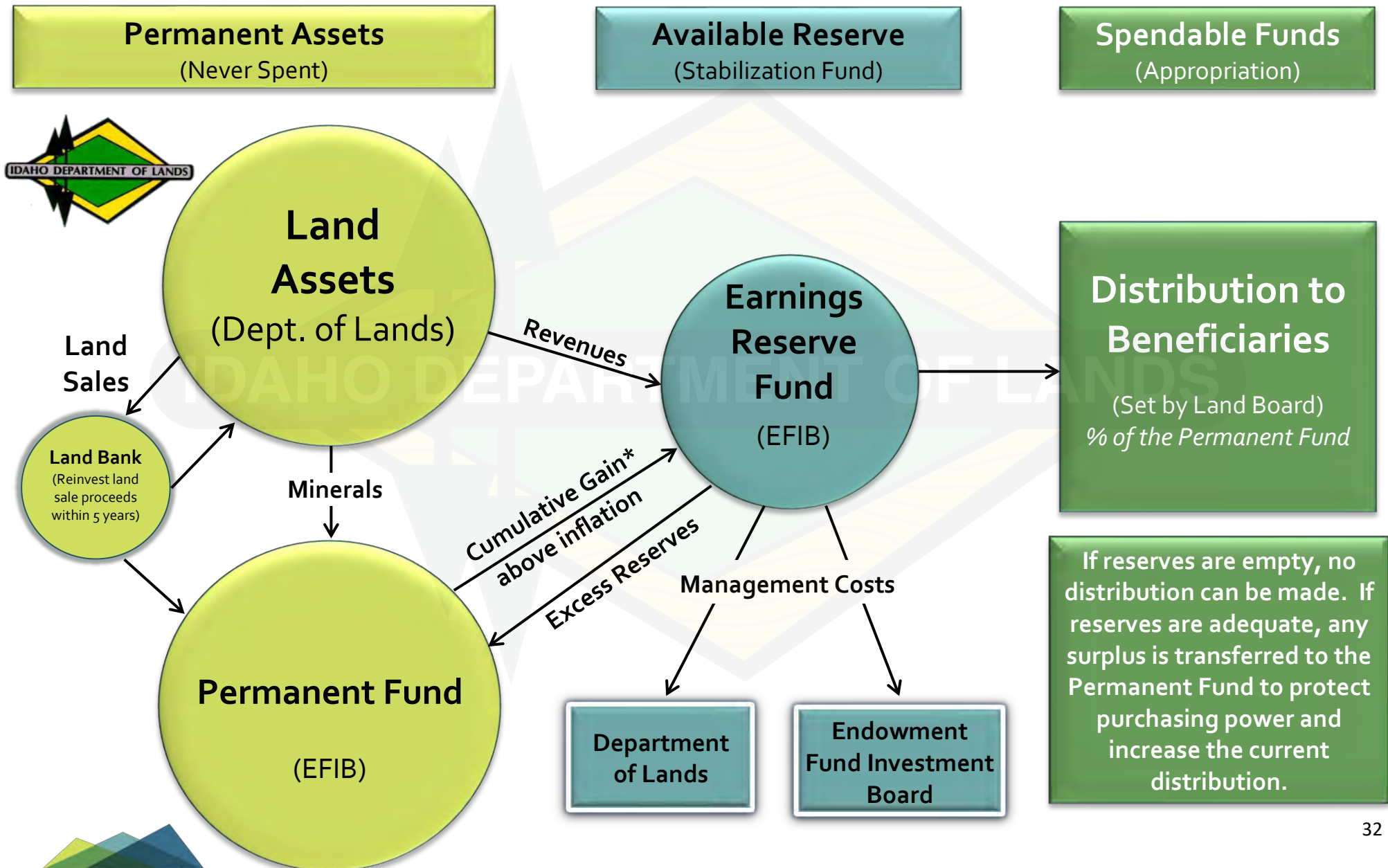
## **XI. Appendices:**

- A. Structure of the Endowment**
- B. Constitution and State Statutes**
- C. EFIB Investment Policy**
- D. Use of External Advisors**
- E. Decision-Making Structure Chart**
- F. EFIB's Distribution Principles**

The logo for 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 yellow wavy lines representing water. A horizontal banner across the middle of the logo contains the text "IDAHO DEPARTMENT OF LANDS" in white, uppercase letters.

**IDAHO DEPARTMENT OF LANDS**

# STRUCTURE OF IDAHO'S ENDOWMENT ASSETS



## **B. Constitution and State Statutes**

### **Constitution of the State of Idaho**

#### [ARTICLE IX](#) EDUCATION AND SCHOOL LANDS

[SECTION 3](#) PUBLIC SCHOOL PERMANENT ENDOWMENT FUND TO REMAIN INTACT

[SECTION 4](#) PUBLIC SCHOOL PERMANENT ENDOWMENT FUND DEFINED

[SECTION 7](#) STATE BOARD OF LAND COMMISSIONERS

[SECTION 8](#) LOCATION AND DISPOSITION OF PUBLIC LANDS

[SECTION 10](#) STATE UNIVERSITY – LOCATION, REGENTS, TUITION, FEES, AND LANDS

[SECTION 11](#) INVESTING PERMANENT ENDOWMENT FUNDS

### **Idaho Statutes**

#### [TITLE 57](#) PUBLIC FUNDS IN GENERAL

[CHAPTER 7](#) INVESTMENT OF PERMANENT ENDOWMENT AND EARNINGS RESERVE FUNDS

#### [TITLE 58](#) PUBLIC LANDS

[CHAPTER 1](#) DEPARTMENT OF LANDS

[CHAPTER 2](#) INDEMNITY LIEU LAND SELECTIONS

[CHAPTER 3](#) APPRAISEMENT, LEASE, AND SALE OF LANDS

[CHAPTER 4](#) SALE OF TIMBER ON STATE LANDS

[CHAPTER 5](#) STATE PARKS AND STATE FORESTS

[CHAPTER 6](#) RIGHTS OF WAY OVER STATE LANDS

[CHAPTER 12](#) PUBLIC TRUST DOCTRINE

[CHAPTER 13](#) NAVIGATIONAL ENCROACHMENTS

**c. EFIB Investment Policy** Note: Entire policy updated with 2023 version

**ENDOWMENT FUND INVESTMENT BOARD**

**D. Commingled Pool Investment Policy**

**Date Established: 2000**

**Last Reviewed: September 2023**

**Last Revised: September 2023**

**This Statement of Investment Policy is applicable to:**

Public School Permanent Fund and Earnings Reserve Fund

Agricultural College Permanent Fund and Earnings Reserve Fund

Charitable Permanent Fund and Earnings Reserve Fund

Normal Schools Permanent Fund and Earnings Reserve Fund

Penitentiary Permanent Fund and Earnings Reserve Fund

School of Science Permanent Fund and Earnings Reserve Fund

State Hospital South Permanent Fund and Earnings Reserve Fund

University Permanent Fund and Earnings Reserve Fund

Capitol Permanent Fund and Maintenance Reserve Fund

Department of Environmental Quality Bunker Hill Endowment Fund Trust

Department of Environmental Quality Asarco Endowment Fund Trust

Department of Environmental Quality Hecla Endowment Fund Trust

Department of Fish & Game Southern Idaho Mitigation Endowment Trust

Department of Fish & Game Craig Mountain Wildlife Mitigation Trust



Department of Fish & Game Blackfoot Wildlife Mitigation Trust

Department of Fish & Game North Idaho Wildlife Mitigation Trust

Department of Fish & Game North Idaho Wildlife Mitigation Operational Trust

Department of Parks & Recreation Ritter Island Endowment Fund

Department of Parks & Recreation Trail of the Coeur d'Alene's Endowment Fund

Idaho Department of Lands - Forest Legacy Stewardship Endowment Funds

### **Statement of Philosophy**

This statement of investment policy is set forth by the Endowment Fund Investment Board (EFIB) to:

- Define and assign the responsibilities of all involved parties;
- Establish a clear understanding for all involved parties of the investment goals and objectives of Fund assets;
- Offer guidance and limitations to all involved parties regarding the investment of Fund assets;
- Establish a basis for evaluating investment results;
- Manage Fund assets according to the prudent investor rule; and,
- Establish the relevant investment horizon for which the Fund assets will be managed.

### **Statement of Investment Policy**

To assure continued relevance of the guidelines, objectives, financial status and capital market expectations as established in this statement of investment policy, the EFIB will review the policy annually.

### **Investment Objectives**

In order to meet its objectives, the investment strategy of the EFIB is to emphasize total return; that is, the aggregate return from capital appreciation, dividend and interest income. The primary objectives are:

- To maintain the purchasing power of the Fund. In order to maintain fair and equitable inter-generational funding, state statute has mandated that the real value of the corpus be protected from inflation;
- To maximize total return over time at an acceptable level of risk;
- To provide relatively smooth and predictable distributions to the beneficiaries; and
- To maintain sufficient liquidity for anticipated expenditures.

## General Investment Principles

- Investments shall be made solely in the interest of the beneficiaries of the Funds;
- The Funds shall be invested with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent expert acting in like capacity and familiar with such matters would use in the investment of a fund of like character and with like aims;
- Investment of the Funds shall be diversified as to minimize the risk of large permanent losses.
- The EFIB will employ one or more investment managers of varying styles and philosophies to support the Funds' objectives;
- Cash is to be employed productively at all times by investment in short-term cash equivalents to provide safety, liquidity, and return; and,
- The investment manager(s) should at all times be guided by the principles of "best execution" when trading securities and acting in the Funds' best interests are the primary consideration.

## Assignment of Responsibility

- Responsibility of the Manager of Investments ("MOI") - The MOI serves as a fiduciary and is empowered by the Board to make certain decisions and take appropriate action regarding investment of the Funds' assets. The responsibilities of the MOI include:
  - Developing a sound and consistent investment policy;
  - Establishing reasonable investment objectives;
  - Selecting qualified investment managers after consultation with the Investment Consultant;
  - Communicating the investment policy guidelines and objectives to the investment managers and clients;
  - Monitoring and evaluating performance results to assure that the policy guidelines are being met;
  - Selecting and appointing custodian(s);
  - Discharging investment managers after consultation with the Investment Consultant; and,
  - Taking any other appropriate actions.
- Responsibility of the Investment Consultant(s) - The investment consultant shall be hired by the EFIB. The consultant serves as a non-discretionary advisor to the EFIB. The consultant will offer advice concerning the investment management of the Funds' assets. The investment consultant will act as a fiduciary with respect to the services it provides. The advice will be consistent with the investment objectives, policies, guidelines and constraints as established in this statement. Specific responsibilities of the investment consultant include, but are not limited to:
  - Assisting in the development and on-going review of the investment policy, asset allocation strategy, performance of the investment managers, and objectives and guidelines;
  - Supporting portfolio optimization and other investment techniques to determine the appropriate return/risk characteristics of the Funds;

- Conducting investment manager searches when requested by the MOI and Board;
  - Monitoring the performance of the investment manager(s) to provide both the MOI and Board with the ability to determine the progress toward achieving investment objectives;
  - Communicating matters of policy, manager research, and manager performance to the MOI and Board;
  - Reviewing the Funds' investment history, historical capital markets performance and the contents of this investment policy statement with any newly appointed members of the Board.
- Responsibility of the Investment Manager(s) - As a fiduciary, each investment manager will have full discretion to make all investment decisions for the assets placed under its jurisdiction, while observing and operating within all policies, guidelines, constraints, and philosophies as outlined in either this statement or in their specific Manager Guidelines.

### Delegation of Authority

The MOI is a fiduciary to the EFIB and is responsible for directing and monitoring the investment management of Funds' assets. As such, the MOI is authorized to delegate certain responsibilities to professional experts in various fields. These include, but are not limited to:

- Investment Managers - Investment managers hired by the EFIB must be registered with the Securities and Exchange Commission under the Investment Act of 1940, unless inapplicable, or in the case of a banking organization with the Office of the Comptroller of the Currency. Investment managers have discretion to purchase, sell, or hold the specific securities that will be used to meet the Funds' investment objectives. This includes mutual fund or any collective fund portfolio managers.
- Custodian - Any custodian hired by the EFIB will maintain possession of securities owned by the Fund, collect dividend and interest payments, redeem maturing securities, and affect receipt and delivery following purchases and sales. Any custodian will also perform regular accounting of all assets owned, purchased, or sold, as well as movement of assets into and out of the Fund accounts. Any custodian will provide at a minimum monthly reporting of assets and transactions to the MOI and provide the MOI with any additional data requests. Any custodian will administer proxy statements and corporate action claims on behalf of EFIB.

Additional specialists may be employed by the MOI with approval by the EFIB to assist in meeting its responsibilities and obligations to administer Fund assets prudently.

Managers will be held responsible and accountable to achieve the objectives outlined in their specific guidelines. While it is not believed the limitations will hamper investment manager decisions, each manager should request in writing any modifications they deem appropriate.

All expenses for such experts must be customary and reasonable.

### **Marketability of Assets**

Based on the Fund's long-term liquidity requirements, the EFIB desires securities with readily ascertainable market values that trade in liquid markets but recognizes that some allowable assets are valued less frequently by industry established appraisal methods, and may be reported on a lagged basis.

### **Investment Guidelines**

#### **Allowable Assets**

Cash Equivalents or other Liquid Assets:

Treasury bills; money market funds; STIF funds; commercial paper; banker's acceptances; repurchase agreements; certificates of deposit.

Fixed Income:

US government and agency securities; bank loans; corporate notes and bonds; residential mortgage backed bonds (agency and non-agency); commercial mortgage backed bonds; municipal bonds, infrastructure securities, USD and non-USD fixed income securities of foreign governments and corporations; planned amortization class collateralized mortgage obligations; or other "early tranche" CMO's; Sequential pay CMO's; collateralized loan obligations, asset backed securities; convertible notes and bonds; Securities defined under Rule 144 A and Section 4(2) of the Securities Act of 1933; or any other fixed income securities eligible for inclusion in the Bloomberg Barclays Aggregate Bond Index.

Equities: Common stocks; convertible preferred stocks; preferred stocks; REITS; American depository receipts (ADR's); stocks of non-US companies (ordinary shares);

Real Estate: Domestic, private, open-end, core commingled funds, REITS

ETF's, Mutual or Collective Funds: ETF's, Mutual Funds, and Collective Funds which invest in securities as allowed in this statement or as permitted in Investment Manager Guidelines. Investment managers will advise the MOI of their intent to utilize ETFs prior to their purchase, what specific ETFs they intend to use and the purposes they serve.

Futures, Options and Swaps: The EFIB may approve the use of financial index futures and options in order to adjust the overall effective asset allocation of the entire portfolio or it may use swaps, futures or options to hedge interest rate or currency exposure. For example, S&P 500 and 10-Year Treasury futures are used to equitize idle cash and to passively rebalance the portfolio. Futures and options positions are not to be used for speculation, and the EFIB must specifically approve the program for each type of use. Derivative exposure must have sufficient cash, cash equivalents, offsetting derivatives or other liquid assets to cover such exposures.

### **Derivatives:**

Derivative securities are defined as synthetic securities whose price and cash flow characteristics are based on the cash flows and price movements of other underlying securities. Most derivative securities are derived from equity or fixed income securities and are packaged in the form of options, futures, and interest rate swaps, among others. The EFIB will take a conservative posture on derivative securities in order to maintain its risk averse nature. Since it is anticipated that new derivative products will be created each year, it is not the intention of this document to list specific derivatives that are prohibited from investment, rather it will form a general policy on derivatives. Unless a specific type of derivative security is allowed in the Investment Manager Guidelines, the Investment Manager(s) must seek written permission from the EFIB to include derivative investments in the Fund's portfolio. The Investment

Manager(s) must present detailed written information as to the expected return and risk characteristics of such investment vehicles.

### **Prohibited Assets**

Prohibited investments include, but are not limited to the following:

- Commodities
- Futures Contracts except as described in previous section “Futures, Options and Swaps”;
- Naked Options;
- Residual Tranche CMOs; and
- Purchases of securities on margin and short-sale transactions are prohibited.

The logo for the Idaho Department of Lands is centered on the page. It features a stylized landscape with a green mountain peak, a yellow sun, and a blue sky. The text "IDAHO DEPARTMENT OF LANDS" is written in white, bold, uppercase letters across a horizontal grey bar that spans the width of the logo.

IDAHO DEPARTMENT OF LANDS

## Asset Allocation Guidelines

Investment management of the assets of the commingled endowment pool shall be in accordance with the following asset allocation guidelines:

- Total Fund Asset Allocation Guidelines (at market value)

Asset Class	Range	Target	Rebalance Point	Benchmark
Equities	61% - 71%	66%	+/-5%	MSCI All Country World Index
Domestic Equities	32% - 42%	37%	+/-5%	Russell 3000 Index
Large Cap	22% - 30%	26%	+/-4%	Russell 1000 Index
Growth		5%		Russell 1000 Growth Index
Core		16%		S&P 500 Index
Value		5%		Russell 1000 Value Index
Mid Cap	4% - 10%	7.0%	+/-3%	Russell Mid Cap Index
Growth		3.5%		Russell Mid Cap Growth
Value		3.5%		Russell Mid Cap Value
Small Cap	2% - 6%	4%	+/-2%	Russell 2000 Index
Growth		2%		Russell 2000 Growth Index
Value		2%		Russell 2000 Value Index
International Equities	13% - 21%	17.0%	+/-4%	MSCI ACWI ex-US
Growth		8.5%		MSCI ACWI ex-US Growth
Value		8.5%		MSCI ACWI ex-US Value
Global Equity	8% - 16%	12%	+/-4%	MSCI All Country World Index
Manager		4%		MSCI All Country World Index
Manager		4%		MSCI All Country World Index
Manager		4%		MSCI All Country World Index
Real Estate	7% - 13%	10%	+/-3%	NCREIF ODCE Index
Fixed Income	21% - 27%	24%	+/-3%	Bloomberg Aggregate Bond Index
Core Plus Bond Active		13%		Bloomberg Aggregate Bond Index
Aggregate Bond Index		11%		Bloomberg Aggregate Bond Index
Cash and Equivalents		0%		3-month Treasury Bill Index

## Rebalancing of Fund Assets

Understanding that different asset classes will perform at different rates, the MOI and the investment consultant will closely monitor the asset allocation shifts caused by performance. Therefore:

- The MOI will review the relative market values of the asset classes whenever there is to be a net contribution to the Fund and will generally place the new monies under investment in the category(ies) which are furthest below the target allocation in this policy and/or use the opportunity to rebalance the portfolio; and,
- The MOI and investment consultant will review the asset allocation quarterly and during periods of severe market change to assure that the target allocation is maintained. If an asset class is outside the allowable range, the MOI will take appropriate action to redeploy assets taking into account timing, costs and other investment factors.

#### **Guidelines for Fixed Income Investments and Cash Equivalents**

- The average credit quality of the fixed income portfolio must be investment grade or higher. Individual fixed income securities may be rated below investment grade.
- The average duration of the fixed income portfolio should be +/- 2 years of the Bloomberg Aggregate index.
- Money Market Funds selected shall contain securities whose credit rating at the absolute minimum would be rated investment grade by Standard and Poor's, and/or Moody's.

## **IDAHO DEPARTMENT OF LANDS**

#### **Investment Performance Review and Evaluation**

Performance reports generated by the investment consultant shall be compiled at least quarterly and presented to the EFIB for review. The investment performance of the total Fund, as well as asset class components, will be measured against commonly accepted performance benchmarks. Consideration shall be given to the extent to which the investment results are consistent with the investment objectives, goals, and guidelines as set forth in this statement. The EFIB intends to evaluate investment managers over at least a three-year period.

Each manager shall maintain a portfolio consistent with characteristics similar to those of the composite utilized for their retention. Investment performance will be measured on a total return basis, which is defined as dividend and interest income plus realized and unrealized capital gains. Each manager will be evaluated in part by regular comparison to a peer group of other managers employing statistically similar investment style characteristics. It is expected that each manager will perform above the peer group median and the appropriate index over rolling three-year periods with respect to both return and risk.

Investment managers shall be reviewed regularly regarding performance, personnel, strategy, research capabilities, organizational and business matters, and other qualitative factors that may impact their



ability to achieve the desired investment results. The EFIB reserves the right to terminate a manager for any reason.

### **GASB 40 Reporting Requirements**

Purpose: The Governmental Accounting Standards Board has identified that state and local governments have deposits and investments which are exposed to risks that may result in losses. GASB Statement number 40 (GASB 40) is intended to inform users of the financial statements about the risks that could affect the ability of a government entity to meet its obligations. GASB 40 has identified general deposit and investment risks as credit risk, including concentration of credit risk and custodial credit risk, interest rate risk, and foreign currency risk and requires disclosures of these risks and of policies related to these risks. This portion of the Investment Policy addresses the monitoring and reporting of those risks.

In general, the risks identified in GASB 40, while present, are diminished when the entire portfolio is viewed as a whole. Specifically, the risks identified and the measurements required is poorly transferable, if at all, to portfolios like the EFIB, which is dominated by equity exposure.

It is the policy of the EFIB that the risks addressed in GASB 40 are to be monitored and addressed primarily through the guidelines agreed to by those managers, and by regular disclosures in reports by managers of levels of risks that may exceed expected limits for those portfolios.

- **Credit Risk:** The risk that an issuer or other counterparty to an investment will not fulfill its obligations to the EFIB. GASB 40 requires disclosure of credit quality ratings of investments in debt securities as described by nationally recognized statistical rating organizations.

**Policy:** The Investment Guidelines section of this Investment Policy provides credit quality and maturity guidelines for fixed income and cash equivalent investments. Managers are required to comply with the Investment Policies set forth by the EFIB.

- **Custodial Credit Risk:** The risk that in the event of a financial institution or bank failure, the Fund would not be able to recover the value of their deposits and investments that are in the possession of an outside party.

Policy: The EFIB minimizes exposure to custodial credit risk by requiring that investments, to the extent possible, be clearly marked as to the EFIB ownership and further to the extent possible, be held in the Fund' name.

- Concentration of Credit Risk: The risk of loss that may be attributed to the magnitude of a government's investment in a single issue.

Policy: Managers will provide the EFIB with expected concentration of credit risk exposures in their portfolio guidelines. If the concentration of credit risk exceeds expectations, managers are to be required to report these occurrences to Staff and these disclosures are to be made available to the Board. For the portfolio as a whole, staff will report to the Board at a regular Board meeting if the exposure to a non-US government guaranteed credit exceeds 5% of the total EFIB portfolio.

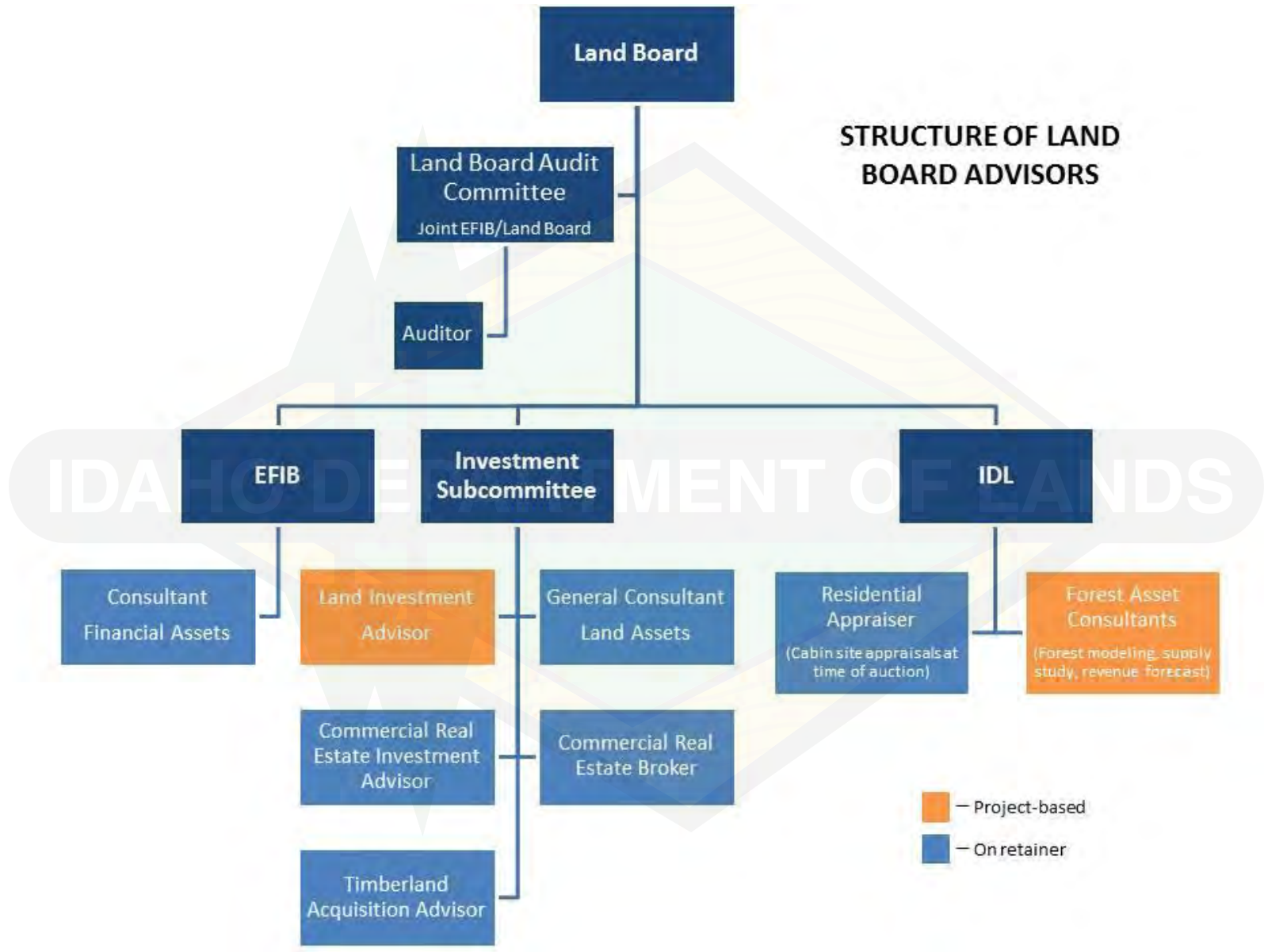
- Interest Rate Risk: The risk that changes in interest rates will adversely affect the fair value of an investment. Interest rate risk to the EFIB's fixed income portfolio is monitored using the effective duration methodology. Effective duration measures the volatility of the price of a bond given a change in interest rates, taking into account any optionality in the underlying bond.

Policy: Managers will provide the EFIB with the expected portfolio duration in their portfolio guidelines. If the duration of the portfolio differs from expectations, managers are to be required to report these occurrences to Staff and these disclosures are to be made available to the Board.

- Foreign Currency Risk: The risk that changes in exchange rates will adversely impact the fair value of an investment. The EFIB's currency risk exposures, or exchange rate risk, reside within the international equity and fixed income investment holdings.

Policy: The EFIB permits investing up to 40% of the total portfolio in international securities. The EFIB recognizes that international investments (equity or fixed income) will have a component of currency risk associated with them. The individual manager guidelines will outline the expected currency exposures (either specifically or through ranges of security exposures to particular currency areas) of the underlying portfolio and if the actual currency exposure differs from the expected, managers are to be required to report these occurrences to Staff, and these disclosures are to be made available to the Board.

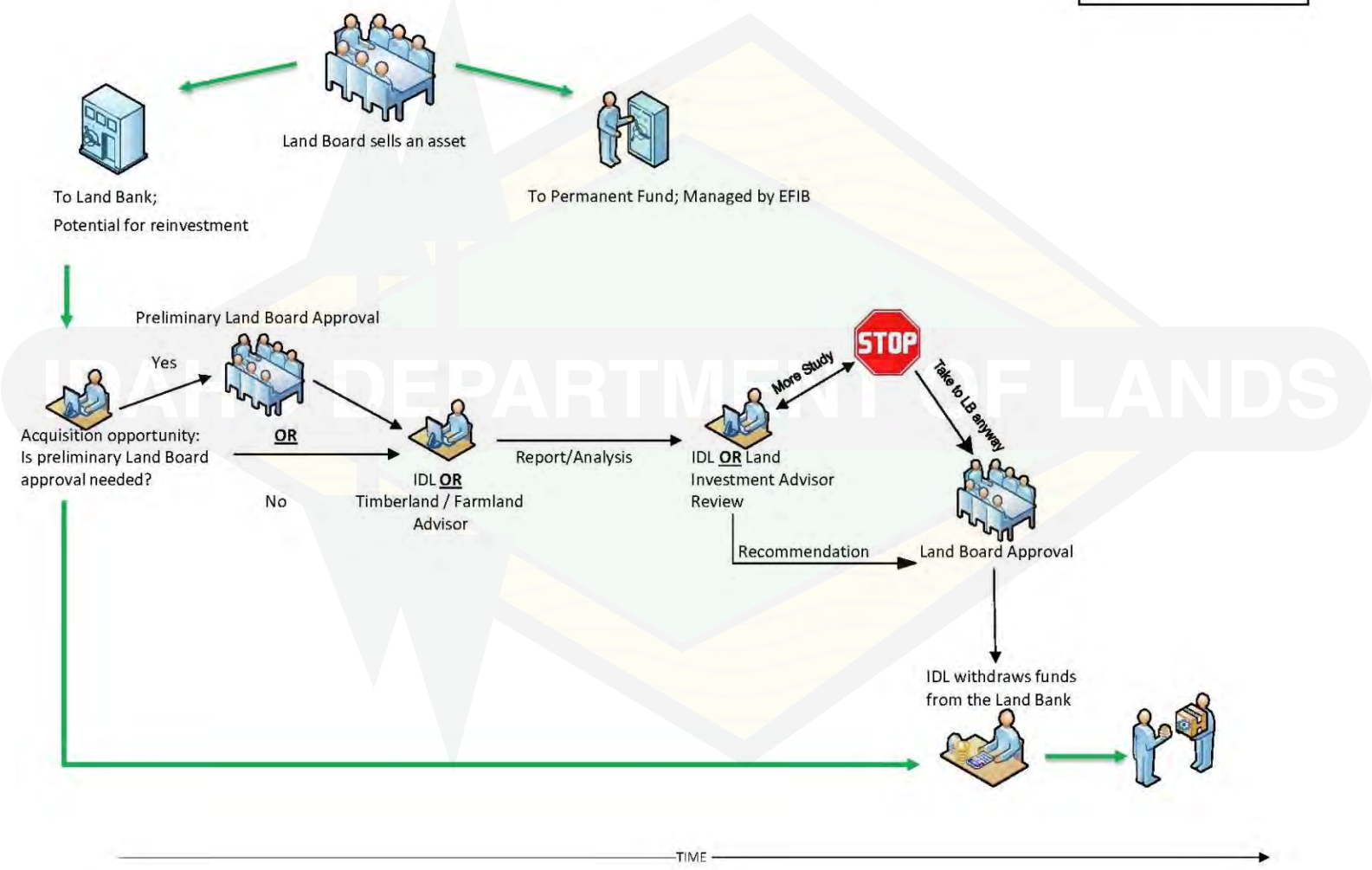
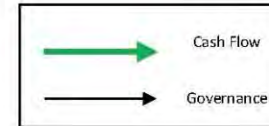
## D. Use of External Advisors



# E. Decision-Making Structure Chart

10/18/2016

## Endowment Assets – Reinvestment in Real Assets *Revised* Governance & Cash Flow Model Other (non-routine) Investments



v1014

## G. EFIB's Distribution Principles

### Summary of Idaho Endowment Fund Distribution Principles, Policy, and Background

By the Endowment Fund Investment Board – Updated July 17, 2018

#### **Mission of Idaho Endowments: Provide a Perpetual Stream of Income<sup>i</sup>**

To achieve this mission, Distribution Policy must balance four conflicting objectives:

- Maximize total return over time at a prudent level of risk
- Provide relatively stable and predictable distributions
- Constrain distributions to protect future generations' purchasing power
- Maintain sufficient liquidity for anticipated expenditures

#### **Priorities for Allocating Income**

To balance the interests of current and future beneficiaries, the Land Board established the following priorities for allocating endowment revenues and gains:

- First Priority: Avoid reductions in total endowment distributions
- Second Priority: Maintain adequate Earnings Reserves to protect the current level of distributions from temporary income shortfalls
- Last Priority: Increase both distributions and Permanent Fund corpus faster than inflation and population growth

#### **Distribution Policy Management Principles**

- Distribute a conservative estimate of long-term sustainable income every year
- Maintain distributions when income temporarily falls below long-term expectations by saving up income in a reserve when it exceeds expectations
- Grow both distributions and permanent corpus proportionately, more than offsetting losses from inflation and dilution from population growth by reinvesting sufficient income back into principal

#### **Constraints on Wasting Principal (Corpus Growth Objectives)**

A major risk any endowment faces is that assets will be depleted to satisfy the beneficiary's current needs at the expense of long-term needs. Many states have succumbed to pressure to spend down their endowment funds. Idaho has several protections in place to mitigate this pressure: <sup>ii</sup>

- Federal law and state Constitution: Prohibits spending original principal, including the proceeds of land sales
- State statute: Requires that principal grow at least at the rate of inflation before any market appreciation of the Permanent Fund can be considered distributable income<sup>iii</sup>
- Land Board policy objective: Requires that principal grow faster than the rate of inflation and population growth<sup>iv</sup>

## Determining Annual Distributions<sup>v</sup>

Distributions are initially calculated as a percent (the policy distribution rate<sup>vi</sup>), multiplied by the Permanent Fund balance<sup>vii</sup> (three-year-average to partly smooth variation in the equity markets)

- Current policy distribution rates are 5% for all endowments except State Hospital South (7%)

Distributions may be further adjusted, up or down, to reflect the reserve balance (and any other relevant factors):

- If reserves are adequate, distributions are maintained even when the Permanent Fund shrinks (actual rate > policy rate)
- If reserves are not fully sufficient (not at target), distributions are maintained even when the Permanent Fund rises (actual rate < policy rate)
- If reserves are unusually low, distributions may be reduced (actual rate < policy rate)

## Honoring Beneficiaries' Strong Preference for Sustainable Distributions

Beneficiaries and legislators clearly indicate that a reduction in distributions (if actual income turns out to be low) is much more difficult for them to adjust to than it is to temporarily forego an increase if actual income turns out higher than a conservative expectation. Therefore, it is prudent to base both the policy distribution rate and the annual distribution on a conservative expectation of fund and land earnings<sup>viii</sup>.

## Determining Transfers to the Permanent Fund<sup>ix</sup>

Excess income is converted to (transferred to) Permanent Fund corpus when reserves are deemed fully sufficient: i.e., exceed targeted years<sup>x</sup> of the planned distribution (six years for Public School and seven years for all other endowments).

## Measuring the Balance of Current and Future Beneficiaries' Interests

Over time, balance is achieved when all (and only all) "real" income is distributed.

Balance is specifically measured by the following relationship:<sup>xi</sup>

- o Actual distributions *plus* growth in reserves  
*equals*
- o Actual income (land & fund), *minus* income converted to principal

## Earnings Reserves Serve Two Roles

The Earnings Reserve is not a "rainy day" fund to be drawn down when other state revenues falter. Its purpose is to be a:

1. Buffer against volatility in land income and fund return – a bank for unusually high earnings to be used to maintain distributions in lean times
2. Benchmark to determine when spendable reserves are fully sufficient so that any additional earnings can be reinvested in permanent principal (to maintain purchasing power and sustainably increase distributions)

## Investment of the Earnings Reserve Fund

Because the fund intends to hold an adequate level of reserves into perpetuity, this long investment horizon allows reserves to be invested in the same risk/return portfolio mix as the Permanent Fund

- In extreme cases, low reserves may require moving the reserves to a more conservative asset mix (which may lock in losses)

### **Role of Endowment Distributions in the Overall Appropriation Process**

Endowment distributions only satisfy a small portion of each beneficiary's annual spending needs, so those needs are essentially irrelevant in determining distributions. The EFIB recommends the Legislature address total beneficiary needs and short-term variations in tax receipts<sup>xii</sup> so that distributions can be stable and growing, based solely on the long-term earning capacity of the endowment. A consistent, high-returning asset mix cannot be maintained if distributions vary based on tax revenues.

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## **Endnotes**

<sup>i</sup> The Mission can also be restated in a more measurable form:

The Idaho Endowments will maximize the prudent distribution if they:

- Earn strong real income in the fund and from the land
- Maintain adequate reserves to prevent reductions in distributions
- Reinvest income to protect future purchasing power

<sup>ii</sup> To ensure these strict legal protections of the future beneficiary do not overrule the interests of the current beneficiary, Land Board policy requires that distributions grow proportionately with principal over the long term.

<sup>iii</sup> The statutory method for achieving inflation protection is measured by the "Gain Benchmark" (June 2000 original principal, adjusted for deposits and inflation). The cumulative total appreciation below inflation must be retained in the Permanent Fund, but any excess (measured at fiscal year-end) flows to Earnings Reserve as income, generally in September (this can be a large amount in one year or zero for several years).

<sup>iv</sup> The Land Board policy objective of keeping up with population growth:

- Makes real per capital distributions equivalent, current vs. future
- Is achieved by transferring (reinvesting) sufficient excess retained income from Reserves to Permanent Fund principal so it can never be spent

The current assumed population growth is 1.8% per year, except for Public School which is assumed to be 1.0% per year.

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<sup>v</sup> Distributions can be changed at any time, but to facilitate the budget process, are usually determined annually at the August Land Board meeting for the following fiscal year.

<sup>vi</sup> The policy distribution rate is based primarily on a conservative estimate of expected total income. When expected long-term earnings change significantly, the policy distribution rate should change (see note 10). However, to protect the corpus, the policy rate should not be raised (i.e., distributions constrained) if Permanent Fund balance objectives have not been achieved.

<sup>vii</sup> Calculating distributions as a percentage of the Permanent Fund is both a mechanism and an incentive to balance the interests of current and future beneficiaries. This structure ensures that:

- In normal conditions, distributions to current beneficiaries increase proportionately with the permanent fund balance
- Increases in distributions are sustainable (supported by sufficient permanent assets)
- Holding excess reserves is discouraged

Transfers from Earnings Reserve, both historical and approved but not completed, are added to the annual amounts used in calculating the three-year average Permanent Fund balance.

<sup>viii</sup> To reflect the desired conservative bias in setting policy distribution rates:

- Policy distribution rates should be increased only based on a conservative “downside” forecast of long-term income: e.g., 25<sup>th</sup> percentile fund earnings and 20<sup>th</sup> percentile land revenue forecasts
- Policy distribution rates should be reduced if the current rate can only be justified with optimistic earnings and revenue forecasts. Ideally, the reduction in the rate would be accomplished by holding the distribution (in dollars) constant for a long period. However, an immediate cut in the absolute dollars would be required if reserves are low.

To reflect a conservative bias in setting annual distributions, the viability of a proposed distribution is tested by forecasting the coverage ratio over the next three years based on a “low” forecast of timber earnings and a 2% fund return.

It is impossible to eliminate the possibility of a reduction in distributions, but the policy is designed to allow at least two years warning of a potential reduction, consistent with the time lags inherent in the state budgeting process. If a fund is unable to make an appropriated distribution, that would be considered a catastrophic failure of the process. In the past, three endowments have experienced catastrophic failures (i.e., had insufficient reserves to pay promised distributions): Public School (2003), Ag College (2005) and Charitable Institutions (2005).



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<sup>ix</sup> Transfers of excess reserves to the Permanent Fund are generally approved annually at the August Land Board meeting, based on balances as of the previous year end and approved distributions for the next fiscal year, but actually done in September

Requiring that reserves which exceed a sufficient or target level be converted to corpus (i.e., transferred to the Permanent Fund) reduces the temptation to:

- Make large, one-time distributions of accumulated income to the detriment of future beneficiaries
- Hoard income to avoid an increase in distributions that would automatically result from a conversion

<sup>x</sup> The determination of how many years of reserves is sufficient was based on the combined volatility of fund returns and net land revenues, which is heavily influenced by the fact that in a severe equity downturn (once every 25 years), no distributable income would be available from the Permanent Fund for about five years because the Permanent Fund would retain all of its income to rebuild the corpus. A temporary increase in the years of reserve, above the targeted level, may be called for if there is a temporary reduction in expected income (e.g., timber harvest is predicted to be unusually low). Reserves for the three endowments with cabin site dispositions will be allowed to rise up to a year above target, pending an update of the distribution models to reflect the impact of the dispositions on the desired reserve levels.

<sup>xi</sup> There will always be temporary deviations from this balance because actual income after inflation will vary from the expectations used to establish the distribution rate.

<sup>xii</sup> The Land Board has the legal authority to consider a beneficiaries' other sources of revenue in setting distributions and therefore could attempt to adjust distributions in response to changes in tax receipts or fund income. However, only the Legislature has the Constitutional responsibility and authority to balance a beneficiary's total spending in excess of endowment distributions with tax revenues. When endowment distributions decline, the Legislature can choose to provide tax revenues to maintain the total level of spending they believe is appropriate. When endowment distributions rise, the Legislature can choose to reduce tax revenues to maintain the level of total spending they believe is optimal. The Land Board has no control over tax revenues and would be unable, without the Legislature's consent, to adjust distributions in response to changes in tax receipts. Also, the Legislature is in a better position than the Land Board to balance a beneficiary's unfunded needs with all other expenditure requests and options to increase or decrease tax revenues.

# STATE BOARD OF LAND COMMISSIONERS

November 21, 2023

Regular Agenda

## Subject

Review of Strategic Reinvestment of Land Bank Funds

## Question Presented

Shall the Land Board approve continued strategic reinvestment of land bank funds through acquisition of timberland and proactive transfer to the permanent fund when land transactions are not available?

## Background

In May 2016, the State Board of Land Commissioners' (Land Board) general consultant Callan Associates (Callan) developed a Strategic Reinvestment Plan to help inform the Land Board's decisions regarding reinvestment of land bank funds. The Strategic Reinvestment Plan considered the whole trust, described alternatives to reinvestment, and provided recommendations to the Land Board. The recommendation was to reinvest land bank funds in timberland and farmland provided target hurdle rates could be met or exceeded and an institutional investment process was followed. The Strategic Reinvestment Plan was approved by the Land Board on May 17, 2016, and is subject to review every three years.

The most recent Land Board review of strategic reinvestment occurred in May of 2020. The direction provided by the Land Board was to "focus on acquisitions that increase the total amount of working forests in Idaho consistent with the Land Board's fiduciary duty."

Since implementation of the Strategic Reinvestment Plan, approximately 54,100 acres of productive timberland has been acquired using over \$99.7 million in land bank funds. Timberland acquisitions were completed in 2016, 2017, 2018, and 2023 and all have exceeded the current hurdle rate of 3.35% net real.

In the past nine years, over \$133.3 million of land bank funds has been transferred to the permanent fund for investment in financial assets by the Endowment Fund Investment Board. Of the transferred amount, approximately \$123.7 million was principal and approximately \$9.7 million was interest. Transfers to the permanent fund were completed in 2014, 2015, 2021, 2022, and 2023.

The land bank balance through September 30, 2023, was \$74,964,143, including \$73,209,322 in principal and \$1,754,821 in interest (Attachment 1). There is an obligation of \$17.25 million of Ag College funds for the University of Idaho's CAFE center which reduces the effective balance of the land bank to about \$57.7 million, including interest. The earliest expiration date is the first quarter of fiscal year 2026.

## **Discussion**

The Department of Lands (Department) continues to work to implement Land Board direction to invest land bank funds in working timberland, provided transactions are available and will exceed the hurdle rate for reinvestment. The flow of transactions is unpredictable and significant potential acquisitions can become available with little notice. The Department has streamlined its acquisition process to remain competitive. Third party expert advisors are used to assist with evaluating potential acquisitions. The hurdle rate for timberland investment is currently 3.35% net real.

The Department reviews the availability of potential transactions and the land bank aging report and has recommended transfers to the permanent fund when the available information indicates that land bank funds may expire before they can be invested in timberland. The Department has been proactive in recommending transfers to the permanent fund to ensure funds are invested and working for the beneficiaries. Recommended transfers to the permanent fund are approved by the Land Board's Investment Subcommittee before presentation to the Land Board.

Implementation of strategic reinvestment has expended only principal, with the associated interest transferred periodically to the permanent fund. Use of land bank interest to purchase land is allowed, but it has not been used to date. Interest is associated with specific land bank deposits, which are the result of specific sales of endowment land assets.

On October 31, 2023, the Investment Subcommittee reviewed and approved continued reinvestment in working timberland and proactive transfer of land bank funds to the permanent fund.

## **Recommendation**

Approve continued reinvestment of land bank principal and interest through acquisition of working timberland that exceeds the hurdle rate and proactive transfers of land bank funds to the permanent fund for investment in financial assets when timberland transactions are not available.

## **Board Action**

## **Attachments**

1. Land Bank Aging Report

**LAND BANK AGING REPORT**

**Current Remaining Principal Balance By Quarter Received - As of September 30, 2023**

<b>FY Quarter IN</b>	<b>Public School</b>	<b>Agriculture College</b>	<b>Normal Schools</b>	<b>State Hospital South</b>	<b>University of Idaho</b>	<b>All Endowments</b>	<b>FY Quarter EXPIRES</b>
2019-01	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2024-01
2019-02	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2024-02
2019-03	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2024-03
2019-04	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2024-04
2020-01	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	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
2023-04	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2028-04
2024-01	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2029-01
<b>TOTAL PRINCIPAL REMAINING</b>	<b>\$ 55,539,515</b>	<b>\$ 17,237,620</b>	<b>\$ -</b>	<b>\$ 432,187</b>	<b>\$ -</b>	<b>\$ 73,209,322</b>	

<b>LAND BANK CASH BALANCE (with Interest)</b>	<b>\$ 56,745,248</b>	<b>\$ 17,758,306</b>	<b>\$ 11,836</b>	<b>\$ 448,754</b>	<b>\$ -</b>	<b>\$ 74,964,143</b>
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# STATE BOARD OF LAND COMMISSIONERS

November 21, 2023

Regular Agenda

## Subject

DI200000, Disclaimer of Interest for the former bed of the Kootenai River, Boundary County, Idaho.

## Question Presented

Shall the Land Board approve Disclaimer of Interest DI200000?

## Background

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

## Discussion

Samuel Fodge, president of Fodge Pulp, Inc., has applied for a disclaimer of interest for two parcels of accretion land totaling 0.173 and 4.948 acres, more or less. These parcels are located within the original surveyed river meander lines of the Kootenai River adjacent to the applicant's deeded property in Section 26, Township 62 North, Range 01 East (Attachment 1-Map).

After the applicant paid the \$300 application fee, the Department identified the OHWM on site and the applicant's licensed surveyor completed a survey. The Department reviewed the survey, tax documents, and deeds (Attachments 2-4), and determined that the disclaimer was ready to move forward.

Fodge Pulp, Inc. will grant the State of Idaho an easement 5 feet in width for a public use right of way along, and adjacent to, the existing OHWM of the Kootenai River. In addition, Fodge Pulp, Inc. will grant the State of Idaho a disclaimer of interest for one parcel of land located below the ordinary high water mark totaling 0.019 acres.

## **Recommendation**

Direct the Department to issue a Disclaimer of Interest for two parcels totaling 5.121 acres of the former bed of the Kootenai River, to Fodge Pulp, Inc. following their payment to the Department of the remaining processing fee of \$300.

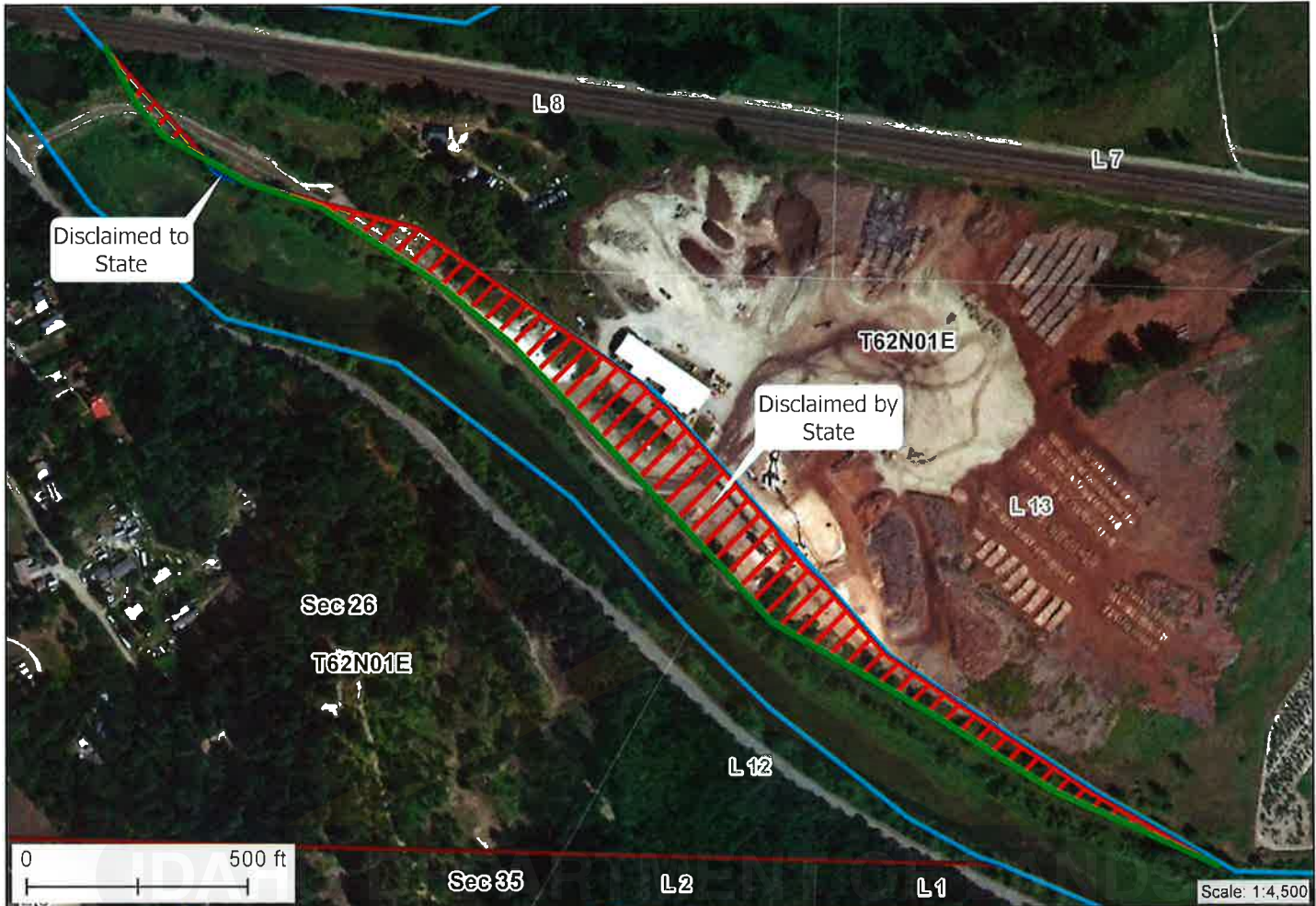
## **Board Action**






## **Attachments**

1. Map
2. Survey
3. Tax Records
4. Deed



IDAHO DEPARTMENT OF LANDS



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

**DI200000**  
 Section 26 - T62N - R01E  
 Boundary County

11/2/2023



**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.

1/4 Sec. Cor.  
 Found on iron  
 pipe, 2 ins. diam.  
 with a brass cap,  
 2-1/2 ins. diam.  
 marked RLS 3628  
 & as shown  
 CP&F Inst.  
 No. 295300  
 & Filed 2/22/83

# STATE OF IDAHO DEPARTMENT OF LANDS

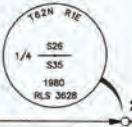
**LINE TABLE**

LINE	BEARING	DISTANCE
L1	N 85°53'41" W	74.77
L2	N 61°30'56" W	28.81
L3	N 48°45'24" W	56.84
L4	N 28°53'46" W	25.35
L5	N 28°53'46" W	101.49
L6	N 54°49'17" W	31.08
L7	N 44°35'19" W	45.86
L8	N 76°30'56" W	63.08
L9	N 43°30'56" W	48.86
L10	N 62°12'21" W	107.22
L11	N 62°12'21" W	113.05
L12	N 40°52'02" W	103.16
L13	N 30°20'03" W	137.96
L14	N 56°30'56" W	34.24

**CURVE TABLE**

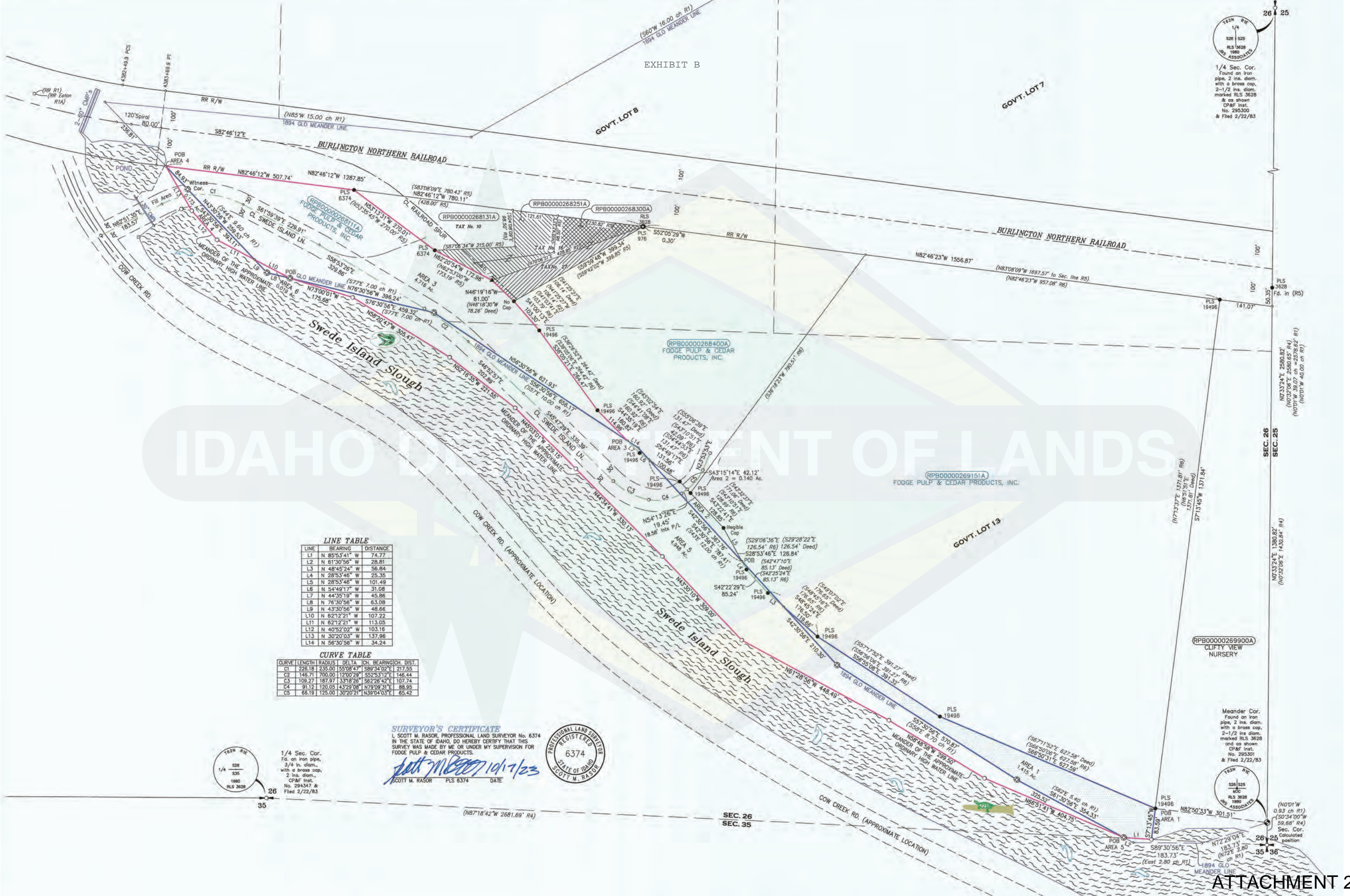
CURVE	LENGTH	RADIUS	DELTA	CH. BEARING	CH. DIST.
C1	226.18	235.00	55°08'47"	S89°34'02"E	217.55
C2	146.71	700.00	12°00'29"	S52°53'12"E	146.44
C3	109.27	187.97	33°18'26"	S62°28'42"E	107.74
C4	91.12	120.05	43°29'08"	N79°09'31"E	88.95
C5	66.19	125.00	30°20'21"	N39°04'03"E	65.42

**SURVEYOR'S CERTIFICATE**  
 I, SCOTT M. RASOR, PROFESSIONAL LAND SURVEYOR No. 6374  
 IN THE STATE OF IDAHO, DO HEREBY CERTIFY THAT THIS  
 SURVEY WAS MADE BY ME OR UNDER MY SUPERVISION FOR  
 FODGE PULP & CEDAR PRODUCTS.  
 Scott M. Rasor 10/17/23  
 SCOTT M. RASOR PLS 6374 DATE



1/4 Sec. Cor.  
 Fd. on iron pipe,  
 3/4 in. diam.,  
 with a brass cap,  
 2 ins. diam.,  
 CP&F Inst.  
 No. 294347 &  
 Filed 2/22/83

Meander Cor.  
 Found on iron  
 pipe, 2 ins. diam.  
 with a brass cap,  
 2-1/2 ins. diam.  
 marked RLS 3628  
 and as shown  
 CP&F Inst.  
 No. 295301  
 & Filed 2/22/83





DAILY CASH JOURNAL  
OF PAYMENTS  
REGULAR TAX

REGULAR TAXES

TXB021

PARCEL# TP/BTCH/TRAN	YEAR POSTED	BILL# REMARK	CODE AREA	NAME PAYOR	TAX	LATE	CHG	INTEREST	COST	TOTAL	PUP TYPE
RPB00000268111A	2022	2200824	1-0006	FODGE PULP & CEDAR PROD INC							
120520	32	12/05/2022CK# 1333	SL	FODGE PULP, INC	209.37					209.37	1ST
53000	7	5/30/2023CK# 1355	JE	FODGE PULP, INC	209.37					209.37	2ND
RPB00000268111A	2021	2100831	1-0006	FODGE PULP & CEDAR PROD INC							
111600	47	11/16/2021CK# 1223	JE	FODGE PULP, INC	725.68					725.68	FY
RPB00000268111A	2020	2000830	1-0006	FODGE PULP & CEDAR PROD INC							
112407	1	11/24/2020CK# 24413	JE	FODGE PULP, INC.	342.54					342.54	1ST
51101	1	5/11/2021CK# 1092	KW	FODGE PULP, INC	342.54					342.54	2ND
RPB00000268111A	2019	1900825	1-0006	FODGE PULP & CEDAR PROD INC							
112500	40	11/25/2019CK#23548	JS	FODGE PULP, INC	463.63					463.63	1ST
60502	6	6/05/2020CK# 24007	JE	FODGE PULP, INC	463.63					463.63	2ND
RPB00000268111A	2018	1800840	1-0006	FODGE PULP & CEDAR PROD INC							
111415	1	11/14/2018CK# 22414	SL	FODGE PULP, INC	485.18					485.18	1ST
52100	1	5/21/2019CK# 22886	JE	FODGE PULP, INC	485.18					485.18	2ND
										3727.12	
RPB00000268400A	2022	2200828	1-0006	FODGE PULP & CEDAR PROD INC							
120520	32	12/05/2022CK# 1333	SL	FODGE PULP, INC	813.97					813.97	1ST
53000	7	5/30/2023CK# 1355	JE	FODGE PULP, INC	813.97					813.97	2ND
RPB00000268400A	2021	2100835	1-0006	FODGE PULP & CEDAR PROD INC							
111600	47	11/16/2021CK# 1223	JE	FODGE PULP, INC	2532.90					2532.90	FY
RPB00000268400A	2020	2000834	1-0006	FODGE PULP & CEDAR PROD INC							
112407	1	11/24/2020CK# 24413	JE	FODGE PULP, INC.	1191.83					1191.83	1ST
51101	1	5/11/2021CK# 1092	KW	FODGE PULP, INC	1191.83					1191.83	2ND
RPB00000268400A	2019	1900829	1-0006	FODGE PULP & CEDAR PROD INC							
112500	40	11/25/2019CK#23548	JS	FODGE PULP, INC	1536.87					1536.87	1ST
60502	6	6/05/2020CK# 24007	JE	FODGE PULP, INC	1536.87					1536.87	2ND
RPB00000268400A	2018	1800844	1-0006	FODGE PULP & CEDAR PROD INC							
102418	65	10/24/2018POST TA PAYMENTS		FODGE PULP & CEDAR PROD INC	1351.67					1351.67	PAR
111415	1	11/14/2018CK# 22414	SL	FODGE PULP, INC	1631.46					1631.46	1ST
52100	1	5/21/2019CK# 22886	JE	FODGE PULP, INC	279.79					279.79	PAR
										12881.16	
RPB00000269151A	2022	2200829	1-0006	FODGE PULP, INC							
120520	32	12/05/2022CK# 1333	SL	FODGE PULP, INC	349.30					349.30	1ST
53000	7	5/30/2023CK# 1355	JE	FODGE PULP, INC	349.30					349.30	2ND
RPB00000269151A	2021	2100836	1-0006	FODGE PULP, INC							
111600	47	11/16/2021CK# 1223	JE	FODGE PULP, INC	1210.68					1210.68	FY
RPB00000269151A	2020	2000835	1-0006	FODGE PULP, INC							
112407	1	11/24/2020CK# 24413	JE	FODGE PULP, INC.	571.50					571.50	1ST
51100	11	5/11/2021CK# 1098	KW	FODGE PULP, INC	571.50					571.50	2ND
RPB00000269151A	2019	1900830	1-0006	FODGE PULP, INC							
112500	40	11/25/2019CK#23548	JS	FODGE PULP, INC	830.77					830.77	1ST
60502	6	6/05/2020CK# 24007	JE	FODGE PULP, INC	830.77					830.77	2ND
RPB00000269151A	2018	1800845	1-0006	FODGE PULP, INC							
111415	1	11/14/2018CK# 22414	SL	FODGE PULP, INC	869.39					869.39	1ST
52100	1	5/21/2019CK# 22886	JE	FODGE PULP, INC	869.39					869.39	2ND
										6452.60	

ATTACHMENT 3

DAILY CASH JOURNAL  
OF PAYMENTS  
REGULAR TAX

REGULAR TAXES

TXB021

PARCEL#	YEAR	BILL#	CODE	NAME	TAX	LATE	CHG	INTEREST	COST	TOTAL	PUP
TP/BTCH/TRAN	POSTED	REMARK	AREA	PAYOR							TYPE

\*\*\*\*\* TOTALS \*\*\*\*\*

2022 TOTALS =	2745.28	2745.28
2021 TOTALS =	4469.26	4469.26
2020 TOTALS =	4211.74	4211.74
2019 TOTALS =	5662.54	5662.54
2018 TOTALS =	5972.06	5972.06

COUNT 28

** GRAND TOTALS	23060.88	23060.88
-----------------	----------	----------

STARTING DATE: 10012018  
 ENDING DATE: 11022023  
 PAIDS, CANCS/REVS/ERRORS, OR BOTH P  
 SORT BY PARCEL OR BATCH P  
 SELECT BATCH OR ALL A

LIMITS	FROM	TO
	RPB00000268111A	RPB00000268111T
	RPB00000268400A	RPB00000268400T
	RPB00000269151A	RPB00000269151T

IDAHO DEPARTMENT OF LANDS

MAY 26 2023

PEND OREILLE LAKE AREA

AFTER RECORDING, MAIL TO GRANTEE.  
FATCO #4408/

J175779

### WARRANTY DEED

For Value Received BILL V. POULTON and PATRICIA I. POULTON, husband and wife

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto  
FODGE PULP & CEDAR PRODUCTS, INC., a Corporation  
whose address is: HCR 85 BOX 48, BONNERS FERRY, ID, 83805

Hereinafter called the Grantee, the following described premises situated in Boundary County, Idaho, to-wit:

A tract of land in Section 26, Township 6J North, Range 1 East, Boise Meridian, Boundary County, Idaho, more particularly described as follows:

Beginning at a point on the south right of way line of the Burlington Northern Railway which is South 52°49'39" East, 6421.42 feet from the Northwest corner of Section 26; and North 75°16'43" East, 5287.26 feet from the Southwest corner of Section 26; thence North 83°08'09" West along the south right of way of the Burlington Northern Railway, a distance of 1556.65 feet; thence South 70°06'51" West, 428.95 feet; thence South 46°18'30" East, 78.26 feet; thence South 41°25'27" East, 106.14 feet; thence South 36°26'52" East, 264.42 feet; thence South 45°02'54" East, 160.92 feet; thence South 55°06'39" East, 131.47 feet; thence South 43°32'37" East, 171.06 feet; thence South 29°28'22" East, 126.54 feet; thence South 42°47'10" East, 85.13 feet; thence South 49°07'02" East, 176.65 feet; thence South 57°17'52" East, 391.27 feet; thence South 67°11'52" East, 627.58 feet; thence North 6°51'51" East, 1371.81 feet to the True Point of Beginning.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U. S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

Dated:

Bill V. Poulton  
BILL V. POULTON

Patricia I. Poulton  
PATRICIA I. POULTON

STATE OF IDAHO )  
: ss )  
COUNTY OF BOUNDARY )

On this 17 day of November in the year 1994 before me, a Notary Public in and for said State, personally appeared BILL V. POULTON and PATRICIA I. POULTON, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same.

[Signature]  
Notary Public  
Residing at Bonnors Ferry  
Commission Expires 8/7/09



STATE OF IDAHO ) ss  
County of Boundary )  
Filed for record at the request of  
First Am. Title  
on the 18 day of Nov. 1994 at 2:55  
o'clock P.M. and recorded in Book 98  
of Deeds at page 499  
Notary J. ESTER  
County Recorder  
By: C. Houston  
Deputy

MAY 26 2023

0178491

PEND OREILLE LAKE AREA

WARRANTY DEED

GRANTOR, FODGE PULP & CEDAR PRODUCTS, INC., an Idaho corporation, whose current mailing address is HCR 85, Box 312, Bonners Ferry, ID 83805, for a good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto BRUCE W. TETER and DEBRA KAY TETER, husband and wife, whose current mailing is P.O. Box 1423, Bonners Ferry, ID 83805, as GRANTEES, and to Grantees' heirs and assigns forever, all of the following described real estate located in the County of Boundary, State of Idaho:

(SEE ATTACHMENT "A")

TOGETHER with all improvements, easements, hereditaments and appurtenances thereto.

Subject to such rights, easements, covenants, restrictions and zoning regulations as appear of record or by use upon the premises.

Grantor, for itself, and its assigns, does hereby covenant, warrant and shall defend the quiet and peaceable possession of said premises by the Grantees, their heirs and assigns forever against the lawful claims of all persons.

In construing this deed, and where the context so requires, the singular includes the plural and the masculine, the feminine and the neuter.

Randall W. Day  
 Counselor at Law & Notary Public  
 7164 Main Street  
 PO Box 973  
 Bonners Ferry, ID 83805-0973  
 (208) 267-517

## 1. WARRANTY DEED

MAY 26 2023

PEND OREILLE LAKE AREA

IN WITNESS WHEREOF, Grantor and Grantees have hereunto subscribed their names to this instrument this 2<sup>nd</sup> day of August, 1995.

GRANTOR:

PODGE PULP & CEDAR PRODUCTS, INC.

BY Samuel Fodge  
SAMUEL FODGE, President

ATTEST:

Deneice A Fodge  
DENEICE FODGE, Secretary

GRANTEES:

Bruce W. Teter  
BRUCE W. TETER

Debra Kay Teter  
DEBRA KAY TETER

STATE OF IDAHO:

County of Boundary: SS

On this 2<sup>nd</sup> day of August, 1995, before me, the undersigned Notary Public for the State of Idaho, personally appeared, SAMUEL FODGE and DENEICE FODGE, known to me to be the President and Secretary of the corporation that executed the foregoing instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.



in  
Notary Public for Idaho  
Residing at Bonners Ferry  
My Comm. Exp.: 2/18/98

Randall W. Day  
County of Anckerly at Law, P.A.  
710 Main Street  
PO Box 508  
Bonners Ferry, ID 83405-0508  
1100-267-3197

WARRANTY DEED

MAY 26 2023

PEND OREILLE LAKE AREA

STATE OF IDAHO:  
County of Boundary: <sup>SS</sup>

On this 2<sup>nd</sup> day of Sept, 1995, before me, the undersigned Notary Public for the State of Idaho, personally appeared, BRUCE W. TETER and DENRA KAY TETER, husband and wife, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

Cum  
Notary Public for Idaho  
Residing at Bonners Ferry  
My Comm. Exp.: 2/18/98

IDAHO DEPARTMENT OF LANDS

Randall W. Day  
Counselor & Attorney at Law P.A.  
116 1/2 Main Street  
PO Box 914  
Bonners Ferry, ID 83425

3. WARRANTY DEED

MAY 26 2023

PEND OREILLE LAKE AREA

A tract of land in Government Lot Eight (8) of Section Twenty-six (26), Township Sixty-two (62) North, Range One (1) East of the Boise Meridian, Boundary County, Idaho; more particularly described as follows:

Beginning at a point on the southwesterly right of way of the Burlington Northern Railroad which is S 44°01'13" E 5137.06 feet from the northwest corner of said Section 26 and N 86°48'30" E 3882.24 feet from the southwest corner of Section 26, said point being coincident with the northwest corner of that property defined in Instrument Number 175779; thence, along the railroad right of way, N 83°58'09" W 230.02 feet, to the northeast corner of that property described in Instrument Number 105872; thence, along the eastern boundary of Instrument Number 105872, S 5°43'33" W 98.50 feet; thence S 82°04'13" W 215.00 feet, to a point 8.00 feet southwesterly of the centerline of an existing railroad siding; thence, along said siding, S 45°39'57" E 66.77 feet, to the southwest corner of that property defined in Instrument Number 175779; thence, along the southwestern boundary of Instrument Number 175779, S 45°18'30" E 70.26 feet; thence S 41°25'27" E 2.95 feet; thence N 59°42'02" E 399.05 feet, to the TRUE POINT OF BEGINNING; encompassing an area of 0.02 acres.

IDAHO DEPARTMENT OF LANDS

STATE OF IDAHO }  
County of Boundary } SS

Filed for record at the request of  
Kristin L. Van Ness  
on the 21<sup>st</sup> day of August, 1995 at 2:40  
o'clock P.M., and recorded in Book 103  
of State on page 116

County Recorder  
By [Signature]  
Deputy

Fee \$ 16.00

Mail to [Signature]

ATTACHMENT 'A'

MAY 26 2023

STATE OF IDAHO  
County of Boundary

Filed for record at PENDOREILLE LAKE AREA

0176912

\_\_\_\_\_ *Randall W. Day* \_\_\_\_\_  
on the 15<sup>th</sup> day of March, 1985 at 4:40  
o'clock P.M., and recorded in Book 212  
of \_\_\_\_\_ on page 34

\_\_\_\_\_ *Kris Larsen* \_\_\_\_\_  
County Recorder

By \_\_\_\_\_ *\_\_\_\_\_* \_\_\_\_\_  
Deputy

QUITCLAIM DEED  
Fee \$ 6.00

Mall to \_\_\_\_\_

GRANTORS, IDAHO LAND AND TIMBER, L.L.C., whose mailing address is Box 1595, Hayden Lake, Idaho, 83835, an Idaho limited liability company; TED L. COFFEY and SUSANNE L. COFFEY, husband and wife, whose mailing address is Route 1, Box 353, Bonners Ferry, Idaho 83805; and FRANK J. ZIMMERMAN and SONJA ZIMMERMAN, husband and wife, whose mailing address is Box 1595, Hayden Lake, Idaho 83835, for a good and valuable consideration the receipt whereof is hereby acknowledged do, RELEASE, CONVEY, and forever QUITCLAIM, unto FODGE PULP & CEDAR PRODUCTS, INC., an Idaho corporation, whose mailing address is H.R 85, Box 312, Bonners Ferry, ID 83805, as GRANTEE, and to Grantee's successors and assigns, forever all the following described real estate, situate in the County of Boundary, State of Idaho, to wit:

(SEE EXHIBIT "1" Attached hereto)

TOGETHER WITH any and all after acquired interest.

TOGETHER, with all tenements, hereditaments and appurtenances thereunto belonging, including but not limited to rights of access to and from the premises.

Randall W. Day  
Counsel & Attorney at Law, P.A.  
3160 Main Street  
P.O. Box 721  
Bonners Ferry, ID 83805-0721  
(208) 367-3197

1. QUITCLAIM DEED



MAY 26 2023

PEND OREILLE LAKE AREA

In construing this deed, and where the context so requires, the singular includes the plural and the masculine, the feminine and the neuter.

IN WITNESS WHEREOF, the said GRANTORS have hereunto set their hands this 15<sup>th</sup> day of March, 1995.

GRANTORS:

IDAHO LAND AND TIMBER, L.L.C.

BY: Frank J. Zimmerman  
FRANK J. ZIMMERMAN

Frank J. Zimmerman  
FRANK J. ZIMMERMAN

Song A. Zimmerman  
SONG A. ZIMMERMAN

Ted L. Coffey  
TED L. COFFEY

Susanne L. Coffey  
SUSANNE L. COFFEY



STATE OF IDAHO :  
County of Boundary : SS

On this 15<sup>th</sup> day of March, 1995, before me, the undersigned Notary Public for the State of Idaho, personally appeared FRANK J. ZIMMERMAN, known/or identified to me to be

Randal W. Day  
Notary Public  
205 Main Street  
P.O. Box 100  
Breckenridge, CO 80424  
(303) 267-3197

2. QUITCLAIM DEED

MAY 26 2023

PEND OREILLE LAKE AREA

the President of the limited liability company, that executed the instrument or the person who executed the instrument on behalf of such limited liability company, and acknowledged to me that such limited liability company, executed the same.

*[Signature]*  
Notary Public for Idaho  
Residing at Bonners Ferry  
My Comm. Expires: 2/18/98

STATE OF IDAHO :  
County of Boundary : ss

On this 15<sup>th</sup> day of March, 1995, before me the undersigned Notary Public for the State of Idaho, personally appeared FRANK J. ZIMMERMAN and SONJA ZIMMERMAN, known/or identified to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

*[Signature]*  
Notary Public for Idaho  
Residing at Bonners Ferry  
My Comm. Expires: 2/18/98



IDAHO DEPARTMENT OF LANDS

STATE OF IDAHO :  
County of Boundary : ss

On this 15<sup>th</sup> day of March, 1995, before me the undersigned Notary Public for the State of Idaho, personally appeared TED L. COFFEY and SUSANNE L. COFFEY, known/or identified to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

*[Signature]*  
Notary Public for Idaho  
Residing at Bonners Ferry  
My Comm. Expires: 2/18/98



Randall W. Day  
Counselor at Law, P.A.  
2150 Main Street  
P.O. Box 918  
Bonners Ferry, ID 83425-0918  
(208) 267-3197

3. QUITCLAIM DEED

MAY 26 2023

PEND OREILLE LAKE AREA

## EXHIBIT "1"

A tract of land in Government Lots 8 and 13 of Section 26, Township 62 North, Range 1 East of the Boise Meridian, Boundary County, Idaho; being a part of that property defined in Instrument Number 175779 and more particularly described as follows:

Beginning at a point on the southerly right of way of the Burlington Northern Railroad which is S 44°01'13" E, 5137.96 feet from the northwest corner of said Section 26 and N 66°48'30" E, 3882.24 feet from the southwest corner of Section 26, said point being coincident with the northwest corner of that property contained in Instrument Number 175779; thence S 59°42'02" W, 399.85 feet, to the southwesterly boundary of Instrument Number 175779; thence, along said southwesterly boundary, S 41°25'27" E, 103.79 feet; thence S 36°26'52", 264.42 feet; thence S 45°02'54" E, 160.92 feet; thence S 55°06'39", 131.47 feet; thence S 43°32'37" E, 42.08 feet; thence, leaving said southwesterly boundary, N 35°56'37" E, 790.50 feet, to the southerly right of way of the Burlington Northern Railroad; thence, along said right of way, N 83°08'09" W, 599.55 feet, to the TRUE POINT OF BEGINNING.

IDAHO DEPARTMENT OF LANDS

# STATE BOARD OF LAND COMMISSIONERS

November 21, 2023

Regular Agenda

## Subject

Adoption of Pending Fee Rule, IDAPA 20.03.01 *Rules Governing Dredge and Placer Mining Operations in Idaho*

## Question Presented

Shall the Land Board adopt the pending fee rule for IDAPA 20.03.01?

## Background

Negotiated rulemaking for these rules was approved by the State Board of Land Commissioners (Land Board) on November 15, 2022. Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled for a comprehensive review in 2023 with the goal of simplifying the rules for increased clarity and ease of use.

The Idaho Department of Lands (Department) administers these rules under the authority of the Idaho Dredge and Placer Mining Protection Act (Title 47, Chapter 13, Idaho Code). Dredge and placer mining is the extraction of minerals from a placer deposit left by a stream and containing particles of gold or other valuable minerals. A placer deposit can be in a natural watercourse or an ancient stream channel high above an existing stream. Extraction is done using motorized earth-moving equipment, including suction dredges with an intake nozzle over 8 inches in diameter. IDAPA 20.03.01 allows responsible resource extraction while protecting the lands, streams, and watercourses of the state.

## Discussion

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

- Published the Notice of Negotiated Rulemaking in the Idaho Administrative Bulletin.
- Created a rulemaking webpage to post documents, scheduling information, and comments.
- Posted meeting information on social media.
- Emailed 11 customers and other interested parties.
- Mailed postcards to 13 customers.

Negotiated rulemaking meetings were held on April 19, April 26, May 4, and May 10, 2023. A total of 13 non-Department affiliated people attended these meetings. No written comments were received. Substantive comments and the Department's responses are summarized in Attachment 1. No changes were made based on comments received. Some

minor changes to the initial draft were made based on internal discussions and to further reduce word count.

The proposed rule was published in the September 6, 2023 Administrative Bulletin. An excerpt of the Notice of Proposed Rulemaking is in Attachment 2. No comments were received.

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

- The annual inspection fees of \$100 for permits on United States Forest Service lands and \$250 for all other permits would be raised to \$435 for all permits. These fees have not changed since 1991. This will cover the Department's cost of conducting these inspections.
- Late payment policy is updated.
- Surety companies issuing bonds must be listed in the U.S Department of the Treasury's Circular 570.
- The 120-day cancellation notification is reduced to 90 days.
- Time Deposit Receipts are recognized as acceptable forms of bonding.

Upon further review, a few punctuation and grammatical changes were needed as well as several word changes for better clarity and to better align with the statute. Attachment 3 has the draft Pending Rule consisting of the Proposed Rule with the engrossed changes highlighted in yellow.

If approved by the Land Board, the Department will submit the Notice of Adoption of Pending Fee Rule (Attachment 4) to the Office of the Administrative Rules Coordinator for the 2024 legislative session.

## **Recommendation**

Adopt the pending fee rule for IDAPA 20.03.01 *Rules Governing Dredge and Placer Mining Operations in Idaho*.

## **Board Action**

## **Attachments**

1. Summary of Negotiated Rulemaking
2. Notice of Proposed Rulemaking
3. Draft Pending Rule
4. Draft Notice of Adoption of Pending Fee Rule

**Response to Comments on Negotiated Rule**

IDAPA 20.03.01, Rules Governing Dredge and Placer Mining Operations in Idaho

Comment	Rule Section	Response
<p>Idaho Department of Lands (IDL) should require permits for the use of suction dredges that are 8 inches or less in diameter when their disturbance exceeds ½ acre.</p>	<p>001</p>	<p>1. The rules currently state in Subsection 013.06 that these rules do not apply to suction dredges with an intake diameter of eight (8) inches or less. This requirement has been carried forward into subparagraph 001.02.c.iv of the draft rules. IDL does not believe that the intent of Idaho Code § 47-13 is to regulate these smaller suction dredges. The definition of motorized earth moving equipment in Idaho Code § 47-1313(e) excludes suction dredges with an intake diameter of 8 inches or less. The Idaho Department of Water Resources (IDWR) regulates the use of these smaller suction dredges through their Stream Channel Alteration program. They issue Small Scale Mining permits on specific streams during specific seasons for dredges five (5) inches or less in diameter. These permits can be filled out from their website. Larger suction dredges require a normal Stream Channel Alteration permit. IDWR has not issued any permits for suction dredges larger than five (5) inches over the last 25 years.</p> <p>IDL is unaware of any instance when an individual with a suction dredge and an IDWR permit disturbed over ½ acre. No one else participating in the rulemaking meetings could find an example. The operational limitations of these smaller suction dredges prevent them from disturbing this much area, which is a square approximately 147 feet on a side. Lastly, spring runoff will effectively reclaim the disturbance every year.</p>
<p>Suction dredge mining on navigable rivers occupies public trust resources and therefore Idaho Code 47-13 should apply to suction dredges with an eight (8) inch or smaller intake.</p>	<p>001</p>	<p>2. IDL believes this statute only applies to suction dredges with intake diameters over 8 inches. It was suggested that the negotiated rulemaking meeting for IDAPA 20.03.05 would be a better opportunity to discuss operations on navigable rivers.</p>

Comment	Rule Section	Response
Definitions should not be eliminated from the rule because this may impact operators preparing permit applications.	010	3. Guidance for Executive Order 2020-01 specifically states that rule language repeated from the authorizing statute should be eliminated where possible. This includes definitions. IDL believes that other changes to the permit processing sections will make the permit processing easier to understand. Operators in the future will need to look at both the statute and the rules when preparing applications.
Why was the “reclamation plan” language removed?	021	4. The title of Subsection 021.01 removes this term and just refers to the “permit”. A “plan of operations” is now used in Section 021 to describe this portion of the application. The term “reclamation plan” has created confusion in the past because that is the term used in the Mined Land Reclamation rules. The Forest Service and BLM use the term “plan of operations”, so this change should also reduce confusion for permittees working on applications that cover these federal lands.
Are changes to bonding amounts being considered?	035	5. No changes are proposed in the rule because the bond amount is set in statute. The current limit was put in place around 1993 or 94 and it was to match the bond limits in the surface mining rules at the time, which was \$1,800 per acre. That limit was based on the most expensive reclamation task for surface mining when those rules were first approved around 1974. \$1,800 per acre was the cost to push down a waste rock dump at a phosphate mine from angle repose to a three to one slope. IDL knows that that is not enough to get the reclamation done, it is more like \$5-6,000 per acre. Bonding should reflect the actual reclamation costs similar to what the Mined Land Reclamation statute and rules currently have. If IDL does not have enough money for reclamation then reclamation may not be completed if a bond forfeiture occurs. IDL does not believe that the taxpayers of Idaho should have to pay for an operator’s failure to reclaim.

Comment	Rule Section	Response
How is IDL involved in monitoring, oversight, or enforcement regarding potential violations?	051	6. IDL is in communication with staff at IDWR and the Idaho Department of Environmental Quality (IDEQ). IDL does get notified when applications are submitted and when there are potential violations. The agencies are coordinating and most of it occurs behind the scenes.
Why were the withdrawn streams in Section 060 removed?	060	7. These withdrawals are repeated from statute, so the withdrawal does not need to be repeated in the rule. A list of all state lands withdrawn from mineral entry is posted on the IDL website.
The fully completed Prospective Analysis form is needed.	N/A	8. Only questions 1, 2, and 5 need to be filled out for negotiated rulemaking. The remaining questions will be filled out prior to entering the Proposed Rulemaking stage.
How do other states manage dredge and placer mining?	N/A	9. Research was still ongoing during negotiated rulemaking. The completed Prospective Analysis form contains this information.
IDL has a regulatory gap by not regulating smaller suction dredges.	N/A	10. No gap exists because of the IDWR Small Scale Mining and regular Stream Channel Alteration permits for suction dredges 8 inches or less in diameter. IDL has been coordinating with IDWR and other state and federal agencies for 30 years to avoid stream reaches and periods of time when spawning occurs.
A public trust analysis of the impacts associated with suction dredging is needed for IDL to justify transferring authority to IDWR.	N/A	11. Idaho Code § 47-13 and these rules cover more than just navigable rivers that are managed under the Public Trust doctrine as defined in Idaho Code § 58-12. Idaho Code § 47-13 also covers smaller streams and upland areas adjacent to streams. In addition, IDL looks to IDWR to regulate the smaller sized suction dredges because their regulations are more specific to that activity and Idaho Code § 47-13 does not apply to that activity.
How did the state gain ownership of navigable waters?	N/A	12. Under the Equal Footing Doctrine Idaho obtained ownership to the beds and banks of all navigable rivers and lakes at statehood.



Comment	Rule Section	Response
Can an operator use the state's Bond Assurance Fund to satisfy the federal bonding requirements in the Section 228 regulations?	N/A	13. No. The United States Forest Service (USFS) does not recognize state bond pools as a valid form of financial assurance, so a different type of financial assurance would be required.
Is the Bond Assurance Fund mandatory or optional?	N/A	14. The Bond Assurance Fund rules were modified a few years ago to allow operators to opt out if they provided sufficient bonding.
What is purpose of an MOU signed between agencies?	N/A	15. These documents have no legal authority, but they are valuable to help direct agency staff when they coordinate with each other.



IDAHO DEPARTMENT OF LANDS

## IDAPA 20 – IDAHO DEPARTMENT OF LANDS

### 20.03.01 – RULES GOVERNING DREDGE AND PLACER MINING OPERATIONS IN IDAHO

#### DOCKET NO. 20-0301-2301 (ZBR CHAPTER REWRITE, FEE RULE)

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code, and Title 47, Chapter 13, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2023.

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

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

Following [Executive Order 2020-01, Zero-Based Regulation](#), this rule chapter is scheduled to be repealed and replaced in 2023 for review during the 2024 legislative session. The overall regulatory burden has been reduced by decreasing both total word count and the number of restrictive words in the new rule chapter. Inspection fees have been increased to cover the costs of performing inspections, and the late payment policy was updated. Surety companies issuing bonds must be listed in the U.S Department of the Treasury's Circular 570, and the 120 day cancellation notification was reduced to 90 days. Time Deposit Receipts were recognized as acceptable forms of bonding.

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

The annual inspection fee in place since 1991 is increased to \$435 for all permits. This fee is being imposed pursuant to Section 47-1317(d), Idaho Code. The current annual inspection fees are \$100 for permits on United States Forest Service lands and \$250 for all other permits.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 5, 2023, Idaho Administrative Bulletin, [Vol. 23-4, pages 35–37](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Eric Wilson at (208) 334-0261 or [ewilson@idl.idaho.gov](mailto:ewilson@idl.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 6th day of September, 2023.

Eric Wilson, Resource Protection & Assistance Bureau Chief  
Idaho Department of Lands  
300 N. 6th Street, Suite 103  
Boise, Idaho 83720-0050  
P.O. Box 83720  
Phone: (208) 334-0261  
Fax: (208) 334-3698  
[rulemaking@idl.idaho.gov](mailto:rulemaking@idl.idaho.gov)



**IDAHO DEPARTMENT OF LANDS**

## 20.03.01 – RULES GOVERNING DREDGE AND PLACER MINING OPERATIONS IN IDAHO

### 000. LEGAL AUTHORITY.

~~These rules are promulgated by the Idaho State Board of Land Commissioners pursuant to~~ This Chapter is adopted under the legal authorities of Title 47, Chapter 13, Idaho Code, Section 47-1316; Title 58, Chapter 1, Idaho Code, Sections 58-104(6) and 58-105; and Title 67, Chapter 52, Idaho Code. The Board has delegated to the Director ~~of the Department of Lands (“department”)~~ the duties and powers under the act and these rules; provided that the Board retains responsibility for approval of permits and administrative review. (3-18-22)( )

### 001. TITLE AND SCOPE.

~~01. Title.~~ These rules are titled IDAPA 20.03.01 “Rules Governing Dredge and Placer Mining Operations in Idaho.” (3-18-22)

~~021. Scope.~~ These rules constitute the Idaho Department of Lands’ administrative procedures for implementation of the Idaho Dredge and Placer Mining Protection Act with the intent and purpose to protect the lands, streams and watercourses within the state, from destruction by dredge mining and by placer mining, and to preserve the same for the enjoyment, use and benefit of all of the people, and that clean water in the streams of Idaho is in the public interest establish the notification requirements for dredge and placer exploration, and the application and operation requirements of dredge and placer mines. In addition, these rules establish the reclamation and financial assurance requirements for all these activities. (3-18-22)( )

02. Applicability. These rules are to be read and applied in conjunction with the Act. ( )

a. These rules apply to all lands within the state, including private and federal lands, which are disturbed by dredge or placer mining conducted after November 24, 1954. ( )

b. These rules apply to the following activities: ( )

i. All dredge and placer exploration activities using motorized earth-moving equipment. ( )

ii. The extraction of minerals from a placer deposit, including the removal of vegetation, topsoil, overburden, and minerals; construction and operation of on-site processing equipment; disposal of overburden and waste materials; design and operation of siltation and other water quality control facilities; and other activities contiguous to the mining site that disturb land and affect water quality and/or water quantity. ( )

c. These rules do not apply to the following: ( )

i. Mining operations regulated by the Mined Land Reclamation Act; ( )

ii. Surface disturbance caused by the underground mining of a placer deposit, unless the deposit outcrops on or near the surface and the operation will result in the probable subsidence of the land surface. ( )

iii. Dredging operations conducted for the sole purpose of establishing and maintaining a channel for navigation. ( )

iv. Dredging operations in streams or rivers using suction dredges with an intake diameter of eight (8) inches or less. ( )

03. Other Laws. Dredge and placer exploration and mining operations must comply with all applicable rules and laws of the state of Idaho including, but not limited to, the following: ( )

a. Idaho water quality standards established in Title 39, Chapters 1 and 36, Idaho Code and IDAPA 58.01.02, “Water Quality Standards”. ( )

b. Wastewater treatment or disposal plan and specification review established in IDAPA 58.01.16, and IPDES requirements in IDAPA 58.01.25 administered by DEQ. ( )

c. Idaho Dam Safety Act, Section 42-1710 through 42-1721, Idaho Code, and applicable rules as promulgated and administered by the Idaho Department of Water Resources. ( )

d. Idaho Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and applicable rules as promulgated and administered by the Idaho Department of Water Resources. ( )

**002. ADMINISTRATIVE APPEALS.**

**01. Procedures for Appeals: (3-18-22)**

~~a. Any applicant or permit holder aggrieved by any final decision or order of the Board is entitled to judicial review in accordance with the provisions and standards set forth in Title 67, Chapter 52, Idaho Code, the Administrative Procedures Act. (3-18-22)~~

~~b. When the Director or the Board finds that justice so requires, it may postpone the effective date of a final order pending judicial review. The reviewing court, including the court to which a case may be taken on appeal, may issue all necessary and appropriate orders to postpone the effective date of any final order pending conclusion of the review proceedings. (3-18-22)~~

~~c. Notwithstanding any other provisions of these rules concerning administrative or judicial proceedings, whenever the Board determines that a Permittee has not complied with the provisions of the act or these rules, the Board may file a civil action in the district court for the county wherein the violation or some part occurred, or in the district court for the county where the defendant resides. The Board may request the court to issue an appropriate order to remedy any alleged violation. (3-18-22)~~

**003. -- 009. (RESERVED)**

**010. DEFINITIONS.**

In addition to the definitions set forth in the Act, the following definitions apply to these rules: ( )

**01. Act.** The Idaho ~~Placer and Dredge~~ and Placer Mining Protection Act, Title 47, Chapter 13, Idaho Code. (3-18-22)( )

**02. Approximate Previous Contour.** A contour reasonably comparable to that contour existing prior to disturbance, or that blends with the adjacent topography. ( )

**03. Best Management Practices.** ~~Methods, measures, or practices to prevent or reduce nonpoint source (NPS) water pollution, including, but not limited to, structural and nonstructural controls, and operation and maintenance procedures. Usually, BMPs are applied as a system of practices rather than a single practice. BMPs are selected on the basis of site specific conditions that reflect natural background conditions; political, social, economic, and technical feasibility; and stated water quality goals~~ A practice or combination of practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan which are determined to be the cost-effective and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals. (3-18-22)( )

**04. Board.** ~~The State Board of Land Commissioners or any department, commission, or agency that may lawfully succeed to the powers and duties of such Board.~~ (3-18-22)

**05. Department.** The Idaho Department of Lands. ( )

**06. Director.** ~~The Director of the Department of Lands or such representative as may be designated by the Director.~~ (3-18-22)

**07. Disturbed Land or Affected Land.** ~~Land, natural watercourses, or existing stockpiles and waste piles affected by placer or dredge mining, re-mining, exploration, stockpiling of ore wastes from placer or dredge mining, or construction of roads, tailings ponds, structures, or facilities appurtenant to placer or dredge mining operations.~~ (3-18-22)

**08. Final Order of the Board.** A written notice of rejection or approval, the order of a hearing officer

~~at the conclusion of a hearing, or any other order of the Board where additional administrative remedies are not available.~~ (3-18-22)

~~09. — **Hearing Officer.** That person duly appointed by the Board to hear proceedings under Section 47-1320, Idaho Code. It also means that person selected by the Director to hear proceedings initiated under Section 030 or Section 051 of these rules.~~ (3-18-22)

~~105. **Mine Panel.** That area designated by the Permittee as an identifiable portion of a placer or dredge mine on the map submitted pursuant to Section 47-1317, Idaho Code under Subsection 021.04 of these rules.~~ (3-18-22)( )

~~11. — **Mineral.** Any ore, rock or substance extracted from a placer deposit or from an existing placer stockpile or wastepile, but does not include coal, clay, stone, sand, gravel, phosphate, uranium, oil or gas.~~ (3-18-22)

~~12. — **Motorized Earth-Moving Equipment.** Backhoes, bulldozers, front loaders, trenchers, core drills, draglines, and suction dredges with an intake diameter exceeding eight (8) inches, and other similar equipment.~~ (3-18-22)

~~1306. **Mulch.** Vegetation residues or other suitable materials to aid in the stabilization of soil and soil moisture conservation.~~ ( )

~~14. **Natural Watercourse.** Any stream in the state of Idaho having definite bed and banks, and which confines and conducts continuously flowing water.~~ (3-18-22)

~~1507. **Overburden.** Material extracted by a Permittee which is not a part of the material ultimately removed from a placer or dredge mine and marketed by a Permittee, exclusive of mineral stockpiles. Overburden is comprised of topsoil and waste.~~ ( )

~~1608. **Overburden Disposal Area.** Land surface upon which overburden is piled or planned to be piled.~~ ( )

~~1709. **Permanent Cessation.** Mining operations as to the whole or any part of the permit area have stopped and there is substantial evidence that such operations will not resume within one (1) year. The date of permanent cessation is the last day when mining operations are known or can be shown to have occurred.~~ ( )

~~18. **Permit Area.** That area designated under Section 021 as the site of a proposed placer or dredge mining operation, including all lands to be disturbed by the operation.~~ (3-18-22)

~~10. **Permit.** Dredge or placer mining permit issued under the Act and these rules.~~ ( )

~~191. **Permittee.** The person in whose name the permit is issued and who is **to be** held responsible for compliance with the conditions of the permit by the Department.~~ (3-18-22)( )

~~20. **Person.** Any person, corporation, partnership, association, or public or governmental agency engaged in placer or dredge mining, whether individually, jointly, or through subsidiaries, agents, employees, or contractors.~~ (3-18-22)

~~2112. **Pit.** An excavation created by the extraction of minerals or overburden during placer mining or exploration operations.~~ ( )

~~22. **Placer Deposit.** Naturally occurring unconsolidated surficial detritus containing valuable minerals, whether located inside or outside the confines of a natural watercourse.~~ (3-18-22)

~~2313. **Placer Stockpile.** Placer mineral deposit material extracted during past or present ~~placer or dredge or placer~~ mining operations and retained at the mine for future rather than immediate use.~~ (3-18-22)( )

~~24. — **Placer or Dredge Exploration Operation.** Activities including, but not limited to, the construction of roads, trenches, and test holes performed on a placer deposit for the purpose of locating and~~

determining the economic feasibility of extracting minerals by placer or dredge mining. (3-18-22)

~~25. — Placer or Dredge Mining or Dredge or Other Placer Mining. The extraction of minerals from a placer deposit, including re-mining for sale, processing, or other disposition of earth material excavated from previous placer or dredge mining. (3-18-22)~~

~~26. — Placer or Dredge Mining Operation. Placer or dredge mining which disturbs in excess of one-half (1/2) acre of land during the life of the operation. (3-18-22)~~

~~27.14. Reclamation. The process of restoring an area disturbed by a placer or dredge mining operation or exploration operation to its original or another beneficial use, considering land uses, possible future uses, and surrounding topography. The objective is to re-establish a diverse, self-perpetuating plant community, and to minimize erosion, remove hazards, and maintain water quality. ( )~~

~~28.15. Revegetation. The establishment of the premining vegetation or a comparable vegetative cover on the land disturbed by placer or dredge mining operations. ( )~~

~~29. Road. A way including the bed, slopes, and shoulders constructed within the circular tract circumscribed by a placer or dredge mining operation, or constructed solely for access to a placer or dredge mining operation or placer or dredge exploration operation. A way dedicated to public multiple use or being used by a governmental land manager or private landowner at the time of cessation of operations and not constructed solely for access to a placer or dredge mining operation or exploration operation, is not considered a road. (3-18-22)~~

~~30.16. Settling Pond. A manmade enclosure or natural impoundment structure constructed and used for the purpose of treating mine process water and/or runoff water from adjacent disturbed areas by the removal or settling of sediment particles. Several types of settling ponds or a series of smaller ponds may be used in water management. The most common type is a recycle or recirculation pond which is used to pump clarified water back to the wash plant operation. ( )~~

~~31.17. Surface Waters. The surface waters of the state of Idaho. ( )~~

~~32.18. Topsoil. The unconsolidated mineral and organic matter naturally present on the surface of the earth that is necessary for the growth and regeneration of vegetation. ( )~~

#### 011. ABBREVIATIONS.

01. BMP. Best Management Practices. ( )

02. DEQ. Idaho Department of Environmental Quality. (3-18-22)( )

#### ~~012. — PURPOSE AND GENERAL PROVISIONS.~~

~~01. — Policy. It is the policy of the state of Idaho to protect the lands, streams, and watercourses within the state from destruction by placer mining, and to preserve them for the enjoyment, use, and benefit of all of the people, and that clean water in the streams of Idaho is in the public interest. (3-18-22)~~

~~02. — Purpose. These rules are intended to implement the requirements for operation and reclamation of placer and dredge mining set forth in the Idaho Code. Compliance with these rules will allow removal of minerals while preserving water quality and ensuring rehabilitation for beneficial use of the land following mining. Placer and dredge mining is expressly prohibited upon certain waterways included in the federal wild and scenic rivers system. It is also the purpose of these rules to implement the state of Idaho's antidegradation policy as set out in Executive Order No. 88-23 as it pertains to placer mining and exploration operations. (3-18-22)~~

~~03. — General Provisions. In general, these rules establish: (3-18-22)~~

~~a. — Requirements for placer mine exploration operations; (3-18-22)~~

~~b. — Procedures for securing a placer and dredge mining permit; (3-18-22)~~

~~e. — The requirements for posting a performance bond as a condition of such permit to ensure the completion of rehabilitation operations; (3-18-22)~~

~~d. — Procedures for initial and periodic inspection of placer and dredge mining operations to ensure compliance with these rules; (3-18-22)~~

~~e. — Prohibition of placer and dredge mining on designated watercourses (see Section 060); and (3-18-22)~~

~~f. — Prohibitions against placer and dredge mining on certain lands when not in the public interest. (3-18-22)~~

~~04. — Compliance with Other Laws. Placer and dredge exploration operations and mining operations must comply with all applicable rules and laws of the state of Idaho including, but not limited to, the following: (3-18-22)~~

~~g. — Idaho Environmental Protection and Health Act, Title 39, Chapter 1, Idaho Code, and rules as promulgated and administered by the Idaho Department of Environmental Quality. (3-18-22)~~

~~h. — Idaho Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and applicable rules as promulgated and administered by the Idaho Department of Water Resources. (3-18-22)~~

~~i. — Idaho Dam Safety Act, Section 42 1710 through 42 1721, Idaho Code, and applicable rules and regulations as promulgated and administered by the Idaho Department of Water Resources. (3-18-22)~~

### ~~013. — APPLICABILITY.~~

~~01. — All Lands in State. These rules apply to all lands within the state, including private and federal lands, which are disturbed by placer or dredge mining conducted after November 24, 1954. (3-18-22)~~

~~02. — Types of Operations. These rules apply to placer and dredge mining operations and placer and dredge exploration operations as defined under Section 47 1313, Idaho Code, and Subsections 010.24, 010.25, and 010.26 and to the following activities: (3-18-22)~~

~~a. — The extraction of minerals from a placer deposit, including the removal of vegetation, topsoil, overburden, and minerals; construction, and operation of on-site processing equipment; disposal of overburden and waste materials; design and operation of siltation and other water quality control facilities; and other activities contiguous to the mining site that disturb land and affect water quality and/or water quantity. (3-18-22)~~

~~b. — All exploration activities conducted upon a placer deposit using motorized earth moving equipment. (3-18-22)~~

~~03. — Nonapplicability. These rules do not apply to mining operations regulated by the Idaho Surface Mining Act; neither do they apply to surface disturbance caused by the underground mining of a placer deposit, unless the deposit outcrops on or near the surface and the operation will result in the probable subsidence of the land surface. (3-18-22)~~

~~04. — Stream Channel Alterations. These rules do not exempt the Permittee from obtaining a stream channel alteration permit if required by the Idaho Department of Water Resources. (3-18-22)~~

~~05. — Navigational Improvements. These rules do not apply to dredging operations conducted for the sole purpose of establishing and maintaining a channel for navigation. (3-18-22)~~

~~06. — Suction Dredges. These rules do not apply to dredging operations in streams or riverbeds using suction dredges with an intake diameter of eight (8) inches or less. However, these rules do not affect or exempt the applicability of Section 47 701, Idaho Code, regarding leasing of the state-owned beds of navigable lakes, rivers, and streams, Section 47 703A, Idaho Code, regarding exploration on navigable lakes and streams, and Section 39 118, Idaho Code, regarding review of plans for waste treatment or disposal facilities such as settling or recycle ponds. (3-18-22)~~



~~014. ADMINISTRATION.~~

~~The Department of Lands shall administer these rules under the direction of the director. (3-18-22)~~

~~0152. -- 019. (RESERVED)~~

**020. PLACER OR DREDGE EXPLORATION OPERATIONS.**

**01. Notice.** Any person desiring to conduct placer or dredge exploration operations using motorized earth-moving equipment must, prior to or within seven (7) days of commencing exploration, notify the Director. The notice includes the following: (3-18-22)( )

a. The name and address of the operator; ( )

b. The legal description of the exploration operation and ~~its starting and estimated completion date;~~ and a map of sufficient scale to show the location of the exploration and nearby roads and streams. (3-18-22)( )

c. The exploration starting and estimated completion dates; and ( )

d. The anticipated size of the exploration operation and the general method of operation. ( )

~~02. Confidentiality. The exploration notice will be treated confidential pursuant to Sections 74-107 and 47-1314, Idaho Code. (3-18-22)~~

**032. One-Half Acre Limit.** Any placer or dredge exploration operation that causes a cumulative surface disturbance in excess of one-half (1/2) acre of land, including roads, is considered a placer or dredge mining operation and subject to the requirements outlined in Sections 021 through 065. Lands disturbed by any placer or dredge exploration operation that causes a cumulative surface disturbance of less than one-half (1/2) acre of land, including roads, must be restored to conditions reasonably comparable to conditions existing prior to the placer or dredge exploration operation and as outlined in Subsection 020.043. (3-18-22)( )

**043. Reclamation Required.** The following reclamation activities, required to be conducted on exploration sites, must be performed in a workmanlike manner with all reasonable diligence, and as to a given exploration drill hole, road, pit, or trench, within one (1) year after abandonment thereof: ( )

a. Drill holes must be plugged within one (1) year of abandonment with a permanent concrete or bentonite plug. ( )

b. Restore all disturbed lands, including roads, to conditions reasonably comparable to conditions existing prior to the placer or dredge exploration operations. (47-1314(b)) (3-18-22)( )

c. Conduct revegetation activities in accordance with Subsection 040.175. Unless otherwise required by a federal agency, one (1) pit or trench on a federal mining claim showing discovery, may be left open pending verification by federal mining examiners. Such abandoned pits and trenches must be reclaimed within one (1) year of verification; (3-18-22)( )

d. If water runoff from exploration operations causes siltation or other pollution of surface waters, the operator will prepare disturbed lands and adjoining lands under his or her control, as is necessary to meet state water quality standards. ( )

e. Abandoned lands disturbed by an exploration operation must be top-dressed to the extent that such overburden is reasonably available from any pit or other excavation created by the exploration operation, with that type of overburden that is conducive to the control of erosion or the growth of vegetation that the operator elects to plant thereon; and (3-18-22)( )

f. Any water containment structure created in connection with exploration operations will be constructed, maintained, and reclaimed so as not to constitute a hazard to human health or the environment. ( )

**021. APPLICATION PROCEDURE FOR ~~PLACER OR DREDGE MINING~~ PERMIT.**

**01. ~~Approved Reclamation Plan~~ Permit Required.** No Permittee may conduct placer or dredge

mining operations, as defined in these rules, on any lands in the state of Idaho until the ~~placer mining~~ permit has been approved by the Board, the ~~Id~~Department has received a bond meeting the requirements of these rules, and the permit has been signed by the Director and the Permittee. (3-18-22)( )

**02. Application Package.** The Permittee must submit a complete application package, for each separate placer mine or mine panel, before the ~~placer~~ permit will be reviewed. Separate placer mines are individual, physically disconnected operations. The complete application package consists of: (3-18-22)( )

a. An application ~~completed by the applicant on a form~~ provided by the Director; (3-18-22)( )

b. A map or maps of the proposed mining operation which includes the information required under Subsection 021.04; ( )

c. A ~~reclamation~~ plan, of operations in map and narrative form, which includes the information required under Subsection 021.06. The map and ~~reclamation~~ plan of operations may be combined on one (1) sheet if practical; (3-18-22)( )

d. Document(s) identifying and assessing foreseeable, site-specific ~~nonpoint~~ sources of water quality impacts upon adjacent surface waters, and the ~~best management practices~~ BMPs or other measures the applicant will take to ~~control such nonpoint source impacts~~ comply with water quality requirements; (3-18-22)( )

e. When the Director determines, after consultation with DEQ, that there is an unreasonably high potential for ~~nonpoint source~~ pollution of adjacent surface waters, the Director will request, and the applicant will provide to the Director, baseline pre-project surface water monitoring information and furnish ongoing monitoring data during the life of the project. This provision does not require any additional baseline preproject surface water monitoring information or ongoing monitoring data where such information or data is already required to be provided pursuant to any federal or state law and is available to the Director; (3-18-22)( )

f. An out-of-state Permittee must designate an in-state agent authorized to act on behalf of the Permittee. In case of an emergency requiring action to be taken to prevent environmental damage, the authorized agent will be notified as well as the Permittee; ~~and~~ (3-18-22)( )

g. An application fee of fifty dollars (\$50) for each ten (10) acres or fraction of land included in an application for a new ~~mining~~ permit, or of land to be affected or added in an amended application to an existing ~~mining~~ permit, must be included with the application. No application fee will exceed one thousand dollars (\$1,000); and (3-18-22)( )

h. If the applicant is not the owner of the lands described in the application, or any part thereof, the landowner must sign the application prior to issuance of a permit. The federal government, as a property owner, will be notified of the application, and asked to sign the application as property owner. For mining operations proposed upon land under a mining lease, either the signature of the lessor must be affixed to the application, or a copy of the complete lease attached to the application. ( )

**03. Incomplete Applications.** An application for a permit may be returned for correction if the information provided on the application form or associated mine map(s) or ~~reclamation~~ plan of operations is incomplete or otherwise unsatisfactory. The Director will not proceed on the application until all necessary information is submitted. (3-18-22)( )

~~a. If the applicant is not the owner of the lands described in the application, or any part thereof, the land owner must endorse his approval of the application prior to issuance of a permit. The federal government, as a property owner, will be notified of the application, and asked to endorse the application as property owner. For mining operations proposed upon land under a mining lease, either the signature of the lessor must be affixed to the application or a copy of the complete lease attached to the application.~~ (3-18-22)

**04. Requirements of Maps.** Vicinity maps must be prepared on standard United States Geological Survey, seven and one-half (7.5) minute quadrangle maps, or equivalent. In addition, maps of the proposed placer mining operation site will be of sufficient scale to ~~adequately show the following~~: (3-18-22)( )

a. The location of existing roads ~~and anticipated~~, access, and main haulage roads ~~planned for~~

~~construction~~ constructed or reconstructed in connection with the mining operation, ~~along with~~ and the approximate dates for construction, reconstruction, and abandonment; (3-18-22)( )

b. The approximate location, ~~and the~~ names of all known drainages, streams, creeks, ~~springs, wells, or~~ bodies of water bodies within one thousand (1,000) feet of the mining operation; (3-18-22)( )

c. The approximate boundaries of ~~all the proposed disturbed~~ lands to be disturbed in the process of for the mining operation, including legal description to the quarter-quarter section; (3-18-22)( )

d. The approximate boundaries and acreage of the lands that will become disturbed land ~~as a result of~~ the placer or dredge mining operation during the first year of operations ~~following issuance of a placer mining permit~~; (3-18-22)( )

e. The planned location and configuration of pits, mineral stockpiles, topsoil stockpiles, and waste dumps within the ~~mining property~~ permit area; (3-18-22)( )

f. Scaled cross-sections, ~~of by~~ length and ~~width, height which are representative of the placer or~~ dredge mining operation, showing the surface contour prior to mining and the expected surface contour after ~~reclamation activities have been~~ is completed; (3-18-22)( )

~~g. The location of required settling ponds, and the design plans, construction specifications and narrative to show they meet both operating requirements and protection from erosion, seepage, and flooding that can be anticipated in the area. Where a dredge is operating in a stream, describe by drawing and narrative, the operation of the filtration equipment to be used to clarify the water. discharge points, if any; and~~ (3-18-22)( )

h. Surface and mineral control or ownership map of appropriate scale for boundary identification. (3-18-22)( )

**05. Settling Ponds.** Detailed plans and specifications for settling ponds must be drawn ~~to a scale of one~~ (1) inch = ten (10) feet and include at an appropriate scale to show the following: (3-18-22)( )

a. ~~A detailed map of the~~ Layout of each settling pond ~~location~~, including: (3-18-22)( )

i. Dimensions and orientation of the settling ponds and/or other wastewater treatment components of the operation; ( )

ii. Distance from surface waters; ( )

iii. Pond inlet/outlet locations including emergency spillways and detailed description of control structures and piping; ( )

iv. Location of erosion control structures; ~~and~~ (3-18-22)( )

v. Location of any current Ten (10) year flood plain elevation (probable high water mark), in relation to the mining facilities if the floodplain is within one hundred (100) feet of the facilities; and (3-18-22)( )

vi. The BMPs to be implemented that will keep surface waters from entering any pits and potentially changing course. ( )

b. A ~~detailed~~ cross-section of ~~the each~~ pond(s) including: (3-18-22)( )

i. Dimensions and orientation; ( )

ii. Proposed sidewall elevations; ( )

iii. Proposed sidewall slope; ( )

iv. Sidewall width; ( )

- v. Distance from and elevation above all surface water; and ( )
  - vi. Slope of settling pond location. ( )
  - c. Narrative of the construction method(s) describing: ( )
    - i. Bottom material; ( )
    - ii. Sidewall material; ( )
    - iii. Pond volume; ( )
    - iv. Volume of water to be used in the wash plant; ( )
    - v. Discharge or land application requirements; ( )
    - vi. Any pond liners or filter materials to be installed; and ( )
    - viii. Compaction techniques. ( )
  - ~~d. If the proposed ponds are: (3-18-22)~~
    - ~~i. Less than two thousand five hundred (2,500) feet square surface area; (3-18-22)~~
    - ~~ii. Less than four (4) feet high; (3-18-22)~~
    - ~~iii. Greater than fifty (50) feet from surface water; and (3-18-22)~~
    - ~~iv. Constructed on slopes of three: one (3:1) or flatter, the plans and specifications for settling ponds must contain information in Subparagraphs 021.05.a.i., 021.05.a.ii., and 021.05.a.iv.; 021.05.b.i., 021.05.b.ii., 021.05.b.v. and 021.05.b.vi. This information may be prepared as a sketch map showing appropriate elevations, distances and other required details. (3-18-22)~~
- 06. Requirements for Reclamation Plan of Operations.** A reclamation plan of operations must be submitted in map and narrative form and include the following: (3-18-22)( )
- a. Show how watercourses disturbed by the mining operation will be replaced on meander lines with a pool structure conducive to good fish and wildlife habitat and recreational use. Show how and where riprap or other methods of bank stabilization will be used to ensure that, following abandonment, the stream erosion will not exceed the rate normally experienced in the area. If necessary, show how the replaced watercourse will not contribute to degradation of water supplies; ( )
  - b. Describe and show the contour of the proposed mine site after final backfilling and/or grading, with grades listed for slopes after mining; (3-18-22)( )
  - c. On a drainage control map, show the best management practices to be utilized to minimize erosion on disturbed lands; ( )
  - d. Show roads to be reclaimed upon completion of mining; ( )
  - e. Show plans for both concurrent and final revegetation of disturbed lands. Indicate soil types, where soils are not present, slopes, precipitation, seed rates, species, topsoil, or other growth medium storage and handling, time of planting, method of planting and, if necessary, fertilizer and mulching rates; (3-18-22)( )
  - f. The planned reclamation of tailings or sediment ponds; ( )
  - g. An estimate of total reclamation cost to be used in establishing bond amount. The cost estimate should include the approximate cost of grading, revegetation, equipment mobilization, labor, and administrative overhead; and (3-18-22)( )

h. Make a premining estimate of trees on the site by species and forest lands utilization consideration in reclamation. ( )

07. **State Approval Required.** Approval of a ~~placer mining~~ permit must be obtained under these rules, even if approval of such plan has been or is obtained from an appropriate federal agency. (3-18-22)( )

08. **Application Review and Inspection.** If the ~~Director~~ Department determines that an inspection is necessary, the applicant may be contacted and asked that he or his duly authorized employee or representative be present for inspection at a reasonable time. An inspection may be required prior to issuance of the permit. The applicant must make such persons available for the purpose of inspection (~~see Subsection 051.01~~). Failure to provide a representative does not mean that the state will not conduct such inspection. (3-18-22)( )

## 021. PROCEDURES FOR REVIEW AND DECISION UPON AN APPLICATION.

~~01. **Decision on Application.** Following the Director's review of an application for a new permit, or to amend an existing permit and provide an opportunity to correct any deficiencies, the Board will approve or disapprove the application and the Director will notify the applicant of the Board's decision by mail. Such notice will contain any reservations conditioned with the approval, or the information required to be given under Subsections 022.07 and 022.09 if disapproved. If approved, a permit will be issued after the bonding requirements of Section 035 are met. No mining is allowed until the permit is bonded and applicant is notified by mail or telephone of approval.~~ (3-18-22)

021. **Public Hearings.** For the purpose of determining whether a proposed application complies with these rules, the Director may call for a public hearing, as described in Section 030. ( )

032. **Adverse Weather.** If weather conditions prevent the ~~Director~~ Department from inspecting the proposed mining site to acquire the information required to evaluate the application, the application may be placed in suspense, pending improved weather conditions. The applicant will be notified in writing of this action. (3-18-22)( )

043. **Interagency Comment.** Nonconfidential materials submitted under Section 021 will be forwarded by the ~~Director~~ Department to the Departments of Water Resources, Environmental Quality, and Fish and Game for review and comment. If operations are to be located on federal lands, the ~~d~~Department will notify the U. S. Bureau of Land Management or the U.S. Forest Service. The Director may provide public notice on receipt of a reclamation plan. In addition, a copy of an application will be provided to individuals who request the information in writing, subject to Title 74, Chapter 1, Idaho Code. (3-18-22)( )

054. **Stream Channel Alteration Permits.** No permit will be issued proposing to alter, occupy or to dredge any stream or watercourse without notification to the Department of Water Resources of the pending application. The Department of Water Resources will respond to said notification within twenty (20) days. If a stream channel alteration permit is required, it must be issued prior to issuance of the placer and dredge permit. (3-18-22)( )

065. **Water Clarification.** No permit will be issued until the ~~Director~~ Department is satisfied that the methods of water clarification proposed by the applicant are of sound engineering design and capable of meeting the water quality standards established under Title 39, Chapters 1 and 36, Idaho Code, and IDAPA 58.01.02, "Water Quality Standards," IDAPA, 58.01.11, "~~Ground Water Quality Rule.~~" (3-18-22)( )

06. **Permit Conditions.** ~~If an application fails to meet the requirements of these rules, the Department may include permit conditions that bring the application into compliance with these rules.~~ ( )

07. **Decision on Application.** ~~Following the Department's review of an application for a new or amended permit and an opportunity for the applicant to correct any deficiencies, the Board will approve or disapprove the application and the Director will notify the applicant of the Board's decision by mail.~~ ( )

08. **Permit Offering.** ~~Upon approval by the Board, the applicant will be sent the permit for their signature and submittal of the reclamation bond and first year's inspection fees. If the signed permit, fee, and bond are not received by the Department within twelve (12) months of Board action, the approval will be automatically rescinded. Upon receipt of the signed permit, fee, and bond, the Department will complete the permit with the required state signatures and send the fully executed permit to the permittee.~~ ( )

**079. Permit Denial Authority.** The Board has the power to deny any application for a permit on state lands, streams, or riverbeds, or on any unpatented mining claims, ~~upon its determination that a placer or dredge mining operation on the area proposed would not be in the public interest, giving consideration to economic factors, recreational use for such lands, fish and wildlife habitat, and other factors which in the judgement of the Board may be pertinent, and may deny any application upon notification by the Department of Water Resources that the granting of such permit would result in permanent damage to the stream channel.~~ (pursuant to Section 47-1317(j), Idaho Code). (3-18-22)( )

**08. Permit Conditions.** ~~If an application fails to meet the requirements of these rules, the Board may issue a permit subject to conditions that bring the application into compliance with these rules. The applicant may accept or refuse the permit. Refusal to accept the permit is considered a denial under Subsection 022.09.~~ (3-18-22)

**0910. Amended Applications.** If the Board disapproves the application, the applicant will be informed of the rules that have not been complied with, the manner in which they have not been complied with, and the requirements necessary to correct the deficiencies. The applicant may then submit an amended application and application fee, which will be processed as described in Section 022 of these rules. (3-18-22)( )

**10. Permit Offering.** ~~Upon approval by the Board, the applicant will be notified of the action and the amount of bond required. Upon receipt of the required bond, the permit will be sent to the applicant for signature. If the bond and the permit, signed by the applicant, are not received within twelve (12) months of Board action, the approval will be automatically rescinded, except that upon written request of the applicant, and for good cause, the Director may defer decision of the Board's approval for a reasonable period of time not to exceed one (1) year. The Director will notify the applicant of his decision in writing.~~ (3-18-22)

**11. Reclamation Obligations.** The permit issued by the Board governs and determines the nature and extent of the reclamation obligations of the Permittee. ( )

**023. -- 024. (RESERVED)**

**025. AMENDING AN APPROVED PERMIT.**

**01. Application to Amendment.** If circumstances arise that require significant change in the reclamation plan of operations, method of operation, increase in acreage, water management or other details associated with an approved permit, the Permittee will submit an application ~~on a department form or exact copy to amend the permit. Application fees are to be submitted with amended applications pursuant to Subsection 021.02.g covering the proposed changes as described in Section 021 of these rules.~~ Application fees are to be submitted with amended applications pursuant to Subsection 021.02.g covering the proposed changes as described in Section 021 of these rules. (3-18-22)( )

**02. Processing.** An application to amend a permit will be processed in accord with Section 022.( )

**026. DEVIATION FROM AN APPROVED PERMIT.**

**01. Unforeseen Events.** ~~If a Permittee finds that~~ unforeseen events or unexpected conditions require immediate deviation from an approved permit, the Permittee may continue mining ~~in accord with the procedures as dictated by the changed conditions, pending submission and approval of an amended permit, even though such operations do not comply with the current approved permit.~~ This does not excuse the Permittee from complying with the BMPs and reclamation requirements of Sections 020 and 040. If water quality is being impaired or the stability of settling ponds or other mine features is compromised due to the unforeseen events, then mining must stop until the mine features are stabilized. (3-18-22)( )

**02. Notification.** Notification of such unforeseen events must be given to the ~~d~~Department within forty-eight (48) hours after discovery, and an application to amend the permit must be submitted within thirty (30) days of deviation from the approved permit by the Permittee. (3-18-22)( )

**027. TRANSFER OF PERMITS.**

~~Placer and dredge mining p~~Permits may be transferred from an existing Permittee to a new Permittee only after the Department's approval. Transfer is made by the new Permittee filing a notarized Department ~~Transfer of Permit~~ Transfer of Permit form and providing replacement bonding. The new Permittee is then responsible for the past Permittee's obligations under Title 47, Chapter 13, Idaho Code ~~the Act~~, these rules, ~~the reclamation plan~~, and ~~the~~ permit. ~~When a replacement bond is submitted relative to an approved placer/dredge mining permit, the following rider must be filed with the~~

department as part of the replacement bond before the existing bond will be released:“(Surety company or principal understands and expressly agrees that the liability under this bond shall extend to all acts for which reclamation is required on areas disturbed in connection with placer/dredge mining permit No., both prior and subsequent to the date of this rider.” (3-18-22)( )

028. -- 029. (RESERVED)

### 030. PUBLIC HEARING FOR PERMIT APPLICATION.

**01. Public Hearings.** During any stage of the application process the ~~Director~~ Department may conduct a public hearing. (3-18-22)( )

**02. Basis for Hearing.** This action will be based upon the preliminary review of the application and upon any concern registered with the ~~Director~~ Department by the public, affected land owners, ~~federal reviewing agencies having surface management of the affected lands~~, other interested entities, or upon request by the applicant. (3-18-22)( )

~~**03. Hearing for Water Degradation** The Director will call for a public hearing when he determines, after consultation with the Departments of Water Resources, Environmental Quality, Fish and Game, and affected Indian tribes (pursuant to Paragraph 021.02.e.), that proposed placer or dredge mining operations can reasonably be expected to significantly degrade adjacent surface waters. A hearing held under this subsection will be conducted to receive comment on the measures the applicant will use to protect surface water quality from nonpoint source water pollution. (3-18-22)~~

~~**04.3. Site of Hearing.** The hearing will be held, ~~upon the record~~, in the locality of the proposed operation, or in Ada County, at a reasonable time and place. (3-18-22)( )~~

~~**05.4. Hearing Notice.** The ~~Director~~ Department will give notice of the date, time, and place of the hearing to the applicant, ~~to~~ federal, state, and local agencies, and Indian tribes which may have an interest in ~~the decision, as shown on~~ the application; to all any persons petitioning for the hearing, ~~if any~~; and ~~to~~ all persons identified ~~by the applicant pursuant to Subsection 021.03.a.~~ as an owner of the specific acreage to be affected by the proposed ~~placer or dredge mining~~ operation. Such hearing notice will be sent by certified mail and postmarked not less than thirty (30) days before the scheduled date of the public hearing. (3-18-22)( )~~

~~**06.5. Public Notice.** The Director will notify the general public of the date, time, and place of the hearing by placing a newspaper advertisement once a week, for two (2) consecutive weeks, ~~in the locale of the area covered by the application in a newspaper in the county in which the mining is proposed.~~ The ~~two (2) consecutive weekly~~ advertisements ~~begin will be~~ between seven (7) and twenty (20) days prior to the scheduled date of the hearing. A copy of the application is to be placed for review in a conspicuous place in the local area of the proposed mining operations, in the ~~nearest~~ Department's nearest area office, and the ~~Department's~~ administrative office in Boise. (3-18-22)( )~~

~~**07. Description of Effects.** In the event a hearing is ordered under Subsection 030.03, the notice to the public will describe the potentially significant surface water quality degradation and contain the applicant's description of the measures that will be taken to prevent degradation of adjacent surface waters from nonpoint sources of pollution. The foregoing is to be discussed at the public hearing. (3-18-22)~~

~~**08.6. Hearing Officer.** The hearing will be conducted by the Director or his duly authorized representative. Both oral and written testimony will be accepted. ( )~~

031. -- 034. (RESERVED)

### 035. PERFORMANCE BOND REQUIREMENTS.

**01. Submittal Amount of Bond.** ~~Prior to issuance of a placer or dredge mining permit, an applicant must submit to the Director, on a placer or dredge mining bond form, a performance bond meeting the requirements of this rule. (3-18-22)~~

~~**a.** The ~~amount of the~~ initial bond is in the amount determined by the Board to be the estimated reasonable costs of reclamation of lands proposed to be disturbed in the permit area, plus ten percent (10%), and~~

~~subject to the limitations in Idaho Code 47-1317(b). The determination by the Board of the bond amount constitutes a final decision subject to judicial review as set forth in Section 002 of these rules. The bond may be submitted in the form of a surety, cash, certificate of deposit, or other bond acceptable to the Director.~~ (3-18-22)

~~b. Acreage on which reclamation is completed must be reported in accord with Subsections 035.06 and 035.07. Acreage may be released upon approval by the Director. The bond may be reduced by the amount appropriate to reflect the completed reclamation.~~ (3-18-22)( )

## **02. Form of Performance Bond.** ( )

~~a. Corporate surety bond: This is an indemnity agreement executed for the Permittee by a corporate surety licensed to do business in the state of Idaho and submitted on a ~~placer and dredge mining bond~~ Department form, or exact copy, supplied by the Director. Surety bonds are subject to the following conditions: The bond is to be conditioned upon the Permittee faithfully performing all requirements of the act, these rules, the permit, and reclamation plan, and must be payable to the state of Idaho.~~ (3-18-22)( )

~~i. The bond is to be conditioned upon the Permittee faithfully performing all requirements of the Act, these rules, and the permit, and must be payable to the state of Idaho;~~ ( )

~~ii. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties in Circular 570 of the U.S. Department of the Treasury; and~~ ( )

~~iii. When a replacement bond is submitted, the following rider must be filed with the Department as part of the replacement before the existing bond will be released: "(Surety company or principal) understands and expressly agrees that the liability under this bond will extend to all acts for which reclamation is required on areas disturbed in connection with placer or dredge mining permit [number], both prior to and subsequent to the date of this rider."~~ ( )

~~iv. Any surety company canceling a bond must give the Department at least ninety (90) days' notice prior to cancellation. The Director will not release a surety from liability under an existing bond until the Permittee has submitted an acceptable replacement bond to the Director or reclaimed the site. A replacement bond must be received within thirty (30) days following written notice by the Director or prior to the effective date of cancellation, whichever is later.~~ ( )

~~v. If a surety's Idaho business license is suspended or revoked the Permittee must, within thirty (30) days after notice by the Department, submit a replacement bond for such surety to the Department.~~ ( )

~~vi. If the Permittee fails to submit a replacement bond or complete reclamation as directed in subparagraphs iv and v above, the Director may issue a cease-and-desist order and seek injunctive relief to stop the Permittee from conducting placer and dredge mining operations on the lands covered by the bond until a replacement bond has been submitted. The Permittee must cease mining operations on lands covered by the bond until a bond acceptable to the Department is filed.~~ ( )

~~b. Collateral bond: This is an indemnity agreement executed by or for the Permittee, and payable to the state of Idaho ~~Department of Lands~~, pledging cash deposits, governmental securities, or ~~negotiable~~ certificates of deposit of any financial institution doing business in the United States. Collateral bonds are subject to the following conditions:~~ (3-18-22)( )

~~i. The Director will obtain possession, and upon receipt of such collateral bonds, of cash or other collateral bonds and then deposit such cash or securities them with the state treasurer to hold in trust for the purpose of bonding reclamation performance;~~ (3-18-22)( )

~~ii. The Director will value collateral at its current market value minus any penalty for early withdrawal, not its face value;~~ (3-18-22)( )

~~iii. Certificates of deposit will be or time deposit receipts are issued or assigned, in writing, to the Department, in writing, state of Idaho and upon the books of the financial institution issuing such certificates. Interest will be allowed to accrue and may be paid by the bank, upon demand and after written release by the Department, to the Permittee, or other person which who posted the collateral bond;~~ (3-18-22)( )



iv. Amount of an individual certificate of deposit or time deposit receipt may not exceed the maximum amount insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or their successors; (3-18-22)( )

v. Financial institutions issuing ~~such~~ certificates of deposit or time deposit receipts will waive all rights of set-off or liens which it has or might have against such certificates, and will place holds on those funds that prevent the Permittee from withdrawing funds until the Department sends a written release to the financial institution; (3-18-22)( )

vi. ~~Any such e~~Certificates will of deposit and time deposit receipts must be automatically renewable; and, (3-18-22)( )

vii. ~~The certificate of deposit will be of sufficient amount to ensure that the Director would be able to liquidate such certificates prior to maturity, upon forfeiture, for the amount of the required bond, including any penalty for early withdrawal.~~ (3-18-22)

c. Letters of credit: A letter of credit is an instrument executed by a bank doing business in Idaho and made at the request of a customer. A letter of credit states that the issuing bank will honor drafts for payment upon compliance with the terms of the credit. Letters of credit are subject to the following conditions: (3-18-22)( )

i. ~~A letter of credit (“credit”) is an instrument executed by a bank doing business in Idaho, made at the request of a customer, that states that the issuing bank will honor drafts for payment upon compliance with the terms of the credit;~~ (3-18-22)

ii. All credits are irrevocable and prepared in a format prescribed by the Director; ( )

iii. All credits must be issued by an institution authorized to do business in the state of Idaho or through a confirming correspondent bank authorized to do business in the state of Idaho ~~which engages that it will itself honor the credit in full. In the alternative, a foreign bank may execute or consent to jurisdiction of Idaho courts on a form prescribed by the Director;~~ and (3-18-22)( )

iv.iii. The account party on all credits must be identical to the entity identified on the ~~placer mining~~ permit as the Permittee. (3-18-22)( )

**03. Blanket Bond.** Where a Permittee is involved in numerous placer or dredge operations, the Director may accept a blanket bond in lieu of separate bonds under approved permits. The amount of such bond must comply with other applicable provisions of Section 035 and are must be equal to the total of the penalties amounts of the separate bonds being combined into a single bond. (3-18-22)( )

**04. Bond Cancellation.** ~~Any surety company canceling a bond must give the department at least one hundred twenty (120) days’ notice prior to cancellation. The Director will not release a surety from liability under an existing bond until the Permittee has submitted to the Director an acceptable replacement bond or reclaimed the site. Replacement bonds must cover any liability accrued against the bonded principal under the permit. If a Permittee fails to submit an acceptable replacement bond prior to the effective date of cancellation of the original bond, or within thirty (30) days following written notice of cancellation by the Director, whichever is later, the Director may issue a cease and desist order and seek injunctive relief to stop the Permittee from conducting placer or dredge mining operations on the lands covered by the bond until such replacement has been received by the department. The Permittee must cease mining operations on lands covered by the bond until a suitable bond is filed.~~ (3-18-22)

**05. Substitute Surety.** ~~If a surety’s Idaho business license is suspended or revoked, the Permittee must, within thirty (30) days after notice by the department, find a substitute for such surety. The substitute surety must be licensed to do business in Idaho. If the Permittee fails to secure such substitute surety, the Director may issue a cease and desist order and seek injunctive relief to stop the Permittee from conducting placer and dredge mining operations on the lands covered by the bond until a substitution has been made. The Permittee must cease mining operations on lands covered by the bond until a bond acceptable to the department is filed.~~ (3-18-22)

**06.4. Bond Reduction.** ~~Upon finding that any land bonded under a placer or dredge mining permit will not be affected by mining, the Permittee must notify the Director by submitting an application amending the permitted acreage, pursuant to Section 025. When the Director has verified that the bonding requirement for the~~

~~amended permit is adequate, any excess reclamation bond will be released. Any request for bond reduction will be answered by the Director within thirty (30) days of receiving such request unless weather conditions prevent inspection. (3-18-22)( )~~

~~a. Upon finding that any land bonded under a permit will not be affected by mining, the Permittee will notify the Department. When the Department has verified that the bonding requirement for the remaining permit area is adequate, any excess reclamation bond will be released. Any request for bond reduction will be answered by the Director within thirty (30) days of receiving such request unless weather conditions prevent inspection. ( )~~

~~b. A Permittee may petition the Department for a change in the initial bond rate. The Department will review the petition and if satisfied with the information presented a revised bond amount will be determined. The revised bond amount will be based upon the estimated cost that the Department would incur should a forfeiture of bond occur and it becomes necessary for the Department to complete reclamation to the standards established in the permit. This amount is subject to the limitations in Section 47-1317(b), Idaho Code. ( )~~

**075. Bond Release.** Upon completion of the reclamation, specified in the permit, the Permittee must notify the ~~Director~~ Department in writing, of ~~his~~ their desire to secure release from bonding. When the ~~Director~~ Department has verified that the requirements of the ~~placer or dredge mining~~ permit have been met, ~~as stated in the permit~~, the bond will be released. (3-18-22)( )

a. Any request for bond release will be answered by the ~~Director~~ Department within thirty (30) days of receiving such request unless weather conditions prevent inspection. (3-18-22)( )

b. If the ~~Director~~ Department finds that a specific portion of the reclamation has been satisfactorily completed, the bond may be reduced to the amount required to complete the remaining reclamation. The following schedule will be used to complete these bond reductions unless the ~~Director~~ Department determines in a specific case that this schedule is not appropriate and specifies a different schedule: (3-18-22)( )

i. Sixty percent (60%) of the bond may be released when the Permittee completes the required backfilling, regrading, topsoil replacement, and drainage control of the bonded area in accordance with the approved ~~placer mining~~ permit; and (3-18-22)( )

ii. ~~After An additional twenty-five percent (25%) of the bond may be released after the Permittee performs~~ revegetation activities ~~have been performed by the Permittee~~ on the regraded lands according to the approved ~~placer mining~~ permit and Section 040. ~~of these rules, the department may release an additional twenty-five percent (25%) of the bond.~~ (3-18-22)( )

c. The remaining bond will not be released: ( )

i. As long as the disturbed lands are contributing sediment or other pollution to surface waters outside the disturbed land in excess of state water quality standards established under Title 39, Chapters ~~1 and 36~~, Idaho Code; (3-18-22)( )

ii. Until final removal of equipment and structures related to the mining activity, or until any remaining equipment and structures are brought under an approved ~~placer or dredge mining~~ permit and bond by a new Permittee ~~(this rule does not require a Permittee to remove equipment or structures from patented lands when the landowner has authorized the equipment and structures to remain on the site);~~ (3-18-22)( )

iii. Until all temporary sediment or erosion control structures have been removed and reclaimed or until such structures are brought under an approved ~~placer mining~~ permit and bond by a new Permittee; and (3-18-22)( )

iv. Until vegetation ~~productivity is returned to levels of yields at least comparable to productivity which the disturbed lands supported prior to the permitted mining, except as stated in Subsection 040.17.b meets the standards in Subsection 040.15 of these rules.~~ (3-18-22)( )

**086. Forfeiture.** In accord with Subsection 0501.02, a bond may be forfeited if the Director determines that the Permittee has not conducted the placer and dredge mining and reclamation in accord with the ~~a~~ Act, these rules, ~~and the approved permit, and the reclamation plan.~~ (3-18-22)( )

**097. Correction of Deficiencies.** The Director may, through cooperative agreement with the Permittee, devise a schedule to correct deficiencies in complying with the permit and thereby postpone action to recover the bond. ( )

~~**10. Bonding Rate.** A Permittee may petition the Director for a change in the initial bond rate. The Director will review the petition, and if satisfied with the information presented, a special bond rate will be set based upon the estimated cost that the Director would incur should a forfeiture of bond occur and it becomes necessary for the Director to complete reclamation to the standards established in the permit and reclamation plan. (3-18-22)~~

~~**108. Federal Bonds Recognized.** The Director may accept as a bond, evidence of a valid reclamation bond with the United States government. The bond must equal or exceed the amount determined in Subsection 035.01.a. This does not release a Permittee from bonding under these rules if the Permittee fails to continuously maintain a valid federal bond. ( )~~

~~**109. Insufficient Bond.** In the event the amount of the bond is insufficient to reclaim the land in compliance with the ~~a~~Act, these rules, the ~~approved~~ permit, and the ~~reclamation~~ plan of operations, the attorney general is empowered to commence legal action against the Permittee in the name of the Board to recover the amount, in excess of the recoverable bond, necessary to reclaim the land in compliance with the ~~a~~Act, these rules, the ~~approved~~ permit, and the ~~reclamation~~ plan of operations. (3-18-22)( )~~

**036. -- 039. (RESERVED)**

**040. BEST MANAGEMENT PRACTICES AND RECLAMATION FOR PLACER AND DREDGE MINING OPERATION.**

**01. ~~Nonpoint Source Sediment~~Pollution Control.** (3-18-22)( )

~~**a.** Appropriate best management practices for nonpoint source sediment or other pollution controls must be designed, constructed, and maintained with respect to site-specific placer or dredge mining operations. Permittees will utilize best management practices designed to achieve state water quality standards and protect existing beneficial uses of adjacent surface waters. (3-18-22)( )~~

**b.** State water quality standards, including protection of existing beneficial uses, are the standard that must be achieved by best management practices. In addition to proper mining techniques and reclamation measures, the Permittee will take necessary steps at the close of each operating season to assure that sediment movement or other pollution associated with surface runoff over the area is minimized in order to achieve water quality standards. ( )

**c.** Sediment or pollution control measures refer to best management practices that are carried out within and, if necessary, adjacent to the disturbed land and consist of utilization of proper mining and reclamation measures, as well as specific necessary pollution control methods, separately or in combination. Specific pollution control methods may include, but are not limited to: ( )

- i. Keeping the disturbed land to a minimum at any given time through concurrent reclamation; ( )
- ii. Shaping waste to help reduce the rate and volume of water runoff by increasing infiltration; ( )
- iii. Retaining sediment within the disturbed land; ( )
- iv. Diverting surface runoff to limit water coming into the disturbed land and settling ponds; ( )
- v. Routing runoff through the disturbed land using protected channels or pipes so as not to increase sediment load; ( )
- vi. Use of riprap, straw dikes, check dams, mulches, temporary vegetation, or other measures to reduce overland flow velocities, reduce runoff volume, or retain sediment; and ( )
- vii. Use of adequate sediment ponds, with or without chemical treatment. ( )

**02. Modification of Best Management Practices.** If best management practices utilized by the Permittee do not result in compliance with Subsection 040.01, the Director will require the Permittee to modify or improve such best management practices to meet state water quality standards. (3-18-22)( )

**03. Clearing and Grubbing.** Clearing and grubbing of land in preparation for mining exposes mineral soil to the erosive effects of moving water. Permittees are cautioned to keep such areas as small as possible (preferably no more than one (1) year's mining activity) as the Permittee is required to meet state water quality standards. Trees and slash should be stockpiled for use in seedbed protection and erosion control and such stockpiling may be a requirement of the approved permit. ( )

**04. Overburden/Topsoil.** To aid in the revegetation of disturbed land, where placer or dredge mining operations result in the removal of substantial amounts of overburden, including any topsoil, the Permittee must remove, where practicable, the available topsoil or other growth medium as a separate operation for such area. Unless there are previously disturbed lands which are graded and immediately available for placement of the newly removed topsoil or other growth medium, the topsoil or other growth medium must be stockpiled and protected from erosion and contamination until such areas become available. ( )

**a. Overburden/topsoil removal:** ( )

i. Any overburden/topsoil to be removed will be removed prior to any other mining activity to prevent loss or contamination; ( )

ii. Where overburden/topsoil removal exposes land area to potential erosion, the Director may, as a condition of a permit, limit the size of any one (1) area having topsoil removed at any one (1) time: and (3-18-22)( )

iii. Where the Permittee can show that an overburden material other than topsoil is more conducive to plant growth, or where overburden other than topsoil is the only material reasonably available, such overburden may be allowed as a substitute for or a supplement to the available topsoil. ( )

**b. Topsoil storage.** Topsoil stockpiles must be placed to minimize rehandling and exposure and to avoid excessive wind and water erosion. Topsoil stockpiles must be protected, as necessary, from erosion by use of temporary vegetation or by other methods which will control erosion including, but not limited to, silt fences, chemical binders, seeding, and mulching. ( )

**c. Overburden storage.** Stockpiled ridges of overburden must be leveled to a minimum width of ten (10) feet at the top. Peaks of overburden must be leveled to a minimum width of fifteen (15) feet at the top. The overburden piles must be reasonably prepared to control erosion using best management practices such as terracing, silt fences, chemical binders, seeding, and mulching. ( )

**05. Roads.** ( )

**a. Roads** must be constructed to minimize soil erosion. Such construction may require, but is not limited to, restrictions on length and grade of roadbed, surfacing of roads with durable non-toxic material, stabilization of cut and fill slopes, and other techniques designed to control erosion. ( )

**b. All access and haul roads** must be adequately drained. Drainage structures may include, but are not limited to, properly installed ditches, water-bars, cross drains, culverts, and sediment traps. ( )

**c. Culverts** that are to be maintained for more than one (1) year must be designed to pass peak flows from not less than a twenty (20) year, twenty-four (24) hour precipitation event and have a minimum diameter of eighteen (18) inches. ( )

**d. Roads and water control structures** must be maintained at periodic intervals as needed. Water control structures serving to drain roads may not be blocked or restricted in any manner to impede drainage or significantly alter the intended purpose of the structure. ( )

**e. Roads** that are to be abandoned must be cross-ditched, ripped, and revegetated or otherwise obliterated to control erosion. ( )

f. Roads, ~~not abandoned, which are to continue in that will be~~ used under the jurisdiction of a governmental or private landowner, after reclamation is completed are the Permittee's responsibility ~~to comply with the nonpoint source sediment control provisions of~~ under Subsection 040.01 until the successor assumes control. (3-18-22)( )

**06. Settling Ponds -- Minimum Criteria.** ( )

a. Settling ponds must provide adequate sediment storage capacity to achieve compliance with applicable water quality standards and protect existing beneficial uses, and may require periodic cleaning and proper disposal of sediment. ( )

b. No settling pond, used for process water clarification, ~~must~~ may be constructed to block a surface water drainage. (3-18-22)( )

c. All settling ponds ~~must~~ will be constructed and designed to prevent surface water runoff from entering the pond. (3-18-22)( )

d. All settling ponds ~~must~~ will be constructed and maintained to contain direct precipitation to the pond surface from a fifty (50) year twenty-four (24) hour storm event. (3-18-22)( )

e. No chemicals may be used for water clarification or on site gold recovery without prior notification to, and approval from, the DEQ. ( )

**07. Dewatering Settling Ponds.** Upon reclamation, settling ponds must be dewatered, detoxified, and stabilized. Stabilization includes regrading ~~the site for erosion control,~~ to the approximate original contour, and may require removal and disposal of settling pond contents. (3-18-22)( )

~~**08. Topsoil Replacement.** Following completion of the requirements of Subsection 040.07, the settling ponds must be retopped with stockpiled topsoils or other soils conducive to plant growth. Where such soils are limited in quantity or not available, physical or chemical methods of erosion control may be used. All such areas are to be revegetated in accord with Subsection 040.17, unless otherwise specified in the placer mining permit. (3-18-22)~~

~~**09. Dam Safety.** Settling ponds must conform with the Idaho Dam Safety Act, Section 42-1710 through 42-1721, Idaho Code and with the Environmental Protection and Health Act, Section 39-118, Idaho Code, requiring plan and specification review and approval for waste treatment facilities. (3-18-22)~~

~~**1008. Backfilling and Grading.**~~ ( )

a. Every operator who conducts placer mining exploration operations that disturb less than one-half (1/2) acre must contour the disturbed land to its approximate previous contour. These lands must be revegetated in accordance with Subsection 040.175. For showing discovery on federal mining claims, unless otherwise required by a federal agency, one (1) pit may be left open on each claim pending verification by federal mining examiners, but must not create a hazard to humans or animals. Such pits and trenches must be reclaimed within one (1) year of verification. (3-18-22)( )

b. Every Permittee who disturbs more than one-half (1/2) acre must shape and smooth the disturbed ground to a grade reasonably comparable with the natural contour of the ground prior to mining, and to a condition that promotes the growth of vegetation except as provided in Paragraph 040.15.m; or minimize erosion through other means. Any disturbed natural watercourse must be restored to a configuration and structure conducive to good fish and wildlife habitat and recreational use. (3-18-22)( )

c. Backfill materials must be compacted in a manner to ensure stability of the fill. ( )

d. After the disturbed land has been graded, slopes will be measured by the Department for compliance with the requirements of the aAct, these rules, and the ~~placer or dredge mining permit, and the reclamation plan.~~ (3-18-22)( )

~~**1109. Waste Disposal - Disposal of Waste in Areas Other Than Mine Excavations.**~~ Waste materials

not used in backfilling mined areas must be placed, stabilized, and revegetated to ensure that drainage is compatible with the surrounding drainage and to ensure long-term stability. ( )

a. The Permittee may, if appropriate, use terraces to stabilize the face of any fill. Slopes of the fill material may not exceed the angle of repose. ( )

b. Unless adequate drainage is provided through a fill area, all surface water above a fill must be diverted away from a fill area into protected channels, and drainage may not be directed over the unprotected face of a fill. ( )

**120. Topsoil Redistribution.** Topsoil must be spread to achieve a thickness over the regraded area, adequate to support plant life. Excessive compaction of overburden and topsoil is to be avoided. Topsoil redistribution must be timed so that seeding or other protective measures can be readily applied to prevent compaction and erosion. Final grading must be along the contour unless such grading will expose equipment operators to hazardous operating conditions, in which case the best alternative method must be used in grading. ( )

**131. Soil Amendments.** Nutrients and soil amendments ~~must, if necessary, will~~ be applied as needed to the graded areas to successfully achieve the revegetation requirements of the permit ~~and reclamation plan~~. (3-18-22)( )

**142. Revegetating Waste Piles.** The Permittee must conduct revegetation activities with respect to such waste piles in accordance with Subsection 040.175. (3-18-22)( )

**153. Mulching.** Mulch ~~must~~ should be used on severe sites and may be required by the ~~approved placer or dredge mining~~ permit. Nurse crops such as rye, oats, and wheat may be used as a substitute for mulch where they will provide adequate protection and will be replaced by permanent species within a reasonable length of time. (3-18-22)( )

**164. Permanent Cessation and Time Limits for Planting.** ( )

a. Wherever possible, but not later than one (1) year after grading, seeding and planting of disturbed lands ~~must will~~ be completed during the first favorable growth period after seedbed preparation. If permanent vegetation is delayed or slow in establishment, temporary cover of small annual grains, grasses, or legumes may be used to control erosion until adequate permanent cover is established. (3-18-22)( )

b. Reclamation activities should be concurrent with the mining operation and may be included in the approved ~~placer or dredge mining~~ permit ~~and reclamation plan~~. Final reclamation of the permit area or any part of the permit area must begin within one (1) year after the placer or dredge mining operations have permanently ceased ~~on a mine panel. If the Permittee permanently ceases disposing of overburden on a waste area or permanently ceases removing minerals from a pit or permanently ceases using a road or other disturbed land, the reclamation activity on each given area must start within one (1) year of such cessation, despite the fact that all operations as to the mine panel, which included such pit, road, overburden pile, or other disturbed land, has not permanently ceased on those parts of the permit area.~~ (3-18-22)( )

c. A Permittee will be presumed to have permanently ceased placer or dredge mining operations on a given portion of disturbed land where no substantial amount of mineral or overburden material has been removed or overburden placed on an overburden dump, or no significant use has been made of a road during the previous one (1) year. ( )

d. If a Permittee does not plan to use disturbed land for one (1) or more years, but intends thereafter to use the disturbed land for placer or dredge mining operations, and desires to defer final reclamation until after its subsequent use, the Permittee must submit written a notice of intent and request for deferral of reclamation to the Director Department, in writing. If the Director Department determines that the Permittee plans to continue the operation within a reasonable period of time, the Director Department will notify the Permittee and may require actions to be taken to ~~reduce degradation of surface resources~~ stabilize stockpiles and maintain water quality until operations resume. If the Director Department determines that the use of the disturbed land for placer or dredge mining operations will not be continued within a reasonable period of time, the Director Department will proceed as though the placer or dredge mining operation has been abandoned, but the Permittee Department will ~~be notified~~

notify the Permittee of such decision at least thirty (30) days before taking any formal administrative action.

(3-18-22)( )

**175. Revegetation Activities.**

( )

a. The Permittee must select and establish plant species that can be expected to result in vegetation comparable to that growing on the disturbed lands prior to placer or dredge mining operations or other species that will be conducive to the post-mining use of the disturbed lands. The Permittee may use available technical data and results of field tests for selecting seeding practices and soil amendments that will result in viable revegetation.

( )

b. Standards for success of revegetation. Revegetative success, unless otherwise specified in the approved placer mining permit ~~and reclamation plan~~, is measured against the existing vegetation at the site prior to mining, or an adjacent reference area supporting similar vegetation.

(3-18-22)( )

c. The ground cover of living plants on the revegetated area must be comparable to the ground cover of living plants on the adjacent reference area for two (2) full growing seasons after cessation of soil amendment or irrigation.

( )

d. For purposes of this rule, ground cover is considered comparable if it has, on the area actually planted, at least seventy percent (70%) of the premining ground cover for the mined land or adjacent reference area.

( )

e. For locations with an average annual precipitation of more than twenty-six (26) inches, the Director, in approving a placer mining permit, may set a minimum standard for success of revegetation as follows:

( )

i. Vegetative cover of seventy percent (70%) for two (2) full growing seasons in areas planted to herbaceous species only; or

( )

ii. Fifty percent (50%) vegetative cover for two (2) full growing seasons and six hundred (600) woody plants per acre in areas planted to a mixture of herbaceous and woody species.

( )

f. As used in this section, "herbaceous species" means grasses, legumes, and other forbs; "woody plants" means woody shrubs, trees, and vines; and "ground cover" means the area of the ground surface covered by the combined aerial parts of vegetation and the litter that is produced naturally on-site, expressed as a percentage of the total area measurement. Rock surface areas, composed of rock three plus (3+) inches in diameter will be excluded from this calculation. For purposes of measuring ground cover, rock greater than three (3) inches in diameter is considered as ground cover.

( )

g. ~~For p~~Previously mined areas that ~~were not reclaimed to the standards~~ lack sufficient topsoil and are re-disturbed by a placer or dredge mining operation are not required by to meet the revegetation standards in Section 040, ~~and that are disturbed by the placer or dredge mining operations,~~ but vegetation must be established to the extent necessary to control erosion, ~~but and may~~ not be less than that which existed before re-disturbance. (3-18-22)( )

( )

h. Introduced species may be planted if they are comparable to previous vegetation, or if known to be of equal or superior use for the approved post-mining use of the disturbed land, or, if necessary, to achieve a quick, temporary cover for soil stabilization purposes. Species classified as poisonous, ~~or~~ noxious weeds, or invasive may not be used in revegetation.

(3-18-22)( )

i. By mutual agreement of the ~~Director~~ Department, the landowner, and the Permittee, a site may be converted to a different, more desirable, or more economically suitable habitat.

(3-18-22)( )

j. Planting of grasses and forbs should be done in a manner which promotes rapid stabilization of the soil surface. Wherever terrain permits, grasses and forbs should be drilled or compacted into the ground using agricultural grass planting equipment or other seeders specifically designed for mine revegetation applications. Broadcast and hydroseeding may be used on areas where other methods are impractical or unavailable.

( )

k. The Permittee should plant shrubs or shrub seed, as required, where shrub communities existed prior to mining. Shrub seed may be planted as a portion of a grass seed mix or planted as bare-root transplants after

grass seeding. Where the landowner desires a specific land use such as grazing or cropland, shrubs will not be required in the revegetation species mix. Shrub lands undergoing revegetation with shrubs must be protected from erosion by vegetation, chemical, or other acceptable means during establishment of the shrubs. ( )

**l.** Reforestation -- Tree stocking of forestlands should meet the following criteria: ( )

i. Trees that are adapted to the site should be planted on the land to be revegetated, in a density which can be expected over time to yield a timber stand comparable to premining timber stands. This in no way is to exclude the conversion of sites to a different, more desirable, or more economically suited species; ( )

ii. Trees must be established for two (2) full growing seasons after cessation of any soil amendments and irrigation before they are considered to be established; and ( )

iii. Forest lands undergoing revegetation with trees should be protected from erosion by vegetation, chemical binders, or other acceptable means during seedling establishment. ( )

**m.** Revegetation is not required on the following areas: ( )

i. Disturbed lands, or portions thereof, where planting is not practicable or reasonable because the soil is composed of excessive amounts of sand, gravel, shale, stone, or other material to such an extent to prohibit plant growth; ( )

ii. Any mined land or overburden piles proposed to be used in the mining operations; ( )

iii. Any mined land or overburden pile, where lakes are formed by rainfall or drainage run-off from adjoining lands; ( )

iv. Any mineral stockpile; ( )

v. Any exploration trench which will become a part of any pit or overburden disposal area; and ( )

vi. Any road which is to be used in mining operations, so long as the road is not abandoned. ( )

**041. -- 049. (RESERVED)**

**050. TERMINATION OF A PERMIT.**

**01. Completion of Reclamation.** A ~~placer or dredge mining~~ permit ~~terminates~~ may be retired upon completion of all reclamation activity to the standards specified in the permit ~~and reclamation plan, and these rules, a written request from the Permittee,~~ and after final inspection and approval has been granted by the ~~Director Department.~~ Upon ~~termination permit retirement,~~ the Director Department will release the remaining ~~portion of the~~ bond. (3-18-22)( )

**02. Involuntary Termination.** For continuous operation, the bonded permit will remain valid. Administrative action may be taken to terminate a ~~placer and dredge mining~~ permit if: (3-18-22)( )

**a.** The permit does not remain bonded; ( )

**b.** The placer and dredge mining operations are not commenced within two (2) years of the date of Board approval; ( )

**c.** The placer and dredge mining operations are permanently ceased and final reclamation has not commenced within one (1) year of the date of permanent cessation; ( )

**d.** Inspection ~~costs~~ fees are delinquent; or (3-18-22)( )

**e.** Permittee fails to comply with the aAct, these rules, or the permit, ~~or the reclamation plan.~~ (3-18-22)( )



**051. ENFORCEMENT AND FAILURE TO COMPLY.**

**01. Inspection.** The ~~Director~~ Department may inspect the operation under permit ~~from time to time~~ to determine compliance with the aAct, these rules, and the permit, ~~and the reclamation plan~~. The Permittee will pay the cost and expense of such inspections ~~will be borne by the Permittee as required by Section 47-1317, Idaho Code.~~ (3-18-22)(    )

**a.** Cost of inspection is assessed at a flat rate of ~~two hundred and fifty~~ four hundred thirty five dollars (\$~~250~~435) per year for each permit. ~~Permits upon U.S. Forest Service administered lands is assessed at a flat rate of one hundred dollars (\$100) per year for each permit, to reflect the reduced inspection work for the department.~~ (3-18-22)(    )

**b.** A billing for inspection ~~costs~~ fees will be made in advance each May 1, with the ~~costs~~ bill due and payable within thirty (30) days of receipt ~~of an inspection cost statement. Inspection fees become delinquent if not paid on or before June 1, and the department may assess the greater of the following: either a twenty five dollars (\$25) late payment charge or penalty at the rate of one percent (1%) for each calendar month or fraction thereof, compounded monthly, for late payments from the date the inspection fee is due. Such costs constitute a lien upon equipment, personal property, or real property of the Permittee and upon minerals produced from the permit area. Should inspection fees be delinquent, the department will send a single notice of delinquent payment by certified mail, return receipt requested, to the Permittee. If payment is not received by the department within thirty (30) days from the date of receipt, the department may take appropriate administrative action to cancel the permit as provided by Subsection 050.02. Fees not received by the due date are considered late.~~ (3-18-22)(    )

**c.** Late inspection fees will result in the following monthly charges: (    )

**i.** A late charge of twenty-five dollars (\$25) or one percent (1%) of the unpaid principal obligation, whichever is greater; and (    )

**ii.** An interest charge of one percent (1%) on the unpaid principal obligation. (    )

**d.** Failure to pay the inspection fees may result in permit termination and the Department placing a lien upon the Permittee's equipment, personal property, or real property and upon minerals produced from the permit area. (    )

**ee.** Inspection ~~costs~~ fees related to a reported violation are assessed at actual costs and in addition to ~~those costs~~ the fees in Paragraph 051.01.a. Costs include mileage to and from the mine site, employee meals, lodging, personnel costs, and administrative overhead. ~~Costs~~ Fees are due and payable thirty (30) days after receipt of the inspection cost statement. (3-18-22)(    )

**02. Department Remedies.** Without affecting the penal and injunctive provisions of these rules, the ~~d~~Department may pursue the following remedies: (3-18-22)(    )

**a.** When the ~~Director~~ Department determines that a Permittee has not complied with the aAct, these rules, or the permit, ~~or the reclamation plan~~, the ~~Director~~ Department will notify the Permittee in writing and set forth the violations claimed and the corrective actions needed. (3-18-22)(    )

**b.** If the Permittee fails to ~~commence and diligently proceed to~~ complete the requested corrective action or enter a cooperative agreement as per Subsection 035.07 of these rules within ~~a specified number of days after the timeframe given in the~~ notice of the violation, ~~unless a cooperative agreement has been reached pursuant to Subsection 035.09,~~ the Director may take ~~administrative~~ action ~~as provided within this rule~~ to terminate the permit and forfeit the bond as provided in Sections 47-1318, 1319, and 1329, Idaho Code. (3-18-22)(    )

**e.** ~~The Board may cause to have issued and served upon the Permittee alleged to be committing such violation, a formal complaint that specifies the provisions of the act, the permit, the reclamation plan, or these rules which the Permittee allegedly is violating, and a statement of the manner in and the extent to which said Permittee is alleged to be violating the provisions of the act, the permit, the reclamation plan, or these rules. Such complaint may be served by certified mail, and return receipt, signed by the Permittee, an officer of a corporate Permittee, or the designated agent of the Permittee, will constitute service.~~ (3-18-22)

**d.** ~~The Permittee is required to answer the formal complaint and request a hearing before a hearing~~

officer appointed by the Director, which authority to appoint is hereby delegated by the Board to the Director, within thirty (30) days of receipt of the complaint if matters asserted in the complaint are disputed. The hearing will be held at a time not less than thirty (30) days after the date the Permittee requests such a hearing. The Board will issue subpoenas at the request of the Director and at the request of the charged Permittee. The hearing will be conducted in accordance with Sections 67-5209 through 67-5213, Idaho Code, and these rules. (3-18-22)

~~e. The hearing officer will enter an order in accordance with Section 67-5212, Idaho Code, that, if adverse to the Permittee, will designate a time period within which prescribed corrective action, if any, should be taken. The designated time period will be sufficient to allow a reasonably diligent Permittee to correct any violation. Procedure for appeal of an order is outlined in Subsection 002.01. (3-18-22)~~

~~f. Upon the Permittee's compliance with the order, the Director will consider the matter resolved and take no further action with respect to such noncompliance. (3-18-22)~~

~~g. If the Permittee fails to answer the complaint and request a hearing, the matters asserted in the complaint will be deemed admitted by the Permittee, and the Director may proceed to cancel the placer mining permit and forfeit the bond in the amount necessary to pay all costs and expense of restoring the lands and beds of streams damaged by dredge or other placer mining of said defaulting Permittee and covered by such bond and remaining unrestored, including the department's administrative costs. (3-18-22)~~

~~03. Violation of an Order. Upon request of the Director, the attorney general may institute proceedings to have the bond of a Permittee forfeited for violation of an order entered pursuant to Subsection 051.02.e. (3-18-22)~~

**043. Injunctive Procedures. ( )**

~~a. The Director may seek injunctive relief, as provided by Section 47-1324(b), Idaho Code, against any a Permittee who is conducting placer mining or exploration operations when: or other person who violates the Act, these rules, or an approved permit. (3-18-22)( )~~

~~i. Under an existing approved permit, reclamation plan, and bond, a Permittee violates or exceeds the terms of the permit; (3-18-22)~~

~~ii. A Permittee violates a provision of the act or these rules; or (3-18-22)~~

~~b. The bond, if forfeited, would not be sufficient to adequately restore the land; (3-18-22)~~

~~e. The Director may seek injunctive relief to enjoin a placer mining operation for the Permittee's violation of the terms of an existing approved permit, the reclamation plan, the act, and these rules, and if immediate and irreparable injury, loss, or damage to the state may be expected to occur. (3-18-22)~~

~~d. The Director will request the court to terminate any injunction when he determines that all conditions, practices, or violations listed in the order have been abated. Termination will not affect the right of the department to pursue civil penalties for these violations in accordance with Subsection 051.06. (3-18-22)~~

~~05. Civil Action. In addition to the injunctive provisions above, the Board may maintain a civil action against any person who violates any provision of the act or these rules, to collect civil damages in an amount sufficient to pay for all the damages to the state caused by such violation, including but not limited to, costs of restoration in accordance with Section 47-1314, Idaho Code, where a person is conducting placer or dredge mining without an approved permit or bond. (3-18-22)~~

**064. Civil Penalty. ( )**

~~a. Pursuant to Section 47-1324(d), Idaho Code, any person violating any of the provisions of the placer and dredge mining act or the Act, these rules or violating any determination or order pursuant to these rules, is a permit, or a related final order may be liable for a civil penalty of not less than equal to the cost of reclamation. An additional penalty of five hundred dollars (\$500) nor more than to two thousand five hundred dollars (\$2,500) may also be assessed for each day during which such a violation continues. Such penalty is recoverable in an action brought in the name of the state of Idaho by the attorney general. (3-18-22)( )~~

b. Pursuant to Section 47-1324(f), Idaho Code, any person who willfully or knowingly falsifies any records, plans, specifications, or other information required by the Board or willfully fails, neglects, or refuses to comply with any of the provisions of these rules, is guilty of a misdemeanor and will be punished by a fine of not less than one thousand dollars (\$1,000) or more than five thousand dollars (\$5,000) or imprisonment, not to exceed one (1) year, or both. (3-18-22)( )

**075. Hearing Procedures. ( )**

a. ~~Process and procedures under these rules will be as summary and simple as may be possible. The Director, Board, or any member thereof, or the hearing officer designated by the Director, has the power to subpoena witnesses and administer oaths. The District Court will enforce the attendance and testimony of witnesses and the production for examination of books, papers, and records. A stenographic record or other recording of the hearing will be made. Witnesses subpoenaed by the Director or the hearing officer will be allowed such fees and traveling expenses as are allowed in civil actions in the District Court, to be paid by the party in whose interest such witnesses are subpoenaed. The Board, Director, or hearing officer will make such inquiries and investigations as deemed relevant. Each hearing will be held at the county seat in the county where any of the lands involved in the hearing are situate, or in the County of Ada, as the Board or Director may designate. Hearings under Section 47-1318, Idaho Code, will be held as directed by Title 67, Chapter 52, Idaho Code.~~ (3-18-22)( )

b. ~~A notice of hearing will be served by certified mail to the last known address of the Permittee or his agent at least twenty (20) days prior to the hearing. A certified return receipt signed by the Permittee or his agent constitutes service and time thereof.~~ (3-18-22)

eb. ~~The cost of such hearing including, but not limited to, room rental, hearing officer fees, and transcript will may be assessed against the defaulting Permittee as allowed by Section 47-1318, Idaho Code. The Director may designate a hearing officer to conduct any hearings and make findings of fact, conclusions of law, and decision on issues involving the administration of the act and these rules.~~ (3-18-22)( )

d. ~~If the hearing involves a permit or application for a permit, the decisions of the Board or the hearing officer, together with the transcript of the evidence, findings of fact, and any other matter pertinent to the questions arising during any hearing will be filed in the office of the Director. A copy of the findings of fact and decision will be sent to the applicant or holder of the permit involved in such hearing, by U.S. mail. If the matter has been assigned for hearing and a claim for review is not filed by any party in the proceeding within thirty (30) days after his decision is filed, the decision may be adopted as the decision of the Board and notice thereof will be sent to the applicant or permit holder involved in such hearing by U. S. mail.~~ (3-18-22)

**06. Procedures for Appeals.** Any applicant or permit holder aggrieved by any final decision or order of the Board is entitled to judicial review in accordance with the provisions and standards set forth in Title 67, Chapter 52, Idaho Code, the Administrative Procedures Act. ( )

**052. -- 054. (RESERVED)**

**055. COMPUTATION OF TIME.**

Computation of time for these rules will be based on calendar days. In computing any period of prescribed time, the day on which the designated period of time begins is not included. The last day of the period is included unless it is a Saturday, Sunday, or legal state holiday. In such a case, the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. Intermediate Saturdays, Sundays, or legal holidays are excluded from the computation when the period of prescribed time is seven (7) days or less. (3-18-22)

**056. -- 059. (RESERVED)**

**060. PLACER OR DREDGE MINING OF CERTAIN WATERBODIES PROHIBITED.**

**01. Prohibited Areas.** ~~Placer or dredge mining in any form is prohibited on water bodies making up the national wild and scenic river system:~~ (3-18-22)

a. ~~The Middle Fork of the Clearwater River, from the town of Kooskia upstream to the town of Lowell; the Loehsa River from its junction with the Selway at Lowell forming the Middle Fork upstream to the Powell Ranger Station; and the Selway River from Lowell upstream to its origin;~~ (3-18-22)

~~b. The Middle Fork of the Salmon River, from its origin to its confluence with the main Salmon River;~~ (3-18-22)

~~e. The St. Joe River, including tributaries, from its origin to its confluence with Coeur d'Alene Lake, except for the St. Maries River and its tributaries.~~ (3-18-22)

~~02. Mining Withdrawals. The Board, under authority provided by Title 47, Chapter 7, Idaho Code, has withdrawn certain other lands from placer and dredge mining. A listing of such withdrawals is available from the administrative offices of the Department.~~ (3-18-22)

~~061. -- 064. (RESERVED)~~

**065. DEPOSIT OF FORFEITURES AND DAMAGES.**

~~01. Mining Account. All monies, forfeitures, and penalties collected under the provisions of these rules will be deposited in the Placer and Dredge and Placer Mining Account to be used by the Director for placer and dredge mine reclamation purposes and related administrative costs, as directed by Section 47-1319, Idaho Code.~~ (3-18-22)( )

~~02. Funds for Reclamation. Upon approval of the Board, monies in the account may be used to reclaim lands for which the forfeited bond was insufficient to reclaim in accord with these rules, or for placer or dredge mine sites for which the bond has been released and which have resulted in subsequent damage. Monies received from inspection fees are to be kept separate and used for costs incurred by the Director in conducting such inspections.~~ (3-18-22)

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

**070. COMPLIANCE OF EXISTING PLANS WITH THESE RULES.**

These rules, upon their adoption, apply as appropriate to all existing placer or dredge mining operations, but will not affect the validity or modify the duties, terms, or conditions of any existing approved placer or dredge mining permits or impose any additional obligations with respect to reclamation upon any Permittee conducting placer or dredge mining operations pursuant to a placer or dredge mining permit approved prior to ~~adoption of these rules~~ May 1, 2024. (3-18-22)( )

~~071. -- 999. (RESERVED)~~

# IDAPA 20 – IDAHO DEPARTMENT OF LANDS

## 20.03.01 - RULES GOVERNING DREDGE AND PLACER MINING OPERATIONS IN IDAHO

DOCKET NO. 20-0301-2301

### NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and the Idaho State Board of Land Commissioners and is now pending review by the 2024 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. The pending rule will become final and effective upon the adjournment, *sine die*, of the Second Regular Session of the Sixty-seventh Idaho Legislature after approval.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code, and Title 47, Chapter 13, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled for a comprehensive review in 2023 with the goal of simplifying the rules for increased clarity and ease of use. The overall regulatory burden has been reduced by decreasing both total word count and the number of restrictive words in the new rule chapter. Inspection fees have been increased to cover the costs of performing inspections, and the late payment policy was updated. Surety companies issuing bonds must be listed in the U.S Department of the Treasury's Circular 570, and the 120-day cancellation notification was reduced to 90 days. Time Deposit Receipts were recognized as acceptable forms of bonding.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 6, 2023, Idaho Administrative Bulletin, Vol. 23-9, pages 280-307.

The changes in the pending rule were mostly to fix punctuation and capitalization errors. The definition of Permittee was shorted for clarity. A word was added in Subsection 035.09 to better align with statute. The word order in Paragraph 040.14.d was modified for clarity of the written notice.

**FEE SUMMARY:** Pursuant to Section 67-5224(2)(d), Idaho Code, this pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a specific description of the fee or charge imposed or increased:

The annual inspection fee in place since 1991 is increased to \$435 for all permits. This fee is being imposed pursuant to Section 47-1317(d), Idaho Code. The current annual inspection fees are \$100 for permits on United States Forest Service lands and \$250 for all other permits.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Eric Wilson at (208) 334-0261 or [ewilson@idl.idaho.gov](mailto:ewilson@idl.idaho.gov).

DATED this 21st day of November, 2023.

Eric Wilson, Resource Protection and Assistance Bureau Chief

Idaho Department of Lands  
300 N. 6th Street, Suite 103  
P.O. Box 83720  
Boise, Idaho 83720-0050  
Phone: (208) 334-0261  
Fax: (208) 334-3698



DRAFT

IDAHO DEPARTMENT OF LANDS

# STATE BOARD OF LAND COMMISSIONERS

November 21, 2023

Regular Agenda

## Subject

Adoption of Pending Fee Rule, IDAPA 20.03.03 *Rules Governing Administration of the Reclamation Fund*

## Question Presented

Shall the Land Board adopt the pending fee rule for IDAPA 20.03.03?

## Background

Negotiated rulemaking for these rules was approved by the State Board of Land Commissioners (Land Board) on November 15, 2022. Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled for a comprehensive review in 2023 with the goal of simplifying the rules for increased clarity and ease of use.

The Idaho Department of Lands (Department) administers these rules under the authority of Title 47, Chapter 18, Idaho Code. IDAPA 20.03.03 provides consistent guidance in how Idaho's Reclamation Fund (Fund) is implemented. The Fund is a type of state bond pool created in 2002 to provide an alternative form of performance bond or financial assurance as required by Idaho mining regulations. The Fund is to be used by the Department to complete reclamation in the event an operator is unable to do so.

## Discussion

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

- Published the Notice of Negotiated Rulemaking in the Idaho Administrative Bulletin.
- Created a rulemaking webpage to post documents, scheduling information, and comments.
- Posted meeting information on social media.
- Emailed 145 customers and other interested parties.
- Mailed postcards to 371 customers.

Negotiated rulemaking meetings were held on April 26 and May 4, 2023. A total of 6 non-Department affiliated people attended these meetings. No written comments were received. Substantive comments and the Department's responses are summarized in Attachment 1. No changes were made based on comments received. Some minor changes to the initial draft were made based on internal discussions and to further reduce word count.

The proposed rule was published in the September 6, 2023 Administrative Bulletin. The Notice of Proposed Rulemaking is in Attachment 2. No comments were received.

The proposed rule reduced the overall regulatory burden by reducing the total word count and the number of restrictive words. The late payment policy is updated.

Upon further review, a few punctuation changes were needed as well as clarifications to some statute references. Attachment 3 has the draft Pending Rule consisting of the Proposed Rule with the engrossed changes highlighted in yellow.

If approved by the Land Board, the Department will submit the Notice of Adoption of Pending Fee Rule (Attachment 4) to the Office of the Administrative Rules Coordinator for the 2024 legislative session.

## **Recommendation**

Adopt the pending fee rule for IDAPA 20.03.03 *Rules Governing Administration of the Reclamation Fund*.

## **Board Action**

## **Attachments**

1. Summary of Negotiated Rulemaking
2. Notice of Proposed Rulemaking
3. Draft Pending Rule
4. Draft Notice of Adoption of Pending Fee Rule



**Response to Comments on Negotiated Rule**

IDAPA 20.03.03, Rules Governing Administration of the Reclamation Fund

Comment	Rule Section	Response
Why was Section 002, Administrative Appeals, eliminated?	002	1. All appeals are guided by Title 67, Chapter 52, Idaho Code. This section is not needed.
How does Subsection 018.02 relate to the actual limits on participation?	018	2. The maximum limits are set by rule, but the Land Board has flexibility to set lower actual limits. This is determined through periodic actuarial analysis. The current limits set by the Land Board in 2020 are 40 acres and \$220,000 in reclamation costs.



IDAHO DEPARTMENT OF LANDS

**IDAPA 20 – IDAHO DEPARTMENT OF LANDS**  
**20.03.03 – RULES GOVERNING ADMINISTRATION OF THE RECLAMATION FUND**  
**DOCKET NO. 20-0303-2301 (ZBR CHAPTER REWRITE, FEE RULE)**  
**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code, and Title 47, Chapter 18, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2023.

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

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

Following [Executive Order 2020-01, Zero-Based Regulation](#), this rule chapter is scheduled to be repealed and replaced in 2023 for review during the 2024 legislative session. The overall regulatory burden has been reduced by decreasing both total word count and the number of restrictive words in the new rule chapter. The late payment policy was updated.

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

A monthly late fee of the greater of twenty-five dollars (\$25) or one percent (1%) of the unpaid principal, and an interest charge of one percent (1%) on the unpaid principal.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 5, 2023, Idaho Administrative Bulletin, [Vol. 23-4, pages 38-39](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Eric Wilson at (208) 334-0261 or [ewilson@idl.idaho.gov](mailto:ewilson@idl.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 6th day of September, 2023.

Eric Wilson, Resource Protection and Assistance Bureau Chief  
Idaho Department of Lands  
300 N. 6th Street, Suite 103  
Boise, Idaho 83720-0050  
P.O. Box 83720  
Phone: (208) 334-0261  
Fax: (208) 334-3698  
[rulemaking@idl.idaho.gov](mailto:rulemaking@idl.idaho.gov)

**20.03.03 – RULES GOVERNING ADMINISTRATION OF THE RECLAMATION FUND**

**000. LEGAL AUTHORITY.**

These rules are promulgated by the ~~Idaho State Board of Land Commissioners~~ under Sections 58-104(3) and (6) and 58-105, Idaho Code, and Title 47, Chapter 18, Idaho Code. The Board has delegated to the Director of the ~~Idaho Department of Lands~~ the duties and powers under Title 47, Chapter 18, Idaho Code and these rules; ~~except that the Board retains responsibility for administrative review.~~ (3-18-22)( )

**001. TITLE AND SCOPE.**

~~01. Title. These rules are titled IDAPA 20.03.03, "Rules Governing Administration of the Reclamation Fund," IDAPA 20, Title 03, Chapter 03.~~ (3-18-22)

~~02. Scope. These rules constitute the Department's administrative procedures and participation criteria for the Reclamation Fund, which is for implementation of the Act with the intent to provide~~ an alternative form of financial assurance for certain mines in Idaho. These rules are to be construed in a manner consistent with the duties and responsibilities of the Board and of operators, permit holders, or lessees as set forth in ~~Title 47, Chapter 7, Idaho Code, "Mineral Rights in State Lands;" Title 47, Chapter 13, Idaho Code, "Dredge Mining Act;" Title 47, Chapter 15, Idaho Code, "Mined Land Reclamation Act;" Title 47, Chapter 18, Idaho Code, "Financial Assurance;"~~ IDAPA 20.03.01, "Dredge and Placer Mining Operations in Idaho;" IDAPA 20.03.02, "Rules Governing Mined Land Reclamation;" and IDAPA 20.03.05, "Riverbed Mineral Leasing In Idaho." (3-18-22)( )

**002. ADMINISTRATIVE APPEALS.**

~~Any person aggrieved by a final agency action or a party aggrieved by a final order of the Board arising from its administration of the Reclamation Fund Act is entitled to judicial review pursuant to the provisions of Title 67, Chapter 52, Idaho Code, "Administrative Procedure Act," and IDAPA 20.01.01, "Rules of Practice and Procedure Before the State Board of Land Commissioners."~~ (3-18-22)

**0032. -- 009. (RESERVED)**

**010. DEFINITIONS.**

Except as provided in these rules, the Board adopts the definitions set forth in the Mineral ~~Leasing Act~~ Rights in State Lands, the Dredge Mining Act, and the Mined Land Reclamation Act. As used in these rules: (3-18-22)( )

**01. Actual Allowable Cost.** The allowable total reclamation cost as set by the Board to allow participation in the Reclamation Fund. ( )

**02. Actual Allowable Disturbance.** The area of disturbed acres or affected land as set by the Board to allow participation in the Reclamation Fund. ( )

**03. Board.** The Idaho State Board of Land Commissioners or its authorized representative. ( )

**04. Department.** The Idaho Department of Lands. ( )

**05. Disturbed Acres; Affected Lands.** ( )

**a.** Any land, natural watercourses, or existing stockpiles or waste piles affected by placer or dredge mining, remining, exploration, stockpiling of ore, waste from placer or dredge mining, or construction of roads, settling ponds, structures, or facilities appurtenant to a placer or dredge mine.; ( )

**b.** The land area included in overburden disposal areas, mined areas, mineral stockpiles, roads, tailings ponds, and other areas disturbed at a mine.; and ( )

**c.** The land area disturbed by motorized exploration of state land under a mineral lease. (3-18-22)( )

**06. Dredge Mining Act.** Idaho Dredge and Placer Mining Protection Act, Title 47, Chapter 13, Idaho Code, and IDAPA 20.03.01, "Dredge and Placer Mining Operations in Idaho." (3-18-22)( )

- 07. Financial Assurance.** ( )
- a.** Cash, corporate surety bond, collateral bond, or letter of credit as described in the Dredge Mining Act, ~~or the Mineral Leasing Act, or a mineral lease.~~ Rights in State Lands; and ( )
- b.** Financial assurance as defined in the Mined Land Reclamation Act. (3-18-22)( )
- 08. Mine; Mine Panel.** All areas designated by the operator on the map or plan submitted pursuant to Section 47-703A, Idaho Code, or Section 47-1506, Idaho Code, or as an identifiable portion of a placer or dredge mine on the map submitted under Section 47-1317, Idaho Code. ( )
- 09. Mined Land Reclamation Act.** Title 47, Chapter 15, Idaho Code, and IDAPA 20.03.02, "Rules Governing Mined Land Reclamation." ( )
- 10. Mineral Lease.** Lease executed by the Board and the mineral lessee pursuant to the Mineral Leasing Act Rights in State Lands. (3-18-22)( )
- 11. Mineral Lessee.** The lessee of a mineral lease. ( )
- 12. Mineral Leasing Act Rights in State Lands.** Title 47, Chapter 7, Idaho Code. ( )
- 13. Mining Reclamation Plan.** Any reclamation plan approved pursuant to the Mined Land Reclamation Act. ( )
- 14. Motorized Exploration.** Exploration which may appreciably disturb or damage the land or resources thereon. Motorized exploration includes, but is not limited to, drilling, trenching, dredging, or other techniques which employ the use of earth moving equipment, seismic operations using explosives, and includes sampling with a suction dredge having an intake diameter greater than two (2) inches when operated in a perennial stream. When operated in an intermittent stream, suction dredges ~~shall~~ will be considered motorized exploration regardless of intake size. (3-18-22)( )
- 15. Operator.** Any person or entity authorized to conduct business in Idaho, partnership, joint venture, or public or governmental agency required to have any reclamation plan under the Mined Land Reclamation Act or the Mineral Leasing Act Rights in State Lands, or a permit under the Dredge Mining Act, whether individually or jointly through subsidiaries, agents, employees, or contractors. (3-18-22)( )
- 16. Permit.** Dredge or placer mining permit issued pursuant to the Dredge Mining Act. ( )
- 17. Reclamation Fund.** The interest-bearing dedicated fund authorized pursuant to the Reclamation Fund Act. ( )
- 18. Reclamation Fund Act; Act.** Title 47, Chapter 18, Idaho Code, and IDAPA 20.03.03, "Rules Governing Administration of the Reclamation Fund." (3-18-22)( )
- 011. -- 015. (RESERVED)**
- 016. REQUIRED PARTICIPANTS.**  
Any operator, with the exception of the mines and operators listed in Sections 017 and 019 of these rules, ~~shall~~ will be required to provide alternative financial assurance through the Reclamation Fund to assure the reclamation of disturbed acres or affected lands. Alternative financial assurance pursuant to the Reclamation Fund Act is in lieu of other types of financial assurance as set forth in the Mined Land Reclamation Act, the Mineral Leasing Act Rights in State Lands, or the Dredge Mining Act. (3-18-22)( )
- 017. INELIGIBLE MINES OR OPERATORS.**  
The following types of mines and operators are not allowed to participate in the Reclamation Fund and must file proof of other acceptable financial assurance as required by the Department. ( )
- 01. Disturbed Acres Limit.** A mine or mineral lease with un-reclaimed disturbed acres in excess of the actual allowable disturbance may not provide alternative financial assurance through the Reclamation Fund. Un-reclaimed disturbance is that which does not meet the final financial assurance release criteria in the Dredge Mining Act, the Mined Land Reclamation Act, ~~or a mineral lease~~ the Mineral Rights in State Lands. (3-18-22)( )
- 02. Reclamation Cost Limit.** Operators with an estimated reclamation cost in excess of the

actual allowable reclamation cost, regardless of the disturbed acres. ( )

**03. Phosphate Mines.** Operators or mineral lessees of phosphate mines. ( )

**04. Hardrock Mines.** Operators or mineral lessees of hardrock mines such as gold, silver, molybdenum, copper, lead, zinc, cobalt, and other precious or base metal mines. ~~(3-18-22)~~( )

**05. Potential Heavy Metal Releases.** Operators of mines with a reasonable potential to release heavy metals or other substances harmful to human health or the environment, but not including substances such as fuels and other materials commonly used in excavation or construction. ( )

**06. Oil and Gas Conservation.** Oil and gas exploration and development under Title 47, Chapter 3, Idaho Code. ( )

**07. Oil and Gas Leasing.** Oil and gas leases and associated exploration and development under Title 47, Chapter 8, Idaho Code. ( )

**08. Geothermal.** Operators or mineral lessees of geothermal wells and development under Title 47, Chapter 16, Idaho Code. ( )

**09. Off Lease Exploration.** Motorized exploration on state lands that are not under a mineral lease or exploration location. ( )

**10. Violators.** Mines or operators in violation of the ~~Reclamation Fund~~ Act, Dredge Mining Act, Mined Land Reclamation Act, or Mineral Leasing Act, or a mineral lease Rights in State Lands. ~~(3-18-22)~~( )

**11. Reclamation Fund Forfeitures.** Operators, permittees or lessees who have not reimbursed the Reclamation Fund for a forfeiture from the Reclamation Fund due to their violations of the Reclamation Fund Act, Dredge Mining Act, Mined Land Reclamation Act, or Mineral Leasing Act, or a mineral lease Rights in State Lands. ~~(3-18-22)~~( )

**12. Other Forfeitures.** An operator who has forfeited any financial assurance. ( )

**13. Operators Providing Acceptable Financial Assurance.** An operator who provides proof of financial assurance accepted by the Department that is greater than or equal to the minimum dollar per acre for each acre of affected land at a mine. ( )

**018. ACREAGE AND RECLAMATION COST LIMITATIONS.**

**01. Actual Allowable Participation.** The Board will establish by policy the actual allowable disturbance, actual allowable reclamation cost, and the minimum dollar per acre of disturbance in order to provide financial assurance to opt out of participation in the Reclamation Fund. ( )

**02. Maximum Disturbance and Reclamation Cost.** ~~The maximum disturbance and maximum reclamation costs in these rules are maximums.~~ The maximum allowable disturbance is eighty (80) acres; the maximum allowable reclamation cost is four hundred forty thousand dollars (\$440,000). ~~(3-18-22)~~( )

**03. Multiple Plans or Permits.** An operator who has multiple mining reclamation plans or permits that have a total disturbance in excess of the actual allowable disturbance, or with total reclamation costs in excess of the actual allowable reclamation cost, may participate in the Reclamation Fund with one (1) or more sites that together contain less than both of the Board-established actual allowable limits. ( )

**019. OPTIONAL PARTICIPATION.**

Operators who have one (1) or more mines or mineral leases that are ineligible to participate in the Reclamation Fund as set forth in Section 017-~~or 018~~ of these rules may choose to not participate in the Reclamation Fund with respect to all other eligible mines or mineral leases in their name. An operator who does not participate in the Reclamation Fund must secure all mines with other types of financial assurance approved by the Department. ~~(3-18-22)~~( )

**020. FEDERAL AGENCY NON-ACCEPTANCE OF RECLAMATION FUND.**

If a federal agency will not accept an operator's participation in the Reclamation Fund as proof of reclamation security, the operator will be required to provide the Department with proof of other types of financial assurance acceptable to the Department and the federal agency. ~~(3-18-22)~~( )

021. -- 025. (RESERVED)

026. PAYMENT.

01. **Board Approved Payment Schedule.** The Board will adopt a payment schedule that ~~determines~~ sets the annual Reclamation Fund payment for each operator participating in the Reclamation Fund. Any changes to the payment schedule ~~will~~ must be approved by the Board. ~~Participating operators shall pay all required payments annually~~ New participants will be assessed a pro-rated payment based on the Department's established billing cycle. (3-18-22)( )

02. **Acreage Calculation.** The annual payment for each participant in the Reclamation Fund will be established based upon the number of disturbed acres at each mine. The acres used to calculate the annual payment will include the total current disturbed acres of affected lands and the acres planned to be disturbed or affected during the next twelve (12) months. The total acreage calculation will not be rounded when determining annual payments. ( )

03. **Annual Payments Non-Refundable.** Payments to the Reclamation Fund will be billed annually and are non-refundable. ~~Payments will be billed annually and, if not timely paid, will accrue late fees and interest as established by the Board. New participants will be assessed a pro-rated payment based on the Department's established billing cycle.~~ (3-18-22)( )

04. **Late Payments.** Payments not received by the due date are considered late and will result in the following monthly charges: ( )

a. A late charge of twenty-five dollars (\$25) or one percent (1%) of the unpaid principal obligation, whichever is greater, and ( )

b. An interest charge of one percent (1%) on the unpaid principal obligation. ( )

045. **Supplemental Payments.** If an operator affects more acreage than the acreage secured through the Reclamation Fund for a current period, the Department may require supplemental Reclamation Fund payments. ( )

056. **Assignment.** When a mineral lease, mining reclamation plan, or permit is assigned, all financial assurance requirements must be assumed by the new operator. No Reclamation Fund payments will be refunded following an assignment. If the new operator is ineligible to participate in the Reclamation Fund, the new operator must provide proof of other acceptable financial assurance before the assignment may be approved. ( )

067. **Non-Payment Constitutes Lack of Bonding.** For any operator participating in the Reclamation Fund, non-payment of the annual payment ~~shall~~ will be considered a failure to provide financial assurance as required by the Dredge Mining Act, the Mined Land Reclamation Act, or Mineral ~~Leasing Act,~~ Rights in State Lands. (3-18-22)( )

027. -- 030. (RESERVED)

031. ENFORCEMENT AND FAILURE TO COMPLY.

01. **Forfeiture.** Prior to withdrawing monies from the Reclamation Fund due to a violation of the Dredge Mining Act, the Mined Land Reclamation Act, or Mineral ~~Leasing Act, or a mineral lease~~ Rights in State Lands, the Department will comply with the respective financial assurance forfeiture procedures. (3-18-22)( )

02. **Penalties.** If an operator fails to provide financial assurance as required by these rules or has forfeited monies from the Reclamation Fund and has not repaid those monies, the Board ~~shall be~~ is authorized to file liens against personal property and equipment of the operator to recover costs. The operator ~~shall be~~ is liable for actual costs of all unpaid annual payments, interest, and late payment charges, the actual reclamation costs, and administrative costs incurred by the Department in reclaiming the disturbed or affected lands. Authorization to obtain a lien under these rules and Section 47-1804, Idaho Code, ~~shall be~~ is in addition to, not in lieu of, any other legal remedy available to the Board and the Department pursuant to the Dredge Mining Act, Mined Land Reclamation Act, or Mineral ~~Leasing Act, or a mineral lease~~ Rights in State Lands. (3-18-22)( )

**032. MINIMUM BALANCE FOR THE RECLAMATION FUND.**

The Board will determine a reasonable minimum balance for the Reclamation Fund.

( )

**033. -- 999. (RESERVED)**



## IDAPA 20 – IDAHO DEPARTMENT OF LANDS

### 20.03.03 - RULES GOVERNING ADMINISTRATION OF THE RECLAMATION FUND

DOCKET NO. 20-0303-2301

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and the Idaho State Board of Land Commissioners and is now pending review by the 2024 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. The pending rule will become final and effective upon the adjournment, *sine die*, of the Second Regular Session of the Sixty-seventh Idaho Legislature after approval.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code, and Title 47, Chapter 18, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled for a comprehensive review in 2023 with the goal of simplifying the rules for increased clarity and ease of use. The overall regulatory burden has been reduced by decreasing both total word count and the number of restrictive words in the new rule chapter. The late payment policy was updated.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 6, 2023, Idaho Administrative Bulletin, Vol. 23-9, pages 308-313.

The changes in the pending rule were to fix punctuation and clarify some statute references.

**FEE SUMMARY:** Pursuant to Section 67-5224(2)(d), Idaho Code, this pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a specific description of the fee or charge imposed or increased:

A monthly late fee of the greater of twenty-five dollars (\$25) or one percent (1%) of the unpaid principal, and an interest charge of one percent (1%) on the unpaid principal.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Eric Wilson at (208) 334-0261 or [ewilson@idl.idaho.gov](mailto:ewilson@idl.idaho.gov).

DATED this 21st day of November, 2023.

Eric Wilson, Resource Protection and Assistance Bureau Chief  
Idaho Department of Lands  
300 N. 6th Street, Suite 103  
P.O. Box 83720  
Boise, Idaho 83720-0050  
Phone: (208) 334-0261  
Fax: (208) 334-3698



# STATE BOARD OF LAND COMMISSIONERS

November 21, 2023

Regular Agenda

## Subject

Adoption of Pending Fee Rule, IDAPA 20.03.05 *Navigable Waterways Mineral Leasing in Idaho*

## Question Presented

Shall the Land Board adopt the pending fee rule for IDAPA 20.03.05?

## Background

Negotiated rulemaking for these rules was approved by the State Board of Land Commissioners (Land Board) on November 15, 2022. Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled for a comprehensive review in 2023 with the goal of simplifying the rules for increased clarity and ease of use.

The Idaho Department of Lands (Department) manages the beds of navigable lakes and rivers for the benefit of the public. IDAPA 20.03.05 establishes a consistent process to authorize mineral exploration and extraction on state owned navigable waterways and collect rents and royalties.

## Discussion

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

- Published the Notice of Negotiated Rulemaking in the Idaho Administrative Bulletin.
- Created a rulemaking webpage to post documents, scheduling information, and comments.
- Issued a press release.
- Posted rulemaking meeting notices and details on social media.
- Posted rulemaking notices to Townhall Idaho.
- Emailed 43 customers and other interested parties.
- Mailed postcards to 138 customers.

Negotiated rulemaking meetings were held on April 19 and April 26, 2023. A total of 12 non-Department affiliated people attended these meetings, and four sets of written comments were received. Much of the discussion and one of the written comments centered on public notice on the issuance of exploration location permits. Per Idaho Code § 47-702, all lands belonging to the state of Idaho are open for mineral exploration. The Land Board is not given authority to deny exploration location permits, and the discoverer must post their exploration certificate on each 1/2 river mile. Discussion was had at each meeting about the Department's regulatory overlap with Idaho Department of Environmental Quality (IDEQ)

and Idaho Department of Water Resources (IDWR). Many activities conducted on exploration locations and riverbed mineral leases require Stream Channel Alteration permits from IDWR and may require an Idaho's Pollutant Discharge Elimination System (IPDES) general permit from IDEQ. Some minor changes to the initial draft were made based on meeting discussions and to further reduce word count. Substantive comments and the Department's responses are summarized in Attachment 1.

The proposed rule was published in the September 6, 2023 Administrative Bulletin. The Notice of Proposed Rulemaking is in Attachment 2. One comment was received. This comment was addressed in the negotiated rulemaking response to comments.

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

- The rule now includes all state-owned navigable waterbodies rather than just riverbeds.
- The \$50 lease application fee in place since 1991 has increased to \$425. This will cover the Department's cost of reviewing and issuing these leases.
- The assignment fee is raised from \$50 to \$200 to cover Department costs.
- The lease application advertising fee is raised from \$45 to \$75.
- The Exploration Location fee has increased from \$250 to \$500.
- The late payment policy is updated.

Upon further review, a few punctuation and grammatical changes were needed for better clarity. Attachment 3 has the draft Pending Rule consisting of the Proposed Rule with the engrossed changes highlighted in yellow.

If approved by the Land Board, the Department will submit the Notice of Adoption of Pending Fee Rule (Attachment 4) to the Office of the Administrative Rules Coordinator for the 2024 legislative session.

## **Recommendation**

Adopt the pending fee rule for IDAPA 20.03.05 *Navigable Waterways Mineral Leasing in Idaho*

## **Board Action**

## **Attachments**

1. Summary of Negotiated Rulemaking
2. Notice of Proposed Rulemaking
3. Draft Pending Rule
4. Draft Notice of Adoption of Pending Fee Rule

# Negotiated Rulemaking Summary

## IDAPA 20.03.05, Riverbed Mineral Leasing in Idaho

Docket No. 20-0305-2301

Following Executive Order 2020-01: Zero-Based Regulation, this rule chapter is scheduled to be repealed and replaced in 2023 for review during the 2024 legislative session.

The Idaho Department of Lands (IDL) administers these rules under the authority of Title 47, Chapter 7, Idaho Code. IDAPA 20.03.05 establishes a consistent process to authorize mineral exploration and extraction on state-owned navigable rivers and collect rents and royalties. By leasing exclusive rights to the waterways, customers may explore areas without competition. IDAPA 20.03.05 allows responsible resource extraction while protecting the lands, streams, and watercourses of the state.

Negotiated rulemaking for these rules was approved by the Land Board on November 15, 2022. The Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking was published in the Idaho Administrative Bulletin on April 5, 2023.

### Stakeholder Outreach

IDL's outreach for negotiated rulemaking included the following:

- Published the Notice of Negotiated Rulemaking in the Idaho Administrative Bulletin
- Created a rulemaking webpage to post documents, scheduling information, and comments (<https://www.idl.idaho.gov/rulemaking/docket-20-0305-2301/>)
- Posted meeting information on social media
- Posted rulemaking notices to Townhall Idaho
- Emailed 43 customers and other interested parties
- Mailed postcards to 138 customers

### Public Meeting Participation

Negotiated rulemaking meetings were held on April 19 and April 26, 2023 to discuss draft changes to the rules and receive comments from interested parties. A total of 12 non-IDL affiliated people attended these meetings.

IDL considered all comments received during the negotiated rulemaking process. Summarized comments and IDL's responses are in the attached Response to Comments on Negotiated Rule.

Much of the discussion during public meetings centered on public notice on the issuance of exploration location permits. Per Idaho Code § 47-703(3), the Land Board is not given authority to deny exploration location permits, and the discoverer must post their exploration certificate on each ½ river mile. The discoverer then must file an exact copy with IDL and pay the appropriate fee.

Some comments were made during meetings about which stretches of river are available for exploration. It was clarified during the meeting that IDL has authority under this rule on state-owned navigable waterways, and that some rivers have been withdrawn from mineral entry due to state statutes or Land Board actions.

Discussion was had at each meeting about IDL's regulatory overlap with the Idaho Department of Environmental Quality (IDEQ) and the Idaho Department of Water Resources (IDWR). Many activities conducted on exploration locations and riverbed mineral leases require Stream Channel Alteration permits from IDWR and may require an IPDES multi-sector general permit from IDEQ. Based on this discussion, the proposed rule now includes language referring to the permit requirements from IDEQ. The rule also reflects the same categorization of casual and motorized exploration in Idaho Code § 47-7. These categories are also used by IDWR in their Stream Channel Alteration rules, although they use different terms for them.

### **Written Comments**

Four sets of written comments were received during the public comment period (April 5 to July 19, 2023).

Written comments discussed the responsibility of IDL to protect public trust values, and suggested adhering to standards set forth in the Kootenai Environmental Alliance vs. Panhandle Yacht Club case of 1983. While riverbed mineral leases do have a public comment period and provide for public hearings, the exploration locations do not. Idaho Code § 47-703 does not provide public participation for exploration locations, and do not provide a mechanism for IDL to deny them.

IDL's responses to these comments and more are in the attached Response to Comments on Negotiated Rule.

### **Concluding Negotiated Rulemaking**

The issue of IDL's ability to deny or allow public comment on exploration locations remains unresolved. IDL believes that Idaho Code § 47-703 does not give the Department the authority to deny exploration location permits. IDL kept language in the rule that reflects these findings. IDL also continues to follow the guidance given for complying with Executive Order 2020-01.

IDL concluded the negotiated rulemaking process and submitted the rule changes for publication as a proposed rule in the September 6, 2023, edition of the Idaho Administrative Bulletin. Key documents from the rulemaking record are available at <https://www.idl.idaho.gov/rulemaking/docket-20-0305-2301/>, including written public comments, research materials, and the proposed rule text in legislative format to allow the reader to easily identify changes.

**Response to Comments on Negotiated Rule**  
 IDAPA 20.03.05, Rules Governing Riverbed Mineral Leasing in Idaho

Comment	Rule Section	Response	Commenter
<p>Nowhere in the proposed regulations is the Land Board or IDL instructed to weigh the public versus private benefits of any prospective permits or authorizations. Approval of casual exploration, Exploration Locations and/or Riverbed Mineral Leases issued without administrative assurance that the activity does not favor the interests of a private party at the expense of the public appear to violate the Public Trust Doctrine as articulated in <i>Kootenai</i>, even if they may not appear to violate statutory language, on its face.</p> <p>Both existing and proposed Administrative Rules may be inconsistent with the <i>Kootenai</i> requirements and the Land Board’s fiduciary obligation to its public beneficiaries.</p> <p>IDL and the Land Board must verify that all such permits satisfy a public versus private benefit analysis, in order to ensure that the state is not abdicating its role as trustee in favor of private parties. That analysis aims to ensure against the state’s authorization of substantial impairment of trust resources.</p>	<p>General Comment</p>	<p>The requirements of Exploration Location Permits include a condition that all locators shall abide by the provisions of Title 42, Chapter 38, Idaho Code (Stream Channel Protection Act), where applicable and shall maintain stream water quality. This act declares that the public health, safety and welfare requires that the stream channels of the state and their environments be protected against alteration for the protection of fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, and water quality. If an exploration location certificate holder has a Stream Channel Alteration permit, they have met the public benefit requirements of this act.</p> <p>Riverbed mineral lease applications are subject to public comments and public hearings, which assures that IDL is fulfilling its role to the public trust resources.</p>	<p>Idaho Conservation League 6/16/2023</p>

Comment	Rule Section	Response	Commenter
<p>Pursuant to Shokal v. Dunn, 109 Idaho 330, 337-39 (1985), while IDL, IDWR and DEQ have distinct responsibilities as it relates to the protection of public trust resources, stream channels alteration, and water quality, it is essential that each of these various permit approvals be properly conditioned upon each other. That is, approval of casual exploration, Exploration Locations, or Riverbed Mineral Leases must be conditioned on the approval and receipt of a permit from other applicable state agencies.</p>	<p>General Comment</p>	<p>The purpose of this rule is not regulatory in nature. This is a leasing rule. It grants exclusive control over the mineral rights in navigable waterways for a limited period of time and provides revenue to the state. It does not authorize specific mining activities.</p> <p>Under this rule, casual exploration does not require approval from IDL (20.03.05.015.03).</p> <p>Exploration Locations, and IDL’s ability to approve them, is discussed in the Section 016 General Comment in this table below.</p> <p>IDL does include a requirement in the Riverbed Mineral Leasing procedure that an Idaho Department of Water Resources Stream Channel Alteration Permit is required and must be received before a lease can be issued. The procedures will be updated to include a similar requirement for an IPDES General Permit as well.</p>	<p>Idaho Conservation League 6/16/2023</p>
<p>Why do you have the word recreational in your mission statement online, but you have proposed to scratch the word out completely everywhere in your new proposals?</p>	<p>000.02</p>	<p>The definition of and references to recreational mining have been removed due to the 2014 changes to definitions in statute (Idaho Code § 47-703A(6)). The statutory definition of casual exploration now covers what was defined as casual exploration and recreational mining in the rules. This also better aligns with the Idaho Department of Water Resources authority for small scale mining under the Stream Channel Protection Act.</p>	<p>Travis Hollon 4/24/2023</p>

Comment	Rule Section	Response	Commenter
<p>Rule Draft #2 includes a change in IDAPA 20.03.05.015.06. Casual Exploration. “Department of Environmental Quality permits. Suction dredging requires a valid general or individual permit issued under the Idaho Pollutant Discharge Elimination System.”</p> <p>While it is accurate that “suction dredging” does constitute a “point source” under the definitions of the Clean Water Act and requires an IPDES permit, other forms of casual exploration or riverbed mining may also require a permit from DEQ. After all, suction dredge mining is just one of the methods that may be utilized to retrieve minerals via casual exploration, Exploration Location, or a Riverbed Mineral Lease, and other methods of mining or exploration may similarly result in a discharge requiring authorization pursuant to DEQ rules. Instead, ICL recommends that the language be amended to:</p> <p><i>Any activities that may result in a discharge to waters of the United States, including but not limited to suction dredging, require a valid general or individual permit issued under the Idaho Pollutant Discharge Elimination System.</i></p>	015.06	Casual exploration is commonly conducted using suction dredges. IDL specified suction dredging in the rule in order to apply the requirements to the most common practice used in casual exploration.	Idaho Conservation League 6/16/2023

Comment	Rule Section	Response	Commenter
<p>The permitting requirements of other state agencies are only referenced in the aforementioned section related to Casual Exploration (IDAPA 20.03.05 Section 015.06.)</p> <p>Instead, ICL recommends that similar language be added to IDAPA 20.03.05.016 (Exploration Locations) and IDAPA 20.03.05.020 (Riverbed Mineral Lease) sections as well.</p>	015.06	<p>Under Executive Order 2020-01 and guidance from the Division of Financial Management, this rule is seeking to remove duplicative references. The permitting requirements from IDWR and IDEQ are currently stated in section 015 of this rule, and this section applies to both section 016 (Exploration Locations) and section 020 (Riverbed Mineral Leases). Restating these requirements would not meet the requirements from DFM. Requirements for these permits will be included in the Riverbed Mineral Leasing Procedures. Also, Idaho Code § 47-704(8) already requires coordination with IDWR before issuing a lease.</p>	Idaho Conservation League 6/16/2023
<p>The Idaho Supreme Court has found that public input is necessary prior to any decision that alienates, impairs, or encumbers public trust resources. ICL appreciates that public comment is required in the procedures for Riverbed Mineral Leasing, however it must also be applied to Exploration Locations, which similarly encumber navigable rivers, albeit for a shorter time frame than a lease.</p>	016 General Comment	<p>According to Idaho Code § 47-703(1)- All state lands or navigable waters are open to exploration locations unless they are: 1. Covered by a mineral lease or a pending lease application. 2. Under a valid Exploration Location. 3. Have been specifically withdrawn from mineral entry or exploration.</p> <p>The filing of an exploration location pursuant to Idaho Code § 47-703 is a “ministerial” task rather than a “discretionary” task. In other words, if an individual follows regulations set forth in Idaho Code § 47-703, they have met the conditions required for their exploration location, and no action is required on behalf of the Board of IDL. Idaho Code § 58-1203 authorizes the Land Board to reject activities involving the alienation or encumbrance of the beds of navigable rivers, but again, the Land Board exercises its discretion in its decision as to whether the lands are open for exploration or withdrawn, not in the ministerial processing of exploration location notices. Exploration locations are not a significant encumbrance to public trust resources due to their limited size (1/2 mile of riverbed) and duration (2 years).</p>	Idaho Conservation League 6/16/2023



Comment	Rule Section	Response	Commenter
<p>All such permits must be accompanied by a cumulative effects analysis that takes into account other past, present, and reasonably foreseeable future actions, so that the public can be assured that there is no significant impairment of trust resources. Until the IDL adopts regulations consistent with these requirements, it should re-evaluate existing permits and revise proposed rules to ensure that Public Trust values and considerations be closely evaluated prior to the alienation or encumbrance of the beds or banks of navigable waters.</p>	<p>016.01-.05</p>	<p>IDL rules conform to the requirements set by statute. Idaho Code § 47-703A(6)(a) defines casual exploration as “entry and/or exploration which does <u>not</u> appreciably disturb or damage the land or resources thereon.” IDL believes that casual exploration does not significantly impair trust resources. Motorized exploration may appreciably disturb or damage the land or resources, but 47-703A(1) requires that motorized exploration operators must submit an exploration and reclamation plan and a bond prior to any work being done. Operators must comply with the Dredge and Placer mining act requirements and Mined Land Reclamation Act requirements as well. These reclamation plans, bond, and acts provide oversight of and requirements to restrict impairment of trust resources. Casual exploration is also conducted with dredges 5” or less and operators who wish to use larger equipment must obtain a riverbed mineral lease, which is subject to public comments and hearings.</p>	<p>Idaho Conservation League 6/16/2023</p>
<p>Section 030.02 of the proposed rule refers to a royalty schedule. Is the current royalty schedule being modified in any way and if so what changes are being proposed? Should the schedule be modified in the future, will doing so require IDL to conduct further rulemaking?</p>	<p>030.02</p>	<p>The current royalty schedule is not being modified as a result of this rulemaking. The royalty schedule is determined by the Land Board.</p>	<p>Idaho Association of General Contractors 4/18/2023</p>

Comment	Rule Section	Response	Commenter
<p>Previously existing language requiring a minimum \$750 dollar bonding is proposed to be removed. ICL is concerned that no justification for removal of a minimum bond has been given. Presumably, this language was previously deliberately included and establishing a minimum bond amount was deemed necessary for motorized exploration. The proposed language leaves the door open for bonding below \$750. Furthermore, given the nature of inflation and cost escalation, \$750 may no longer even be an appropriate minimum bond. ICL requests a minimum bond amount be retained and updated to reflect the most up to date cost estimates for motorized exploration.</p>	040.02	<p>This change reflects changes made to Idaho Code § 47-703A, “The bond shall be in an amount determined by the board to be the estimated reasonable costs to perform the reclamation activities described in the exploration and reclamation plan in the event of the failure of the operator to complete those activities, plus ten percent (10%) of such costs, and conditioned on the payment of all damages to the land and resources thereon caused by the motorized exploration.”</p> <p>Bonding should reflect the actual reclamation costs similar to what the Mined Land Reclamation statute and rules currently have. This is typically the cost of reclamation relative to the local wage and equipment rates.</p>	<p>Idaho Conservation League 6/16/2023</p>
<p>Section 040.03 of the proposed rule (pages 5&amp;6) replaces the \$750 minimum bond with an amount equal to an “estimated reasonable cost of reclamation.” We understand that this change reflects changes made to 47-703A, Idaho Code. However, we would like IDL to clearly state how the term “reasonable” is to be defined and the process it will use to establish an “estimated reasonable” fee.</p>	040.02	<p>Bonding should reflect the actual reclamation costs similar to what the Mined Land Reclamation statute and rules currently have. The term reasonable applies to the cost of reclamation relative to the local wage and equipment rates.</p>	<p>Idaho Association of General Contractors 4/18/2023</p>

**IDAPA 20 – IDAHO DEPARTMENT OF LANDS**  
**20.03.05 – NAVIGABLE WATERWAYS MINERAL LEASING IN IDAHO**  
**DOCKET NO. 20-0305-2301 (ZBR CHAPTER REWRITE, FEE RULE)**  
**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code, and Section 47-7, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2023.

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

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

Following [Executive Order 2020-01, Zero-Based Regulation](#), this rule chapter is scheduled to be repealed and replaced in 2023 for review during the 2024 legislative session. The overall regulatory burden has been reduced by decreasing both total word count and the number of restrictive words in the new rule chapter. Application and assignment fees have been increased to cover the costs of reviewing applications. Late payment policy is updated, and revised wording in the rule will now cover all navigable waterways rather than just rivers.

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

The \$50 lease application fee in place since 1991 is increased to \$425. The application advertising fee is increased from \$45 to \$75. The exploration location fee is increased from \$250 to \$500. The \$50 assignment fee is increased to \$200. These fees are being imposed pursuant to Sections 58-104 and 58-127, Idaho Code, and Section 47-7, Idaho Code.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 5, 2023, Idaho Administrative Bulletin, [Vol. 23-4, pages 40-41](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Marde Mensinger at (208) 334-0248 or [mmensinger@idl.idaho.gov](mailto:mmensinger@idl.idaho.gov). Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 6th day of September, 2023.

Marde Mensinger, Navigable Waterways Program Manager  
Idaho Department of Lands  
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20.03.05 – RIVERBED NAVIGABLE WATERWAYS MINERAL LEASING IN IDAHO

000. AUTHORITY.

~~01. Statutory Authority.~~ These rules are promulgated by the Idaho State Board of Land Commissioners pursuant to Title 47, Chapter 7, Idaho Code, and Title 58, Chapters 7 and 1, Idaho Code Sections 47-710, 47-714 and 58-104, Idaho Code. (3-18-22)(    )

~~02. Discretionary Powers.~~ The Board of Land Commissioners is delegated discretionary power to regulate and control the use or disposition of lands in the beds of navigable lakes, rivers, and streams, to the natural or ordinary high water mark thereof, so as to provide for their commercial, navigational, recreational or other public use; provided that the Board will take no action in derogation of or seeking to interfere with the riparian or littoral rights of the owners of upland property abutting or adjoining such lands. (Section 58-104(9), Idaho Code). (3-18-22)

001. TITLE AND SCOPE.

~~01. Title.~~ These rules are titled IDAPA 20.03.05, "Riverbed Mineral Leasing in Idaho." (3-18-22)

~~021. Where Applicable.~~ These rules apply to the exploration and extraction of ~~precious metals, minerals, and construction materials~~ salable minerals from a ~~placer deposit situated in state-owned submerged lands~~ navigable waterways. (3-18-22)(    )

~~032. Where Not Applicable.~~ These rules do not apply to the ~~application~~ exploration and leasing of geothermal resources covered by title 47, Chapter 16, Idaho Code, or to the ~~application~~ exploration and leasing of oil and gas resources covered by Title 47, Chapter 8, Idaho Code. (3-18-22)(    )

02. -- 009. (RESERVED)

10. DEFINITIONS.

~~01. Available State Lands.~~ All lands between the ordinary high water marks of a navigable river which have not been located, leased, or withdrawn. (3-18-22)

~~021. Board.~~ The Idaho State Board of Land Commissioners or its ~~authorized representative~~ designee. (3-18-22)(    )

~~03. Casual Exploration.~~ Entry and/or exploration which does not appreciably disturb or damage the land or resources thereon. Casual exploration includes, but is not limited to, geochemical and/or geophysical exploration techniques, sampling with hand tools, and entry using wheeled vehicles for transportation to conduct such exploration. Exploration using suction dredges having an intake diameter of two inches (2") or less are considered casual exploration when operated in a perennial stream and authorized under the stream protection act, Title 42, Chapter 38, Idaho Code. Refer to Section 015 for further clarification regarding casual exploration and recreational mining. (3-18-22)

~~042. Commercial.~~ The type of operation that engages in the removal of ~~construction materials~~ salable minerals or uses suction dredges with an intake diameter larger than five inches (5") or attendant power sources rated at greater than fifteen (15) horsepower and/or other motorized equipment. (3-18-22)(    )

~~05. Construction Materials.~~ Sand, gravel, cobble, boulders, and other similar materials. (3-18-22)

~~03. Department.~~ The Idaho Department of Lands. (    )

~~064. Director.~~ The Director of the Idaho Department of Lands or his ~~authorized representative~~ designee. (3-18-22)(    )

~~07. Motorized Exploration.~~ Exploration that may appreciably disturb or damage the land or resources thereon. Motorized exploration includes, but is not limited to, drilling, trenching, dredging, or other techniques that employ the use of earth moving or other motorized equipment, seismic operations using explosives, and sampling with suction dredges having an intake diameter greater than two inches (2") when

~~operated in a perennial stream. When operated in an intermittent stream, suction dredges are considered motorized exploration regardless of the intake size. (3-18-22)~~

**085. Natural or Ordinary High Water Mark.** The line that the water impresses upon the soil by covering it for sufficient periods of time 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 human activity, the natural or ordinary high water mark will be located where it would have been if this alteration had not occurred. (3-18-22)( )

**096. Person.** An individual, corporation, partnership, limited liability company, association, trust, unincorporated organization, or other legal entity qualified to do business in the state of Idaho, and any federal, state, county, or local unit of government. (3-18-22)( )

a. ~~An individual of legal age;~~ (3-18-22)

b. ~~Any firm, association or corporation qualified to do business in the state of Idaho; or~~ (3-18-22)

c. ~~Any public agency or government unit, including without limitation, municipalities.~~ (3-18-22)

~~**10. Recreational Mining.** Mining with a suction dredge having an intake diameter of five inches (5") or less, and attendant power sources, rated at fifteen (15) horsepower or less, pans, rockers, hand tools, hand operated sluices and other similar equipment. (3-18-22)~~

**1107. River Mile.** Five thousand two hundred eighty (5,280) feet of contiguous riverbed as measured along the approximate center of the river. ( )

~~**12. Navigable River.** A natural water course of perceptible extent, with definite bed and banks, which confine and conducts continuously flowing water, and the bed of which is owned by the state of Idaho in trust. (3-18-22)~~

~~**13. Submerged Lands.** All state owned beds of navigable lakes, rivers, and streams between the natural or ordinary high water marks. (3-18-22)~~

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

011. -- 014. (RESERVED)

**015. CASUAL EXPLORATION AND RECREATIONAL MINING.**

**01. Lands Open.** All beds of navigable ~~rivers~~ waterways that have not been located, leased or withdrawn in accordance with statute or the terms of these rules, are free and open to casual exploration ~~and recreational mining~~ on a nonexclusive and first come basis. (3-18-22)( )

**02. Equipment Limitations.** Mining equipment for casual exploration that may occur prior to the filing of a location or lease application is limited to suction dredges with a ~~two five (25")~~ five (5") inch intake or less, ~~pans, rockers, hand tools, hand operated sluices and other similar equipment~~ and powered equipment rated at fifteen (15) HP or less, or non-powered sluice equipment. (3-18-22)( )

**03. No Approval for Casual Exploration Required.** No written approval is required from the Director for casual exploration. ( )

~~**04. Recreational Mining Equipment.** Mining equipment for recreational mining is limited to suction dredges with an intake diameter of five (5") inches or less with attendant power sources rated at fifteen (15) horse power or less, pans, rockers, hand tools, hand operated sluices and other similar equipment. (3-18-22)~~

~~**054. Department of Water Resources Permits.** Possession of a valid Stream Protection Act Permit issued by the Idaho Department of Water Resources and a Recreational Mining Permit issued by the Idaho Department of Lands constitutes the Board's waiver of bond, waiver of royalty, and written approval to engage in recreational mining under Section 47-704(6), Idaho Code, and Title 47, Chapter 13, Idaho~~

CodeCasual exploration requires a valid Stream Channel Alteration Permit issued by the Idaho Department of Water Resources. (3-18-22)( )

**05. Lake Encroachment Permits.** An encroachment permit pursuant to Title 58, Chapter 13, Idaho Code is required prior to any mineral exploration or extraction in a navigable lake. ( )

**06. Department of Environmental Quality Permits.** Suction dredging requires a valid general or individual permit issued under the Idaho Pollutant Discharge Elimination System. ( )

## 016. EXPLORATION LOCATIONS.

**01. Lands Open.** The beds of navigable ~~rivers~~ waterways that have not been located or withdrawn, or are not under application to lease, in accordance with statute or the terms of these rules, are available for exploration location; provided that salable minerals are not subject to exploration location. Details of exploration locations on state lands can be found in Title 47, Chapter 7, Idaho Code. (3-18-22)( )

**02. Size of Location.** Each exploration location is limited to one-half (1/2) mile in length on a navigable river or stream, or a 20-acre aliquot part on a navigable lake. (3-18-22)( )

**03. Record Keeping Requirement.** A locator must keep a record of all minerals recovered during exploration operations and must pay to the state a royalty of five percent (5%) of the gross value of the minerals recovered. Payment must be made each year with the filing of the assessment work report. (3-18-22)( )

**04. When No Written Approval Required.** No written approval is required from the ~~Director Department~~ for ~~exploratory activity~~ casual exploration in a navigable river on an exploration location ~~when such exploration is limited to mining equipment such as suction dredges with a five (5") inch intake diameter or less and attendant power sources rated at fifteen (15) horsepower or less, pans, rockers, hand operated sluices, and other similar equipment; provided however, that recreational mining activity.~~ Casual exploration performed under a Recreational Mining Stream Channel Alteration Permit ~~as authorized under Section 015~~ does not serve to establish any basis for an exploration location. (3-18-22)( )

**05. When Written Approval Required.** Written approval is required from the ~~Director Department~~ prior to entry for operators conducting motorized exploration ~~except as allowed in Subsection 016.04.~~ Approved operations must be bonded as outlined in Subsection 040.03~~2~~. (3-18-22)( )

017. -- 019. (RESERVED)

## 020. RIVERBED MINERAL LEASE.

**01. Limitations on Suction Dredges.** Operators may not use suction dredges with an intake diameter larger than five inches (5") or attendant power sources rated greater than fifteen (15) horsepower, except under lease. ( )

**02. Approval Required Before Operations.** Prior to entry upon navigable ~~rivers~~ waterways, operators are required to have written approval from the ~~Director~~ Department. (3-18-22)( )

**03. Bonding.** Approved operations must be bonded as outlined in Subsection 040.01. ( )

**04. Simultaneous Filings.** Two (2) or more lease applications received on the same date and hour, covering the same lands, are considered simultaneous filings. Simultaneous filings will be resolved by competitive bidding. ( )

021. -- 024. (RESERVED)

## 025. PUBLIC NOTICE AND HEARING.

**01. Publication of Notice.** Upon receipt by the Board of an application to lease any lands that may belong to the state of Idaho by reason of being situated between the high water marks of navigable ~~rivers of the state~~ waterways, the Board will cause at the expense of the applicant, a notice of such application to be published once a week for two (2) issues in a newspaper of general circulation in the county or counties in which said lands described in said application are situated. (3-18-22)( )

**02. Public Hearing.** The Board may order a public hearing on an application if it deems this action is in the best interest of the public. ( )

**03. Petition for Hearing.** The Board or its authorized representative will hold a public hearing on the application, if requested in writing no later than thirty (30) days after the last published notice by ten (10) person whose lawful rights to use the waters applied for may be injured thereby, or by an association presenting a petition with signatures of not less than ten (10) such aggrieved parties; provided that the Board may order a public hearing in the first instance. The Board will consider fully all written and oral submissions respecting the application. ( )

**026. -- 029. (RESERVED)**

**030. RENTAL AND ROYALTY AND LATE PAYMENTS.**

**01. Minimum Annual Rental.** The minimum annual rental is ~~one five~~ five hundred ~~sixty~~ dollars (\$~~160~~500) for any area up to one hundred sixty (160) acres, and one dollar (\$1) for each additional acre. (3-18-22)( )

~~**02. Minimum Annual Royalty.** In addition to the annual rental, the commercial lessee pays an annual minimum royalty of five hundred dollars (\$500) per year and all other lessees pay an annual minimum royalty of three hundred forty dollars (\$340) per year. (3-18-22)~~

~~**03. Deduction of Royalty.** The annual minimum royalty and the annual rental for any year is deducted from the actual production royalty as it accrues for that year. (3-18-22)~~

~~**04. Royalty Schedule.** The appropriate Board approved A royalty schedule for the ~~each~~ commodity ~~mined~~ leased must be attached and made a part of the mineral lease. (3-18-22)( )~~

~~**05. Late Payments.** Rental or royalty not paid by the due date is considered late. A twenty five dollars (\$25) late payment charge or penalty interest from the due date, whichever is greater, will be added to the rental or royalty amount. The penalty interest is one percent (1%) for each calendar month or fraction thereof, and will result in the following monthly charges: (3-18-22)( )~~

~~**a.** A late charge of twenty-five dollars (\$25) or one percent (1%) of the unpaid principal obligation, whichever is greater; and ( )~~

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

~~**04. Late Charge Accrual.** The Department will send monthly statements with the outstanding balance that will remain on the account and will continue to accrue late charges and interest each month, or any portion of a month, until the balance is paid in full. All payments will be applied first to accrued interest and late charges, and then to principal. ( )~~

**031. LEASE SIZE AND COMPOSITION OF LEASABLE TRACT.**

**01. One Mile Limitation.** A riverbed lease may not exceed one (1) contiguous river mile in length or all the riverbed within one (1) section should all the available state lands within the section exceed one (1) river mile. ( )

**02. Construction Materials Salable Minerals.** Leases for ~~construction materials~~ salable minerals may be limited to a smaller size tract at the Board's discretion. (3-18-22)( )

**032. -- 034. (RESERVED)**

**035. ASSIGNMENTS.**

**01. Prior Written Approval.** No ~~location or~~ lease assignment is valid until approved in writing by the ~~Director, and no assignment takes effect until after the first day of the month following its approval~~ Department. A lease may be assigned to any person qualified to hold a lease. (3-18-22)( )

~~**02. Partition**~~ **Partial Assignment.** A ~~location or~~ lease may be partially assigned ~~to any person qualified to hold a state location or lease, provided that in the event an assignment partitions leased lands between two (2) or more persons, if both the assigned and the retained part created by the assignment contain not less than one-half (1/2) mile length of river bed~~ land. The resulting leases continue in full force and effect for the balance of the term of the original lease unless otherwise terminated in accordance with the terms of the

lease.

(3-18-22)( )

~~03. Segregation of Lease. If an assignment partitions leased lands between two (2) or more persons, it must clearly segregate the assigned and retained portions of the leasehold. Resulting segregated leases continue in full force and effect for the balance of the term of the original lease or as further extended pursuant to statute and these rules.~~ (3-18-22)

036. -- 039. (RESERVED)

040. BOND.

01. **Minimum Lease Bond.** Concurrent with the lessee's execution of the lease by the lessee, lessee must furnish to the ~~Director~~ Department a good and sufficient bond or undertaking in favor of the state of Idaho on a Department form in the amount of five thousand dollars (\$5,000) for commercial operations and one thousand dollars (\$1,000) for all other operations. The bond will be in favor of the state of Idaho, conditioned on the payment of all damages to the land and all improvements thereon which result from the lessee's operation and conditioned on complying with statute, these rules and the lease terms. This bond is in addition to the bonds required by ~~the Idaho Dredge and Placer Mining Protection Act~~ (Title 47, Chapter 13, Idaho Code). (3-18-22)( )

~~02. Statewide Bond. In lieu of the above bond, the lessee may furnish a good and sufficient "statewide" bond conditioned as above in the amount of fifty thousand dollars (\$50,000) in favor of the state of Idaho, to cover all lessee's leases and operations carried on under statute and these rules.~~ (3-18-22)

~~03. Motorized Exploration. Motorized exploration on an site under exploration location is subject to a minimum bond in the amount of seven hundred fifty dollars (\$750). A larger bond not exceeding seven hundred fifty dollars (\$750) per acre may be required by the Department depending on the size and scope of the operation that covers the estimated reasonable cost of reclamation as provided in Section 47-703A, Idaho Code.~~ (3-18-22)( )

041. -- 044. (RESERVED)

045. FEES.

The following fees apply and are nonrefundable: (3-18-22)( )

01. **Nonrefundable Lease Application Fee for Lease.** ~~Fifty~~ Four hundred twenty five dollars (\$~~50~~425) per application. (3-18-22)( )

02. **Nonrefundable Fee for Lease Application Advertising Application.** ~~Forty~~ Seventy-five dollars (\$~~45~~75) per application. (3-18-22)( )

03. **Exploration Location Fee.** ~~Two hundred fifty~~ Five hundred dollars (\$~~250~~500) per location. (3-18-22)( )

04. **Application Fee for Approval of Assignment.** ~~Fifty~~ Two hundred dollars (\$~~50~~200) per lease ~~or location~~ involved in the assignment. (3-18-22)( )

046 -- 999. (RESERVED)



## IDAPA 20 – IDAHO DEPARTMENT OF LANDS

### 20.03.05 - RULES GOVERNING NAVIGABLE WATERWAY MINERAL LEASING IN IDAHO

DOCKET NO. 20-0305-2301

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and the Idaho State Board of Land Commissioners and is now pending review by the 2024 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. The pending rule will become final and effective upon the adjournment, *sine die*, of the Second Regular Session of the Sixty-seventh Idaho Legislature after approval.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code, and Title 47, Chapter 13, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled to be repealed and replaced in 2023 for review during the 2024 legislative session. The overall regulatory burden has been reduced by decreasing both total word count and the number of restrictive words in the new rule chapter. Application and assignment fees have been increased to cover the costs of reviewing applications. Late payment policy is updated, and revised wording in the rule will now cover all navigable waterways rather than just rivers.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 6, 2023, Idaho Administrative Bulletin, Vol. 23-9, pages 314-320.

The changes in the pending rule were to fix punctuation and grammatical errors.

**FEE SUMMARY:** Pursuant to Section 67-5224(2)(d), Idaho Code, this pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a specific description of the fee or charge imposed or increased:

The \$50 lease application fee in place since 1991 is increased to \$425. The application advertising fee is increased from \$45 to \$75. The exploration location fee is increased from \$250 to \$500. The \$50 assignment fee is increased to \$200. These fees are being imposed pursuant to Sections 58-104 and 58-127, Idaho Code, and Section 47-7, Idaho Code.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Marde Mensinger at (208) 334-0248 or [mmensinger@idl.idaho.gov](mailto:mmensinger@idl.idaho.gov).

DATED this 21st day of November, 2023.

Marde Mensinger, Navigable Waterways Program Manager  
Idaho Department of Lands  
300 N. 6th Street, Suite 103  
P.O. Box 83720  
Boise, Idaho 83720-0050  
Phone: (208) 334-0248  
Fax: (208) 334-3698

# STATE BOARD OF LAND COMMISSIONERS

November 21, 2023

Regular Agenda

## Subject

Adoption of Pending Rule, IDAPA 20.05.01 *Rules Pertaining to the Recreational Use of Endowment Land*

## Question Presented

Shall the Land Board adopt the pending rule for 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 recreation purposes, such as hunting, fishing, hiking, or camping. While not the primary purpose, recreation can occur on endowment lands so long as those activities do not degrade the land, interfere with management activities, or otherwise negatively affect the long-term financial return to beneficiaries. Unfortunately, there are several examples of public mistreatment of endowment lands, causing damage to rangelands and marketable timberlands. Destructive behaviors on endowment lands reduce revenue generation potential of the land and cost money to mitigate.

For those damaging endowment land, Idaho law provided only severe remedies - misdemeanor or felony criminal trespass charges - until the Legislature passed Senate Bill 1049, which became effective on July 1, 2023. The new law, Section 58-156, Idaho Code, allows POST certified Idaho law enforcement to issue warnings/citations for minor offenses and help deter destructive behaviors on endowment land. Rulemaking is required under the new law before a warning or infraction ticket may be written.

Negotiated rulemaking for a new rule chapter related to the recreational use of endowment land was approved by the State Board of Land Commissioners (Land Board) on April 18, 2023.

## Discussion

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

- Published the Notice of Negotiated Rulemaking in the Idaho Administrative Bulletin.
- Created a rulemaking webpage to post the draft rule, scheduling information, and comments.
- Issued a press release: Help Be Part of the Solution in Keeping Endowment Land Open for Recreation.
- Posted rulemaking meeting notices and details on social media.

- Posted rulemaking notices to Townhall Idaho.
- Emailed 2,457 customers and other interested parties.

The Department held two negotiated rulemaking public meetings with options for in person or virtual participation. Eleven participants attended the June 22 meeting in Boise, and seven participants attended the July 10 meeting in Coeur d'Alene. The Department received several written comments during the negotiated rulemaking public comment period. Multiple responses expressed support for the rules, while some responses expressed specific concerns with the rule language as initially drafted. The Department made many changes to the draft rules based on comments received. A summary of negotiated rulemaking is included in Attachment 1.

The proposed rule was published in the October 4, 2023 Administrative Bulletin. The Notice of Proposed Rulemaking and published rule text are in Attachment 2. A public hearing on the proposed rule was held on October 11, 2023. Three oral comments were received at the public hearing, and they were all in support of the proposed rule and the rulemaking process. No written comments were received during the proposed rulemaking comment period, and the Department recommends no changes for the pending rule.

If approved by the Land Board, the Department will submit the Notice of Adoption of Pending Rule (Attachment 3) to the Office of the Administrative Rules Coordinator for the 2024 legislative session.

### **Recommendation**

Adopt the pending rule for IDAPA 20.05.01 *Rules Pertaining to the Recreational Use of Endowment Land*.

### **Board Action**

### **Attachments**

1. Summary of Negotiated Rulemaking
2. Notice of Proposed Rulemaking with Rule Text
3. Draft Notice of Adoption of Pending Rule

## Negotiated Rulemaking Summary

### IDAPA 20.05.01, Rules Pertaining to the Recreational Use of Endowment Land

Docket No. 20-0501-2301 (New Chapter)

The Idaho Department of Lands (IDL) administers these rules under Public Lands (Title 58, Chapters 1 through 14, Idaho Code). IDAPA 20.05.01 allows for responsible recreation use of endowment lands.

Negotiated rulemaking for a new rule chapter related to the recreational use of endowment land was approved by the Land Board on April 18, 2023. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the Idaho Administrative Bulletin on June 7, 2023.

#### Stakeholder Outreach

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

- Published the Notice of Negotiated Rulemaking in the Idaho Administrative Bulletin.
- Created a rulemaking webpage to post the draft rule, scheduling information, and comments (<https://www.idl.idaho.gov/rulemaking/docket-20-0501-2301/>).
- Issued a press release.
- Posted meeting information on social media.
- Sent email or text messages about the meetings to almost 2,500 stakeholders.

#### Negotiated Rulemaking Public Meetings

Two public meetings were held to discuss the draft rule:

- **June 22, 2023 public meeting in Boise (and Zoom)**
  - 11 participants
  - Affiliations: Canyon County ATV Club, Mountain Home ATV Club & Idaho State ATV Association, Idaho Fish and Game Commission, Idaho Department of Fish and Game, Idaho Department of Parks and Recreation, Sawtooth Law Offices, Idaho Rivers United
- **July 10, 2023 public meeting in Coeur d'Alene (and Zoom)**
  - 7 participants
  - Affiliations: Idaho Wildlife Foundation, Idaho Sportsmen, ISDA Range, Idaho Department of Fish and Game, Idaho Cattle Association & Federal Woolgrowers Association

Negotiated rulemaking meetings were held on June 22 and July 10, 2023, to discuss the draft rule and receive comments from interested parties. The public meetings, one in Boise and one in Coeur d'Alene, included a Zoom option for remote participation.

The discussion focused on regulated uses of endowment lands. Camping regulations were centered around the radius of the distance a person must move their belongings following a 14-day stay within a period of 28-day consecutive days. The initial relocation radius was ten (10) miles. Several participants thought that was too great of a distance to move, particularly for hunters. Participants also recommended consistency of camping spot relocation distance with other land management agencies. The required relocation radius required by other land management agencies varies not only by land

management agency but also from district to district. The research showed the most consistent relocation radius is five (5) miles from the current camping location. From the research and discussion, the camping radius was adjusted to five (5) miles. An addition to camping regulations included defining the size of a campfire ring as being no more than three (3) feet in diameter.

Discussions about the Roads and Trails section of the draft rules led to the removal of citing for the creation of two-inch ruts and the difficulty of enforcing that section of the rule.

It was recommended the Gates and Fences section include a modification, adding blocking of gates and fences, including livestock handling equipment. These changes were included to address persistent access problems, occurring intentionally or unintentionally.

Clarifying regulation of Motorized and Mechanized was a discussion of interest, and a new section was added to clearly identify where motorized and mechanized use is permitted to travel.

Litter was another topic of concern in the meetings, as the increasing number of people in the forest, including long term campers, has created additional challenges. Meeting participants recommended the section be expanded to include two subsections, addressing the disposal of human waste.

### **Written Comments**

Many of the written comments submitted were by meeting participants, as requested by IDL to help ensure their comments were correctly captured and allow them to expand on their comment if needed. In addition to meeting participant comments, comments from interested parties who were unable to attend were also received. Aside from comments suggesting changes, several letters of support and expressing the need for the rule were also received.

In addition to reiterations of meeting verbal comments, adding fire restrictions to the rule was recommended as a need for a proactive approach rather than the current reactive approach. These comments were considered and added to the rule.

The applicability of these rules to recreation use on endowment lands were modified and improvements made to the original document.

### **Concluding Negotiated Rulemaking**

IDL concluded the negotiated rulemaking process and submitted the revised draft rule for publication as a proposed rule in the October 4, 2023, edition of the Idaho Administrative Bulletin. Key documents from the rulemaking record, including written public comments, are available at <https://www.idl.idaho.gov/rulemaking/docket-20-0501-2301/>

**Response to Comments on Draft Rule – Negotiated Rulemaking**  
 IDAPA 20.05.01, Rules Pertaining to the Recreational Use of Endowment Land

<b>Topic</b>	<b>Comment</b>	<b>Affiliation</b>	<b>Commentor</b>	<b>Response to comments</b>
<b>Letter of Support</b>	Letter of Support	Idaho Sportsmen	Benn Brocksome	Your support for the Department Recreation Rule is greatly appreciated.
<b>Letter of Support</b>	Letter of Support	Private Citizen	Brenda Stibal	Your support for the Department Recreation Rule is greatly appreciated.
<b>Letter of Support</b>	Letter of Support	Private Citizen	Jack Wassard	Your support for the Department Recreation Rule is greatly appreciated.
<b>Letter of Support</b>	Letter of concern/support for better regulation	Private Citizen	Jim McIver	Your support for the Department Recreation Rule is greatly appreciated. Most of the regulations in your letter are already addressed in other statutes and IDAPA rules. Unauthorized trail construction is addressed in the Recreation Rules.
<b>Letter of Support</b>	Support 100%	Boise ATV /UTV Trail Riders	Jim Maxey	Your support for the Department Recreation Rule is greatly appreciated.
<b>Letter of Support</b>	Wants stronger violations and a reward for people turning others in	Idaho Chukar Foundation	Drew Wahlin	The new rule if passed will address your concerns with a graduated approach, by increasing penalties for repeat offenders.

<b>Topic</b>	<b>Comment</b>	<b>Affiliation</b>	<b>Commentor</b>	<b>Response to comments</b>
<b>Add to definitions</b>	What is the understanding of what creating a trail is? What constitutes creating a trail? Is it cutting brush? Is it cutting dirt? Suggest a definition of what constitutes as creating a trail.	Inland Empire Paper	Paul Buckland	An additional definition was added to the document, defining what is considered constructing a road or trail travel way.
<b>Definition of Endowment Lands</b>	Does this definition include lands the state has traded? Is it limited to the lands granted at statehood? A better definition please.	Idaho Outfitter and Guides	Jeff Britton	The definition was modified to cover a broader definition of endowment lands.
<b>Camping</b>	In Section 020.02, the IDL should consider adding a specific statement that 'residing on endowment lands is not permitted'	Theodore Roosevelt Conservation Partnership	Rob Thornberry	Camping on endowment lands was clarified in the definitions and under <u>Regulated Uses of Endowment Land</u> , under 01. and 02.
<b>Camping Limits</b>	IDL should investigate rules for camping limits on nearby federally managed public lands and match its language for Camping limits with that of federal agencies.	Theodore Roosevelt Conservation Partnership	Rob Thornberry	Both camping limits and relocation distances vary from area to area for both federal and state land management. The rule was adjusted to reflect the most common time and distances.
<b>Camping</b>	IDL should investigate rules for camping limits on nearby federally managed public lands and match its language for Camping limits with that of federal agencies.	Idaho Wildlife Foundation and Trout Unlimited	Garrett Visser and Michael Gibson	Both camping limits and relocation distances vary from area to area for both federal and state land management. The rule was adjusted to reflect the most common time and distances.
<b>Additional Camping Language</b>	Residing on IDL lands is not permitted, unless a lease permits such activity.	Idaho Wildlife Foundation and Trout Unlimited	Garrett Visser and Michael Gibson	The recreation rule scope was adjusted to identify that permits and leases are not regulated under this rule.

Topic	Comment	Affiliation	Commentor	Response to comments
Continued Camping	Consider adding "or under permit" at the end. Many Outfitters will have a permit which allows for a longer period of use.	Idaho Outfitter and Guides	Jeff Bitton	The recreation rule scope was adjusted to identify that permits and leases are not regulated under this rule.
Roads and Trails Additional Subsection	It does not explicitly state that motorized and mechanized travel is <i>only</i> permitted on IDL-designated roads and trails, meaning that these forms of recreation are not permitted off any IDL-designated road or trail. We recommend the addition of a separate subsection that clarifies this, with language such as "Motorized/Mechanized Use: Motorized and mechanized travel is permitted only on Idaho Department of Lands designated roads and trails."	Idaho Wildlife Foundation and Trout Unlimited	Garrett Visser and Michael Gibson	An additional Subsection Motorized and Mechanized use was added to address use restrictions.
Roads and Trails	"Motorized/Mechanized Use: Motorized and mechanized travel is permitted only on Idaho Department of Lands designated roads and trails."	Idaho Wildlife Foundation and Trout Unlimited	Garrett Visser and Michael Gibson	An additional Subsection Motorized and Mechanized use was added to address use restrictions.
Roads and Trails	In Section 020.03, the TRCP encourages IDL to be more direct, adding language that makes it clear motorized and mechanized travel is limited to designated routes.	Theodore Roosevelt Conservation Partnership	Rob Thornberry	An additional Subsection Motorized and Mechanized use was added to address use restrictions.
Roads and Trails	Consider adding "unless otherwise permitted" at the end. Many Outfitters will have a permit for the use of roads after the normal road closure time. IE cougar hunts, wolf hunting, over snow use.	Idaho Outfitter and Guides	Jeff Bitton	The recreation rule scope was adjusted to identify that permits and leases are not regulated under this rule.



Topic	Comment	Affiliation	Commentor	Response to comments
<b>Roads and Trails</b>	Wants some sort of distance like 150' for off trail travel to retrieve game or camp during hunting season.	Idaho Recreation Council	David Claiborne	The recreation rule scope was adjusted to identify that permits and leases are not regulated under this rule.
<b>Gates and Fences</b>	Add livestock movement to 020.03(f) so as prevent livestock from freely moving down a trail or road. Obstructions will occur, but if a person is intentionally moving the livestock in the wrong direction, it can be a significant detriment. Additionally, IWGA would encourage either the word "corral" or "livestock handling equipment" to be added to 020.03 (Gates and Fences). This would clear any confusion if a recreator or user of endowment land parked a vehicle in front of a corral or damaged a corral or any other livestock handling equipment located on public lands.	Idaho Wool Growers Association	John Peterson, Patxi Larrocea-Philips, and Liz Wilder	Gates and fences are addressed in statute 18-7012. This section of rule was modified to address the concern of blocking access.
<b>Gates and Fences</b>	"Corral" or "livestock handling equipment" to be added to section 020.03 (Gates and Fences). This would clear any confusion if a recreator or user of endowment land parked a vehicle in front of a corral or damaged a corral or any other livestock handling equipment located on public lands.	Idaho Cattle Association	Kim Burton Brackett and Morgan Lutgen	Gates and fences are addressed in statute 18-7012. This section of rule was modified to address the concern of blocking access.

Topic	Comment	Affiliation	Commentor	Response to comments
<b>Fire Additional Topic</b>	We recommend that IDAPA 20.05.01 include the following provision to incorporate by reference the Idaho Fire Restriction Plan and issue warnings or citations to those who engage in prohibited acts during Stage 1 and Stage 2 restrictions. Currently, Idaho law does not penalize those who engage in prohibited actions under the plan on endowment land.	Idaho Firewise	Ivy Dickenson	Fire restrictions were added to the draft for a proactive rather than reactive approach to unwanted fire related activities occurring during stage 1 and stage 2 fire restrictions.
<b>Fire Additional Topic</b>	<b>07. Fire Restrictions.</b> Prohibited acts enumerated in the annual Idaho Fire Restrictions Plan for Stage 1 and Stage 2 fire restrictions apply to endowment land.	Idaho Fire Council	Heather Heward	Fire restrictions were added to the draft for a proactive rather than reactive approach to unwanted fire related activities occurring during stage 1 and stage 2 fire restrictions.
<b>Addition/Comment</b>	A monitoring system, so that these abuses of our lands CAN BE REPORTED.....EASILY.	Private Citizen	Georgene Moore	The recreation rule defines regulated recreation actions allowed on Idaho endowment lands. A system of reporting to monitor abuses will have to be developed outside of the rulemaking process.
<b>Addition/Comment</b>	Would like a system for easy reporting of endowment land abuse.	Private Citizen	Suzan Drumheller	The recreation rule defines regulated recreation actions allowed on Idaho endowment lands. A system of reporting to monitor abuses will have to be developed outside of the rule making process.

**IDAPA 20 – IDAHO DEPARTMENT OF LANDS**

**20.05.01 – RULES PERTAINING TO THE RECREATIONAL USE OF ENDOWMENT LAND**

**DOCKET NO. 20-0501-2301 (NEW CHAPTER)**

**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 58-156 and 58-104(6), Idaho Code.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this rulemaking will be held as follows:

<p><b>Wednesday, October 11, 2023</b> <b>2:00 p.m. (MT)</b></p>
<p><i>In-person participation is available at:</i> <b>Idaho Department of Lands</b> <b>Boise Staff Office</b> <b>Garnet Conference Room</b> <b>300 N 6th St., Suite 103 Boise, Idaho 83702</b></p> <p><i>Join on your computer, mobile app, or room device via Zoom at:</i> <a href="https://idl.zoom.us/j/88116158144?from=addon">https://idl.zoom.us/j/88116158144?from=addon</a></p> <p><i>To attend by telephone call:</i> <b>+1 (253)-215-8782</b> <b>Meeting ID: 881 1615 8144</b></p>

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

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

The purpose of this rulemaking is to address distinct problems at specific locations on state endowment trust lands. Endowment lands are different than other types of publicly managed land. Idaho’s 2.5 million acres of endowment lands are meant to generate revenue through timber, grazing, and other management activities. This revenue helps fund the endowment beneficiaries, primarily K-12 education, and reduces taxes on hard-working Idahoans. Recreational use of endowment land is a secondary privilege allowed only if it does not cause damage or disturb the revenue-generating potential of the land. Unfortunately, damage to endowment land happens all too frequently.

Idaho’s increasing population has resulted in more people recreating and compounding damage to endowment land. Destructive behaviors on endowment land reduce the revenue-generating potential of the land and are costly to mitigate.

This rulemaking implements Senate Bill 1049, passed during the 2023 legislative session to help deter destructive behaviors on endowment land. The new law, Section 58-156, Idaho Code, provides an alternative to heavy handed misdemeanor or felony criminal trespass changes for those who damage endowment land. Instead, it allows POST certified Idaho law enforcement to issue warnings/citations for minor offenses. Under the new law, rulemaking is required before a warning ticket or infraction citation may be written.

The proposed rule creates a targeted approach to curb damage to endowment land. The proposed rule addresses extended camping in one location, trail misuse, blocking access points, dumping, and damaging signs. It requires proper use of roads and trails on endowment land; campfires to be contained within a ring; and adherence to Stage 1 and Stage 2 fire restrictions as listed in the Idaho Fire Restrictions Plan. By regulating recreational use of endowment land, the proposed rule will help deter destructive behavior and preserve the lands' revenue-generating potential for the beneficiaries so endowment land can remain open to the public.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2023, Idaho Administrative Bulletin, [Vol. 23-6, pages 58-59](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Todd Wernex at (208) 334-0282 or [twernex@idl.idaho.gov](mailto:twernex@idl.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2023.

DATED this 29th day of August, 2023.

Todd Wernex, Recreation Program Manager  
Idaho Department of Lands  
300 N. 6th Street, Suite 103  
P.O. Box 83720 Boise, Idaho 83720-0050  
Phone: (208) 334-0282 Fax: (208) 334-3698  
[rulemaking@idl.idaho.gov](mailto:rulemaking@idl.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 20-0501-2301**  
**(New Chapter)**

**20.05.01 – RULES PERTAINING TO THE RECREATIONAL USE OF ENDOWMENT LAND**

**000. LEGAL AUTHORITY.**  
Sections 58-104(6), 58-105, and 58-156, Idaho Code. ( )

**001. SCOPE.**  
These rules govern the closure, restriction, regulation, or prohibition of certain regulated recreational uses on Idaho endowment lands, that are subject to a warning ticket, citation, or misdemeanor pursuant to Idaho Code Section 58-156. Nothing in these rules precludes enforcement under any other applicable state statutes, including enforcement under Sections 18-7031, 18-3906, 18-7012, 18-7001, 18-7008, and 31-4410, Idaho Code. Uses of endowment land authorized by lease or permit are not regulated under this rule. ( )

**002. – 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Camping.** To use a location as a temporary or with the intent to use as a permanent place of dwelling, lodging or living accommodation. Indicators of camping may include, but are not limited to, storing personal belongings, using tents or other temporary structures for storing personal belongings or for sleeping, carrying on cooking activities, laying out bedding or making any fire. ( )

**02. Creation of a Trail or Road.** Modifying the natural condition of the landscape by manipulating rocks, vegetation, soils or other materials to purposely create a travel way. ( )

**03. Department.** The Idaho Department of Lands. ( )

**04. Endowment Lands.** Lands held in trust by the State of Idaho and managed for the benefit of specific endowment beneficiaries. ( )

**011. – 019. (RESERVED)**

**020. REGULATED USES OF ENDOWMENT LAND.**

**01. Camping.** Permanent camping is prohibited. Temporary camping on endowment land is allowed, provided: ( )

**a.** Camping in one location is limited to a total of fourteen (14) days within a period of twenty-eight (28) consecutive days. Continued camping on endowment lands beyond fourteen (14) days is allowed if the camp, all camping equipment, and all personal belongings are moved outside of a five (5) mile radius of the prior site, and if the campers otherwise comply with the requirements of Subsection 20.01. ( )

**b.** Campers must not leave any personal property unattended for more than forty-eight (48) hours; ( )

**c.** The location is not posted as “closed to camping”; and ( )

**d.** Campfires are contained within a ring no wider than three (3) feet in diameter. ( )

**02. Roads and Trails.** Using roads and trails on endowment land is allowed, provided users: ( )

**a.** May not create any roads or trails. ( )

**b.** Follow vehicle width, weight, length, and type limitations. ( )

**c.** Comply with any posted road or trail closures. ( )

**d.** Follow road and trail limitations and closures posted at trailheads, gates, and local Department offices, as shown on maps and the Department website ([www.idl.idaho.gov](http://www.idl.idaho.gov)). ( )

**e.** May not block, obstruct, or interfere with vehicular or pedestrian traffic, with vehicles or by any other means. ( )

**03. Motorized and Mechanized Use.** Motorized and mechanized travel is permitted on department designated roads, trails, and cross-country travel areas. ( )

**04. Gates and Fences.** Blocking gates, fence access points, or livestock handling equipment is prohibited. ( )

**05. Litter.** Depositing any debris, paper, litter, glass bottles, glass, nails, tacks, hooks, hoops, cans, barbed wire, boards, trash, garbage, or other waste substances on endowment land is prohibited. ( )

**a.** When toilet facilities are unavailable, solid human waste must be disposed of at least two hundred (200) feet from water sources, trails, parking areas and campsites. Waste can either be bagged and carried out or buried in a hole at least six (6) inches deep. ( )

**b.** Any construction or placement of restroom facilities must be temporary in nature. All concentrations of solid human waste must be packed out. ( )

**06.** Signs. Interfering with or damaging signs is prohibited. ( )

**07.** Fire Restrictions. Prohibited acts enumerated in the annual Idaho Fire Restrictions Plan for Stage 1 and Stage 2 fire restrictions apply to endowment land. ( )

**021. – 999.** (RESERVED)

The logo for the Idaho Department of Lands is centered on the page. It features a stylized mountain range in shades of green and yellow, with a blue sky and white clouds. A horizontal banner with rounded ends is overlaid on the mountains, containing the text "IDAHO DEPARTMENT OF LANDS" in a bold, white, sans-serif font.

**IDAHO DEPARTMENT OF LANDS**

## IDAPA 20 – IDAHO DEPARTMENT OF LANDS

### 20.05.01 - RULES PERTAINING TO THE RECREATIONAL USE OF ENDOWMENT LAND

#### DOCKET NO. 20-0501-2301 (NEW CHAPTER)

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and the Idaho State Board of Land Commissioners and is now pending review by the 2024 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 58-156 and 58-104(6), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Aside from misdemeanor or felony criminal trespass charges, Idaho Code 58-156 offers a less severe remedy for those who inflict relatively minor damage to endowment land while recreating. Idaho's increasing population has resulted in more people recreating on endowment land and more damage to the land. Allowing POST certified Idaho law enforcement to issue warnings/citations for relatively minor offenses will help discourage destructive behaviors on endowment land which both reduces the revenue generating potential of the land and costs money to remediate. Rulemaking is required under the new law before a warning or infraction ticket may be written.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 4, 2023 Idaho Administrative Bulletin, Vol. 23-10, pages 516-519.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Todd Wernex at (208) 334-0282 or [twernex@idl.idaho.gov](mailto:twernex@idl.idaho.gov).

DATED this 21st day of November, 2023.

Todd Wernex, Recreation Program Manager  
Idaho Department of Lands  
300 N. 6th Street, Suite 103  
P.O. Box 83720  
Boise, Idaho 83720-0050  
Phone: (208) 334-0282  
Fax: (208) 334-3698

# STATE BOARD OF LAND COMMISSIONERS

November 21, 2023

Regular Agenda

## Subject

Adoption of Pending Rule, IDAPA 20.01.01 *Rules of Practice and Procedure Before the State Board of Land Commissioners*

## Question Presented

Shall the Land Board adopt the pending rule for IDAPA 20.01.01?

## Background

The Land Board authorized negotiated rulemaking for IDAPA 20.01.01 at its April 19, 2022 regular meeting. The passage of House Bill 629 during the 2022 legislative session prompted the Department to postpone rulemaking on this rule chapter, until the Office of Administrative Hearings was established. The Land Board reauthorized negotiated rulemaking on March 21, 2023. Following Executive Order 2020-01, Zero-Based Regulation, IDAPA 20.01.01 will be repealed and replaced in 2023 for review during the 2024 legislative session.

The Idaho Department of Lands (Department) administers these rules under the authority of Idaho Code § 58-104 State Land Board – Powers and Duties and Idaho Code § 67-5206(2)(b) – Promulgation of Rules Implementing Administrative Procedure Act. IDAPA 20.01.01 governs the practice and procedure in contested cases before the State Board of Land Commissioners (Land Board) and the Idaho Department of Lands (Department); it protects citizens' due process rights.

## Discussion

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

- Published the Notice of Negotiated Rulemaking in the Idaho Administrative Bulletin on May 3, 2023.
- Created a rulemaking webpage to post documents, scheduling information, and comments.
- Issued a press release.
- Posted rulemaking notices to Townhall Idaho.
- Emailed 2,153 interested parties to participate in this rulemaking via email and SMS/text messaging.
- Posted on social media.



Negotiated rulemaking meetings were held in Boise on May 10 and May 17, 2023. A total of 10 non-Department affiliated people attended these meetings. No written comments were received. A summary of the negotiated rulemaking is included as Attachment 1.

The proposed rule was published in the August 2, 2023 Administrative Bulletin. The Notice of Proposed Rulemaking is in Attachment 2. No comments were received during proposed rulemaking.

Upon further review, section 004, previously added, was removed due to redundancy with statute. Attachment 3 has the draft Pending Rule consisting of the Proposed Rule with the engrossed changes highlighted in yellow.

The proposed rule seeks to solve the need for a structured and consistent process for contested cases. The current rules are lengthy and replicate rules already codified elsewhere, making them less transparent and efficient. The proposed rule significantly reduces regulatory volume with a 95 percent net reduction in word count, and a 97.7 percent net reduction in restrictive word count. This proposed rule incorporates by reference rules under development by the Office of Administrative Hearings.

If approved by the Land Board, the Department will submit the Notice of Adoption of Pending Rule (Attachment 4) to the Office of the Administrative Rules Coordinator for the 2024 legislative session.

### **Recommendation**

Adopt the pending rule for IDAPA 20.01.01 *Rules of Practice and Procedure Before the State Board of Land Commissioners*.

### **Board Action**

### **Attachments**

1. Summary of Negotiated Rulemaking
2. Notice of Proposed Rulemaking
3. Draft Pending Rule
4. Draft Notice of Adoption of Pending Rule



## **IDAPA 20.01.01 – Rules of Practice and Procedure before the State Board Land Commissioners.**

### **Summary of Negotiated Rulemaking**

The Negotiated Rulemaking meetings held on May 10, 2023, and May 17, 2023, were focused on the Rules of Practice and Procedure Before the State Board of Land Commissioners (IDAPA 20.01.01). These meetings were facilitated by Scott Phillips, Policy and Communications Chief of the Idaho Department of Lands (IDL), and their purpose was to gather public comments and feedback on the proposed changes to the rule.

During the May 10 meeting, attendees discussed the Governor's Zero-Based Regulation initiative, which involves a comprehensive review of rules every five years, aiming to replace five or 20% of the rules annually. The primary objectives were to streamline language, reduce word count, and align the rules with the initiative. Scott Phillips presented an overview of the rulemaking process and explained the recommended changes to the rules. The focus of the meeting was on IDAPA 20.01.01, and the department took a proactive approach to streamline the language and reduce word count by incorporating certain rules by reference, specifically the Attorney General's rules.

A significant topic of discussion was the recent passing of House Bill 629 during the 2022 legislative session, which established the Idaho Office of Administrative Hearings. This new office is responsible for handling all contested cases for state agencies and is in the process of developing rules that will eventually replace the Attorney General's rules. Currently, the Attorney General's rules apply automatically to state agencies unless they actively exempt themselves. However, they will eventually be substituted by the rules of the Idaho Office of Administrative Hearings.

Participants engaged in a detailed comparison between the existing rules and the Attorney General's rules, with a specific focus on Chapter 20.01.01. The goal was to eliminate redundant language and align the rules with identical wording in the Idaho Administrative Rules. Several important deadlines were highlighted during the meeting, including a second public meeting scheduled for May 17, the deadline for public comments during the negotiated rulemaking phase on May 31, and the request to the Governor's Division of Financial Management for publication in the August Bulletin by June 23. The proposed



rulemaking process was expected to commence on August 2, with the publication of the proposed rule in the Administrative Bulletin, and a written public comment period would begin on August 2 and conclude on August 23, 2023. All updates and information regarding the rulemaking process were made available on the IDL website.

During the meeting, one participant, Mr. Will Tiedemann, inquired about any rules being moved or other changes. The response clarified that the only significant change involved incorporating the Attorney General's rules by reference. The department assured that efforts were being made to ensure the proper implementation of these changes without impacting the due process rights of citizens.

The May 17 meeting continued to gather public comments on the proposed rule changes. Attendees acknowledged that the Attorney General's rules would be considered, but they will be replaced by the Idaho Office of Administrative Hearings rules once promulgated. Abby Delmas and Niko Lustra attended as observers with no comments. The department encouraged participants to review the draft rules available on their website and submit written comments before the deadline.

In conclusion, the Negotiated Rulemaking meetings provided an opportunity for public engagement and discussion on the proposed changes to IDAPA 20.01.01. The focus was on streamlining rules, reducing word count, and ensuring alignment with regulatory initiatives. Participants were encouraged to actively participate in shaping the rulemaking process by providing feedback before the specified deadlines. The Idaho Department of Lands expressed gratitude for the participants' involvement and emphasized the significance of public input in shaping the rules and regulations that govern land usage and management in the state.

## IDAPA 20 – IDAHO DEPARTMENT OF LANDS

### 20.01.01 – RULES OF PRACTICE AND PROCEDURE BEFORE THE STATE BOARD OF LAND COMMISSIONERS

#### DOCKET NO. 20-0101-2301 (ZBR CHAPTER REWRITE)

#### NOTICE OF RULEMAKING – PROPOSED RULE

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

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 16, 2023.

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

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

The Idaho Department of Lands initiated this rulemaking in compliance with [Executive Order 2020-01: Zero-Based Regulation](#). This rule chapter is scheduled for a comprehensive review in 2024 with the goal of simplifying and streamlining the rules for increased clarity and ease of use. The overall regulatory burden has been reduced by decreasing both total word count (-95%) and the number of restrictive words (-97%) in the proposed rule.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 3, 2023 Idaho Administrative Bulletin, [Vol. 23-5, pages 163-164](#).

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

IDAPA 04.11.01, Idaho Rules of Administrative Procedure of the Attorney General, excluding Section 741.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Scott Phillips at (208) 334-0294 or [SPhillips@idl.idaho.gov](mailto:SPhillips@idl.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 23, 2023.

DATED this 6th day of July, 2023.

Scott Phillips, Policy, and Communications Chief  
Idaho Department of Lands  
300 N. 6th St, Suite 103  
P.O. Box 83720  
Boise, Idaho 83720-0050  
Phone: (208) 334-0294  
Fax: (208) 334-3698  
[rulemaking@idl.idaho.gov](mailto:rulemaking@idl.idaho.gov)

**20.01.01 – RULES OF PRACTICE AND PROCEDURE BEFORE  
THE STATE BOARD OF LAND COMMISSIONERS**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Sections 58-104 and 67-5206(5)(b), Idaho Code. (3-31-22)

**001. TITLE AND SCOPE.**

This chapter is titled IDAPA 20.01.01, “Rules of Practice and Procedure Before the State Board of Land Commissioners.” These rules govern the practice and procedure in contested cases before the Board and the Idaho Department of Lands. These rules do not govern practice and procedure during regular or special meetings of the Board. Furthermore, these rules are not intended to create the substantive right to a contested case hearing; any right to a contested case hearing must be established by other provision of law. (3-31-22)

**~~002. DEFINITIONS.~~**

~~As used in this chapter: (3 31 22)~~

~~01. Agency. The state board of land commissioners and the Idaho department of lands. (3 31 22)~~

~~02. Agency Action. Agency action means: (3 31 22)~~

~~a. The whole or part of a rule or order; (3 31 22)~~

~~b. The failure to issue a rule or order; or (3 31 22)~~

~~c. An agency’s performance of, or failure to perform, any duty placed on it by law. (3 31 22)~~

~~03. Agency Head. The state board of land commissioners and the board secretary, the director of the Idaho department of lands. (3 31 22)~~

~~04. Board. The State Board of Land Commissioners. (3 31 22)~~

~~05. Contested Case. A proceeding which results in the issuance of an order. (3-31-22)~~

~~06. Document. Any proclamation, executive order, notice, rule or statement of policy of an agency. (3 31 22)~~

~~07. License. The whole or part of any agency permit, certificate, approval, registration, charter, or similar form of authorization required by law, but does not include a license required solely for revenue purposes. (3 31 22)~~

~~08. Order. An agency action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one (1) or more specific persons. (3 31 22)~~

~~09. Party. Each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party. (3 31 22)~~

~~10. Person. Any individual, partnership, corporation, association, governmental subdivision or agency, or public or private organization or entity of any character. (3-31-22)~~

**~~003. FILING OF DOCUMENTS NUMBER OF COPIES.~~**

~~01. Where to File. In general, all documents in contested cases may be filed with the Board Secretary/Department of Lands Director at the address set forth at if no other officer is designated for the particular proceeding. When a specific officer is designated to receive documents in a particular proceeding, documents may be filed with the designated officer as set forth in the order appointing a hearing officer. (3 31 22)~~

~~02. Number of Copies. An original and five (5) legible copies of all documents shall be filed with the Board in all contested cases wherein a hearing officer has not been appointed by the Board. If a hearing officer has been appointed to hear a contested case, then one (1) original and one (1) legible copy of all documents shall be filed with the hearing officer. (3-31-22)~~

~~004. 049. (RESERVED)~~

**05002. PROCEEDINGS GOVERNED.**

**01. Contested Case.** ~~Sections 100 through 780~~ **These rules** govern procedure before the Board in contested cases, unless otherwise provided by statute, rule, notice or order of the Board. ~~(3-31-22)~~ ( )

**02. Other Specified Procedures.** Where another statute or rule requires specific procedures in a contested case before the Board, such other procedures will preempt these rules to the extent that these rules conflict with the other procedures. To the extent the other statute or rule does not address any matter of practice and procedure set forth in these rules, however, these rules shall govern. (3-31-22)

**03. Rules Not Applicable to Board Meetings.** These rules do not govern practice and procedure before regular or special Board meetings. Board meetings are conducted informally and are not contested case hearings. A person who is dissatisfied with any decision of the Board may apply to appear before and be heard by the Board. Such appearances are informal and minutes will be taken and recorded the same as for regular Board meetings, unless application is made for a contested case hearing. A contested case hearing is available ~~only where~~ **when** authorized by statute. ~~See Subsection 104.02. (3-31-22)~~ ( )

~~04. Rules Not Applicable to Proceedings or Public Hearings. These rules do not govern proceedings in any public comment hearing that the Board may direct for the purpose of taking public comment on any matter. (3-31-22)~~

**051. REFERENCE TO AGENCY.**

~~Reference to the agency in these rules includes the Board and its Secretary, the Director of the Department of Lands, the hearing officer appointed by the agency, or the presiding officer, as context requires. Reference to the agency head means to the Board and its Secretary, the Director of the Department of Lands, as context requires, or such other officer designated by the agency head to review recommended or preliminary orders. (3-31-22)~~

**052. LIBERAL CONSTRUCTION.**

~~The rules in this chapter will be liberally construed to secure just, speedy and economical determination of all issues presented to the agency. Unless prohibited by statute, the agency may permit deviation from these rules when it finds that compliance with them is impracticable, unnecessary or not in the public interest. Unless required by statute, the Idaho Rules of Civil Procedure and the Idaho Rules of Evidence do not apply to contested case proceedings conducted before the agency. (3-31-22)~~

**053. COMMUNICATIONS WITH AGENCY.**

~~All written communications and documents that are intended to be part of an official record for a decision in a contested case must be filed with the Board's Secretary/Director of the Department of Lands, or such officer appointed by the Board. Unless otherwise provided by statute, rule, order or notice, documents are considered filed when received by the officer designated to receive them, not when mailed. (3-31-22)~~

**054. IDENTIFICATION OF COMMUNICATIONS.**

~~Parties' communications addressing or pertaining to a given proceeding must be written under that proceeding's case caption and case number. General communications by other persons should refer to case captions, case numbers, permit or license numbers, or the like, if this information is known. (3-31-22)~~

**055. SERVICE BY AGENCY.**

~~Unless otherwise provided by statute or these rules, the officer designated by the agency to serve rules, notices, summonses, complaints, and orders issued by the agency may serve these documents by certified mail, return receipt~~

~~requested, to a party's last known mailing address or by personal service. Unless otherwise provided by statute, these rules, order or notice, service of orders and notices is complete when a copy, properly addressed and stamped, is deposited in the United States mail or the Statehouse mail, if the party is a state employee or state agency. The officer designated by the agency to serve documents in a proceeding must serve all orders and notices in a proceeding on the representatives of each party designated pursuant to these rules for that proceeding and upon other persons designated by these rules or by the agency. (3-31-22)~~

~~**056. — COMPUTATION OF TIME.**~~

~~Whenever statute, these or other rules, order, or notice requires an act to be done within a certain number of days of a given day, the given day is not included in the count. If the day the act must be done is Saturday, Sunday or a legal holiday, the act may be done on the first day following that is not Saturday, Sunday or a legal holiday. (3-31-22)~~

~~**057. — FEES AND REMITTANCES.**~~

~~Fees and remittances to the agency must be paid by money order, bank draft or check payable to agency. Remittances in currency or coin are wholly at the risk of the remitter, and the agency assumes no responsibility for their loss. (3-31-22)~~

~~**058. — 099. — (RESERVED)**~~

~~**100. — INFORMAL PROCEEDINGS DEFINED.**~~

~~Informal proceedings are proceedings in contested cases authorized by statute, rule or order of the agency to be conducted using informal procedures, i.e., procedures without a record to be preserved for later agency or judicial review, without the necessity of representation according to Section 202, without formal designation of parties, without the necessity of hearing examiners or other presiding officers, or without other formal procedures required by these rules for formal proceedings. Unless prohibited by statute, an agency may provide that informal proceedings may precede formal proceedings in the consideration of a rulemaking or a contested case. (3-31-22)~~

~~**101. — INFORMAL PROCEDURE.**~~

~~Statute authorizes and these rules encourage the use of informal proceedings to settle or determine contested cases. Unless prohibited by statute, the agency may provide for the use of informal procedure at any stage of a contested case. Informal procedure may include individual contacts by or with the agency staff asking for information, advice or assistance from the agency staff, or proposing informal resolution of formal disputes under the law administered by the agency. Informal procedures may be conducted in writing, by telephone or television, or in person. (3-31-22)~~

~~**102. — FURTHER PROCEEDINGS.**~~

~~If statute provides that informal procedures shall be followed with no opportunity for further formal administrative review, then no opportunity for later formal administrative proceedings must be offered following informal proceedings. Otherwise, except as provided in Section 103, any person participating in an informal proceeding must be given an opportunity for a later formal administrative proceeding before the agency, if such person is entitled to a contested case hearing, at which time the parties may fully develop the record before the agency. (3-31-22)~~

~~**103. — INFORMAL PROCEEDINGS DO NOT EXHAUST ADMINISTRATIVE REMEDIES.**~~

~~Unless all parties agree to the contrary in writing, informal proceedings do not substitute for formal proceedings and do not exhaust administrative remedies, and informal proceeding are conducted without prejudice to the right of the parties to present the matter formally to the agency. Settlement offers made in the course of informal proceedings are confidential. (3-31-22)~~

~~**104. — FORMAL PROCEEDINGS.**~~

~~**01. — Initiation of Proceedings.** Formal proceedings, which are governed by rules of procedure other than Sections 100 through 103, must be initiated by a document (generally a notice, order or complaint if initiated by the agency) or another pleading listed in Sections 220 through 260 if initiated by another person. Formal proceedings may be initiated by a document from the agency informing the party(ies) that the agency has reached an informal determination that will become final in the absence of further action by the person to whom the correspondence is addressed, provided that the document complies with the requirements of Sections 210 through 280. Formal proceedings can be initiated by the same document that initiates informal proceedings. (3-31-22)~~

**024. Right to Contested Case, Board Discretion.** ~~Formal proceedings may be initiated by a party only where such party is given the statutory right to a contested case hearing.~~ The Board may, in its discretion, direct that a contested case hearing be held in a contested case, or on any matter. The Board may, in its discretion, deny any request for a contested case hearing on any matter that is not a contested case. (3-31-22)( )

**05. Rules Not Applicable to Proceedings or Public Hearings.** These rules do not govern proceedings in any public comment hearing that the Board may direct for the purpose of taking public comment on any matter. ( )

**003. OPT OUT OF ATTORNEY GENERAL'S RULES - TABLE.**

The Board declines to adopt the following Idaho Rules of Administrative Procedure of the Attorney General, IDAPA 04.11.01 as follows for the reasons listed:

Rules Promulgated by the Office of the Attorney General will be followed except the following section of IDAPA 04.11.01 will be excluded:

741: Idaho Department of Lands has no authority to award costs or attorney fees.

~~105. 149. (RESERVED)~~ ( )

**150. PARTIES TO CONTESTED CASES LISTED.**

Parties to contested cases before the agency are called applicants or claimants or appellants, petitioners, complainants, respondents, protestants, or intervenors. On reconsideration or appeal within the agency parties are called by their original titles listed in the previous sentence. (3-31-22)

**151. APPLICANTS/CLAIMANTS/APPELLANTS.**

~~Persons who seek any right, license, award or authority from the agency are called "applicants" or "claimants" or "appellants."~~ (3-31-22)

**152. PETITIONERS.**

~~Persons not applicants who seek to modify, amend or stay existing orders or rules of the agency, to clarify their rights or obligations under law administered by the agency, to ask the agency to initiate a contested case (other than an application or complaint), or to otherwise take action that will result in the issuance of an order or rule, are called "petitioners."~~ (3-31-22)

**153. COMPLAINANTS.**

~~Persons who charge other person(s) with any act or omission are called "complainants." In any proceeding in which the agency itself charges a person with an act or omission, the agency is called "complainant."~~ (3-31-22)

**154. RESPONDENTS.**

~~Persons against whom complaints are filed or about whom investigations are initiated are called "respondents."~~ (3-31-22)

**155. PROTESTANTS.**

~~Persons who oppose an application or claim or appeal and who have a statutory right to contest the right, license, award or authority sought by an applicant or claimant or appellant are called "protestants."~~ (3-31-22)

**156. INTERVENORS.**

~~Persons, not applicants or claimants or appellants, complainants, respondents, or protestants to a proceeding, who are permitted to participate as parties pursuant to Sections 350 through 354 are called "intervenors."~~ (3-31-22)



~~157. — RIGHTS OF PARTIES AND OF AGENCY STAFF.~~

~~Subject to Sections 558, 560, and 600, all parties and agency staff may appear at hearing or argument, introduce evidence, examine witnesses, make and argue motions, state positions, and otherwise fully participate in hearings or arguments. (3-31-22)~~

~~158. — PERSONS DEFINED — PERSONS NOT PARTIES — INTERESTED PERSONS.~~

~~The term “person” includes natural persons, partnerships, corporations, associations, municipalities, government entities and subdivisions, and any other entity authorized by law to participate in the administrative proceeding. Persons other than the persons named in Sections 151 through 156 are not parties for the purpose of any statute or rule addressing rights or obligations of parties to a contested case. In kinds of proceedings in which persons other than the applicant or claimant or appellant, petitioner, complainant, or respondent would be expected to have an interest, persons may request the agency in writing that they be notified when proceedings of that kind are initiated. These persons are called “Interested Persons.” Interested persons may become protestants, intervenors or public witnesses. The agency must serve notice of such proceedings on all interested persons. (3-31-22)~~

~~159. — 199. — (RESERVED)~~

~~200. — INITIAL PLEADING BY PARTY — LISTING OF REPRESENTATIVES.~~

~~The initial pleading of each party at the formal stage of a contested case (be it an application or claim or appeal, petition, complaint, protest, motion, or answer) must name the party’s representative(s) for service and state the representative’s (s’) address(es) for purposes of receipt of all official documents. Service of documents on the named representative (s) is valid service upon the party for all purposes in that proceeding. If no person is explicitly named as the party’s representative, the person signing the pleading will be considered the party’s representative. (3-31-22)~~

~~201. — TAKING OF APPEARANCES — PARTICIPATION BY AGENCY STAFF.~~

~~The presiding officer at a formal hearing or prehearing conference will take appearances to identify the representatives of all parties or other persons. In all proceedings in which the agency staff will participate, or any report or recommendation of the agency staff (other than a recommended order or preliminary order prepared by a hearing officer) will be considered or used in reaching a decision, at the timely request of any party the agency staff must appear at any hearing and participate in the same manner as a party. (3-31-22)~~

~~202. — REPRESENTATION OF PARTIES AT HEARING.~~

~~01. — Appearances and Representation. To the extent authorized or required by law, appearances and representation of parties or other persons at formal hearing or prehearing conference must be as follows: (3-31-22)~~

~~a. — Natural person. A natural person may represent himself or herself or be represented by a duly authorized employee, attorney, family member, or next friend. (3-31-22)~~

~~b. — A partnership may be represented by a partner, duly authorized employee, or attorney. (3-31-22)~~

~~c. — A corporation may be represented by an officer, duly authorized employee, or attorney. (3-31-22)~~

~~d. — A municipal corporation, local government agency, unincorporated association or nonprofit organization may be represented by an officer, duly authorized employee, or attorney. (3-31-22)~~

~~02. — Representatives. The representatives of parties at hearing, and no other persons or parties appearing before the agency, are entitled to examine witnesses and make or argue motions. (3-31-22)~~

~~203. — SERVICE ON REPRESENTATIVES OF PARTIES AND OTHER PERSONS.~~

~~From the time a party files its initial pleading in a contested case, that party must serve and all other parties must serve all future documents intended to be part of the agency record upon all other parties’ representatives designated pursuant to Section 200, unless otherwise directed by order or notice or by the presiding officer on the record. The presiding officer may order parties to serve past documents filed in the case upon those representatives. The presiding officer may order parties to serve past or future documents filed in the case upon persons not parties to the proceedings~~

before the agency. (3-31-22)

**204. WITHDRAWAL OF PARTIES.**

Any party may withdraw from a proceeding in writing or at hearing. (3-31-22)

**205. SUBSTITUTION OF REPRESENTATIVE—WITHDRAWAL OF REPRESENTATIVE.**

A party's representative may be changed and a new representative may be substituted by notice to the agency and to all other parties so long as the proceedings are not unreasonably delayed. The presiding officer at hearing may permit substitution of representatives at hearing in the presiding officer's discretion. Persons representing a party who wish to withdraw their representation of a party in a proceeding before the agency must immediately file in writing a notice of withdrawal of representation and serve that notice on the party represented and all other parties.

(3-31-22)

**206. CONDUCT REQUIRED.**

Representatives of parties and parties appearing in a proceeding must conduct themselves in an ethical and courteous manner. (3-31-22)

**207. 209. (RESERVED)**

**210. PLEADINGS LISTED—MISCELLANEOUS.**

Pleadings in contested cases are called applications or claims or appeals, petitions, complaints, protests, motions, answers, and consent agreements. Affidavits or declarations under penalty of perjury may be filed in support of any pleading. A party's initial pleading in any proceeding must comply with Section 200, but the presiding officer may allow documents filed during informal stages of the proceeding to be considered a party's initial pleading without the requirement of resubmission to comply with this rule. All pleadings filed during the formal stage of a proceeding must be filed in accordance with Sections 300 through 303. A party may adopt or join any other party's pleading. Two (2) or more separately stated grounds, claims or answers concerning the same subject matter may be included in one (1) pleading. (3-31-22)

**211. 219. (RESERVED)**

**220. APPLICATIONS/CLAIMS/APPEALS—DEFINED—FORM AND CONTENTS.**

All pleadings requesting a right, license, award or authority from the agency are called "applications" or "claims" or "appeals." Applications or claims or appeals must: (3-31-22)

**01. Facts.** Fully state the facts upon which they are based. (3-31-22)

**02. Refer to Provisions.** Refer to the particular provisions of statute, rule, order, or other controlling law upon which they are based. (3-31-22)

**03. Other.** State the right, license, award, or authority sought. (3-31-22)

**221. 229. (RESERVED)**

**230. PETITIONS—DEFINED—FORM AND CONTENTS.**

**01. Pleadings Defined.** All pleadings requesting the following are called "petitions": (3-31-22)

**a.** Modification, amendment or stay of existing orders or rules; (3-31-22)

**b.** Clarification, declaration or construction of the law administered by the agency or of a party's rights or obligations under law administered by the agency; (3-31-22)

**c.** The initiation of a contested case not an application, claim or complaint or otherwise taking action that will lead to the issuance of an order or a rule; (3-31-22)

- ~~\_\_\_\_\_ d. Rehearing; or \_\_\_\_\_ (3-31-22)~~
- ~~\_\_\_\_\_ e. Intervention. \_\_\_\_\_ (3-31-22)~~
- ~~\_\_\_\_\_ 02. Petitions. Petitions must: \_\_\_\_\_ (3-31-22)~~
- ~~\_\_\_\_\_ a. Fully state the facts upon which they are based; \_\_\_\_\_ (3-31-22)~~
- ~~\_\_\_\_\_ b. Refer to the particular provisions of statute, rule, order or other controlling law upon which they are based; \_\_\_\_\_ (3-31-22)~~
- ~~\_\_\_\_\_ c. State the relief desired; and \_\_\_\_\_ (3-31-22)~~
- ~~\_\_\_\_\_ d. State the name of the person petitioned against (the respondent), if any. \_\_\_\_\_ (3-31-22)~~

~~231. 239. (RESERVED)~~

~~240. COMPLAINTS DEFINED FORM AND CONTENTS.~~

- ~~\_\_\_\_\_ 01. Defined. All pleadings charging other person(s) with acts or omissions under law administered by the agency are called "complaints." \_\_\_\_\_ (3-31-22)~~
- ~~\_\_\_\_\_ 02. Form and Contents. Complaints must: \_\_\_\_\_ (3-31-22)~~
- ~~\_\_\_\_\_ a. Be in writing; \_\_\_\_\_ (3-31-22)~~
- ~~\_\_\_\_\_ b. Fully state the acts or things done or omitted to be done by the persons complained against by reciting the facts constituting the acts or omissions and the dates when they occurred; \_\_\_\_\_ (3-31-22)~~
- ~~\_\_\_\_\_ c. Refer to statutes, rules, orders or other controlling law involved; \_\_\_\_\_ (3-31-22)~~
- ~~\_\_\_\_\_ d. State the relief desired; and \_\_\_\_\_ (3-31-22)~~
- ~~\_\_\_\_\_ e. State the name of the person complained against (the respondent). \_\_\_\_\_ (3-31-22)~~

~~241. 249. (RESERVED)~~

~~250. PROTESTS DEFINED FORM AND CONTENTS TIME FOR FILING.~~

- ~~\_\_\_\_\_ 01. Defined. All pleadings opposing an application or claim or appeal as a matter of right are called "protests." \_\_\_\_\_ (3-31-22)~~
- ~~\_\_\_\_\_ 02. Form and Contents, Time for Filing. Protests must: \_\_\_\_\_ (3-31-22)~~
- ~~\_\_\_\_\_ a. Fully state the facts upon which they are based, including the protestant's claim of right to oppose the application or claim; \_\_\_\_\_ (3-31-22)~~
- ~~\_\_\_\_\_ b. Refer to the particular provisions of statute, rule, order or other controlling law upon which they are based; and \_\_\_\_\_ (3-31-22)~~
- ~~\_\_\_\_\_ c. State any proposed limitation (or the denial) of any right, license, award or authority sought in the application. \_\_\_\_\_ (3-31-22)~~

~~251. 259. (RESERVED)~~

~~260. MOTIONS DEFINED FORM AND CONTENTS TIME FOR FILING.~~

~~01. Defined. All other pleadings requesting the agency to take any other action in a contested case, except consent agreements or pleadings specifically answering other pleadings, are called “motions.” (3-31-22)~~

~~02. Form and Contents. Motions must: (3-31-22)~~

~~a. Fully state the facts upon they are based; (3-31-22)~~

~~b. Refer to the particular provision of statute, rule, order, notice, or other controlling law upon which they are based; and (3-31-22)~~

~~c. State the relief sought. (3-31-22)~~

~~03. Other. If the moving party desires oral argument or hearing on the motion, it must state so in the motion. Any motion to dismiss, strike or limit an application or claim or appeal, complaint, petition, or protest must be filed before the answer is due or be included in the answer, if the movant is obligated to file an answer. If a motion is directed to an answer, it must be filed within fourteen (14) days after service of the answer. Other motions may be filed at any time upon compliance with Section 565. (3-31-22)~~

~~261. 269. (RESERVED)~~

~~270. ANSWERS DEFINED FORM AND CONTENTS TIME FOR FILING.~~

~~All pleadings responding to the allegations or requests of applications or claims or appeals, complaints, petitions, protests, or motions are called “answers.” (3-31-22)~~

~~01. Answers to Pleadings Other Than Motions. Answers to applications, claims, or appeals, complaints, petitions, or protests must be filed and served on all parties of record within twenty one (21) days after service of the pleading being answered, unless order or notice modifies the time within which answer may be made, or a motion to dismiss is made within twenty one (21) days. When an answer is not timely filed under this rule, the presiding officer may issue a notice of default against the respondent pursuant to Section 700. Answers to applications or claims, complaints, petitions, or protests must admit or deny each material allegation of the applications or claims, complaint, petition or protest. Any material allegation not specifically admitted shall be considered to be denied. Matters alleged by cross complaint or affirmative defense must be separately stated and numbered. (3-31-22)~~

~~02. Answers to Motions. Answers to motions may be filed by persons or parties who are the object of a motion or by parties opposing a motion. The person or party answering the motion must do so with all deliberate and reasonable speed. In no event is a party entitled to more than fourteen (14) days to answer a motion or to move for additional time to answer. The presiding officer may act upon a prehearing motion under Section 565. (3-31-22)~~

~~271. 279. (RESERVED)~~

~~280. CONSENT AGREEMENTS DEFINED FORM AND CONTENTS.~~

~~Agreements between the agency or agency staff and another person(s) in which one or more person(s) agree to engage in certain conduct mandated by statute, rule, order, case decision, or other provision of law, or to refrain from engaging in certain conduct prohibited by statute, rule, order, case decision, or other provision of law, are called “consent agreements.” Consent agreements are intended to require compliance with existing law. (3-31-22)~~

~~01. Requirements. Consent agreements must: (3-31-22)~~

~~a. Recite the parties to the agreement; and (3-31-22)~~

~~b. Fully state the conduct proscribed or prescribed by the consent agreement. (3-31-22)~~

~~02. Additional. In addition, consent agreements may: (3-31-22)~~

- ~~\_\_\_\_\_ a. \_\_\_\_\_ Recite the consequences of failure to abide by the consent agreement; \_\_\_\_\_ (3-31-22)~~
- ~~\_\_\_\_\_ b. \_\_\_\_\_ Provide for payment of civil or administrative penalties authorized by law; \_\_\_\_\_ (3-31-22)~~
- ~~\_\_\_\_\_ c. \_\_\_\_\_ Provide for loss of rights, licenses, awards or authority; \_\_\_\_\_ (3-31-22)~~
- ~~\_\_\_\_\_ d. \_\_\_\_\_ Provide for other consequences as agreed to by the parties; and \_\_\_\_\_ (3-31-22)~~
- ~~\_\_\_\_\_ e. \_\_\_\_\_ Provide that the parties waive all further procedural rights (including hearing, consultation with counsel, etc.) with regard to enforcement of the consent agreement. \_\_\_\_\_ (3-31-22)~~

~~281. 299. (RESERVED)~~

~~**300. FILING DOCUMENTS WITH THE AGENCY NUMBER OF COPIES FACSIMILE TRANSMISSION (FAX).**~~

~~An original and necessary copies (if any are required by the agency) of all documents intended to be part of an agency record must be filed with the officer designated by the agency to receive filing in the case. Pleadings and other documents not exceeding ten (10) pages in length requiring urgent or immediate action may be filed by facsimile transmission (FAX) if the agency's individual rule of practice lists a FAX number for that agency. Whenever any document is filed by FAX, if possible, originals must be delivered by overnight mail the next working day. \_\_\_\_\_ (3-31-22)~~

~~**301. FORM OF PLEADINGS.**~~

~~\_\_\_\_\_ **01. Pleadings.** All pleadings submitted by a party and intended to be part of an agency record must: \_\_\_\_\_ (3-31-22)~~

~~\_\_\_\_\_ a. \_\_\_\_\_ Be submitted on white, eight and one half by eleven inch (8 1/2" x 11") paper copied on one (1) side only; \_\_\_\_\_ (3-31-22)~~

~~\_\_\_\_\_ b. \_\_\_\_\_ State the case caption, case number and title of the document; \_\_\_\_\_ (3-31-22)~~

~~\_\_\_\_\_ c. \_\_\_\_\_ Include on the upper left corner of the first page the name(s), mailing and street address(es), and telephone and FAX number(s) of the person(s) filing the document or the person(s) to whom questions about the document can be directed; and \_\_\_\_\_ (3-31-22)~~

~~\_\_\_\_\_ d. \_\_\_\_\_ Have at least one inch (1") left and top margins. \_\_\_\_\_ (3-31-22)~~

~~\_\_\_\_\_ **02. Form.** Documents complying with this rule will be in the following form: \_\_\_\_\_ (3-31-22)~~

~~**302. SERVICE ON PARTIES AND OTHER PERSONS.**~~

~~All documents intended to be part of the agency record for decision must be served upon the representatives of each party of record concurrently with filing with the officer designated by the agency to receive filings in the case. When a document has been filed by FAX, it must be served upon all other parties with FAX facilities by FAX and upon the remaining parties by overnight mail, hand delivery, or the next best available service if these services are not available. The presiding officer may direct that some or all of these documents be served on interested or affected persons who are not parties. \_\_\_\_\_ (3-31-22)~~

~~**303. PROOF OF SERVICE.**~~

~~Every document filed with and intended to be part of the agency record must be attached to or accompanied by proof of service by the following or similar certificate: \_\_\_\_\_ (3-31-22)~~

~~304.— DEFECTIVE, INSUFFICIENT OR LATE PLEADINGS.  
Defective, insufficient or late pleadings may be returned or dismissed. (3-31-22)~~

~~305.— AMENDMENTS TO PLEADINGS — WITHDRAWAL OF PLEADINGS.  
The presiding officer may allow any pleading to be amended or corrected or any omission to be supplied. Pleadings will be liberally construed, and defects that do not affect substantial rights of the parties will be disregarded. A party desiring to withdraw a pleading must file a notice of withdrawal of the pleading and serve all parties with a copy. Unless otherwise ordered by the presiding officer, the notice is effective fourteen (14) days after filing. (3-31-22)~~

~~306.— 349.— (RESERVED)~~

~~350.— ORDER GRANTING INTERVENTION NECESSARY.  
Persons not applicants or claimants or appellants, petitioners, complainants, protestants, or respondents to a proceeding who claim a direct and substantial interest in the proceeding may petition for an order from the presiding officer granting intervention to become a party. (3-31-22)~~

~~351.— FORM AND CONTENTS OF PETITIONS TO INTERVENE.  
Petitions to intervene must comply with Sections 200 and 300 through 303. The petition must set forth the name and address of the potential intervenor and must state the direct and substantial interest of the potential intervenor in the proceeding. If affirmative relief is sought, the petition must state the relief sought and the basis for granting it. (3-31-22)~~

~~352.— TIMELY FILING OF PETITIONS TO INTERVENE.  
Petitions to intervene must be filed at least fourteen (14) days before the date set for formal hearing or prehearing conference, whichever is earlier, unless a different time is provided by order or notice. Petitions not timely filed must state a substantial reason for delay. The presiding officer may deny or conditionally grant petitions to intervene that are not timely filed for failure to state good cause for untimely filing, to prevent disruption, prejudice to existing parties or undue broadening of the issues, or for other reasons. Intervenor who do not file timely petitions are bound by orders and notices earlier entered as a condition of granting the untimely petition. (3-31-22)~~

~~353.— GRANTING PETITIONS TO INTERVENE.  
If a petition to intervene shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues, the presiding officer will grant intervention, subject to reasonable conditions. If it appears that an intervenor has no direct or substantial interest in the proceeding, the presiding officer may dismiss the intervenor from the proceeding. (3-31-22)~~

~~354.— ORDERS GRANTING INTERVENTION — OPPOSITION.  
No order granting a petition to intervene will be acted upon fewer than seven (7) days after its filing, except in a hearing in which any party may be heard. Any party opposing a petition to intervene by motion must file the motion within seven (7) days after receipt of the petition to intervene and serve the motion upon all parties of record and upon the person petitioning to intervene. (3-31-22)~~

~~355.— PUBLIC WITNESSES.  
Persons not parties and not called by a party who testify at hearing are called “public witnesses.” Public witnesses do not have parties’ rights to examine witnesses or otherwise participate in the proceedings as parties. Public witnesses’ written or oral statements and exhibits are subject to examination and objection by parties. Subject to Sections 558 and 560, public witnesses have a right to introduce evidence at hearing by their written or oral statements and exhibits introduced at hearing, except that public witnesses offering expert opinions at hearing or detailed analysis or detailed exhibits must comply with Section 530 with regard to filing and service of testimony and exhibits to the same extent as expert witnesses of parties. (3-31-22)~~

~~356.— 399.— (RESERVED)~~

~~400.— FORM AND CONTENTS OF PETITION FOR DECLARATORY RULINGS.  
Any person petitioning for a declaratory ruling on the applicability of a statute, rule or order administered by the agency must substantially comply with this rule. (3-31-22)~~

- ~~01. Form. The petition shall: (3-31-22)~~
- ~~a. Identify the petitioner and state the petitioner's interest in the matter; (3-31-22)~~
- ~~b. State the declaratory ruling that the petitioner seeks; and (3-31-22)~~
- ~~c. Indicate the statute, order, rule, or other controlling law, and the factual allegations upon which the petitioner relies to support the petition. (3-31-22)~~
- ~~02. Legal Assertions. Legal assertions in the petition may be accompanied by citations of cases and/or statutory provisions. (3-31-22)~~

~~401. NOTICE OF PETITION FOR DECLARATORY RULING.~~

~~Notice of petition for declaratory ruling may be issued in a manner designed to call its attention to persons likely to be interested in the subject matter of the petition. (3-31-22)~~

~~402. PETITIONS FOR DECLARATORY RULINGS TO BE DECIDED BY ORDER.~~

~~01. Final Agency Action. The agency's decision on a petition for declaratory ruling on the applicability of any statute, rule, or order administered by the agency is a final agency action decided by order. (3-31-22)~~

~~02. Content. The order issuing the declaratory ruling shall contain or must be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (3-31-22)~~

~~a. This is a final agency action issuing a declaratory ruling. (3-31-22)~~

~~b. Pursuant to Sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by this declaratory ruling may appeal to district court by filing a petition in the District Court in the county in which: (3-31-22)~~

~~i. A hearing was held; (3-31-22)~~

~~ii. The declaratory ruling was issued; (3-31-22)~~

~~iii. The party appealing resides; or (3-31-22)~~

~~iv. The real property or personal property that was the subject of the declaratory ruling is attached. (3-31-22)~~

~~c. This appeal must be filed within twenty-eight (28) days of the service date of this declaratory ruling. See Section 67-5273, Idaho Code. (3-31-22)~~

~~403. 409. (RESERVED)~~

~~410. APPOINTMENT OF HEARING OFFICERS.~~

~~A hearing officer is a person other than the agency head appointed to hear contested cases on behalf of the agency. Unless otherwise provided by statute or rule, hearing officers may be employees of the agency or independent contractors. Hearing officers may be (but need not be) attorneys. Hearing officers who are not attorneys should ordinarily be persons with technical expertise or experience in issues before the agency. The appointment of a hearing officer is a public record available for inspection, examination and copying. (3-31-22)~~

~~411. HEARING OFFICERS CONTRASTED WITH AGENCY HEAD.~~

~~Agency heads are not hearing officers, even if they are presiding at contested cases. The term "hearing officer" as used in these rules refers only to officers subordinate to the agency head. (3-31-22)~~

~~412. — DISQUALIFICATION OF OFFICERS HEARING CONTESTED CASES.~~

~~Pursuant to Section 67-5252, Idaho Code, hearing officers are subject to disqualification for bias, prejudice, interest, substantial prior involvement in the case other than as a presiding officer, status as an employee of the agency, lack of professional knowledge in the subject matter of the contested case, or any other reason provided by law or for any cause for which a judge is or may be disqualified. Any party may promptly petition for the disqualification of a hearing officer after receiving notice that the officer will preside at a contested case or upon discovering facts establishing grounds for disqualification, whichever is later. Any party may assert a blanket disqualification for cause of all employees of the agency hearing the contested case, other than the agency head, without awaiting the designation by a presiding officer. A hearing officer whose disqualification is requested shall determine in writing whether to grant the petition for disqualification, stating facts and reasons for the hearing officer's determination. Disqualification of agency heads, if allowed, will be pursuant to Sections 74-704 and 67-5252(4), Idaho Code.~~

~~(3-31-22)~~

~~413. — SCOPE OF AUTHORITY OF HEARING OFFICERS.~~

~~The scope of hearing officers' authority may be restricted in the appointment by the agency.~~ (3-31-22)

~~01. — Scope of Authority. Unless the agency otherwise provides, hearing officers have the standard scope of authority, which is:~~ (3-31-22)

~~a. — Authority to schedule cases assigned to the hearing officer, including authority to issue notices of prehearing conference and of hearing, as appropriate;~~ (3-31-22)

~~b. — Authority to schedule and compel discovery, when discovery is authorized before the agency, and to require advance filing of expert testimony, when authorized before the agency;~~ (3-31-22)

~~c. — Authority to preside at and conduct hearings, accept evidence into the record, rule upon objections to evidence, and otherwise oversee the orderly presentations of the parties at hearing; and~~ (3-31-22)

~~d. — Authority to issue a written decision of the hearing officer, including a narrative of the proceedings before the hearing officer and recommended findings of fact, conclusions of law, and recommended or preliminary orders by the hearing officer.~~ (3-31-22)

~~02. — Limitation. The hearing officer's scope of authority may be limited from the standard scope, either in general, or for a specific proceeding. For example, the hearing officer's authority could be limited to scope iii (giving the officer authority only to conduct hearing), with the agency retaining all other authority. Hearing officers can be given authority with regard to the agency's rules as provided in Section 416.~~ (3-31-22)

~~03. — Final Decision by Board. All final decisions in contested cases will be made by the Board. A hearing officer will only issue recommended findings of fact, conclusions of law, and orders to the Board, and the Board will make the final decision to adopt, modify, or reject any or all of the proposed findings, conclusions, and order.~~ (3-31-22)

~~414. — PRESIDING OFFICER(S).~~

~~One (1) or more members of the agency board, the agency director, or duly appointed hearing officers may preside at hearing as authorized by statute or rule. When more than one (1) officer sits at hearing, they may all jointly be presiding officers or may designate one of them to be the presiding officer.~~ (3-31-22)

~~415. — CHALLENGES TO STATUTES.~~

~~A hearing officer in a contested case has no authority to declare a statute unconstitutional. However, when a court of competent jurisdiction whose decisions are binding precedent in the state of Idaho has declared a statute unconstitutional, or when a federal authority has preempted a state statute or rule, and the hearing officer finds that the same state statute or rule or a substantively identical state statute or rule that would otherwise apply has been challenged in the proceeding before the hearing officer, then the hearing officer shall apply the precedent of the court or the preemptive action of the federal authority to the proceeding before the hearing officer and decide the proceeding before the hearing officer in accordance with the precedent of the court or the preemptive action of the federal authority.~~ (3-31-22)



**~~416.— REVIEW OF RULES.~~**

~~When an order is issued by the agency head in a contested case, the order may consider and decide whether a rule of that agency is within the agency's substantive rulemaking authority or whether the rule has been promulgated according to proper procedure. The agency head may delegate to a hearing officer the authority to recommend a decision on issues of whether a rule is within the agency's substantive rulemaking authority or whether the rule has been promulgated according to proper procedure or may retain all such authority itself. (3-31-22)~~

**~~417.— EX PARTE COMMUNICATIONS.~~**

~~Unless required for the disposition of a matter specifically authorized by statute to be done ex parte, a presiding officer serving in a contested case shall not communicate, directly or indirectly, regarding any substantive issue in the contested case with any party, except upon notice and opportunity for all parties to participate in the communication. The presiding officer may communicate ex parte with a party concerning procedural matters (e.g., scheduling). Ex parte communications from members of the general public not associated with any party are not required to be reported by this rule. However, when a presiding officer has received a written ex parte communication regarding any substantive issue from a party or representative of a party during a contested case, the presiding officer shall place a copy of the communication in the file for the case and distribute a copy of it to all parties of record or order the party providing the written communication to serve a copy of the written communication upon all parties of record. Written communications from a party showing service upon all other parties are not ex parte communications. (3-31-22)~~

**~~418.— 499.— (RESERVED)~~**

**~~500.— ALTERNATIVE RESOLUTION OF CONTESTED CASES.~~**

~~The Idaho Legislature encourages informal means of alternative dispute resolution (ADR). For contested cases, the means of ADR include, but are not limited to, settlement negotiations, mediation, factfinding, minitrials, and arbitration, or any combination of them. These alternatives can frequently lead to more creative, efficient and sensible outcomes than may be attained under formal contested case procedures. An agency may use ADR for the resolution of issues in controversy in a contested case if the agency finds that such a proceeding is appropriate. Reasons why an agency may find that using ADR is not appropriate may include, but are not limited to, a finding that an authoritative resolution of the matter is needed for precedential value, that formal resolution of the matter is of special importance to avoid variation in individual decisions, that the matter significantly affects persons who are not parties to the proceeding, or that a formal proceeding is in the public interest. Nothing in this rule shall be interpreted to require the Board to utilize ADR procedures in a contested case, nor shall it require the Board to make any findings of fact, conclusions of law, or orders with respect to a decision concerning utilization of ADR procedures. A Board decision on utilization of ADR procedures is not reviewable. (3-31-22)~~

**~~501.— NEUTRALS.~~**

~~When ADR is used for all or a portion of a contested case, the agency may provide a neutral to assist the parties in resolving their disputed issues. The neutral may be an employee of the agency or of another state agency or any other individual who is acceptable to the parties to the proceeding. A neutral shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is disclosed in writing to all parties and all parties agree that the neutral may serve. (3-31-22)~~

**~~502.— CONFIDENTIALITY.~~**

~~Communications in an ADR proceeding shall not be disclosed by the neutral or by any party to the proceeding unless all parties to the proceeding consent in writing, the communication has already been made public, or is required by court order, statute or agency rule to be made public. (3-31-22)~~

**~~503.— 509.— (RESERVED)~~**

**~~510.— PURPOSES OF PREHEARING CONFERENCES.~~**

~~The presiding officer may by order or notice issued to all parties and to all interested persons as defined in Section 158 convene a prehearing conference in a contested case for the purposes of formulating or simplifying the issues, obtaining concessions of fact or identification of documents to avoid unnecessary proof, scheduling discovery (when discovery is allowed), arranging for the exchange of proposed exhibits or prepared testimony, limiting witnesses, discussing settlement offers or making settlement offers, scheduling hearings, establishing procedure at hearings, and~~

~~addressing other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.~~  
~~(3-31-22)~~

~~**511. — NOTICE OF PREHEARING CONFERENCE.**~~

~~Notice of the place, date and hour of a prehearing conference will be served at least fourteen (14) days before the time set for the prehearing conference, unless the presiding officer finds it necessary or appropriate for the conference to be held earlier. Notices for prehearing conference must contain the same information as notices of hearing with regard to an agency's obligations under the American with Disabilities Act.~~  
~~(3-31-22)~~

~~**512. — RECORD OF CONFERENCE.**~~

~~Prehearing conferences may be held formally (on the record) or informally (off the record) before or in the absence of a presiding officer, according to order or notice. Agreements by the parties to the conference may be put on the record during formal conferences or may be reduced to writing and filed with the agency after formal or informal conferences.~~  
~~(3-31-22)~~

~~**513. — ORDERS RESULTING FROM PREHEARING CONFERENCE.**~~

~~The presiding officer may issue a prehearing order or notice based upon the results of the agreements reached at or rulings made at a prehearing conference. A prehearing order will control the course of subsequent proceedings unless modified by the presiding officer for good cause.~~  
~~(3-31-22)~~

~~**514. — FACTS DISCLOSED NOT PART OF THE RECORD.**~~

~~Facts disclosed, offers made and all other aspects of negotiation (except agreements reached) in prehearing conferences in a contested case are not part of the record.~~  
~~(3-31-22)~~

~~**515. — 519. — (RESERVED)**~~

~~**520. — KINDS AND SCOPE OF DISCOVERY LISTED.**~~

~~**01. — Kinds of Discovery.** The kinds of discovery recognized and authorized by these rules in contested cases are:~~  
~~(3-31-22)~~

- ~~a. — Depositions;~~  
~~(3-31-22)~~
- ~~b. — Production requests or written interrogatories;~~  
~~(3-31-22)~~
- ~~c. — Requests for admission;~~  
~~(3-31-22)~~
- ~~d. — Subpoenas; and~~  
~~(3-31-22)~~
- ~~e. — Statutory inspection, examination (including physical or mental examination), investigation, etc.~~  
~~(3-31-22)~~

~~**02. — Rules of Civil Procedure.** Unless otherwise provided by statute, rule, order or notice, the scope of discovery, other than statutory inspection, examination, investigation, etc., is governed by the Idaho Rules of Civil Procedure (see Idaho Rule of Civil Procedure 26(b)).~~  
~~(3-31-22)~~

~~**521. — WHEN DISCOVERY AUTHORIZED.**~~

~~No party before the agency is entitled to engage in discovery unless the party moves to compel discovery and the agency issues an order directing that the discovery be answered, or upon agreement of all parties to the discovery that discovery may be conducted. The presiding officer shall provide a schedule for discovery in the order compelling discovery, but the order compelling and scheduling discovery need not conform to the timetables of the Idaho Rules of Civil Procedure. The agency or agency staff may conduct statutory inspection, examination, investigation, etc., at any time without filing a motion to compel discovery.~~  
~~(3-31-22)~~

~~**522. — RIGHTS TO DISCOVERY RECIPROCAL.**~~

~~All parties to a proceeding have a right of discovery of all other parties to a proceeding according to Section 521 and~~

~~to the authorizing statutes and rules. The presiding officer may by order authorize or compel necessary discovery authorized by statute or rule. (3-31-22)~~

**~~523. — DEPOSITIONS.~~**

~~Depositions may be taken in accordance with the Idaho Rules of Civil Procedure for any purpose allowed by statute, the Idaho Rules of Civil Procedure, or rule or order of the agency. (3-31-22)~~

**~~524. — PRODUCTION REQUESTS OR WRITTEN INTERROGATORIES AND REQUESTS FOR ADMISSION.~~**

~~Production requests or written interrogatories and requests for admission may be taken in accordance with the Idaho Rules of Civil Procedure for any purpose allowed by statute, the Idaho Rules of Civil Procedure, or rule or order of the agency. (3-31-22)~~

**~~525. — SUBPOENAS.~~**

~~The agency may issue subpoenas as authorized by statute, upon a party's motion or upon its own initiative. The agency upon motion to quash made promptly, and in any event, before the time to comply with the subpoena, may quash the subpoena, or condition denial of the motion to quash upon reasonable terms. (3-31-22)~~

**~~526. — STATUTORY INSPECTION, EXAMINATION, INVESTIGATION, ETC. — CONTRASTED WITH OTHER DISCOVERY.~~**

~~This rule recognizes, but does not enlarge or restrict, an agency's statutory right of inspection, examination (including mental or physical examination), investigation, etc. This statutory right of an agency is independent of and cumulative to any right of discovery in formal proceedings and may be exercised by the agency whether or not a person is party to a formal proceeding before the agency. Information obtained from statutory inspection, examination, investigation, etc., may be used in formal proceedings or for any other purpose, except as restricted by statute or rule. The rights of deposition, production request or written interrogatory, request for admission, and subpoena, can be used by parties only in connection with formal proceedings before the agency. (3-31-22)~~

**~~527. — ANSWERS TO PRODUCTION REQUESTS OR WRITTEN INTERROGATORIES AND TO REQUESTS FOR ADMISSION.~~**

~~Answers to production requests or written interrogatories and to requests for admission shall be filed or served as provided by the order compelling discovery. Answers must conform to the requirements of the Idaho Rules of Civil Procedure. The order compelling discovery may provide that voluminous answers to requests need not be served so long as they are made available for inspection and copying under reasonable terms. (3-31-22)~~

**~~528. — FILING AND SERVICE OF DISCOVERY RELATED DOCUMENTS.~~**

~~Notices of deposition, cover letters stating that production requests, written interrogatories or requests for admission have been served, cover letters stating answers to production requests, written interrogatories, or requests for admission have been served or are available for inspection under Section 527, and objections to discovery must be filed and served as provided in the order compelling discovery. (3-31-22)~~

**~~529. — EXHIBIT NUMBERS.~~**

~~The agency assigns exhibit numbers to each party. (3-31-22)~~

**~~530. — PREPARED TESTIMONY AND EXHIBITS.~~**

~~Order, notice or rule may require a party or parties to file before hearing and to serve on all other parties prepared expert testimony and exhibits to be presented at hearing. Assigned exhibits numbers should be used in all prepared testimony. (3-31-22)~~

**~~531. — SANCTIONS FOR FAILURE TO OBEY ORDER COMPELLING DISCOVERY.~~**

~~The agency may impose all sanctions recognized by statute or rules for failure to comply with an order compelling discovery. (3-31-22)~~

**~~532. — PROTECTIVE ORDERS.~~**

~~As authorized by statute or rule, the agency may issue protective orders limiting access to information generated during settlement negotiations, discovery, or hearing. (3-31-22)~~

~~533.— 549.— (RESERVED)~~

~~550.— NOTICE OF HEARING.~~

~~Notice of the place, date and hour of hearing will be served on all parties at least fourteen (14) days before the time set for hearing, unless the agency finds by order that it is necessary or appropriate that the hearing be held earlier. Notices must comply with the requirements of Section 551. Notices must list the names of the parties (or the lead parties if the parties are too numerous to name), the case number or docket number, the names of the presiding officers who will hear the case, the name, address and telephone number of the person to whom inquiries about scheduling, hearing facilities, etc., should be directed, and the names of persons with whom the documents, pleadings, etc., in the case should be filed if the presiding officer is not the person who should receive those documents. If no document previously issued by the agency has listed the legal authority of the agency to conduct the hearing, the notice of hearing must do so. The notice of hearing shall state that the hearing will be conducted under these rules of procedure and inform the parties where they may read or obtain a copy.~~ (3-31-22)

~~551.— FACILITIES AT OR FOR HEARING AND ADA REQUIREMENTS.~~

~~All hearings must be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act, and all notices of hearing must inform the parties that the hearing will be conducted in facilities meeting the accessibility requirements of the Americans with Disabilities Act. All notices of hearing must inform the parties and other persons notified that if they require assistance of the kind that the agency is required to provide under the Americans with Disabilities Act (e.g., sign language interpreters, Braille copies of documents) in order to participate in or understand the hearing, the agency will supply that assistance upon request a reasonable number of days before the hearing. The notice of hearing shall explicitly state the number of days before the hearing that the request must be made.~~ (3-31-22)

~~552.— HOW HEARINGS HELD.~~

~~Hearings may be held in person or by telephone or television or other electronic means, if each participant in the hearing has an opportunity to participate in the entire proceeding while it is taking place.~~ (3-31-22)

~~553.— CONDUCT AT HEARINGS.~~

~~All persons attending a hearing must conduct themselves in a respectful manner. Smoking is not permitted at hearing.~~ (3-31-22)

~~554.— CONFERENCE AT HEARING.~~

~~In any proceeding the presiding officer may convene the parties before hearing or recess the hearing to discuss formulation or simplification of the issues, admissions of fact or identification of documents to avoid unnecessary proof, exchanges of documents, exhibits or prepared testimony, limitation of witnesses, establishment of order of procedure, and other matters that may expedite orderly conduct of the hearing. The presiding officer shall state the results of the conference on the record.~~ (3-31-22)

~~555.— PRELIMINARY PROCEDURE AT HEARING.~~

~~Before taking evidence the presiding officer will call the hearing to order, take appearances of parties, and act upon any pending motions or petitions. The presiding officer may allow opening statements as necessary or appropriate to explain a party's presentation.~~ (3-31-22)

~~556.— CONSOLIDATION OF PROCEEDINGS.~~

~~The agency may consolidate two (2) or more proceedings for hearing upon finding that they present issues that are related and that the rights of the parties will not be prejudiced. In consolidated hearings the presiding officer determines the order of the proceeding.~~ (3-31-22)

~~557.— STIPULATIONS.~~

~~Parties may stipulate among themselves to any fact at issue in a contested case by written statement filed with the presiding officer or presented at hearing or by oral statement at hearing. A stipulation binds all parties agreeing to it only according to its terms. The agency may regard a stipulation as evidence or may require proof by evidence of the facts stipulated. The agency is not bound to adopt a stipulation of the parties, but may do so. If the agency rejects a stipulation, it will do so before issuing a final order, and it will provide an additional opportunity for the parties to~~

~~present evidence and arguments on the subject matter of the rejected stipulation. (3-31-22)~~

~~**558.—ORDER OF PROCEDURE.**~~

~~The presiding officer may determine the order of presentation of witnesses and examination of witnesses. (3-31-22)~~

~~**559.—TESTIMONY UNDER OATH.**~~

~~All testimony presented in formal hearings will be given under oath. Before testifying each witness must swear or affirm that the testimony the witness will give before the agency is the truth, the whole truth, and nothing but the truth. (3-31-22)~~

~~**560.—PARTIES AND PERSONS WITH SIMILAR INTERESTS.**~~

~~If two (2) or more parties or persons have substantially like interests or positions, to expedite the proceeding and avoid duplication, the presiding officer may limit the number of them who testify, examine witnesses, or make and argue motions and objections. (3-31-22)~~

~~**561.—CONTINUANCE OF HEARING.**~~

~~The presiding officer may continue proceedings for further hearing. (3-31-22)~~

~~**562.—RULINGS AT HEARINGS.**~~

~~The presiding officer rules on motions and objections presented at hearing. When the presiding officer is a hearing officer, the presiding officer's rulings may be reviewed by the agency head in determining the matter on its merits and the presiding officer may refer or defer rulings to the agency head for determination. (3-31-22)~~

~~**563.—ORAL ARGUMENT.**~~

~~The presiding officer may set and hear oral argument on any matter in the contested case on reasonable notice according to the circumstances. (3-31-22)~~

~~**564.—BRIEFS — MEMORANDA — PROPOSED ORDERS OF THE PARTIES — STATEMENTS OF POSITION — PROPOSED ORDER OF THE PRESIDING OFFICER.**~~

~~In any contested case, any party may ask to file briefs, memoranda, proposed orders of the parties or statements of position, and the presiding officer may request briefs, proposed orders of the parties, or statements of position. The presiding officer may issue a proposed order and ask the parties for comment upon the proposed order. (3-31-22)~~

~~**565.—PROCEDURE ON PREHEARING MOTIONS.**~~

~~The presiding officer may consider and decide prehearing motions with or without oral argument or hearing. If oral argument or hearing on a motion is requested and denied, the presiding officer must state the grounds for denying the request. Unless otherwise provided by the presiding officer, when a motion has been filed, all parties seeking similar substantive or procedural relief must join in the motion or file a similar motion within seven (7) days after receiving the original motion. The party(ies) answering to or responding to the motion(s) will have fourteen (14) days from the time of filing of the last motion or joinder pursuant to the requirements of the previous sentence in which to respond. (3-31-22)~~

~~**566.—JOINT HEARINGS.**~~

~~The agency may hold joint hearings with federal agencies, with agencies of other states, and with other agencies of the state of Idaho. When joint hearings are held, the agencies may agree among themselves which agency's rules of practice and procedure will govern. (3-31-22)~~

~~**567.—599.—(RESERVED)**~~

~~**600.—RULES OF EVIDENCE — EVALUATION OF EVIDENCE.**~~

~~Evidence should be taken by the agency to assist the parties' development of a record, not excluded to frustrate that development. The presiding officer at hearing is not bound by the Idaho Rules of Evidence. No informality in any proceeding or in the manner of taking testimony invalidates any order. The presiding officer, with or without objection, may exclude evidence that is irrelevant, unduly repetitious, inadmissible on constitutional or statutory grounds, or on the basis of any evidentiary privilege provided by statute or recognized in the courts of Idaho. All other evidence may be admitted if it is of a type commonly relied upon by prudent persons in the conduct of their affairs. The agency's~~

~~experience, technical competence and specialized knowledge may be used in evaluation of evidence. (3 31 22)~~

**~~601. DOCUMENTARY EVIDENCE.~~**

~~Documentary evidence may be received in the form of copies or excerpts. Upon request, parties shall be given an opportunity to compare the copy with the original if available. (3 31 22)~~

**~~602. OFFICIAL NOTICE — AGENCY STAFF MEMORANDA.~~**

~~Official notice may be taken of any facts that could be judicially noticed in the courts of Idaho and of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified of the specific facts or material noticed and the source of the material noticed, including any agency staff memoranda and data. Notice that official notice will be taken should be provided either before or during the hearing, and must be provided before the issuance of any order that is based in whole or in part on facts or material officially noticed. Parties must be given an opportunity to contest and rebut the facts or material officially noticed. When the presiding officer proposes to notice agency staff memoranda or agency staff reports, responsible staff employees or agents shall be made available for cross examination if any party timely requests their availability. (3 31 22)~~

**~~603. DEPOSITIONS.~~**

~~Depositions may be offered into evidence. (3 31 22)~~

**~~604. OBJECTIONS — OFFERS OF PROOF.~~**

~~Grounds for objection to the admission or exclusion of evidence must be stated briefly at the time the evidence is offered. Formal exceptions to rulings admitting or excluding evidence are unnecessary and need not be taken. An offer of proof for the record consists of a statement of the substance of the excluded evidence. When a party objects to the admission of evidence, the presiding officer will rule on the objection, or, if the presiding officer is a hearing officer, the presiding officer may receive the evidence subject to later ruling by the agency head or refer the matter to the agency head. (3 31 22)~~

**~~605. PREPARED TESTIMONY.~~**

~~The presiding officer may order a witness's prepared testimony previously distributed to all parties to be included in the record of hearing as if read. Admissibility of prepared testimony is subject to Section 600. (3 31 22)~~

**~~606. EXHIBITS.~~**

~~Exhibit numbers may be assigned to the parties before hearing. Exhibits prepared for hearing must ordinarily be typed or printed on eight and one half inch by eleven inch (8 1/2" x 11") white paper, except maps, charts, photographs and non-documentary exhibits may be introduced on the size or kind of paper customarily used for them. A copy of each documentary exhibit must be furnished to each party present and to the presiding officer, except for unusually bulky or voluminous exhibits that have previously been made available for the parties' inspection. Copies must be of good quality. Exhibits identified at hearing are subject to appropriate and timely objection before the close of proceedings. Exhibits to which no objection is made are automatically admitted into evidence without motion of the sponsoring party. Motion pictures, slides, opaque projections, videotapes, audiotapes or other materials not capable of duplication by still photograph or reproduction on paper shall not be presented as exhibits without approval of the presiding officer. (3 31 22)~~

**~~607. 609. (RESERVED)~~**

**~~610. CONFIDENTIALITY OF SETTLEMENT NEGOTIATIONS.~~**

~~Settlement negotiations in a contested case are confidential, unless all participants to the negotiation agree to the contrary in writing. Facts disclosed, offers made and all other aspects of negotiation (except agreements reached) in settlement negotiations in a contested case are not part of the record. (3 31 22)~~

**~~611. SUGGESTION FOR OR INQUIRY ABOUT SETTLEMENTS.~~**

~~Through notice or order or on the record at prehearing conference or hearing, the presiding officer may inquire of the parties in any proceeding whether settlement negotiations are in progress or are contemplated or may invite settlement of an entire proceeding or certain issues. (3 31 22)~~

**612. — CONSIDERATION OF SETTLEMENTS.**

Settlements must be reviewed under this rule. When a settlement is presented to the presiding officer, the presiding officer will prescribe procedures appropriate to the nature of the settlement to consider the settlement. For example, the presiding officer could summarily accept settlement of essentially private disputes that have no significant implications for administration of the law for persons other than the affected parties. On the other hand, when one (1) or more parties to a proceeding is not party to the settlement or when the settlement presents issues of significant implication for other persons, the presiding officer may convene an evidentiary hearing to consider the reasonableness of the settlement and whether acceptance of the settlement is consistent with the agency's charge under the law. (3-31-22)

**613. — BURDENS OF PROOF.**

Proponents of a proposed settlement carry the burden of showing that the settlement is in accordance with the law. The presiding officer may require the development of an appropriate record in support of or opposition to a proposed settlement as a condition of accepting or rejecting the settlement. (3-31-22)

**614. — SETTLEMENT NOT BINDING.**

The presiding officer is not bound by settlement agreements that are not unanimously accepted by all parties or that have significant implications for persons not parties. In these instances, the presiding officer will independently review any proposed settlement to determine whether the settlement is in accordance with the law. (3-31-22)

**615. — 649. — (RESERVED)**

**650. — RECORD FOR DECISION.**

**01. — Requirement.** The agency shall maintain an official record for each for each contested case and (unless statute provides otherwise) base its decision in a contested case on the official record for the case. (3-31-22)

**02. — Contents.** The record for a contested case shall include: (3-31-22)

**a.** All notices of proceedings; (3-31-22)

**b.** All applications or claims or appeals, petitions, complaints, protests, motions, and answers filed in the proceeding; (3-31-22)

**c.** All intermediate or interlocutory rulings of hearing officers or the agency head; (3-31-22)

**d.** All evidence received or considered (including all transcripts or recordings of hearings and all exhibits offered or identified at hearing); (3-31-22)

**e.** All offers of proof, however made; (3-31-22)

**f.** All briefs, memoranda, proposed orders of the parties or of the presiding officers, statements of position, statements of support, and exceptions filed by parties or persons not parties; (3-31-22)

**g.** All evidentiary rulings on testimony, exhibits, or offers of proof; (3-31-22)

**h.** All staff memoranda or data submitted in connection with the consideration of the proceeding; (3-31-22)

**i.** A statement of matters officially noticed; and (3-31-22)

**j.** All recommended orders, preliminary orders, final orders, and orders on reconsideration. (3-31-22)

**651. — RECORDING OF HEARINGS.**

All hearings shall be recorded on audiotape or videotape at the agency's expense. The agency may provide for a transcript of the proceeding at its own expense. Any party may have a transcript prepared at its own expense.

~~652.— 699.— (RESERVED)~~

~~700.— NOTICE OF PROPOSED DEFAULT AFTER FAILURE TO APPEAR.~~

~~If an applicant or claimant or appellant, petitioner, complainant, or moving party fails to appear at the time and place set for hearing on an application or claim or appeal, petition, complaint, or motion, the presiding officer may serve upon all parties a notice of a proposed default order denying the application or claim or appeal, petition, complaint, or motion. The notice of a proposed default order shall include a statement that the default order is proposed to be issued because of a failure of the applicant or claimant or appellant, petitioner, complainant or moving party to appear at the time and place set for hearing. The notice of proposed default order may be mailed to the last known mailing address of the party proposed to be defaulted.~~ (3-31-22)

~~701.— SEVEN DAYS TO CHALLENGE PROPOSED DEFAULT ORDER.~~

~~Within seven (7) days after the service of the notice of proposed default order, the party against whom it was filed may file a written petition requesting that a default order not be entered. The petition must state the grounds why the petitioning party believes that default should not be entered.~~ (3-31-22)

~~702.— ISSUANCE OF DEFAULT ORDER.~~

~~The agency shall promptly issue a default order or withdraw the notice of proposed default order after expiration of the seven days for the party to file a petition contesting the default order or receipt of a petition. If a default order is issued, all further proceedings necessary to complete the contested case shall be conducted without participation of the party in default (if the defaulting party is not a movant) or upon the results of the denial of the motion (if the defaulting party is a movant). All issues in the contested case shall be determined, including those affecting the defaulting party. If authorized by statute or rule, costs may be assessed against a defaulting party.~~ (3-31-22)

~~703.— 709.— (RESERVED)~~

~~710.— INTERLOCUTORY ORDERS.~~

~~Interlocutory orders are orders that do not decide all previously undecided issues presented in a proceeding, except the agency may by order decide some of the issues presented in a proceeding and provide in that order that its decision on those issues is final and subject to review by reconsideration or appeal, but is not final on other issues. Unless an order contains or is accompanied by a document containing one of the paragraphs set forth in Sections 720, 730 or 740 or a paragraph substantially similar, the order is interlocutory. The following orders are always interlocutory: orders initiating complaints or investigations; orders joining, consolidating or separating issues, proceedings or parties; orders granting or denying intervention; orders scheduling prehearing conferences, discovery, hearing, oral arguments or deadlines for written submissions; and orders compelling or refusing to compel discovery. Interlocutory orders may be reviewed by the officer issuing the order pursuant to Sections 711, 760, and 770.~~ (3-31-22)

~~711.— REVIEW OF INTERLOCUTORY ORDERS.~~

~~Any party or person affected by an interlocutory order may petition the officer issuing the order to review the interlocutory order. The officer issuing an interlocutory order may rescind, alter or amend any interlocutory order on the officer's own motion, but will not on the officer's own motion review any interlocutory order affecting any party's substantive rights without giving all parties notice and an opportunity for written comment.~~ (3-31-22)

~~712.— 719.— (RESERVED)~~

~~720.— RECOMMENDED ORDERS.~~

~~01.— Definition. Recommended orders are orders issued by a person other than the agency head that will become a final order of the agency only after review of the agency head (or the agency head's designee) pursuant to Section 67-5244, Idaho Code.~~ (3-31-22)

~~02.— Content. Every recommended order must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs:~~ (3-31-22)



~~\_\_\_\_\_ a. \_\_\_\_\_ This is a recommended order of the hearing officer. It will not become final without action of the agency head. Any party may file a petition for reconsideration of this recommended order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this recommended order will dispose of any petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3), Idaho Code. \_\_\_\_\_ (3-31-22)~~

~~\_\_\_\_\_ b. \_\_\_\_\_ Within twenty one (21) days after (a) the service date of this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of this recommended order and file briefs in support of the party's position on any issue in the proceeding. \_\_\_\_\_ (3-31-22)~~

~~\_\_\_\_\_ c. \_\_\_\_\_ Written briefs in support of or taking exceptions to the recommended order shall be filed with the agency head (or designee of the agency head). Opposing parties shall have twenty one (21) days to respond. The agency head or designee may schedule oral argument in the matter before issuing a final order. The agency head or designee will issue a final order within fifty six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The agency may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. \_\_\_\_\_ (3-31-22)~~

~~721. 729. \_\_\_\_\_ (RESERVED)~~

~~730. \_\_\_\_\_ PRELIMINARY ORDERS.~~

~~\_\_\_\_\_ 01. \_\_\_\_\_ **Definition.** Preliminary orders are orders issued by a person other than the agency head that will become a final order of the agency unless reviewed by the agency head (or the agency head's designee) pursuant to Section 67-5245, Idaho Code. \_\_\_\_\_ (3-31-22)~~

~~\_\_\_\_\_ 02. \_\_\_\_\_ **Content.** Every preliminary order must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: \_\_\_\_\_ (3-31-22)~~

~~\_\_\_\_\_ a. \_\_\_\_\_ This is a preliminary order of the hearing officer. It can and will become final without further action of the agency unless any party petitions for reconsideration before the hearing officer issuing it or appeals to the hearing officer's superiors in the agency. Any party may file a motion for reconsideration of this preliminary order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this order will dispose of the petition for reconsideration within twenty one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3), Idaho Code. \_\_\_\_\_ (3-31-22)~~

~~\_\_\_\_\_ b. \_\_\_\_\_ Within twenty one (21) days after (a) the service date of this preliminary order, (b) the service date of the denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing appeal or take exceptions to any part of the preliminary order and file briefs in support of the party's position on any issue in the proceeding to the agency head (or designee of the agency head). Otherwise, this preliminary order will become a final order of the agency. \_\_\_\_\_ (3-31-22)~~

~~\_\_\_\_\_ c. \_\_\_\_\_ If any party appeals or takes exceptions to this preliminary order, opposing parties shall have twenty one (21) days to respond to any party's appeal within the agency. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the agency head (or designee). The agency head (or designee) may review the preliminary order on its own motion. \_\_\_\_\_ (3-31-22)~~

~~\_\_\_\_\_ d. \_\_\_\_\_ If the agency head (or designee) grants a petition to review the preliminary order, the agency head (or designee) shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. The agency head (or designee) will issue a final order within fifty six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The agency head (or designee) may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order.~~

\_\_\_\_\_ (3-31-22)

~~e. Pursuant to Sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:~~

\_\_\_\_\_ (3-31-22)

~~i. A hearing was held; \_\_\_\_\_ (3-31-22)~~

~~ii. The final agency action was taken; \_\_\_\_\_ (3-31-22)~~

~~iii. The party seeking review of the order resides; or \_\_\_\_\_ (3-31-22)~~

~~iv. The real property or personal property that was the subject of the agency action is attached.~~

\_\_\_\_\_ (3-31-22)

~~f. This appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See Section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal. \_\_\_\_\_ (3-31-22)~~

~~731. 739. (RESERVED)~~

~~740. FINAL ORDERS.~~

~~01. Definition. Final orders are preliminary orders that have become final under Section 730 pursuant to Section 67-5245, Idaho Code, or orders issued by the agency head pursuant to Section 67-5246, Idaho Code.~~

\_\_\_\_\_ (3-31-22)

~~02. Content. Every final order issued by the agency head must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: \_\_\_\_\_ (3-31-22)~~

~~a. This is a final order of the agency. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The agency will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5246(4), Idaho Code. \_\_\_\_\_ (3-31-22)~~

~~b. Pursuant to Sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: \_\_\_\_\_ (3-31-22)~~

~~i. A hearing was held; \_\_\_\_\_ (3-31-22)~~

~~ii. The final agency action was taken; \_\_\_\_\_ (3-31-22)~~

~~iii. The party seeking review of the order resides; or \_\_\_\_\_ (3-31-22)~~

~~iv. The real property or personal property that was the subject of the agency action is attached.~~

\_\_\_\_\_ (3-31-22)

~~c. An appeal must be filed within twenty-eight (28) days (a) of the service date of this final order, (b) of an order denying petition for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See Section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal. \_\_\_\_\_ (3-31-22)~~

~~741. 749. (RESERVED)~~

~~750. ORDER NOT DESIGNATED.~~

~~If an order does not designate itself as recommended, preliminary or final at its release, but is designated as recommended, preliminary or final after its release, its effective date for purposes of reconsideration or appeal is the date of the order of designation. If a party believes that an order not designated as a recommended order, preliminary order or final order according to the terms of these rules should be designated as a recommended order, preliminary order or final order, the party may move to designate the order as recommended, preliminary or final, as appropriate.~~  
~~(3-31-22)~~

~~751. 759. (RESERVED)~~

~~760. MODIFICATION OF ORDER ON PRESIDING OFFICER'S OWN MOTION.~~

~~A hearing officer issuing a recommended or preliminary order may modify the recommended or preliminary order on the hearing officer's own motion within fourteen (14) days after issuance of the recommended or preliminary order by withdrawing the recommended or preliminary order and issuing a substitute recommended or preliminary order. The agency head may modify or amend a final order of the agency (be it a preliminary order that became final because no party challenged it or a final order issued by the agency head itself) at any time before notice of appeal to District Court has been filed or the expiration of the time for appeal to District Court, whichever is earlier, by withdrawing the earlier final order and substituting a new final order for it.~~  
~~(3-31-22)~~

~~761. 769. (RESERVED)~~

~~770. CLARIFICATION OF ORDERS.~~

~~Any party or person affected by an order may petition to clarify any order, whether interlocutory, recommended, preliminary or final. Petitions for clarification from final orders do not suspend or toll the time to petition for reconsideration or appeal the order. A petition for clarification may be combined with a petition for reconsideration or stated in the alternative as a petition for clarification and/or reconsideration.~~  
~~(3-31-22)~~

~~771. 779. (RESERVED)~~

~~780. STAY OF ORDERS.~~

~~Any party or person affected by an order may petition the agency to stay any order, whether interlocutory or final. Interlocutory or final orders may be stayed by the judiciary according to statute. The agency may stay any interlocutory or final order on its own motion.~~  
~~(3-31-22)~~

~~004. IDAHO OFFICE OF ADMINISTRATIVE HEARINGS RULES.~~

~~Upon the effective date of rules promulgated by the Idaho Office of Administrative Hearings to govern the practice and procedure in contested cases, the Office of Administrative Hearings rules will govern contested case proceedings which have been delegated or assigned (whether statutorily or by the Board) to the director of the Idaho Department of Lands or his designee. These Rules of Practice and Procedure Before the State Board of Land Commissioners will govern contested case proceedings before the Board.~~  
~~( )~~

~~781005004. -- 999. (RESERVED)~~

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## IDAPA 20 – IDAHO DEPARTMENT OF LANDS

### 20.01.01 - RULES OF PRACTICE AND PROCEDURE BEFORE THE STATE BOARD OF LAND COMMISSIONERS

DOCKET NO. 20-0101-2301

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the Idaho State Board of Land Commissioners and is now pending review by the 2024 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that the State Board of Land Commissioners has adopted a pending rule. The action is authorized pursuant to Section 58-104, Idaho Code, State Land Board, Powers and Duties and Section 67-5206(2)(b), Idaho Code, Promulgation of Rules Implementing Administrative Procedure Act.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Following Executive Order 2020-01: Zero-Based Regulation, this rule chapter is scheduled for a comprehensive review in 2023 with the goal of simplifying the rules for increased clarity and ease of use. The overall regulatory burden has been reduced by decreasing both total word count and the number of restrictive words in the new rule chapter.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published on August 2, 2023, Idaho Administrative Bulletin, Vol. 23-8, pages 153-176.

The changes in the pending rule were to remove section 004, previously added, due to redundancy with statute.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Scott Phillips at 208-334-0294 or [sphillips@idl.idaho.gov](mailto:sphillips@idl.idaho.gov).

DATED this 21st day of November, 2023.

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