

Michael R. Brown, Chairman
Kevin S. Carter, Director

MINUTES OF THE MEETING OF THE
SCHOOL & INSTITUTIONAL TRUST LANDS ADMINISTRATION
BOARD OF TRUSTEES

DATE: AUGUST 5, 2010

PLACE: SALT LAKE CITY, UTAH

ATTENDING: BOARD

Michael R. Brown
Dan Lofgren
Steve Ostler
Dave Lambert
David Ure
Michael Mower

STAFF

Kevin S. Carter
Ron Carlson
Rick Wilcox
Lisa Schneider
NormaLee McMichael
Doug Buchi
Stephanie Barber-Renteria
Kim Christy
Andrew Bedingfield
Tom Faddies
Elise Erler
Dave Hebertson
John Andrews
LaVonne Garrison
Sonja Wallace
Chris Fausett
Rick White
Eric Baim
Lynda Belnap

OTHERS IN ATTENDANCE

Jill Flygare, Governor's Office of Planning & Budget
Paula Plant, State Office of Education
Louie Cononelos, Rio Tinto Kennecott
Margaret Bird, State Office of Education
Amy Joi Odonoghue, Deseret News
Charles Evans, University of Utah
Ivan Djambov, Legislative Fiscal Analyst's Office
Tyler Slack, Utah PTA
Martell Menlove, State Office of Education
Vickie Varella

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Chairman Brown called the meeting to order and welcomed Board members, Staff, and guests. He thanked Staff and the beneficiaries for the time and effort put into planning this meeting. He thanked the Board members for all that they do in helping to develop the information and for their preparation and attendance.

Chairman Brown noted that present with us today is Mr. Louis Connelos. He has been appointed by Governor Herbert to serve on our Board pending confirmation by the Senate on August 18, 2010. Chairman Brown welcomed Mr. Connelos.

1. Approval of Minutes

The Board approved the Board minutes of June 10, 2010.

Mower / Lambert. Motion approved.

“I move that we approve the Board minutes of June 10, 2010.”

Roll Call:

Mr. Lofgren - - yes	Mr. Ostler - - yes
Mr. Lambert - - yes	Mr. Mower - - yes
Mr. Ure - - absent at vote	Mr. Brown - - yes

2. Confirmation of Upcoming Meeting Dates

The Board, without motion, confirmed the following upcoming meeting dates.

September 9 - - Salt Lake City
October 13, 14 - - St. George
November 18 - - Salt Lake City
December - - No meeting

It was noted that the reception to be held on October 13 in St. George will be by invitation only. It was noted we should invite local school board members.

3. Chairman's Report

a. Beneficiary Report

Ms. Bird gave the report on behalf of the beneficiaries. She expressed their gratitude to the Governor for appointing Mr. Cononelos to the Board.

She discussed human nature with the Board. Every now and then it is good to check up on ourselves. We all need to be very careful in spending Trust dollars. She showed pictures of different signs in Trust Lands: "Think Energy", etc. There should be signs that constantly remind us: "Every dollar you save goes into the State Permanent School Fund and benefit our schoolchildren forever." Other ways to consider saving money relate to Trax passes, cars being driven by only one employee, etc. In July they sent out to the schools \$26 million. The schools are very grateful for this money.

Ms. Bird gave the Board a handout on the School LAND Trust Program FY 2009. She asked for input from anyone on this handout to make sure it contains the proper information. They meet with all the new legislators and key legislators to give them this message and handout.

Ms. Bird requested that the next beneficiary report at the Board Meeting be on the agenda for the discussion of litigation.

She discussed the Attorney General's opinion on fire-suppression costs. The first one we had was an informal opinion, which had been asked for by State Superintendent Steve Laing. They think it might be a good time to ask for a formal opinion. The Attorney General told them it would be best for the request to come from the Board of Education. She asked the Trust Lands' Board of Trustees to have the Staff do a letter requesting the Board of Education to ask for an opinion on fire-suppression costs.

Mr. Lofgren asked about the request for a formal opinion on the fire-suppression cost issue. Are there political implications that should be considered before we ask for that? Director Carter noted there might be some process issues. John Andrews stated there might be some unintended consequences because of the way the original one was drafted. He stated there is a very fine process through the Attorney General's office for input from all entities. He thinks others having a different view than ours might have a large input into this opinion. Our caution to the Treasurer, which issue will be on the agenda later, may bring up issues that neither party is anticipating. He expressed some concern that we would be opening up a process when we have 90 percent of what we need with the current opinion. We need to think through this a little more rather than get a letter ready today.

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3. Chairman's Report (cont'd)

a. Beneficiary Report (cont'd)

Ms. Bird stated the Attorney General stated he is in support of the current opinion. While he is still the Attorney General, they feel we should formalize this opinion. Mr. Lofgren stated he thinks we should just make sure we are taking the correct steps in doing it.

Director Carter reviewed the discussion. Ms. Bird feels comfortable with her meeting with the Attorney General and that he is still very much in support of his previous position on this matter. She is urging us to get a formal opinion. The flip side of this is that the process that is used to get a formal opinion requires the Attorney General to engage all the impacted parties. Perhaps one of those parties may persuade him to change his opinion. That is the risk on asking him to opine on this issue. He asked Ms. Bird about her willingness to take this risk. She noted she has never had an Attorney General be more passionate about the Trust and the way it is being managed in reaching the dollars we have. She feels he is giving us advice to proceed on this opinion. It was noted we might want to look at this further and have the Director, the chairman, etc., meet again with the Attorney General. Mr. Mower stated the legislators will consider who has to pay for the fires, and there are differing opinions on who should be paying for fire suppression.

With the approval of the Board, the Chairman asked that the Director take a further look at the stakeholders and see if it looks like it would be a risk worth taking. Mr. Andrews stated we didn't get a formal opinion on this matter, which actually is about the same as knowing an informal opinion carries much weight, but is not actually binding. We also have a letter of ratification from the Attorney General stating he has reviewed the informal opinion and notes his support. Director Carter suggested that the Board have the Director look into this further and get back with them on it. If it is agreeable after that, he will send a letter on behalf of the Board asking the Board of Education to seek the opinion. The Board agreed with this procedure.

b. Audit Committee Report

Mr. Carlson reported that the Audit Committee met this morning at 8:00 a.m. The minutes of the previous meeting were approved. The committee went over some of the results from the audit group. That group brought in \$1.3 million in FY 10. The committee also reviewed the audit schedule for FY 11. There was also brief discussion of the agency doing some pre-deal analysis and the type of transactions that would need this type of review. It was noted that this meeting will probably be held at a different time from now on to give more time for consideration of issues.

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4. Director's Report

Director Carter reviewed some personnel issues with the Board. Kay Burton recently had a heart procedure. He seems to be doing fine. Director Carter introduced Jill Flygare, who is our new budget analyst from the Governor's Office of Planning & Budget. We have had some employees leave our employment: Arati Raghavan from our Legal Group and Rick White from our Accounting Group. He had Mr. Christy introduce a new employee in Surface, Andrew Bedingfield, who will be doing easements.

a. Report on FY 10 Objectives Accomplishments

Director Carter reviewed this through a Power Point presentation, along with a handout showing the objective in black print and the results and completion of the objective in red print. He suggested Board members review this individually, as it is very voluminous to review at this point. Each Board committee can review their individual section and see what needs to have more follow-up.

b. Discussion of FY 11 Objectives

Director Carter reviewed this with the Board through a power-point presentation as follows:

- * Review of SWOT analyses
 - * See material distributed with Board package - - the Board had been sent amended SWOT analyses material for their review.
 - * Next Steps
 - * Craft FY 2011 update to five-year plan
 - * Append FY 2015 items to five-year plan

As Staff sets up committee meetings to further this process, they will involve appropriate Board members and beneficiary representatives.

4. Director's Report (cont')

c. Trust Lands Management Act Revisions Preview

Director Carter reviewed the Trust Lands Management Act proposed changes through a power-point as follows:

- * Lots of cosmetic changes
- * Several substantive changes:
 - * Page 4-C-2 - - Fee agency
 - * Page 4-C-4 - - Board tenure
 - * Page 4-C-8 - - acquisitions
 - * Page 4-C-9 - - budget timing
 - * Page 4-C-11 - - Judicial review
 - * Page 4-C-15 - - withdrawal clarification
 - * Page 4-C-17 - - trespass clarifications
 - * Page 4-C-21 - - discussion on fees
 - * Page 4-C-22 - - LEDA distributions

There was some discussion regarding the language on replacing Board members and Nominating Committee members. Mr. Mower stated the Governor's Office is trying to streamline the process so that they move more quickly.

It was noted that on Page 4-C-11, Judicial review, we need to make sure that an aggrieved party has a way to appeal an agency action and also a Board action. This will be cleaned up to reflect those processes clearly.

Director Carter noted that, on the fee issue, we will longer be able to charge for appraisals and then keep those costs to pay for the appraisals. We may need to ask for an appropriation for appraisal costs. This is estimated to be in the \$30-50,000 range. Cultural resource costs also will fit into this category. We may need to build a little more into professional and technical fees in the budget.

On the LEDA - - Land Exchange Distribution Account - - 50 percent of the exchange account is distributed to counties, etc., that lost lands where the minerals are being produced. Because this is money that someone else is already getting, this will be a difficult issue for us to get. It is quite clear that the funds are not being distributed properly now.

4. Director's Report(cont')

c. Trust Lands Management Act Revisions Preview (cont'd)

Director Carter asked the Board if there were any other issues that need to be addressed or if the Board is uncomfortable with any of the proposed changes? Mr. Lofgren asked if we are convinced that these are significant enough to open up the Act? It was noted that the opening of the LEDA formula could be some risk.

Ms. Bird stated that, on behalf of the University of Utah and Utah State University, they have looked at some simple changes regarding the Nominating Committee. The University of Utah is in support of them, but Utah State has not responded yet. They would like to streamline the process of Nominating Committee members. She would like to get language to Mr. Andrews soon to include in this package. Director Carter stated we don't have any concern with adding these changes as long as it is o.k. with the Governor's Office. Mr. Mower stated the Governor is o.k. with this. Staff will add these changes.

d. Discussion of Cost-Saving Measures

Director Carter noted that last fiscal year he appointed some employees to sit on a cost-saving committee to look at all aspects of cost-saving issues. The committee reviewed many things and gave the Director a report. The report included issues regarding:

- * Personnel
- * Capital expenditures
- * Professional and Technical
- * Miscellaneous

Director Carter has the report and wants to distribute it to the Board. Because many of the issues deal with personnel issues, he would ask that this be done in closed session. There are some capital expenditures that we might can lapse this year. There are also some miscellaneous issues that we have looked at.

Lofgren / Ostler. Unanimously approved.

"I move that we go into closed session for the purpose of discussing the character and competence of personnel."

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4. Director's Report(cont')

d. Discussion of Cost-Saving Measures (cont'd)

Roll Call:

Mr. Lofgren - - yes

Mr. Ostler - - yes

Mr. Lambert - - yes

Mr. Mower - - yes

Mr. Ure - - yes

Mr. Brown - - yes

The Board went into closed session at 11: 35 a.m. Those in attendance were Board members, Kevin Carter, John Andrews, LaVonne Garrison, Lisa Schneider, Kim Christy, Doug Buchi, and Margaret Bird. Upon motion by Mr. Lofgren, seconded by Mr. Mower, the Board returned to open session at 12:35 p.m.

e. Associate Director's Report

Mr. Andrews noted to the Board that we are in discussions with the Governor's Office of Planning and Budget's Public Lands and Policy Office (PLPCO) and the Attorney General's Office regarding Tom Mitchell. We don't have enough litigation work to keep Mr. Mitchell busy. The Public Lands Policy Office has much going on now. We are in discussions with these offices for some sort of sharing of Mr. Mitchell with PLPCO. We view this as an opportunity for the Trust. Some of the issues he will be working on impact us directly. This is for information to the Board. The details are still being finalized.

I. Review of Treasurer's Request for Attorney General's Opinion
Regarding Management of Assets

Mr. Andrews briefed the Board on some discussion we have been having with the State Treasurer. We became aware early in the summer that the Treasurer's Office had some concern about particular aspects of the Coral Canyon transaction and more general concerns about the relationship between our office and his office, specifically with the Treasurer feeling that he is statutorily and constitutionally the person responsible for the investment of public funds. His general concern was that our development program was moving in a direction that in his view involved the investment of funds from everything from improvements on real estate to participation in vertical real estate that he qualified as investment, and his view is that it is the realm that he is responsible for instead of us.

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4. Director's Report(cont')

e. Associate Director's Report (cont'd)

I. Review of Treasurer's Request for Attorney General's Opinion
Regarding Management of Assets (cont'd)

The Treasurer's initial response was to have the Attorney General issue a formal opinion delineating the various responsibilities between the SITLA Board and the Treasurer's Board so that we can have clarity.

Mr. Andrews noted that we looked at the issue and have mutually agreed that it is better to talk through some of the issues instead of getting an opinion that might not have the details of all the issues involved. The two issues are (1) a specific legal issue that we will need to work through and (2) a broad policy issue for this Board to discuss as to where the agency is going.

The specific legal issue focuses around the issue that the Coral Canyon development is on Miner's Hospital trust lands. This fund is unique among the grants because there actually was another quantity grant 30 years after statehood. Because it was the second grant, many of the lands were not sold; and the grants were exercised as late as in the 1980's and 1990's. The selections were very well selected. The Miner's Hospital Fund owns really great real estate in the St. George area. Another unique aspect of the Miner's Hospital trust is that there is not an Enabling Act or constitutional requirement for it to be a permanent fund. The school grant has a requirement for a permanent fund.

Another aspect for the Miner's Hospital is that the legislature some years ago enacted legislation that directly appropriated all of the revenue and proceeds coming from the Miner's Hospital land to go to the University of Utah, not to the Treasurer. The Treasurer's part under the land grant fund is to invest the funds created by the Constitution and Enabling Act.

We have a situation where the legislature has sent the Miner's Hospital in one direction, but the Constitution and Enabling Act require something different. The legislation on the books could be as completely incongruous to what is happening with the parties. It is clear we need a legislative solution.

4. Director's Report(cont')

e. Associate Director's Report (cont'd)

I. Review of Treasurer's Request for Attorney General's Opinion
Regarding Management of Assets (cont'd)

The specific issue that caused the problem is that the Miner's Hospital does not generate enough revenue to pay for the acquisition of the Coral Canyon assets. In the past in conjunction with an agreement with the use of the Miner's Hospital Fund, the Treasurer has been willing, in light of the University of Utah appropriation language, to make a financial transfer of the Land Grant Management funds to make that payment. The current Treasurer doesn't believe that he is empowered to do that.

The Treasurer believes that he is responsible for investment of the people's money under the Utah Constitution. He has questions about this Board's legal ability to support the development program in this agency. His point is that even the installation of curb and gutter falls within the definition of an "investment", and he feels an investment is in his purview and not the Board's.

One other aspect is that the Treasurer pointed to some decisions out of the Utah Supreme Court back in the 1970's and 1980's regarding the Money Management Act and Council. The then Treasurer appealed to the Utah Supreme Court that the legislature was not constitutionally able to diminish the role of a constitutional office. In this case, the Treasurer has said that his authority is for the investment of funds, and the Legislature doesn't have the power to limit that. The problem with that argument is that, as of statehood, the investment of those funds was entrusted to the Land Board. Therefore, the constitutional issues go away.

This all then goes to the fact that the statute is quite confused. The Treasurer's legal views are not as clear as he has thought that they were. This is a very muddled situation where we have realized that both the Treasurer and we need to sit down and discuss these issues:

- * Come up with legislation that works for the Miner's Hospital Fund and appropriate language.
- * Hold broader discussions with the Treasurer and our Board to see if there is a middle ground on the investment issue. We have to be able to convince him that our development process is to build value to the corpus.

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4. Director's Report(cont')

e. Associate Director's Report (cont'd)

I. Review of Treasurer's Request for Attorney General's Opinion
Regarding Management of Assets (cont'd)

We are not engaging in traditional investment of real estate opportunities. Mr. Lofgren also attended the meeting with the Treasurer and gave much comfort to the Treasurer as to why we did the Coral Canyon purchase. Mr. Andrews noted he feels we need to engage in more discussion at the Board level with the Treasurer to define boundaries. This would be much more prudent than going to the Attorney General's Office for an opinion. This needs as much specificity as possible. Mr. Mower asked whether this is something that needs to be put into the Trust Lands Management Act. Mr. Andrews stated this probably should not be legislative in nature. It could be a MOU that would provide for clarity on what we all agreed upon. Mr. Lofgren noted that the Real Estate Committee has been discussing what is appropriate in these areas. They have a draft policy to introduce to the Board later on. He stated he doesn't feel the Treasurer had a problem with our moving forward with our managing the Coral Canyon area. It is just the money issue and the appropriation aspect. Mr. Andrews noted Coral Canyon is an asset that is going to get more significant. The Trust is generating enough funds to take care of the Miner's Hospital needs, and they are now wanting to invest the rest of it. We are just trying to make as much money to build that trust. Who actually holds the money is not our question to answer. The discussion needs to be had because the current status doesn't work for anyone.

Charles Evans, of the University of Utah, stated they have no obligation to get involved in this discussion. Their vice president meets with the Treasurer in regard to investing of their fund. This specific issue has come to a head because of the Coral Canyon purchase

Chairman Brown asked what kind of a team needs to work on this. Mr. Andrews thinks that the Miner's Hospital issues will need to be dealt with by him, the University of Utah counsel, and Charles Evans. On the actions with the Treasurer, the Real Estate Committee could probably deal with this issue. Mr. Lofgren stated the Real Estate Committee is fine to try to reconcile the difference between investment and adding value. The draft policy from this committee was handed out to the Board and Staff for discussion. Mr. Lofgren asked that everyone review the policy and send him comments on it. We will again review it in September. He feels this is a critical issue in continuing to deal with the Treasurer. Chairman Brown asked the beneficiaries, Staff, and Board members to review this and send comments to Mr. Lofgren.

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4. Director's Report(cont')

e. Associate Director's Report (cont'd)

I. Review of Treasurer's Request for Attorney General's Opinion
Regarding Management of Assets (cont'd)

At this point, Director Carter asked Mr. Andrews to give an update on the land exchange bill and the county land bills. Regarding the county land bills, Mr. Andrews stated that we have been working on the Beaver/Piute area land bills. In that effort the citizens of Beaver County conveyed that they didn't feel it appropriate for the commissioners to move forward. Therefore, that bill did not move forward. In Piute County, the county commission has felt that they want to engage Senator Hatch to move forward with county legislation.

The Board passed a policy earlier this year informing the congressional delegation that, because of the concerns of the other land bill, it was the Board's policy that any future exchanges take into account dealing with trust lands inholdings at the time the legislation is passed rather than it being an issue to be solved in the future. In Piute County, it is our understanding that Senator Hatch's office wants to move forward with the legislation; and we have informed the county that, pursuant to the Board's policy, we would have an expectation that the trust lands captured would have a method for exchange. We drafted language to that effect for them. We are using language we came up with in the recreation land exchange. There has been some push-back from the county's consultant on the language.

One problem of the Piute County exchange is that there is not much land that we are excited to be acquiring from an economic standpoint. We have determined that the actual proposal would create only a limited footprint of new wilderness.

When we did the last recreation exchange, we also looked at what other land should be managed by the BLM. In this case, some additional sections are opened for designation in the Red Rock legislation and some have wildlife uses. We have, therefore, proposed giving up more lands than will actually be included in the wilderness area.

Mr. Andrew's perspective is that the exchange itself is not enormously economically beneficial to us, but the Board expressed a very strong principle for the county land bills that we are enforcing. Director Carter noted there has been some push-back from committee staff for including this language. Contrary to that, the environmental community has stated that their support hinges on what we have proposed.

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4. Director's Report(cont')

e. Associate Director's Report (cont'd)

I. Review of Treasurer's Request for Attorney General's Opinion
Regarding Management of Assets (cont'd)

Ms. Bird stated that a representative of Senator Hatch's staff yesterday stated there are some objections to this language. She told him that any exchange bill is needed to have this language. It is important the language be in the bill. Mr. Andrews noted that land exchanges are often viewed as anchors. Therefore, we have been looking for other ways to proceed. One idea is to expand the existing Enabling Act in-lieu authority. Many of the western states share our frustration. We have, therefore, been considering expanding the in-lieu authority. We would then have the right to select lands outside Utah for the benefit of the trust. Staff has also discussed this briefly with staff of DOI.

Ms. Bird noted that we have experienced a number of land exchanges. She questions whether we have gotten full market value. She hopes that the Board will expect of the Staff, as the beneficiaries do, to look at the properties that are captured and determine if we need to sell some small parcel to determine the value. We need to make sure that we look carefully at values. If there are not good comparables, we need to do things to create that comparable. It was noted that this is hard to determine because many of the situations are different. Mr. Andrews stated there is law that there has to be rough equivalence that values are equal (within 20 percent). We would ask in new legislation that the existing policy of rough equivalence be the guide. This will ultimately be determined by Congress.

Mr. Andrews reviewed with the Board an administrative exchange Staff has been working on for quite sometime. The BLM manager asked for a postponement of the exchange, and the values declined during that time. To continually push the value issue doesn't always work in our favor.

4. Director's Report(cont')

f. Assistant Director/Surface Report

I. LaSal OHV Project Review

Mr. Christy explained that the agency has been involved in an OHV project on the LaSal Mountains using the money we receive from OHV registrations. In the previous five years, there has been a three-fold increase in OHV's. Mr. Christy and Chris Fausett reviewed this project with the Board through a power-point presentation as follows:

- * \$1.50 OHV annual registration surcharge
 - * \$300,000 per year
 - * Mitigate resource degradation
 - * Funding source for perfection of easements

- * LaSals OHV Pilot Project
 - * Curb resource damage and create more disciplined use of the area
 - * 41 percent increase in OHV roads/trails since mid-1990's.
 - * Transportation plan recently completed
 - * Three-year implementation project in process
 - * Laboratory for rewrite of OHV rules
 - * Public relations campaign

- * Project Vision Recap
 - * Comprehensive travel management plan
 - * Protect lands from resource degradation and diminishing value
 - * Enhance public awareness
 - * Accommodate disciplined incidental public use

- * Agency commitment
 - * See project through to completion
 - * Make this a showpiece and model for future projects

4. Director's Report(cont')

f. Assistant Director/Surface Report (cont'd)

I. LaSal OHV Project Review (cont'd)

* Planning Process

- * Start with comprehensive inventory of routes
 - * 38 - 41 percent increase in routes since mid-1990's
- * Develop set of guiding principles for route evaluation
 - * County road claims strongly considered
 - * Legitimate destinations
 - * Route redundancy
 - * Sustainability
 - * Dead ends vs. looping systems
 - * Wildlife and other resource considerations
- * Initial staff recommendations
- * Stakeholder meetings
 - * Grand County, San Juan County, SPEAR, Ride With Respect, State Parks, DWR, Forest Service, Red Rock 4-Wheelers, Moab Friends 4 Wheelin', adjacent landowners, grazing permittees
- * Response was generally positive and supportive
- * Reviewed and incorporated stakeholder recommendations
- * Develop final plan
- * Implementation

* Plan Highlights

- * Designated routes only
 - * Some route closures necessary, will be fully decommissioned, recontoured and relcaimed
 - * Establish some new routes and connections
- * Informational kiosks placed at key entrance points
 - * Travel brochures with detailed information
- * Route signage
- * Camping areas
 - * Detailed planning needed at Don's Lake, Hidden Lake, & Dark Canyon Lake

4. Director's Report(cont')

f. Assistant Director/Surface Report (cont'd)

I. LaSal OHV Project Review (cont'd)

* Implementation

- * Kiosk turnouts constructed last year
- * Work nearly completed on kiosk installation
- * Full implementation expected to take three field seasons

Mr. Christy noted that about a month ago they met with the counties involved to let them know our progress. We have secured the services of Vickie Varela to help us with this project. We are working on a media event to show this project. Ms. Varela stated this is a great opportunity to tell our story about good stewardship. The Board felt that this has been well done.

5. Consent Calendar

a. Concurrence in Changes to R850-110 - - Off-Highway Vehicles Designations

The Board had no comments on this item and, therefore, concur in it.

b. Other Business Arrangement - Oil and Gas - - Crescent Junction Well - - Tidewater Oil & Gas, LLC - - Grand County, Utah

The Board had no comments on this item, so it is approved.

Notification:

c. Fee Waiver Report

The Board had no comments on this Report.

Meeting adjourned at 1:13 p.m.