

**THE BOARD OF REGENTS  
OF HIGHER EDUCATION  
Montana University System**

**CONFERENCE CALL MEETING  
MINUTES**

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**DATE & TIME OF CALL:** AUGUST 25, 1994 —10:00 A.M.

**LOCATION:** MONTANA HIGHER EDUCATION BUILDING  
COMMISSIONER'S OFFICE  
2500 BROADWAY  
HELENA, MONTANA

**REGENTS PARTICIPATING:** JIM KAZE (CHAIRMAN), PAUL BOYLAN, COLLEEN CONROY, PAT DAVISON, AND KERMIT SCHWANKE

**REGENTS NOT PARTICIPATING:** JIM BROWN AND CORDELL JOHNSON

**PRESENT IN COMMISSIONER'S OFFICE:** JEFF BAKER, LEROY SCHRAMM, AND ROSE BOND (OCHE)

**OTHER PARTICIPANTS:** BOB KINDRICK (THE UNIVERSITY OF MONTANA—MISSOULA) AND BOB REAM (MONTANA FOREST AND CONSERVATION EXPERIMENT STATION)

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Chairman Jim Kaze called the conference call meeting to order at 10:00 a.m. Roll call showed that a quorum was present. Chairman Kaze explained that the meeting was called for the Board to approve the following item:

**Item 84-1001-C0894—Authorization to Sell Conservation Easement on Bandy Ranch Property [Under control of Montana Forest and Conservation Experiment Station (MFCES), The University of Montana, and Agricultural Experiment Station (AES), Montana State University] to the U.S. Fish and Wildlife Service; The University of Montana—Missoula**

Chairman Kaze asked whether the Regents had any questions.

Referring specifically to the Bandy Ranch, Regent Kermit Schwanke asked how much money had been put into the Forest and Conservation Experiment Station and the Agricultural Experiment Station each year as far as Montana State University—Bozeman was concerned.

Bob Ream, Interim Director of the Montana Forest and Conservation Experiment Station, said the Forest Experiment Station had put \$20,000 into it during the past year, and MSU—Bozeman had contributed cattle from some of the other experiment stations as its share rather than hard dollars. He said each would contribute \$17,000 during the current fiscal year and, with the easement in question, would put the Bandy Ranch in the black so that neither the Ag Experiment Station nor the Forest and Conservation Experiment Station would have to put out hard dollars for management.

Regent Schwanke asked for the total amount of acreage. Mr. Ream said the property was comprised of 3,700 deeded acres.

Regent Schwanke asked whether the easement divided the ranch—not for sale but for access. In other words, did it cut off access from one part of the ranch to another. Bob Kindrick, Provost and Vice President for Academic Affairs at The University of Montana—Missoula, said it did not. The ranch currently was in four parcels but separated by other ownerships; they were all quite close together.

Mr. Ream said a conservation easement, instead of being like an access easement or a use easement, was more like a do-not-use easement. In other words, they were agreeing by virtue of the easement not to use the land for non-natural purposes; they would leave it as natural terrain and natural habitat.

Regent Schwanke referred to a section in paragraph 1 concerning "... lands covered by this conveyance shall include any enlargements of said wetland areas resulting from normal or abnormal increased water." He asked whether excess water flowing onto the Bandy property would cause a problem for them.

Chairman Kaze said he thought they were granting a conservation easement on existing wetlands, which meant that if for some reason there was an abnormal increase in the amount of water in the area that increased the size of the wetlands, the conservation easement would apply to the increased wetlands as a result of that. He said the easement would apply to whatever wetlands were there.

Chief Legal Counsel LeRoy Schramm pointed out that they needed to look at the introduction to the paragraph in question, which said they would refrain from certain activities, which included draining. He said they would not be draining any abnormal accumulation of water.

Regent Schwanke asked for clarification of the sentence in paragraph 5 on page 2: "Grantors shall pay real estate taxes and assessments."

Mr. Ream said that was acknowledging that the grantor still had the obligation to pay any taxes in connection with the property because of a change in title rather than a change in hand. He said the \$652,000 for the easement would be put into a trust fund and would provide \$25,000 or \$30,000 a year, which should be the margin needed to operate in the black.

Regent Pat Davison asked if by selling the easement they would be placing a restriction on the value of the land if they were ever to sell it in the future. In other words, their decision would probably deteriorate the value of the land in exchange for cash at that time.

Mr. Ream said that was correct.

Chairman Kaze said the question was whether \$652,000 was a fair consideration for the reduction in fair market value.

After further discussion, Commissioner of Higher Education Jeff Baker asked Mr. Ream whether he could clarify the appraisals, the amounts, and the differences between the independent and governmental figures that resulted. Mr. Ream said he could not do so at that time but could make that information available to them.

Chairman Kaze said he wanted to make sure the Board was fully informed before making a decision. He said he would suggest they approve the request subject to the commissioner's review and approval of the appraisals. He asked Mr. Ream if the information could be sent to Commissioner Baker for his review.

Provost Kindrick said they were satisfied with that approach and would send the information to the commissioner right away.

Regent Davison asked Chief Counsel Schramm if they were following the Board's policies and procedures in place for the disposition of land.

Chief Counsel Schramm said that while they were within their policies, appraisals were required only when buying land—not selling—probably because they did more buying than selling. He said although their policies did not mandate they obtain an appraisal, it was within their discretion to do so. Considering the amount in question, he said he thought it was wise to do so.

- ▶ **Regent Davison moved that the Board approve Item 84-1001-C0894, subject to delegating the authority to the commissioner to review and approve the appraisals—both the independent and in-house appraisals. The motion passed 4 to 1; Regents Conroy, Davison, Schwanke, and Kaze voted yes; Regent Boylan voted no.**

Regent Schwanke suggested that Chief Counsel Schramm review the Board's policy on buying and selling land to determine whether the policy should be revised.

Chief Counsel Schramm said he would review the policy for future discussion.

Regent Paul Boylan asked whether the easement was now a "done deal."

Chairman Kaze said as he understood it, if Commissioner Baker reviewed and favorably approved the appraisals, the transaction was final. Mr. Ream agreed, although he said that any party to a contract always had the right to say no before putting a signature on it.

With no other business to come before the Board, the meeting adjourned at 10:30 a.m.

