

**SPECIAL MEETING
STATE BOARD OF LAND COMMISSIONERS
November 26, 1990**

A special meeting of the State Board of Land Commissioners was held Monday, November 26, 1990, at 9:00 a.m. in the Gold Room (Room 420) of the State Capitol Building. Governor Cecil D. Andrus presided. Those members present were:

Honorable Cecil D. Andrus, President, and Governor of the State of Idaho
Honorable Pete T. Cenarrusa, Secretary of State
Honorable Jim Jones, Attorney General
Honorable J. D. Williams, State Auditor
Honorable Jerry L. Evans, Superintendent of Public Instruction

Stanley F. Hamilton, Secretary to the Board

Consent Agenda

- A. Official Transactions - September 1990
- B. Proposed Timber Sales:
 - 1. CR-4-0482, Johnson Junction
 - 2. CR-4-0487, North Green Mountain

Jerry Evans moved to approve the consent agenda. Pete Cenarrusa seconded. The motion passed unanimously.

Regular Agenda

Grazing Lease Rates

Governor Andrus related that a subcommittee had been appointed last February to try and come up with a resolution prior to December 1. He said that if the grazing fees are to be increased, that must be done on or before December 1 because of the six-month notice requirement to the lessees. That is the reason for this special meeting today. If the old formula stays intact, the fee would move from \$5.21 to \$5.36. J. D. Williams was named to chair that committee, and Governor Andrus invited his report.

Mr. Williams reported that the subcommittee, composed of himself, Pete Cenarrusa, and Jerry Evans, met on four different occasions. There was also a representative from the Cattle Association, Burt Brackett, the president, along with a substitute, Mike Hillman. Representing the Wool Growers was Ennis Pickett from Oakley, along with other various representatives from the Wool Growers.

The subcommittee was to review the formula adopted in 1985 which was basically six times the rolling 24-month average price of a 500-pound calf. They wanted to set a reasonable relationship of market value to the forage or pasture and to try to arrive at that through comparables. They wanted to adopt a simple, easily understood, formula which would be based on information readily available and would not impose additional cost to the state. They decided to also take into account the cost of production to livestock operators. They set December 1 as the deadline to come up with a recommendation to the full board. Neil Rimbey, University of Idaho extension office in Caldwell, assisted the subcommittee. They studied many different formulas from other states.

Mr. Williams reviewed the formula that was preliminarily approved at the last Land Board meeting. They reviewed the last thirty years of various indexes to determine how close the various formulas would come to historically have hit all the various factors every year. The formula was found to be 97% reliable. The first factor is an intercept which is a statistical item to ensure reliability. Then you add to it the federal forage value index which is the index of private leases in the eleven western states. Add to that the beef cattle price index and subtract from that the prices paid index for various expenses incurred by livestock operators, then add to it the Idaho Forage Value Index (IDFVI). That is timed by a base to equal the AUM. That formula was unanimously agreed to at the subcommittee meeting. The issue now is what is the base going to be. The value of services provided on private leases must be subtracted out. Dr. Rimbey's study indicates that the amount of anywhere from \$1.48 to \$1.14 for those services subtracted out would leave a base somewhere between \$1.91 and \$2.25. If you use the \$1.91 factor, you come up with an AUM \$4.34; if you use the \$2.25, you come up with a \$5.11 AUM.

Mr. Williams said that the process was very complicated and the subcommittee feels that somewhere between those two areas is where it should be. They tried to analyze whether there should be a separate formula for sheep; right now the formula is based solely on the price of cattle. The subcommittee decided that the AUM rate should be the same for sheep and cattle, but that anytime the price of sheep falls more than 30% below the price of cattle, there would be an automatic 25% reduction in the AUM rate for wool growers.

Governor Andrus recognized Neil Rimbey and stated that the Land Board does have a resolution expressing appreciation to Dr. Rimbey to present to him.

Mr. Ennis Pickett, Pickett Ranch and Sheep Co., spoke to the board to explain what leasing state land encompasses in comparison to his other lands. Governor Andrus summarized that the point of Mr. Pickett's comments was that there are other improvements to be made on those public lands that may not exist on some of the private lands. He asked Mr. Pickett why the wool growers chose to stay with the cattle formula instead of having their own formula. Mr. Pickett said that they didn't want to bring any barriers between the segments of the livestock industry.

Mr. Dick Chilcoate, President, Idaho Education Association, stated that the endowment fund is a constitutionally established sacred trust specifically intended to benefit the public schools of Idaho. The constitution requires that Idaho state lands be managed in such manner as will secure the maximum long-term financial return to the institution for which granted. The formula proposal before the board today requests reduction of grazing fees on Idaho public land. The current fee formula fluctuates proportionally to market value fluctuation of the grazing animals. IEA questions whether the fee should be decreased at this time, and proposes that the Land Board concur with a suggestion made by State Superintendent of Public Instruction, Jerry Evans, at the subcommittee meeting last week, that the matter should be kept at a minimum on hold for the present time and that the matter be given further study. IEA feels that further study is warranted and that study should further investigate the factors of stock owners' costs, market values, comparable grazing fees in neighboring states, and fees charged for other types of grazing and also investigate the current practice of competitive bidding for Idaho public land. Finally, it is also suggested that the study committee include representatives of a larger group of those interested in management of public lands including such organizations such as upper education and conservation. To allow the endowment fund to be reduced ultimately means that local property taxes be increased or other forms of revenue increases must take place to make up the difference to public education. IEA encourages the Land Board to not reduce grazing fees at this time.

Mr. Cenarrusa pointed out that the grazing fees generate only \$1.2 million out of the \$520 million that will be requested of the legislature.

Dick Woodworth, Idaho Wildlife Federation, said that after attending the subcommittee meeting last week, he thinks there should be more a more diverse group on the advisory committee. The management of these lands is of great concern to a number of people other than livestock and education people, such as conservation people and other users. Regarding the grazing fee, they feel it should remain near what it is, and if the sheep people are really hurting, that they should get some relief. He cited a report on private grazing from the Idaho Agriculture Statistics Service. It bothers him that right now fees are up \$1.50 to \$2.50 over the numbers mentioned here for 1990.

J. D. Williams commented that he has heard this question from other groups as to why aren't the educators, environmentalists, and conservation groups involved with this. The response is that the subcommittee is advisory only and that any final decisions will be made by the Land Board. He commented that he also reviewed the numbers mentioned as computed by the federal Agricultural Statistical Bureau, and he has some questions about it. He suspects those latest figures may be based upon a summer survey which does not involve a very large sample.

Mr. Williams stated that the last part of the subcommittee report to the full board is that no matter what is done today, that the Department of Lands fund a study to be conducted through Dr. Rimbey at the University of Idaho to do an in-depth survey of private lease rates in the state of Idaho, and of the value of services provided by the landlords in those private leases in order to know how much to discount the base figure. That survey could be done this January-February. Any decision should be an interim decision so that the board will have this study to validate its findings or to adjust its findings accordingly for the 1992 grazing season.

At the end of the public testimony and the subcommittee report, Governor Andrus said that the first matter to be taken care of would be the resolution for Dr. Rimbey for the work he has done in helping the subcommittee. Dr. Rimbey has been an outstanding contributor and the Land Board would like to extend its appreciation for a job well done to Dr. Neil R. Rimbey. A copy of the resolution will be provided to the Dean of the School of Agriculture at the University of Idaho.

J. D. Williams moved to adopt the resolution. Jim Jones seconded. The motion passed unanimously.

Jim Jones made a motion to adopt Formula #19; that a base rate be employed of \$2.10 which would yield an AUM rate of \$4.77; that there be as recommended by the subcommittee a 25-cent rate reduction for sheep AUMs when annual lamb prices drop 30% or more below the annual calf price; that there be a limit of 25% maximum variation in change of annual rental rate; and that the proposal prepared by Dr. Rimbey to conduct a private grazing lease study in Idaho, be advanced. Pete Cenarrusa seconded the motion.

Mr. Jones commented that originally when the old formula was adopted, he had proposed a multiplier of 5 instead of 6 which would, under current conditions, yield a \$4.47 rate for AUMs next year. What he has proposed is 30 cents higher, but he thinks it gets into the ballpark of where he would like to be.

Mr. Cenarrusa explained that the subcommittee vote was 3-2 in favor of using \$1.91 for a base which would yield \$4.34 for AUM. Two Land Board members voted against that. The motion is for a \$2.10 base which Mr. Cenarrusa thinks is realistic rather than get into a conflict on the lower figure.

Jerry Evans offered a substitute motion to adopt Formula #19 with the 30% triggering mechanism for the wool grower industry and a base of \$2.30. Mr. Evans said he does that because it has the effect of leaving the lease rate at the current year's amount for all practical purposes which is \$5.21. With a \$2.30 base, it would be \$5.22 for next year which for all practical purposes is frozen and would keep from

triggering the \$5.36 increase which is already the established policy with this board. Mr. Evans' substitute motion failed for lack of a second.

J. D. Williams commented that last March he had disqualified himself from voting on grazing fee issues because he had learned that his family was still involved with some state grazing leases and he had a trustee relationship with the family's cattle ranch. Since then, all the estate plans and operating procedures have been changed so that he no longer has any interest at all in any of his family's livestock operations. He believes he has no conflict of interest here.

Mr. Cenarrusa also commented that he has no family members that have state leases that he knows of.

Mr. Williams stated that the pending motion using the base of \$2.10 is getting closer to what he believes the market value of the forage is, but he feels that \$4.77 is still a little below market value. His feeling is that market value is somewhere around \$4.95 - \$5.02. He will propose to the board that it make an interim decision today not to raise any of the fees and to postpone for a month or two the final decision for the 1991 AUM rate pending a review of this information provided by the Idaho Agricultural Statistical Service, get the input from all interested groups, and set a rate by March 1.

Governor Andrus explained that he is opposed to the \$4.77 level because he agrees that is approaching the market rate, but is still below it. He would like to see it fall someplace around \$5.00. He is critically concerned about the wool growers in the state and feels something needs to be done now to give them a reduction. He would be receptive to a motion to come back in January after the numbers have been refined to give some consideration to a more firm figure for the cattle industry and give the sheep industry some relief.

Jerry Evans said he agrees something needs to be done for the wool growers. The subcommittee was provided information that suggested private lease rates were in the neighborhood of \$6-10 in Idaho. There is also good evidence that that number should be discounted for services that are not provided. However, if you take an \$8 rate and discount 30% for services, then you would still come to a \$5.60 lease rate even with the reduction for services. Information before the board today suggests that the current 1990 rate is \$8.42 which would make that number slightly larger. He thinks the numbers discussed today are totally under fair market value. Also, he thinks there should be hearings held with other interests having the opportunity to attend those hearings. He would suggest it be done in a formal way with at least three regional hearings and have input from the citizens of Idaho well beyond those who have current state leases. Then, come back and take another look at how this base applies to the grazing lease rate.

Governor Andrus advised the board members that the motion before them is for a \$2.10 base resulting in a \$4.77 AUM rate in the state of Idaho. There is also a provision that there be a reduction for the wool growers when there is a large difference in the market.

Mr. Cenarrusa explained how the quality of the lands is what makes the difference, pointing out that settlers chose the best productive lands with the water, and what was left was land no-one wanted. The state was left with some of the poorest quality land.

The motion failed on a 2-3 vote; Governor Andrus, J. D. Williams, and Jerry Evans voting against.

J. D. Williams moved to approve the formula known as Formula #19 which gives a factor (index) of 227; that it also approve as part of the formula the 25% rental rate reduction for sheep AUMs when the lamb prices drop 30% or more below

the annual calf price; a limit of 25% maximum variation in change of annual rental rate, and also that a study be conducted by the University of Idaho by Dr. Rimbey to compare private leases and the cost of services provided by the landlords in these private leases that are not furnished on state leases; and that no base figure be adopted today, but agree that the grazing lease rate would not be increased and give a deadline of March 1 to determine a base to be plugged into the formula to determine the AUM, and during this time the study continue and also that hearings be held. The motion failed for lack of a second.

After a short recess requested by Mr. Cenarrusa, J. D. Williams made another motion that the State Land Board approve the following formula and base for the 1991 AUM grazing rate: That first it approve Formula #19 which gives an index factor of 227; as an addition to that, plug in a base of \$2.20 which would give an AUM rate of \$4.99; that there be a threshold factor that if there is a differentiation between lamb prices and cattle prices of more than 30% that there be an automatic 25% reduction for sheep AUMs; and that there be a limit of 25% maximum deviation in change of the annual rental rate; and also that it approve the study to be conducted by the University of Idaho of private lease rates and costs of services provided by private landlords. Pete Cenarrusa seconded. The motion passed 4-1, Superintendent Evans voting against.

Governor Andrus explained that as the study goes on with the subcommittee, the Superintendent's request for public comment would be appropriate and the President of the Land Board will see that that is accomplished.

Malad Gorge Easement Application -- FERC Project #3924

Governor Andrus reported that an additional packet of information from the Department of Parks and Recreation and Board has been received with reference to finds of historical occurrences dating back to prehistoric time that need to be looked at.

Mr. Hamilton related that this had been brought to the board at an earlier time as an information item. At that time the proponents had requested that they would like to see some kind of board resolution during the month of November.

Jay Biladeau reported that the Malad Gorge hydroproject as revised would divert water along the south side of the Malad River Canyon. In doing so, it crosses a parcel of public school endowment land. That endowment parcel is leased to the Department of Parks and Recreation for recreational purposes, to be used in conjunction with Malad Gorge State Park. It expires at the end of 1992. The project has recently been revised so that most of the project is off land owned by the Department of Parks and Recreation, and would only cross a small portion. The applicant will have to deal with the Department of Parks and Recreation for an easement on that portion. In 1911 an easement was purchased across the endowment parcel as well as a portion of what is now Malad Gorge State Park which was for a dam, a flume, tramway, powerhouse, and camp. Approximately 6.25 acres of that easement is located within the endowment parcel itself. The land included in this easement was acquired by Idaho Power in fee simple by condemnation in 1914. Mr. Biladeau used a map to illustrate the proposed project.

Mr. Biladeau explained that the project as now proposed involves very little of that Idaho Power Co. property; a significant amount would be located on the endowment tract for which an easement would be required and has been applied for. Malad Hydro Partners originally requested an easement for over four acres; the revised proposal reduces that area to 0.79 acres. The department is drafting an easement which will provide for a one-time easement consideration based on land value which would probably be around the minimum amount due to the small acreage involved. In addition to that one-time fee, the applicant would pay annually a royalty fee based upon the kilowatt hour production of the project. Based on the formula adopted by

the State Board of Land Commissioners and an estimated annual net generation of 20 million kwh, the annual fee to the endowment would be \$15,443. The department is also suggesting a minimum annual royalty fee of \$5,000 once the project is producing power or at the start of the fourth year, whichever occurs first. The applicant would be required to post an adequate bond for the full term of the easement. After construction is completed, the applicant would be required to restore the land surface to its natural condition by establishing a suitable vegetative ground cover. Areas of cultural significance have been identified in the Malad Gorge area and the project would have to be coordinated with the Idaho Historic Society and any significant findings that may be impacted by this project would be adequately addressed in their planning process.

Mr. Biladeau said that the department is recommending that an easement be approved at the fees and reclamation requirements he has described. The department also recommends that the staff be authorized to work in developing with the applicant mutually agreeable language for specific reclamation procedures and a specific amount for the bond. Another recommendation is that when this project comes on line, Idaho Power Co. would relinquish title to the State of Idaho for that 6.25 acres they presently own which is within the endowment parcel.

Governor Andrus invited Yvonne Ferrell, director of the Idaho Parks and Recreation Department, to comment. Ms. Ferrell said that prior to the Parks Board meeting, the board conducted a public information meeting in Hagerman regarding this project. Of the 46-50 attendees, the vast majority of the people who spoke were opposed to any commercial use and development of Malad Gorge State Park. The Board reviewed this project for the third time on November 9, 1990, and denied approval of the project for the third time. The board has consistently taken the position that state parks should be preserved and maintained in their natural state to the extent humanly possible, free of commercial development. At the time, neither the staff nor the board was aware of the paleontology site on the leased state endowment land. The finding was brought to their attention by the Idaho State University Museum of Natural History. They also recently learned that in 1970, Gooding County placed a 300-foot construction setback along the entire rim of the canyon because of the instability of the area. It is their feeling that before the Land Board takes action on this easement request, ample time be given to study the possible negative effects this project may have on this unique paleontologic discovery.

Mr. Hamilton said that he would like to explore briefly what the impact of blasting the vertical tunnel might be and that he would be interested in what alternatives there might be to blasting.

The spokesman for Malad Gorge Hydro Project said that they retain a blasting consultant who is extremely comfortable with the approach they have taken. The spokesman said, however, that a drilling/boring technique is a possibility. They do have a consultant on board right now who can address these concerns.

Governor Andrus requested the department recommendation be repeated with the consideration of the paleontology question that has been raised.

Jay Biladeau said that the department was recommending proceeding with an easement for this purpose and that the area be investigated as far as cultural significance sites may be concerned and that that be tied in with the Idaho Historic Society. Any significant findings would then have to be identified and dealt with before the actual easement would be issued.

Governor Andrus raised the question as to whether it would be appropriate to give that permission at this time, or to do the study first. He stated he had been prepared to vote for the project, but he needs to know first what the cultural significance is found down there.

Jim Jones pointed out that mining permits are issued on conditions that certain things be done, and he thinks what the department recommends is adequate.

Governor Andrus inquired who would make the determination as to whether those conditions had been met. Jim Jones replied that department staff would do that. Governor Andrus then stated that he would not be able to go along with that.

Jim Jones made a motion to approve the department recommendations with the conditions as outlined by Mr. Biladeau (as listed in the board memorandum) that we insure that there will be no adverse effect on the cultural values and if there are any finds that they be adequately protected as a condition of moving forward and that there also be an assurance that geographic considerations are not going to pose problems as far as whether the matter is blasted or drilled. Pete Cenarrusa seconded. The motion passed 4-1. Governor Andrus opposed.

Executive Session

Jerry Evans made the motion citing Idaho Code 67-2345 to consider matters of litigation. Jim Jones seconded. The motion passed unanimously.

Deputy Attorney General Clive Strong and Steve Schuster, department legal counsel, briefed the board on pending litigation matters regarding the I-90 lawsuit.

Regular Session

Governor Andrus announced that there was no action necessary or taken in the course of the executive session, and no action needs to be taken in regular session.

Other Business

Mr. Hamilton said that also the question of whether to credit or refund the wool growers had not been made clear. Governor Andrus stated it would be appropriate to put that item on the next agenda.


There being no other business brought before the board, the meeting was adjourned.

STATE BOARD OF LAND COMMISSIONERS



President, and Governor of the State of Idaho

Countersigned:



Secretary of State



Secretary to the Board and Director of the
Idaho Department of Lands



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IDAHO BOARD OF LAND COMMISSIONERS

R E S O L U T I O N

WHEREAS, on February 13, 1990, the Idaho Board of Land Commissioners, on the motion of Superintendent Evans, seconded by State Auditor Williams, did vote unanimously to review the grazing rental rate for calendar year 1991; and,

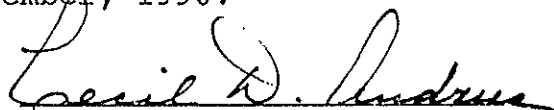
WHEREAS, Governor Andrus, President, Idaho Board of Land Commissioners, appointed a committee to perform such review and named State Auditor Williams, Chairman, and members Superintendent Evans, Secretary of State Cenarrusa, Bert Brackett, Idaho Cattle Association, and Jeff Siddoway, Idaho Wool Growers Association to serve on the committee; and

WHEREAS, the committee has requested NEIL R. RIMBEY, EXTENSION RANGE ECONOMIST, Cooperative Extension Service, University of Idaho, to consult with and advise the committee, and to develop a predictive model for state land grazing rates in accordance with specified criteria; and,

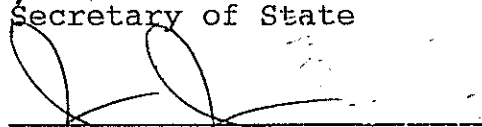
WHEREAS, NEIL R. RIMBEY did perform the duties and tasks requested of him in a thorough and highly professional manner;

NOW, THEREFORE, the Idaho Board of Land Commissioners and the Idaho Department of Lands do hereby extend their appreciation and thanks for a job well done to NEIL R. RIMBEY, and order that a copy of this RESOLUTION be sent to the Dean of the School of Agriculture at the University of Idaho.


Dated this twenty sixth day of November, 1990.



Governor


Secretary of State


Attorney General


State Auditor


Director, Idaho Department of
Lands and Secretary to the
Board


Superintendent of Public
Instruction