

**SPECIAL MEETING
STATE BOARD OF LAND COMMISSIONERS
December 28, 1990**

A special meeting of the State Board of Land Commissioners was held Friday, December 28, 1990, in the Governor's conference room, beginning at 9:00 a.m. Governor Cecil D. Andrus presided. Those members present were:

Honorable Cecil D. Andrus, President, and Governor of the State of Idaho
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

Absent:

Honorable Pete T. Cenarrusa, Secretary of State

Phosphate Lease Revision

Mr. Hamilton reported that this matter had been brought to the Board before with the department requesting direction on the proposed phosphate lease revision. Since that time, the department has held further discussions with the industry representative, Mr. Rick Mellon.

Fred Kisabeth reviewed the highlights of the new revision with the board members, reporting that reference to associated and related minerals has been deleted as the department feels this issue can be revisited at a later date when the matter is resolved at the federal level. In reference to the minimum annual production and minimum royalty, unlike the federal lease, it is being stressed that the annual rental will not be credited against the minimum annual royalty, however, the prepaid royalties are a credit against actual production. Mr. Kisabeth also reviewed some of the other proposed changes to the lease document. The department is recommending approval.

Jerry Evans moved to approve the new lease document as submitted. J. D. Williams seconded. The motion passed unanimously.

I-90 Fill Case

Jim Jones stated that Clive Strong has been working on this and asked him to report.

Deputy Attorney General Clive Strong said they have reviewed the matter and believe that there is a cause of action against the Department of Transportation for problems associated with the I-90 fill situation. They have done some sounding on Lake Coeur d'Alene and there are significant deposits of sloughed off materials that have not been remedied yet, and there is substantial erosion on the banks, and some

action will be needed to see that those are remedied. There are also some problems in the Fernan Creek area which may require some initial action. It is their intent to prepare and have a complaint ready for filing on Wednesday.

Conflict Auctions

Jim Jones stated that one of the items on the last Land Board agenda was the conflict between the Chipmunk Grazing Association and the MacKenzie family. The Superintendent had suggested that the board advance a proposal to the legislature, but that has not been drafted yet. He handed out a copy of the existing law to see if the Board would like to suggest that staff prepare some legislation to present to the legislature. He suggested repealing Section 58-310 which generally deals with conflicts, and then replacing it with a provision somewhat like Section 310A which essentially makes some findings that conflict auctions are not that productive of revenue, but do produce a lot of difficulties both for the parties and the Land Department staff; and then ending with a section 2 stating that there will be no further conflict auctions for any state leases and a section 3 that would say that in the absence of conflict application and auction procedure, the Board shall ensure that all state leases are charged fair market value. That would essentially put all the state leases on the same basis that the legislature put cottage site leases on last year.

Jerry Evans explained that at the last meeting when he cast the dissenting vote it was with the understanding that there was no provision in what was before the board at the time to ensure getting market rates. He was looking for some language which would spell out clearly that this board would insure that each leased lot generates market rent throughout the duration of the lease. With similar language in the grazing leases, he could go along with this, but he warned that it puts this board under the gun to ensure that every annual period, it has a brush against the reality of the market place. He sees no other alternative but to either keep the conflict auctions or to have some language like this.

J. D. Williams commented that he thinks the language just reiterates the board's constitutional duty, and he believes that with the formula they have been working on, they are getting close to where they want to be. However, he thinks they should look at the fact that not all grazing leases are equal, particularly winter and spring grazing.

Jim Jones said he would recommend asking the department to draft some legislation that would basically have subsection 2 and 3 in it, doing away with conflicts and requiring market value throughout the duration of the lease; and then maybe some findings that would be generally applicable.

Governor Andrus suggested doing that, and asked the department to bring it back to the next regular meeting of the Board. Hearing no objections, the department was so instructed.

Resolution--Attorney General Jim Jones

Governor Andrus announced that Mr. Jim Jones who has served faithfully for many years is now about to move on and go into private practice. He presented Mr. Jones with a resolution of appreciation and expression of the good wishes of the board members. Governor Andrus said that Pete Cenarrusa has expressed regret that he would not be able to be here for the presentation. (See attachment.)

Mr. Jones thanked the board and said he has enjoyed the Land Board meetings during the last eight years.

With no further business brought before the Board, the meeting was adjourned.

STATE BOARD OF LAND COMMISSIONERS

Cecil D. Andrus

President, and Governor of the State of Idaho

COUNTERSIGNED:

R. M. Cravens

Secretary of State



Stanley F. Hamilton

Director, and Secretary to the Board

Attachment: Jim Jones Resolution

STATE BOARD OF LAND COMMISSIONERS

RESOLUTION

WHEREAS, JIM JONES was elected to the office of Attorney General of the State of Idaho for a four-year term commencing January 1983, and was subsequently re-elected to a second four-year term commencing January 1987; and,

WHEREAS, said office of Attorney General of the State of Idaho carries with it the constitutional duty to serve as a member of the STATE BOARD OF LAND COMMISSIONERS; and,

WHEREAS, a member of the STATE BOARD OF LAND COMMISSIONERS has the duty to serve as trustee for the management and disposition of two and one-half million acres of grant lands held in trust by the State of Idaho for nine beneficiary institutions; and,

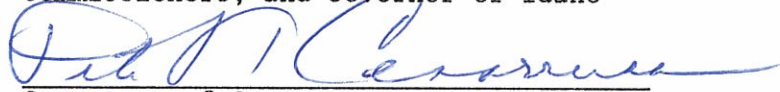
WHEREAS, JIM JONES has diligently and honorably fulfilled his constitutional duty to serve as trustee for Idaho's endowment grant lands and as a member of the policy commission for the Idaho Department of Lands;

NOW, THEREFORE, the STATE BOARD OF LAND COMMISSIONERS does hereby recognize and appreciate the valuable advice and counsel of Attorney General JIM JONES during his tenure as a member of the board, and does hereby extend to him the best wishes and regards of all the members.

Dated this 28th day of December, 1990.



President, Idaho State Board of Land
Commissioners, and Governor of Idaho



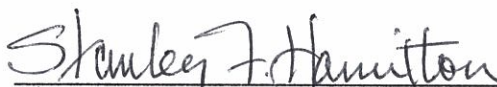
Secretary of State



State Auditor



Superintendent of Public Instruction



Director, Idaho Department of Lands, and
Secretary to the State Board of Land
Commissioners