



STATE BOARD OF LAND COMMISSIONERS

Dirk Kempthorne, Governor and President of the Board
Ben Yursa, Secretary of State
Lawrence G. Wasden, Attorney General
Keith L. Johnson, State Controller
Marilyn Howard, Superintendent of Public Instruction

Winston A Wiggins, Secretary to the Board

Final Minutes Regular Land Board Meeting December 14, 2004

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, December 14, 2004 in Boise, Idaho. The meeting began at 9:03 a.m. The Honorable Governor Dirk Kempthorne presided. The following members were present:

Honorable Attorney General Lawrence G. Wasden
Honorable State Controller Keith L. Johnson
Honorable Superintendent of Public Instruction Marilyn Howard

Secretary to the Board Winston A Wiggins

Governor Kempthorne noted that Secretary of State Ben Yursa was presently in the hospital for knee surgery. A motion was made by Attorney General Wasden that the Board send Secretary of State Yursa best wishes for a speedy recovery. Controller Johnson seconded the motion. The motion carried on a vote of 4-0.

• CONSENT

Director Wiggins provided background information on the Consent Agenda items.

A motion was made by Superintendent Howard to approve the Consent Agenda in its entirety. Controller Johnson seconded the motion. The motion carried on a vote of 4-0, with Secretary of State Yursa being absent for this vote.

1. Director's Report – approved

- A. Interest Rate on Department Transactions – October-November 2004
- B. Bureau of Real Estate, Land Sale Section, Official Transactions – September-October 2004
- C. Bureau of Real Estate, Easement Section, Official Transactions – September-October 2004
- D. Bureau of Surface and Mineral Resources, Official Transactions – August-October 2004
- E. Timber Sale Official Transactions – September 29 through November 30, 2004
- F. Timber Sale Activity Report – Volume Under Contract as of October 31, 2004
- G. Legal Matter Summary

2. Timber Sales – Staffed by Bob Helmer, Chief, Bureau of Forest Management – approved

A. La Rock	CR-31-0002	2,065	MBF	Kootenai
B. Boles Short Line	CR-43-4003	2,045	MBF	Idaho
C. Jug Meadows	CR-50-0125	2,488	MBF	Valley
D. Aden Creek	CR-60-0164	1,510	MBF	Elmore

DISCUSSION: With regard to the proposed sales, Attorney General Wasden asked if the clearcuts fit within the silvicultural practices of the State. Director Wiggins stated they do.

3. Application for Extension of State of Idaho Geothermal Resource Lease Nos. H-479 and H-482 – Staffed by Scott Nichols, Chief, Bureau of Surface and Mineral Resources – approved

DEPARTMENT RECOMMENDATION: Approve extension of the two geothermal resource leases for an additional five-year period (expiration date: February 28, 2010). Rent will be as specified in the rules for lease extensions, \$3.00 per acre per year.

BOARD ACTION: Approved.

4. Results of Grazing Lease Auction for Lease G-9044 – Staffed by Tracy Behrens, Program Manager, Range and Cropland, Bureau of Surface and Mineral Resources – approved

DEPARTMENT RECOMMENDATION: That the Board accept the high bid of \$45,000 submitted by Eighteen Mile Ranch for grazing lease G-9044 and direct the Department to issue a new ten-year grazing lease to Eighteen Mile Ranch. The new lease will include a summary of the grazing lease management proposal submitted by Eighteen Mile Ranch and accepted by the Department.

BOARD ACTION: Approved.

5. Request for Final Approval to Complete a Land Exchange between the State of Idaho and Brent Hoopes and Roger J. Hoopes in Teton County, Idaho – Staffed by Perry Whittaker, Chief, Bureau of Real Estate – approved

DEPARTMENT RECOMMENDATION: Direct the Department to complete the land exchange with the \$1,573.00 to be placed in the Land Bank.

BOARD ACTION: Approved.

6. Final Approval Requested for Proposed Sally Ann Land Exchange between IDL and Michael E. and Sandra Burrell – Staffed by Perry Whittaker, Chief, Bureau of Real Estate – approved

DEPARTMENT RECOMMENDATION: Direct the Department to complete the land exchange with Michael E. and Sandra Burrell.

BOARD ACTION: Approved.

7. Disclaimer of Interest for Public School Endowment Land Located Adjacent to the Boise River in Ada County – Staffed by Perry Whittaker, Chief, Bureau of Real Estate – approved

DEPARTMENT RECOMMENDATION: Direct the Department to issue a disclaimer of interest from the State of Idaho for those lands lying below the OHWM and a disclaimer of interest to the Public School Endowment for those lands lying above the OHWM.

BOARD ACTION: Approved.

8. Request for Approval of Lease Modifications between the Idaho State Historical Society and Boise State University – Staffed by Steve Guerber, Executive Director, Idaho State Historical Society – approved

DEPARTMENT RECOMMENDATION: That the Board approve the proposed lease modifications.

BOARD ACTION: Approved.

9. Minutes – approved

A. Regular Land Board Meeting – October 12, 2004

• REGULAR

10. Joint Meeting with the Endowment Fund Investment Board – Presented by Winston Wiggins, Director, IDL, and Matt Haertzen, Manager of Investments, EFIB

Governor Kempthorne asked that the joint meeting start out with introductions around the table. Seated at the table are:

1. Matt Haertzen, Manager of Investments, Endowment Fund Investment Board
2. Brad Little, Member of the Board
3. Gavin Gee, Member of the Board
4. Parker Woodall, Member of the Board
5. Dean Buffington, Chairman of the Board
6. John Taylor, Member of the Board
7. Bill Deal, Member of the Board
8. Bill Mitchell, Member of the Board
9. Tom Kealey, Member of the Board
10. Rick Miller, Member of the Board

Governor Kempthorne commented that the members of the Endowment Fund Investment Board bring with them a wealth of experience and knowledge. He thanked the Board members for their service to the State of Idaho.

Mr. Haertzen introduced Parker Woodall, chairman of the EFIB Audit Committee. Mr. Woodall discussed the EFIB's audit report.

Mr. Woodall stated he serves on the Audit Committee along with Senator Little and Bill Mitchell. He commented that in the last couple of years the cooperation between the Boards and their staffs has greatly improved. He particularly thanked Director Wiggins and Mr. Haertzen for their efforts to support clear lines of communication.

Mr. Woodall stated another reason the EFIB is pleased to meet with the Land Board is that they received an unqualified audit. Mr. Woodall briefly described the recently completed audit process. This is the first year with the new firm Balukoff and Lindstrom. The Auditors were complimentary of the cooperation they received from the EFIB professional staff during the audit. Once the audit was completed, the Audit Committee conducted an extensive review of the audit with the EFIB professional staff and the Auditors. At the conclusion of that process, the EFIB reviewed with the Auditors only, without the professional staff present. The EFIB felt it needed to know if there was anything the Auditors were uncomfortable saying in front of the professional staff. Mr. Woodall stated he is happy to report it was a very good meeting. When the Auditors were asked if the EFIB professional staff could handle this job, the Auditors stated yes. Once that process was completed, the Audit Committee conducted an extensive review of the audit with the full EFIB.

Three areas were recommended for improvement in FY05. One recommendation was to have a regular and detailed reconciliation of expenses between the general ledger and the STARS system. Mr. Woodall stated the EFIB is gaining in that. A regular and detailed reconciliation of the general ledger fund balances with both the custodial statements, not just with monthly activity, was also recommended. Mr. Woodall stated the EFIB is doing that, and it is considered a good suggestion. And third, because the EFIB is on a year-end full accrual audit, the Auditors recommended that investment manager expenses be accrued as they go along, which makes sense and is being done.

Mr. Woodall stated last year a couple of items were identified in the audit. Those items were accomplished this year and were noted by the Auditors during this audit period. One item was a reallocation of the market value between the Earnings Reserve and the Corpus. The other was the movement of \$1.5 million of cash held on the State Controller's system back into the Endowment Fund. The fourth item was the need for the EFIB to change their report format due to new governmental accounting standards. The EFIB asked the Auditors if the prudent investor law requirements are being met, and the Auditors stated they were. Mr. Woodall stated the EFIB felt that this was a good audit.

Controller Johnson noted that Balukoff and Lindstrom is currently undergoing a merger with another firm. Mr. Woodall stated he understands that as well, but the EFIB is optimistic that the merger will strengthen the situation. The EFIB sees no indication that any of the professional staff will be leaving. The same people will be working, and they will have the resources of a larger combined firm to assist with the things that go on continually.

Controller Johnson stated he shares that position. He is very much aware of both firms and their relative strength. He believes it will be a benefit. Controller Johnson asked if there will be a requirement to somehow assign the contract to the new firm. Mr. Haertzen stated as he understands it that is not a necessary formality. The EFIB will continue to operate under the existing contract. Mr. Woodall added that the new merged firm would assume whatever responsibility the present firm has. However, he stated the Board will look into the matter further. Attorney General Wasden commented that he would have to review the contract to make sure there are no problems.

Governor Kempthorne stated in around 1998 dramatic changes were made when it was decided to enter into the market place. Shortly after that, the stock market plummeted, which historically is not uncommon. He asked if the Land Board has validation that the decision to change the dynamics was the right decision and is the current process working or should adjustments be made. EFIB Chairman Dean Buffington stated good adjustments have been made because the EFIB not only moved out of the 100% fixed income market into equities, but it has been developing asset diversification and allocation within the equity markets. The EFIB is close to having a good representation in international, small cap and mid-cap value. Investments have been spread out in enough areas that the Fund now should be able to enjoy the positive side of the market.

EFIB Member Representative Bill Deal commented he participated in the reform from the beginning. He noted that the transition process turned out to be more difficult than anticipated. However, he commended Mr. Haertzen for the expertise he has brought to the Board in managing a fund with equities and fixed assets. He believes the EFIB is on its way to success, as pointed out this year. Governor Kempthorne echoed Representative Deal's appreciation of Mr. Haertzen and the EFIB. He feels information is critical to laying a foundation and a path forward.

EFIB Member Gavin Gee commented that historically the market has returned much better on the equity side of the market than on the fixed income side. This Board views it as a very long-term investment to help schools and the beneficiaries of the Fund. However he acknowledged that it takes a lot of courage for political leaders to look at this with the long view in mind. The EFIB salutes the Land Board for looking at the long-term view because in the short term, as was learned, there are bumps and dips in the market where losses occur.

Governor Kempthorne commented that we can now point to the results and say it was the right decision. We are on the right path and the future looks very bright. EFIB Member Senator Brad Little agreed. He noted a sustainable system was not in place before. It speaks to the genius of the authors of our Constitution that the corpus could not be touched. Governor Kempthorne thanked Senator Little and Representative Deal for their leadership in their respective Houses and as members of the EFIB. Mr. Woodall echoed the Governor's comments.

Superintendent Howard commented that it must be much more satisfying today to sit on the investment board because the Board has a hands-on ability to determine policy by making important decisions. She noted an earlier conversation about international funds. She believes the whole issue of international trade is something everyone needs to become more aware of. It is an area where

everyone will have to think about how we are going to position ourselves so we are a part of the world market. She also commended Mr. Haertzen for his leadership and direction.

Chairman Buffington commented on the importance of open communication. He noted that on both sides of the equation staff is working together on a daily or weekly basis and that has helped get through some of the tough times.

On behalf of the people of the State of Idaho, the Land Board and the school children who benefit from the EFIB's efforts, Attorney General Wasden thanked the EFIB for their tremendous effort in this project and continuing into the future.

Governor Kempthorne asked if there is anything, positive or negative and perhaps six months to twelve months out, that the EFIB would note for the Land Board's attention. Superintendent Howard noted increases in interest rates with the possibility of those rates moving forward. She asked for comments about how things might balance out in the future and what affect that might have, if any. Mr. Haertzen responded that the Fed will probably raise rates again. He noted we have seen that increase from the short end of the curve. What we have not seen is an increase in the long-term rates.

Governor Kempthorne thanked everyone for their significant contributions and wished all happy holidays.

No action taken on this agenda item.

11. Grazing Lease G-4597, Lacey Meadows – Presented by Winston Wiggins, Director

DEPARTMENT RECOMMENDATION:

RECOMMENDATION

1. Offer Grazing Lease G-4597 to WWP based on the following conditions:
 - a. WWP pays their premium auction bid of \$8,000.
 - b. WWP pays LMGA the cost of approved improvements as determined by resolution of the WWP appeal.
 - c. A written management plan that is acceptable to the Department. Such plan must be in place prior to turn-out, but in no case later than May 30, 2005.
 - d. The duration of the lease will be ten years (to expire on December 31, 2014).
 - e. Require WWP to fence plantation areas, or to ensure other measures deemed adequate by IDL in order to eliminate damage to seedlings.
 - f. Require the Department to certify, annually in December of each year, that the performance of WWP is satisfactorily meeting the objectives of the management plan.
 - g. If at any point the performance of WWP does not justify certification, the Department will recommend to the Land Board that the lease be cancelled.
2. Notify LMGA that the request for reconsideration is denied and that they have no right of use for state land within the Lacey Meadows allotment.
3. Return LMGA premium bid of \$7,500.
4. If WWP declines the lease under the terms outlined above, notify the parties that the allotment will remain unleased and return the premium bid to LMGA.

DISCUSSION: Governor Kempthorne noted Western Watersheds Project's (WWP) December 8 letter wherein item number four stated, "WWP reiterates our stated concerns that any lease condition requiring WWP to fence out tree plantations on the lease is unacceptable to WWP." He asked Director Wiggins how that statement squared with the recommendation. Director Wiggins stated he did not have the Western Watersheds letter at the time he prepared his recommendation. On its face, the

letter appears to be completely contrary. If there is some other method of keeping cattle out effectively the Department would review that option as part of the discussions and management plan. However, if it is decided that fencing is the answer, it would appear that Western Watersheds has declined that term of the offer.

Controller Johnson stated it seems that the WWP letter is an offer to the Board. WWP is offering a proposal, or an offer to consider what they would accept as appropriate terms, for a lease to them. He stated he is struggling with the legal procedure with respect to the contested case and what the Board can and can not decide and what the Board can consider. He suggested if the Board accepts WWP's proposal as a basis for discussion, the Board should also receive a similar proposal from Lacey Meadows as to what they would accept as reasonable terms for a lease. Lacey Meadows was offered the opportunity to accept the lease in an earlier decision, with stipulated terms decided by the Board, whereas Western Watersheds is coming back today with a counter offer based on the series of events that have taken place in the last few years relative to this lease. Controller Johnson re-stated he is struggling to identify where the December 8 letter falls in terms of the process. Director Wiggins responded that he does not believe the letter plays a part in the proceedings. The letter does make a couple of offers and points, and it challenges some of the Findings of Fact. However, the offer of \$20,000 to leave the ground unleased into perpetuity was not addressed in the review. He does not believe that the Board's direction constituted a reopening of the auction so the letter did not seem appropriate. In addition, \$20,000 for a perpetual decision about 16,000 acres of land seemed to be ill advised. Any recommendation or suggestion for some type of permanent condition on the use of endowment land should be considered carefully. Future boards would be bound by decisions made today. If perpetually retiring this lease is something that the Board wishes to consider, that consideration should be done outside of the context of this proceeding. It also seems that \$20,000 is a low offer. In WWP's item number two, they state they are willing to pay the \$8,000 premium bid. That is included in the recommendation. In item number three, WWP notes that the appeal is still outstanding. Director Wiggins agreed and stated that would have to be resolved. WWP has made that statement before and it is a restatement of their brief wherein they stated they should not have to fence because they are not planning to graze. In item number five they disagree with assumptions. In item number 6, WWP talks about trespass cattle from adjacent allotments. That would be a condition of the lease. It was an expectation of Lacey Meadows and the expectation would be that WWP would control any livestock grazing, not just their own. Finally, WWP disagrees with the conclusion. Director Wiggins does not see the December 8 letter as a negotiating offer. He sees the letter as a restatement of WWP's beliefs.

Superintendent Howard referred to a letter from July 14, 2004. The offer of \$20,000 was also made in that letter. She is concerned about costs that Lacey Meadows has in terms of fencing or improvements. Superintendent Howard noted it does not appear that WWP wants to pay for those costs. She asked what happens if the land is not leased. Director Wiggins responded that, on the first point, WWP filed an appeal three or four years ago feeling that the appraisal of the improvements was incorrect. That appeal was set aside when the then Board awarded the lease to Lacey Meadows. That appeal would come forward again. On the second point, in the instance of the lease expiring and the lease not being awarded to either party, the State would be compelled to pay Lacey Meadows for the value of the improvements because the improvements would be kept on the land. That payment would be based on the same appraisal that would be forwarded to Western Watersheds as a part of the lease. Lacey Meadows would be kept whole for their investments.

Superintendent Howard noted that WWP does not plan to graze the leased area. Based on that, she asked whose authority it is to police the leased land and what has been the Department's history with WWP handling cattle trespasses. Director Wiggins stated his memory is that WWP currently has a couple of leases. They had one other lease previously that they turned back to the state because they could not handle the trespass issue.

Controller Johnson noted pages 6 and 8 of the March 11, 2003 memo. The last paragraph states, "A recent situation with the Middle Fork-Bremner Allotment, where a lease had been issued to WWP, illustrated this situation because in the absence of livestock under the lease to WWP, livestock from other parties within the allotment continued to graze state lands. The Department had limited control

over the livestock as their owner was not under a state lease. WWP eventually failed to pay the annual rental on the lease, the lease to WWP was cancelled and the land re-leased to the prior lessee." Controller Johnson shares the same concern, and he noted that WWP's record is not stellar in terms of managing neighboring allotment trespass issues.

Superintendent Howard asked who is in charge of the adjacent leased lands. Director Wiggins responded that the bulk of the land is state land, however, he believes there is some Potlatch and either Forest Service or BLM land mixed in. Superintendent Howard asked if we have a history in terms of management issues. In other words, Lacey Meadows was given some definite requirements, such as a range rider. Have we been called upon to do the same sort of thing for other lessees in the past? Director Wiggins stated we have not. In fact, in their Brief, Lacey Meadows pointed out other allotments in that central Idaho zone where a rider has done the job. The problem here is that Lacey Meadows has not demonstrated consistently, even when under scrutiny, that they will do that job.

Superintendent Howard noted the real issue appears to be that we have land primarily targeted for timber growth and we are spending a lot of time discussing how to manage cows on that land. It looks like an untenable situation is being set up for grazing by having a piece of land where we plan not just today, but tomorrow, to reforest the area.

Governor Kempthorne referred to the December 14 board memo which states that timberland in this area is valued at \$49.50 per acre and grazing is valued at 1.6 cents per acre. Speaking to Superintendent Howard's point, he stated the highest and best use for this land is reforestation. The board memo states, "The final alternative is to leave the allotment unleased for a period of time adequate to ensure successful conversion of the timber stands. As stated in earlier Land Board Memoranda on this topic, considering the low net revenue stream, \$266 per year, regardless of lessee, and the fact that grazing in this case is secondary to timber production as a management objective, the best approach for the endowments would be not to lease for grazing. It is not unreasonable to expect a negative impact of grazing on timber growth in this location, and the breakeven estimate of .033% is so minor that it confirms my original determination that not leasing for grazing is the best alternative." Governor Kempthorne asked if the financial resources are available to go in and, where necessary, put in the appropriate fencing or whatever material is needed so the plantations can regenerate. Director Wiggins responded he believes the answer is yes. These are investments in this site and investments by nature are an upfront cost designed to bring greater wealth and greater return in the future. In the memo an estimate was made as to what could be expected over the next couple of decades as far as increased timber value and it would be a significant increase in timber over time. What has been identified here is one of the common conundrums that surrounds the issue of primary and secondary use.

Director Wiggins stated earlier this year on another site he discussed the question of trees that happened to grow on a grazing allotment where grazing was the primary use. Staff, being tree people, wanted to nurture those trees and his advice was no because the primary use of the allotment was grazing and this particular allotment would never be used for timberland. Managing this grazing allotment for timber detracts from the primary grazing use and his advice to staff was that we not do that. It is a juxtaposition of the same thing here. There are clearly going to be some costs up front, but if you figure roughly \$50 per acre per year from timberland on this 16,000 acre allotment, that is \$800,000 of revenue generation every year and that figure should go up over time. Those costs incurred in order to protect the plantations are justified as a cost of the timber program.

Governor Kempthorne reiterated there is an appropriate use of grazing as a land management tool. Right now this particular allotment may not be the appropriate place for grazing. With this much value at stake, we ought to remain the managers of the land. Director Wiggins agreed. He commented there is research from the university that indicates on certain sites, grazing underneath timber is actually in the best interest of the landowner. However, at this location, and at this point in time, that is not the case. Governor Kempthorne also noted grazing can reduce fuel loads to prevent the ladder effect of forest fires.

Controller Johnson commented it seems we are headed down a road that would suggest grazing and timber production are mutually exclusive activities on this piece of ground. He is not convinced that is the right conclusion. He believes none of the parties involved in the process have entirely clean hands. He is trying to reach a conclusion that meets the Board's constitutional duty to maximize return. He noted wording in the board memo referring to the open range nature of the area, the high cost of fencing the allotment and the adjacency of other grazing allotments. He also noted there are other issues the Board needs to consider when making a final decision. He believes Lacey Meadows has a significant investment in this lease and the decision comes down to who is in the best position to manage the trespass issues. Despite their record in the past, he believes Lacey Meadows has demonstrated a willingness to step up to that responsibility. He expressed concern that we are entering into the second winter with no fence maintenance and the improvements continue to depreciate waiting for the Board to make a decision.

Superintendent Howard put forth a motion that the Board leave the allotment unleased for a period of time adequate to ensure successful conversion to timber stands or until such time as the Land Board wishes to revisit the issue. Governor Kempthorne seconded the motion. However, Governor Kempthorne did not call for a vote at this time.

Controller Johnson stated he has additional questions. He asked what impact, if any, the motion has on the improvement credits to Lacey Meadows. He asked if the Department would be required to pay for the improvements and if a value has been established. Director Wiggins responded the value from about four years ago was \$29,324. That figure was challenged by Western Watersheds and WWP may have had some valid points so the figure will have to be reviewed. However, the value would be no higher than \$29,934. The goal is to find a fair and supportable value and to make sure the lessee is made whole. Controller Johnson asked if interest is accruing or is it a static number. Director Wiggins stated there is no interest accruing. Depreciation has been calculated as a part of the appraisal and under the circumstances, he believes it would be fair to Lacey Meadows that the offer be based on the value prior to this season. If deterioration took place because Lacey Meadows was unable to maintain the improvements through no fault of their own, that would not be an impact.

Governor Kempthorne asked if the Department would have the resources to sequester the plantations from livestock. Director Wiggins stated that is an obligation the Department would assume and would ensure that the resources were in place to do so.

Superintendent Howard asked if costs associated with cutting the pulp material so that the area could be reforested would occur within the next ten years. Director Wiggins stated in all likelihood the bulk would be cut depending somewhat on the market and timing. Movement of that material requires markets to buy it. Since the pulp market varies, it could stretch longer. Superintendent Howard stated her point is that there is a lot of concern over how to keep cows out of plantations and we are talking now about what could become many areas. She sees this as expanding in area of difficulty in a way that could cost more money and time to deal with changing circumstances almost from year to year. She stated it feels like we are entering a time of increased tension over how to manage this land under a grazing lease, if it is grazed at all, and it seems this issue would keep coming back to the Board again and again.

Governor Kempthorne stated at some point, if in fact the value is in the land, it would seem we would be putting in place an infrastructure so that when you do have harvest, and you need to have a plantation and seedlings, you would have the infrastructure to keep livestock out in the beginning. Once you have a stand that has grown in height, the livestock would then come in and help with management of the undergrowth, which is the fire load. Director Wiggins stated trees do reach a point where cattle or livestock are no longer a detriment. However, that still requires movement of the livestock so that the soil is not compacted. It is also necessary to keep the livestock out of streams and riparian areas. However, as far as the direct impact on timber, that issue will dissipate over time. It is a transitional period and at some point, livestock will return. Governor Kempthorne observed that livestock can be, and are, an effective management tool when used at the appropriate time and place.

Governor Kempthorne asked Attorney General Wasden if he is recused from this discussion. Attorney General Wasden stated that is correct.

At this point, a recess was taken.

Governor Kempthorne reconvened the Land Board. He affirmed that the Board granted a seven-year lease to Lacey Meadows and certain conditions were included, such as additional fencing. Lacey Meadows rejected that option and he asked if that is why they are not in attendance at today's meeting. Director Wiggins stated that is correct. In fact, that is the final order of the Board and it still stands today. Lacey Meadows rejected it. We have a proposed order carried over from the June meeting which would offer the lease to Western Watersheds under similar conditions.

Controller Johnson stated the April 13, 2004 memo talks specifically about fencing. Because Lacey Meadows did not have a lease they were not responsible for maintaining the fences. He asked if the Department was responsible for maintaining the fences during that time period and did the Department do anything to maintain the fences. Director Wiggins stated he does not know what happened this summer because he has not been allowed to have the information. However, in the bigger picture, whatever improvements are needed, the Department would maintain it if it is not leased. Governor Kempthorne commented this is an investment and there is great identified value. There needs to be active management by the state for this investment of timber to benefit the endowment.

Superintendent Howard feels this is a very awkward situation. She read through all of the communications trying to find ways to support the cattle industry because she believes they are a crucial part of the economy. However, after reviewing all of the pieces of this, she feels there is no clear solution.

Governor Kempthorne echoed Superintendent Howard's comments about the cattle industry and the families who derive their well being from that industry. He stated that is why the Board took the action of granting to Lacey Meadows a lease for the remainder of the period of time, which was seven years. Lacey Meadows chose, based on conditions, to reject the lease.

Controller Johnson moved to amend the motion to require a date that this item would come back to the Board for review. He recommended one or two years. Governor Kempthorne observed that this matter may need to be measured not in a calendar year but in a yard stick of when the trees are tall enough that they are no longer fragile.

Superintendent Howard stated she attempted to address Controller Johnson's motion to amend by adding a statement about "until such time as the Land Board decides to bring it back for discussion." She stated that was intended to allow the Board to be responsive to changing circumstances without having a set date. She added she is not against setting a five-year review time. She feels anything shorter than a five-year review would not let the Board make a decision based on the entire discussions held, which has been the vitality of the timber. She commented five years would be a very short amount of time in timber if we are concerned about vitality of the timber as a primary interest. Governor Kempthorne suggested the Board does not want to make this an actionable item because of the effort to resolve the issue. He suggested an update in two years would be appropriate. Controller Johnson and Superintendent Howard agreed. Controller Johnson requested an annual update. Governor Kempthorne noted that a motion was before the Board that one year from now an information update on the status of the allotment would be provided. Superintendent Howard and Controller Johnson voted aye.

Controller Johnson observed that the allotment covers 16,000 acres. He asked if there are pieces of the allotment that can be grazed without running into friction between timber and grazing. Director Wiggins stated that was not a part of the record so he does not immediately have the answer. The question could be made a part of the Department's review in the coming year. Controller Johnson suggested that might be an item for discussion at the next annual review. He asked if there is a way to manage the allotment to allow the cattle industry to thrive and prosper in this area without having this kind of friction. Governor Kempthorne interjected if, in fact, the motion passes, the lease will be retired

for a period of time. That would mean a new geographic boundary of the lease could come forward at some future date. Director Wiggins stated he does not see anything in the motion that prohibits what would be sound logical management.

Governor Kempthorne asked that it be made a part of the record that the Board intends to evaluate if there are future grazing opportunities and the timeline from which that could occur. Governor Kempthorne commented this is a good discussion because the Board wishes to have opportunities for grazing. It is good for the cattle industry and it is good for the consumer and for families. It is also good for the value of the land because it is an active tool in an appropriate time. Superintendent Howard observed it is good for the government and for the state. Controller Johnson stated it is also good for the endowment.

Governor Kempthorne asked Superintendent Howard to restate her motion. Superintendent Howard moved that the Board leave the allotment unleased for a period of time adequate to ensure successful conversion of the timber stands or until such time as the Land Board wishes to bring it back for discussion. Governor Kempthorne added that the motion has now been amended that one year from now there will be an information update on the status of the land with an eye looking for opportunities where grazing may be an effective tool that could help with the management. A vote was taken with Superintendent Howard and Controller Johnson voting aye.

BOARD ACTION: A motion was made by Superintendent Howard that the Board leave the allotment unleased for a period of time adequate to ensure successful conversion of the timber stands or until such time as the Land Board wishes to bring the matter back for discussion. Governor Kempthorne seconded the motion. Controller Johnson moved to amend the motion to add that the Department will provide annual updates to the Board on the status of the land. Superintendent Howard seconded the amended motion. Governor Kempthorne further stated the record should reflect that the intent of the Board is to evaluate this land with an eye toward future opportunities where grazing may be utilized as an effective management tool. The motion carried on a vote of 3-0, with Attorney General Wasden and Secretary of State Ysursa recused for this vote.

A motion was made by Controller Johnson to resolve into Executive Session at 10:34 a.m. Superintendent Howard seconded the motion. The motion carried on a vote of 4-0, with Secretary of State Ysursa being absent for this vote.

- **EXECUTIVE SESSION**

- A. **To Consider Records that are Exempt from Disclosure** [[Idaho Code § 67-2345\(1\)\(d\)](#)]
- B. **To Consider and Advise Its Legal Representatives in Pending Litigation or Where There is a General Public Awareness of Probable Litigation** [[Idaho Code § 67-2345\(1\)\(f\)](#)]
- C. **To Consider Personnel Matters** [[Idaho Code § 67-2345\(1\)\(b\)](#)]

Upon unanimous consent the Board resolved into Regular Session at 11:26 a.m. There being no further business to come before the Board, the meeting adjourned at 11:26 a.m.

IDAHO STATE BOARD OF LAND COMMISSIONERS

/s/ Dirk Kempthorne

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

/s/ Ben Ysursa

Ben Ysursa
Secretary of State

/s/ Winston A Wiggins

Winston A Wiggins
Director

The above-listed final minutes were approved by the State Board of Land Commissioners at the February 8, 2005 regular Land Board meeting.