



Idaho Department of Lands  
**Agency Guidance Document**  
Endowment Leasing  
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## **Land Board Policies: Grazing and Cropland**

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This guidance document is not a new law. This document is an interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

### **Agency Contact**

Grazing, Ag, and Conservation Program Manager

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## Index – Grazing and Cropland

Attached Land Board Policy	Date	Remarks
1. <a href="#">Grazing Rental Rate Formula</a>	10/12/1993	Adopted henceforth Formula 19 for grazing fee determinations with a base of \$1.70, to include a 25% reduction for the sheep industry if certain price conditions are met.
2. <a href="#">Cropland Rental Rate Formula</a>	04/19/2011	Modified cropland rent methodology: 1) To remove the modifiers, allowing adjustment of the state's share to reflect market conditions; and 2) To apply any of the standard cropland lease rental methodologies common in the marketplace to calculate individual lease rents.
3. <a href="#">Conflicted Grazing Leases</a>	04/05/1996 04/13/1999	4/5/1996 – Land Board will reject all offers of additional compensation for a lease above the amount specified as the annual rental, except for premium bids per §58-310(b).  4/13/1999 – Adopted process as outlined in the memo.
4. <a href="#">Deficient Grazing Lease Applications</a>	01/28/1975	Mere omission of a signature on a lease is to be considered a minor deficiency capable of being cured. Application is to state that a year's annual rental must be sent and that the application must be signed.
5. <a href="#">Grazing Management Plans</a>	02/14/1984 07/13/1999	2/14/1984 – Board adopts grazing plan requirements.  4/13/1999 – Required that a management plan be submitted prior to auction or they will not be reviewed. Requires management plans be sent to applicants when multiple applicants are involved.
6. <a href="#">Grazing Subleases</a>	04/01/1998	The department will determine if lessee is a qualified bidder, pursuant to Code.
7. <a href="#">Increase of Lease Fees</a>	07/17/1970	Increase of lease fees during the term of the lease. (A clause in the lease states only that the rate cannot be changed <i>during the year</i> .)
8. <a href="#">Installment Payment Policy</a>	05/17/1988	Allow rental extensions on cropland leases. Grant on a case-by-case basis on the showing of financial hardship by the lessee. As an extension of that policy on cropland leases, occasionally a lease extension has been granted to a cottage site lessee. They are considered in rare circumstances upon demonstration of financial hardship. Policy approved as long as the state collects a late payment and fee plus interest.
9. <a href="#">Vegetation Management Policy</a>	11/12/1996	The specified management practices developed by the department shall require that the land be managed in a manner consistent with the achievement of the desired vegetive condition. The department, in cooperation with other agencies, shall monitor and evaluate the effectiveness of the specified management practices.

## **1. Grazing Rental Rate Formula**

Attachments

**October 12, 1993 approved memo**

*Summary:* Adopted henceforth Formula 19 for grazing fee determinations with a base of \$1.70, to include a 25% reduction for the sheep industry if certain price conditions are met.

**Land Board AUM Rate Formula**

STATE BOARD OF LAND COMMISSIONERS  
October 12, 1993

SUBJECT

Land Board Grazing Committee recommendation on the base value for grazing fee equation 19 and the 1994 grazing fee.

BACKGROUND

In June, 1992, the State Land Board instructed the Department of Lands to enter into a contract with the University of Idaho to conduct a statewide private grazing fee study to be used in developing an appropriate fee system for state grazing leases. The report was submitted to the Land Board Grazing Committee for their review in early September, 1993.

On September 28, 1993, the grazing committee met with livestock industry and Department of Lands representatives to discuss the U. of I. report and to make recommendations on the Department grazing fee formula base value and the 1994 grazing fee.

DISCUSSION

In 1990, after much debate, the Land Board adopted equation 19 to be used in determining the annual rental for state grazing leases. A key component of this equation is the Base Forage Value, used to deflate present day values back to a base period (1964-68). Since adoption of Equation 19, various figures have been proposed for the base value, but none of them have received full support of the grazing committee and the full Land Board.

The 1992 U. of I. study presented for consideration, several alternative base values which were determined from various private grazing lease rate studies. The base values were determined by subtracting the values associated with various services from an average lease rate. The specific service valued and specific lease rate used varied with each study (see Table 5 in U. of I. report).

After considerable discussion on the value of services to be considered, the committee elected to recommend a base figure of 1.62, derived from data collected from a sample of lessors who responded to the 1992 U. of I. study. This data used an average private lease rate of \$9.33, less values of \$.34 for prepayment of a lease; \$1.27 for construction of improvements; and \$3.63 for providing salt.

## RECOMMENDATION

On a vote of 3 to 1 (Mr. Cenarrusa, Mr. Collett, and Mr. Guerry voted aye, Mr. Williams voted no, and Mr. Evans was absent for the vote) the Land Board Grazing Committee passed a resolution to establish a base value of 1.62 to be used in Equation 19 for establishing an annual rental rate for state lands. The committee also recognized the continuance of the policy of allowing a 25% rental rate reduction for sheep AUMs if the annual price of fat lambs drops 30% or more below the annual price of 500 pound calves. Based on these considerations the grazing committee recommends a 1994 rental rate of \$4.31 per AUM for cattle and \$3.23 per AUM for sheep.

Mr. Evans advised the committee, before departing, that he supported a base of 2.20 resulting in a grazing fee of \$5.86 per AUM for cattle and \$4.40 per AUM for sheep.

## ACTION

*Formula #19 adopted, base of \$1.70, resulting in \$4.53/AUM grazing fee rate until industry offers to fence riparian areas & adapt stewardship mgt. Includes 25% reduction for sheep industry*

OCT 12 1993

## ATTACHMENTS

1. Preliminary Results from 1992 Private Grazing Lease Survey (U. of I. report)
2. IDL memo to Land Board Grazing Committee dated 9/24/93
3. Minutes from Grazing Committee meeting on 9/28/93
4. Tabulation of FY-93 grazing and cropland income, by fund.
5. Incentive Based Grazing Fee System (1992 Federal Study)
6. Economic Analysis of the Values of Surface Uses of State Lands (portion relating to grazing leases in Montana)

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TB:dw

October 1, 1993

LAND BOARD MEMORANDUM  
Grazing Fee Recommendation  
October 12, 1993  
Page 2 of 2

## Land Board AUM Rate Formula

### Land Board Adopted AUM Formula:

$$\text{IDFVI}_{t+2} = -6.92 + (0.13 \times \text{FVI}_t) + (0.60 \times \text{BCPI}_t) - (0.33 \times \text{PPI}_t) + (0.74 \times \text{IDFVI}_t)$$

$$\text{AUM Rate} = \text{IDFVI}_{t+2}/100 \times 1.70$$

Where

**IDFVI<sub>(t+2)</sub>** is the predicted value of the Idaho Forage Value Index for the year the grazing fee is to be set;

**FVI<sub>t</sub>** is the most recent published Forage Value Index for the 11 western states;

**BCPI<sub>t</sub>** is the most recent published Prices Received for Beef Cattle Index for the 11 western states;

**PPI<sub>t</sub>** is the most recent published Prices Paid Index for the United States;

**IDFVI<sub>t</sub>** is the most recent published value for the Forage Value Index for Idaho.

## **2. Cropland Rental Rate Formula**

Attachment

**April 19, 2011 approved memo**

*Summary:* Modified cropland rent methodology:

- 1) To remove the modifiers, allowing adjustment of the state's share to reflect market conditions; and
- 2) To apply any of the standard cropland lease rental methodologies common in the marketplace to calculate individual lease rents.

# STATE BOARD OF LAND COMMISSIONERS

April 19, 2011  
Regular Agenda

## SUBJECT

Request for Approval to modify the existing agriculture rent methodology

## BACKGROUND

At statehood Idaho received land grants totaling 3,650,763 acres from the Federal government for the support of public schools and other institutions. Roughly 400,000 of these acres had the potential to be actively farmed. Through regular land sales, and later specific direction from the Land Board to sell all agriculture lands, total current asset acreage is 15,556.

Demand for leased lands in Idaho is high according to interviews with industry representatives and operators. Leased lands provide operators the opportunity to expand production in the short term to take advantage of favorable market conditions without the high costs of acquisition. In addition to favorable market conditions, the supply or amount of land available for lease has declined due to changes in ownership dynamics and increased land-conversion to urban uses.

While demand for lease lands and current market conditions demonstrate the potential for the endowment agriculture lands, the asset class has not achieved favorable revenues or cash returns in recent years.

**Table 1. Agricultural Asset Performance**

Year	Cash Returns	Capital Returns*	Total Returns
2007	1.6%	54.2%	56.8%
2008	0.4%	63.5%	63.9%
2009	0.2%	(13.0%)	(12.9%)

\*Capital returns represent land value appreciation and depreciation

A contributing factor to the lackluster financial performance is the current holdings within the asset class itself. Due to the historic strategy of land sales, the remaining agricultural endowment lands are generally scattered, and not located in prime agricultural areas. The asset consists of 70 parcels, 23% of which are less than 10 acres, and 67% are less than 100 acres. Several smaller parcels are used to support adjacent grazing lands, while others are isolated within private holdings.

Opportunities exist to reposition the current asset holdings that may take advantage of revenue potentials. These strategies would require significant increases in program expenses, which may be difficult to justify given the agriculture asset's current contribution to endowment revenues. However, one cost effective and immediate means of achieving better financial performance is to update the rental methodology and process by which rents are calculated for leases on endowment lands. This action would be consistent with the Asset Management Plan (AMP) approved by the Board in 2007, which states one objective is to improve the performance of the asset class.

## DISCUSSION

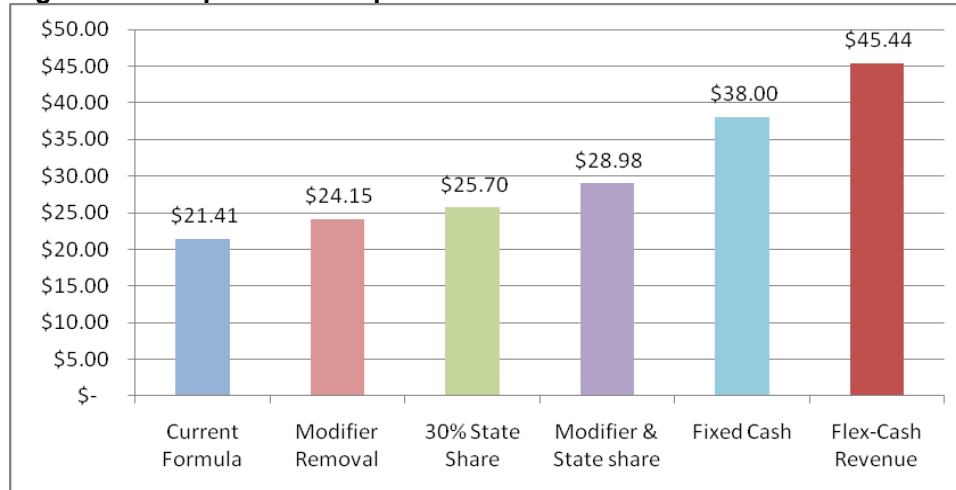
The agriculture rental formula was first developed in 1970 by Dr. E. L. Michalson of the University of Idaho. The intent of the formula was to provide a single simplified formula that could be applied to all agriculture leases. Several changes have been made to the original formula:



- Including “modifiers” intended to account for site specific conditions
- Defining the state’s share of federal payments
- Modifying the state’s share of production
- Providing an annual review of rental rates

Despite these periodic updates, the current rental formula (see Attachment 1) has several drawbacks that significantly reduce the resulting rents below market rates. Figure 1 illustrates these factors and their impact on per acre rental rates. More detailed information regarding the example can be found in Attachment 2.

**Figure 1: Example Rate Comparison Per Acre**



\*The fixed-cash rate is based on area average for cash leases survey in the market rent study completed by Resource Dimensions (2010). These rates are consistent with USDA NASS data for the same time period.

Although the state’s share was changed in 1995 to reflect conditions relevant to that time period, the current rate of 25% has not kept pace with market conditions. In addition to changes over time, the static rate does not take into consideration variability across regions and land type. According to a market rent study, some regions have crop-share rates between 30-35%. The modifiers adopted in 1995 were intended to account for site specific conditions. However, the conditions for which the modifiers discount the rental rate are also likely to have a negative impact on potential yield. Therefore adverse production conditions represented by the modifiers are already accounted for in the rental calculation.

In order to maximize the potential revenues from current agriculture assets and meet the short term objective of improved performance as outlined in the AMP, the Department requires flexibility in calculating appropriate rents. Although the current single formula approach provides relative simplicity in application, it does not allow for consideration of both local/regional differences or for variation in the management approach across the asset class. A more appropriate approach that is likely to create greater over-all equity to both endowment beneficiaries and lessees is to allow the Department to apply one of the three commonly used lease rent methodology, fixed cash, flexible cash or crop-share (see Attachment 3 for detailed descriptions) based on a variety of factors including regional norms, parcel size and characteristics, etc.

The proposed recommendation is to eliminate the use of modifiers (that are not standard applications in the industry), and adjust the state's share to more appropriately reflect market rents with local/regional information. If approved, these recommended changes will be applied to 2012 rents.

A comprehensive evaluation of agricultural parcels to determine the appropriate rent methodology will be incorporated into the uniform procedures beginning with leases expiring in 2012. The determination of the most appropriate rent methodology will be based on parcel characteristics, water rights, and Department management control (i.e. access).

Due to the number of variables used in calculating annual rental rates, it is difficult to determine the impact changes to the methodology will have on net revenue across the asset type. Certainly eliminating modifiers from the current formula will increase rent. However, the actual percentage and total increase will vary depending on modifiers formerly used, crops grown, type of land (irrigated or non-irrigated) and the state's share percentage. The intended outcomes of these changes are to bring current lease rates in-line with market rates and improve the financial performance of the asset class. As a programmatic change, it is anticipated that the proposed changes will result in more appropriate and equitable rental rates for the endowment and lessees.

### RECOMMENDATION

The Department recommends approval to:

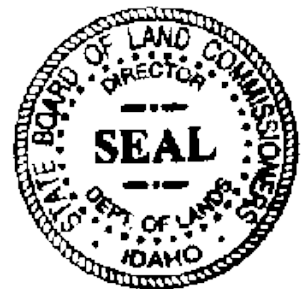
1. Remove modifiers, allowing adjustment of the state's share to reflect market conditions.
2. Apply any of the standard cropland lease rental methodologies common in the market place to calculate individual lease rents.

### BOARD ACTION

A motion was made by Attorney General Wasden that the Board adopt the Department recommendation, two parts: 1) to remove the modifiers allowing adjustment of the state share to reflect market conditions; and 2) to apply any of the standard cropland lease rental methodologies common in the marketplace to calculate individual lease rents. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 4-0.

### ATTACHMENTS

1. Current Idaho Department of Lands Agricultural Rent Formula
2. Common Lease Rent Structure Comparison
3. Summary of Commonly used Lease Rate Formulas



### **3. Conflicted Grazing Leases**

Attachments

#### **April 5, 1996 final minutes**

*Summary:* Land Board will reject all offers of additional compensation for a lease above the amount specified as the annual rental, except for premium bids per §58-310(b).

#### **April 13, 1999 approved memo**

Adopted process as outlined in the memo.

Superintendent Fox stated that she thought Golden Marmot Farms was approved for this lease because they were going to put cattle on this property. Mr. Taylor stated at this point in time, by the newspaper at least, Golden Marmot Farms or IWP, whichever one ends up with the lease has stated that they would rest the property for the entire ten-year period.


Superintendent Fox made a motion to not allow the transfer. Attorney General Lance seconded the motion. Director Hamilton reminded the Governor that there is the memorandum from Item 2 and the Board has been deferring those. Attorney General Lance stated that agenda item number 2 is totally distinct and different as far as he's concerned. The motion carried on a vote of 4-1 with Controller Williams voting no.

Consideration of Idaho Watersheds Project offer of additional monies for the award of certain conflicted grazing leases.

Tracy Behrens, Range Management Specialist provided the background information. Last October, in preparation for the Land Board discussion on all the conflict grazing leases the Department contacted all the applicants and asked them to submit a statement of qualifications for evaluation. In the majority of the statements that were submitted by IWP, they included a statement that should they be awarded a specific lease, they would submit an additional amount of money based on whichever lease it was. In addition, they offered to pay two dollars (\$2) additional per AUM for every dollar per AUM increase that the AUM increased by the Board.

Mr. Behrens stated that the Department believes that it would be inappropriate to accept any monetary offer for a lease, except within the context of an auction. In fairness to all parties involved with an auction, all monetary offers should be submitted at the time of the auction. No monetary offer should be accepted outside the normal auction proceedings. In the announcement that went out to the parties involved in three of those, the Department included a statement that said, all monetary offers for the auction parcel must be presented during the auction proceeding. No offers will be accepted after the auction is completed. None of those scheduled included additional offers.

The Department thinks it would be appropriate to have the Board make a policy and the Department recommends that the Board reject all offers of additional compensation for a lease above the amount specified as the annual rental by the Board, except for those monies gained through the premium bid provision set forth in Idaho Code Section 58-310(b).

Secretary of State Cenarrusa made a motion to approve the Department's recommendation. Attorney General Lance seconded the motion. The motion passed unanimously with all members being present. 

IWP was presented with the book used by department staff during the special meeting. Laird Lucas, counsel, represented IWP during the meeting both when Mr. Marvel was and was not present. Mr. Lucas stated he did not represent Golden Marmot Farm.

LAND BOARD MEMORANDUM  
for the  
April 13, 1999 Regular Land Board Meeting  
Regular Agenda

SUBJECT

Recent Idaho Supreme Court decisions concerning conflicted grazing leases.

DISCUSSION

On April 2, 1999, the Idaho Supreme Court issued Opinion Nos. 39 and 42 on the appeals filed by Idaho Watersheds Project (IWP) concerning Land Board action on grazing lease applications filed by IWP for 1995 and 1996 expiring grazing leases. The Court ruled in favor of IWP in both cases and remanded the 1995 and 1996 grazing leases for which IWP was not allowed to bid to the Board for new auctions.

The court action affects six 1995 expiring leases and twenty 1996 expiring leases, as identified in Attachment 3.

The Department recommends the following procedures be followed to implement the Court's decisions:

1. The current holders of 1995 and 1996 grazing leases for which IWP applied, but was not allowed to bid, have been notified that their leases are invalidated by the Court action by letter dated April 7, 1999 (Attachment 2). Due to the length of time involved in the lease application and auction process, these leaseholders will be provided the opportunity to sign a Temporary Permit authorizing them to graze livestock on their respective leased land for the 1999 grazing season, pending completion of the lease renewal and auction process. This will provide a continuous income flow to the endowments during the application process.
2. All applicants for 1995 and 1996 expiring grazing leases for which IWP was not allowed to bid will be provided an opportunity to submit new applications to lease those parcels of state land. In accordance with standard lease renewal procedures, the applications must be filed with the ten dollar (\$10.00) application fee and notice of the availability of these leases will also be posted in the appropriate County Courthouses. A deadline of June 30, 1999 will be established to accept applications on these parcels.
3. In accordance with standard department procedures, all grazing lease applicants will be provided with a copy the department resource assessment for the subject state lands, and will be required to submit a management

proposal that identifies how the subject parcel will be managed to address the concerns identified in the assessment. This information will be considered by the Board in its post-auction review, in accordance with current Board policy.

4. If more than one application is submitted for the same lease, an auction will be held to determine who will pay the highest premium bid. Results of the auctions will be presented to the Board for determination of who will be awarded the new lease. The department anticipates that the auctions will be completed and analysis of the management proposals will be ready for review by the Board at the regular October 1999 meeting.

#### RECOMMENDATION

The department recommends that the Board adopt the proposed process, as outlined in this memo, to implement the Supreme Court's decision concerning the 1995 and 1996 conflicted grazing leases.

#### BOARD ACTION

**APPROVED APR 13 1999**

#### ATTACHMENTS

1. Letter to Current Lease Holders
2. Letter to IWP Legal Council
3. List of Affected Grazing Leases

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## **4. Deficient Grazing Lease Applications**

Attachments

**January 28, 1975 final minutes and memo**

*Summary:* Mere omission of a signature on a lease is to be considered a minor deficiency capable of being cured. Application is to state that a year's annual rental must be sent and that the application must be signed.

PROPOSED LAND EXCHANGE - Smith Ridge

Mr. Trombley briefly brought the members of the Board up to date on the request made by the Corps of Engineers to include 4,679.61 acres on Smith Ridge in the Dworshak Dam and Reservoir project. He explained that there are serious complications involved, such as, a law suit against the Board and the director concerning cancelled mineral leases on portions of the land, a large kyanite deposit, and other matters requiring an in-depth study by the Board.

Mr. Cenarrusa ordered that the time be provided by the Board to review the matter as requested by the Director.

Governor Andrus returned and assumed the chair.

REQUEST FOR USE - Old Penitentiary Site

The Church of Jesus Christ of latter Day Saints requested use of a parcel of land near the old penitentiary in conjunction with its meetinghouse and grounds on Warm Springs Avenue, for use as a bull diamond in their athletic program. They would be willing to lease or buy if the Board agreed.

Department recommendation was that the Board permit the use of the property and consider permanent solutions when disposition of the old penitentiary is resolved.

Mr. Cenarrusa moved that the Board follow the Department recommendation. Dr. Truby seconded the motion, subject to the reservation that extensive improvements not be allowed. Under discussion, Mr. Kidwell said that to avoid a problem with the first amendment a procedure should be set up so that any worthwhile group could have the same type of permit. Mr. Williams said he was certain the intention was to allow interchange of use of the public in general as all the other L.D.S. parks are. Motion carried unanimously.

LAND SALE AND LEASE RATE - Letter from League of Women Voters

A letter from the League of Women Voters of Idaho commenting on the adjustment of lease rates to consider market value of animals sold and on the proposed sale of lands in Clark county, was received and presented to the Board.

DEFICIENT GRAZING LEASE APPLICATIONS

Six land lease applications were received, filed in a timely fashion, in conflict to renewable leases for grazing land. None of the six included the required rental and only two were signed. The Department asked for a policy review to determine whether or not the deficiencies in the applications should be considered fatal or if they could be amended to comply with policy and retain their eligibility. In the rules and regulations adopted by the Board to govern geothermal resources leases, under "Fatal Deficiencies" is listed both failure to submit adequate fees and rentals and failure to properly sign the initial applications.

Mr. Kidwell moved that it become a policy of the Board that failure to tender required rental will be a fatal deficiency and not be considered a valid application. Mr. Cenarrusa seconded the motion. Dr. Truby left the meeting to catch a plane.

Mr. Kidwell moved that the mere omission of signature be considered a minor deficiency capable of being cured. Mr. Williams seconded the motion. In discussion Mr. Cenarrusa asked for uniformity in the rules. Mr. Kidwell withdrew his motion with the consent of his second, with a request that it appear on the application that a year's annual rental must be sent and that the application must be signed. It was so ordered.

Mr. Trombley was directed to make a factual determination of the knowledge of the conflict applicants regarding the rule requiring them to tender a year's rental in advance and to return to the Board with his findings so the Board can rule on validity of the applications.

ENCROACHMENT PERMIT & LEASE OF LAKE BED - Bear Lake West, Inc.

The application of Bear Lake West, Inc., to lease 4.6 acres for a proposed lagoon and marina was first considered in February 1973 and denied because no clear procedure existed in law. After passage of the Lake Protection Act in 1974, a new application was submitted for an encroachment permit and lease. No objections were received as a result of advertising. The Board postponed action when it considered the application in July 1974 to allow the Bear Lake Planning and Zoning Commission and the County Commissioners time to comment. Approval was received from both agencies, subject to changes by State or the County Commissioners.

Department recommendation was that the encroachment permit be issued, a lease application approved, and the Department cooperate with the county to develop a lease which will guarantee requirements established by the Board and the County. Mr. Williams moved the Department recommendation be approved. Mr. Cenarrusa seconded the motion. Voting was unanimous.

LEASE APPLICATION - Riverside Resort

Herb Hill and Dave Benson, dba Riverside Resort, applied for an encroachment permit and lease of an existing encroachment on the St. Joe River in the form of a dining room and deck over the water. No adverse comments were received as a result of advertising in the St. Maries Gazette Record, adjacent property owners indicate no objection to the encroachment.

Mr. Cenarrusa moved that the Board approve the Department recommendation to issue a permit for an encroachment and that a lease be granted for 10 years at the cost of \$25 a year, to be adjusted. Mr. Williams seconded the motion. Voting was unanimous.



MEMO TO THE LAND BOARD

SUBJECT: Deficient Grazing Lease Applications

REMARKS: On December 2, 1974, six applications in conflict were received, postmarked November 29, 1974. None of the six included the required inventoried rental.

1. Cottonwood Grazing Assn. - M.D. Denton, Preston
2. Idaho Citizens Grazing Assn. - M.D. Denton, Preston
3. Idaho Citizens Grazing Assn. - Ray Taylor, Preston
4. Idaho Citizens Grazing Assn. - Sherwin Nielson Livestock, Preston
5. Idaho Citizens Grazing Assn. - Allen Winn, Preston
6. Idaho Citizens Grazing Assn. - Bert Winn, Preston

Only Allen Winn and Bert Winn signed their applications. Applications submitted by Denton, Taylor, and Nielson Livestock were not signed.

Rule 1 of the DEPARTMENT OF LANDS RULES FOR LEASING OF STATE LANDS states that "Every applicant shall deposit one year's appraised rental in advance with the Department of Lands at the time of making the application."

A parallel appears to exist with the STATE OF IDAHO RULES AND REGULATIONS GOVERNING THE ISSUANCE OF GEOTHERMAL RESOURCES LEASES. These rules and regulations define

FATAL DEFICIENCY: If an application to lease Geothermal Resources possesses a fatal deficiency, it will be rejected and returned to the applicant and will not be eligible for public drawing.

MINOR DEFICIENCY: If an application to lease Geothermal Resources has a minor deficiency, it may, at the discretion of the Director of the Department of Lands, be returned to the applicant with instructions for its amendment or completion. If the application is re-filed in satisfactory form within 20 days from the date of the notice to correct the minor deficiencies, it shall retain its original filing time and eligibility.

These rules and regulations list 11 different FATAL DEFICIENCIES:

5. Failure to submit adequate fees and rentals.
6. Failure to properly sign the initial applications.

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DEPARTMENT REQUEST FOR POLICY REVIEW: The Department of Lands request Land Board determination as to whether the listed conflict lease application deficiencies constitute FATAL DEFICIENCY or whether they constitute MINOR DEFICIENCY and can be reformed and amended to comply with policy, thus retaining eligibility.

DEPARTMENT REQUEST GRANTED:

DEPARTMENT REQUEST DENIED:

OTHER ACTION: JAN 28 1975

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1-24-75

## **5. Grazing Management Plans**

Attachments

### **February 14, 1984 final minutes**

*Summary:* Board adopts grazing plan requirements.

### **July 13, 1999 approved memo**

Required that a management plan be submitted prior to auction or they will not be reviewed.

Requires management plans be sent to applicants when multiple applicants are involved.

Governor Evans advised the visitors present that he will have a hearing officer from the Department do that, in order to get the input from everybody.

#### Special Lease Renewal - United States Air Force

Mr. Hamilton said this is for several tracts of land currently being used by the United States Air Force. Mr. Vandenberg said this is a long-standing lease in the Saylor Creek area which the USAF has been using as a bombing range. They have exclusive use over one section of ground and shared use with grazing lessees on the remainder of the area.

Jim Jones moved the approval of the lease. Joe Williams seconded. The motion passed unanimously.

#### Grazing Lease Issues - Attorney General

Jim Jones said the subcommittee has had meetings and input from the industry, and the recommendation after considering all the evidence is approximately an 11% increase in the grazing lease rate to an average of \$3.12 which is still 11% below the lease rate from two years ago. It was determined, based on a unanimous vote by the subcommittee that this rate would protect the revenues of the public school endowment, but also recognize the still depressed condition the livestock industry is in. The subcommittee would immediately undertake the task, in conjunction with industry and other interested parties, of coming up with a good solid scheme (formula) for handling this matter in the future. The recommendation is to accept the subcommittee's determination of \$3.12 for this year with the understanding that it will launch into consideration of what the formula ought to be, and hopefully by next year, will not have to deal with this problem.

Mr. Gene Davis, representing the livestock industry, accompanied by Mr. Dave Black and Mr. Dave Bivens, addressed the Board. Mr. Davis said they feel they had a proper audience, and came closer to an understanding than ever before. They are somewhat disappointed with the recommendation, but are willing to accept that as a compromise. They look forward to working with the subcommittee in working out an amiable formula.

Jim Jones moved to accept the subcommittee recommendation, seconded by Joe Williams, setting the grazing lease fee for 1984 calendar year at \$3.12 in anticipation that the subcommittee will come back with further recommendations for policy changes. The motion passed unanimously.

#### Grazing Management Plan

Jim Jones reported that the Grazing Subcommittee approved some interim rules relating to grazing management plans and also to conflict bids. He thinks these rules will serve well for the interim period and enable the Board to handle a number of conflicts presently pending. There is one change the subcommittee has made to Rule 3A7 which talks about requirements for improvements. The subcommittee deemed that probably meant requirements imposed by the Department and added the language "required by the Department."

Copies of the proposal were provided to the industry and they have submitted some recommendations: 1) more clearly define the application of existing plans. Make it more clear that management plans with some other agency or entity such as BLM would qualify as a management plan; 2) In rule 3 there are certain mandatory elements for a management plan, but rule 3b has some optional items, and they suggest those optional items be mandatory, including a statement of the history of the leasehold area; 3) Although this is already provided for by law, in rule 5, to clarify that when there is a conflict application, that a one year's payment on the lease needs to be submitted along with the conflict application.

Jerry Evans pointed out that these are emergency rules and that refinements could be worked out through the hearing process under the APA.

Governor Evans pointed out that rule 4A is not clear and the language needs to be clarified that it means the Department's Management Plan.

There was further discussion concerning further possible refinements, particularly concerning grazable units.

Jim Jones said the first industry concern is probably addressed to a large extent by the amended language, and the second concern could be considered in the final rules. The third concern probably already is a provision of law, but it would not be a bad idea to spell out in rule 5 that yes, in accordance with the Code, a deposit must be made at the time of application for a conflict. Then make the clarification the Governor has suggested in rule 4. Mr. Jones said with the added language in 3A7, the Governor's suggestion on rule 4A, and the additional element for placing a deposit in accordance with law at the time one buys a conflict in rule 5A, he could live with these as an emergency interim step before developing final rules, and so moved. Jerry Evans seconded. Governor Evans said he appreciates the subcommittee's work on this issue. Pete Cenarrusa suggested that in regard to rule 3b, clarify the language to include "existing" lessee. Jim Jones so amended his motion. The motion passed unanimously.

#### Timber Sale Contract Proposal - Don Jones

Don Jones introduced Walt Clark, Bureau Chief in charge of Timber Management. The standard timber sale contract was updated to incorporate the Board's new policy and some of the special terms that have become standard over the years. This was then circulated to the forest industry for comment. Their comments were heard and were incorporated into the contract. This has been accomplished and reviewed with minor editorial changes. Along with the proposed draft, the Department is asking the Board



# STATE OF IDAHO

## DEPARTMENT OF LANDS

STATEHOUSE, BOISE, IDAHO 83720

GORDON C. TROMBLEY  
DIRECTOR

### STATE BOARD OF LAND COMMISSIONERS

JOHN V. EVANS  
GOVERNOR AND PRESIDENT  
PETE T. CENARRUSA  
SECRETARY OF STATE  
JIM JONES  
ATTORNEY GENERAL  
JOE R. WILLIAMS  
STATE AUDITOR  
JERRY L. EVANS  
SUP'T OF PUBLIC INSTRUCTION

January 25, 1984

### MEMORANDUM

TO: Land Board Subcommittee on Grazing:  
Attorney General Jim Jones  
State Auditor Joe Williams  
Sup't of Public Instruction Jerry Evans

FROM: Director

SUBJECT: Proposed grazing management plan rules and policies to define management contracts that meet requirements of §58-310, Idaho Code.

Lessees have protested, under the provisions of Idaho Code, 58-310, conflict applications on four leases totaling 9,347.65 acres. No rules or policies presently exist to resolve these protests. The Department has presented two alternatives for resolving these conflicts for the Land Board Subcommittee's consideration. One proposal is an interim policy until final rules can be promulgated and the second is emergency rules that would be temporary with final rules to follow.

#### ALTERNATIVE #1 - Emergency Rules:

Proposed rules were presented at the December Land Board meeting. Pat Kole, Deputy Attorney General, suggested the rules be revised and presented at the next meeting. The Board rejected the proposed rules and directed they be revised and included on the January agenda. Because of the extensive revisions required, it was not possible to redraft the emergency rules for the January meeting. The proposed rules have now been revised (see attached).

#### ALTERNATIVE #2 - Policy Defining A Grazing Management Plan:

As an alternative, the Department is proposing a policy that defines an approved management plan and the criteria of an approved plan. Presently, it is only the lack of a definition of what constitutes an approved management plan that is delaying resolution of the protested conflict applications. Once policy defining an approved management plan is in place, then the Department could proceed within a more realistic time frame to promulgate rules for all phases of grazing lease administration.

PROPOSED POLICY

A grazing management contract or plan be defined as a written agreement between the lessee and the Department, or between the lessee and another public agency and approved by the Department, designed to enhance the resource quality of the leased land.

A management plan must include the following:

1. Name and address of the lessee and the lease number.
2. A map of the leasehold area.
3. Goals and objectives.
4. A description of units if the land has been so divided.
5. Grazing periods including the number of AUMs per unit.
6. Provisions concerning water.
7. Requirements for improvements including construction schedule and maintenance responsibilities.
8. Date and signatures of participating parties.

A management plan may include the following:

1. A statement concerning the history of the leasehold area.
2. Information concerning geography, terrain, climatic conditions, vegetation, soil and wildlife.
3. Other land ownership surrounding or near the leasehold.
4. Other special conditions.

Existing plans meeting the above criteria but not included as a requirement of the lease may be approved through a lease adjustment signed by the lessee and recommended by the Department Area Supervisor and approved by the Chief, Bureau of Range Management (sample attached).

New plans may be made a part of an existing lease by lease adjustment and shall be made a part of a new or renewal lease by specific reference.

The Department staff will be at the Subcommittee's disposal for additional assistance if desired.

*Gordon C. Trombley*  
for GORDON C. TROMBLEY  
Director

STATE BOARD OF LAND COMMISSIONERS

July 13, 1999  
Regular Agenda

SUBJECT

Procedures for processing grazing lease applications following Idaho Supreme Court action in April 1999.

DISCUSSION

On April 2, 1999, the Idaho Supreme Court issued opinions in the two appeals filed by Idaho Watersheds Project (IWP) concerning Land Board action on grazing lease applications filed by IWP for 1995 and 1996 expiring grazing leases. The Court ruled that Idaho Code 58-310B was unconstitutional, and remanded the 1995 and 1996 grazing leases for which IWP was an applicant but no auction was held to the Board for further processing under Idaho Code 58-310.

The April 2 decisions raised concern over the implications of the court decision on the current Idaho Code 58-310, which was amended when 58-310B was enacted. Therefore, the department submitted a request to the Attorney General's office to provide clarification as to which version of Idaho Code 58-310 should be applied to grazing lease applications.

At the July 6, 1999 meeting, the Board was briefed on the analysis provided by the Attorney General's office. The analysis recommended that, in resolving conflict grazing lease applications, the Department apply Idaho Code 58-310 as it existed prior to amendment by S.B.1194 in 1995. The analysis further recommended that those provisions of Idaho Code that direct the Land Board to consider the effect of the grazing lease conflict application on the current lessee's grazing operation should not be implemented.

Based on the analysis from the Attorney General's office, and in an effort to fully comply with the Idaho Supreme Court's decision, the Department recommends the following procedures be utilized by the Board in handling the 1995 and 1996 grazing leases on remand.

1. All applicants for the 1995 and 1996 expiring grazing leases for which IWP applied, but was not allowed to bid, will be provided an opportunity to submit new applications to lease those parcels of state land. Additionally, a notice of availability of the leases will be posted in the appropriate County Courthouse and all interested parties will be given an opportunity to submit an application.

In accordance with standard lease renewal procedures, the applications must be filed on a department lease application form and submitted with the ten-dollar (\$10.00) application fee. A deadline of August 6, 1999 will be established to submit applications on these parcels.

2. All grazing lease applicants may provide supporting information that will allow the Board to evaluate the applicants proposed use, as well as how the applicants' use of the land will help maintain or improve the productivity of the state lands and maximize the long-

term return to the endowment. To assist the applicants in providing this information, all grazing lease applicants will be provided with a copy of the department resource assessment for the subject state lands. At a minimum, grazing lease applicants must submit a management proposal addressing their proposed management of the parcel and responding to concerns raised by the department's resource assessment. The proposal must also identify the number and type of livestock that will graze the parcel, the season of use and approximate number of days the parcel will be grazed. Failure to provide an adequate management proposal will be taken into account in deciding whether to issue a lease and to which applicant.

When two or more applications are submitted for the same lease, all supporting information, including a management proposal, must be submitted prior to any lease auction and will be considered by the Land Board in its post-auction review. If a management proposal is submitted within 14 days of the scheduled auction, the department range staff will review the proposal for completeness. If deficiencies are noted, the applicant will be provided an opportunity to amend the proposal prior to the auction. No modifications of the proposal will be allowed once the auction is completed.

3. If more than one application is submitted for the same lease, a conflict auction will be held. Results of the auction, and any supporting information provided by the applicants including the management proposals, will be submitted to the Land Board along with a report prepared by the department. The Land Board will utilize this information to determine which applicant should be awarded the lease. Consistent with the Supreme Court's Opinions, the Land Board will not consider directly the effect of the lease award on the individual applicant's grazing operation or on the grazing industry as a whole.

#### RECOMMENDATION

The department recommends that the Board adopt the proposed process, as outlined in this memo.

#### BOARD ACTION

APPROVED JUL 13 1999



#### ATTACHMENT

1. List of Affected Leases
2. Letter from Attorney General's office dated July 5, 1999
3. Land Board memos from April 13, May 11 and June 15, 1999

TB <sup>B</sup>

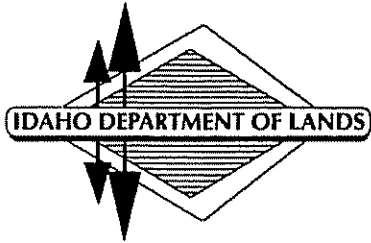


## **6. Grazing Subleases**

Attachment

**April 1, 1998 final minutes**

*Summary:* The department will determine if lessee is a qualified bidder, pursuant to Code.



## STATE BOARD OF LAND COMMISSIONERS

Philip E. Batt, Governor and President of the Board  
Pete T. Cenarrusa, Secretary of State  
Alan C. Lance, Attorney General  
J. D. Williams, State Controller  
Anne C. Fox, Superintendent of Public Instruction

Stanley F. Hamilton, Secretary to the Board

### FINAL MINUTES GRAZING AND CROPLAND SUBLEASING SUBCOMMITTEE MEETING April 1, 1998

A meeting of the State Board of Land Commissioners Subcommittee for grazing and cropland subleasing was held April 1, 1998 at 9:00 a.m. in the fourth floor training room of the Joe R. Williams Building.

Subcommittee members present were:

Attorney General Alan G. Lance  
State Controller J. D. Williams

Stanley F. Hamilton, Director, Idaho Department of Lands, Secretary to the Board

Ben Ysursa, Secretary of State's office sat in for Secretary of State Pete Cenarrusa.

Others present at the meeting were:

Clive J. Strong, Office of the Attorney General  
Jay Biladeau, Asst. Director Lands, Minerals, Range, Idaho Dept. of Lands  
Tracy Behrens, Range Management Specialist, Idaho Dept. of Lands  
Bryce Taylor, Chief, Bureau of Range Management & Surface Leasing, ID Dept. of Lands  
Jean Smith, state grazing lessee

The meeting was called to order by Attorney General Lance. The concept of grazing subleases was discussed. An acceptable form needs to be developed for the sublessee to sign whereby he/she would promise to fulfill all the terms, conditions and provisions of the lease. Staff needs to make a determination as to whether or not the sublessee is a qualified bidder pursuant to Idaho Code.

If it is determined they are a qualified bidder, the Land Board does not have to get involved in the subleases. If it is determined they are deemed to not be a qualified bidder, then the Land

Board will have to make the decision.

Also to be discussed will be the fee charged for an application for a sublease.

Director Hamilton passed out the minutes of the first subcommittee meeting and a briefing memorandum on the issue. Director Hamilton stated that Tracy Behrens has researched information from other states who do subleasing. He asked Tracy to walk through the current policy and what other states are doing. Then the group can discuss what recommendation to make to the full Land Board.

Mr. Behrens referenced the board memorandum for the current policy on subleasing. The current policy is identified under IDAPA rules. The department subleasing policy is further explained in the department's Operations Memorandum (OM) 1521.5 on Subleasing. This OM will be updated when direction is received from the full Land Board.

The current policy requires advanced authorization to enter into a sublease agreement. The lessee must submit a written request that includes the name and address of the sub-lessee, a copy of the proposed sublease agreement, and a \$50.00 application fee. In conjunction with the recently implemented Vegetation Management Policy, the department also requires the sub-lessee to submit a management proposal indicating how the state land will be managed.

The department does not require prior authorization for a lessee to take in herd stock or to pasture another rancher's livestock as long as the state lessee maintains control of the management of the lease. There is also no limit in the number of times a sublease can be authorized during the ten-year lease.

Mr. Behrens then covered the policies currently used in Montana, Arizona, Wyoming, Utah, and Oregon. The information collected from the other state land management agencies indicates that the majority of them either currently assesses a sublease fee, or are considering a proposal to collect a fee. Three different methods are used to collect the sublease fee. The methods are: a percent of the payment to the rancher above the standard state rental fee, a flat rate per AUM above the standard state rental fee, and a percent surcharge above the standard state rental fee.

Mr. Behrens said that the department recommends that the Land Board modify the existing sublease policy to include a sublease surcharge in the range of 25-50% of the current state AUM rate. The remaining current policies of advanced notification, \$50 processing fee, and management proposal should remain in effect.

Mr. Taylor stated that this meeting is intended to deal with grazing subleases. Any other subleases should be addressed differently because of the differences. Director Hamilton said especially cottage site leases that are significantly different.

Attorney General Lance stated that he was having a difficult time ascertaining why it is that we should charge significantly more for subleasing. The AUM is a variable and that is how the lease rate is established – as he understands it. He stated he was having some philosophical

problems as to why we would go back and add on to that because it is a sublease.

Mr. Behrens stated that the situation that is faced is that when a state lease is subleased, generally they receive a payment in excess of what the state grazing fee is. The department has documentation where the lessee is receiving up to three times the state AUM fee for subleasing his allotment.

Controller Williams said he felt the problem is that all AUM's are not created equal. He stated that there is some very good pasture that the state is not getting market value out of it. An enterprising operator can sublease and make a lot of money. He said he does not feel this happens a lot, but he likes the idea of partnering up with the lessee. If there is more money to be made, the state should share.

Clive Strong, Division Chief, Natural Resources Division said he wondered why the state should not get all the difference because the central premise – when you do a grazing lease – is that the persons bidding for – and part of the qualification criteria is that it is an integral part of their operation. If during the term of the lease, they can turn around and lease out that property, then the question really becomes – is it integral to their overall operation. Aren't you setting up a situation, by allowing subleasing, you are encouraging people to speculate. He stated that there is a fiduciary duty to think about in terms of why – if this is no longer integral to the operation, why shouldn't it be going out to the open market and reestablishing market value.

Attorney General Lance asked how many subleases there were in a year. Director Hamilton thought somewhere between 6-12 at the most. This does not include herd stock leases. That is a different issue.

Mr. Taylor said there were 3 subleases last year and there are currently 4 pending. Herd stock arrangements - if someone is short on livestock then they take stock in from someone else and run them with their own. They then maintain full responsibility of full lease control. These are more common.

Mr. Strong asked how the subleases were factored into the range management plan. Mr. Taylor said that the management plan did not change. They are still obligated to the same AUM's that are allocated to the property and the same rotation applies. Mr. Strong asked why the sublessee should not be bound by the same management proposal that the lessee has. Attorney General Lance said that the sublease signature or form that is developed needs to clearly specify that this is the case. Director Hamilton said that while the department wants to know what the management proposal is and it is locked in under the lease, management proposals ought to be able to change. All of the details ought not to be locked in stone over the 10-year lease. The lessee might have a little better idea about how they want to operate and the department needs to be able to deal with that. Mr. Strong said that he didn't mean that they should be bound in but he should not be relieved of that obligation.

Mr. Taylor said under current policy, the sublease agreement is subject to department approval.

Mr. Behrens said that in all the sublease agreements currently held, the subleases do incorporate land ownership other than the state lands. They are for the ranchers base property,

federal lands or other ownership, but the subleases are not just tied to the state land.

Mr. Taylor stated that the management plan with the lessee is the real contract. He said he did not believe the department would relieve him of any of that responsibility just because he is subleasing his rights to someone else. He would still be held responsible to the department.

Mr. Strong asked what the process would be with the property going from the lessee, to the sublessee and back to the lessee. How would the changes be handled. Mr. Behrens stated that in most cases, the land base stays the same, it is just the operator that changes.

Attorney General Lance asked Mr. Strong to have a failure to report a sublease as grounds for cancellation.

Mr. Taylor said the department would like guidance from the board whether to limit the number of subleases allowed each lessee during a 10-year lease period. He said from his perspective and from talking to the industry, he did not feel that subleasing should be encouraged but should be allowed.

Controller Williams said we have only a few total subleases, however, we have a lot of pasturing arrangements. He said that is where the money is. Mr. Strong said it seemed to him that you establish criteria – there has to be some demonstrated management reason why it is being done. There should be a business justification for it. If you set a high fee or perhaps take the entire excess amount then you discourage this type of arrangement unless there is a true, legitimate business reason for doing it. Is it simply profiteering?

Controller Williams said if we're partnering with these people and they are pasturing, who cares – we'll make more money. Mr. Taylor asked Controller Williams if he was suggesting that instead of just addressing subleasing, should it be expanded to include pasturing. Controller Williams stated absolutely, there is no money in subleasing, the money is in the pasturing side. The school children need a cut of this.

Director Hamilton said there are two ways this is happening. One is that the arrangement is – let me take over your state ground and I will operate under your lease. The other is, I will turn the cattle over to you – maybe for a surcharge for herding and management. One is called herd stock and the other is not so well defined.

Mr. Taylor presented a case from McCall on herd stock.

Attorney General Lance said it appeared to him that unless we address that issue, if we put too many limitations on the concept of subleasing or the price of subleasing is too high, it's easily subverted by doing this arrangement. We need to bring both of them up together.

Controller Williams suggested coming up with a percentage. If you're going to sublease or pasture on state ground, you are going to have to give the state x number of dollars which is a percent of what they are getting. The lessee will have to disclose what he is getting per AUM.

Mr. Taylor stated there is no handle on how many are pasturing. In the past the department has

had the right to require lessees to take in herd stock if they are below their stocking number. That has been a part of our standard process. If a lessee only has 50 head of stock and the land will support 100, the lessee only wants to pay for 50. The department has said no – find 50 more and pay for the 100 that there is feed for. This could create some problems.

Controller Williams stated there are a lot of AUM's we're not getting market value from. Someone is making off with the money.

Attorney General Lance asked why individual parcels weren't evaluated for AUM potential. Controller Williams said it used to be done that way but was changed several years back.

Mr. Strong told Attorney General Lance that to go out and evaluate each parcel on its own basis wouldn't work. Mr. Strong asked if the lessee could be requested to disclose as part of his application whether or not he intended to do any pasturing. If they do, set the terms and conditions up front on what percent of that pasturing the state would get.

Mr. Taylor said there is another issue at hand in the pasturing agreement. If you're pasturing livestock, if you are doing the fencing, salting, riding and the doctoring then the operator, in the industry, will get something for his labor. Mr. Strong said that would be taken into consideration and could be done up front.

Mr. Taylor said that sometimes this doesn't occur up front. Ben Ysursa said they still have to report it. Mr. Strong said they have to disclose it if it occurs during the lease.

Attorney General Lance asked Mr. Ysursa if the Secretary of State would be interested in evaluating AUM's on each parcel. Mr. Ysursa – speaking on behalf of the Secretary of State – said he is not interested in examining each piece of property and coming up with different AUM's. AUM's lag behind 1 ½ - 2 years.

Mr. Ysursa said the carrying capacity is a key point.

Mr. Jay Biladeau said there is another issue that determines value and that is market demand. We inventory the parcels so we have a pretty good handle on carrying capacity. In the 70's the department got out and gathered market data throughout the state for those types of uses – spring, summer etc. He thought the rate varied from about 3-6 dollars an AUM at that time. They since have gone to a state rate. This was done by a strong push from industry. Director Hamilton stated that was probably one of the harder fought discussions that the Board has been involved in.

Controller Williams said Mr. Strong has mentioned trying to get the money up front in the bidding costs. At least have it disclosed up front. Mr. Strong stated that it should be put in the lease – if you have pasturing agreements, these pasturing agreements must be reported. Controller Williams stated there are two major categories of pasturing – one is a turn-key operation where the animals are dropped off at the gate and picked up in the fall. The operator does everything. This should be factored into the provisions. The other is where they come out and take care of the animals themselves. He suggested if it is a turn-key deal, we take 25% of the increase rate. If it is not a turn-key deal, we take 50%. Throw this idea out to the industry and find out what

their reaction is.

Attorney General Lance said he did not think we would ever be able to plug the hole. There are ways to get around it. He said we need to maintain sufficient flexibility. He said he felt the Board needs to give the staff guidelines -- formulas.

Mr. Strong suggested the board could add the following into the lease. If you enter into a pasturing agreement, you must report this to the Board. There must be approval and the Board will take a percentage. Then the Board could set up a policy guidance memo that would say -- In these types of situations, this is what we normally do, but give the discretion to the board to charge a greater/lesser amount based on the facts.

Director Hamilton said that a considerable amount of this needs to be done at the staff level. The staff needs direction and when we run out of direction, then staff needs to come to the Land Board.

Attorney General Lance said that staff and legal counsel need to develop a definition of subleasing, which not only incorporates the traditional sense, but also pasturing, herd stock, etc. in one definition.

Controller Williams said then we need to look at it again, then have industry look at it. Attorney General Lance said, in talking with staff, they don't want to let the initial lessee off the hook. There would not be a release of responsibility.

Director Hamilton said that the department would have to look at the rule and consider an amendment of it. The lease term needs to be looked at. There are a couple of different terms that might have to be incorporated. The Department has an Operations Memorandum that basically takes Board policy and explains to staff how it is to be implemented. We are not quite ready to amend that but can begin to work on it. We will need a good sublease form, specifically for the formal sublease, and also for herd stock, pasturing agreements as well. Eventually we will talk about a fee. The fee should be set at policy rather than rule.

Attorney General Lance asked if there should be a limitation on how many times a lessee can sublease. Mr. Strong said he would like the discretion to look at defining the two different situations and putting some fairly severe restrictions on subleases. Subleases are really a mechanism to avoid the bidding process whereas a pasturing agreement is something that is facilitated.

Attorney General Lance said this has to do with a percentage of the rate of gain. We are kind of getting into a quagmire relative to computation of really what the lease formulas are. Attorneys General Lance said when everyone is ready, call another meeting to go over in terms of what will be recommended to the Land Board.

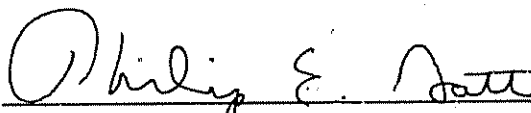
Mr. Taylor said that there were four (4) current requests for sublease approval before the department at this time. They need to be dealt with. He asked if the department should bring these before the Board at the May meeting. Mr. Behrens said that all four that are pending are from last year. They are one-year requests. Attorney General Lance said that an agreement

has been made with them and he said he did not feel that we could plug in the new rules on these.

Attorney General Lance said staff needs to determine what staff time would be to process a sublease application and that ought to be the application fee. Director Hamilton said that could be done.

There being no further business, the meeting adjourned.

IDAHO STATE BOARD OF LAND COMMISSIONERS



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



Pete T. Cenarrusa  
Secretary of State





Stanley F. Hamilton  
Director, Idaho Department of Lands



## **7. Increase of Lease Fees**

Attachment

**July 17, 1970 final minutes**

*Summary:* Increase of lease fees during the term of the lease. (A clause in the lease states only that the rate cannot be changed *during the year.*)

plan on the whole block.

After much discussion on the Department's policy and legality concerning the increase of lease fees during the term of the lease (which is legal - a clause in the lease states only that the rate cannot be changed during the year), the Board agreed unanimously to uphold the Department's recommendation to deny sale.

Mr. Williams suggested that the rental be adjusted at the proper time so that the state gets a fair price for the value of the land to the state.

\* \* \* \* \*

#### LAND COMMISSIONER AUTHORIZED TO SELECT STATE LAND TO OFFER FOR SALE

Consideration of the Ronald Isaack sale application, listed above, prompted discussion relative to whether or not the Land Department can legally select and advertise for sale certain parcels of land which it may deem would be advantageous to the State to have in private ownership and improve the State's ownership pattern.

Mr. Trombley recalled there was considerable discussion by the Board on this matter a couple of years ago but a final decision was never reached.

The Department would like to eventually get to the point where the staff could select what land could be offered for sale but the Board has never taken a position that the Department could operate on any basis other than an application to purchase; the Department has never been given the authority to select a parcel of land and offer it for sale.

The governor suggested that the Department could bring recommendations before the Board that certain parcels be advertised for sale. This would not, however, prevent any would-be purchaser from making application to purchase available State land in which he may be interested.

One point brought forth by Mr. Samson was the fact that there are fees connected with advertising land for sale that would have to be considered, whereas, now the applicant furnishes the fee. Mr. Williams suggested that the recommendation for sale carry the stipulation that the successful bidder will pay for the advertising.

Mr. Robson moved that the Land Commissioner be authorized to design sale then submit for Land Board approval any State land that the Department feels should be sold in block and that would be in the best interest to the State. Mr. Williams seconded, and it was so approved.

\* \* \* \* \*

#### DIVISION OF LAND SALE CERTIFICATE

Unanimous approval was given the request of Robert R. Ricks for division of land sale certificate #24310. Mr. Ricks wishes to divide 20 acres described as N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$  Sec. 21, Twp. 7S, Rge 42 E.B.M. in Madison County, Indemnity School land out of the 120 total acres covered by said certificate because of anticipated land acquisition by the Bureau of Reclamation. The land has been appraised at \$175 per acre. The contract is current. has never been delinquent. The present balance is \$9,153.

Governor Samuelson was called out of the meeting and Attorney General Robson proceeded with the next item on the Agenda.

\* \* \* \* \*

#### LAND EXCHANGE - ST. JOE NATIONAL FOREST

The following proposed land exchange involving lands in the St. Joe National Forest was presented to the Board for consideration, with the Department's recommendation for approval:

##### A. Subject Properties:

##### 1 Offered State Land:

<u>T40N R1W</u>	
Section 36 - NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$	480 Acres
<u>T42N R4E</u>	
Section 3 - SW $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$	120
Section 4 - SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$	80
<u>T44N R2E</u>	
Section 36 - SW $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$	80
<u>T45N R3E</u>	
Section 24 - SE $\frac{1}{4}$	160
	<u>920 Acres</u>

##### 2. Selected U. S. Land:

<u>T44N R1W</u>	
Section 3 - Lot 1, Lot 2, S $\frac{1}{2}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$	238.12 Acres
<u>T44N R1E</u>	
Section 7 - Lot 1, Lot 2, E $\frac{1}{2}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$	462.35
Section 17 - NW $\frac{1}{4}$ NW $\frac{1}{4}$	40.00
	<u>740.47 Acres</u>

## **8. Installment Payment Policy**

Attachment

### **May 17, 1988 approved memo**

*Summary:* Allow rental extensions on cropland leases. Grant on a case-by-case basis on the showing of financial hardship by the lessee. As an extension of that policy on cropland leases, occasionally a lease extension has been granted to a cottage site lessee. They are considered in rare circumstances upon demonstration of financial hardship. Policy approved as long as the state collects a late payment and fee plus interest.

STATE BOARD OF LAND COMMISSIONERS  
May 17, 1988

SUBJECT

Lessees periodically request an extension of the rental due date.

AUTHORITY

Idaho Code Section 58-305 regarding extension of time for rental payments.

DISCUSSION

For years the department has allowed rental extensions to our cropland lessees. The extensions are granted infrequently and on a case-by-case basis depending upon the circumstances involved. Financial hardship must be demonstrated by the lessee, and full payment must be received by November 1. Late payments must be accompanied with a \$10.00 late fee plus penalty interest, from January 1 until the date paid.

In cottage site rental rate negotiations conducted during 1985 and 1986, lessees requested the option of making installment rental payments rather than paying rent in advance as required by Idaho Code. The department responded that we could consider rental extensions on a case-by-case basis when a financial hardship existed.

As an extension of the cropland rental extension policy, cottage site lessees are granted an extension if they plead financial hardship and makefull payment prior to occupying the site during the summer season. There are usually only five or six extensions granted in a year.

RECOMMENDATION

Authorize department to continue to consider extension requests of lessees on a case-by-case basis upon documentation of financial hardship.

BOARD ACTION

*Unanimous consent - Board concurs with  
present policy.*

MAY 17 1988

## 9. Vegetation Management Policy

Attachment

### **November 12, 1996 approved memo**

*Summary:* The specified management practices developed by the department shall require that the land be managed in a manner consistent with the achievement of the desired vegetative condition. The department, in cooperation with other agencies, shall monitor and evaluate the effectiveness of the specified management practices.

# STATE BOARD OF LAND COMMISSIONERS

November 12, 1996

## SUBJECT.

Vegetation Management Policy -- This proposed policy was presented at the October meeting of the State Board of Land Commissioners at the request of Governor Batt. The issue was carried forward, at the request of the Governor so that any person or organization could offer comments.

## PROPOSED VEGETATION MANAGEMENT POLICY.

Idaho's endowment lands include a diversity of land and vegetation types of varying income producing capability.

The State Board of Land Commissioners seeks to ensure the health and/or enhancement of vegetation and related resources on these lands, consistent with achieving the goal of the maximum long term return to the endowed institutions as required by the Idaho Constitution.

The development of site specific management plans that take into consideration the current and desired condition of the vegetation resource will ensure the productivity of endowment lands and the maximum long term return to the endowments.

The Idaho Department of Lands, in coordination with other agencies, shall assess the current condition of the vegetation on all endowment lands, determine the desired condition, and propose specific management practices to achieve this condition. The assessment of current condition will include an evaluation of all relevant factors contributing to resource management problems or opportunities.

In determining the desired condition of vegetation, emphasis shall be placed on the management of an entire endowment parcel (which includes riparian areas and associated uplands), rather than small discrete areas within the parcel.

Weeds, wildfires, and excessive erosion may cause economic loss to the endowments. All vegetation management plans shall include provisions for: 1) the abatement or control of noxious and invasive weeds; 2) decreasing the probability, recurrence, and severity of wildfires; and 3) control of excessive erosion.

The specified management practices developed by the Department of Lands shall require that the land be managed in a manner consistent with the achievement of the desired vegetative condition. The Department of Lands, in cooperation with other agencies, shall monitor and evaluate the effectiveness of the specified management practices.

**BOARD ACTION.**

**APPROVED NOV 12 1996**