

IDAPA 20 - DEPARTMENT OF LANDS

20.03.14 - RULES GOVERNING GRAZING, FARMING, CONSERVATION, NONCOMMERCIAL RECREATION, AND COMMUNICATION SITE LEASES

DOCKET NO. 20-0314-1201

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 58-104(6) and 58-105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

Wednesday, October 10, 2012, 6:00 p.m.

Idaho Department of Lands 300 N 6th Street, Suite 103, Boise

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Department has drafted proposed changes to the current rule to be used as a starting point for negotiation. Key changes include:

- Addition of requirements for management proposals per Senate Bill 1271 to Subsection 020.02.
- Clarification of the appeals process procedures associated with conflicted lease applications in Subsection 020.02.
- Rewording of Subsection 040.01 – Rental, to broaden language applicable to multiple lease activities.
- Removal of Section 021 - Rights Reserved to the Department, which is addressed contractually through the Department's lease templates.
- Removal of Section 054 - Cropland Lease Hardship Claims, which will be addressed programmatically.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: Not applicable

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: Not applicable.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the in the June 6, 2012, Idaho Administrative Bulletin, [Volume 12-6, page 27](#); and the July 4, 2012, Idaho Administrative Bulletin, [Volume 12-7, page 106](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Neil Crescenti at (208) 334-0278 or ncrescenti@idl.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2012.

DATED this 31st day of August, 2012.

Neil Crescenti
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THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 20-0314-1201

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 20.03.14, "Rules Governing Grazing, Farming, Conservation, Noncommercial Recreation, and Communication Site Leases." (3-12-10)

02. Scope. These rules constitute the Idaho Department of Lands' administrative procedures for leasing of state endowment trust land for grazing, farming, conservation, noncommercial recreation, communication sites and other uses that are treated similarly under the provisions of Section 58-307, Idaho Code, regarding a ~~ten~~ twenty (~~20~~) year lease term restriction, and under the provisions of Section 58-310, Idaho Code regarding lease auctions. These rules shall be construed in a manner consistent with the duties and responsibilities of the Idaho State Board of Land Commissioners as set forth in Title 58, Chapter 3, Idaho Code; Article 9, Sections 3, 7 and 8, of the Idaho Constitution; and Section 5 of the Idaho Admission Bill. (~~3-12-10~~)()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

01. Amortization. The purchase of Department authorized, lessee installed, lease improvements by the Department through allowance of credit to the lessee's annual lease payments. (3-13-02)

02. Animal Unit Month (AUM). The amount of forage necessary to feed one (1) cow or one (1) cow with one (1) calf under six (6) months of age or one (1) bull for one (1) month. One (1) yearling is considered seven tenths (.7) of an AUM. Five (5) head of sheep, or five (5) ewes with lambs are considered one (1) AUM. One (1) horse is considered one and one-half (1 1/2) AUM. (3-12-10)

03. Assignment. The Department approved transfer of all, or a portion of, a lessee's right to another person wherein the second person assumes the lease contract with the Department. (3-13-02)

04. Board. The Idaho State Board of Land Commissioners or such representatives as may be designated. (3-13-02)

05. Conflict Application. An application to lease state endowment trust land for grazing, farming, conservation, noncommercial recreation or communication site use when one (1) or more applications have been submitted for the same parcel of state endowment trust land and for the same or an incompatible use. (3-12-10)

06. **Department.** The Idaho Department of Lands. (6-14-88)
07. **Director.** The Director of the Department of Lands, or such representative as may be designated by the Director. (3-13-02)
08. **Extension.** An approved delay in the due date of the rental owed on a farming lease without risk of loss of the lease. (3-12-10)
09. **Improvement Valuation.** The ~~Land Board approved~~ process or processes of estimating the value of Department authorized improvements associated with a lease, as defined in Section 102. ~~(3-12-10)~~()
10. **Lease.** A written agreement between the Department and a person containing the terms and conditions upon which the person will be authorized to use state endowment trust land. (3-12-10)
11. **Herd Stock.** Livestock leased or managed, but not owned, by the lessee. (3-13-02)
12. **Lease Application.** An application to lease state endowment trust land for grazing, farming, conservation, noncommercial recreation, or communication site purposes. (3-12-10)
13. **Manageable Unit.** A unit of state endowment trust land designated by the Department, geographically configured and sufficiently large to achieve the proposed use. (3-12-10)
14. **Management Plan.** The signed state endowment trust land lease for grazing, farming and conservation, and any referenced attachments such as annual operating plans or federal allotment management plans, shall be considered the management plan. ()
- ~~145.~~ **Mortgage Agreement.** Department authorization for the lessee to obtain a mortgage on a state endowment trust land lease. ~~(3-12-10)~~()
- ~~156.~~ **Person.** An individual, partnership, association, corporation or any other entity qualified to do business in the state of Idaho and any federal, state, county, or local unit of government. (3-13-02)
17. **Proposed Management Plan.** A document written and submitted by the lease applicant detailing the management objectives and strategies associated with their proposed activity. ()
- ~~168.~~ **Sublease.** An agreement in which the state endowment trust land lease holder conveys the right of use and occupancy of the property to another party on a temporary basis. ~~(3-13-02)~~()

(BREAK IN CONTINUITY OF SECTIONS)

020. APPLICATIONS AND PROCESSING.

01. **Eligible Applicant.** Any person legally competent to contract may submit an application to lease state ~~owned~~ endowment trust land provided ~~he has reached his eighteenth birthday, or if not eighteen (18) is married, is a citizen of the United States or has declared his intentions to become such, and is not indebted to the state of Idaho or delinquent on any payments to~~ such person is not then in default of any contract with the Department of Lands; provided further, that the Department may, in its discretion, exclude any person in breach of any contract with the state of Idaho or any department or agency thereof. To be eligible for a grazing or cropland lease, an applicant must intend to use the land for domestic livestock grazing or for cropping purposes, and must certify such. ~~(3-13-02)~~()
02. **Application Process.** All lease applications must be submitted to the Department on the appropriate Department form. The applications must be signed by the applicant, must be submitted in such manner as

determined by the Department, and must meet the following criteria: (3-12-10)

a. Non-refundable Fee. Each application for a lease shall be accompanied by a non-refundable application fee in the amount specified by the Board. (3-13-02)

b. Application Deadline. The deadline to apply to lease a parcel of state endowment trust land already covered by a lease shall be as established by the Department for the year the existing lease expires. Applications to lease unleased state endowment trust land may be submitted at any time, or at such time as designated by the Department. (3-12-10)

c. Proposed Management Plan. All applicants for state grazing, farming and conservation leases shall submit a proposed management plan with their application. Where current lessee is an applicant, the Department will recognize the existing management plan, as described by the existing lease provisions, as the proposed management plan required to complete the lease application. The Department may require amendments to the proposed management plan in accordance with Subsections 020.02.e. and 020.02.f. ()

d. Legal Description on Application. All applications must include a legal description of the state endowment trust land applied on. The Department reserves the right to require an amendment of the legal description of state endowment trust lands identified in a lease application to ensure the parcel is a manageable unit or for any other reason deemed appropriate by the Department. If the applicant fails to provide an amended application, referencing a manageable unit as designated by the Department, the application shall be considered invalid. (3-12-10)

d.e. Nonconflicted Applications. (3-12-10)

i. If the current lessee is the only applicant and the Department does not have concerns with the lessee's current management of the leased state endowment trust land, a new lease will be issued. (3-12-10)

ii. If the current lessee is the only applicant and the Department has concerns with the lessee's current management of the state endowment trust lands, or if the only applicant is not the current lessee, the applicant shall meet with the Department to develop the terms and conditions of a proposed lease specific to the applicant's proposed use management plan. (3-12-10)()

e. Conflicted Applications. (3-12-10)

i. All applicants submitting conflict applications shall meet with the Department to develop the terms and conditions of a proposed lease specific to each applicant's proposed use management plan. (3-12-10)()

ii. The Department will provide all applicants for conflicted leases with the list of criteria that will be used to develop lease provisions. Among the factors to be addressed in the criteria are the following: (3-12-10)

(1) The applicant's proposed use and the compatibility of that use of the state endowment trust parcel land with preserving its long-term leasing viability for purposes of generating maximum return to trust beneficiaries; i.e., the impact of the proposed use and any anticipated improvements on the parcel's future utility and leasing income potential. (3-12-10)()

(2) The applicant's legal access to and/or control of state endowment trust land or other resources that will facilitate the proposed use and is relevant to generating maximum return to trust beneficiaries. (3-12-10)()

(3) The applicant's previous management of land leases, land management plans, or other experience relevant to the proposed use or ability/willingness to retain individuals with relevant experience. (3-12-10)

(4) Potential environmental and land management constraints that may affect or be relevant to assessing the efficacy or viability of the proposed use. (3-12-10)

(5) Mitigation measures designed to address trust management concerns such as: (3-12-10)

- (a) Construction of improvements at lessee's expense. (3-12-10)
- (b) Payment by lessee of additional or non-standard administrative costs where the nature of the proposed use and/or the applicant's experience raises a reasonable possibility that greater monitoring or oversight by the Department than historically provided will be necessary to ensure lease-term compliance. (3-12-10)
- (c) Bonding to ensure removal of any improvements installed for the lessee's benefit only and which would impair the future utility and leasing income potential of the state endowment trust land. (3-12-10)
- (d) Bonding to ensure future rental payments due under the lease in cases where the lessee is determined by the Department to pose a significant financial risk because of lack of experience or uncertain financial resources. (3-12-10)
- (6) Any other factors the Department deems relevant to the management of the state endowment trust ~~pareet~~ land for the proposed use. (3-12-10)()

fg. Proposed Lease. Within ten (10) days of the final meeting with the applicant to discuss lease provisions, the Department will provide the applicant with a proposed lease containing those terms and conditions upon which it will lease the state endowment trust land. If the applicant does not accept in writing the lease as proposed by the Department within seven (7) days of receipt, the application will be rejected in writing by the Department. Within twenty (20) days of the date of mailing of the rejection notice, the applicant may appeal the Department's determination as to the lease's terms and conditions to the Land Board. If the appeal is denied, the applicant may continue with the auction process by accepting the lease terms and conditions initially offered by the Department. No auction shall be held until the Land Board resolves any such appeal. (3-12-10)()

03. Expiring Leases. Lease applications will be mailed by the Department to all holders of expiring leases no less than thirty (30) days prior to the application deadline. Signed applications and the application fee must be returned to the Department by the established deadline or postmarked no later than midnight of that date. It shall be the lessee's responsibility to ensure applications are delivered or postmarked by the deadline. (3-12-10)

04. Rental Deposit. (3-13-02)

a. Existing Lessee. If the existing lessee is the sole applicant, the lessee may submit the rental deposit at the normal due date. If a conflict application is also filed on the expiring lease and the existing lessee is awarded the lease by the Land Board, the lessee must deposit, with the Department, the estimated first year's rental for the lease at the time the lease is submitted to the Department with lessee's signature. (3-12-10)

b. New Applicants. (3-12-10)

i. Expiring Lease. New applicants for expiring leases must submit the estimated first year's rental to the Department at the time of the application's submission. (3-12-10)

ii. Unleased State Endowment Trust Land. All applicants for unleased state endowment trust land are deemed new applicants. If an applicant for unleased state endowment trust land is the sole applicant, the applicant may submit the rental deposit at the normal billing cycle, unless the time of application and desired time of use do not coincide with the normal billing cycle, in which case payment must be rendered at the direction of the Department. ~~When more than one (1) application is received for unleased state endowment trust land, all applicants must deposit, with the Department, the estimated first year's rental for the lease prior to auction.~~ (3-12-10)()

~~021. RIGHTS RESERVED TO THE DEPARTMENT.~~

~~The Department expressly reserves the right:~~ (3-13-02)

~~**01. Reservations.** To all mining rights, timber rights, water rights, easements and rights of way, and the fee title to the leased land.~~ (3-13-02)

~~**02. Other Leases.** To maintain present, and to issue future mineral, oil and gas, geothermal and other subsurface leases as provided by Title 47, Idaho Code. Annual rental may be adjusted to reflect any utility loss to the~~

~~lessee from such activities.~~

~~(3-13-02)~~

~~**03. Grazing Restrictions.** To restrict or prohibit grazing on all, or portions of, the leased land to accommodate other resource management objectives. The lessee will be given one hundred eighty (180) days written notice, prior to turn out of livestock on the lands leased, of any such restrictions or termination of grazing use together with a map of the restricted area. The Department will work with lessee to find alternate forage sources on endowment lands to minimize the financial impact to the endowment. Annual rental will be adjusted to reflect any utility loss to the lessee from such activities should alternate sources of forage not be found.~~

~~(3-13-02)~~

~~**04. Seed Harvest.** To harvest seed from plants on land not under a cropland lease. The Department will coordinate harvesting activities with lessee to minimize impacts on livestock operations. If loss of use occurs from harvesting activities the rental will be adjusted in the amount of lost use.~~

~~(3-13-02)~~

~~**05. Entry.** To enter upon and inspect the lands leased at any reasonable time to insure protection of the Department's interest.~~

~~(3-13-02)~~

~~**06. Easements.** To grant easements and rights of way across or upon the lands leased. The Department shall coordinate with the lessee before processing any easement applications on the leased land. Annual rental will be adjusted to reflect any utility loss to the lessee from any such easements or rights of way. Acreage of the lands described within the lease may be adjusted to reflect any such easements or rights of way that permanently remove such lands from grazing use.~~

~~(3-13-02)~~

~~**07. Public Access.** To exclusively regulate public access on state lands. Grazing or cropland leases will not be considered exclusive use leases as described under Title 36, Chapter 16, Idaho Code. These rules do not authorize or purport to authorize trespass on private lands to reach state-owned lands. Use of state lands shall not be restricted without prior written approval of the Department.~~

~~(3-13-02)~~

~~**08. Water Rights.** To all water rights appurtenant to state lands. Lessees may not appropriate any water rights that are appurtenant to state lands, including instream livestock use or stock watering rights. Any water right appropriated on state land shall be appropriated in the name of the state of Idaho.~~

~~(3-13-02)~~

~~**09. Road Closures.** To close roads for road protection, wildlife protection or administrative purposes. Planned road closures will be reviewed with the lessee prior to action. The lessee will have the right of due process when decisions affect the lessee's use of the lease.~~

~~(3-13-02)~~

~~**10. Special Leases.** To grant special leases upon the lands described in the grazing lease. If the special lease conflicts with the grazing use or makes consumptive use of forages, the grazing rental will be adjusted to reflect such loss of use.~~

~~(6-14-88)~~

~~**11. Permanent Improvements.** To claim all permanent improvements placed upon the land remaining after six (6) months in cases of abandonment by the lessee or to take possession immediately in cases of cancellation upon breach of any of the conditions of the lease. No improvements will be disposed of by the Department until all appeals have been exhausted.~~

~~(3-13-02)~~

0221. LENGTH OF LEASE.

The Department may issue a lease for any period of time up to the maximum term provided by law.

(3-12-10)

0232. -- 029. (RESERVED)

030. CHANGE IN LAND USE.

The Director may change the use of any state endowment trust land, in whole or in part, for other uses that will better achieve the objectives of the Board.

(3-12-10)

~~**01. Termination of Existing Lease.** In case of a change in land use to a use other than provided for under these rules, the existing lease may be terminated, in whole or in part, upon one hundred eighty (180) days written notice to the lessee. If a lease is terminated due to a change in land use, improvement credit will be addressed in accordance with these rules.~~

~~(3-12-10)~~

031. -- 039. (RESERVED)

040. RENTAL.

01. **Rental Rates.** ~~Rental rates shall be~~ **The methodology used to calculate rental rates shall be** determined by the Board. ~~The rental rate for livestock grazing leases shall be based on the number of allowable AUMs. The rental rate for cropland leases shall be based on the number of acres used for crop production.~~ (3-13-02)()

02. **Special Uses.** Fees for special uses requested by the lessee and approved by the Department, ~~including, but not limited to, concentrated feeding areas or structures/buildings enhancing management of the land,~~ shall be determined by the Department. (3-13-02)()

03. **Rental Due Date.** Lease rentals are due in accordance with the terms of the lease. (3-12-10)

(BREAK IN CONTINUITY OF SECTIONS)

050. LEASE CANCELLATION.

Leases may be cancelled by the Director for the following reasons: (3-13-02)

01. **Non-Compliance.** If the lessee is not complying with the lease provisions or ~~management plan provisions or~~ if resource damage attributable to the lessee's management is occurring to state **endowment trust** land within a lease, the lessee shall be provided written notification of the violation by regular and certified mail. The letter shall set forth the reasons for the Department's cancellation of the lease and shall provide the lessee thirty (30) days notice of the cancellation. (3-13-02)

02. **Change in Land Use.** A lease may be cancelled in whole or in part upon one hundred eighty (180) days written notice by the Department if the state endowment trust lands are to be leased for any other use as designated by the Board or the Department and the new use is incompatible with the existing lease. In the event of early cancellation due to a change in land use, the lessee will be entitled to a prorated refund of the premium bid for a conflicted lease. (3-12-10)

03. **Land Sale.** The Department reserves the right to sell state endowment trust lands covered under the lease. The lessee will be notified that the state endowment trust lands are being considered for sale prior to submitting the sales plan to the Board for approval. The lessee will also be notified of a scheduled sale at least thirty (30) days prior to sale. In the event of early cancellation due to land sale, the lessee will be entitled to a prorated refund of the premium bid for a conflicted lease. (3-12-10)

04. **Mutual Agreement.** Leases may be cancelled by mutual agreement between the Department and the lessee. (3-13-02)

(BREAK IN CONTINUITY OF SECTIONS)

053. EXTENSIONS OF ANNUAL FARMING LEASE PAYMENT.

01. **Farming Lease Extensions.** An extension of the annual lease payment may be approved for farming leases only. Each lease is limited to no more than two (2) successive or five (5) total extensions during any ten (10) year lease period. Requests for extensions must be submitted in writing and must include the extension fee determined by the Board. The lessee must provide a written statement from a financial institution verifying that money is not available for the current year's farming operations. (3-12-10)

02. Liens. When an extension is approved, the Department will file a lien on the lessee's pertinent crop in a manner provided by Idaho Code. ~~If the subject state endowment trust land is covered under a Conservation Reserve Program contract with the federal government, the lessee must sign a transfer of payment, or a similar form provided by the federal government, transferring the federal payment to the Department if the rental payment is not received by the newly established deadline.~~ (3-12-10)()

03. Due Date. Rental plus interest at a rate established by the Board will be due not later than November 1 of the year the extension is granted. (3-13-02)

~~054. CROPLAND LEASE HARDSHIP CLAIMS.~~

~~01. Crop Loss.~~ Adjustments in rental may be made because of unusual crop loss that occurs through no fault of the lessee. Such loss must be thoroughly substantiated by the lessee. (3-13-02)

~~02. Conditions to Meet.~~ To qualify for a hardship claim the following conditions must be met: (3-13-02)

~~a. All requests for hardship claims must be submitted to the Department in writing immediately after the damage has occurred.~~ (3-13-02)

~~b. Claims will be considered for the current growing season only.~~ (6-14-88)

~~c. Any adjustments will be credited to next year's rental.~~ (3-13-02)

~~d. Claims will only be approved for losses beyond the control of the lessee.~~ (3-13-02)

~~e. The lessee will only receive a reduction in rental for yield losses that occur beyond the normal variation expected for similar land in the situated county. Normal variation will be calculated from the Idaho Statistical Reporting Service records.~~ (3-13-02)

~~f. Average yields used to calculate the rental on the subject lands will be used to determine any lease rental adjustments for this purpose. The lease rental will only be adjusted for losses that exceed thirty five percent (35%) of the average crop yield.~~ (3-13-02)

~~g. Adjustments will not be made for losses if lessee is compensated through another government program or crop insurance.~~ (6-14-88)

~~054.~~ -- 059. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

080. GRAZING MANAGEMENT PLANS.

~~Prior to issuance of a lease, the lessee and the Department must agree to a written grazing management plan.~~ (3-13-02)

01. Federal Plan. When state endowment trust land is managed in conjunction with federal land, the management plan prepared for the federal land may be deemed by the Department, at its discretion, ~~to satisfy the requirements of a~~ the management plan. (3-13-02)()

02. Modification of Plan. The Department may review and modify any grazing management plan upon changes in conditions, laws, or regulations, provided that the Department shall give the lessee thirty (30) days notice of any such modifications prior to the effective date thereof. Modifications mutually agreeable to both the Department and lessee may be made at any time and may be initiated by lessee's request. (3-13-02)()

081. -- 089. (RESERVED)

090. TRESPASS.

01. Loss or Waste. The lessee shall use the property within the lease in such manner as will best protect the state of Idaho against loss or waste. Unauthorized activities occurring on state endowment trust land shall be considered trespass; these include dumping of garbage, constructing improvements without a permit, and other unauthorized actions. (3-13-02)()

02. Civil Action by Lessee. The lessee is encouraged to take civil action against owners of trespass livestock on state endowment trust lands to recover damages to the lessee for lost forage or other values incurred by the lessee. (3-13-02)()

03. Continuing Trespass. When continued trespass causes resource damage, the Department will initiate proceedings to restrict further trespass and recover damages as necessary. (3-13-02)

04. Trespass Claims. Trespass claims initiated by the Department will be assessed as triple the current State AUM rate for forage taken. (3-13-02)

(BREAK IN CONTINUITY OF SECTIONS)

105. CONFLICT AUCTIONS.

01. Two or More Applicants. When two (2) or more eligible applicants apply to lease the same state endowment trust land for grazing, farming conservation, noncommercial recreation, or communication site purposes and the Department determines the proposed uses are not compatible, the Department shall hold an auction. (3-12-10)

02. Applicant Notification. At least fourteen (14) days prior to the date of such auction, the Department shall give notice by letter, which notice shall be sent in the course of certified mail to each of the applicants for the lease, notifying them of the time and place such auction is to be held. The notice shall be sent to the name and address as it is given in the application. (3-13-02)

03. Minimum Bid. Bidding shall begin at two hundred fifty dollars (\$250) or the cost of preparing any required improvement valuation in connection with the expiring lease, whichever is greater. (3-12-10)

04. Auction Bidding. Each applicant who appears in person or by proxy at the time and place so designated in said notice and bids for the lease shall be deemed to have participated in the auction. A proxy must be authorized by the lease applicant in writing prior to the start of the auction. (3-13-02)

05. Withdrawal Prior to or Failure to Participate in an Auction. Applicants who either withdraw their applications after accepting the Department offered lease per Subsection 020.02 of this rule and prior to the auction which results in no need to schedule an auction or cancellation of a scheduled auction; or applicants who fail to participate at the auction by not submitting a bid which results in only one (1) participant at the scheduled auction, shall forfeit an amount equal to the lesser of the following: (3-12-10)()

a. The Department's cost of making any required improvement credit valuation; (3-12-10)

b. For existing lessee applicants, any improvement credit payment that would otherwise be due if not awarded the lease; or (3-12-10)

c. For conflict applicants, the rental deposit made. (3-12-10)

06. High Bid Deposit. The high bidder is required to submit payment in the amount of the high bid at the conclusion of the auction. (3-12-10)

- 07. Auction Procedures.** The Department shall prescribe the procedures for conducting conflicted lease auctions. (3-12-10)
- 08. Withdrawal After Auction.** (3-12-10)
- a.** If the high bidder withdraws or refuses to accept the lease, the high bid payment will be retained by the Department. (3-12-10)
- i.** If the auction involved only two (2) participants, the second high bidder shall be awarded the lease. (3-12-10)
- ii.** If the auction involved more than two (2) participants, the lease will be reaucted. (3-12-10)
- b.** If an auction bidder other than the high bidder withdraws a bid before Land Board review and action on the auction results, no adjustment will be made in the payment deposited by the high bidder. (3-12-10)

(BREAK IN CONTINUITY OF SECTIONS)

111. NOXIOUS WEED CONTROL.

- 01. Weed Control.** The lessee shall cooperate with the Department, or any other authorized agency, to undertake programs for control or eradication of noxious weeds on state endowment trust land. The lessee shall take measures to control noxious weeds on the leased state endowment trust land in accordance with Title 22, Chapter 24, Idaho Code. (~~3-12-10~~)()
- 02. Responsibility.** The lessee will not be held responsible for the control of noxious weeds resulting from other land management activities such as temporary permits, easements, special leases and timber sales. Control of noxious weeds on state grazing lands shall be shared by the lessee and Department, with the Department's share subject to funds appropriated for that purpose. (3-13-02)

(BREAK IN CONTINUITY OF SECTIONS)

114. LIABILITY (INDEMNITY).

The lessee shall indemnify and hold harmless the state of Idaho, its departments, agencies and employees for any and all claims, actions, damages, costs and expenses which may arise by reason of lessee's occupation of the leased ~~parcel~~ state endowment trust land, or the occupation of the leased parcel by any of the lessee's agents or by any person occupying the same with the lessee's permission. (~~3-12-10~~)()