



State of Idaho  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
BOARD OF ENVIRONMENTAL QUALITY

1410 North Hilton, Boise, ID 83706-1255, (208) 373-0502

C. L. "Butch" Otter, Governor  
Curt Fransen, Director

**MEMBERS OF THE BOARD**

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Chairman  
1951 S. Saturn Way  
Ste. 100  
Boise, ID 83709

Kevin C. Boling  
Vice-Chairman  
5881 N. Ferdinand Court  
Coeur d'Alene, ID 83814

Beth Elroy  
Secretary  
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Dr. John R. MacMillan  
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Kermit V. Kiebert  
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Carol Mascareñas  
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**LEGAL COUNSEL**

Douglas M. Conde  
Harriet A. Hensley

**BOARD ASSISTANT**

Rosie Alonzo  
(208) 373-0240

**IDAHO BOARD OF ENVIRONMENTAL QUALITY**

**MINUTES**

**December 2, 2014**

The Idaho Board of Environmental Quality convened on December 2, 2014 at 3:30 p.m.  
at:

**Department of Environmental Quality  
Conference Room A  
1410 N. Hilton  
Boise, Idaho**

**BOARD MEMBERS PRESENT**

John McCreedy, Chairman  
Beth Elroy, Secretary (*via teleconference*)  
Dr. John R. "Randy" MacMillan, Member (*via teleconference*)  
Kermit Kiebert, Member (*via teleconference*)  
Carol Mascareñas, (*via teleconference*)

**BOARD MEMBERS ABSENT**

Kevin Boling, Vice-Chairman  
Nick Purdy, Member

**DEPARTMENT OF ENVIRONMENTAL QUALITY STAFF PRESENT**

Curt Fransen, Director  
Harriet A. Hensley, Deputy Attorney General, Legal Counsel for the Board  
Ann Vonde, Deputy Attorney General, Office of the Attorney General  
Paula Wilson, Rules Coordinator  
Rosie Alonzo, Management Assistant, Assistant to the Board  
Lisa Carlson, Deputy Attorney General, DEQ  
Mike Simon, Stationary Source Program Manager  
Kevin Schilling, Air Quality Dispersion Modeling Coordinator  
Dan Pitman, Air Quality Permitting Engineer Tech 1  
Cris Riggs, Legal Assistant

**OTHERS PRESENT:**

Rachelle Cahoon, Tucker & Associates, Reporter  
Erika Malmen, Perkins, Coie, LLP, representing ConAgra Lamb Weston (*via teleconference*)  
Dylan Lawrence, Varin Wardwell, representing Magnida  
Eric Groten, Vinson & Elkins, representing Magnida (*via teleconference*)  
Mark Mendiola, Green Market

❖ All attachments referenced in these minutes are permanent attachments to the minutes on file at the Idaho Department of Environmental Quality.

**CALL TO ORDER AND ROLL CALL**

Chairman John McCreedy called the special meeting of the Idaho Board of Environmental Quality (Board) to order at 3:30 p.m. Roll call was taken. Five Board members were present for a quorum.

**AGENDA ITEM NO. 1: CONAGRA FOODS LAMB WESTON, INC. V. DEQ, DOCKET NO. 0101-14-01**

Chairman McCreedy stated that this special meeting of the Board was called for a hearing on the motion by ConAgra Foods Lamb Weston to vacate and reschedule the hearing set for December 4, 2014 at 1:00 p.m.

Erika Malmen, Counsel, Perkins Coie, LLP, appeared on behalf of ConAgra Foods.

Eric Groten, Counsel, Vinson & Elkins, was present via teleconference on behalf of Magnida.

Dylan Lawrence, Counsel, Varin Wardell, appeared on behalf of Magnida.

Lisa Carlson, Deputy Attorney General, appeared on behalf of the Idaho Department of Environmental Quality.

Harriet Hensley, Deputy Attorney General, appeared on behalf of the Idaho Board of Environmental Quality.

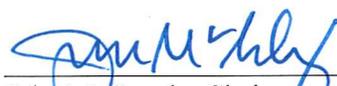
*Note: A verbatim transcript of this hearing as prepared by a court reporter is attached to these minutes as part of the record.*

➤ **MOTION:** Dr. Randy MacMillan moved that the Idaho Board of Environmental Quality deny the motion to vacate and moved to reschedule the beginning time of the December 4, 2014 hearing from 1:00 p.m. to 3:00 p.m. mountain time.

➤ **SECOND:** Mr. Kermit Kiebert.

**ROLL CALL VOTE:** Chairman McCreedy, aye; Ms. Beth Elroy, aye; Dr. MacMillan, aye; Mr. Kiebert, aye; and Ms. Carol Mascareñas, aye. (Not present: Mr. Kevin Boling and Mr. Nick Purdy). Motion carried unanimously.

**THE MEETING ADJOURNED AT 3:59 P.M.**

  
\_\_\_\_\_  
John McCreedy, Chairman

  
\_\_\_\_\_  
Beth Elroy, Secretary

  
\_\_\_\_\_  
Rosie Alonzo, Assistant to the Board and Recorder

BEFORE THE BOARD OF ENVIRONMENTAL QUALITY  
STATE OF IDAHO

IN THE MATTER OF AIR QUALITY )  
PERMIT TO CONSTRUCT )  
NO. P-2013,0030 ISSUED TO )  
MAGNOLIA NITROGEN IDAHO, LLC )

) Docket No. 0101-14-01

\_\_\_\_\_) )  
CONAGRA FOODS LAMB WESTON, INC., )

) Petitioner, )

vs. )

IDAHO DEPARTMENT OF )  
ENVIRONMENTAL QUALITY, )

) Respondent, )

and )

MAGNOLIA NITROGEN IDAHO, LLC, )

) Respondent-Intervenor. )  
\_\_\_\_\_)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Held on December 2, 2014, 3:30 p.m.

Department of Environmental Quality  
Conference Room A  
1410 North Hilton  
Boise, Idaho 83706

Reported by  
Rachelle C. Cahoon  
SRT No. 1026

## A P P E A R A N C E S

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5 BOARD MEMBERS PRESENT

6 John McCreedy, Chairman  
Beth Elroy, Member (via phone)  
7 Kermit Kiebert, Member (via phone)  
Randy MacMillan, Member (via phone)  
8 Carol Mascarenas, Member (via phone)

9 DEPARTMENT OF ENVIRONMENTAL QUALITY STAFF PRESENT

10 Rosie Alonzo  
Curt Fransen  
Dan Pitman  
11 Cris Riggs  
Kevin Schilling  
12 Mike Simon  
Paula Wilson

13 ALSO PRESENT

14 Mark Mendiola, Green Markets

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1 BEFORE THE BOARD OF ENVIRONMENTAL QUALITY  
STATE OF IDAHO

2  
3 IN THE MATTER OF AIR QUALITY )  
4 PERMIT TO CONSTRUCT )  
NO. P-2013,0030 ISSUED TO )  
5 MAGNOLIA NITROGEN IDAHO, LLC )  
) Docket No. 0101-14-01

6 )  
CONAGRA FOODS LAMB WESTON, INC., )

7 )  
Petitioner, )

8 vs. )

9 )  
IDAHO DEPARTMENT OF )  
10 ENVIRONMENTAL QUALITY, )

11 )  
Respondent, )

12 and )

13 )  
MAGNOLIA NITROGEN IDAHO, LLC, )

14 )  
Respondent-Intervenor. )

15 )  
16 )  
17 REPORTER'S TRANSCRIPT OF PROCEEDINGS

18 Held on December 2, 2014, 3:30 p.m.

19 Department of Environmental Quality  
20 Conference Room A  
1410 North Hilton

21 Boise, Idaho 83706

22  
23 Reported by  
Rachelle C. Cahoon

24 SRT No. 1026

25

1 APPEARANCES

2 FOR PETITIONER  
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6 John McCreedy, Chairman  
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7 Kermit Kiebert, Member (via phone)  
Randy MacMillan, Member (via phone)  
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10 Curt Fransen  
Dan Pitman  
11 Cris Riggs  
Kevin Schilling  
12 Mike Simon  
Paula Wilson

13 ALSO PRESENT

14 Mark Mendiola, Green Markets

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1 BOISE, IDAHO  
2 DECEMBER 2, 2014, 3:30 p.m.

3  
4 CHAIRMAN MCCREEDY: Rosie, roll call,  
5 please.

6 We'll call the hearing to order.  
7 MS. ALONZO: Chairman John McCreedy.

8 CHAIRMAN MCCREEDY: Here.  
9 MS. ALONZO: Mr. Kevin Boling.  
10 (Not present.)

11 MS. ALONZO: Ms. Beth Elroy.

12 MS. ELROY: Present.

13 MS. ALONZO: Mr. Nick Purdy.  
14 (Not present.)

15 MS. ALONZO: Dr. Randy MacMillan.

16 DR. MACMILLAN: Present.

17 MS. ALONZO: Mr. Kermit Kiebert.

18 MR. KIEBERT: Here.

19 MS. ALONZO: Ms. Carol Mascarenas.

20 MS. MASCARENAS: Here.

21 CHAIRMAN MCCREEDY: We have five board  
22 members. I believe that's a quorum.

23 The hearing today is on the motion by  
24 ConAgra Foods Lamb Weston to vacate and reschedule the  
25 meeting that is currently set for December 4 at 1:00

1 p.m.  
 2 Oral argument in this matter was previously  
 3 continued essentially to allow board members to take the  
 4 matter under advisement and to study the record and  
 5 consider the arguments on their own individual basis.  
 6 I believe the attorneys representing the  
 7 parties today are Ms. Malmen, appearing on behalf of  
 8 ConAgra Foods Lamb Weston.  
 9 Mr. Groten, I believe you're on the phone  
 10 appearing on behalf of Magnolia Nitrogen Idaho, LLC.  
 11 Dylan Lawrence is also here in person on behalf of  
 12 Magnolia.  
 13 And Ms. Carlson is here on behalf of DEQ.  
 14 Any other counsel or parties that need to be  
 15 recognized before we start?  
 16 Okay. So Ms. Malmen, I believe it's your  
 17 motion. Anything in addition to your motion and  
 18 affidavits, which I have read, and I believe the board  
 19 members have read?  
 20 MS. MALMEN: Thank you, Mr. Chairman. No,  
 21 except for just to add to my motion that I just would  
 22 like to point out that ConAgra Foods Lamb Weston has not  
 23 sought delay at all in this proceeding. It has never  
 24 been our intention to do that. We've been compliant  
 25 with the scheduling order that's been set by the hearing

1 them in -- in the response to that.  
 2 That said, it was our impression, Mr.  
 3 Chairman, that the Board could not reconvene next -- the  
 4 following week. And, you know, although there are  
 5 certainly consequences to any delay, you know, we're --  
 6 and -- and despite the fact that we don't believe  
 7 there's really any -- anything unusual about asking a  
 8 lawyer to cancel a speaking engagement to deal with  
 9 client obligations -- we may make this easy on you, Mr.  
 10 Chairman, by suggesting that, assuming we're compensated  
 11 for the change in plan here, we -- we can accommodate a  
 12 resetting to Friday of the next week or, really,  
 13 probably almost any day of the following week.  
 14 CHAIRMAN MCCREEDY: Okay. Anything further,  
 15 Mr. Groten?  
 16 MR. GROTEN: No, thank you, Mr. Chairman.  
 17 CHAIRMAN MCCREEDY: Ms. Carlson.  
 18 MS. CARLSON: Thank you, Chairman, Members  
 19 of the Board. The State would be ready to --  
 20 MR. GROTEN: I apologize, Ms. Carlson. I'm  
 21 having a hard time hearing you.  
 22 MS. CARLSON: How's this? Is that better?  
 23 MR. GROTEN: That's so much better. Thank  
 24 you.  
 25 MS. CARLSON: The -- the State would be

1 officer from the get-go in this case.  
 2 I -- I wish I didn't have the conflict that  
 3 I do, but I do. It's not reasonable for me to get  
 4 somebody else up to speed, and I don't think it's in the  
 5 best interest of the Board for me to send a substitute  
 6 to the -- to the hearing scheduled for December 4th  
 7 given that this person would not have been at the  
 8 hearing that was continued, and I know the Board has  
 9 some -- some detailed questions that they would like to  
 10 inquire of counsel. And I'm -- I'm concerned that I  
 11 won't be able to find a replacement that's as prepared  
 12 as I am to do that. So I'll stop there.  
 13 CHAIRMAN MCCREEDY: Okay. Thank you, Ms.  
 14 Malmen.  
 15 Mr. Groten or Mr. Lawrence, any reply?  
 16 MR. GROTEN: Nothing real to add to the  
 17 papers, Mr. Chairman, other than to emphasize the --  
 18 that delays that have been experienced -- none -- no one  
 19 of which is anybody's particular fault -- and I will  
 20 agree with Mrs. Malmen that, you know, her client has --  
 21 has not generally been dilatory.  
 22 That's not to say that we believe it's  
 23 appropriate to postpone this project anymore than  
 24 necessary under the circumstances described either in  
 25 her affidavits or in our evaluation -- evaluation of

1 ready to answer any questions today that the Board may  
 2 wish to pose.  
 3 We are available on the 4th, and we are  
 4 available next week. Our goal is to get this matter  
 5 resolved as soon as possibly -- possible.  
 6 CHAIRMAN MCCREEDY: Thank you, Ms. Carlson.  
 7 Any questions or comments from board members  
 8 for the lawyers?  
 9 DR. RANDY MACMILLAN: Mr. Chairman, this is  
 10 Randy.  
 11 CHAIRMAN MCCREEDY: Mr. Macmillan -- Doctor  
 12 MacMillan.  
 13 DR. RANDY MACMILLAN: Yes.  
 14 Ms. Malmen, a question for you. I notice in  
 15 your flight schedule that you are leaving your proposed  
 16 meeting in -- let me see. Where is that you're headed  
 17 to? But, anyway, you do not leave that meeting until  
 18 Friday of this week, and your oral presentation's  
 19 scheduled for the morning. Is there any reason why you  
 20 could not participate in the December 4th afternoon  
 21 hearing by phone?  
 22 MS. MALMEN: Mr. Chairman. Thank you, Dr.  
 23 MacMillan.  
 24 Yes. Not only is that a speaking  
 25 engagement, but it's also a CLE that I'm to be attending

1 that afternoon. Also, it appears that that itinerary is  
2 on Pacific Time. And so my recollection is that there  
3 -- there could be some overlap. And it would be very  
4 difficult for me to schedule around the presentation as  
5 well as the CLE credits that I'm -- that the firm is --  
6 has paid for.

7 CHAIRMAN MCCREEDY: Further questions for  
8 any of the attorneys from board members on the phone?

9 Okay. I can start with a few preliminary  
10 comments.

11 I do know from working with Paula Wilson and  
12 counsel for the parties by email, remotely, last week,  
13 that we explored a number of alternate dates that might  
14 work for some but not all of the board members. I can  
15 tell you finding a date where at least five board  
16 members are available, the conference room is available,  
17 counsel for the parties are available was very difficult  
18 to do. I -- I think scheduling a continuation of the  
19 oral argument until sometime in December -- and -- and,  
20 really, you have to kind of look at the holiday weeks as  
21 not really on the calendar -- is going to be pretty hard  
22 to do.

23 But, Ms. Malmen and Mr. Groten, if you have  
24 a date that the two of you have worked out in  
25 December -- because I'm reluctant to push this thing to

1 January; okay?

2 I have looked at the record in greater  
3 extent than the last time we were here. I have to  
4 finish it in the next day or two before the 4th. But I  
5 agree there has not been unreasonable delay and the  
6 matter has been handled with good dispatch by all the  
7 parties and counsel, and I appreciate that.

8 But having said that, I would like to have  
9 the continued hearing in December if counsel can work  
10 out a date that works for a quorum of the Board. I  
11 don't think that's possible based on our efforts we  
12 tried last week. And I -- I want to give you one more  
13 shot at it if you want to take a run at it in December.  
14 But my availability was limited, and I know Beth Elroy's  
15 availability was limited, and I know some of the other  
16 board members' availability was limited.

17 So -- so my comments are that if we can't  
18 find a mutually convenient date for everybody in  
19 December, Ms. Malmen, I would ask that you appear by  
20 phone conference on the 4th in the afternoon. I believe  
21 we can adjust the time from 1:00 p.m. to sometime that  
22 afternoon -- unless board members tell me otherwise or  
23 Mr. Groten tells me otherwise -- to accommodate you  
24 being on the phone.

25 And I can tell you that based on my review

1 of the record so far, I don't believe that I,  
2 personally, will have substantial questions for you on  
3 the 4th. I'm not going to give you that guarantee  
4 because I have a few more things to read. But I will  
5 not have substantial questions.

6 And if you're concerned about prejudice in  
7 the sense of Mr. Groten being here in person and you  
8 not, I welcome Mr. Petersen coming and attending in  
9 person while you're on the phone. But I can assure you  
10 that as chairman, I will not allow prejudice to you  
11 simply because you're not here in person.

12 So those are my thoughts, and I certainly  
13 welcome any comments from the board members.

14 MS. ELROY: So, Mr. Chairman, this is Beth  
15 Elroy. December 12th was one of the dates that was  
16 suggested via e-mail, and I will be in Minneapolis that  
17 date. However, I could also, potentially, dial in if  
18 that date is an option.

19 I -- I don't know, Mr. Chairman, if that's  
20 the -- the preferred approach we'd like to take as a  
21 Board.

22 I, too, have read the complete record, and I  
23 have a much better understanding of the details involved  
24 in this case than I did a couple weeks ago.

25 CHAIRMAN MCCREEDY: Ms. Elroy, do you

1 anticipate substantial questions for counsel regardless  
2 of when the hearing is?

3 MS. ELROY: I'm thinking through the  
4 definition of substantial, Mr. Chairman. I would say  
5 no. I would not have substantial questions.

6 CHAIRMAN MCCREEDY: I am available the  
7 morning of the 12th. I'm happy to have Ms. Elroy  
8 participate from Minneapolis by phone.

9 I do not believe that I, as Chairman, or the  
10 Board has the authority to order Lamb Weston to pay  
11 Magnida's travel costs -- avoided travel costs.

12 So, Mr. Groten, if that remains a condition  
13 of continuing, I'm concerned that we're out over our  
14 skis a bit. So --

15 DR. RANDY MACMILLAN: Mr. Chairman, this is  
16 Randy. And I'm also available the 12th. And I do not  
17 have any substantial questions for the 4th or the 12th  
18 -- for counsel on the 4th or the 12th.

19 CHAIRMAN MCCREEDY: The reason for asking  
20 how many questions board members have is because my  
21 anticipation is that, largely, when we do meet, we will  
22 meet with Ms. Hensley, counsel, in executive session.  
23 And then we will conduct Board deliberations on the  
24 record afterwards as we're required to do. That's my  
25 understanding.

1 Is that correct?  
 2 Okay. I'm getting a nod, a head up and  
 3 down. So that seems to be the right answer.  
 4 And so I wanted to make sure you understood  
 5 that, Ms. Malmen, as we begin to look at the schedule.  
 6 MS. MALMEN: Thank you, Mr. Chairman.  
 7 CHAIRMAN MCCREEDY: So, Mr. Groten, I would  
 8 need you to -- to essentially withdraw your request for  
 9 compensation if we're going to consider the 12th  
 10 because, again, I'm not aware -- and, Ms. Hensley,  
 11 correct me if I'm wrong -- of any authority in the  
 12 rules, other than my general authority or the Board's  
 13 general authority, to order one party to pay some other  
 14 party's costs.  
 15 MS. HENSLEY: That's correct, Mr. Chairman.  
 16 CHAIRMAN MCCREEDY: So I can tell you that I  
 17 haven't studied the award of cost and fees on a  
 18 contested case matter as it stands today. So if  
 19 somebody cares to educate me, please, by all means do.  
 20 MR. GROTEN: Mr. Chairman, I have not  
 21 investigated that question, although it is near  
 22 universal that -- that the award of costs is usually  
 23 possible under most administrative procedure acts in  
 24 terms of delegation to -- to administrative agencies.  
 25 But, putting that aside, I would have to say

1 still, you know, accommodate the 1:00.  
 2 CHAIRMAN MCCREEDY: Thank you,  
 3 Ms. Mascarenas.  
 4 So, Ms. Malmen, I think you kind of get an  
 5 idea of where we're headed. Perhaps you can think for a  
 6 minute about your schedule that afternoon and give us a  
 7 two-hour block of time, CLEs notwithstanding, that  
 8 you're willing to commit to being available. I'm not  
 9 saying we'll need you the entire two hours, but at least  
 10 you could block it out for us. And I don't mind if it's  
 11 1:00 to 3:00, or 2:00 to 4:00, or 3:00 to 5:00. And I'm  
 12 not sure any of the other board members do either as  
 13 long as we know when we're going to start.  
 14 If I misspoke, Board Members, please speak  
 15 up.  
 16 MS. MALMEN: Mr. Chairman, may I ask a  
 17 question?  
 18 CHAIRMAN MCCREEDY: You bet.  
 19 MS. MALMEN: At the November 20th hearing, I  
 20 was under the impression it was the Board's intent to  
 21 provide questions prior to the hearing so that counsel  
 22 could be prepared and -- and add value to the continued  
 23 hearing. If that's something that the Board would be  
 24 willing to do, I think that would assist me in making  
 25 sure that I'm prepared remotely.

1 having -- having heard what the expected agenda is for  
 2 whenever the hearing is continued that -- that, frankly,  
 3 our view would be that, especially given that the  
 4 primary purpose would be for executive session  
 5 deliberation and that you would lose at least one board  
 6 member remotely to moving it to the 12th, that, all  
 7 things considered, everyone's interests -- and I would  
 8 say, you know, with all due respect to Ms. Malmen, even  
 9 her interest -- the balance of interests are best served  
 10 by keeping things as they are.  
 11 MS. ELROY: Mr. Chairman, this is Beth  
 12 Elroy, again. The value that I see for this hearing for  
 13 me as a board member is that executive session because I  
 14 do have questions for Harriet now that I have a better  
 15 understanding of the record. And so to add to Eric's  
 16 comments, it would be more beneficial for me as a board  
 17 member to have that time in executive session face to  
 18 face.  
 19 CHAIRMAN MCCREEDY: Thank you, Ms. Elroy.  
 20 Any further comments from the Board?  
 21 MS. MASCARENAS: This is Carol, Chairman.  
 22 CHAIRMAN MCCREEDY: Yes, Carol.  
 23 MS. MASCARENAS: It would be preferable to  
 24 me, and I think as you proposed, if we kept it on the  
 25 4th to move it to later in the afternoon, although I can

1 One of my concerns is just having access to  
 2 all the information that I may need to answer the  
 3 Board's questions while I'm traveling remotely. I don't  
 4 know if you noticed, but the last time I was here, I had  
 5 at least two bankers-boxes' worth of documents with me.  
 6 So I'm concerned just about the logistics of that. In  
 7 terms of --  
 8 CHAIRMAN MCCREEDY: If -- if I could --  
 9 MS. MALMEN: Sure. Go ahead.  
 10 CHAIRMAN MCCREEDY: I noticed in studying  
 11 your motion -- and I wrote a question mark next to it  
 12 because I, personally, do not recall indicating that we  
 13 would provide questions or written questions in advance  
 14 of the hearing. I do recall indicating that we may have  
 15 additional questions at the hearing. I don't have  
 16 questions to submit in writing to you. Any board member  
 17 is certainly welcome to do so. I do not and will not  
 18 prior to the 4th. And at this point, I'm not inclined  
 19 to ask additional questions.  
 20 My main purpose in continuing the oral  
 21 argument was to make sure that I fully understood the  
 22 record, considered it in context of the arguments that  
 23 counsel provided that day, and had additional time to  
 24 consider any legal advice that Ms. Hensley's office  
 25 wanted to provide to us in executive session.

1 MS. MALMEN: Okay. Thank you, Mr. Chairman.  
 2 CHAIRMAN MCCREEDY: So, again, I'm looking  
 3 for a time slot on the 4th that you would be available.  
 4 And I understand you've got some logistics to deal with,  
 5 but, honestly, I don't know what else to do. I'm not  
 6 going to order you to pay Mr. Groten's fees and costs.  
 7 I think that's just stepping out beyond the point where  
 8 the Board would want to go, or at least where I'm  
 9 prepared to go.  
 10 MS. MALMEN: I understand. I appreciate  
 11 that. Mr. Chairman.  
 12 You know, Mr. Groten has the opportunity to  
 13 participate by telephone, as well. Obviously,  
 14 Mr. Lawrence is here as local counsel. So I -- I'm not  
 15 sure -- I guess what I'm saying are that travel costs  
 16 are a necessity in the first instance.  
 17 I am -- I am scheduled all day on the 4th,  
 18 really, through about eight o'clock that evening.  
 19 So -- but in the interest of everyone else's  
 20 schedule and, particularly, Mr. Groten, because I have  
 21 some sympathy for his family commitments on the 12th, I  
 22 -- I -- I will just need to miss some programs that I'm  
 23 scheduled for and, I guess, answer to the Idaho -- the  
 24 bar when I submit my CLE credit application.  
 25 CHAIRMAN MCCREEDY: I will sign an affidavit

1 to your good character if that helps. Conduct an  
 2 individual CLE at the law offices of Amalgamated Sugar  
 3 if that would help.  
 4 MS. MALMEN: Okay. All right. I might take  
 5 you up on that.  
 6 So, that being said, this is not the most --  
 7 as you guys probably noticed -- this is not the epitome  
 8 of clarity in terms of agenda. I tried to just give you  
 9 a couple pages of it.  
 10 CHAIRMAN MCCREEDY: It looked like you were  
 11 on for the morning session.  
 12 MS. MALMEN: Yeah. So they -- they tell me  
 13 I'm -- I should speak -- plan between 11:00 and 1:00  
 14 Pacific Time. So I think, safely, that would be -- 2:00  
 15 -- so, perhaps, 3:00 on December 4th, Mountain Time.  
 16 MS. MALMEN: Board members, how does 3:00 to  
 17 5:00 p.m. on December 4th, Mountain Time, work for you  
 18 all?  
 19 MR. KIEBERT: This is Kermit Kiebert. That  
 20 would be fine with me, Mr. Chairman.  
 21 CHAIRMAN MCCREEDY: Thank you, Mr. Kiebert.  
 22 Ms. Mascarenas?  
 23 MS. MASCARENAS: That would be fine with me.  
 24 CHAIRMAN MCCREEDY: Dr. MacMillan?  
 25 DR. RANDY MACMILLAN: That would be okay.

1 CHAIRMAN MCCREEDY: Ms. Elroy?  
 2 MS. ELROY: That works for me as well.  
 3 CHAIRMAN MCCREEDY: Okay.  
 4 Then I would need a motion to deny the  
 5 motion to vacate and reschedule other than resetting the  
 6 hearing for December 4 from 3:00 to 5:00 p.m.  
 7 DR. RANDY MACMILLAN: So moved. This is  
 8 Randy.  
 9 CHAIRMAN MCCREEDY: A second, please?  
 10 MR. KIEBERT: Second the motion, Mr.  
 11 Chairman. Kermit Kiebert.  
 12 CHAIRMAN MCCREEDY: Thank you.  
 13 I think we'll go with just a roll call vote,  
 14 if that's okay, Rosie.  
 15 MS. ALONZO: Chairman John McCreedy.  
 16 CHAIRMAN MCCREEDY: Yes.  
 17 MS. ALONZO: Mr. Kermit -- Mr. Kevin Boling.  
 18 (Not present.)  
 19 MS. ALONZO: Ms. Beth Elroy.  
 20 MS. ELROY: Yes.  
 21 MS. ALONZO: Dr. Randy MacMillan.  
 22 DR. MACMILLAN: Yes.  
 23 MS. ALONZO: Mr. Kermit Kiebert.  
 24 MR. KIEBERT: Aye.  
 25 MS. ALONZO: Ms. Carol Mascarenas.

1 MS. MASCARENAS: Yes.  
 2 MS. ALONZO: And Mr. Nick Purdy is absent.  
 3 CHAIRMAN MCCREEDY: Okay. Motion carries.  
 4 Anything else for today's hearing?  
 5 Okay. Thank you for attempting to work  
 6 through the difficult scheduling issues, and sorry to  
 7 impose upon your day, but it's unfortunately the best  
 8 alternative we have amongst all the alternatives.  
 9 MS. MALMEN: Thank you, Mr. Chairman. We'll  
 10 make it work.  
 11 CHAIRMAN MCCREEDY: Thank you.  
 12 Okay. I'm going to hang up the phone now  
 13 unless you have anything more to say, Kermit.  
 14 MR. KIEBERT: No. I'm all out of -- out of  
 15 wind.  
 16 CHAIRMAN MCCREEDY: All right. Thank you,  
 17 sir. Talk to you board members soon.  
 18 (Hearing adjourned at 3:59 p.m.)  
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1 REPORTER'S CERTIFICATE

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I, Rachelle Cahoon, Court Reporter, a  
Notary Public, do hereby certify:

That I am the reporter who took the  
proceedings had in the above-entitled action in  
machine shorthand and thereafter the same was  
reduced into typewriting under my direct  
supervision; and

That the foregoing transcript contains a  
full, true, and accurate record of the proceedings  
had in the above and foregoing cause, which was  
heard at Boise, Idaho.

IN WITNESS WHEREOF, I have hereunto set  
my hand December 18, 2014.

Rachelle Cahoon, Court Reporter  
SRT No. 1026

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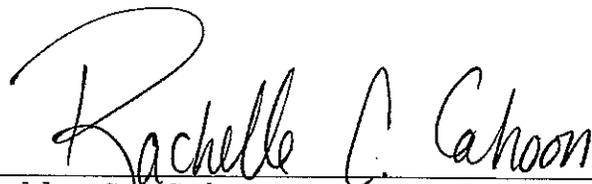
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I, Rachelle C. Cahoon, Court Reporter, a Notary Public, do hereby certify:

That I am the reporter who took the proceedings had in the above-entitled action in machine shorthand and thereafter the same was reduced into typewriting under my direct supervision; and

That the foregoing transcript contains a full, true, and accurate record of the proceedings had in the above and foregoing cause, which was heard at

IN WITNESS WHEREOF, I have hereunto set my hand this 19<sup>th</sup> day of December, 2014.



Rachelle C. Cahoon, Court Reporter  
SRT No. 1026

