



Kerr-McGee Chemical Corporation of certain facilities providing air emission reductions for the A.C.E. project to North American Chemical Corporation (NACC). In the alternative, ACC requested an order approving the amendment to the A.C.E. decision to recognize NACC as the new owner of those facilities.

Kerr-McGee received CEC certification for its Argus Cogeneration Expansion (A.C.E.) project in January 1988; in May 1988, CEC approved an amendment request from Kerr-McGee to change the ownership of the A.C.E. project from Kerr-McGee to ACE Power Partners, a California general partnership forming the ACC. Kerr-McGee remained as operator of the project, retaining a limited partnership. Kerr-McGee has now decided to sell its chemical plants to NACC. NACC is a corporation formed solely for the purpose of acquiring Kerr-McGee's chemical operations. Kerr-McGee will no longer have any operations in California.

The petition explained that the partners of A.C.E. include affiliates of Pyropower Corporation, the supplier of the boiler, and Constellation Energy, a subsidiary of Baltimore Gas and Electric. Through affiliated entities, both of these corporations have powerplant operating experience. The petition also states that NACC is primarily interested in owning and operating only the chemical facilities; Kerr-McGee will no longer have operations in California; the lenders to NACC financing the acquisition of the chemical facilities do not desire to be involved with the A.C.E. project; and Pyropower and Constellation possess operating experience applicable to the project. Thus, the partners of A.C.E. desire to operate the project through their affiliates, releasing both NACC and Kerr-McGee from any further ownership or operational liability in connection with the project except for the continuing obligation of NACC to take steam and the continuing obligations to provide critical services to the project (such as water).

CEC voted to approve an amendment to Decision 86-AFC-1 to a statement saying that Kerr-McGee is selling its interest to the remaining members of A.C.E. and that NACC be allowed to assume Kerr-McGee's position.

Also at its November 14 meeting, CEC approved a loan of \$262,000 in Energy Conservation Assistance Act (ECAA) funds to the County of Santa Clara for 67% of the costs of a lighting retrofit project at four county-owned facilities. The ECAA, enacted in 1979, established a revolving loan fund to

assist schools, hospitals, public care institutions, and local governments in improving the energy efficiency of their facilities. ECAA loans may be used to finance the cost of up to 100% of energy efficiency projects in eligible institutions. In order for a project to be considered eligible for a loan, the energy conservation project must be technically and economically feasible and have a simple payback of 6.5 years.

FUTURE MEETINGS:

General CEC meetings are usually held every other Wednesday in Sacramento.

HORSE RACING BOARD

Executive Secretary:

Dennis Hutcheson

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The California Horse Racing Board (CHRB) is an independent regulatory board consisting of seven members. The Board is established pursuant to the Horse Racing Law, Business and Professions Code section 19400 *et seq.* Its regulations appear in Division 4, Title 4 of the California Code of Regulations (CCR).

The Board has jurisdiction and power to supervise all things and people having to do with horse racing upon which wagering takes place. The Board licenses horse racing tracks and allocates racing dates. It also has regulatory power over wagering and horse care. The purpose of the Board is to allow parimutuel wagering on horse races while assuring protection of the public, encouraging agriculture and the breeding of horses in this state, generating public revenue, providing for maximum expansion of horse racing opportunities in the public interest, and providing for uniformity of regulation for each type of horse racing. (In parimutuel betting, all the bets for a race are pooled and paid out on that race based on the horses' finishing positions, absent the state's percentage and the track's percentage.)

Each Board member serves a four-year term and receives no compensation other than expenses incurred for Board activities. If an individual, his/her spouse, or dependent holds a financial interest or management position in a horse racing track, he/she is not eligible for Board membership. An individual is also excluded if he/she has an interest in a business which conducts parimutuel horse racing or a management or concession contract with any business entity which conducts parimutuel horse racing.

However, horse owners and breeders are not barred from Board membership. In fact, the legislature has declared that Board representation by these groups is in the public interest.

MAJOR PROJECTS:

Trifecta Wagering. At this writing, CHRB is revising the text of its proposed amendment to section 1979, Title 4 of the CCR, to allow trifecta wagering in California on an experimental basis for one year. CHRB's original regulatory proposal was rejected by the Office of Administrative Law (OAL) on September 19. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 173; Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 202-03; and Vol. 10, No. 1 (Winter 1990) p. 148 for background information.) CHRB plans to resubmit the rulemaking file to OAL in the near future.

Horsemen's Split Sample. At its October and November meetings, CHRB deferred action on revising its proposed amendments to section 1859.25, Title 4 of the CCR, regarding the horsemen's split sample drug testing program. The original amendments adopted by CHRB were rejected by OAL in September. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 174 and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 203 for background information.) CHRB was scheduled to revisit this issue at its January 25 meeting.

Blocking of Legs and Ankles. On November 30, CHRB adopted proposed amendments to section 1847, Title 4 of the CCR, which define and prohibit procedures which constitute the blocking of horses' legs and ankles. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 174 for background information.) At this writing, the proposed amendment is awaiting OAL approval.

Due to the serious dangers posed by blocking (a procedure under which, by some means, a horse is desensitized to pain in the leg, ankle, or hoof), CHRB was scheduled to hold a public hearing on January 25 to adopt a new section to the CCR which would establish penalties for those found guilty of blocking horses. Proposed section 1405.1 would require any trainer found guilty of running a blocked horse to be suspended for life. Moreover, the section would also require any veterinarian found guilty of blocking a horse to be suspended for life and referred to the Board of Examiners in Veterinary Medicine with a recommendation that his/her license to practice veterinary medicine be revoked.

Occupational Licenses and Fees. On December 21, OAL disapproved the Board's proposed amendment to section



REGULATORY AGENCY ACTION

1486, Title 4 of the CCR. The proposed amendment would have changed CHRFB's license expiration date from December 31 to coincide with the licensee's birth month. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 174 for background information.) CHRFB plans to revise and resubmit this proposed amendment.

On December 12, OAL approved the adoption of section 1486.5 to Title 4 of the CCR. This section sets the term of registration for Stable Name, Syndication, Partnership, Multiple Ownership Authorized Agent, or Trust as granted by CHRFB. Under section 1486.5, such registration shall be valid for three years and shall expire on the 31st of December of the expiration year. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 174 for background information.)

On December 13, OAL approved the adoption of section 1481(i) to Title 4 of the CCR. The new rule states that the date payment of the required licensing fee is recorded by the Board shall be the effective date of issuance of a continuous occupational license for the capacity in which licensed.

Wagering Prohibition. On October 4, OAL approved amendments to section 1969, Title 4 of the CCR, which prohibits satellite wagering facility supervisors and assistant supervisors from wagering on the results of a race while on duty at a race meeting or satellite wagering facility. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 174; Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 203; and Vol. 10, No. 1 (Winter 1990) p. 147 for background information.)

Declaration for Overnight Stakes Races. On October 11, OAL approved CHRFB's proposed amendments to section 1630, Title 4 of the CCR, which clarify the procedures for the declaration of a horse from an overnight stakes race. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 174 for background information.)

Post-Mortem Examination Program. At its September 28 meeting, the Board received a report and short slide presentation from the California Veterinary Diagnostic Laboratory System regarding the progress of CHRFB's post-mortem examination program. After the presentation, CHRFB's Equine Medical Director Dr. Rick Vulliet expressed optimism about the results of the program, which is unique to California. At this writing, CHRFB is continuing to operate its post-mortem program, which the Board itself funds, without the necessary approval from OAL and the Department of Finance. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 174 and Vol. 10, Nos. 2 & 3

(Spring/Summer 1990) p. 203 for detailed background information.)

Coupling of Horses. On October 26, CHRFB noticed its intent to amend section 1606, Title 4 of the CCR, to require the coupling of two or more horses as one entry (thus one betting unit) whenever a horse entered in a race is trained by a trainer who holds an ownership interest in another horse or horses also entered in that race. Currently, section 1606 requires coupling of horses only when two or more horses in a race are owned in whole or in part by the same person or persons.

The proposal to add trainers to the mandatory coupling list is aimed at preventing the public perception that race-fixing may be taking place. Because a trainer instructs a jockey on the fine details of how to ride a horse under the trainer's care, such as whether to use the whip, trainers are in a unique position to influence the outcome of a race. Thus, the perception of race-fixing occurs when a horse with longer odds, and thus a larger pay-off, wins a race and is trained by a trainer who has an ownership interest in another horse with lesser odds in the same race.

The public hearing on the proposed amendment to section 1606—which was rejected by CHRFB in May 1990 (see CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 203 for background information)—was originally scheduled for December 14; however, due to the cancellation of the Board's December meeting, the public hearing was rescheduled for January 25.

License Applications. On November 30, CHRFB noticed its intent to amend regulatory section 1483, to require every license identification card issued by the Board to include a current photograph of the licensee. Additionally, the amendment would eliminate the current exemption of horse owners, directors, or partners in a racing association from the license application requirements of section 1483. The Board was scheduled to hold a public hearing on the proposed amendment on January 25 in Monrovia.

Drug Residue Penalties. On November 30, CHRFB noticed its intent to add two new sections to its regulations to establish penalties for the finding of drug residues in post-race test samples. Proposed section 1405.2 would establish the penalties for residues of drug substances prohibited prior to race day which were administered for therapeutic purposes.

Proposed new section 1842.1 would allow the Board's Equine Medical Director to determine whether residues of legitimate therapeutic drugs found in a race horse are violations of the Board's

medication rules if, in the opinion of CHRFB's Official Veterinarian, those residues would not affect the performance of the horse, and the administration of the drugs had been previously reported to the Official Veterinarian pursuant to section 1842, Title 4 of the CCR. A draft of proposed new section 1842.1 was presented to CHRFB's Medication Committee on October 16 by Dr. Rick Arthur of the California Horsemen's Benevolent and Protective Association. The proposed regulation seeks to allow trainers to medicate their horses with legitimate therapeutic drugs in accordance with the Board's medication rules, without the fear of punishment for a subsequent positive test result for drug residues. A public hearing on both proposed regulations was scheduled for January 25 in Monrovia.

Prohibited Veterinary Practices. At this writing, CHRFB is drafting proposed language to add section 1840.5 to Title 4 of the CCR, to prohibit a veterinarian from administering veterinary treatment to any horse entered in the same race in which a horse owned or trained by the veterinarian is also entered. CHRFB staff expected to notice the proposed regulation in time to allow the Board to hold a public hearing at its February meeting.

LEGISLATION:

AB 159 (Floyd), as introduced December 19, would require CHRFB to adopt regulations to eliminate the drugging of horses entered in horse races, and would require CHRFB to adopt regulations on the medication of racehorses sold at horse sales or horse auction sales sufficient to protect the horses, owners, and the general public. The bill would prohibit the entering or running of a horse in a race if it has been administered a drug or substance in violation of this bill. Also, the bill would make a trainer responsible for all positive drug tests of horses being trained. This bill is pending in the Assembly Governmental Organization Committee.

AB 160 (Floyd), as introduced December 19, would revise and recast the provisions relating to CHRFB's authority to license and regulate stewards and racing officials, and would create a stewards' committee to advise CHRFB on matters relating to stewards and racing officials. The committee would consist of seven persons selected by CHRFB, including one person who is a member of the Board and six persons who represent specified fields of horse racing.

Existing law provides that when satellite wagering facilities are receiving a live audio-visual signal of a horse



racing meeting, CHRHB is required to designate a steward at the track where the meeting is being conducted to monitor the satellite wagering activities at the track and at all facilities receiving the signal. This bill would repeal this requirement, and would require CHRHB to set forth requirements for the position of satellite facility supervisor for all satellite wagering facilities operated by the state or on public land; the satellite facility supervisor would be required to monitor other licensees at the satellite wagering facility. AB 160, which is a reintroduction of last year's vetoed AB 2671 (Floyd), is pending in the Assembly Governmental Organization Committee.

SB 31 (Maddy), as introduced December 3, would prohibit the administration by any means of any substance to a horse entered to race in a horse race within 72 hours of the race in which the horse is entered, unless CHRHB has, by regulation, specifically authorized the use of the substance and the quantity and composition thereof. The bill would also require CHRHB to adopt regulations to establish policies, guidelines, and penalties relating to equine medication in order to preserve and enhance the integrity of horse racing in the state. This bill is pending in the Senate Governmental Organization Committee.

RECENT MEETINGS:

At its October 26 meeting, CHRHB approved an application to conduct a horse racing meeting of the Horsemen's Quarter Horse Racing Association at Los Alamitos from December 26, 1990, through February 2, 1991. The racing program is proposed to be simulcast to California simulcast facilities and out-of-state wagering systems in Nevada, Wyoming, Mexico, North Dakota, Oregon, and Montana.

Also at its October 26 meeting, the CHRHB declined to pursue a proposed regulatory amendment to section 1501, Title 4, Division 4 of the CCR, regarding workers' compensation insurance. During its discussion, the Board received many comments that California's workers' compensation rule is among the best in the nation and that CHRHB should not amend its current rule. However, the Board may pursue legislative amendments which would satisfy any concerns of the industry regarding this issue.

At its November 30 meeting, the Board discussed Los Alamitos Racing Association's application for a license to conduct a night harness horse racing meeting at Fairplex Park in Pomona from April 19-August 17, 1991. As usual, the application touched off a heated

debate between members of the thoroughbred racing industry and members of the harness racing industry.

According to the harness racing industry, it must be allowed to hold the meeting at Pomona in order to survive; this is due to the depressed market for harness racing in Sacramento, where its racing dates from April to August are currently allocated. The spokesperson for the harness racing industry pointed out the decline in the number of harness horses being bred in California, and claimed that if the Pomona meet is denied, the industry would be threatened with extinction in California.

The spokesperson further noted that for the last two years, the association that conducted the harness meet at Cal Expo in Sacramento lost hundreds of thousands of dollars; that association will not conduct another meet in Sacramento in 1991. Therefore, if the Board does not allocate racing dates at Pomona from April to August, there will be an eighteen-week period in which there will be no racing opportunities for harness horses in California. The spokesperson opined that such a gap in racing opportunities will undoubtedly result in an even greater decline in the breeding of harness horses in California.

The thoroughbred industry is strongly opposed to the harness industry's proposal to conduct a racing meet at Pomona from April to August for two main reasons. First, the industry claims that night harness racing at Pomona would create a triple overlap of harness, quarter horse, and thoroughbred racing at the same time in the Los Angeles area. The thoroughbred industry claims that such an overlap will decrease the parimutuel handle (amount of money wagered on races) for all three industries. The industry also claims that, if the harness industry is allowed to conduct its meeting at Pomona, it will displace a necessary thoroughbred training facility that houses overflow horses from Hollywood Park.

The harness industry's ultimate goal was to receive approval from CHRHB to conduct the Pomona meet from April to August for the next two to three years while it awaits the completion of the new harness and quarter horse track in Riverside County. However, the Board granted the harness dates only for the 1991 season on a trial basis.

The Board's resolution of this debate will not quiet the problem indefinitely because the Los Alamitos Racing Association does not have a lease at Fairplex Park to conduct a racing meet there. Moreover, Fairplex Park has expressed unwillingness to enter into a short-term

lease of only one year. Fairplex would prefer to enter into a three-year lease, which Los Alamitos Racing Association cannot do because CHRHB only allocated dates for a harness meet from April to August during the 1991 season. On the other hand, the thoroughbred industry could easily enter into a three-year lease to maintain an overflow training facility at Pomona.

Also at its November 30 meeting, CHRHB discussed and accepted recommendations from one of its Official Veterinarians, Dr. William Bell, regarding standardized procedures for admitting and removing horses to and from the Veterinarian's list pursuant to section 1866, Title 4 of the CCR.

Also at its November 30 meeting, CHRHB discussed a letter which brought to the Board's attention the fact that Chris Bardis holds a 50% ownership interest in Los Alamitos Racing Association and a 4.9% ownership interest in Hollywood Park Operating Company and Hollywood Park Realty Enterprises, Inc. This information was brought to the Board's attention because of the application of sections 19483 and 19484 of the Business and Professions Code. Section 19483 provides that the Board shall not issue a license to conduct a horse racing meeting to any person who has a financial interest in the conduct of any other horse racing meeting at any other racetrack. Similarly, section 19484 provides that no person licensed to conduct a horse racing meeting shall own or acquire any stock or obtain any other financial interest in any other racetrack. The author of the letter—an attorney from a large Los Angeles law firm who did not disclose the identity of his client—argued that the legislative intent behind these provisions is to prevent a single person or entity from becoming an owner of multiple racetracks in California.

The letter requested CHRHB to defer taking any action on applications to conduct racing meets in which Mr. Bardis has a financial interest until the Board has fully investigated all of Mr. Bardis' financial holdings in California racing associations. The Board agreed to investigate the matter.

FUTURE MEETINGS:

April 26 in Los Angeles.