



pending in the Senate Committee on Natural Resources and Wildlife.

AB 1903 (Hauser). Under existing law, the Board is required to establish an examining committee of at least five members to examine applicants for registration as professional foresters; any professional forester serving on the committee is entitled to receive \$25 per day for performance of official duties. As introduced March 8, this bill would increase the examining committee to seven members, at least two of whom represent the public. The bill would require the committee to review independent investigations and make disciplinary recommendations to the executive officer of the Board. The bill would increase the compensation of committee members to \$100 per day, if requested. This bill is pending in the Assembly Natural Resources Committee.

AB 54 (Friedman), as introduced December 3, would require the Resources Agency to adopt regulations establishing a model ordinance to protect existing trees, and require the planting of trees as a condition of project construction. This bill is pending in the Assembly Ways and Means Committee.

LITIGATION:

On February 14, the California Supreme Court denied CDF's petition for review of the First District Court of Appeal's ruling in *Sierra Club et al. v. California Department of Forestry (Pacific Lumber Company, Real Party in Interest)*, Nos. A046150 and A046632 (Nov. 21, 1990), in which the court held that a provision of the California Environmental Quality Act (CEQA) requiring a petitioner to request a hearing within 90 days of filing a writ of mandate alleging noncompliance with CEQA does not apply to THPs. (See CRLR Vol. 11, No. 1 (Winter 1991) pp. 130-31 for background information on this case.) In the same opinion, however, the Supreme Court depublished the appellate court's decision.

RECENT MEETINGS:

After a January 9 public hearing, the Board voted 5-3 to uphold the CDF Director's July 1990 denial of a Pacific Lumber Company (PALCO) THP application, thus ending six hours of debate between the lumber firm, state officials, and environmental activists. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 129 for background information.) The focus of debate centered around the marbled murrelet, a bird that feeds at the ocean but nests in seaside forests. PALCO's THP sought to harvest 3,000 acres of old-growth redwood trees in Humboldt

County, an area known to be inhabited by one of the three remaining populations of the marbled murrelet in California. Ray Jackman, the state forestry resource management officer in Santa Rosa, said that PALCO's THP did not provide sufficient mitigation for loss of forest habitat for the bird. Acting Board Chair Carlton Yee commented after the hearing that the Board will ask the legislature for funds to buy the property in the Eureka-Fortuna area as soon as possible and include it in the state forest program.

Governor Wilson had sent a letter to the Board dated December 21, endorsing the Director's decision; however, the letter was not entered into the legal record and, according to Yee, did not factor into the Board's decision.

At the Board's March 5 meeting, CDF Director Hal Walt reported on the status of the 1991 fire season. Due to the drought conditions and the loss of many fire personnel to the Persian Gulf campaign, CDF requested and received additional funds in anticipation of a severe fire season; however, an early spring rainfall and the end of the war have temporarily relieved that threat, and emergency funds have been returned. Nonetheless, Walt warned the Board that fire season could still be severe as the drought conditions returned with the additional fuel of the new growth brought on by the rain.

FUTURE MEETINGS:

September 10-11 in Sacramento (tentative).

WATER RESOURCES CONTROL BOARD

Executive Director: James W. Baetge
Chair: W. Don Maughan
(916) 445-3085

The state Water Resources Control Board (WRCB) is established in Water Code section 174 *et seq.* The Board administers the Porter-Cologne Water Quality Control Act, Water Code section 13000 *et seq.* The Board consists of five full-time members appointed for four-year terms. The statutory appointment categories for the five positions ensure that the Board collectively has experience in fields which include water quality and rights, civil and sanitary engineering, agricultural irrigation and law.

Board activity in California operates at regional and state levels. The state is divided into nine regions, each with a regional board composed of nine members appointed for four-year terms. Each regional board adopts Water Quality

Control Plans (Basin Plans) for its area and performs any other function concerning the water resources of its respective region. All regional board action is subject to State Board review or approval.

The State Board and the regional boards have quasi-legislative powers to adopt, amend, and repeal administrative regulations concerning water quality issues. WRCB's regulations are codified in Divisions 3 and 4, Title 23 of the California Code of Regulations (CCR). Water quality regulatory activity also includes issuance of waste discharge orders, surveillance and monitoring of discharges and enforcement of effluent limitations. The Board and its staff of approximately 450 provide technical assistance ranging from agricultural pollution control and waste water reclamation to discharge impacts on the marine environment. Construction grants from state and federal sources are allocated for projects such as waste water treatment facilities.

The Board also administers California's water rights laws through licensing appropriative rights and adjudicating disputed rights. The Board may exercise its investigative and enforcement powers to prevent illegal diversions, wasteful use of water, and violations of license terms. Furthermore, the Board is authorized to represent state or local agencies in any matters involving the federal government which are within the scope of its power and duties.

The Board currently has one vacancy, due to the December 31 resignation of Darlene Ruiz, an attorney; Ms. Ruiz resigned from WRCB to join a political consulting firm in Sacramento. At this writing, Governor Wilson has not named a replacement.

MAJOR PROJECTS:

Drought and Conservation Efforts. As California entered its fifth year of drought, warnings of severe voluntary and/or mandatory cutbacks were heard throughout the state. On January 18, the State Water Contractors, a group made up of 28 of the 30 public agencies that contract for water supplies from State Water Project canals and reservoirs, asked Governor Wilson to declare a statewide drought emergency. At about the same time, WRCB announced an emergency public hearing and Board meeting for January 29, to consider drought-related issues. Over 700 water officials attended the hearing, many voicing alternative courses of action. Local water agencies took issue with a proposal to limit domestic water use to 300 gallons per household per day,



stating that the proposal does not account for local climate conditions, economic conditions, groundwater supplies, or size of family.

The state Department of Water Resources had targeted farmers to absorb a significant portion of the necessary cuts. To ease some effects of the drought, farmers and local officials suggested that WRCB remove the obstacles associated with water transfers or moving water from areas of surplus to areas of need. Farmers in many regions may have alternative water sources, such as the federal government's Central Valley Project or underground water. The farmers urged that the potential complexity of many individual arrangements necessitates an overall plan.

Peter A. Rogers, chief of the drinking water office of the state Department of Health Services, suggested that WRCB relax salt standards to free up more water for domestic use, stating that "poor quality water, at least in most cases, is better than no water at all." By relaxing the salt standard for Suisun Bay, as much as 600,000-acre feet of water—as much as San Diego County imports all year—could be added to the state's water supply, according to the U.S. Bureau of Reclamation. Instead of being pumped from the Delta (a labyrinth of waterways and islands east of San Francisco) into San Francisco Bay to push back intruding salt water, the fresh water would be pumped south to farms and homes via the California Aqueduct and other waterways. This, however, would have serious implications for fish and wildlife in and around Suisun Bay.

Following the two-day public hearing, WRCB was scheduled to announce strict water conservation requirements on February 6. However, the Board deferred action until February 26, to enable Governor Wilson's Drought Action Team to announce its recommendations. On February 15, Governor Wilson unveiled his plan for addressing the drought conditions, which includes the following:

- communities should adopt rationing plans to prepare for the probable "worst case" scenario in which only 50% of the normal water allotment is available;

- a water bank will be established, whereby the state will purchase water from willing buyers for sale to those who need it the most;

- the Department of Fish and Game (DFG) is to work with the U.S. Fish and Wildlife Service to do everything possible to protect habitats and maintain minimum populations for fish and wildlife

(see *supra* agency report on DFG for related information);

- Wilson will sponsor legislation to set up an estimated \$100 million "drought action fund" for specified purposes; and

- the Department of Water Resources is directed to make a continuous review of its water supply over the next two months to determine if some level of agricultural deliveries may be restored.

On February 19, WRCB announced the cancellation of its February 26 meeting, stating that it will continue to develop and coordinate any proposed Board actions with the Drought Action Team.

In early March, a five-day storm dropped the equivalent rainfall of two normal winter storms, or about 25% of the state's average annual precipitation. On March 7, Governor Wilson announced that the state plans to hold most of the new water in reserve "to guarantee human health and safety should 1992 be another dry year." Governor Wilson also announced that due to widespread compliance with his previous request that all local water districts draw up contingency plans to cut water use by 50%, he did not yet need to invoke emergency powers to forcibly reallocate water supplies.

On March 15, WRCB heard testimony on whether to relax the existing Delta water quality standards to temporarily provide more water for other uses during the current drought; following the testimony, the Board postponed further action on this issue until April.

Bay/Delta Proceeding Marches On. WRCB's ongoing proceeding to establish a long-range protection plan for the waters of the San Francisco Bay/Sacramento-San Joaquin Delta Estuary recently entered its fourth year. The Board began this project in 1987; it consists of five interrelated components:

- the California Water Quality Assessment, which was adopted in April 1990;

- the Pollutant Policy Document, adopted in June 1990;

- the Inland Waters Plan and the Enclosed Bays and Estuaries Plan, scheduled for adoption in April 1991;

- The Water Quality Control Plan for Salinity for the Bay/Delta, scheduled for hearing in March 1991; and

- the Scoping and Water Rights Phases of the Bay/Delta proceedings, scheduled for scoping workshops in March and April 1991.

Under the original workplan for the proceeding, these five phases were to have been concluded, an environmental impact report (EIR) was to have been prepared, and the Board was to have adopted a major water rights decision by July 1990. (See CRLR Vol. 7, No. 2

(Spring 1987) p. 96 for background information.) However, WRCB had to revamp its workplan in late 1988, due to the uproar caused by the Board's release of its draft Water Quality Control Plan for Salinity and its draft Pollutant Policy Document. In these documents, the Board called for limits on exports from the Delta and for the release of more water in the spring from behind dams to benefit migrating runs of steelhead and salmon. Although most environmentalists supported the proposals, intense opposition to the "flow requirements" expressed by regional water districts and agricultural interests caused the Board to withdraw both drafts and overhaul the workplan of the Bay/Delta proceedings. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 107 and Vol. 9, No. 1 (Winter 1989) pp. 94-95 for background information.) The new workplan bifurcates the hearings by dividing proceedings on water quality and water rights. The water quality phases are ongoing; the water rights phase, which will be conducted as a quasi-adjudicative proceeding at several locations throughout the state, will not commence until a draft EIR has been prepared and circulated.

In December 1990, the Board held a public workshop on its proposed adoption of the Inland Waters Plan and the Enclosed Bays and Estuaries Plan. (See CRLR Vol. 11, No. 1 (Winter 1991) pp. 131-32; Vol. 10, No. 4 (Fall 1990) p. 163; and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 193-94 for background information.) WRCB was expected to adopt these plans in April.

On March 11, WRCB conducted a public workshop and hearing to consider a draft Water Quality Control Plan for Salinity and Temperature. The plan primarily addresses temperature, salinity, and dissolved oxygen parameters of water quality. In the plan, numerous water quality objectives which are intended to protect water quality and the beneficial uses of Bay/Delta waters have been established for salinity at municipal and industrial intakes, salinity levels to protect Delta agriculture, salinity levels to protect export agriculture, and salinity for fish and wildlife resources in the Estuary. Water quality objectives have also been established to provide expansion of the period of protection for striped bass spawning, and temperature and dissolved oxygen levels for fisheries in the Delta. No date has been set for adoption of the proposed Water Quality Control Plan for Salinity and Temperature following the hearing.

According to WRCB, this plan sets the stage for the real heart of the Bay/Delta proceedings: determining rea-



REGULATORY AGENCY ACTION

sonable protection for all uses, and determining who will share responsibility for meeting the established water quality objectives.

Toward that end, the Board is preparing to conduct a scoping workshop under the California Environmental Quality Act (CEQA), which will eventually result in the preparation of a draft EIR. The Scoping Phase will address the protection of beneficial uses, including flow requirements; resolving the flow requirements issue, which has already disrupted this proceeding once, is critical to the Board's final decision. Flow requirements yet to be established will ultimately determine how much water may be exported for consumptive use, as well as how much water is needed to protect fish and wildlife. Three days of scoping workshops were scheduled between March 26 and April 9.

Central to all issues in the Scoping Phase is the question of what amount of water is available and who is required to manage it. Currently, two major water systems, one state and one federal, export Delta water to California areas. These systems, the State Water Project (SWP) operated by the California Department of Water Resources, and the Central Valley Project (CVP) operated by the U.S. Bureau of Reclamation, are responsible for meeting salinity objectives in the Bay/Delta. Approximately 7,000 parties divert Delta water for usage throughout the state. In order to establish an equitable means of water supply and distribution, the Board has determined that other parties diverting Delta water, not only CVP and SWP, should be required to meet water quality objectives in the Delta. A primary task of the Scoping Phase will be the identification of appropriate requirements and of the parties responsible for providing for these needs.

Regulatory Changes. In July 1990, the Office of Administrative Law (OAL) rejected WRCB's proposed regulatory action on water quality monitoring and response programs for waste management units. The proposed action would have repealed existing Article 5, Subchapter 15, Division 3, Title 23 of the CCR, and adopted a new Article 5. OAL also rejected WRCB's proposed amendments to section 2601 (Technical Definitions) of Article 10, Subchapter 15, Division 3 of the CCR. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 132; Vol. 10, No. 4 (Fall 1990) p. 163; and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 195 for detailed background information.) On January 24, the Board adopted a modified version of the proposed changes to Articles 10 and 5. The modi-

fied regulatory package awaits submittal to and approval by OAL.

LEGISLATION:

AB 1122 (Sher), as introduced March 5, and **SB 51 (Torres)**, as introduced December 4, would both create the California Environmental Protection Agency (Cal-EPA) by reorganizing the Resources Agency and transferring functions of agencies outside the Resources Agency to the new Cal-EPA. AB 1122 would include within Cal-EPA the Air Resources Board, the California Integrated Waste Management and Recycling Board, the California Energy Commission, and the Water Resources Control Board; SB 51 would include all of those agencies except the Energy Commission. In addition, both bills would create the Department of Toxic Substances Control within Cal-EPA and transfer to it the duties of the Department of Health Services (DHS) with regard to hazardous waste, hazardous substances, and radioactive materials, and the duties of the California Department of Food and Agriculture (CDFA) with regard to pesticide regulation.

Governor Wilson has announced his intent to establish Cal-EPA; at this writing, however, it is unknown whether he will accomplish its creation through legislation or through "executive reorganization" under Government Code section 12080 *et seq.* (See *supra* agency report on CDFA for related discussion.)

AB 1132 (Campbell), as introduced March 5, would declare that it is the policy of this state to protect and preserve all reasonable and beneficial uses of the San Francisco Bay/Sacramento-San Joaquin Delta Estuary and to operate the State Water Project to mitigate the negative impacts on the Estuary from the operation of the Project. This bill is pending in the Assembly Committee on Water, Parks and Wildlife.

AB 2017 (Kelley). Under existing law, WRCB may, during years declared to be critical by the Department of Water Resources, impose administrative civil liability upon a person or entity for the unauthorized diversion or use of water, which is a trespass. In those proceedings, the complaint is required to notify the person served that a hearing will be conducted within 60 days. The person may waive the right to a hearing, in which case the Board is not required to conduct a hearing.

As introduced March 8, this bill would (1) delete the requirement that administrative civil liability may be imposed only during years declared to be critical by the Department; (2) require the complaint to notify the person served

that the party may request a hearing, rather than that a hearing will be conducted, and change the time within which a hearing is to be conducted to 20 days, rather than 60 days, after the party has been served; and (3) delete the right of a party served to waive a hearing. This bill is pending in the Assembly Committee on Water, Parks and Wildlife.

AB 2111 (Polanco), as introduced March 8, would require the Board, not later than July 1, 1992, to adopt, and periodically revise, regulations which encourage desalination and which require local water agencies to offer to purchase water from qualifying water facilities. The bill would require WRCB to adopt regulations which encourage alternative energy designs for powering qualifying water facilities and which encourage the formation of partnerships between the private sector and state and local public entities to facilitate the construction and operation of qualifying water facilities. This bill is pending in the Assembly Committee on Water, Parks and Wildlife.

SB 685 (Calderon), as introduced March 5, would require WRCB, by emergency regulation, to adopt a fee schedule which assesses a fee on any owner or operator of a solid waste disposal site who has not had a solid waste water quality assessment test approved by the regional board by July 1, 1991. This bill is pending in the Senate Committee on Toxics and Public Safety Management.

AB 13 (Kelley), as introduced December 3, would provide that water which has not been reclaimed to meet prescribed safe drinking water standards is not deemed to constitute waste water, but would authorize prescribed agencies to limit the use of that water. This bill is pending in the Assembly Committee on Water, Parks and Wildlife.

AB 231 (Costa). Under existing law, any decrease or reduction of water use, because of water conservation efforts, by any person entitled to the use of water under an appropriative right, is deemed equivalent to a reasonable beneficial use of the water, and no forfeiture of the appropriative right to the water occurs under specified forfeiture provisions. As introduced January 14, this bill would extend these provisions to include decreased water use due to substitution of an alternative supply, which would be defined as the replacement of water diverted under an appropriative right with an equivalent amount of groundwater. This bill is pending in the Assembly Committee on Water, Parks and Wildlife.

AB 1103 (Bates), as introduced March 5, would require the regional



boards for the North Coast, San Francisco Bay, Central Coast, Los Angeles, and San Diego regions to conduct unannounced inspections of waste discharges that require a national pollutant discharge elimination system permit and which could affect the quality of specified waters, at least six times annually for major dischargers and four times annually for other dischargers, to determine compliance with applicable requirements. This bill would also require WRCB to establish a schedule of annual fees to be paid by dischargers to cover the costs incurred by the regional boards under this bill. This bill is pending in the Assembly Committee on Water, Parks and Wildlife.

AB 1605 (Costa), as introduced March 8, would permit surface water to be leased for a period not to exceed five years to assist water conservation efforts. This bill is pending in the Assembly Committee on Water, Parks and Wildlife.

AB 673 (Cortese), as introduced February 21, would enact the Water Recycling Act of 1991, establishing a prescribed statewide water recycling goal and requiring that recycled water be considered a resource and not a waste under specified conditions. This bill is pending in the Assembly Committee on Water, Parks and Wildlife.

AB 1737 (Campbell), as introduced March 8, would require the Department of Water Resources, WRCB, and local public agencies to promote specified water practices in a prescribed order of priority and to maximize the use of all feasible water conservation and wastewater reclamation options. This bill is pending in the Assembly Committee on Water, Parks and Wildlife.

AB 1802 (Eaves), as introduced March 8, would require WRCB to adopt, by regulation, energy conservation standards for plumbing fittings; authorize WRCB to adopt the applicable performance standards established by the American National Standards Institute for those plumbing fittings; and require WRCB to notify the legislature at least one year prior to revising any of those standards. This bill is pending in the Assembly Housing and Community Development Committee.

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 1 (Winter 1991) at page 134:

AB 24 (Filante), as introduced December 3, and *AB 88 (Kelley)*, as introduced December 4, would each enact the Water Reclamation Bond Law of 1992, authorizing, for purposes of financing a water reclamation program, the issuance of bonds in the amount of

\$200 million. *AB 24* is pending in the Assembly Committee on Banking, Finance and Bonded Indebtedness; *AB 88* is pending in the Assembly Committee on Water, Parks and Wildlife.

AB 174 (Kelley), as amended February 7, would declare that the use of potable domestic water for unpotable uses, including cemeteries, golf courses, parks, highway landscaped areas, and industrial and irrigation uses, is a waste or an unreasonable use of water and would generally prohibit a person or public agency from using potable water for those purposes if reclaimed water is available. This bill is pending in the Assembly Ways and Means Committee.

SB 69 (Kopp), as introduced December 5, would require WRCB, in any proceedings for the establishment of salinity standards or flow requirements applicable to the State Water Project or the federal Central Valley Project, to include independent water quality objectives and water rights permit terms and conditions specifically for protection of the beneficial uses of the waters of the San Francisco Bay. This bill is pending in the Senate Committee on Agriculture and Water Resources.

SB 79 (Ayala), as introduced December 6, would prohibit WRCB, in implementing water quality control plans or otherwise protecting public trust uses of the waters of the San Francisco Bay/Sacramento-San Joaquin Delta, from imposing on existing water rights permits or licenses new terms or conditions requiring delta flows in excess of those in effect on January 1, 1991. This bill is pending in the Senate Committee on Agriculture and Water Resources.

LITIGATION:

In *City of Sacramento v. State Water Resources Control Board; California Regional Water Quality Control Boards for the Central Valley Region; Rice Industry Committee as Real Party in Interest*, No. 363703 (Sacramento County Superior Court), plaintiff alleges that the boards violated state environmental and water quality laws when they adopted and approved a new pollution control plan in January and February 1990. The Board contends that it complied with CEQA and the Porter-Cologne Water Quality Control Act. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 134; Vol. 10, No. 4 (Fall 1990) p. 164; and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 195-96 for detailed background information.) The court mandated this matter to settlement conference; at this writing, no settlement has been reached.

In *State Water Resources Control Board and the Regional Water Quality*

Control Board, San Francisco Region v. Office of Administrative Law, No. 906452 (San Francisco County Superior Court), the court issued notice of its tentative decision denying the Board's request for a writ of mandate on December 10. (See CRLR Vol. 11, No. 1 (Winter 1991) pp. 134-35; Vol. 10, No. 4 (Fall 1990) p. 164; and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 196-97 for detailed background information.) The Board, through the state Attorney General's office, objected to portions of the proposed order. OAL then responded to the Board's objections; at this writing, the parties are waiting for Superior Court Judge Paul Alvarado to issue his decision.

In *United States and California v. City of San Diego*, No. 88-1101-B (S.D. Cal.), city, state, and federal officials ratified a settlement agreement, under which the City of San Diego is required to have a new sewage water reclamation system fully operational by December 31, 2003. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 135; Vol. 10, No. 4 (Fall 1990) p. 164; and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 195 for extensive background information on this case.) The agreement to proceed with a secondary sewage treatment facility was based on the 1972 Federal Clean Water Act, which requires cities such as San Diego to install a secondary treatment plant. However, U.S. District Court Judge Rudi M. Brewster refused to issue the consent decree; Judge Brewster expressed concern about the \$2.8 billion cost of the facility, the opposition within the scientific community, and the lack of a clear public benefit of the agreement.

On February 5, Judge Brewster commenced a hearing to receive scientific evidence as to the necessity of the secondary treatment facility and to determine the damages owed by the City of San Diego as a result of its noncompliance with Clean Water Act requirements. Under the statute, the court has the discretion to determine the number of days and the amount of the fine, which may be \$25,000 per day. The testimony presented by all parties has been extensive and is expected to be completed by the end of March. In the interim, Judge Brewster directed the City to comply with all aspects of the consent decree except secondary treatment. If Judge Brewster finds there is not adequate public benefit to offset the cost of the secondary treatment facility, he has stated that he will defer approval of that part of the consent decree while the City requests a waiver from the Environmental Protection Agency.



REGULATORY AGENCY ACTION

In November 1990, the San Francisco-based environmental group, Earth Island Institute Inc., filed suit in federal district court against Southern California Edison (SCE), alleging violations of the federal Clean Water Act stemming from operations at the San Onofre Nuclear Power Plant. The suit is based primarily on a 1989 report of the Coastal Commission's Marine Review Committee, which concluded after a 15-year study that the operation of the San Onofre plant kills tons of fish and kelp each year. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 135 for background information.) Among other things, Earth Island alleges that SCE's operation of San Onofre violates WRCB's permit. In March, plaintiff filed a motion for preliminary injunction against Edison, alleging that the utility is stalling in its duty to provide a mitigation plan for damage

caused by the release of cooling water from the power plant, and asking the court to "hold Edison's feet to the fire." Edison has in turn requested that U.S. District Court Judge Rudi Brewster postpone any ruling on the case until after the Regional Water Quality Control Board has held hearings and acted upon the Marine Review Committee's report. Earth Island Institute claims that this request is merely another delay tactic by Edison to avoid producing the mitigation plan and implementation timeline. The motion was scheduled for a hearing on April 22.

FUTURE MEETINGS:

Workshop meetings are generally held the first Wednesday and Thursday of each month. For the exact times and meeting locations, contact Maureen Marche at (916) 445-5240.

the following violations of the Auctioneer and Auction Licensing Act: failure to pay a consignee, failure to pay a consignee within 30 working days, use of false bidders/false bidding practices, use of false or misleading advertising or statements, and misrepresentation of goods offered for sale.

FUTURE MEETINGS:

November 22 in Monterey (tentative).

BOARD OF CHIROPRACTIC EXAMINERS

Executive Director: Vivian R. Davis (916) 739-3445

In 1922, California voters approved an initiative which created the Board of Chiropractic Examiners (BCE). Today, the Board's enabling legislation is codified at Business and Professions Code section 1000 *et seq.*; BCE's regulations are located in Division 4, Title 16 of the California Code of Regulations (CCR). The Board licenses chiropractors and enforces professional standards. It also approves chiropractic schools, colleges, and continuing education courses.

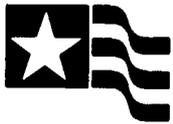
The Board consists of seven members, including five chiropractors and two public members.

MAJOR PROJECTS:

Renewal Fee Increase. At its March 7 meeting, the Board held a public hearing on its proposal to amend section 355(a) of its regulations to increase the annual license renewal fee from \$95 to \$150 (the statutory maximum). BCE also proposed to amend section 355(c), to establish a cyclical renewal system under which licenses would expire during the birth month of the licensee. Following the hearing, the Board approved this language; staff submitted the rulemaking file on the proposed regulatory action to the Office of Administrative Law (OAL) on March 25.

Four Hours of Adjustive Technique. At its January 17 meeting, the Board held a public hearing on a proposed regulatory amendment to section 356(d), which would specify that four hours of each licensee's annual twelve-hour continuing education (CE) requirement must be completed in adjustive technique, and must be satisfied by lecture and demonstration.

The Board received numerous written and oral comments on the proposed change. Most witnesses opposed the change, arguing that the Board lacks statistical data on the number of CE hours most chiropractors complete each year in



INDEPENDENTS

AUCTIONEER COMMISSION

Executive Officer: Karen Wyatt (916) 324-5894

The Auctioneer and Auction Licensing Act, Business and Professions Code section 5700 *et seq.*, was enacted in 1982 and establishes the California Auctioneer Commission to regulate auctioneers and auction businesses in California.

The Act is designed to protect the public from various forms of deceptive and fraudulent sales practices by establishing minimal requirements for the licensure of auctioneers and auction businesses and prohibiting certain types of conduct.

Section 5715 of the Act provides for the appointment of a seven-member Board of Governors, which is authorized to adopt and enforce regulations to carry out the provisions of the Act. The Board's regulations are codified in Division 35, Title 16 of the California Code of Regulations (CCR). The Board, which is composed of four public members and three auctioneers, is responsible for enforcing the provisions of the Act and administering the activities of the Commission. Members of the Board are appointed by the Governor for four-year terms. Each member must be at least 21 years old and a California resident for at least five years prior to appointment. In addition, the three industry members

must have a minimum of five years' experience in auctioneering and be of recognized standing in the trade.

The Act provides assistance to the Board of Governors in the form of a council of advisers appointed by the Board for one-year terms. In September 1987, the Board disbanded the council of advisers and replaced it with a new Advisory Council (see CRLR Vol. 7, No. 4 (Fall 1987) p. 99 for background information).

MAJOR PROJECTS:

Newsletter. In its March newsletter, the Commission noted that it currently regulates 1,113 auctioneers and 223 auction companies.

Between July 1, 1990 and March 1991, the Commission received 114 complaints against its licensees, of which 46 were pending as of March 1991. During that time period, the Commission assessed 19 fines, assigned 23 cases out for investigation, and filed 7 disciplinary actions.

Also in the March newsletter, the Commission noted that at its May 6 meeting, it would be reviewing proposed disciplinary penalty guidelines, for use by administrative law judges who preside over Commission disciplinary hearings and make disciplinary recommendations to the Board. The proposed guidelines set forth minimum and maximum penalties, plus a description of aggravating and mitigating factors, for