



## REGULATORY AGENCY ACTION

related energy use.

At its November 16 meeting, the Commission approved a land acquisition proposal from the California Nature Conservancy. This proposal resulted from a condition in the Sycamore Cogeneration Project Decision, No. 84-AFC-6C, which required Sycamore Cogeneration Company to establish a special deposit fund, the Sycamore-San Joaquin Kit Fox Preserve Account, to purchase and preserve habitat for the endangered San Joaquin kit fox. This condition was established because of loss of habitat of the kit fox due to the construction of the Sycamore Cogeneration facility. The CEC must approve expenditures from the Account. As set forth in the decision, the Nature Conservancy submitted a land acquisition proposal, now approved, to purchase a total of 297 acres in Kern County. Of the original fund amount of \$1.2 million, a total of \$134,340 was approved to purchase land and provide for land management, habitat enhancement, and administrative costs.

At its December 14 meeting, the Commission adopted the 1988 California Energy Shortage Contingency Plan, which is required to be reviewed and updated every five years. The plan includes responses to shortages of energy and threats to public health, safety, or welfare. It describes programs of emergency energy management, information dissemination in crisis situations, emergency demand reduction programs, petroleum set-aside programs, and economic assistance programs to alleviate hardship in low-income households.

At the same meeting, the CEC unanimously approved a contract with General Motors (GM), under which GM will provide variable fuel vehicles (VFs) for state and local governments, as well as private fleets. Organizations which participate in the CEC's Light-Duty Methanol Fuel Flexible Vehicle Demonstration Program are eligible. The program was developed under the direction of a legislative mandate to expand the use of methanol fuel in order to reduce pollution, assure the state's energy security, and increase competitiveness of fuel markets. The CEC solicited proposals from all interested automobile manufacturers and held workshops to determine the viability of this program. As a result, GM was awarded the \$3.3 million contract to provide passenger cars and light-duty trucks which run on methanol as well as conventional fuels.

### FUTURE MEETINGS:

General CEC meetings are held every other Wednesday in Sacramento.

### HORSE RACING BOARD

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The California Horse Racing Board (CHRB) is an independent regulatory board consisting of seven members. Each member serves a four-year term and receives no compensation other than expenses incurred for Board activities.

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.

The Board has jurisdiction and power to supervise all things and people having to do with horse racing upon which wagering takes place. If an individual, his/her spouse, or dependent holds a financial interest or management position in a horse racing track, he/she cannot qualify 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. (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.) 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.

The Board licenses horse racing tracks and allocates racing dates. It also has regulatory power over wagering and horse care.

### MAJOR PROJECTS:

*Occupational License Fees Increased by 25%.* At its October 28 meeting in Monrovia, the CHRB approved a proposal to commence rulemaking to amend section 1481, Title 4 of the California Code of Regulations (CCR). Section 1481 sets forth various occupational licenses and fees to support the CHRB's enforcement and licensing programs. Due to the fact that current licensing fees fail to meet budget demands for licensing, the CHRB proposed a 25% increase in all fees. The proposed amendment would also add five new occupational licenses in order to accommodate newly established positions related to satellite wagering. The Board subsequent-

ly published a notice of its intent to amend section 1481, and approved the proposal after a public hearing on December 16 in Los Angeles.

*Satellite Facility Supervisor.* Last summer, the 1988 budget of the CHRB was reduced by \$1.1 million during legislative budget hearings. A large portion of this money was earmarked for intertrack stewards at satellite wagering facilities. A satellite facility not supervised by an intertrack steward cannot continue in operation. The CHRB held an emergency meeting on July 29 to discuss its future ability to pay intertrack stewards. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 114 for background information.)

Legislation was subsequently enacted to restore \$807,000 for intertrack stewards. However, CHRB has received word that, due to fiscal constraints, continued funding in future years is unlikely. Therefore, at its October 28 meeting the CHRB discussed a proposal by the Division of Fairs and Expositions of the Department of Food and Agriculture to establish the new position of "satellite facility supervisor" as a means of providing state managerial oversight at the satellite facilities. The Board adopted the concept, and subsequently published a notice of its intent to add new section 1472 to Title 4 of the CCR. A hearing on the proposed regulation was scheduled for January 20.

Under the proposal, each guest association, as a condition of approval for the conduct of simulcast wagering at its facility, must employ one or more persons qualified as a satellite facility supervisor. The duties of a satellite facility supervisor shall include, but not be limited to, assuring that the rules of the Board are properly observed by all participants; assuring the closing of the parimutuel wagering in each race coincident with the start of the race; referring matters involving serious misconduct of licensees to the host track stewards; maintaining minutes of the conduct of each day's events at the simulcast location where assigned; ordering the exclusion or ejection of persons who are prohibited from participating in parimutuel wagering and from being present within any racing enclosure during a recognized race meeting; supervising all phases in intertrack operations at the simulcast location; and performing other duties as directed by the manager of the facility or the Board.

*Other Proposed Regulatory Changes.* The Board recently published in the *Notice Register* proposed changes to sections 2056 through 2060 of its regula-



tions in Title 4 of the CCR. Amended section 2056 would add definitions of the terms "simulcast organization" and "satellite facility supervisor"; amended section 2057 would establish a licensing requisite that a racing association must act as a host association and provide a simulcast signal; and amended section 2058 would establish the means by which those entities permitted by law to be used as simulcast locations file an application with the Board. Existing section 2059 (License for Simulcast Operators) would be repealed in its entirety, and new section 2059 (Simulcast Organizations) would be adopted to establish the requirements to form a simulcast organization pursuant to the provisions of the Business and Professions Code. Existing section 2060 (Duties of Simulcast Operator) would be repealed in its entirety and replaced with new section 2060 (Duties of Simulcast Organization). A hearing on these proposed changes was scheduled for January 20 in Arcadia.

## LEGISLATION:

The CHRB will recommend that two bills be enacted during the 1989 session. The statutory scheme for simulcast programs embodies geographical restrictions for intrastate simulcast wagering so as to protect the on-track attendance and handle of racing associations which are located within a certain proximity to satellite wagering facilities. The restrictions for night racing allow a night meeting in the central and southern zones to offer its night simulcast program to a simulcast wagering facility in the northern zone provided there is no night meeting then operating in that northern zone. This restriction for night meetings in southern California appears to place northern zone night meetings at a disadvantage: that is, a northern meeting cannot offer its signal to simulcast wagering facilities in southern California. The Board believes the night industry would be better served if there were a greater incentive to operate a night meeting in the northern zone. Such an incentive would be available if there were no geographic restrictions on the use of the simulcast signal of a night racing meeting being held in the northern zone. Accordingly, the Board recommends that legislation be enacted to eliminate geographical restrictions on the use of simulcast audiovisual signals transmitted from any night racing meeting or fair racing meeting.

A new federal law, Public Law 100-497 (S. 555-Inouye) entitled the Indian

Gaming Regulatory Act, offers the statutory basis for the operation of gaming by Indian tribes as a means of promoting economic development, self-sufficiency, and strong tribal government. The new statute requires a compact between the state and the recognized tribe specifying the extent of supervision over the gaming activity. The Board has determined that it currently has no authority to supervise class III gaming involving parimutuel wagering on Indian land. Accordingly, the Board recommends that the legislature address the Indian Gaming Regulatory Act and authorize the CHRB to regulate and supervise Indian gaming involving parimutuel wagering on horse races if permitted by state compact with an Indian tribe.

## RECENT MEETINGS:

At its September 23 meeting in San Mateo, the Board held a public hearing on three proposed regulation changes. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 115 for background information on these proposals.) Following the hearing, the Board approved an amendment to section 1976.5 to allow racing associations to designate days when the Pick Nine must be paid off. Also approved was section 1976.7, which provides for a carryover distribution scheme with regard to the Pick Nine. An amendment to section 1459, which would delete the requirement that public telephones within the racing enclosure be locked during the racing program was discussed, but the Board decided to postpone any decision on the amendment until at least December. At that time, information regarding a six-month trial period of having public phones unlocked at Santa Anita were scheduled to be available and could be analyzed.

On October 28 in Monrovia, the Board approved a new claim form which provides for invalidation of a claim if the sex of the claimed horse is incorrectly reported in the horse's official registration papers. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 115 for background information.) Although the Board had previously discussed a corresponding amendment to section 1656, Title 4 of the CCR, the Board decided to change the form without amending the rule.

## FUTURE MEETINGS:

April 28 in Los Angeles.  
May 19 in Sacramento.  
June 23 in Cypress.  
July 27 in La Jolla.  
August 25 in La Jolla.  
September 29 in San Mateo.

## NEW MOTOR VEHICLE BOARD

*Executive Officer: Sam W. Jennings*  
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The New Motor Vehicle Board (NMVB) licenses new motor vehicle dealerships and regulates dealership relocations and manufacturer terminations of franchises. It reviews disciplinary action taken against dealers by the Department of Motor Vehicles. Most licensees deal in cars or motorcycles.

The Board also handles disputes arising out of warranty reimbursement schedules. After servicing or replacing parts in a car under warranty, a dealer is reimbursed by the manufacturer. The manufacturer sets reimbursement rates which a dealer occasionally challenges as unreasonable. Infrequently, the manufacturer's failure to compensate the dealer for tests performed on vehicles is questioned.

The Board consists of four dealer members and five public members. The Board's staff consists of an executive secretary, three legal assistants and two secretaries.

## MAJOR PROJECTS:

*Status Report on Certification Fees.* Pursuant to Business and Professions Code section 9889.75, the NMVB has been collecting fees from manufacturers and distributors of new motor vehicles for the purpose of funding the Bureau of Automotive Repair's certification of third party dispute resolution programs. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 116 and Vol. 8, No. 3 (Summer 1988) p. 123 for background information.) Thus far, the fees collected total \$690,360. Forty-one manufacturers and distributors have failed to respond. As a result of their delinquency, those who are not exempt will be assessed a 10% penalty.

*Proposed Amendments to the Board's Regulations.* The NMVB is currently reviewing its regulations to clarify procedures and to remove superfluous language. The NMVB's regulations are contained in Title 13 of the California Code of Regulations. At this writing, the Board is discussing draft changes, and has not yet formally proposed regulatory changes.

The Board plans to clarify the language of its regulations to be consistent with its enabling statute. Sections 554, 550(g) and (h), and 595 all use the phrase "new car dealers". The enabling statute, Vehicle Code section 3050(c), does not distinguish between types of dealers, and instead uses the term "new motor vehicle dealer". Therefore, as used in the above regulations, the term "new car dealer"