



immediate and pressing need to divert and use water to pressure the crude oil pipeline. An alternative source of water is not available to the permittee.

The effects of the diversion on fish, wildlife and other instream uses were considered by the staff. Department of Fish and Game (DFG) representatives believe the proposed water diversion will not unreasonably affect fish, wildlife or other instream beneficial uses. The Sisquoc River at the point of diversion is presently in underflow; no surface flow exists at this time.

Additionally, DFG staff indicated that no significant impacts to fish and wildlife will occur provided that, upon last completion, the water is discharged in a manner which will reduce the potential for stream bank erosion.

Because there will be no significant adverse impact as a result of the diversion, the Board accepted the recommendations of the staff and approved the temporary permit.

At its December meeting, the WRCB adopted a resolution authorizing an amendment to a contract for the provision of water rights services between the Board and the U.S. Bureau of Reclamation (USBR).

The amendment was considered neces-

sary because the general delegation to the WRCB Executive Director to execute this type of contract is limited to \$100,000.

Pursuant to Water Code section 1560, the federal government is specifically exempt from paying fees on applications to appropriate water which will be used to further projects under the supervision of the USBR. However, under section 1560, state boards may enter into contractual arrangements with the USBR for reimbursement, in whole or in part, for services provided in connection with or for protection of rights under applications, permits, or licenses of the USBR.

In 1985/86 federal fiscal year (October 1 to September 30), the contract between the WRCB and USBR for such services was \$98,268. The Board staff negotiated a proposed contract amount for reimbursement of \$99,876 for 1986/87. USBR staff prepared a proposed contract amendment to include this reimbursement, which brought the cumulative amount under amended contract to \$348,504 for federal fiscal years 1982/83 through 1986/87.

#### FUTURE MEETINGS:

To be announced.

#### MAJOR PROJECTS:

**Recovery Fund.** Auctioneers are currently required to be bonded, and surety bonds are generally available at affordable premiums. The recovery fund concept, which would require that fees be paid to a Commission recovery fund rather than to private bonding companies, has been considered by the Board of Governors to be a viable alternative method of insuring claims against auctioneers. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 85.) However, opposition to the recovery fund concept among auctioneers has become increasingly vocal. On November 14, the Board of Governors met in San Diego, and was greeted by a large public turnout because the controversial concept was on the agenda and because the California State Auctioneers Association convention was held in the same hotel. After hearing public comment from the highly partisan audience, the Board voted against any further action to create a recovery fund.

**Standard Definitions.** The Commission continues to work on the development of definitions for commonly-used industry terms. The Commission receives many questions and complaints about the practice of "reserve" bidding by owner/consignors. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 85.) To ensure that buyers are not misled, staff will propose legislation to define "absolute auction," "sold to the highest bidder," and "no minimum" as meaning that there are no reserve bids.

**Enforcement and Practices.** Some auctioneers believe they have a duty to protect their consignors by refusing to accept bids at certain prices, even if the owners/consignors have not set minimum prices for the items. The Commission is presently investigating whether auctioneers may engage in such practices, and if so, under what conditions.

**Reciprocity.** California law requires that in order for an auctioneer's license issued in another state to be recognized in California, the other state's requirements for licensure must be at least as stringent as those in California. The Commission is currently deciding what criteria to consider when making a reciprocity determination, and whether to grant reciprocity to licensees from Alabama and Pennsylvania.

**Disciplinary Process.** Presently, it takes nine to twelve months to complete a disciplinary action against an auctioneer who has failed to pay consignors. It takes even longer for consignors to be paid from the surety bond. Commission staff is presently drafting legislation



## INDEPENDENTS

#### AUCTIONEER COMMISSION

*Executive Officers: Paula Higashi and Karen Wyant*  
(916) 324-5894

The Auctioneer and Auction Licensing Act was enacted in 1982 (AB 1257, Chapter 1499, Statutes of 1982) and established the California Auctioneer Commission to regulate auctioneers and auction businesses in California.

The Act was 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.

The Auctioneer and Auction Licensing Act provided for the appointment of a seven-member Board of Governors, composed of four public members and three auctioneers, to enforce the provisions of the act and to administer the activities of the Auctioneer 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 Board of Governors is assisted by a council of advisors appointed by the Board for one-year terms. The council's functions are: (1) to assist the Board in carrying out its duties, such as accepting/denying applications, preparing and grading examinations and receiving or designating complaints involving misconduct or issues of professional competence; (2) to act as a liaison between the Board and the industry/public by providing the latter with assistance and information; and (3) to provide input to the Board based on contact with the public and industry.



# REGULATORY AGENCY ACTION

to streamline and expedite the disciplinary process.

## LEGISLATION:

*SB 84 (Boatwright)*, introduced December 12, 1986, would completely eliminate the Auctioneer Commission. Recently, the Commission has been the subject of increasing criticism. According to the *Sacramento Bee* (November 9, 1986 at A1), Shayel M. Hochman, past president of the Board of Governors, works for an auctioneering firm which owes creditors in four states more than \$1.3 million. Additionally, the owner of that firm, David E. Lawson, was appointed to the Auctioneer Commission's Disciplinary Review Committee (see CRLR Vol. 6, No. 4 (Fall 1986) p. 85). The roles of both individuals as regulators have raised conflict of interest and impropriety complaints. Moreover, the Commission has an annual budget of \$182,000 coming mainly from fees; yet, it revoked no more than six licenses in the past three years.

In response to the criticism, Karen Wyant, one of the Commission's executive officers, states that over \$58,000 has been paid to sellers from license bonds by order of the Commission; an additional \$36,000 has been voluntarily paid to consumers by licensees as a direct result of the Commission's complaint investigation process; actions to revoke the licenses of ten auctioneers and companies, and to order the payment of an additional \$76,000 to consumers from license bonds are currently being processed by the Commission; and more than 45% of all licensees against whom two or more complaints were filed during the last year face disciplinary action to suspend or revoke their licenses, and another 12% have been or will be assessed administrative fines ranging from \$100 to \$1,000.

## RECENT MEETINGS:

The Board's recent meetings have been dominated by lengthy discussion of the recovery fund proposal (see *supra* MAJOR PROJECTS). At its November meeting, the Board elected new officers for 1987: President Howard "Gus" Hall; Vice President Lauren Lizerbam; and Treasurer Charles Westlund.

## FUTURE MEETINGS:

To be announced.

## BOARD OF CHIROPRACTIC EXAMINERS

*Executive Director:*

*Edward Hoefling*  
(916) 445-3244

In 1922, California voters approved an initiative which created the Board of Chiropractic Examiners. 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:

*Appeals Committee.* The Appeals Committee met in Sacramento on August 28 to review all appeals from the May 1986 exam. Those contesting the results of the exam carry a heavy burden to prove that their particular scores should be modified. The Committee reported to the Board that no appellant had met the required burden of proof. The Board reviewed the Committee's findings and agreed that all appeals should be denied. The Committee did agree that some of the appeals reflected a legitimate constructive critique of the examination.

*Hearings.* The Board has held several hearings on proposed changes to section 302 of the California Chiropractic Act. (See CRLR Vol. 6, No. 2 (Spring 1986) p. 89.) The Board is reviewing the information collected before making its final decision on section 302.

## FUTURE MEETINGS:

To be announced.

## CALIFORNIA ENERGY COMMISSION

*Executive Director: Stephen Rhoads*

*Chairperson: Charles R. Imbrecht*  
(916) 324-3008

In 1974, the legislature created the State Energy Resources Conservation and Development Commission, better known as the California Energy Commission (CEC). The Commission's major regulatory function is the siting of power plants. It is also generally charged with assessing trends in energy consumption and energy resources available to the state; reducing wasteful, unnecessary uses of energy; conducting research and development of alternative energy sources; and developing contingency plans to

deal with possible fuel or electrical energy shortages.

CEC consists of five commissioners appointed by the Governor to staggered five-year terms. One commissioner must be a public member. The remaining four are chosen for their experience in engineering, physical science, environmental protection, and administrative law, economics and natural resource management. Each commissioner has a special advisor and supporting staff. The current Commission staff numbers approximately 360.

The five divisions within the Energy Commission are: (1) Conservation; (2) Development, which studies alternative energy sources including geothermal, wind and solar energy; (3) Assessment, responsible for forecasting the state's energy needs; (4) Siting and Environmental, which does evaluative work in connection with the siting of power plants; and (5) Administrative Services.

## MAJOR PROJECTS:

*Energy Project Funding.* CEC will be funding advanced energy projects by private and public organizations through the Energy Technologies Advancement Program. The projects are intended to increase the energy efficiency of existing energy technologies, or help develop new, cost-efficient alternative sources of energy. The projects must include hardware development. Project proposals were due by January 20, with selected projects to receive funds beginning in June 1987.

## LEGISLATION:

*AB 98 (Bradley)*, introduced December 10, would appropriate \$50,000 from the Energy Program Account in the General Fund for a private independent study to evaluate whether CEC energy standards for new residential and non-residential buildings are cost-effective.

*AB 694 (Hauser)*, signed by the Governor, authorizes CEC to allocate funds to the Superintendent of Public Instruction to support vehicular air quality control and inspection instruction in required automobile driver education courses. Additionally, all training vehicles will be fitted with instrumentation providing information on fuel efficiency.

This law also creates the Ridesharing Vanpool Revolving Loan Fund, to be administered by the CEC. Further, the law repeals the requirement that CEC use funds in the Clean Coal Account for contracts for development and demonstration projects utilizing coal. The law also provides funds for school districts for air conditioning equipment for year-