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BEFORE THE CALIFORNIA HORSE RACING BOARD
OF THE STATE OF CALIFORNIA
ROBERT H. TOURTELOT, CHAIRMAN

In the Matter of:)
The Regular Meeting of the)
California Horse Racing Board)
_____)

TRANSCRIPT OF PROCEEDINGS
Arcadia, California
Thursday, January 25, 2001

Reported by:
CARRIANNE M. TRIGG,
CSR No. 11955
Job No.:
CHBE771

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OF THE STATE OF CALIFORNIA
ROBERT H. TOURTELOT, CHAIRMAN

In the Matter of:)
The Regular Meeting of the)
California Horse Racing Board)
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TRANSCRIPT OF PROCEEDINGS, taken
at 240 East Huntington Drive, Arcadia,
California, commencing at 10:15 a.m.,
on Thursday, January 25, 2001, heard before
ROBERT H. TOURELOT, Chairman,
reported by CARRIANNE M. TRIGG, CSR No. 11955,
a Certified Shorthand Reporter in and for
the State of California.

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01 APPEARANCES :

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02 CHAIRMAN :

Robert H. Tourtelot

02

03 MEMBER :

Sheryl L. Granzella

03

04 MEMBER :

John C. Harris

04

05 MEMBER :

Alan W. Landsburg

05

06 MEMBER :

Marie G. Moretti

06

07 EXECUTIVE DIRECTOR :

Roy C. Wood, Jr.

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08 DEPUTY ATTORNEY GENERAL

Tom Blake

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AGENDA ITEM NUMBER:

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1 - Approval of the minutes of the Regular meeting of December 1, 2000. 7

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2 - Discussion and action by the Board on the request of the Los Angeles County Fair to open their 2001 fair race meeting on September 7, 2001 and close the meeting on September 24, 2001 both requested dates are one day later than the Board's current allocation. 7

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3 - Discussion and action by the Board on the request of the Hollywood Park Racing Charities, Inc., to distribute charity race day proceeds in the amount of \$262,250 to 44 beneficiaries. 13

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4 - Public Hearing on the adoption by the Board on the proposed regulatory amendment of California Horse Racing Board Rule 1433, Application For License To Conduct A Horse Racing Meeting 14

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5 - Public Hearing on the adoption by the Board on the proposed regulatory amendment of California Horse Racing Board Rule 1632, Jockey's Riding Fee. 39

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6 - Staff reports on the following concluded race meets: 40

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A. Churchill Downs Fall Operating Company at Hollywood Park from November 8 through December 24, 2000

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B. Los Alamitos Quarter Horse Racing Association at Los Alamitos from April 14 through December 17, 2000.

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C. Capitol Racing LLC. at Cal-Expo from October 20 through December 15, 2000.

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D. Oak Tree Racing Association at Santa Anita from October 4 through November 6, 2000.

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7 - General business 44

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01 Arcadia, California, Thursday, January 25, 2001
02 10:15 a.m.

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05 MR. WOOD: Good morning, and good morning.

06 Welcome to the regularly scheduled meeting of
07 the California Horse Racing Board. This is a regular
08 meeting of the California Horse Racing Board on Thursday,
09 January the 25th, 2001. This is being conducted at the
10 Arcadia City Hall in Arcadia, California. And present at
11 today's meeting are Chairman Robert Tourtelot,
12 Commissioner Sheryl Granzella, Commissioner John Harris,
13 Commissioner Alan Landsburg, and Commissioner Marie Moretti.

14 Before we go on with the business of this
15 morning's meeting, I would respectfully request that if
16 you give testimony in front of the Board that you please
17 provide the court reporter with a business card and that
18 you'd please state your name for her and your organization
19 before you begin.

20 With that I'll turn it over to
21 Mr. Robert Tourtelot, Chairman of California Horse Racing
22 Board.

23 MR. TOURTELOT: Good morning. And welcome to the
24 January 2001 meeting of the California Horse Racing Board.
25 And I just have to observe, since I became Chairman
26 there's fewer people at the meeting. I don't know why
27 that is.

28

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01 The first item on the agenda is approval of
02 the minutes, the minutes of the regular meeting of
03 December 1st, 2000. I have a comment with respect to the
04 minutes.

05 On page 3, there's no number. The line --
06 there are no -- "Chairman Tourtelot -- this is with
07 respect to David Shell's request that the Board condition
08 its approval of Los Alamitos quarter horse application.
09 Upon the outcome of the proceeding before the
10 Administrative Law Judge -- and then it goes on and states
11 in these minutes, "Chairman Tourtelot stated he was
12 inclined to agree with Mr. Shell's request."
13 That is just the opposite. I stated that I was "not"
14 inclined to agree with that request. So I would like to
15 have that changed in the minutes.

16 MR. WOOD: So noted to change that to "not."

17 And also, Mr. Chairman, there is a
18 typographical error on page 11 about the Racing
19 Commissioners International. Where it says, "The
20 Association of Racing Officials," and that is "The
21 Association of Racing Commissioners."

22 MR. TOURTELOT: And other than that, anyone else,
23 to the commissioners, have any comments regarding the
24 minutes? Then the Chair will entertain a motion to
25 declare the minutes of the December 2000 meeting.

26 Don't all make a motion.

27 MS. MORETTI: I'm sorry. I hadn't gotten -- one of

28 the pages was missing.

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01 MR. LANDSBURG: Mine also was missing one page.

02 MR. TOURTELOT: What page? Maybe I am also.

03 MR. LANDSBURG: Page 13. So I'm just -- I read
04 them before but I had --

05 MR. TOURTELOT: I have page 13.

06 MR. LANDSBURG: Now, I have it in this book. But I
07 didn't have it in my packet.

08 MR. Tourtelot: That is about the settlement --

09 MR. LANDSBURG: Yeah. Right.

10 MR. TOURTELOT: Somewhat of an important page.

11 MR. LANDSBURG: Yes. Let's go ahead, Robert.

12 MS. MORETTI: If you could --

13 MR. Tourtelot: Are you making a motion?

14 MS. MORETTI: Motion. Mr. LANDSBURG: Second.

15 MR. TOURTELOT: All in favor?

16 MS. MORETTI: Aye.

17 MR. LANDSBURG: Aye.

18 MS. GRANZELLA: Aye.

19 MR. TOURTELOT: Minutes are approved with the noted
20 change.

21 And the next item in the agenda is the
22 discussion and action by the Board on the request of the
23 Los Angeles County Fair to open their 2001 fair racing
24 meeting on September 7th, 2001 and close the meeting on
25 September 24, 2001. Both requested dates are one day
26 later than the Board's current allocation.

27 MR. REAGAN: Good morning, Commissioners.

28 John Reagan, R-e-a-g-a-n, C.H.R.B. staff. As
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01 noted by the Chairman, we are simply moving this meet one
02 day over in the calendar, both the starting and ending
03 day. Oak Tree Racing, which immediately follows that
04 meet, is not going to object; so they tell me. And with
05 that in mind we recommend approval.

06 MR. TOURTELOT: So it's noted then, to staff, there
07 is no increase in the dates.

08 MR. REAGAN: Same.

09 MR. TOURTELOT: It's just moving one day forward.

10 MR. REAGAN: Same number of dates.

11 MR. HARRIS: Will there be the live fair running on
12 that final date at Pomona?

13 MR. REAGAN: I believe Mr. O'Dwyer is here. He may
14 want to address that and other questions you have.
15 Mr. O'Dwyer.

16 MR. O'DWYER: The majority of the fair activities
17 will end on Sunday night. There will be some activities
18 on Monday, but a small amount.

19 MR. HARRIS: Well, you'll be racing on Monday.

20 MR. O'DWYER: We will be racing on Monday but there
21 will be some other fair activities, such as kind of fire
22 sales going on.

23 MR. HARRIS: Is that like -- Did you do the same
24 thing this year or last year where you didn't have -- you
25 had racing but really the majority of the fair was not
26 running?

27 MR. O'DWYER: No, our fair ended last year on
28 Sunday and so did racing. The reason we are requesting
0009
01 this is, initially we were to open on the 13th. But Oak
02 Tree requested that they be allowed to open a week earlier
03 because of Breeder's Cup being a week earlier.
04 And State Fair closes Monday night in
05 Sacramento. It's an extremely difficult move for the fair
06 vendors to move to Pomona and be ready to open on Thursday
07 morning. Which is why we are requesting -- we want to
08 open the fair on Friday rather than Thursday. And it
09 would be impossible to open racing on Thursday while the
10 fair is being set up.
11 MR. HARRIS: So the majority of your fair will
12 actually run fewer days this year than last year?
13 MR. O'DWYER: That is correct, one day less.
14 MR. TOURTELOT: The racing days are the same.
15 MR. HARRIS: It seems counter to me where we've got
16 a surge with too much racing, really increase. You know,
17 in a way you are leaving the same dates but you are
18 increasing the gap. And it just seems like a day that
19 wouldn't really accomplish all that much.
20 MR. TOURTELOT: Well, you're concerned about the
21 gap going from Santa Anita to the fair?
22 MR. HARRIS: Yeah. Because really, where I'm
23 concerned -- as I understand it you race consecutively
24 when you do open on September 7th. There's -- how many
25 consecutive race days are there until you close?
26 MR. O'DWYER: 18.
27 MR. HARRIS: So you've got 18 days and a one-day
28 gap and then you've got a five-day week. So really you've
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01 got like 23 days of racing out of 24 days.
02 MR. O'DWYER: On the current calendar we would
03 still race 18 consecutive days with no gap between the
04 closing of Del Mar and our opening.
05 MR. TOURTELOT: Well, they are going to have the
06 racing, regardless. This isn't going to affect that.
07 MR. HARRIS: You would -- if the Board didn't go
08 along with you here, you would still race 18.
09 MR. TOURTELOT: You would still have 18 days of racing.
10 MR. O'DWYER: If the Board didn't go along we would
11 revert back to what we are approved to do right now.
12 MR. TOURTELOT: Thank you. Any other comments from
13 the commissioners, questions?
14 MR. LANDSBURG: Just ask Santa Anita if they don't
15 think the one day is enough to get the horses up from
16 Pomona.
17 MR. TOURTELOT: We will. He's already said that
18 Santa Anita approved, Oak Tree did.
19 MR. CHILLINGWORTH: Sherwood Chillingworth, Oak
20 Tree Racing. It's Oak Tree not Santa Anita.
21 MR. TOURTELOT: Yes, Oak Tree.
22 MR. CHILLINGWORTH: Thank you.
23 We've discussed this issue and it impacts us
24 a minor amount. We don't usually have the same inventory
25 of horses that they do; so it's not significant. And for

26 the good of the industry we are happy to permit this to
27 happen.

28 MR. LANDSBURG: I just wondered -- my real question
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01 was, do the trainers have enough time to ship their horses
02 up?

03 MR. CHILLINGWORTH: The trainers that train at
04 Pomona usually stay at Pomona. They don't -- and they
05 keep their horses over there. So it really doesn't affect
06 the operation of the racetrack or moving horses or
07 anything like that.

08 MR. TOURTELOT: It's really essentially a different
09 population.

10 MR. CHILLINGWORTH: That is what I'm trying to say.
11 They're less expensive horses.

12 MR. TOURTELOT: You are trying to be nice to
13 Pomona.

14 MR. CHILLINGWORTH: Right. Right.

15 MR. HARRIS: Do you feel, though, that
16 effectively -- that your horse entries at Oak Tree are
17 impacted by all these consecutive days of racing leading
18 up to your meet, or do you feel that really is not going
19 to be a problem?

20 MR. CHILLINGWORTH: Well, you know in the world of
21 what you really want you maybe want a four-day gap or
22 something like that. But in the case of Pomona, I think
23 the type of horses that race there are not part of our
24 normal inventory. So the impact on us is less than it
25 would be on some other racetrack.

26 MR. TOURTELOT: Now, if you're going to Hollywood
27 Park it would be the same trainers, same horses, whatever.

28 MR. CHILLINGWORTH: I mean, if you were going from
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01 the fair to Bay Meadows, for example, that would be a
02 different story.

03 MR. TOURTELOT: That would be a real different
04 story with a lot further to go.

05 MR. CHILLINGWORTH: I'm talking about the type of
06 racing.

07 MR. TOURTELOT: Pomona to --

08 MR. CHILLINGWORTH: I don't mean to denigrate my
09 friend.

10 MR. TOURTELOT: Anyway, any other questions from
11 the Commissioners?

12 Then the Board will entertain a motion to
13 approve Item 2.

14 MR. LANDSBURG: So move.

15 MS. GRANZELLA: Second.

16 MR. TOURTELOT: All for.

17 MR. TOURTELOT: All right --

18 MR. HARRIS: I voted. I can see the logic of doing
19 it. But just as a concern that we've just got too many
20 consecutive days of racing in this sector that I would
21 just like to go on record saying, no.

22 MR. TOURTELOT: Okay. But for the record this is
23 not going to change the number of days of racing, just the
24 gap in between, regardless. Whether you approve it or

25 not, they are still going to race 18 consecutive days in
26 Pomona. That is what the -- you understand?
27 MR. HARRIS: Yeah.
28 MR. TOURTELOT: That is what the race committee
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01 approved last year. So we will note your -- do you
02 abstain or vote no?
03 MR. HARRIS: I'll abstain.
04 MR. TOURTELOT: All right.
05 Item Number 3. Discussion and action by the
06 Board on the request of the Hollywood Park Racing
07 Charities, Inc., to distribute charity race day proceeds
08 in the amount of 262,250 to 44 beneficiaries.
09 MR. REAGAN: Commissioners this request is in
10 order. And we find that almost 50 percent, actually 47
11 percent of the dollars will go to racing relief charities.
12 And we find that acceptable and hope you will approve.
13 MR. TOURTELOT: We find it more than acceptable. And 47
14 is getting towards 50 percent which the legislature only
15 requires 20.
16 MR. REAGAN: 20.
17 MR. TOURTELOT: 20 percent. So this is great.
18 This what we've been asking for. A model for every other
19 track.
20 Any comments questions from the
21 commissioners?
22 MS. GRANZELLA: I was just pleased to see it was 47
23 percent of the racing share. I'll move.
24 MS. MORETTI: Second.
25 MR. TOURTELOT: All in favor.
26 MS. GRANZELLA: Aye.
27 MR. LANDSBURG: Aye.
28 MS. MORETTI: Aye.
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01 MR. TOURTELOT: Number 3 is approved.
02 Next. Item 4, Public hearing on the adoption
03 by the Board on the proposed regulatory amendment of
04 California Horse Racing Board Rule 1433, Application For
05 License To Conduct A Horse Racing Meeting.
06 Put in there on the agenda whose application
07 it is. Now, this is just the rule. This is the rule
08 change where they are required to affirm that there's no
09 violations on the backtrack?
10 MR. TOURTELOT: That's it.
11 MS. WAGNER: Jackie Wagner, C.H.R.B. staff.
12 C.H.R.B. Board Rule 1433, the Application For License To
13 Conduct a Horse Racing Meeting. As you know, provides
14 that associations and fairs that intend to conduct a horse
15 racing meeting file an application at least 90 days prior
16 to the proposed meeting.
17 In response to several statutory changes and
18 in an effort to eliminate redundant words and phrases and
19 to reorder the application, the application has been
20 revised. Specifically, we've also added a section to --
21 that will require the backstretch employee housing to be
22 addressed. And a requirement for annual inspections of the
23 housing.

24 At the last meeting that we had, staff was
25 instructed to change that proposed amendment to require
26 that applicants provide written certification that the
27 inspections have been conducted and to certify that they
28 were aware of no known violations of the local housing

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01 ordinances.

02 In your packet we have done that. If -- and
03 that is reflected on Exhibit 4-C, which is a clean copy of
04 the application. And that particular section is addressed
05 in Section 15. 15 and we have changed the language.

06 MR. TOURTELOT: 14.

07 MS. WAGNER: We have changed -- I'm sorry.

08 MR. TOURTELOT: Section 14.

09 MS. WAGNER: On the application for the
10 associations it's going to be on Section 15. There are
11 two applications in your package, Commissioners, and they
12 essentially say the same thing. We have an application
13 which is a 17, that is the application that the
14 associations file and a C.H.R.B. 18, which is the
15 application that the fairs file.

16 The backstretch section that I'm referring to
17 is in your package on -- in Exhibit 4-C, Section 15.

18 MR. LANDSBURG: Jackie, if I may.

19 It seems to me that it's a very short
20 sentence in there of obligation. And I think it's
21 important for the Board to know how many rooms are being
22 used as part of this application. How many rooms are
23 being used, how many are suggested as domicile and what
24 their conditions are, should be a part of our concern.

25 MR. HARRIS: I'm not clear either if this --
26 basically where we delegate this responsibility to someone
27 else and we look at their report or there is some kind of
28 a process, that C.H.R.B. is doing or what.

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01 MS. WAGNER: Right. If I may. Item 4-F, which is
02 the exhibit in your package. The application itself, the
03 language says -- asks the associations to:

04 "Attach a written certification
05 that an inspection of the backstretch
06 employee housing has been conducted by
07 the lead agency designated by the C.H.R.B.
08 and the application is aware of no known
09 violations of the local housing ordinances."

10 Exhibit 4-F will be the certification that
11 the applicant will have to complete and attach to the
12 application. That certification states that on behalf of
13 the association they are certifying that the backstretch
14 has been inspected in accordance with the requirements for
15 the license application. They are to complete this
16 section that indicates the findings. They will -- the
17 findings are either Section A, that the inspection was
18 completed and certified by the housing agency. They will
19 be required to attach a copy of that report to this
20 certification.

21 If, indeed, the inspection has been completed
22 and there are noted violations in that inspection we will

23 -- those will be noted also. A copy of the report will
24 have to be attached. And the certification will have to
25 indicate the date that the re-inspection will be done and
26 that the corrections are indeed taken care of. That
27 certification will have to be signed and dated by the
28 appropriate persons representing the association.

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01 MR. TOURTELOT: John, I was the one that asked for
02 the application to include a certification with respect to
03 the backstretch housing -- a minor fact that was
04 overlooked by the L.A. Times. But I don't want to see it
05 any more complicated than it is. I think this Item 4-F
06 certainly satisfies my concern that when we approve an
07 application that we are assured to the extent that under
08 penalty of perjury they have certified that the
09 backstretch has been inspected and there are no
10 infractions or violations.

11 I think we have the duty to ascertain that
12 before we approve an application. And that is why -- that
13 is the genesis of Item 4-F.

14 MR. HARRIS: My concern is the practicality of
15 inspecting backstretch facilities. If you delegate that
16 to a municipality, like, City of Albany or City of Del Mar
17 or somebody, are they really familiar with what is needed
18 on the backstretch or are they more into house and things
19 like that? But do they have the wherewithal to really
20 have a form that applies to more dormitory-type housing?

21 MR. MINAMI: Roy Minami, Horse Racing Board Staff.

22 To answer your question, last year when the
23 racetracks were inspected at the -- for their tack rooms.
24 The inspections were generally conducted by the local
25 housing agency. There was only one track that was
26 inspected by the Horse Racing Board Staff, and that was
27 Del Mar. But typically for the local -- for the various
28 racetracks, the local agency or housing agencies were the

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01 ones who actually conducted the inspections on the tack
02 rooms.

03 So the Horse Racing Board really isn't --
04 hasn't been equipped to conduct the inspections. We've
05 generally left it to the local agencies who have taken
06 that jurisdiction.

07 MR. HARRIS: Do we have any examples of the type of
08 forms they have? It seems like we're kind of flying blind
09 a little bit as far as what the adequacy of those
10 inspections, which is pretty key.

11 These types of facilities aren't the typical
12 facility that you find in a city. They are basically
13 sleeping rooms and restrooms and things like that. They
14 are a little different than just a house or something.
15 That's why I'm saying I would sure like to see what the
16 form looks like rather than saying that a city someplace
17 has got a form.

18 MR. MINAMI: The local agency's inspections are
19 based upon the Uniform Building Codes, which is the state
20 Uniform Building Code; and they are generally customized
21 to their own local jurisdiction. The form that I have

22 received from the Los Angeles County Housing Department
23 basically was based on the Uniform Building Codes and does
24 contain the various categories of sleeping rooms, whether
25 it's a sleeping room, a guest room, apartment. And when
26 they conducted their inspections they did consider the
27 tack rooms as something different, than say for a motel or
28 a hotel room.

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01 And the staff has also created a checklist
02 and housing guidelines that we would use internally when
03 we did some follow-up inspections at the racetracks. And
04 those also are customized to the various racetracks and
05 how the track rooms are used as sleeping rooms, and are
06 also generally based upon the Uniform Building Codes.

07 MR. BLAKE: I might point out that the localities
08 retain the jurisdictions to decide their own building
09 codes. They are given the model building code and are
10 encouraged to adopt it, but they need not.

11 And this body is a state entity. We are
12 welcome to impose its own standards statewide where
13 localities may have chosen differently for their
14 individual cities or counties.

15 MR. HARRIS: I don't have a problem with the
16 individual building codes as far as height of ceilings or
17 number of outlets. But I think we need to look at some
18 nexus to the adequacies of facilities as far as how many
19 restroom facilities there are, and how close they are to
20 the sleeping facilities, and are the ratios right and
21 things like that. There could be a different Code but not
22 enough of whatever you need.

23 MR. BLAKE: The difficulty -- if we go into this
24 kind of area, we end up usurping local positions as to
25 what their standards may be. The localities may regulate
26 foreman horse racing venue. They may regulate other kinds
27 of agriculture or other housing, that it may be a
28 difficult area to get into regularly.

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01 MR. WOOD: Just to follow up on Commissioner
02 Lansburg's request that we include the listing of the
03 number of sleeping rooms on this application.

04 While there is no requirement in the law that
05 the State's requirement that a certain number of sleeping
06 rooms and/or restrooms be available at the backside of the
07 racetrack, it would be good information for the Board to
08 know what the conditions of the number of rooms are and
09 restrooms are. And that, if I'm not mistaken, it can be
10 added here, since we have the 45-day notice, that -- we
11 would like to add this addendum to this request.

12 MR. BLAKE: It would certainly be appropriate for
13 the staff to gather that information.

14 And if it raised concerns with the panel
15 then.

16 MR. WOOD: One thing --

17 MR. BLAKE: There is another issue, if I may
18 mention. The paragraph 15 requires certification that,
19 "the applicant is not aware of any known violations," and
20 that is not addressed in Attachment F. We might want to

21 add a paragraph to that so that the applicant certifies
22 under penalty of perjury that they have no actual
23 knowledge of violations, whether or not they are listed in
24 the appropriate reports.

25 MR. WOOD: Section 17, "Certification of the
26 Application," certifies under penalty of perjury signature
27 requirement.

28 MR. TOURTELOT: Under this section each person who
0021 submits that application has to certify under penalty of
01 perjury that that application contains truthful
02 information.
03

04 MR. BLAKE: That's true. That is not in the
05 intention there, but that would cover that.

06 MR. HARRIS: One of the problems is just the
07 ongoing maintenance, that any point in time a facility
08 might meet the standards, but there needs to be a plan of
09 how you're going to maintain the different parts of it.

10 Is that addressed at all as far as a plan of
11 what janitorial services that are going to be provided or
12 anything like that?

13 MR. MINAMI: We don't -- at this time we don't have
14 any specific requirements. But last year when I conducted
15 inspections with the local housing departments at the
16 various racetracks. Each racetrack or association has
17 their own schedule of maintenance for the restrooms, the
18 showers, the tack rooms where individuals live in. They
19 maintain their own by the occupants, but each racetrack
20 had their own schedule or maintenance schedule on cleaning
21 the restrooms and showers; and from my understanding some
22 of it was anywhere from 3 to 5 times a day.

23 MR. HARRIS: I mean, is there any part of the
24 Racing Board that is monitoring that? Is there any type
25 of follow-up, oversight that the Board has on the adequacy
26 of those standards?

27 MR. MINAMI: Yes, there is. Last year after the --
28 during the inspections by the local county Housing

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01 Department, I accompanied each local Housing Department on
02 their inspection and also conducted follow-up inspections
03 of our own, independent of the local housing agency. And
04 also on our follow-up inspections, we used as a basis, the
05 local housing department report as well as our own
06 guideline that we had created to follow up and insure that
07 the backside of the showers and restrooms are properly
08 maintained.

09 MR. HARRIS: How often does that occur, though? Is
10 that something you did personally one time, or is this
11 something that -- is somebody assigned to continue to
12 review or what?

13 MR. MINAMI: Well, last year was the first year.
14 And so I, personally, accompanied the housing inspectors
15 on their initial inspection. I also accompanied them at
16 least a second time on their follow-up inspection, and in
17 some cases a third time. But there wasn't -- at this time
18 there wasn't -- at that time there wasn't any scheduled
19 follow-up visit that I had made on a regular basis.

20 MR. WOOD: One of the things that the staff has
21 considered and talked about doing is making the follow-up
22 inspections a part of our normal track safety inspections.
23 And we met yesterday with the associate stewards who are
24 assigned to each track and brought that follow-up
25 inspection format to their attention. And I believe
26 Mr. Minami will be called upon this year with the housing
27 authority locals to do the inspections. And we will make
28 yearly inspections as part of our track safety

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01 inspections. And we will do 90 days before each track
02 begins it's operations. I think that is the follow-up we
03 had talked about.

04 MR. HARRIS: My concern is there needs to be -- I
05 have been on the backside of these, and I mean a lot of
06 times they're perfect. They are fine, but numerous times
07 they are not. And I don't think we want to make all our
08 C.H.R.B. staff bathroom monitors on a daily basis, but
09 there needs to be some kind of oversight more than just
10 once a year. It seems to me that we need to approve of
11 somebody in the back that we know that is good because
12 otherwise the industry -- so it's just common sense.

13 MR. MINAMI: Well, we will be conducting our own
14 inspections with or without the local housing agency. And
15 that would include a pre-meet inspection as well as at
16 least one or two follow-up inspections during the meet
17 itself.

18 MR. HARRIS: I think one or two nights would not be
19 sufficient.

20 MR. WOOD: In addition, Commissioner Harris, I
21 think we need to also look at the racetrack who continue
22 to do their own monitoring of the conditions -- that they
23 monitor also as far as how many days and how many visits
24 are made to the restrooms and how to maintain the
25 facilities they have to take the responsibilities also to
26 do that on a monthly basis or even weekly and daily, in
27 some cases.

28 MR. TOURTELOT: Well, John, I think your concern is
0024

01 well placed. With respect to the application, I don't
02 think we can really solve that. That is kind of a freight
03 issue. The staff has worked really hard on this to make
04 it conform were the -- I think it's limited liability.
05 The limited liability act of '94. There is a lot of
06 historic provisions in here that no longer really apply.
07 And they have worked really hard on that. And I would
08 like to see if moved forward.

09 It would be another 45-day notice period; is
10 that correct?

11 MS. WAGNER: That's correct -- to incorporate the
12 changes that we have just discussed and also to
13 incorporate the changes that we made at today's meeting.
14 We will add a section on the application for the applicant
15 to indicate how many sleeping rooms are being used and how
16 many restrooms.

17 MR. TOURTELOT: With all due respect, Alan, I don't
18 understand if there is any good reason why we need to have

19 that.

20 MR. LANDSBURG: Well, who is the application of the
21 backstretch using it? And are there clearly enough rooms
22 for it? That is what I think we should be concerned with.
23 We are not forcing people into uninhabitable living
24 conditions. And I think that one of the notifications is
25 one of the rooms available and the number of rooms that
26 are being used as sleeping rooms. It just gives us a
27 background in case there is any question about the way in
28 which we are monitoring the process.

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01 MR. TOURTELOT: Again, I think that you know the
02 situation developed where they were violating the law
03 because of putting too many people into a room they
04 would --

05 MR. LANDSBURG: You are not going to know it unless
06 you have some background on it. And that's what I was
07 hoping for.

08 MR. TOURTELOT: Okay. Well, I don't have a problem
09 with it.

10 I have one question with respect to paragraph
11 15 on page 13. It is with respect to the written
12 certification regarding the inspection of the backstretch.
13 And it states that: "The Applicant is aware of no known
14 violations of local housing ordinances." I would like
15 that to read, "is not aware of any violation."

16 MS. WAGNER: Is "not aware" of any violations?

17 MR. TOURTELOT: Rather than being aware of
18 something that isn't there.

19 MS. WAGNER: Okay.

20 MR. TOURTELOT: "Is not aware" of any violations of
21 local housing ordinances.

22 MS. WAGNER: I'll make that change.

23 MR. BLAKE: I might suggest, Mr. Chairman, that we
24 can write that language right onto the certification that
25 they actually complete.

26 MR. TOURTELOT: I agree. Your comment was my
27 second point; that I don't think 4-F says what it's
28 suppose to say in terms of the following -- 15 --

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01 paragraph 15. Right. I mean they are not aware of any
02 known violations.

03 MS. WAGNER: So I will add that language also to
04 4-F which is the certification form.

05 MR. TOURTELOT: You got it.

06 All right. With that, the Chair will
07 entertain a motion to approve --

08 MR. HARRIS: I have a couple other things.

09 Do we have time to make changes --

10 MS. WAGNER: Yes, we do.

11 MR. HARRIS: -- over this at this period in time,
12 or does it need to be done at this meeting?

13 MS. WAGNER: Yes, in order for us to go back and
14 proceed with the 45-day notice we would need to know those
15 changes now. If you would like to make additional changes
16 we can come back. But in order to move forward,
17 immediately after this meeting --

18 MR. HARRIS: Maybe the other representatives might
19 have similar things. But a couple of things -- in the
20 purse program you talked about the purse distribution for
21 overnight races. It should clarify overnight races that
22 include overnight stakes or not.

23 And under the estimated funds to be generated
24 for all breeder's awards -- the way the system works now,
25 that should be all California breed incentive awards
26 because they really go all in one pool. So that needs
27 some rewording.

28 MS. WAGNER: I'm sorry. You are talking about
0027

01 subsection C, under the purse program. It now reads:
02 "Estimated funds to be generated for all breeder's
03 awards." And you would like to see the language read?

04 MR. HARRIS: All California breed incentive awards.

05 MS. WAGNER: All California incentive awards.

06 MR. HARRIS: And if you do that, then you can
07 basically eliminate D that is part of it. Also the -- I
08 wonder now that there are really three different
09 categories of generation of purse funds. There is
10 "on-track" and "on-track handle" and "off-track handle."
11 It probably should say "on-track" and "intrastate at the
12 off-track handle" and "intrastate off-track handle," to
13 try and at least clarify that a little bit.

14 Also, I was wondering what the need was to
15 list every race that the track wishes to bring in. That
16 probably was in there when we weren't even the committee.
17 But it seems like that is a pretty cumbersome provision.
18 And I wondered if any thought had gone into how many they
19 can bring in and some agreement that the Horse Racing
20 Association and the track, you know, work out as far as
21 what those are.

22 But all this listing of races seems a little
23 cumbersome to me.

24 MS. WAGNER: I believe that you are giving us that
25 information now. What we have put on the application is a
26 form to make it consistent because we are receiving that
27 information. Today, if an application were to be filed,
28 we would get that information.

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01 If you would like to see it in a different
02 format, we could certainly do that. This is not written
03 in stone at this point.

04 MR. TOURTELOT: I don't think -- if our concern is
05 cumbersome a different format is still cumbersome.

06 MR. HARRIS: I don't know if that really is, in
07 fact what happens. I don't think that -- did we ever go
08 back and see if those are the races that came in?

09 MS. WAGNER: You're right. Sometimes when the
10 application initially comes before the Board, we don't
11 have that information, but that information is indeed
12 supplied to us.

13 MR. HARRIS: Does the Board really need to know
14 that they are going to import the Idaho Derby versus the
15 Oregon Derby or something. What is our -- really sort of
16 idea? Are we using paperwork, do we really need to know

17 all of these various races coming in or is that something
18 that really should be left to the purview of other people.

19 MR. LANDSBURG: Isn't all of this information in
20 terms of purses and kinds of races contained in the
21 negotiate settlement -- negotiation between horseman and
22 the Racing Association. And is that agreement, kind of
23 agreement, the Purse Agreement, to be appended to this
24 report, you have all the information you need.

25 MR. HARRIS: Yeah, that would be better.

26 MR. TOURTELOT: Now, seven-and-a-half years I've
27 been on the Board they have always put that in there. And
28 I have never had a clue why it's in there.

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01 MS. WAGNER: Well, this is the time if we want to
02 eliminate that.

03 MR. HARRIS: Well, I think there is some concern --
04 there are some legalities as to how many races tracks can
05 bring in and things like that. That's really covered by
06 racing law anyway. But it seems to be that there is a lot
07 of paperwork being created here that no one really follows
08 up on anyway, or are we making the world a better place by
09 doing all this?

10 MR. TOURTELOT: Unless someone can tell us why it
11 should be in there, I don't have a clue. I mean, it was
12 in the applications when I came on the Board. And I'm
13 sure it's been in there a long time. And I think your
14 point is very well taken, John. I don't have any idea why
15 we have it in there. Why do we make the -- why should it
16 be in there?

17 MR. LANDSBURG: If we had the purse agreement, we
18 would have it all anyway.

19 MR. HARRIS: I think if the Board had that purse
20 agreement there is some sign off by the parties that that
21 problem -- is that the problem?

22 MR. LANDSBURG: I have one other point,
23 Mr. Chairman.

24 MR. TOURTELOT: Sure. Go ahead.

25 MR. LANDSBURG: On Item 4, C-9, page 3. There is
26 an indication that if a hundred percent of the shares are
27 held by a parent corporation, I would, for the sake of
28 that emergency when the roof falls in on a racetrack --

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01 couldn't we make that 51 percent of the shares so that we
02 would have a sense of the liability of an overview
03 corporation?

04 MR. TOURTELOT: Where is that, Alan?

05 MR. LANDSBURG: 4, C-9, page 3 of the Association
06 Agreement, Applicant Association Agreement.

07 MR. BLAKE: You can ask for that.

08 MR. TOURTELOT: 4, C-9.

09 MR. LANDSBURG: Racing Association.

10 MS. WAGNER: Top of page 3.

11 MR. LANDSBURG: I have it on page 3.

12 MR. TOURTELOT: Two different applications.

13 MS. WAGNER: Page 3. 1, 2, 3, the third paragraph
14 down.

15 MR. TOURTELOT: I'm looking at the old one.

16 MS. WAGNER: Look at the new one.
17 MR. TOURTELOT: I'm looking at the one with --
18 MR. BLAKE: These applications are a request by the
19 Board for information that it considers in approving or
20 disapproving applications. So you can ask for the
21 information that you like.
22 MS. MORETTI: You are asking that to be what?
23 MR. LANDSBURG: To 51 percent which would then
24 indicate a controlling --
25 MR. TOURTELOT: More than 51, more than 50 percent.
26 MR. LANDSBURG: Fine. More than 50 percent. If
27 it's 51 then you.
28 MR. HARRIS: I don't know that that would insure
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01 that we would share the liability, if there is an L.L.C.,
02 anyway.
03 MR. BLAKE: May or may not. You may want to know
04 who the controlling parties are. I would suggest language
05 like, "if more than 50 percent," something like that.
06 MR. TOURTELOT: I'm not going to charge for that
07 advice.
08 Any other comments or questions from the
09 commissioners?
10 Any questions from the audience?
11 Peter, do you have something you want to say?
12 MR. TUNNEY: Peter Tunney, representing Golden Gate
13 Fields.
14 And I wanted to congratulate the staff on the
15 hard work that they are doing on this. And it looks like
16 they will be doing even more.
17 Back to the restroom monitors. When this
18 came up -- and Commissioner Harris makes a good point --
19 when this came up last year and we were doing the reviews,
20 I contacted the City of Berkley who is the housing
21 authority or who is the authority in which our stabler is
22 housed. And they indicated that they didn't want anything
23 to do with it. So it may be difficult to get those
24 approvals from the local housing.
25 I'm guessing that when Roy Minami was there
26 last year, that it was the City or County of Alameda that
27 may have had somebody represented in it. But the
28 jurisdiction in our place is with the City of Berkley. So
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01 I think the affidavit that is on there and the penalty of
02 perjury that the association assigns -- but I think the
03 point that you were making early, Mr. Chairman, about the
04 -- or Roy was as well -- about the associate steward
05 making those along with the safety reviews is a good
06 thought because it's going to have to be an ongoing task.
07 Thank you.
08 MR. MINAMI: Roy Minami, Horse Racing Board Staff.
09 I believe that the intent that we had behind
10 this was that if a racetrack was not inspected by a local
11 housing agency, than the Horse Racing Board would probably
12 take the lead in conducting that inspection. It's the
13 same situation that we did at Del Mar last year.
14 MR. TOURTELOT: On D-7, which is on page 3, you

15 also would want to change that.

16 MS. WAGNER: To more than 50 percent.

17 MR. TOURTELOT: Consistent with the other comments.

18 MS. WAGNER: Okay.

19 MR. TOURTELOT: D-7, change that also.

20 MR. HARRIS: That certification of inspection maybe
21 should be reworded to be a little broader than local. My
22 concern is that something like the City of Berkley might
23 say that, "Look, we don't think people should be there
24 period. And we are not going to allow anybody there." We
25 need some kind of rationality of inspection that doesn't
26 necessarily depend on the city.

27 MR. TOURTELOT: Well, what you are saying is, if
28 the city should shirk the duty and didn't want to inspect
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01 and you have no protection that with this certification,
02 that the housing conditions are up to par?

03 MR. HARRIS: Yeah.

04 MR. TOURTELOT: That's what you're saying. That's
05 a good point.

06 MR. WOOD: I think, to elevate that concern. We
07 could add Block C, saying that the inspection was
08 conducted by the Horse Racing Board or the county or city
09 inspection in lieu of that.

10 MR. FRAVEL: Mr. Chairman, Craig Fravel, Del Mar
11 Race Track.

12 I would certainly encourage that kind of
13 change. I think there are a lot of gray areas in the
14 regulatory scheme that applies to these situations. For
15 example, at Del Mar we are located on state property.
16 It's not clear that any local housing authority has any
17 jurisdiction over that property. On the other hand, last
18 year when The Racing Board staff conducted an inspection,
19 it was a very positive experience for us, both in terms of
20 making sure that we had some guidelines at least to apply
21 because it's also not clear exactly what the actual
22 guidelines are.

23 If you take a track like Del Mar, for
24 example, and you read local housing ordinances they might
25 say we have to have heating. Well, I mean, we operate for
26 seven weeks in the warmest time of the year in San Diego.
27 And the requirement for heating, which a local housing
28 authority might not issue a certification because of the

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01 lack of heating, which has really nothing to do with
02 anything at Del Mar in the summertime.

03 But the Racing Board staff did the
04 inspection. And candidly, when the press asked a question
05 about our housing we were happy that we had had an
06 official inspection, that it applied both to what we
07 thought were the applicable housing standards or at least
08 as close as anybody could fine.

09 But I think requiring an annual certification
10 by another agency that has no mandate to, that is
11 difficult. I think if the application requested the date
12 of last inspection, who the inspecting authority was. And
13 in the lack of that, if The Horse Racing Board had

14 conducted one it would accomplish exactly what you are
15 looking for. And we could certify under penalty of
16 perjury that we were not aware of any violations.

17 Thank you.

18 MR. TOURTELOT: Thank you.

19 MR. HALPERN: Ed Halpern, representing the
20 California Thoroughbred Trainers.

21 Mr. Chairman, it has been suggested to me
22 that it might be helpful to the Board, possibly to the
23 applicants, and probably to the public, to add a paragraph
24 or question that indicated that if an application had been
25 filed for a previous meet, that since that meet how much
26 had been spent on, and what improvements had been made to
27 the facility and the backstretch.

28 Just a suggestion for your consideration.

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01 MR. TOURTELOT: 45-day comment period. Explain to
02 the audience and the Commissioners, does that allow
03 everybody to come forward through that period and suggest
04 additional comments?

05 MS. WAGNER: Exactly. The 45-day comment period.
06 What will go to notice will be what we have discussed
07 here, what the Board instructs me to do. During that
08 period the public has 45 days to write comments on what we
09 are proposing. If we do, indeed, receive those comments,
10 staff will evaluate those comments, and then some
11 decisions will have to be made as to whether we want to
12 incorporate those comments into the application or whether
13 we want to dismiss them. If indeed we do incorporate the
14 comments, then we will have to go out for at least another
15 15 days.

16 MR. TOURTELOT: That's what I thought. If we change
17 what we are proposing now, during the 45 days the public
18 comments are incorporated, do we not have to put that out
19 again for public comment?

20 MS. WAGNER: That's correct. We would.

21 MR. TOURTELOT: Just for 15 days. So everybody
22 understand, you have this opportunity to contact the --
23 Jackie or the Board or Roy or anybody and make suggestions
24 with respect to Item Number 4 and have 45 days. Don't
25 wait until the last date. But you have time to do it. We
26 don't need to go through this all now.

27 MS. WAGNER: No.

28 At this point I would just need to have a --

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01 entertain a motion for us to go ahead and notice it for 45
02 days.

03 MR. TOURTELOT: I started to entertain a motion to
04 Item 4, which would then have the amended application for
05 45-day public comment period.

06 MR. HARRIS: Just a point of clarification. So the
07 amended one would include things we have discussed thus
08 far, but not anything else people might think of. So if
09 there is anything else that people know right now, it
10 would be good to get that out.

11 MS. WAGNER: It would be.

12 MR. WOOD: Mr. Chairman, it would be good for

13 substantial changes that people have, to talk about now
14 and address them at this point on the application before
15 you. Because if we come back and they have substantial
16 changes we may have to start the process over again, which
17 means 45 days and not 15. So that's why it's good to have
18 those requests for substantial change today in lieu of
19 trying to make some minor adjustments --

20 MR. TOURTELOT: Now, I wasn't trying to muscle
21 anyone. I was trying to move it a long, you know. And if
22 people have any further comments they are certainly
23 welcome to make them.

24 MR. HARRIS: In the stable accommodations at page
25 5, and 6, we had a discussion at the last meeting about
26 the meaning of those statements, number of usable stalls
27 available for race horses at the track and the number of
28 stalls necessary for the meeting. And the racing

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01 associations didn't seem to quite understand what the
02 meanings of those were. But if the racing associations
03 feel that those are not really properly stated they might
04 want to look at restating them.

05 MR. TOURTELOT: Any other comments?

06 MR. FRAVEL: Craig Fravel, Del Mar, again.

07 With respect to the listing of simulcast
08 influence. I believe the reason that's historically been
09 included in the application is because there's a
10 requirement in the Interstate Horse Racing Act that both
11 the sending and receiving racing commission states give
12 their approval to this exchange of simulcast.

13 But including that in the application 90 days
14 out is actually a little bit misleading. Although we
15 generally notify the Board of any changes as we go along,
16 I think of some form of approval, as Commissioner Harris
17 has suggested, of a certain number of imports with
18 whatever the source with a weekly notification during your
19 meet. Because those literally change with 48 hours notice
20 right up to the time that you issue the final print order
21 for your program. The Racing Board staff is always
22 informed of those, but it may not bear much relationship
23 to something filed 90 days before. So I would suggest you
24 take it out of there and simply allow us to import
25 whatever the law requires subject to notification of
26 staff.

27 MR. TOURTELOT: That is not a problem.

28 Going back to answer some of the questions

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01 about that -- that was a section of the application that
02 refers to things that happen when we had to know which
03 race was brought in because of the size of the race,
04 et cetera, and which racetrack it was coming from,
05 originating from. That is really not appropriate anymore
06 and can be handled, as you said Craig, to notification of
07 the staff; which we have to do by the law. But it's not
08 necessary to put it in the application because it does
09 change by the time we get that.

10 So that is a change, Marie, that's good.

11 MR. HARRIS: I think to follow up, Commissioner, on

12 the -- concerning the racing days. Maybe I'm mistaken,
13 but I thought there was some change in the law that we
14 didn't really have designated days anymore. I was
15 wondering if somebody could clarify that --

16 MR. REAGAN: Certainly, Commissioner. John Reagan,
17 C.H.R.B. Staff.

18 That's an optional matter. There still is
19 the ability for the track to calculate the profit on those
20 days and designate days or they can also pay a maximum of
21 .2 percent of their on-track handle. So it's A or B.

22 MR. HARRIS: Well, maybe A or B, should be outlined
23 in Item 9 of the application.

24 MR. TOURTELOT: It had some -- in the past some
25 questioned some days for charity days. Some commissioners
26 have asked, "Is it Wednesday, Thursday or Friday or
27 Saturday?" So that is why the dates were there.

28 MR. HARRIS: The way -- this report looks like that
0039

01 is not an option, you just pick your days. But it's a --

02 MR. REAGAN: Certainly. And in this case, looking
03 at this form, I think a lot of times under C where they
04 talk about the dates, they simply indicate. They use the
05 appropriate code section indicating they're taking the .2
06 percent option.

07 MR. HARRIS: But does the Association have to make
08 this designation going into the meet or can they go to the
09 meet and say, "Look. It's retroactive."

10 MR. REAGAN: Most of them now find that the .2
11 percent is easier to work with. And they do let us know
12 ahead of time that that's, in fact, what they're doing.
13 Most of your thoroughbred meets now take the .2 percent.

14 MR. HARRIS: It seems logical that you'd have to
15 designate before you started.

16 MR. REAGAN: Yes, right.

17 MR. TOURTELOT: Any other comments, suggestions,
18 questions?

19 Then the Chair will entertain a motion to
20 approve Item Number 4.

21 MR. LANDSBURG: I state it for the designated
22 45-day period, so moved. MS. MORETTI: Second.

23 MR. TOURTELOT: Same. All in favor?

24 MS. MORETTI: Aye.

25 MS. GRANZELLA: Aye.

26 MR. HARRIS: Aye.

27 MR. TOURTELOT: Pubic Hearing on the adoption by
28 the Board on the proposed regulatory amendment of
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01 California Horse Racing Board Rule 1632, Jockey's Riding
02 Fee.

03 MS. WAGNER: Jackie Wagner, C.H.R.B. Staff.

04 The proposed amendment to Rule 1632 will
05 increase the losing map fee by a minimum of \$5 as was
06 requested by the industry. The Rule was re-noticed per
07 our instructions at the last meeting for 15 days. Staff
08 has received no comments on the proposed amendment and we
09 would recommend that the Board adopt the amendment as
10 proposed.

11 MR. TOURTELOT: Any comments, or suggestions,
12 questions, by the Commissioners or any members of the
13 audience?

14 There being none, the Chair will entertain a
15 motion to approve Item 5.

16 MR. HARRIS: I move. MR. LANDSBURG: Second.

17 MR. TOURTELOT: All in favor?

18 MS. MORETTI: Aye.

19 MR. LANDSBURG: Aye.

20 MS. GRANZELLA: Aye.

21 MR. TOURTELOT: Item is approved.

22 Item Number 6, staff reports on the following
23 concluded race meets, Churchill Downs, Los Al, Capitol
24 Racing and Oak Tree.

25 MR. REAGAN: Yes, Commissioners, our standard
26 package of end-meet reports.

27 First of all, the first one I would like to
28 review quickly with you is the Oak Tree racing, kind of

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01 chronological here. They had a couple of percent on-track
02 California, off-track California; so good increases out of
03 state for an average daily handle of almost 6 percent.
04 And the attendance was kind of a push, although it was
05 down slightly. But overall the handled was increased,
06 largely due to the out of state.

07 MR. LANDSBURG: Just a question.

08 MR. REAGAN: Sure.

09 MR. LANDSBURG: About the appended. What did we do
10 right in 1998 that we didn't do right in 2000? Because
11 the figures for '98 as laid out by Hollywood Park at
12 Oak Tree, not so much Los Al, indicate a considerable
13 difference in what was going on. And I just wondered what
14 we did more right in '98 than we did in 2000.

15 MR. TOURTELOT: With respect to what? Because
16 there were 32 race dates in '98 and 27 in 2000.

17 MR. REAGAN: When we make our comparisons here, we
18 are using average daily numbers because we do fluctuate in
19 the total number of days; especially at Oak Tree where we
20 have extra weeks every other year. So we look at this on
21 an average dailies, but that information is there in the
22 second section down on the end-of-meet report. But, you
23 know, it's true that the handle were better in '98 and
24 back up in 2000 so --

25 MR. TOURTELOT: Well, attendance was much higher,
26 much higher.

27 MR. LANDSBURG: It's an interesting comparison as a
28 whole. If we were doing something more right, let's

0042
01 continue.

02 MR. TOURTELOT: The average handle for start was
03 fairly close, within \$700.

04 MR. HARRIS: It would be helpful if you could break
05 down the average attendance both on-track and off-track.

06 MR. REAGAN: The summary page, they have the total
07 and then the on-track and off.

08 MR. TOURTELOT: But we all know that we are not
09 going up in attendance. On-track we are going down.

10 MR. REAGAN: Well, interesting you should mention
11 that. First of all, in terms of the next report regarding
12 the Churchill Downs of Hollywood Park Fall meet. The
13 first item is -- in your original package the summary meet
14 sheet was erroneous. I have updated your binders today
15 with the correct number. But in that case you do see that
16 the Hollywood Park Meet, the daily handle down almost 6
17 percent, the on-track down 11, off-track down 7. Even the
18 out of state was down 2 percent. So they did have a much
19 tougher meet than the year before.

20 MR. TOURTELOT: There was a weather problem.

21 MR. REAGAN: A number of things were going on. I
22 understand the backstretch was under construction or
23 renovation a lot of things.

24 MR. TOURTELOT: But overall obviously attendance is
25 not climbing.

26 MR. REAGAN: Yes. Yes, no doubt about it.

27 MR. TOURTELOT: We don't need to go there today.

28 MR. REAGAN: The next report regards Los Alamitos
0043

01 and the Capitol Racing. The night industry still
02 increasing overall. Los Al did have a slight on-track
03 handle drop of 2.7 but overall they were up 6 percent.
04 But once again their attendance continues to slip.

05 And in Sacramento the Capitol Racing, one
06 again, handle increases and attendance decreasing, modest,
07 nothing significant overall but still, as you say,
08 sideways to down in some cases.

09 MR. HARRIS: What seems bothersome to me is that I
10 think these increases we are seeing is a result of
11 out-of-state simulcasting which, I presume, is probably
12 due to picking up more outlets more than seeing more
13 people bet at more outlets. It's sort of like a hamburger
14 stand -- increases more stores but the sales aren't going
15 up; they are going down. There is less money in those
16 out-of-state handling back to California.

17 MR. REAGAN: Yes.

18 MR. HARRIS: Purses and commissions generated are a
19 little -- you know, definitely less than the appearance
20 from a handle increase.

21 MR. REAGAN: Certainly. Absolutely.

22 MR. TOURTELOT: It very simple. We need counter
23 wagering and a full simulcast. We can argue all day long
24 but those -- we are going to be talking with you. You're
25 going to be talking about those things, and so nothing to
26 vote on on that one. So at this point we will --
27 45 minutes, that is not bad, 40 -- we will adjourn the
28 meeting to go into executive.

0044

01 We are on general business.

02 Any general business?

03 MR. LICCARDO: Good morning. Ron Liccardo,
04 Pari-mutual Employees. And also I would like to say
05 something on behalf of the fans, also.

06 I didn't see any amendment to the Los
07 Alamitos application for going days. But I talked to Mr.
08 Henson, and I'm reasonably satisfied with the reason why

09 we switched to days and everything. But it also affected
10 Santa Anita. Santa Anita didn't have simulcasting on
11 Friday and Saturday night, which, we lose ten employees
12 for Friday night and ten employees for Saturday night.
13 Now, I don't know if Santa Anita applied not to take the
14 signal.

15 It affects the fan base; whereas, let's face
16 it, we just talked right now about having more satellites
17 and less people betting or having more stores and less
18 customers. And now you chase the customers by having them
19 show up on Friday night to bet, and the doors are closed.
20 There is no real reason why Santa Anita should be closing
21 Friday and Saturday to take the signal.

22 The harness industry -- I don't see Mr.
23 Horowitz here. I assume he should have something to say
24 about the fact that his signal was turned off in Northern
25 California.

26 MR. TOURTELOT: Well, I agree with you. And we all
27 do. The fact of the matter is the emergency energy crisis
28 move from my standpoint. And obviously, Dr. Alred had a

0045
01 financial incentive in doing what he did.

02 But the Governor said that everybody is
03 supposed to pitch in and cut down on the use of
04 electricity. They use 75 percent less electricity during
05 the day than at night at Los Al. And this was something
06 that was a very temporary move. And it was -- Santa Anita
07 was contacted and approved it. And it was a day-by-day
08 decision. And this is something that is not going to go
09 on and on. If it does, I think we are going to be in a
10 lot more serious trouble overall than the whole state.
11 This is just one incident.

12 MR. LICCARDO: But I thought the problem was -- it
13 was basically with Los Alamitos in the Orange County area
14 and a different problem in the L.A. County area due to
15 power. I'm reasonably satisfied with Mr. Henson's answer
16 on why it came about for Los Alamitos. I didn't hear
17 anything why Santa Anita didn't take the signal. Their
18 power -- it must be different than -- I know they have
19 different --

20 MR. TOURTELOT: Contracts.

21 MR. LICCARDO: -- contracts than L.A., than they do
22 in the Orange County area. Did they have an impact?

23 MR. TOURTELOT: Hollywood and Los Alamitos have the
24 same energy contract. They signed up some years ago. But
25 I don't know that Santa Anita is all --

26 MR. LICCARDO: But all of the satellites in the
27 state were open except for Santa Anita, the Santa Anita
28 satellite. Hollywood was open. Every other satellite in

0046
01 the state took the signal for Cal-Expo on Friday and
02 Saturday. The only one that shut it off was Santa Anita.

03 MR. TOURTELOT: That, I don't have any comment.
04 But maybe to comment --

05 MR. LICCARDO: I just thought that the fans aren't
06 serviced either.

07 MR. TOURTELOT: Los Alamitos -- we are personally.

08 MR. LICCARDO: -- I just think the fans aren't
09 serviced when you just make them walk up to the door and
10 the door is locked.

11 MR. HARRIS: We are not clear what the long-term
12 plan is for Los Al, or even the short-term plan. Are they
13 going to revert back to evening racing?

14 MR. LICCARDO: Thank you.

15 MR. WOOD: This week they are going to be opening
16 during the evening.

17 MR. TOURTELOT: We only did this, John, for
18 Thursday, Friday, Saturday, I think it was.

19 MR. HENSON: Chairman, members of the commission,
20 Rick Henson with Los Alamitos Race Course.

21 We certainly want to thank the racing board
22 and that staff that gave us support in going to a daytime
23 program. It was a noble experiment. It saved us a --
24 financially a lot of money both on Friday and Saturday.

25 We have been interrupted nine times this
26 month. When we are interrupted, our electricity demand
27 rate is going from \$6 per kilowatt to \$9.30 per kilowatt.
28 So if were we to turn the lights on, it would have cost in
0047

01 excess of \$100,000 every evening, which we cannot do.

02 We are going to do -- at this point in time,
03 we have not requested a change for this weekend. We have
04 not been under an interrupted situation since last Friday.
05 And we feel that we know we are tossing the dice a little
06 bit, but we feel that we need to stay with our night
07 industry.

08 The day was an experiment and we did -- we
09 were down in handle on both Friday, Saturday, and Sunday.
10 However, a lot of that was caused by the fact that our
11 out-of-state business was not there because of the big
12 venues that they have during the afternoon. And our
13 incoming at night that we bring in on an evening basis --
14 we didn't have anybody there. So they weren't there to
15 bet on those races. We did close on Friday night. We
16 were not under an interruptible situation, but we did opt
17 to open a small area, to take Cal-Expo on Saturday night
18 because we were uninterrupted during Saturday. And that
19 was a last minute decision; but, again, we will keep you
20 informed of our situation.

21 And as you said it's -- we use 75 percent
22 less when we race in the daytime. And it's certainly a
23 public image thing when everybody is worried about rolling
24 blackouts and we have the lights on at our racetrack.

25 MR. TOURTELOT: I'll tell you where I'm coming
26 from. We did do this on a temporary stop-gag measure.
27 I'm aware of how much money it saved for Los Alamitos, but
28 my prime consideration was the fact that there is an
0048

01 energy crisis, and we are all supposed to cut back.

02 However, if in fact Santa Anita or Roy Wood
03 calls me and has a similar request, I'm telling you now I
04 am not going to make that decision. I'm going to call an
05 emergency meeting or special meeting, whatever the law
06 allows of the Board, and I'm going to have Labor come and

07 have Labor put their input in.
08 Santa Anita, it isn't going to be the same.
09 So if they call and say, "By the way, we are in the exact
10 same situation," you are not going to get an answer right
11 away. We are going to have a Board decision, whether it
12 will be a special meeting of the Board or emergency
13 because I think it will be an emergency situation for
14 Labor. And they would be affected by the situation and
15 should come and give their input. I'm not going to give
16 you another waiver without the Board's input and Labor's
17 input and Santa Anita and everybody else. Because the
18 ramifications of -- it's like the tentacles -- they go out
19 and affect various people and various industries. And so
20 that is where I'm coming from.

21 MR. HENSON: I understand.

22 MR. TOURTELOT: Okay.

23 MR. HARRIS: It would be interesting. I think it
24 was an interesting experience as far as running days, kind
25 of with both breeds. If we can get some kind of report of
26 how the handle -- if this was a net gain for doing -- or
27 kind of what happened doing it that way versus the
28 traditional way might be helpful when we're looking at
0049 dates.

01 dates.
02 MR. HENSON: We will send our report as far as what
03 we did on track, both during the afternoon and also how it
04 affected our night time.

05 MR. HARRIS: How did you do basically,
06 comparatively?

07 MR. HENSON: We were down about twenty-some percent
08 on Friday. Saturday the word was out. Our attendance was
09 very good in the afternoon. We double ordered all our
10 programs thinking that during the day people would buy
11 more programs. They ended up buying more night programs
12 than day programs; so that part didn't work, but we tried
13 to accommodate our patrons by having enough information.

14 The problem isn't that. When you have six
15 signals going up at the same time, it's very difficult for
16 the whole crowd -- the crowd to bet on all of them or have
17 the opportunity or the time to hand a bet each time. So
18 they pick and choose the ones they want.

19 MR. TOURTELOT: Thank you. Any other comments?

20 MR. BAEDEKER: Good Morning. Rick Baedeker,
21 Hollywood Park.

22 First of all, on the energy issue -- all the
23 tracks in southern California, at least in Orange- and
24 L.A. County -- I don't know about Del Mar -- are you on
25 the interrupted?

26 MR. FRAVEL: No.

27 MR. BAEDEKER: Del Mar is not on the interpretable
28 program. But all of us are under the same kind of crisis

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01 as far as energy. Right now, we're -- at least Hollywood
02 Park and Los Alamitos and Santa Anita I know -- are
03 exploring the opportunity of purchasing generators for a
04 couple of reasons.

05 First of all, we simply can't afford to

06 sustain the fines that have been imposed by Edison, which
07 amounted last year's, at least for Hollywood Park, upwards
08 of \$800,000 and this year's figure to be maybe double
09 that. To put it in perspective, these warnings that we
10 receive to tell us to interrupt our business, had occurred
11 twice prior to the year 2000. In a ten-year period of
12 time, it only occurred twice.

13 Since last July, Hollywood Park has been
14 warned to interrupt its business some 35 times. So life
15 has changed. And it's a very expensive proposition.
16 These generators are upwards of a million dollars each,
17 and we need three of them at Hollywood Park.

18 And we also face the possibility next summer
19 of rolling blackouts, separate from this interruption
20 program that we have all contracted for. So it's a very
21 critical situation right now.

22 I'd like to take this opportunity, with the
23 Board's permission, to update this body, as well as the
24 people in the room on a subject that was discussed by
25 representatives of Hollywood Park, Santa Anita, and Del
26 Mar a couple of weeks ago. And it's related to the issue
27 of short fields and the urgency that we feel to take some
28 action, to do something about it in the short-term and

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01 consider some solutions in the longer term.

02 But the three racetracks agreed to have the
03 racing secretary at this live meet allocate stalls at the
04 other Associations' stable areas. And this is basically
05 with the understanding that horses are stabled at both
06 places that participate during the course of the season.

07 So this simply gives the racing secretary a
08 little bit more leverage, not much contractually speaking,
09 but a little bit more in awarding stalls to those trainers
10 who participate during that particular meet.

11 And I think it's -- I hope it's a strong
12 statement by the three racing associations that we want to
13 take some action. And we want to try to improve the
14 situation. Your discussion of about 20 minutes ago about
15 the number from the recent meets and the steady decline in
16 attendance, I think is really more about the quality of
17 the product on the racetrack than anything else.

18 If you look at the size of the fleets of the
19 last few years and actually the foal of the horses on the
20 racetrack, I think you will see a similar decline. In the
21 short-term we have suggested that the three racetracks
22 work together as I just described.

23 And we are also going to work together to put
24 together a formula that shows the participation level by
25 different trainers so that we are not arbitrary in
26 thinking of this. And we can simply notify a trainer --
27 the owners as a matter of fact -- what the record is,
28 what the statistics are, and justify any preference that

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01 we might show one trainer versus another.

02 MR. TOURTELOT: Can I ask you a question about
03 that, Rick?

04 MR. BAEDEKER: Sure.

05 MR. TOURTELOT: You are saying -- every year we
06 hear about the trainers -- that their barns are filled but
07 they are not filling the cards and their horses are
08 sitting. Are you saying that the tracks are now going to
09 take a positive step towards taking those stalls away from
10 those trainers?

11 MR. BAEDEKER: No. I think what we are really
12 talking about is giving preference at the track that is up
13 and running to those trainers that will participate during
14 that meet.

15 In other words, if you are not going to run
16 during a particular meet, and this really applies to every
17 season and every association, then you ought to take the
18 fallback position and be located at the non-line facility.
19 Let's face it -- we are never full in Southern California.
20 With the stabling situation at Fairplex there are usually
21 2 or 300 empty stalls at the racetrack.

22 MR. TOURTELOT: So all we are really talking about
23 is awarding some preference to those trainers that do
24 participate during a particular season and over the course
25 of the year. And simply drawing attention to the fact
26 that if you are stalled at a racetrack here in Southern
27 California, you are expected to run.

28 All right. Good.

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01 MR. LANDSBURG: I think we all --

02 MR. BAEDEKER: A couple other things that we need
03 to pursue. One is related to the vets list. It has
04 become a practice that if, as a matter of fact, if a race
05 is coming up a little different than expected, that a
06 trainer may go to the vet and ask to be excused for any
07 number of reasons. And the veterinarian is not going to
08 take on the responsibility or the liability of stopping
09 that trainer from removing his horse from the race.

10 We had an instance during the fall which you
11 may have noticed. The last race had nine horses entered,
12 four vet scratches. One was litigious sedation and we
13 ended up with a four-horse field.

14 There is not much of a penalty for going on
15 the vets list. You can race again in 5 days. New York
16 requires a 14-day gap between the vet scratch and the time
17 that the horse can be entered for another race. We are
18 suggesting ten. This is something that we are looking
19 forward to working with the TOC and the CTT on and then
20 bringing it to the C.H.R.B. And we believe it is some
21 kind of administrative stay, administrative change that
22 can be made at that point.

23 MR. HARRIS: I'm not clear on that -- if that has
24 to be a C.H.R.B. administrative change or if that could be
25 just a policy of the individual association.

26 Are you clear on that?

27 MR. WOOD: Mr. Harris, currently the procedure that
28 is used for the vets list is described in a written format

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01 as a directive from the Horse Racing Board to the
02 veterinarians. And it does list ten days may interpret it
03 to mean five days that the horses are placed on that list.

04 Several years ago at the simulcast or the racing
05 committee, we had a discussion about changing that to 10
06 days or 14 days.

07 And it's come back up with the CTT the TOC
08 and the racing associations. And what we are looking for
09 is a consensus from everyone to change that number from 5
10 to 10 days. It doesn't require a change in the rule. It
11 doesn't require a change in the administrative process.
12 All it requires is a change in the directive, which, we
13 can do that.

14 We just have no consensus among the
15 associations. The TOC and the CTT, as I understand it
16 today, has amended that policy.

17 Mr. Beadecker is here to say he would like to
18 see some resolve on that issue because we all agree that
19 changing that vets list is something that would probably
20 assist in eliminating some of the perceptions of scratch.

21 Now, I understand that a procedure was placed
22 in New York several months ago. We have had discussions
23 with the racing regulators in New York, and we find at
24 this point in time their current projection is that that
25 change in vets list days from 5 to 10 has dramatically
26 reduced the number of scratches.

27 It's in the recommendation of the, staff and
28 it's been our policy, and in the past we recommended to
0055 change it to 10 days. And we thought at one time the
01 tracks were going to do that. Each track was reluctant to
02 do that change because it got flack from the horsemen
03 involved.
04

05 And I believe we are back in the same -- at
06 this time as they were two or three years ago, people who
07 say we need to stay a longer period of scratch time but
08 don't have a consensus between the different members in
09 the industry -- what we should do?

10 MR. BAEDEKER: Our commitment is to work towards
11 that consensus.

12 MR. HARRIS: Chairman, Commissioners, I'm not
13 clear. I know scratch in the morning by the state vet
14 there is a requirement that that horse has to work five
15 eighths or some distance and be blood tested before it can
16 race. Is that -- now how is that different than a horse
17 that is just scratched by a vet?

18 The scratches you are worried about -- they
19 don't have to do that. Maybe if we made them do that,
20 they would be more hesitant to scratch too.

21 MR. BAEDECKER: I'm not sure.

22 MR. WOOD: I think I can answer that for you with
23 two different types of situations. What we call scratches
24 before the closing scratch time, before the program is
25 made and final, before the conclusion of the race is
26 drawn. And we have regulations that horses are scratched
27 before the program is out and before the race is run and
28 that.
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01 MR. BAEDECKER: That is what we are addressing.

02 MR. WOOD: And that is the ten-day time, currently

03 five-day to say if you scratch your horse after scratch
04 time that before the running of the race you will be
05 placed on a vets list for ten days instead of the current
06 five days. With the exception that we give discretion to
07 the veterinarian who could adjust that based upon the
08 facts. If a horse has a minor injury or scratched at the
09 gate for some minor problem, he can make that change
10 certainly to five days instead of ten.

11 MR. HARRIS: What are the workout requirements to
12 get off that list? I thought there was some requirement
13 that the horse worked to get off that list. Maybe there
14 are two types of lists.

15 DR. JENSEN: Ron Jensen, Equine Medical Director.
16 For a major injury, unsoundness, it's required to work
17 five eighths of a mile and have a negative blood test
18 before he's allowed to enter a horse.

19 For a minor injury or illnesses, he has to
20 remain on the list for five days. But he does not have to
21 demonstrate a workout prior to coming off, just
22 demonstrate that the horse is over his injury or his
23 illness.

24 I would say that five days is the minimum.
25 It doesn't mean he's going to come off in five days, but
26 that is the minimum amount of time that he cannot be
27 entered.

28 MR. HARRIS: How do you enforce that? If a horse
0057

01 has a cold, is there some proactive way that someone goes
02 by on day five to see how he is?

03 DR. JENSEN: That is correct. They are examined,
04 or they are checked. The initial veterinarian checks with
05 the trainer and determines that the horse is okay to come
06 off to be entered into the race.

07 MR. HARRIS: Has there ever been an instance
08 recently where they were not okay after five days?

09 DR. JENSEN: I think so, yeah. Horses stay longer
10 than five days.

11 MR. WOOD: But our discussion is valid. I think,
12 Dr. Jensen, you can verify that over the last several
13 years -- and I think we have come to the conclusion that
14 the incident of change from 5 to 10 days is not
15 detrimental -- it would be helpful. But we also have to
16 have some discretion allowing the veterinarians to make
17 that determination. And we just don't seem to get
18 everyone to agree to what is the answer on this question.
19 So I would like to see some agreement as to what it should
20 say.

21 MR. BLAKE: This matter is not a matter of general
22 business. And I ask that the commissioners not go into a
23 full debate of the matter. It could be put on the agenda
24 for conversation of another directive or regulation change
25 at a later meeting. But at this point, it's deceiving
26 information to the concerns to the public.

27 MR. JOHNSON: Don Johnson representing Thoroughbred
28 Owners of California.

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01 I heard in the presentation Rick and TOC did

02 at his last board meeting this month in early January. I
03 think you're going to receive a copy of the report. On
04 this issue we tend to agree. We wanted to do a little
05 more investigation, and we discussed it on February 1st.

06 And since then we had -- we were concerned
07 about the New York situation, the 14-day rule. And we
08 believe it has worked quite well in New York. And that is
09 the information we have. There are few scratches and more
10 starts, and I think that is good. So I think we are going
11 to be staffed with that when we have our next meeting next
12 month.

13 I would make one recommendation, and that is
14 if we go this route, let's do it on a temporary -- not
15 temporary but some period of time to see if it's actually
16 working. We could monitor that and evaluate that over a
17 six-month period about, maybe, after Del Mar in Northern-
18 and Southern California -- I think TOC wants to cooperate
19 on this issue.

20 MR. TOURTELOT: I think we are going to notice this
21 for a future board meeting.

22 Do you have anything further?

23 MR. JOHNSON: I didn't expect it to debate and I
24 realize that is not appropriate right now. This next
25 issue is more sensitive and so it needs careful attention.

26 But we want to address the current practice
27 of one jockey's agent having two journeyman jockeys.
28 There are two jockey's agents that have six of the top ten
0059 jockeys in Southern California.

02 There are two issues. One, is a practical
03 issue that just evolved over a period of time where
04 jockeys' agents are entering horses on behalf of trainers
05 and that is what took us on short fields. But the
06 perception of collusion here by the customer, by the
07 racing fan, it's simply, in my opinion, is not healthy for
08 the racing fan to suspect that there may be collusion
09 because two of the top jockeys in a particular race are
10 doing business with the same agent.

11 Believe me, we are not at all suggesting or
12 alleging that anybody has acted with anything but the
13 utmost integrity. That is not the point. We are talking
14 about the perception of it. I just thought I'd raise the
15 issue. And we'd like to discuss it.

16 And finally we would like to also look at the
17 -- at a regulation that would require that a horse that is
18 claimed here in California stay in the State of California
19 for some period following the close of the meet. That
20 would -- that would just keep more horses in the state.

21 And lastly, I would say that we all recognize
22 -- I think we all recognize that, energy crisis aside, the
23 short field is perhaps the biggest change facing
24 California. We are slipping in terms of our position
25 nationally. And I know that nobody in this room believes
26 that that is acceptable. I think that we have to make
27 some major changes and probably spend -- make a major
28 investment, details of which need to be talked about in a

0060

01 proposal made. But I think it's time for the California
02 industry to move.

03 And that is our purpose in coming here before
04 you today, to say that we have moved in a small way with a
05 couple of little things that we have decided to do. But
06 the bigger challenges have to be addressed by the industry
07 as a whole. We look forward to it.

08 MR. TOURTELOT: Thank you. And let me follow up on
09 the comments about the claiming -- claimed horse. I've
10 always felt it was outrageous that the claim horse be able
11 to leave the State of California sometime back either
12 before or after claiming horses. And I think there should
13 be some restriction.

14 I'm going to ask that that be put on a future
15 agenda for discussion. And it may be more important, in
16 my mind. I've asked Roy Wood to put on the agenda for the
17 next meeting the proposed discussion, a proposed change in
18 the claiming rules that if I claim a horse and it's not
19 allowed to run -- for 25 days is it?

20 MR. HARRIS: 28.

21 MR. JOHNSON: 25 days, I think.

22 MR. TOURTELOT: I think it's archaic. And in light
23 of our short meets and short cards I'm in favor of doing
24 away with that restriction even if the horse --

25 MR. HARRIS: Point of clarification. Not allowed
26 to run -- it's allowed to run, it just has to run at a 25
27 percent.

28 MR. TOURTELOT: Right. Right. Right, it should be
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01 able to run at any claimed race. So that is going to
02 be -- I'm just giving you a heads up that it is going to
03 be on the future agenda. I guess next month.

04 MS. MORETTI: I'm going to ask a number of items
05 that -- Rick brings up a number, I'm thankful that you
06 are. Are all part and parcels to increasing our field
07 sizes. I think this would be something that would be
08 appropriate to have a hearing on and a committee, prior to
09 coming to the full Board. I think that each of these
10 issues has a lot of -- have a lot of details. And they
11 each have a lot of details that we need to hear. And I
12 think there should be representatives from each of the
13 entities involved.

14 MR. HARRIS: I think it would be helpful, too. I'm
15 not clear if they require a rule change or this is just
16 sort of a policy or what.

17 MR. TOURTELOT: Rule change with respect to
18 claiming.

19 MR. HARRIS: As far as the jockey agent issue.

20 MR. TOURTELOT: That, I don't know.

21 MR. HARRIS: Is that a rule or what is it?

22 MR. BLAKE: There is a rule 1790 that restricts
23 jockey agents to two and gives descriptions to the --

24 MR. WOOD: And if we decide to change the rules on
25 the jockey agents to allow just one, we need to have a
26 public discussion about that and bring other agents in.
27 Jockey rule change would be something of a change in the
28 rule for the number of jockeys represented by the agents

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01 would be something that we'd have an administrative rule
02 change on?

03 MR. JOHNSON: In fairness. On that issue also
04 we've got livelihoods of three individuals here that would
05 be dramatically impacted by this. They are considering
06 having a grandfather clause that allows them to have some
07 period of time to transition out of this. I agree. I'm
08 not taking a position either way, but you tell somebody
09 that you have two top jockeys and he is going to have to
10 get rid of one of them, there is going to be talking.

11 MR. WOOD: And historically, you do notice to have
12 a discussion about proposed rule change to allow claimed
13 horses not to require -- claimed horses not to leave the
14 State of California. that was done about September,
15 October last year with the request that Mr. Blake give us
16 an opinion as to whether or not that was a violation of
17 the federal laws of antitrust.

18 And Mr. Blake can comment on that if he
19 likes, but we did address horses leaving California, at
20 the request of Hollywood Park and others, as a rule change
21 so that they have to stay in California. And we asked Mr.
22 Blake to let us know. It was brought up that is might be
23 a possible violation.

24 MR. BLAKE: Our conclusion is that such a change
25 would not comport with the constitution.

26 MR. TOURTELOT: Would not?

27 MR. BLAKE: Would not be constitutional.

28 MR. HARRIS: So our present rule is -- how would

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01 you assess that?

02 MR. BLAKE: Your present rule meets the same
03 problem but it's just never been challenged. If it were
04 challenged the Board would probably not prevail.

05 MR. TOURTELOT: I would like to have you -- did you
06 do a memo on that?

07 MR. BLAKE: I haven't.

08 MR. TOURTELOT: I would like to talk to you further
09 about that. I've told you this before, I'm not convinced
10 that is entirely true, that we can't get around on that.
11 And I would be willing to push the envelope on it. I'm
12 concerned about horses leaving California that are
13 claimed. If the ex-president can pardon a felon that
14 lives in Switzerland that owed \$8 million, we ought to be
15 able to keep horses in California.

16 MR. BLAKE: He's more powerful.

17 MR. HARRIS: I want to get legal opinions on that
18 jockey agent issue, if that is a restraint of trade that
19 would be challengeable.

20 MR. BLAKE: Do you have any statistical information
21 about the number of claimed horses that in the past six
22 months to a year have left the state immediately after or
23 very soon after the claim?

24 MR. JOHNSON: When we discussed this at the Del Mar
25 meeting we did have data at that time, which is outdated
26 now. But my recollection is that during the -- prior to
27 the Board meeting, there had been something like 35 horses

28 that had left the state from the Santa Anita meet through
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01 the Hollywood Park meet.

02 MR. TOURTELOT: Maybe staff can find that
03 information for you, Alan. It was presented.

04 MR. WOOD: We'd do that.

05 MR. LANDSBURG: It's available and --

06 MR. WOOD: It's complicated too. So much of the
07 arguments in the law and other states in your regulations
08 go back to Mr. Blake's opinion. So it's been informal
09 discussions, but in depth since the time it was brought up
10 because we want to make sure we had all the insight to
11 that opinion as we could get.

12 MR. BLAKE: Similar -- Texas has a similar rule but
13 I don't know that theirs has ever been challenged either.

14 MR. TOURTELOT: That is the other point, that maybe
15 it would be challenged and maybe we would -- won't be
16 challenged. But in the meantime claiming 35 horses as of
17 Del Mar for the preceding six months is a lot of horses.
18 But you may not think it is, but in short cards it is.

19 MR. BLAKE: I was looking for today something that
20 they taught to get around the Constitutionality problem. I
21 must confess, I don't have that.

22 MR. TUNNEY: Mr. Chairman, Members of the Board,
23 just a couple of -- we do thank the industry from the
24 racetrack standpoint. They support what Rick Baedecker
25 has just commented on.

26 Two points of clarification for Commissioner
27 Harris. It's been kind of my history from the racing
28 standpoint that probably 93 percent of the scratches that
0065

01 occur on a daily basis are filled out by the trainers or
02 the agent by saying "sick, medicated." Almost nothing you
03 can do about it, sick, medicated. By the time you get the
04 card, if that horse has, in fact, been medicated for its
05 illnesses, then it's over. I would say 90 percent of those
06 is a fair analysis of what comes into the racing office.

07 The jockey-agent issue, we have. Golden
08 Gate, several years ago, implemented that one-jockey,
09 one-agent policy and it worked pretty well. It hasn't
10 been a problem in Northern California. Recently, we just
11 did it through notification through the condition book.
12 When it was first published we put that as a house rule,
13 if you will. So we didn't go to the Board, we did it as a
14 house rule and it worked pretty well.

15 MR. HARRIS: Is this going to be something we will
16 put on the agenda to get full discussion?

17 MR. TOURTELOT: Yes. Either our committee, as
18 Marie suggested, or a full agenda. And we will talk about
19 that. One way or the other it will be noticed and there
20 will be a full discussion.

21 Any more general business?

22 Any old business?

23 All right. the Board is going to adjourn now
24 for executive session.

25 (Meeting adjourned at 12:23 p.m.)

26