MEETING

STATE OF CALIFORNIA

HORSE RACING BOARD

ALAMEDA COUNTY FAIR

SATELLITE WAGERING FACILITY

4501 PLEASANTON AVENUE

PLEASANTON, CALIFORNIA

THURSDAY, JUNE 30, 3005

2:30 P.M.

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMISSIONERS

Mr. John C. Harris, Chairperson

Mr. William A. Bianco, Vice Chairperson

Mr. Marie G. Moretti

Mr. Jerome S. Moss

Mr. Richard B. Shapiro

STAFF

Ms. Ingrid Fermin, Executive Director

Mr. Roy Minami, Assistant Executive Director

Dr. Ron Jense, Equine Medical Director

Mr. Mike Marten, Associate Analyst, Public Relations

Mr. John Reagan, Senior Parimutual Examiner

Ms. Wendy Voss, Assistant Chief of Administration

Ms. Jackie Wagner, Staff Services Manager I

ALSO PRESENT

Mr. Rick Baedeker, Califorina Federation of Race Tracks

Mr. Norbert Bartosik, California State Fair

Mr. Bradley Benbrook, Stevens & O'Connell

Mr. Richard Castro, Pari-Mutuel Employees Guild, Local 280

Mr. Ron Charles, Magna Entertainment Corporation

Mr. Sherwood Chillingworth, Oak Tree Race Track

Dr. Tim Coleman, Veterinarian

APPEARANCES CONTINUED

ALSO PRESENT

Mr. Scott Daruty, Expressbet

Mr. Dave Elliott, California State Fair

Mr. Rick English, Capitol Racing

Mr. Dan Fick, Jockey Club

Mr. Jim Ghidella, Thoroughbred Owners of California

Mr. Darrell Haire, The Jockeys' Guild

Mr. Alan Horowitz, Capitol Racing

Mr. Peter Kaurman, Deputy Attorney Generyal

Mr. Ben Kenney, California Harness Horsemen's Association

Mr. Derry Knight, Deputy Attorney General

Mr. Chris Korby, California Authority of Racing Fairs

Mr. Jack Liebau, Bay Meadows Race Track

Mr. Rick Pickering, Alameda County Fair

Mr. Chris Schick, Sacramento Harness Association

Mr. Bernie Thurman, San Mateo County Fair

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PROCEEDINGS

EXECUTIVE DIRECTOR FERMIN: Good afternoon, ladies and gentlemen. The meeting will come to order, please.

This is a regular meeting of the California Horse Racing Board on Thursday, June 30th, 2005, at the Alameda County Fairgrounds. 4501 Pleasanton Avenue, Pleasanton.

Present at today's meeting are Chairman John Harris, Vice Chairman William Bianco, Commissioner Marie Moretti, Commissioner Richard Shapiro.

Before we go on to the business part of the meeting I'd like to ask everyone to please state your name and organization clearly for the court reporter, and to make sure that they understand who you are. And if you need to spell your name, that would be very helpful also.

Thank you.

Mr. Chair.

CHAIRPERSON HARRIS: Thank you, Ingrid.

I'd like to welcome everyone to our meeting and thank the Alameda County Fair for hosting this today. And I think it's great to have meetings at different race meets. And this is one of the most popular fairs in the country. It's very nice to be here.

The first item on the agenda is the discussion and action by the Board on the approval of the minutes in

the regular meeting of April 28th.

Does anyone have any corrections or comments on this?

Hearing none, is anyone going to move it?

VICE CHAIRPERSON BIANCO: So moved.

COMMISSIONER MORETTI: Second.

CHAIRPERSON HARRIS: Been moved and seconded to accept -- to approve those.

All in favor?

(Ayes.)

CHAIRPERSON HARRIS: Okay. The next item is an application to conduct a horse racing meeting of the California Exposition and State Fair (Harness) at Cal Expo August 6th through September 17th.

STAFF SERVICES MANAGER I WAGNER: Good afternoon. Jackie Wagner, CHRB staff.

The application before you is from the California Exposition and State Fair. They have filed their application to conduct the harness racing at Cal Expo. They are proposing to race from July 31st, 2005 through September 17th. The association is proposing to race 26 nights with a minimum of 280 races. They will be simulcasting July 31st through August the 5th, with live racing beginning with August the 6th.

They are proposing to race one night the first

week, three nights the second, five nights the third, fourth and fifth week, and three nights the sixth and four nights on the final week.

Their first post -- first live post will be at 5:35 p.m. And on September 5th they will have a post time of 2:05.

There's still a couple items that need to be submitted to complete this application, and that would include the horsemen's agreement and the simulcast cast contract with SCOTWINC.

There is a representative from the association here to answer any questions.

And staff would recommend that the Board approve the application contingent upon receiving the additional information.

CHAIRPERSON HARRIS: Any comments from the Board?

COMMISSIONER SHAPIRO: I have just a couple questions with respect -- with respect just to the detention barn language in here. If I understand this, you're going to have two races chosen at random each day, and if I read this right, by the security guards.

MR. ELLIOTT: No.

COMMISSIONER SHAPIRO: Is that what you're proposing?

It says here all horses will be chosen at random

on particular races for enhanced surveillance by a guard. Wouldn't it better be done by the stewards or --

MR. ELLIOTT: Dave Elliott, California State Fair.

I'm sorry, Mr. Shapiro. If you give me a moment, I can -- essentially what that is is the security guards would be -- they would be conducting the surveillance at a detention barn, and then random races will be chosen by the lot by 9 o'clock each morning of race day by the stewards.

COMMISSIONER SHAPIRO: Okay. That made a little more sense.

MR. ELLIOTT: I'm sorry.

COMMISSIONER SHAPIRO: And also, before you go, you don't have any video surveillance cameras in the detention barn or at the stable gate?

MR. ELLIOTT: No, we do not.

COMMISSIONER SHAPIRO: And if horses are put into the detention barn, let's say there's a T CO2 positive, all of the other tracks do have video surveillance, how are you going to deal with that if some horse goes into -- I see that you're going to adopt what appears to be the rules all the other tracks are using for horses that would test positive.

MR. ELLIOTT: Penalties. The penalty portion of

that.

COMMISSIONER SHAPIRO: Okay. But if a trainer's going into a detention barn situation with all of his horses that subsequently have to go there, would there not be video surveillance within those stalls?

MR. ELLIOTT: There wouldn't be necessarily video surveillance in that stall.

I heard you, Commissioner Shapiro. And the others don't want to hear me.

(Laughter.)

MR. ELLIOTT: Not the case here. But our feeling for a 26-day meet would be instead of installing video surveillance -- because you're -- essentially your're going to have to have somebody watching the surveillance. It would be -- and it's our opinion to go ahead and have an additional security guard sitting on that stall, because our detention barn will be a minimum of a five and a half hour detention to perhaps a maximum from noon to 9:50 I think is our scheduled last post.

COMMISSIONER SHAPIRO: Right. I understand that part of it. But just as I believe the fairs are doing at their two week meets, they have, as I understand, a video surveillance system within the stall. So if they're watched 24 hours a day, for those horses in the event some trainer tests positive with a horse, then as I understand

it -- I've seen the one at Bay Meadows and they put in a system which basically is a continuous loop or digital system so that you could look at the system and know 24 hours a day if anybody went into those stalls. And that's what we've required from all racing associations for the T CO2 positives.

MR. ELLIOTT: So that I understand, so nobody is actually monitoring the video surveillance systems. Is that the case?

COMMISSIONER SHAPIRO: I don't know if there's a live -- I don't think there's a live person sitting there. But I believe that somebody reviews the tape.

MR. ELLIOTT: So the current system then essentially is if a horse comes back with a high level, then that tape is essentially gone back through and looked at to see if anybody entered the stall, is that --

COMMISSIONER SHAPIRO: No. I think -- let's back up.

I think that -- trainer Bob has a horse that tests 39 millimoles, clearly a positive. For his first offense he is required to race all of his horses out of a detention barn, which he pays for as part of the penalty. Within those stalls I believe that there is a video surveillance. And perhaps we can ask other people -- or if anybody's here from Bay Meadows, since -- their system.

They then have all of those horses race out of a detention barn. They have to be there I think it's 24 hours before a race, and they're subjected to 24 hour video surveillance. If you're going to adopt the same type of rules that exist for the T CO2 program, then that would include your having to put in a system, which I don't think was all that costly based on what I've heard from some of the racing associations.

MR. ELLIOTT: Well --

EXECUTIVE DIRECTOR FERMIN: May I just interrupt for one second.

And the tapes generally have been going into the security office of whatever the facility is. And I think there are couple of them that actually have the option where they can go into the CHRB investigators also.

MR. ELLIOTT: You mean the physical tape is removed and then stored or locked up, is that you're referring to?

EXECUTIVE DIRECTOR FERMIN: Well, actually the feed goes into security so they can be watching, and it can be on-off. It automatically is saved for -- I don't remember how long. I think there are varying periods of time, number of days, a week at a time, or whatever it is.

MR. ELLIOTT: Well, obviously if you would allow us to address that, I -- for our meets -- you know, if

this Board wants us to provide some type of security surveillance system for our detention barn, for starters -- you mentioned the cost, number one. For us it would be prohibitive to run a feed to the CHRB office, if you will, because they're obviously not there are 24-7. We could perhaps run a feed to Gate 12, which is our security gate that's manned 24-7, number one.

Number two, I would hope -- I would hope that we would be able to put an actual person to surveil each and every single stall. As I mentioned in my license application, I believe it's there somewhere, our detention barn policy will also be complemented by a force of security guards where we may draw another race at random and ask them to take a lawn chair, their lunch and a newspaper and go sit in front of a stall, you know, for the day prior to a race.

COMMISSIONER SHAPIRO: Well, again, I think there are two issues here. And where I have the problem is the inconsistency -- that we've required the fairs and we've required every racing association to have video surveillance within the detention stalls or barn for those horses that are racing out of the detention barn.

MR. ELLIOTT: That --

COMMISSIONER SHAPIRO: That's one issue. The other issue is where you're going to put randomly two

races in. And there -- it's fine to have live security guards that are there to watch those horses. They're there not on a 24-hour-a-day basis. I don't have a problem with there not being video there for that. But we've required this of all the fairs, and I believe that the fairs have developed some type of a portable stall basis with video incorporated into it. And I don't think it's all that expensive. And I would assume that since I would have the same comments for the next racing applicant that will come behind you, that perhaps you could share this system with them, because I would expect we would ask them the same -- to do the same.

CHAIRPERSON HARRIS: We would also -- we'd basically even stipulate that the security requirements can be whatever you want them to be as far as security people, stewards, guild need for things. But the fact that we give someone a license doesn't mean that they don't have to adapt to what we want them to do.

COMMISSIONER SHAPIRO: Right.

MR. ELLIOTT: Essentially so for those horses that have high levels you're requesting us to have specific security surveillance stalls in the detention barn, for those horses that have come back with high tests, is that what you're --

CHAIRPERSON HARRIS: Oh, for those trainers or --

MR. ELLIOTT: For those trainers.

COMMISSIONER SHAPIRO: The way it works is that if trainer Bob has ten horses and one of them tests positive, trainer Bob for the ensuing 30 days will be required to race all of his ten horses out of a detention barn. Those horses have to be there -- I think the rule is 24 hours in advance if they're racing. During that period they are to be video -- there's to be video surveillance during -- continuously during that period. Therefore, I think the track set aside for or five, six stalls that have video in them. And I would ask that you do the same at Cal Expo for all racing conducted there, just as we've required it for every other racing association.

MR. ELLIOTT: Done.

COMMISSIONER SHAPIRO: Thank you.

ASSOCIATE ANALYST MARTEN: Mike Marten, California Horse Racing Board.

I think there's some confusion on that. I don't think there's been a live surveillance of everything in the detention barn. I think there's been some. But I think that the main thing is that it's going on to a tape. And then if there's something occurs in the race that -- you know, form reversal or something, then they can go back to that tape and look specifically at it.

At Bay Meadows, for example, I don't believe that there was a live feed to anywhere to do constant surveillance of these detention barns.

CHAIRPERSON HARRIS: Well, that's a normal use of cameras in so much that someone's looking at it as with -- to reconstruct what happened.

ASSOCIATE ANALYST MARTEN: Right. So I think what Mr. Elliott's saying, that if you didn't have to run the wires to this 24-7 booth, that it would be easier for them.

MR. ELLIOTT: I'll get it done.

COMMISSIONER SHAPIRO: Fine.

EXECUTIVE DIRECTOR FERMIN: Santa Anita, as I know, that goes into security, I believe. Because there have been instances, for instance, where security has just seen somebody -- you know, a groom or whatever go in, and they have alerted CHRB. And they go out. And just so that they know that somebody is watching. So that there certainly are instances where it's a live feed and somebody is monitoring. They try to certainly keep track of what's going on in that barn.

ASSOCIATE ANALYST MARTEN: Yeah, I think Santa Anita and Del Mar are way ahead of some of the others and have had -- and they're wired throughout the facilities, I'm pretty sure.

CHAIRPERSON HARRIS: If that's some security -- I mean the dates -- because this is sort of new ground we're dealing here with, where basically Cal Expo was getting harness dates. Is that in the statutes how many dates you can get as a fair to run harness races?

MR. ELLIOTT: We're well below. We're well below. In other words on interpretation this Board has found that we could -- we could have run more, yes, per statute.

CHAIRPERSON HARRIS: Then you just arbitrarily picked that number?

MR. ELLIOTT: According to this Board's interpretation, that's correct.

CHAIRPERSON HARRIS: What's the take-out rate -- there's one take-out rate for harness I think that's quite a bit higher than the thoroughbred take-out rate. But since this is a fair meet -- and this is under harness?

MR. ELLIOTT: It's harness, yes.

CHAIRPERSON HARRIS: What would the take-out rates be?

MR. ELLIOTT: It will be the same as the existing harness meet. I can't recite them for you right off the top of my head. It will be the existing harness take out --

CHAIRPERSON HARRIS: Yeah, I think it's --

MR. ELLIOTT: -- that is currently. It's --

CHAIRPERSON HARRIS: -- about 30 percent more than anybody else, I think.

MR. ELLIOTT: No, I'm not --

CHAIRPERSON HARRIS: Why don't you get that for us just to illustrate.

MR. SCHICK: I know what it is if you want it.

Thank you, Chairman Harris.

Chris Schick, Sacramento Harness.

The current harness take out is 17.43 on the win, place and show. It was 16.43 under the workers' comp plan. We added 1 percent on the wins. If all the exacta take out is exactly the same, double fecta, trifecta, any exacta is 24.18.

CHAIRPERSON HARRIS: Okay. Thank you.

How does it work if, say, you're running at -- one of these afternoons that you're overlapping Bay Meadows, for instance. Where does the money -- if somebody bets on Bay Meadows at Cal Expo, where does the money go? Does it go -- if it goes in Bay Meadows pool, what, would Cal Expo just get a 2-percent --

MR. ELLIOTT: Sure, a 2-percent location fee.

CHAIRPERSON HARRIS: The same way if somebody would bet on Cal Expos --

MR. ELLIOTT: -- at Bay Meadows? They would get

a 2-percent location fee as well.

CHAIRPERSON HARRIS: Thanks.

COMMISSIONER SHAPIRO: Mr. Elliott, can you describe what the food facilities will be during your meeting at -- in other words would the Turf Club be open and will the food be served -- can you just describe what would be offered in the grandstands?

MR. ELLIOTT: Sure. This year -- in fact, yes, tomorrow we do have a meeting -- we have a meeting with Ovations Fanfare, who by the way happens to be the contracting concessionaire here at Alameda's as well as many other fairs throughout the state and venues. This year the Turf Club will be free admission. No longer will there be a charge to get into the Turf Club. We will have a full service menu and buffet, if you will, in the Turf Club in the evenings during the California State Fair.

Obviously we'll have the grille. The grille is food service concession downstairs, first floor satellite. We will also have concession stands up around the first and second floor of the grandstand. And I was told today that, because I saw some hawkers out there in the Alameda grandstand, I was told that I could get some too. They were selling hot pretzels out of the pouch, and I was told I could get some of those as well.

CHAIRPERSON HARRIS: Any other issues on this?

COMMISSIONER MORETTI: Dave, I had just a couple of questions.

Because we've got this new experiment going this year at the fair, have you gotten any particular feedback thus far? And do you have any intentions of creating some metric, some way of measuring how the experiment works other than bottom-line dollars at the end of the meet?

MR. ELLIOTT: There are a few measuring sticks, Commissioner Moretti. However, I think everybody in this room would agree that the bottom line is dollars. I don't think that there's any secret to that.

I will tell you this: That we have received some letters. It hasn't been an onslaught of the people that are upset that were not doing thoroughbred racing in the California State Fair. And we've come to realize that essentially what it is -- it wasn't necessarily the racing, because everybody in this room that's familiar with northern California racing knows that we had 3200 claimers and made dates. The better horses chose the stay at Bay Meadows. I understand that. Not a problem.

It wasn't necessarily the racing -- a problem with the racing going away. It's the California State Fair is a major social event, annual social event. And the race track in and of itself created that social event. People that hadn't seen each other all year, they would

come because they had a license 30 years ago. And we've taken that social event away, and people were -- has led to -- has emotionally charged people, number one.

Number two. On the good side, the harness people that I have talked to, the owners and the trainers, I have not -- we're coming up with lots of different promotional types of ideas that are not listed in the application, because I wasn't sure if I could get them done. However, I have not been told "no" one time with any promotion that we're trying to do as it relates to the participation of the harness people, the owners, the drivers, the trainers, the grooms. I haven't been told "no" once, number one.

Number two, to this date we've only sold nine less season box seats for the harness meet than we did in 2004. It was about 60, 65. So hopefully -- you know, we have another month to go -- hopefully we'll surpass that box seat sales number.

COMMISSIONER MORETTI: That's great. I'm anxious to see how it goes.

MR. ELLIOTT: So are we.

CHAIRPERSON HARRIS: Any other issues on this?

COMMISSIONER SHAPIRO: No, other than I'm assuming that your park -- your general parking is not $7. We'd prefer it's $4? That's a typo, I'm assuming.

MR. ELLIOTT: That is correct.

No, no, no. It's $11. If you want to park in the preferred lot there in California State Fair, it is $11.

COMMISSIONER SHAPIRO: It's an upgrade. Okay.

MR. ELLIOTT: Yes. However, if you're a satellite customer you get in for free. If you're a horse player at my fair, you get in for free. Free parking, free admission.

CHAIRPERSON HARRIS: Any other questions?

COMMISSIONER SHAPIRO: No. I'd move to accept this application with the caveat -- with the caveat that the video surveillance be incorporated into the program.

CHAIRPERSON HARRIS: Do you have a comment?

MR. HOROWITZ: Yes. Alan Horowitz, Capitol Racing.

We'd like to go on the record as objecting to this license application because of the date allocation part of it, that it is beyond the traditional dates that the fair has raced thoroughbred racing. And our feeling is that if dates are allocated to Cal Expo, the facility, for harness racing, it should go to the tenant, the lessee. And in this case since there is a lessee, we believe that they should be entitled to put in a license application for those dates.

Thank you.

COMMISSIONER SHAPIRO: I wanted to ask one more question. I'm very sorry.

Over the paddock there is a cover. Is that cover going to remain with Cal Expo? Because it's going to be summertime, and it's very warm.

Is that cover going to remain there for the meeting?

MR. HOROWITZ: We have not entered into any arrangements with either Cal Expo or the new SHA group with regard to the disposition of the cover. They haven't approached us and asked us what we would be doing with it. And in the absence of some kind of an agreement, we will probably take it with us.

COMMISSIONER SHAPIRO: You're going to take it with you?

MR. HOROWITZ: Yes. It just disassembles. It's just a tent.

COMMISSIONER SHAPIRO: Okay. Mr. Bartosik.

MR. BARTOSIK: Norbert Bartosik, General Manager of Cal Expo.

We disagree with Mr. Horowitz' position. We believe it's a fixture, a part to the parcel of property. It's a capital improvement that they made. We approved it. If they wish to take it with them, they have to restore everything that was there before. And we have

sent them a letter requesting that they give it some consideration. We're waiting to hear back from them.

CHAIRPERSON HARRIS: Well, anyway, I don't think it's something we're actually involved in. I'm sure they can fight it out.

MR. BARTOSIK: Well, we're happy to discuss it and work it out with them. But that's where we're at.

CHAIRPERSON HARRIS: Okay. We've got a motion --

VICE CHAIRPERSON BIANCO: Second.

CHAIRPERSON HARRIS: -- and a second to approve this application.

All in favor?

(Ayes.)

CHAIRPERSON HARRIS: It passes.

The next item is the application to conduct a horse racing meeting at the San Mateo County Fair, San Mateo, August 10 through 25.

STAFF SERVICES MANAGER I WAGNER: Jackie Wagner, CHRB staff.

The San Mateo County Fair has filed this application to conduct a race meeting at San Mateo. They are proposing to race August 10th through the 25th, or 12 days, which is the same number of days they raced in 2004.

The fair is proposing to race a total of 142 races, which is 41 races more than they raced in 2004.

They will be racing Wednesday through Sunday, with 11 or 12 races per day Wednesday, Thursday and Friday, and 13 races on Saturday and Sunday. There will be no racing at the fair on August 15th, 16th, the 22nd and the 23rd.

First post time will be 12:30 p.m. on Saturday and Sunday and 1 o'clock post time on weekdays.

We have received all the information necessary for this application, and staff would recommend that the Board approve the application as presented.

There is a representative from the fair if you have any questions on the application.

CHAIRPERSON HARRIS: When does the Bay Meadows meet start? Does this really take some of the -- by spreading the days out effectively, they're keeping that list going to the Cal Expo meet in Sacramento. But does Bay Meadows' actual meet start on the 26th?

STAFF SERVICES MANAGER I WAGNER: I'm not exactly sure when the Bay Meadows -- I believe it is the 26th.

CHAIRPERSON HARRIS: I noticed on the application that they have a mandate on quarter horses and mules and Arabs, which a lot of those normally also run at Ferndale, which this overlaps. But do you think there will be sufficient of the other breeds to fill those races?

MS. THURMAN: Bernie Thurman from the San Mateo

County Fair. We've been working with the -- and they believe that they'll be able to supply sufficient horses to both Ferndale and San Mateo County Fair. We're going to schedule the mule races on the last two days after Ferndale's over. And we have stakes on the Wednesday and Thursday.

COMMISSIONER SHAPIRO: I have only one question along the same lines, which is my concern that you have on Sundays 13 races and 11 -- Sunday and Saturday you have 13 races and 11 or 12 on other days. I had -- again, I don't know if there's going to be sufficient horses to fill those races with full fields. And I wonder if there shouldn't be a minimum number of starters to determine whether or not you actually race those number of races. I mean it's great to see here they've got, you know, so far full fields and great racing, and at Stockton the same. And if there's sufficient horses for both Ferndale and the San Mateo County Fair, great. But I just wonder if we shouldn't have some standard of the minimum number of starters.

MS. THURMAN: Well, We had represented to the emerging breeds that we would offer the same amount of races as were offered during San Mateo Fair and Cal Expo last year. A realistic forecast would probably be more like 120 races. We're hoping for 142. But we'll look at

the stall apps and the available population. And I don't believe we'll be carding 13 races.

CHAIRPERSON HARRIS: Yeah, and I think I'd rather let the racing secretary and the horsemen at the track work -- you know, obviously everyone would like to have as big a field as they can get. But still they need the flexibility, that I don't think the Board should really intervene, you know, in to say how many races it should have or how big a field size should be. I mean it's their business, which is to have as good a field as they can.

MS. THURMAN: And along those lines, if we don't get to fill the maximum races, we'll probably ask to amend the post time to 1 or 1:15. It makes more sense than a 12:45 on Pacific Classic Day.

CHAIRPERSON HARRIS: You're overlapping Del Mar. And it's seems that, you know, if you start too early, you're going to get over quite a bit earlier than Del Mar.

MS. THURMAN: Right.

CHAIRPERSON HARRIS: Okay. Any questions on this?

Any motion on this?

COMMISSIONER MORETTI: I'll move to approve it.

VICE CHAIRPERSON BIANCO: Second.

CHAIRPERSON HARRIS: Any other discussion. All in favor?

(Ayes.)

CHAIRPERSON HARRIS: Okay. The next item is the Humboldt County Fair at Ferndale on August 11 through 21.

STAFF SERVICES MANAGER I WAGNER: Jackie Wagner, CHRB staff.

Humboldt County Fair has filed this application to race from August 11th through August the 21st, or ten days, the same as 2004. The fair is proposing to race a total of 75 races, just two more than they ran in 2004. They will be racing Thursday through Monday the first week, and Wednesday through Sunday the second week. Six races will be run on Wednesday, seven races on Monday and Thursday, eight races on Friday, and eight or nine races on Saturday and Sunday. This is dependent on the availability of horses.

Their first post time is 1:55 p.m. on Saturday and Sunday, a 2:25 p.m. post on Mondays, Wednesdays and Thursdays, and a 2:55 p.m. post on Friday.

They will be utilizing the CHRB rules for their wagering program.

We have received everything for this application. And staff would recommend that the Board adopt the application as presented.

And there is a representative from the fair should you have any questions on this application.

CHAIRPERSON HARRIS: Any comments on this application?

Any Motion?

COMMISSIONER SHAPIRO: I'll move to approve the application of the Humboldt County Fair.

VICE CHAIRPERSON BIANCO: I'll second.

CHAIRPERSON HARRIS: All in favor?

(Ayes.)

CHAIRPERSON HARRIS: Passed.

Moving right along.

Item 5 is application for approval to conduct advance deposit wagering of Xpressbet from July 1, 2005, through December 31, 2006.

SENIOR PARIMUTUEL EXAMINER REAGAN: Commissioners, John Reagan, CHRB staff. The whole of this application of course is that Xpressbet, which is to move from one tote provider to another tote provider and from California to Oregon -- and what I mean is they are currently operating their ADW hub here in California at Bay Meadows using Autotote. This application if approved would allow them to move to Oregon and use AmTote.

As I always say, of course 90 percent of the problems occur when you make a change. But once that change, that transition is made, we would hope that such a change would be pretty much transparent to your California

customers.

However, like I say, it does involve that kind of a change, from California to Oregon. So we're here to answer any questions that you might have.

I also know that there's some Xpressbet people here, Magna people that would answer other questions you may have.

COMMISSIONER SHAPIRO: Are there any jobs that are being lost to Oregon as a result of this?

SENIOR PARIMUTUEL EXAMINER REAGAN: I would expect. At this point I haven't done any analysis as to what that might amount to at this point.

CHAIRPERSON HARRIS: So we've got to be neutral though because it's between Pennsylvania and Oregon. It's not -- it wouldn't be a loss to California.

COMMISSIONER MOSS: -- job impact in California, as I understand it.

SENIOR PARIMUTUEL EXAMINER REAGAN: Like I say, I honestly couldn't speak to that today as we sit here.

MR. DARUTY: Scott Daruty on behalf Xpressbet.

I'll, if I can, just say a brief words about this application and then answer any questions that the Board may have.

As John Reagan points out, this is really not a new application. This is not a new license. As you all

know, Xpressbet is presently licensed by the State of California to take wagers from California residents. All we're asking to do is change the tote system that supports our account wagering.

In real non-technical terms, the way I like to think about it is you have Xpressbet as a company, it's got its employees, it's got its customers, it's got a website you can log on. Because it relates to the horse racing industry, obviously it has to tie into the tote system. So Xpressbet over here as a company has a wire that comes out of it. And that wire today plugs into a computer operated by Autotote. And that computer happens to be located in northern California.

All we are asking to do is to unplug that wire from an Autotote hub and plug it in instead to AmTote up in Oregon.

CHAIRPERSON HARRIS: I thought -- you said northern California -- Autotote was in Pennsylvania.

MR. DARUTY: No, the hub that we're operating are -- the hub we're operating Xpressbet out of is located in northern California. But, again, that has nothing to do with Xpressbet as a company. We're not talking about Xpressbet jobs. All we are doing is unplugging from Autotote and plugging in to AmTote up in Oregon.

Two key points: First of all, the AmTote hub

which we're going to plug into is already a hub where TBG and YOUBET operate out of. So we're not asking today to bring in anything new or different or unusual. This Board has already approved two account wagering providers to operate out of that hub. And we're just asking to be the third.

The second key point is: There are no jobs in California that are moving to Oregon. Again, you have Xpressbet. Xpressbet has a company. It's not changing. Its operations are not changing. Its employees are not changing. All we're doing is unplugging from one tote system and plugging into the other.

So I recognize -- I mean we approached the union. Obviously we always want to be open and talk with our partners in the industry. And I understand they may have some concerns. But when we really pushed it -- and they're here today, and they'll say it in their own words. But their concerns appear to be more directed towards account waging as a whole, and that maybe they're not happy with the way that has all turned out.

That's really a separate issue. That has nothing to do with what we're asking today. This application, if you approve it, is not going to leave one loss of a job -- one job in California.

And as I said, I'd be happy to answer any further

questions if I can.

CHAIRPERSON HARRIS: Thank you.

Any questions of Scott?

Mr. Castro.

MR. CASTRO: Richard Castro, Pari-mutuel Employees Guild Local 280, California.

Yes, we do not want you to allow them to move their hub from California into Oregon. We feel that you've made a mistake, as Scott pointed out, in licensing the ADW companies, allowing them to have their hubs in Oregon. Their hubs should be here.

What we would suggest you do, is this would be an excellent time for you to force the other two companies to come back into California and have their hub here.

In fairness to this company -- that's one issue. In fairness to this company, at least this company has met with us as you ordered. The other two companies have not. This company has done more to try to resolve the issue than the other two. And yet here I am protesting what they're doing, and yet these people have actually been our best friends trying to work this out.

I feel really frustrated doing this. I feel sorry that they feel that they have to get out of the Autotote and get on to AmTote to get a better working system. I'm not going to belabor the issue of how we all

feel about the way the tote company runs sometimes.

But I don't represent IBEW 3. But I would think that possibly they may lose an operator because they won't have the business going through the hub at Bay Meadows. But, again, I don't represent them.

That's pretty much what I have to say on this issue.

CHAIRPERSON HARRIS: Any other comments from the audience on this?

MR. CASTRO: That's fair.

CHAIRPERSON HARRIS: I have to disagree. I think this is a business decision on the part of Xpressbet. And if they want to just change their hub, not the operator, if they feel that AmTote's better capable to do it, I don't really have a problem with doing it.

Do any of the other commissioners have thoughts on it?

COMMISSIONER MORETTI: If this particular issue is to unplug, I don't have a problem with that. My problem would be to back -- what we need to do next time we talk about this.

MR. CASTRO: It's hard to hear you back here.

COMMISSIONER MORETTI: Sorry, Richard.

I say my issue is dealing more with what you raised, which would be when it's time to relicense again.

They are currently licensed. If they want to plug and unplug, I don't have a problem with that.

MR. CASTRO: Well, can I assume that that's what the Board feels, that you -- I'm going to ask the Board. Can I assume that the Board is taking the position that you've licensed companies and you're not willing to revisit licensed companies -- to revisit these licensed companies, these ADW companies? And the reason that bothers me is because I've been to enough stewards meetings where it's almost like I feel that if my member violates something, you automatically have a hearing before the case is even heard. And this is kind of the same thing for here. The hubs were supposed to be here in California. You granted licenses and they left the state.

You people were appointed by a Governor that looks out for jobs in the State of California. I know I have all of your sympathy on this issue. We're trying to work with you on this issue. But if you're telling me today the position is that you're not going to review the license, then we need to move on to another venue, and we will do that.

CHAIRPERSON HARRIS: Well --

COMMISSIONER MORETTI: Not in the middle of the duration. They are licensed currently. They are currently licensed. Their license is not up for review

today.

CHAIRPERSON HARRIS: Yeah, all we have --

MR. CASTRO: I understand that.

CHAIRPERSON HARRIS: We don't -- I mean the broader issue, which I don't necessarily agree with you on anyway, but --

MR. CASTRO: Have you ever agreed on other than a chicken fried steak?

(Laughter.)

CHAIRPERSON HARRIS: I would be afraid I'd be on the wrong side of it.

But the bother issue, the whole jobs issue and all -- issue are a whole set of issues not really on the agenda. All we're looking at here is can they move their provider from Autotote to AmTote.

COMMISSIONER SHAPIRO: I personally am very sympathetic to the idea that when ADW came to California the intent was for those hubs and those jobs to be here. I think that it's something that we as a Board should review at the appropriate time and look to bring those jobs back to California.

In this particular instance, with the issue that's before us today however, what I'm hearing is that there is no job loss. They are switching from one tote provider to another. And so I personally would be in

favor of granting Xpressbet the ability to switch from Autotote to AmTote. But I remain sympathetic, as I believe this entire Board has been sympathetic, it's spoken to, that we feel that you were snookered and we were snookered with respect to the location of the hubs.

CHAIRPERSON HARRIS: I don't know if I would up --

MR. CASTRO: We won't go that far.

CHAIRPERSON HARRIS: Well, no, there's been a lot of rhetoric on this whole thing. But I mean we're in an age of automation. There aren't hordes of jobs out there available is the problem that's out there. Automated system.

COMMISSIONER SHAPIRO: Well, I'm not talking about the quantity of jobs. The notion was originally though, from what I understood, that those hubs and whatever jobs there were would be located in California. And I've spoken to Mr. Castro personally and said, you know, this is going the way of a telephone operator. Automation and technology is going to change hopefully the way that people bet at the race track. I am a strong proponent of upgrading our systems and modernizing our systems. But that's an issue for you to create jobs that adapt to today's technology.

But in this case, again, I think that we're

dealing with a specific issue, and I would recommend -- I would be willing to support the change.

CHAIRPERSON HARRIS: Do you move that?

COMMISSIONER SHAPIRO: Therefore, I will make a motion that we grant Xpressbet's request to relocate the hub from Autotote to AmTote.

VICE CHAIRPERSON BIANCO: I have one question.

When I first got on this Board -- and I think I have a year and a half to go. When does this license expire?

SENIOR PARIMUTUEL EXAMINER REAGAN: At the End of 2006.

CHAIRPERSON HARRIS: I think we did a two-year license back in early part of this year sometime or --

SENIOR PARIMUTUEL EXAMINER REAGAN: It was late last year.

COMMISSIONER SHAPIRO: December.

CHAIRPERSON HARRIS: To this extent, the current license is just --

VICE CHAIRPERSON BIANCO: So we will have an opportunity next year to revisit this job situation. Because I was told -- and I think Alan Landsburg was the head commissioner at that time. He was insistent that these jobs stay in California. I'll be very honest with you. That's why you got my vote initially. But the jobs

didn't stay in California. And I feel I was snookered or -- I think everybody that was on this Board was snookered.

CHAIRPERSON HARRIS: I don't know if it was snookered. It was -- at the time we did it we knew it wasn't in California. I think the jobs we were talking about were more telephone operator jobs versus automated bets, I mean -- so I think the issue would be if we would mandate that there were X number of actual live operators that a certain ADW provider had. But that would be what we could do for -- I don't --

VICE CHAIRPERSON BIANCO: I agree with you, John. I agree with the decision that we're making right now what we have to do. But I've seen the semiconductor industry get snookered by Oregon, come down and just pick every semiconductor plant up and moved it up there. I see the same thing happening here. I think California has to stop being a pushover. You know, you get the technology here and then all of a sudden you move someplace else, and I think it stinks personally.

CHAIRPERSON HARRIS: Yeah.

MR. CASTRO: Well, let me make this real easy. I don't -- we don't want to hurt their business. We were extremely fortunate in negotiations. In negotiations we got a new collective bargaining agreement. And better

than the collective bargaining agreement, or just equal, we all walked away with a good feeling. We all feel that we can work together. I don't want to lose any of that.

So what I suggest is go ahead and do what you're going to do. I'll accept that.

But you and I, Mr. Harris, will have a meeting at Harris Farms. And you and I are going to go to the transcripts and I'm going to show you where you're in error back in those years. And I'll save it for Harris Farms.

CHAIRPERSON HARRIS: I spoke up now. I didn't want to cloud it again.

But actually I do congratulate Mr. Castro for doing a great job on that collective bargaining agreement. That was a major issue.

(Applause.)

CHAIRPERSON HARRIS: We've got a motion on the floor.

Do we have a second?

VICE CHAIRPERSON BIANCO: Second.

CHAIRPERSON HARRIS: All in favor?

(Ayes.)

CHAIRPERSON HARRIS: Passed.

The next item is Item 6. Something to do with issues related to Capitol Racing.

SENIOR PARIMUTUEL EXAMINER REAGAN: Commissioners, yeah, you're correct. We've discussed this a number of times.

Two items on the agenda today, the first one being of course the situation with the promotional money: Should it have been split? Should it have not been split? I understand -- we all know that this is in litigation at this time.

And the second issue has to do with the purse account, the status of the over or under payments.

So I know that there are people from capital here today, and I'm sure you have some questions.

CHAIRPERSON HARRIS: Richard, do you --

COMMISSIONER SHAPIRO: Why you looking my way?

Okay. As we all know, this is a complicated and longstanding issue. And so let's deal with the promotion fund.

The position -- and for the rest of the Board is -- the position that as I understand it is that the -- there must be a written agreement to provide that if the promotion fund is going to be handled in any way other than is split equally, there would have to be a written agreement. The horsemen's agreement does not provide and have language which states that there is anything other than an equal split.

In the meetings that we've had, there was contention that there was informal and verbal agreements to the contrary.

Having discussed the issue with all parties, however, I personally believe -- that I have not seen anything to evidence that agreement, and I would be recommending that Capitol Racing have to return the money that is due to the Horsemen's Association, as the promotion fund should have been equally split. I have yet to see anything to convince me otherwise with that.

So I would be recommending to the Board that the Board insist that the promotion fund be -- it needs to be recalculated and that Capitol pay to the Horsemen's Association their 50 percent share of the promotion fund.

SENIOR PARIMUTUEL EXAMINER REAGAN: For the benefit of purses, Mr. Shapiro?

COMMISSIONER SHAPIRO: Yes.

SENIOR PARIMUTUEL EXAMINER REAGAN: Thank you.

COMMISSIONER SHAPIRO: If there's -- anybody have a comment? Otherwise I'll make a motion.

MR. BENBROOK: Yes. Thank you.

My name is Bradley Benbrook. I'm a litigation counsel for Capitol Racing in the Desomer lawsuit. My law firm is Stevens & O'Connell in Sacramento.

And notwithstanding my role as litigation

counsel, my message and request here today, ladies and gentlemen, is to -- for the Board to take no action today that will add to the existing litigation and create potentially new litigation.

Whether or not the Board takes a position today as to what should or should not have taken place with respect to the .5 percent promotional fund money, that issue will be decided by the court in litigation. And with respect -- if the Board does weigh in to take a position, it will add to the litigation in Sacramento Superior Court. And it would be very unfortunate for that to happen, particularly considering that the plaintiffs in the Desomer lawsuit have said that the Board does not have the authority to come in to this dispute and choose sides between horsemen and the operator on this issue.

We'd like you to agree with us. But the law is that the Board can't come in and choose sides on the contractual dispute issue.

COMMISSIONER SHAPIRO: Well, I need to -- because, Mr. -- Is it Benbrook?

MR. BENBROOK: Yes.

COMMISSIONER SHAPIRO: Mr. Benbrook, We're not choosing sides here. What we're doing is we're the regulatory body that is required to enforce the rules and the regulations of the State of California as it pertains

to horse racing. I don't see how our action is going to contribute to any further litigation whatsoever.

What is before us is an issue. The issue is: Have the purses been distributed pursuant to law? As we look at it, the rules are very clear with respect to how these monies were to be distributed. As we have looked at it, we have not been presented with anything to compel us to go contrary to the existing law. And, frankly, I'm -- I don't want to say I'm offended. But, you know, if it means more litigation or it has an effect on litigation, you can always bring lawsuit. Okay? I don't think that our decision should be swayed by what you're doing legally in litigation. We still have an obligation to the state and to the horsemen and to every participant to enforce the rules evenly and pursuant to racing law.

So all I'm suggesting is that we look at racing law and interpret that -- as it's written. And in this case those promotion monies should have been split between the horsemen and the racing association. If you choose to bring a lawsuit claiming otherwise, then that's up to you to do between you and you're clients.

MR. BENBROOK: Well, if I may respond Commissioner.

I heard you say earlier that the Board's position or the Board's understanding of the law is that the money

has to be split 50/50 in a written agreement. The law is that the promotional fund money shall be split pursuant to the parties' written agreement. It doesn't say 50/50. It's however they shall agree. You're right, there is testimony -- there has been testimony by David Neumeister and other past presidents agreed that there was an oral agreement that the promotional fund money shall be split -- or shall be used for promotion and not put in to the purse pool. Everybody refers to it as the promotional fund money. So it's not a novel concept that the money would be used for promotion instead of going into the purse pool and into people's pockets.

So the fact of the matter is there was an agreement that it would be used for promotion and it was used for promotion and the horsemen benefited from that.

COMMISSIONER SHAPIRO: Yes. But the difference is that the racing association in this case took all of the money without a written agreement otherwise permitting them -- that permitted them to do that. Therefore, what I am advocating is that absent a written agreement, the money should be distributed pursuant to what the law states. And it's my understanding that that would mean the horsemen would get 50 percent and the racing association would get 50 percent.

I have yet to see anything that compels me to

believe that there was an agreement -- a written agreement between the parties to allow Capitol Racing to take that money and use it without the horsemen's consent. Therefore, all I'm suggesting is that this Board enforce the rules that are before us. If you want to contend otherwise, then you should do that.

MR. BENBROOK: Well, yes, sir, we will. And I just would reiterate the law doesn't say it shall be split 50/50. The law says shall be split as the parties will agree.

COMMISSIONER SHAPIRO: And I believe the written -- and I believe if you go back to the horsemen's agreement -- and I do not have it in front of me. But I think that there is verbiage in the agreement that would then dictate that these monies were split 50/50.

MR. BENBROOK: Well, if you'll indulge me, that's right, there -- that's not right. Actually it says that the gross income derived from simulcasting shall be split equally as commissions and purses. But promotion fund money is one of the statutorily required deductions from gross income. It's not income. It's promotion fund money. It's supposed to be used for promotion, and it was used for promotion.

And as far as evidence about how it was supposed to be used, as I say, we've got the former presidents of

CHHA saying that there was an agreement to use it in this way. And the current executive director of CHHA has written a letter to the Board on April 13 confirming that the language that you're just referring to did not cover the use of promotion fund money. He says -- and I'll quote from the letter -- "After having this matter brought to our attention last fall during contract negotiations for the current 2005 spring meet, CHHA requested that Capitol agree in the horsemen's contract to split the proceeds equally and add those promo funds to the 2005 spring meet purse account." They did agree to do that.

So CHHA said, "Hey, let's change the agreement, because we haven't ever dealt with this before in the agreements." They requested a change. They got a change. But make no mistake about it, there was a change in the prior agreement, that the language in the prior agreement did not cover the promotion fund money.

So you have everybody who's a party to the agreement in the past saying this language in the agreement doesn't cover promotion fund money. And now you have someone coming in, Mr. Bardis, candidly, who's not a part of the agreement, saying, "Well, I don't care what the parties to the agreement said. I know better. And here's what it means. It means that half of the promotion fund money should have gone into the purse account."

So when I said earlier about -- when I referred to choosing sides in this matter, I think it's only fair to address reality. There are a few horsemen, including most prominently Mr. Bardis, who's saying, "Hey, wait a second. There's a potential gotcha here. We don't see a written agreement that governs the use of the promotion fund money. So let's just say" -- "let's go back through all the past several years and retroactively say it should have been used for the purses," notwithstanding the fact that it was used for promotion and that the horsemen benefited from it, including Mr. Bardis.

So given that, it would be most unfortunate and improper, frankly, to come down on the side of Mr. Bardis. And as I said, that is the element of choosing sides, which the horsemen's benevolent case says that the Board can't do in a contract dispute. And we've cited that. Mr. Bieri cited that in his April letter. I refer to Mr. Berry's April letter on the promotion fund money -- the promotion fund issue.

And we'll leave the -- I'll leave my comments at that unless you have any other questions on the promotion fund issue.

Do you want to -- shall I address the Item B?

COMMISSIONER SHAPIRO: No, not at this time.

MR. BENBROOK: Okay.

COMMISSIONER SHAPIRO: Thank you.

MR. KENNEY: Ben Kenney, President of CHHA. Let me say a few things.

We've always split basically everything 50/50. This is not anything that is a surprise. This isn't, you know, to be determined. Everything has been split sort of 50/50. And as far as was there a change -- I can tell you I've been on the board almost five years. And until the December of this past year, none of us knew what the promotion fund was. None of us voted on a promotion fund. Nobody even knew that we had access promotion fund. This was an anything what -- that we had access to a promotion fund. This was a new thing that we decided to change from our previous agreement to now into the agreement of, "Well, now, let's put it in the current contract as a form of just split in the purses."

This was something new. We discovered it. And as far as, you know, Chris Bardis is concerned -- and he's got his suit. We feel that these monies do belong to the horsemen. And the law is the law. We're not here to try this case today. We're not here to wordsmith this case. The racing law is fairly clear. We're just asking you to enforce it.

Thank you.

CHAIRPERSON HARRIS: I'm not completely clear on

the actual fund, if there -- I think everyone agreed to the fund. But the two parties don't seem to agree if money was actually spent for promotion out of this fund or not. As I understood it, it was a promotional fund, but it never really got used. But did -- does Capitol know that it was used and --

COMMISSIONER SHAPIRO: Yes. The gentleman properly just clarified for you.

Capitol has contended that they used this money -- they used both their half of the money and they used the horsemen's half of the money to promote the meeting. They believe that they promoted it with advertising and the daily racing form and other things. So Capitol has taken a position that they have used the money for promotional purposes.

The issue is that the horsemen have taken the position that they were not consulted, they were not advised and, in fact, they did not agree for Capitol to use its half of the money as Capitol deemed necessary -- appropriate.

MR. BENBROOK: If I may respond, and I'll keep it brief.

With respect to the statement that the horsemen take that position. Well, as you heard a couple of meetings ago the former president of the CHHA has stated

to the Board, "This was our agreement. The agreement was that the .5 percent would be used for promotional fund money." Presidents act on behalf of their organizations.

For the gentleman to say that nobody knew, nobody had any idea about this, it's really hard to accept given the accounting that was provided on a weekly basis to the horsemen about the use of the purse pool -- of the money.

Thank you.

MR. KENNEY: Let me say this: Once again, I'm Ben Kenney, President of CHHA. I've been on the board the last five years. This gentleman has not. We've never heard of this up until the last five or six months ago. There is no document, you know, there's no accounting weekly of the purses or promotion monies that were spent. We have never had that and that's just -- that's wrong.

MR. BENBROOK: We can keep going back and forth.

I will agree -- there's something we will agree on. I'm not a board member of CHHA. Mr. Kenney is not disagreeing that in fact the president of that organization has authorized these agreements.

And just to get again to Mr. Harris' question. It's not just Capital's contention. Capitol will be able -- can show anybody who's interested how that money was spent and that it was in fact spent; and show how unfair it would be, given that it has been spent, to come

in after the fact and say, notwithstanding that it's been spent and not withstanding that the horsemen have been benefited from that, "You still have to pay this money to the horsemen."

Thank you.

MR. KENNEY: Let me say this one last thing. Yes, I do disagree that there was an agreement. There's no documents, no evidence of any agreement from Mr. Neumeister to Mr. Horowitz or whatever it is -- Mr. Shell, Mr. Horowitz. There's -- nobody that I know was there. Not only that, is the law is the law. I don't want to cloud this up. It's a fairly simple issue. Your racing law states it must be written. That's it.

COMMISSIONER SHAPIRO: I appreciate all the testimony. It would be my recommendation to the Board that we still require that Capitol be required to repay this money to CHHA pursuant to racing law and also the horsemen's agreement. And specifically Section 13b of the 2004 contract between Capitol and CHHA states, "Gross income derived from simulcasting an advance deposit wagering, ADW, of live racing from the meet shall be split equally as commissions and purses in accordance with California statutes pertaining to off-track wagering in ADW."

I don't think that it is -- we're going to

adjudicate this. And I've certainly heard both sides. But it would be my recommendation that we act accordingly. And, therefore, if you're ready I'll make a motion.

CHAIRPERSON HARRIS: Yeah, just a clarification.

As I understand it, Capitol is overpaid by more than this amount anyway. So it's not really going to cost --

COMMISSIONER SHAPIRO: That's not necessarily true, no.

CHAIRPERSON HARRIS: We can --

COMMISSIONER SHAPIRO: We're coming up to that issue and that's a --

CHAIRPERSON HARRIS: Okay.

COMMISSIONER SHAPIRO: Therefore, I move that we require Capitol Racing to pay to CHHA 50 percent of the ADW promotion fund monies.

CHAIRPERSON HARRIS: Why don't we clear -- where would money go, into a past purses or future purses or --

COMMISSIONER SHAPIRO: I believe staff has calculated what that amount is. At about 1.45 million, is that right?

SENIOR PARIMUTUEL EXAMINER REAGAN: Yes, sir.

COMMISSIONER SHAPIRO: And the monies would then -- I guess that's a different issue.

CHAIRPERSON HARRIS: I mean it would -- it would

offset the overpayment first, and even though I realize there's some other monies out there.

COMMISSIONER SHAPIRO: Right. In the event that the money should be used to equalize any overpayment, if there is an overpayment, and it should be distributed pursuant to what racing law provides.

CHAIRPERSON HARRIS: Okay. Go ahead.

MR. HOROWITZ: Alan Horowitz, Capitol Racing.

As a point of clarification in your motion. It talked about Capitol Racing returning money to CHHA. The provision of law says for distribution of purses. And the question is: Are we talking about giving a lump sum of money to -- or being required to provide a lump sum of money to the horsemen's association? Or are we talking about working out some formula or some way of returning it to the purses? And then the issue becomes, since these funds supposedly started in 1997, are we talking about a lump sum for horsemen that are racing today, do they become the beneficiaries of this by way of some formula? Or are we obligated -- and some horsemen would contend that we owe it to the horsemen who raced in those years on some kind of pro rata distribution retroactively to them.

And in fact we've had a conversation with two individuals who believe that if funds are to be returned to the purse pool, that they be able to benefit because

their horses raced in '97, '98, '99 and the like. I'm looking for clarification on your motion. I'm not stating a preference or, you know. And maybe the staff can work with the other members of the staff.

COMMISSIONER SHAPIRO: Yeah, I would ask that staff work with Capitol and CHHA and any other applicable harness entity that should be involved to advise on how those monies should be returned, and let staff report back to us on that.

MR. HOROWITZ: I'd like to add one thought. And, that is, that while the item isn't before the Board today, there was a letter sent to Mr. Shapiro indicating that the same type of shortfall to purses accrued during the time that Los Alamitos ran harness racing. And the same questions then are applicable, in particular, because I certainly can attest, and I know that the other past presidents can attest, to the fact that not only wasn't there a written agreement, there was no oral agreement, and that no portion of the additional monies, that half a percent, went to the horsemen at all. Management kept that money. It wasn't spent on promotions.

So I would a appreciate if -- that follow-up meeting if the Board would essentially address the other portion of this issue.

COMMISSIONER SHAPIRO: Mr. Horowitz, I think

that's totally in order. It is my understanding that I think it was when the Premier Racing existed and at Los Alamitos race course -- Los Alamitos race course has advised me in writing that they did not distribute money that they should have distributed. They have told me that they're willing to do so. And I would also suggest that this be agenda'd so that we can deal with that in the same manner that we're dealing with this. I totally agree with you.

MR. HOROWITZ: Thank you.

MR. KENNEY: Commissioner, one thing on your motion. This is not ADW money. So would you put that through on your motion?

COMMISSIONER SHAPIRO: Fine.

CHAIRPERSON HARRIS: Okay. You want to restate your motion and we'll get a second.

COMMISSIONER SHAPIRO: You couldn't do it?

CHAIRPERSON HARRIS: No.

COMMISSIONER SHAPIRO: Okay. I would move that the promotional monies that have been used by Capitol Racing be reallocated such that 50 percent of those monies are credited or paid to the purse pool of the harness horsemen, that staff be directed to advise us on how those monies should ultimately be returned and what the best form is and the -- oh, pursuant to Code Section --

brilliant here -- Section 19605.7c of the Racing Code.

CHAIRPERSON HARRIS:

VICE CHAIRPERSON BIANCO: I've seconded that.

CHAIRPERSON HARRIS: Any more discussion?

All in favor?

(Ayes.)

CHAIRPERSON HARRIS: Passed.

Mr. Benbrook.

MR. BENBROOK: Yes. I'm sorry. I'm a lawyer. I can't help myself. I just want to make note for the record that Mr. Horowitz' request for clarification wasn't an agreement or a consent that this was the right thing to do here.

Thank you.

CHAIRPERSON HARRIS: We understand that.

SENIOR PARIMUTUEL EXAMINER REAGAN: Staff will take care of this.

COMMISSIONER SHAPIRO: Thank you.

CHAIRPERSON HARRIS: Okay. If you want -- can we take just a quick break. Is it a good time for you?

Let's take about a 10-minute break and then we'll go.

(Thereupon a recess was taken.)

CHAIRPERSON HARRIS: Mr. Chillingworth wanted to move us up to the item on the charities at Oak Tree. Can

we do that right now?

What number is that?

COMMISSIONER SHAPIRO: It depends if Mr. Chillingworth is going to --

CHAIRPERSON HARRIS: We've got Item 12, which we'll take out of order.

Would you report on that.

SENIOR PARIMUTUEL EXAMINER REAGAN: John Reagan, CHRB staff.

Commissioners, this is a request from Oak Tree to distribute $64,000 in charity money. They're giving a hundred percent of it to horse-racing-related charities. They are doing it at the correct percentage per law. We recommend approval.

COMMISSIONER MORETTI: Is that a first?

SENIOR PARIMUTUEL EXAMINER REAGAN: No.

CHAIRPERSON HARRIS: I think it is good to give it to the horse-related-charities.

Do I have a motion?

No, go ahead.

MR. GHIDELLA: Jim Ghidella, Thoroughbred Owners of California. I'm also a board member of the Northern California Equine Foundation. And I just wanted to publicly thank Oak Tree for donating $25,000, enabling us to buy a digital radiography unit for our hospital. That

in combination with a very generous gift from owner Shell Kivolly allowed us to go through with the purchase. And we thank them both very, very much.

CHAIRPERSON HARRIS: Yeah, that is an excellent hospital.

Any other questions here?

I'd like to get this passed before Chilly gets back in here.

(Laughter.)

COMMISSIONER SHAPIRO: John, I have about 50 questions for chilly.

(Laughter.)

MR. CHILLINGWORTH: Careful. I'm in a crouched position, ready to go.

(Laughter.)

CHAIRPERSON HARRIS: We'd like to see the last year's tax returns for each of these charities.

(Laughter.)

CHAIRPERSON HARRIS: Okay. Is there a motion on this?

COMMISSIONER SHAPIRO: So moved.

VICE CHAIRPERSON BIANCO: Second.

CHAIRPERSON HARRIS: All in favor?

(Ayes.)

CHAIRPERSON HARRIS: Thank you very much.

COMMISSIONER SHAPIRO: Have a nice flight.

MR. CHILLINGWORTH: Southwest will love me.

VICE CHAIRPERSON BIANCO: Take the bus.

CHAIRPERSON HARRIS: Okay. Next item is Item 7. That is the -- we going to do -- we're halfway through.

SENIOR PARIMUTUEL EXAMINER REAGAN:

Commissioners, this is the other half of the item regarding the purse account at Capitol. The question is of course how many people are underpaid, overpaid. And the way Capitol calculates it right now, it is overpaid. And we were aware of these other amounts of money that can be discussed. And if they're so applied in various ways, the account may actually be underpaid. And that's the whole issue before us today.

COMMISSIONER SHAPIRO: Mr. Chairman I would ask -- I asked our Attorney General to look at this matter for us. And I would ask that he advise us before we hear any more discussion on this what his feelings were on this issue.

DEPUTY ATTORNEY GENERAL KNIGHT: I don't have an opinion from the Attorney General's office. But I viewed -- I have reviewed the issue. And it seems to me that there's been contentions that there were overpayments made. And it's a rather complex issue, but the bottom -- if we cut to the chase, the issue is that there were

certain funds that were due -- that were purse designated funds that were due to Capitol from Los Alamitos. And because of some other disputes between Los Alamitos and Capitol, those funds were being withheld by Los Alamitos, pursuant to ultimately a mutual agreement of the parties.

Nonetheless those monies were due and payable to Capitol. They were just being used to pay some other debt or to protect against nonpayment of some debt that was owing. So the way I see it -- and I think it's very simple -- is this: That those monies -- those purse -- well -- and while this was going on, Capitol, as I understand it, continued to pay purses at the level that assumed they were receiving these purse-designated funds that were being withheld to pay this other debt or to protect for payment of this other debt.

So, when you look at it that way, which I think is the only way to look at it, you have a situation where there is really no overpayment of purses because the purses were being paid in accordance with the monies that were due and payable, admittedly -- everybody can see these were Capital's monies. They were purse-designated monies. And, therefore, to the extent that they claim an overpayment based on these monies that are being -- had been agreed to be held to pay some other debt, that's not an overpayment. So it's -- at least it's not an informal

advice or a view that that's -- that is not an overpayment.

COMMISSIONER SHAPIRO: So to restate it a different way, the purses that were generated generated at a certain level of handle. As a result of other disputes regarding impacts, payable or not payable, to Los Alamitos race course, this Board allowed Los Alamitos to hold what is called 612 money. And Capitol continued to pay the purses at the level that the purses were being generated, and yet the money that was being -- as if the 612 money was not being held; is that correct?

DEPUTY ATTORNEY GENERAL KNIGHT: That's correct.

COMMISSIONER SHAPIRO: Therefore, the money that is currently 612 money, if the impact issue was neutral, whatever happened regardless of that, would the 612 money then be Capital's money since they had paid purses as if that money had been received?

DEPUTY ATTORNEY GENERAL KNIGHT: It's my understanding that nobody disputes that the 612 monies are in fact capital's monies. It's simply --

COMMISSIONER SHAPIRO: But can you just answer the question please.

DEPUTY ATTORNEY GENERAL KNIGHT: They were Capital's money in the sense that they were first designated funds that were to be distributed to Capitol.

But pursuant to agreement by Capitol, they were being held as security for this other dispute.

That's my understanding.

COMMISSIONER SHAPIRO: Okay.

DEPUTY ATTORNEY GENERAL KNIGHT: So they were Capital's monies, but -- and the fact that they were computing purses based on the assumption that those monies were theirs was proper. They should have done that. They had no other alternative but to do that.

COMMISSIONER SHAPIRO: Okay.

CHAIRPERSON HARRIS: Well, I'm not clear what the law states.

COMMISSIONER SHAPIRO: Do you disagree with what he says?

MR. ENGLISH: In the first place -- by Capitol Racing -- Rick English -- for the CPA.

The law specifically says that money is the harness horsemen's money, it's the purse money. It's not Capital's under any interpretation of the law.

CHAIRPERSON HARRIS: I'm not clear if necessarily the amount of over -- the purses paid really correlated with this pool of money or was just sort of arbitrary.

SENIOR PARIMUTUEL EXAMINER REAGAN: The actual -- the staff looked into this a couple years ago as this overpayment suddenly became large and it stayed that way.

And there was -- for some time there there was a fairly close correlation between those funds and what was being paid, yes. Now, in the last several months, as Capitol has had other issues and has seen the end of their time, other things have been done. And right now the purse overpayment they calculate might be, say, a million and a half and the 612 monies currently about a million nine. So if suddenly the, you know, 612 money was taken and just dropped into the purses, obviously there would be a situation where the purses would be no longer overpaid but in fact underpaid by a few hundred thousand.

CHAIRPERSON HARRIS: A lot of ways to refer to this, but I assume there is, you know, probably hundreds of different -- recipients of a matter that was probably --

SENIOR PARIMUTUEL EXAMINER REAGAN: There's a lot of scenarios on how that could be calculated, right, as we come to the end of the Capitol time, yes.

COMMISSIONER SHAPIRO: Let me ask, because maybe I'm not clear: If there had been no holding of any money at Los Alamitos race course and, let's say, that there was a purse -- a purse generation of a hundred thousand dollars. Okay?

SENIOR PARIMUTUEL EXAMINER REAGAN: Of 612 money?

COMMISSIONER SHAPIRO: Out Of all monies.

SENIOR PARIMUTUEL EXAMINER REAGAN: Okay.

COMMISSIONER SHAPIRO: And a hundred thousand had been paid out and there wouldn't be an issue here.

Now, because, let's say, 50,000 of it was held by Los Al, but Capitol chipped in that 50,000 being held by Los Alamitos and continued to pay the horsemen a hundred thousand dollars, then wouldn't the money that was being held by Los Al if it became available, wouldn't it then be first due back to Capitol for their advancing money that they did not receive and was being held?

SENIOR PARIMUTUEL EXAMINER REAGAN: Mr. Shapiro, when Capitol advanced the money in their purse calculation, they did show the overpayment. So in a sense they are extending the loaning money to the horsemen, with an expectation of getting it back. So, you're correct, when that money would come north, it would be in a sense used to settle the purse account and then anything else would be --

COMMISSIONER SHAPIRO: Okay. So now when we go to Mr. English and say, Mr. English, regardless of whose money it is, do you agree with the concept that if the purse generation was this fictitious hundred thousand dollars and 50,000 of it was being held somewhere, and Capitol continued to pay a hundred thousand dollars to keep the purses paid in full, so to speak, wouldn't the

50,000 first go back to repay those advances? Would you not agree with that?

MR. ENGLISH: Yes, I would, Commissioner. But I would go on to say that the purses would not be overpaid had Capitol initially credited the purses for that promotion money that was due them. Additionally --

(Laughter.)

MR. ENGLISH: Excuse me. Another issue -- yes, it would go to the purses if the purses were overpaid. But that raises the question, purses -- I don't see that purses were overpaid, because they didn't give the purses credit for this promotion money and they never accounted for the stopping the surplus in a timely basis.

COMMISSIONER SHAPIRO: I understand what --

MR. ENGLISH: So theoretically you were right.

COMMISSIONER SHAPIRO: We're dealing with that and that all has to get computed in to this, okay, so that we can account for it. But with respect to this particular half of the issue, there may in fact not be an overpayment because of 612 money that may or may not come back into the pool, depending on what happens in some future litigation between other parties. Do you agree?

MR. ENGLISH: Correct.

COMMISSIONER SHAPIRO: Okay.

MR. ENGLISH: I also think the purses are

underpaid regardless of the 612 money.

COMMISSIONER SHAPIRO: Okay.

CHAIRPERSON HARRIS: Well, it looks like the recommendation on this is that the Board direct staff to prepare a complete accounting, which, you know -- I mean really to get our arm across --

COMMISSIONER SHAPIRO: That's right. And it would be my further recommendation that staff do a full accounting and report back to us, given the action that we had taken earlier today, imputing in to it what would occur with the promotion monies based on our action. And then the monies that are being held by Los Alamitos, there's money I believe being held at the California Horse Racing Board and all other funds, SCOTWINC and everything else, that what we need to see is a full accounting of proceeds.

SENIOR PARIMUTUEL EXAMINER REAGAN: And it's so much easier to do that at a postmortem situation where the numbers aren't changing further.

COMMISSIONER SHAPIRO: Well, my only caution there would be that I don't want to see that we do it at the last minute and now we have a licensee that is no longer an active licensee, I don't want find that, oops, we goofed at the end. So I would suggest that we do it at given points in time. Their license is up I think July

31st. And so I would recommend that we do a full accounting as of July 1st and then perhaps another one on July 15th so that we have the time to intercede if we need to.

SENIOR PARIMUTUEL EXAMINER REAGAN: Yes, sir.

CHAIRPERSON HARRIS: Go ahead.

MR. BENBROOK: Brad Benbrook again.

I think what I hear is that the extent of the action to be taken is for Capitol to work with the staff. And if that's the extent, we're happy to work with staff. You have our -- you understand our position on the promotion fund. I'm happy to hear the Board's agreement about the characterization of the 1.9 million in 612 money from Los Alamitos.

Thank you.

SENIOR PARIMUTUEL EXAMINER REAGAN: You know, staff actually has been working with Capitol for a few months now, trying to home in on a number of these items. And we have a little bit more to work with today, but we certainly will continue to do that as we come to the end of July.

COMMISSIONER SHAPIRO: Well, again, I'm asking that everybody basically close the books as of July 1st and for staff to report back to us with a report, as that would meet the close on July 1st. And this will mean that

Capitol must dedicate the resources to cooperate with us.

SENIOR PARIMUTUEL EXAMINER REAGAN: Okay.

MR. KENNEY: Ben Kenney, CHHA.

Commissioner Shapiro, let me say that those monies -- the 612 monies that you referred to at Los Alamitos were always monies that had been set aside I guess in the past for ongoing dispute over the impact fees.

Those monies were not in any way related to the overpayment. That was the horsemen's part of the monies that they had generated. They were being held for a doc. And the monies that we owed were approximately 2. whatever it was our half was. And the monies were supposed to be paid out of that.

It has nothing to do with an overpayment. So I'm not sure where you're bringing the two together.

COMMISSIONER SHAPIRO: Well, again, you just heard what our attorney's position was on it. And I think that all of these issues are somewhat commingled together. And what we're trying to do is ferret through them and get a full understanding of what's in what pocket and who's entitled to who. All we're trying to do is make sure that the appropriate parties get the proper amount of money.

MR. HOROWITZ: Alan Horowitz, Capitol Racing.

I'm a little bit perturbed on two points:

One, Capitol Racing has been part of this industry for ten years. Aside from this particular financial dispute, there hasn't been any other party in this room or in the past ten years who sat in this room and other board meetings that ever came forward indicating that there was any shortfall, that there was any activity that was inappropriate, that the -- that they didn't get settlements with the out-of-state satellites. I mean we're being treated -- it's fine -- if the Board wants to acknowledge the fact that our lease runs out at the end of July, that's fine.

The reality is, and John Reagan knows this and the people who run the associations know this, is that the distribution of the SCOTWINC, for example, whether we're closing or not, will continue in the normal course of things and the last payment to be divided between horsemen and the racing association will be in January. So we're not going anywhere even though our racing operations ceases at the end of July.

The other thing is this characterization somehow that these monies are not overpayment. And this is not the Board's position. This is President Ben Kenney's. This is the same individual who did not sit on any of the boards in the past when we entered into agreements with the horsemen. And he sat in on every meeting when the

distribution of purses was discussed, when the opening purse schedule was discussed, when there was any discussion of a possible need for a pay cut -- a purse cut. And the reality is that Capitol continued to fund the purse pool to more than a hundred percent at all times.

When that money was accruing in 612 in the years past, there wasn't an instant where if we would have said, you know, that money is horsemen's money, as opposed to money owed the purse pool, and we're going leave it with Los Alamitos and it's the horsemen's, okay, that -- and then said we're overpaying purses and purses need to be cut, we would have had a litany -- an uproar. We would have had lynchings, because the horsemen's purse account couldn't live with the purse cut. So the agreement was made all along by all parties of the need to continue to subsidize those purses and keep them constant, knowing full well that it was in excess of what was being generated.

Your staff knows from a weekly distribution paper that we give to the Purse Committee and we provided the Racing Board with, your staff, that where the purse pool has been every week for the last year and a half, okay, they've seen every trend, they've seen monies in, they've seen money out, and they haven't seen any irregularities.

Okay. So we don't want to be treated as second-class citizens, because when the Board hints at it, there are people in this room who get worried about Capitol and whether we're going to pay our bills. We've paid our bills completely in ten years and we will continue to do so. We're going to go out honorably and with our head held high and having run a good operation.

Thank you.

COMMISSIONER SHAPIRO: Mr. Horowitz, in no intention, way, shape or form am I espousing anything to the contrary. All I am saying is there are a variety of complex issues here. Commissioner Sperry and I sat from 1 in the afternoon to 9 o'clock at night trying to address each and every issue and bring peace to the harness industry, trying to resolve all these issues. Unfortunately we failed.

All we're trying to do is -- this is complex. We're part time. We're volunteers. And we are not as close to it as you or John Reagan or anybody else. We're simply trying to do the right thing here. And all we're saying is that we want to make sure that we don't have something after the fact that comes up and that we didn't know about. There's no aspersions whatsoever on Capitol.

MR. HOROWITZ: Thank you.

CHAIRPERSON HARRIS: I think we do need to move

on here. We've heard from everybody, and I know more about harness than I ever really wanted to know. But --

(Laughter.)

CHAIRPERSON HARRIS: But let's move on. And this is going to have to come back to us when we get all these numbers anyway.

One thing I'd like to suggest now though is we have Dan Fick here, who is the Executive Director of the Jockey Club and do a resource to racing. And he has a lot of background in the whole animal idea, the horse use of microchips. And I think I'll move him up on the agenda, because I don't want to lose some of the people that should hear this. Because I think microchips are going to be a very important part of both livestock health and a lot of -- security and a lot of good reasons that we need to pursue it and need to understand how best to do it.

Dr. Jensen.

DR. JENSEN: Dr. Ron Jensen, Equine Medical Director for the California Horse Racing Board.

And while Dan sets up his presentation, I would just review that -- remind the Board that this has been an ongoing discussion at the Board. At the last Board meeting it was determined that the California Horse Racing Board and the California horse racing industry would indeed like to have -- implement a system of electronic

identification for horses. And to that end we've been working with the Jockey Club, with Dan Fick; with the In Compass Solutions, which has a bookkeeping system for all racing offices in California; and with the California Department of Agriculture.

And Dan is going to tell you a little bit about the microchip and electronic identification from a national perspective and from the Jockey Club's perspective.

He said keep talking.

An additional item that you should be aware of is that the United States Department of Agriculture, who has mandated that all livestock be able to be identified within 48 hours, is making pilot projects funds available through individual state departments of agriculture. And we've been busy visiting with the veterinarians and with a fellow named Victor Velez, who's in charge of the California electronic ID program and trying to see if we can't become -- get some of those funds to initiate a pilot project. They have indicated to us that -- the California Department of Food & Ag has indicated that they are willing to look at it. They have encouraged us to develop a plan, which we're in the process of doing, that might be incorporated in the pilot project for the whole State of California. And that would involve equines.

Looks like the PowerPoint's up and running.

So, Dan, it's all yours.

(Thereupon an overhead presentation was

Presented as follows.)

MR. FICK: Thanks, Ron.

In order to save time, I had some slides here that I was going to use to explain the different Jockey Club companies as they would become involved with microchipping. And then later on in your agenda you've got a discussion on the geldings. But I'm going to skip through that and just get to the microchip part.

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MR. FICK: The national program sponsored -- by USDA is called the National Animal Identification System. And they've actually been working on animal identification systems for 20 plus years. But in 2001, the severe hoof and mouth outbreak in the United Kingdom really pushed this to the forefront. I was shocked when I heard the numbers. But it was 10 million animals were destroyed, and the impact on their livestock industry was $13 billion.

In October of 2003 a cooperative of animal health officials and RFID animal ID vendors came together and issued the United States Animal Identification Plan. This was taken up by USDA and became in 2004 kind of the

blueprint for the National Animal Identification System.

At the same point in time we had, as you'll remember, the discovery of a mad cow in Washington. And that prompted six bills in Congress and the Senate passed a sense of the Senate supporting animal identification. So there's a lot of strong impetus behind this issue, although this hasn't really been recognized in the public that much. Over the course of the last 18 months USDA has conducted listening sessions at 16 locations around the country where they've listened to producers and individuals. And they've found strong support for a national animal identification system.

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MR. FICK: What it is is the mission is to assign a 7-digit code to identify all premises where animals, livestock are located -- this includes horses -- by the end of 2006. That would mean every race track, every fairground, every breeding farm, every backyard that has a horse would need to be identified in the USDA database with a 7-digit code. It would also -- and this is the responsibility of the states. They're the ones that are -- state department of ags are the ones out assigning those codes now to locations. And 43 states have their programs up and going, and they've already identified 80,000 locations. And it's currently -- all of these

systems are currently voluntary. But that would become mandatory at the end of 2006.

They also want to attach a 15-character animal identification number, which is called the AIN, to all livestock by the end of 2007. Starting January 1st, 2008, the timeline for that is to become mandatory.

And then they want to be able to track all movements -- and this is the tough one -- of livestock through the reporting of the premises ID, the animal identification number, and the date of the movement to the USDA. And in this way they would be able to establish a 48-hour trace-back capability in case there's a serious outbreak of a deadly disease like hoof and mouth or some of the other ones that not only affect cattle but it can also affect horses. And many of these diseases are also zoological, like we've seen with the West Nile Virus where they affect both humans and animals.

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MR. FICK: Representing the horse industry in this has been the American Horse Council Horse ID Task Force. Right after the USAIP came out we formed this group because basically the animal health officials and the vendors had told us if the horse industry doesn't take the ball and develop a program for horse identification, then the animal ID people will. So at that point in time

we got 35 organizations together, American quarter horse, United States Equestrian, the U.S. Trotting Association, the Jockey Club -- pretty much anyone involved in the equine industry is represented.

Shortly after we started to meet we were designated by the USDA as the official equine species working group to develop the plan to identify horses and to be able to track their movements. And here you can see some of the topics that we've worked through the last 18 months coming up with the ideal horse identification technologies at this point in time, recommending what premises should be identified, working on pilot projects, as Dr. Jensen has talked about here in California. There's two that are being conducted, one in Florida and one in Colorado, at this point in time. And there's one ending in Kentucky.

If you want more information on this you can go to the Horse Council's website. And they maintain the Equine ID Section that's kept up to date.

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MR. FICK: What we've recommended to the USDA is the horse industry needs to be in control of our program. We need to be compatible internationally. Internationally they're using a 15-character number. It's called the Unique Equine Life Number. And if we have time, I'd be

happy to explain that.

We want to preserve all the existing horse identification systems. We want it to be voluntary to start. We think the process should probably start during the registration process with the registered horses. So we're talking about the first six months of a horse's life. And in some focus groups that we've had with farm managers and veterinarians, they think the best time to chip these horses is probably within 24 to 48 hours of birth.

Also, if a horse hadn't been chipped, when you move that animal you're required to get a certificate of veterinary health coggins in most states. At that point in time the horses would be identified with the microchips and recorded in the database.

We want to keep this affordable for all owners and stakeholders. And the cost of the chips and the implant look like it's going to be somewhere around 40 to 50 dollars. And the cost of the readers is what's expensive. But we think with more utilization with a program this large, nationwide and also internationally -- a lot of countries have gone this direction -- that the cost of the readers, which is now somewhere between two and four hundred dollars will start to come down significantly.

It's our -- been our recommendation after looking at all different methods, the best way to affix a 15-character number to a horse so that you can read it with a scanner or you can read off of the horse is with a microchip. And the USDA's also said that one of the events they want to record is transfer of ownership. So all of the breeds that don't currently track ownership are going to have to consider whether they want to move into that area of the business.

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MR. FICK: Just briefly, as I said, the microchip that's being recommended is the international standard 11784 RFID, radio frequency ID device. It's a 15-character microchip. And I've got a sample of one here. And it's totally compatible with the animal identification number.

The animal identification number for the USDA is: The first three characters are 840, which is the international country code for the United States, and then the next 12 characters are random.

The Unique Equine Life Number has the same first three characters for the country code, and then the next three characters are the breed code; 006 for quarter horses; I believe it's 027 for stander breeds. And so there would be just a little bit of difference within the

Unique Equine Life Number as opposed to the Animal ID Number. But the Unique Equine Life Number would meet all the criteria for the Animal Identification Number.

There's some controversy going on in the RFID industry over patents for readers. We've made the recommendation that all readers should read all chips.

And then there's a unique one I think you've talked about, which is the biothermal chip, which will also give you the horse's body temperature at the same time you scan for the number. And the sample I've got is biothermal. We see some significant advantages here, and some of the farm managers and the veterinarians, in being able from a health standpoint and also from a regulatory standpoint. The recent outbreak of strangles and equine herpes in Kentucky and Florida, the trainers or the veterinarians were required to take these horses' temperatures three times a day when they were quarantined on the backside and they were required to have taken a horse's temperature within 24 hours before it came on the racetrack. Biothermal was negative, extremely sensitive to do this.

And as I said before, we maintain that we need to keep all of the existing identification systems, because chips are not fail-safe, chips can be cloned. And you need to be able to make sure that you've got the right

horse with all of these different aspects.

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MR. FICK: What the Jockey Club is doing right now is we've been working at this for about the last six months on how we should be involved. Obviously we're going to need to require that the microchip numbers be reported to the Jockey Club so we can database them. We are going to recommend I believe that we use the same chip that the equine species ease working group has recommended. We're considering to being the database of record for thoroughbred ID information, which would not only include the microchip numbers, possibly the movements, but we would be the point of access for the national animal identification for thoroughbreds.

The question right now is -- we've already gone to the focus groups and while we are looking at it in-house -- is should we actually be the allocator of the horse identification number and the microchips for thoroughbred? Should the Jockey Club designate the sets of numbers that the vendors would produce and, therefore, distribute out to the thoroughbred population to be implanted?

And in conjunction with what's being considered in California are In Compass Solutions, which is our company, a subsidiary of the Jockey Club, that has

developed and manages the race -- central database race office software systems that all the California thoroughbred tracks are currently on. We are in the process of developing what the costs would be in order to record microchip numbers and provide reports.

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MR. FICK: And these are all conceptual screens. They're currently not functional. But this is kind of where our thinking is going after talking to some of the tracks in California and also with Dr. Jensen. But we'd obviously have a screen where you could record the microchip number. We'd have an entry screen where you could maintain the microchip numbers.

--o0o--

MR. FICK: Here, if you had modify the numbers. We think it's inevitable that a horse is going to end up with two chips in it. They've been doing this in the United Kingdom for about three years now. They've got over a hundred -- excuse me, five years. They've got over a hundred thousand horses done. And about 1 percent of the chips have problems. They think about half of that is -- they think that the person who implanted chip misses the horse and doesn't get the chip in properly.

But you do have situations where the chips have failed or chips have been -- most of them have been double

chipped. So you'd have to have somewhere to maintain or change or have two chip numbers for a horse.

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MR. FICK: And this is the last part. Some sort of report that would come out that show the horses coming in and out of the race track.

So we're very willing and stand by to work with California if you should decide to implement a pilot project. We can be up and running by the time the chips are obtained to go ahead and database this information for the race tracks and the race office and also for the CHRB.

I'd be happy to answer any questions.

CHAIRPERSON HARRIS: Any questions of Dan?

I think it's an exciting program.

Is anybody actually doing it on a very broad basis now?

MR. FICK: Internationally a number of countries -- we're in process of doing a survey of all the international thoroughbred stud books. And we've already identified 16 countries that are currently microchipping horses, including most of the major racing nations. The only one that's really sitting on the fence looking towards 2007 is Japan. But Australia, France, Italy, the UK Island, New Zealand, South Africa all microchip.

And then in the United States there's -- really

has required that the horse be either microchipped, tattooed or freeze brand with a unique number for a number of years. They've already microchipped 200,000 horses. And Puerto Rico started three years ago with microchipping horses as they come to the racetrack.

COMMISSIONER MORETTI: What does take to implement? When you say California implements, what does it take?

MR. FICK: Well, basically I think you'd have to go ahead and order the chips. And that takes a little while, especially if you'd like to use biothermal chips, because they're going -- there's already demands starting to build for those. And I think the price difference is about a dollar and a half, two dollars. So it would make sense to go with the biothermal chip. I hate to say that because obviously it's patented by one vendor, and we don't want to promote any particular vendor. But I would sure strongly look at that if I was a horseman or an industry.

We can be up and going with the database system to manage these numbers for you at the racetrack within 30 or 60 days once our clients, which are at the race tracks, say, "This is something we want to have," and that they were willing to pay for it. And we're not talking about a lot of money. Somewhere between four and eight thousand

dollars we think in programing to go ahead set up these screens in the system. And that's not per track. That's for all the tracks. So we could be up and going probably, when you said go, once you had your plan in mind, within 90 days.

CHAIRPERSON HARRIS: Because it's clear that it is going to be a requirement at some point. What is it, 2007? So it's going to happen. So it seems to me like we ought to go ahead and get it started.

MR. FICK: That's the way the Jockey Club's looking at it. It's probably inevitable it's going to happen and that it's going to include horses. And we ought to be in the front end of it making sure it's done properly.

CHAIRPERSON HARRIS: Ron.

MR. CHARLES: Ron Charles, MEC.

Dan, a just quick question. First of all, how long would it take to basically have these inserted into an entire facility, roughly 1500 to 2,000 horses?

MR. FICK: The process itself is normally done by a veterinarian. It takes about three to five minutes. You have to treat it like any other injection. You have to clean the area, disinfect it, and then properly inject it. So it would be a lot easier than tattooing. Although if you want to maintain both tattoos and chips, well, I

would think you could do a whole population of a race track in a matter of a week or two.

MR. CHARLES: And would you be able to use this scanning device to monitor horses in workouts also that can -- I don't know how close this has to be in order to scan the microchip.

MR. FICK: Well, with a microchip you'd have to be right on top -- and I can show you with microchips that we have here -- you have to be right on top of it, within an inch to read it. So it doesn't set up to do automated tracking. That has to be somewhat of a larger onboard package. But we're actually working with a couple of -- actually three different companies right now in developing that.

Where this would help you is identifying the horses as they go on and off the racetrack for workouts; or to the test barn or to the paddock or on and off the racetrack. It gives you a more easily available way to read it. Also, the readers will database this information, can store anywhere from 1500 to 10,000 numbers, depending on the reader you purchase. And you can download that into a computer system and automatically have your stable population adjusted everyday for the chips that are on the grounds.

MR. CHARLES: Okay. And just the last question.

I may have missed it. The cost on the procedure?

MR. FICK: The chips we're thinking are going to probably retail somewhere around 20 to 25 dollars. The cost in bulk to the people that are putting it out is somewhere around $10. In talking to the AAAP, they're thinking this it's -- it's similar to some other implants that they do overset. So it would be somewhere around 25 to 30 dollars. So you're looking at, as I said, somewhere between 40 and 50 dollars for the whole procedure.

MR. CHARLES: Great. Thank you.

CHAIRPERSON HARRIS: Anymore questions?

Yeah, I think it's something we ought to do. Other countries have done it successfully and it would have advantages both from health and from just overall monitoring, coming and going of horses.

COMMISSIONER MORETTI: Dan, do you see a time when the chips would replace the tattoos?

MR. FICK: I don't. I've been in horse identifying -- I used to run the tattoo program at the American Quarter Horse Association. I think you need both checks. There's going to be times when you've got a horse that you don't have a reader. And, conversely, there's a lot of horses that don't get tattood that end up in the breeding stock. And one of the important aspects of this is a horse gets dropped off at a breeding farm and the van

driver doesn't know who it is, you know. So you look for the tattoo. If there's no tattoo, you look for the microchip. So I think it gives you a double check.

And we also like the fact that the identifiers and the tattooers re-examine these horses when they finally get to the race track two years later.

COMMISSIONER MORETTI: Physically where do they plant them?

MR. FICK: It grows in the -- ligament, which is the ligament that goes down the back of the neck, halfway between the withers and the poll. It doesn't migrate like you here about in the pets because it's actually in the ligament.

COMMISSIONER SHAPIRO: Well, Chairman Harris, when do we have to move this forward? I mean we've heard about this. This is terrific. And thank you very much, Dan. It's -- I mean I think that it's a great program and we should embark upon it. What is the next step in our doing that?

CHAIRPERSON HARRIS: Yeah, I'm not sure. Who -- I mean I'm not sure -- I can see where CHRB would be saying, okay, everyone's got to be chipped. But we could do it either, you know, voluntarily or at the breeding farm level or how -- well, we need to come up with some game plan, assuming everyone's wants to do it, which I

think they do, how we physically get it done. You have a comment on that?

DR. JENSEN: There's a couple of ways you do it. I would strongly suggest that we do a small pilot project to begin with to make sure we get the logistics worked out, make sure that the system operates as we think it should operate and make sure the database works.

CHAIRPERSON HARRIS: Yeah, it seems like with the international experience it's pretty proven, unless -- we'll probably figure ways to mess it up somehow. But --

(Laughter.)

MR. FICK: I would say if, you know, if you're committed to do it, as Dr. Jensen said, he's also working through the state agricultural department -- California Department of Food & Ag on a pilot project grant from the USDA. So you may end up having some funding to do this. And that would be available -- or at least they'll grant it some time this summer. So I'd say start planning towards a particular time that you want it to happen and work your timeline backwards and get rolling. Everything's available to do what you want to do.

CHAIRPERSON HARRIS: Yeah, I think if you or Dr. Jensen would come up with some specifics that we, you know, take a certain track or a certain age of horses or something to try to get it going. And I think the horse

industry would endorse that. I haven't heard any negatives. I guess you have. I don't know of any issues as far as actual numbers. And if you have a pocketful of chips, which chips you put in which horse, I guess the key is that you know that you've got the right horse with the right number.

DR. JENSEN: Yeah, you sure want to have the horse properly identified. And I've had some conversations with Ed Halpern with the California Thoroughbred Trainers. And his indication is that he doesn't foresee any objection to a microchipping program. But, you know, honestly at that time we did not canvass his membership, but it was his opinion that there would not be any objection.

COMMISSIONER MORETTI: So the cost of it would be borne by the breeder/owner in terms of the chip and the implanting. And the cost of the scanners would be borne by the tracks?

MR. FICK: Depends on who wants to have the scanner.

CHAIRPERSON HARRIS: Yeah, I think --

MR. FICK: Tracks, horse identifiers.

CHAIRPERSON HARRIS: I always thought scanners were like 11 or 12 hundred dollars or something.

MR. FICK: No, 2 to 4 hundred depending on the

chip you want.

CHAIRPERSON HARRIS: Oh, okay. So -- I mean I would think a lot of farms in my opinion would want to have a scanner if they got horses coming and going. But I think in my own case, it would be interesting to do. I don't know, either right when the foal's born or when we register the foal or sometime, that I think a lot of farms would just do it because they know that it's going to be necessary.

MR. FICK: That's what we hear from the Kentucky farms, not whether they wanted to, "Just tell us when and how."

CHAIRPERSON HARRIS: Yeah, I think the confusion is just how do you physically -- where do get the chips, where do you buy this and that and --

MR. FICK: You might want to consider doing what we're doing at the Jockey Club when we took five or six individuals from the different companies we've had and it's got a working group that's working our way through the process. And if you involved, you know, Dr. Jensen, your identifiers, Diane Piper, some of the people -- the stallmen in the tracks, and you put together a working group and come up with the parameters of your program, I'd bet you could work your way through it very quickly.

COMMISSIONER MORETTI: Well, is that something

that we can just do that?

COMMISSIONER SHAPIRO: I think we should do it as soon -- I think that we ought to do this posthaste and we direct staff to come back to us with a plan. But I really recommend that we do this.

EXECUTIVE DIRECTOR FERMIN: Yeah, why don't we -- Dr. Jensen, why don't we put together like Diane Piper and maybe some of the other people that are going to be working firsthand with it as far as they'll be able to tell us also because of the tattooing process, you know, what works and what doesn't work and see if we can't come up with a plan and come back to the Board with it.

CHAIRPERSON HARRIS: I think the plan would be -- that it didn't necessarily have to happen at the track, but essentially any horse that was competing in races would by some date certain have a chip and then -- but probably the farms would -- "Well, we want to do it way ahead of that" just to get it. We may need to make sure that whatever chip they get in is -- you know, could be read by different people.

DR. JENSEN: I think it's -- as Dan has indicated, it's very doable. It's just figuring out how to get going into this. I think we can do that.

CHAIRPERSON HARRIS: Well, I'd suggest Dr. Jensen come back to us with a plan. And there may also be

funding from USDA to do a pilot program. But regardless of the funding aspect, I think we just need to do it.

DR. JENSEN: The California Department of Food U Ag is interested working with us. They have indicated that. And, you know, I have to a plan into them by July 24th for it to be considered.

CHAIRPERSON HARRIS: Yeah, that's good time for it.

COMMISSIONER MORETTI: Can I see a chip?

MR. FICK: Yes.

CHAIRPERSON HARRIS: If they do it in front of the people, actually I think it -- that might be a little controversial. But, you know, you could show up -- you'd show up at a hospital emergency ward and if you were unconscious, I would want somebody to scan me to figure out who I was, whether I was or not.

DR. JENSEN: What Dan is showing them there is that -- the microchip is about the size of a grain of rice. And it's implanted with a big syringe. It's not a particularly difficult procedure.

COMMISSIONER SHAPIRO: Why don't we start with John? Let's put that one in John.

(Laughter.)

COMMISSIONER SHAPIRO: Dan, do you know how to inject these things? Let's try one on John.

MR. FICK: There's your man.

COMMISSIONER SHAPIRO: Hey, Doc.

CHAIRPERSON HARRIS: Okay. Thank you very much, Dan. We appreciate you being here. We hope that -- richard says he wants to be the first one to go with this. So --

(Laughter.)

CHAIRPERSON HARRIS: -- we'll get him at the barbecue.

Let's go next with the -- back to our regular agenda -- No. 7, public hearing by the Board on the adoption of the regulatory amendment to CHRB Rule 1433: Application for a license to conduct a horse racing meeting.

STAFF SERVICES MANAGER I WAGNER: Jackie Wagner, CHRB staff.

The proposal to amend Rule 1433 will revise the application for licensing. That's the CHRB forms 17 and 18. The rule was heard for adoption at the May meeting of the Board, and at that time comments were taken, and language was modified to allow the licensee to submit an audited consolidated annual financial statement of the parent/owner if the parent/owner was a publicly traded corporation that guarantees the obligations of the licensee.

In addition, Section 5 I believe of the application was expanded to include information from the prior race meeting.

The amendments were noticed, and during the notice period staff did not receive any comments. And we'd recommend that the Board adopt the proposal as presented.

CHAIRPERSON HARRIS: Okay. Are there comments on this item?

MR. BAEDEKER: Rick Baedeker, President of the California Federation of Race Tracks.

At the last meeting we talked about this issue of the license application and the different changes that were proposed. And the Federation of Tracks supports all the changes with the exception of one; and, that is, the requirement to submit marketing budgets as part of the application process.

It is our opinion that this just goes over the line in terms of the purview of the Board. We think that -- obviously the Board is in place to enforce the rules and regulations of the state. We think there's a line between forcing those regulations and managing the race tracks, and we think that this particular request goes over that line.

So we just want to state our position on this,

that we just think this goes a little too far. We expressed at the last meeting a willingness and a desire even to sit down with the Marketing Committee of the Horse Racing Board and go through all of the marketing and promotions plans at any time and in whatever detail the Board would like us to provide, to share that information openly.

But we don't think it's appropriate as part of the license application to submit the marketing budget information and make it potentially a condition of being licensed to operate a meet.

There's another practical issue there as well; and, that is, that the license application is submitted 90 days prior to the meet and the marketing and promotions plan at that time is maybe 50 percent complete. There's so much that happens within that 90 days of the race meet taking place.

CHAIRPERSON HARRIS: And I don't think the intent was to make it a condition of the license or have some threshold that was a magic threshold. I think the Board just wanted to get a feel for how -- you know, what magnitude of funds that a racing association was considering to devote to marketing.

COMMISSIONER MORETTI: Jackie, can you just explain where Rick's comments were --

COMMISSIONER SHAPIRO: Right here.

Fourteen A I think is your objection.

STAFF SERVICES MANAGER I WAGNER: Yes. Section 14a is correct.

CHAIRPERSON HARRIS: Yeah, it's just an estimate of --

COMMISSIONER SHAPIRO: Mr. Baedeker, you don't have a problem with any of the other issues, just 14a?

MR. BAEDEKER: That's correct.

COMMISSIONER SHAPIRO: And you said that you're here on behalf of the Federation of Racing Associations.

Was that -- were all -- are you speaking for all of the racing associations?

MR. BAEDEKER: Yeah, I believe I am. There are a couple of instances, say, in the case of Del Mar, where that information is already, because of their --

COMMISSIONER SHAPIRO: -- their structure?

MR. BAEDEKER: -- their status, yeah, that's already public information. But I think they support the position from a policy standpoint.

COMMISSIONER SHAPIRO: As you'll recall from the last meeting, I understood your objection and I was somewhat empathetic to it. On the other hand, you know, I think we just want to see that people are continuing to market and advertise.

Is there some interim or medium ground that you would suggest? I also do understand that you may not want to disclose exactly how much money that you're spending on advertising. Is there some other alternative just so that we know that --

MR. BAEDEKER: Sure.

COMMISSIONER SHAPIRO: -- they're just not sitting on their hands?

MR. BAEDEKER: Yeah, I think there is. I would suggest that, not as part of the license application but, say, concurrent with it, the race track submits a marketing and promotions plan, separate from dollars budgeted. It just shows the Board what the plan is for the upcoming meet.

COMMISSIONER SHAPIRO: Would you include where you're advertising, where you're going to advertise, without dollar amounts?

MR. BAEDEKER: Yeah, I think again if that was separate from the license application, maybe just concurrent with it, we could do it as best we're able 90 days in advance of the meet.

COMMISSIONER SHAPIRO: Right.

MR. BAEDEKER: But, you know, we've got a lot of history here from meet to meet. And we also could prior to the meet opening, you know, give you a final plan as we

have it when we open. And, you know, we'd have no problem doing that. I think I speak for all the race tracks in saying that.

MR. LIEBAU: Jack Liebau from Bay Meadows Racing Association.

I think all the tracks submitted a marketing plan to Mr. Shapiro's committee, which was the name of --

COMMISSIONER SHAPIRO: -- Bring Back the Fans.

MR. LIEBAU: -- Bring Back the Fans. And I thought that worked rather well. And I know that Bay Meadows submitted its marketing plan. We don't have any problem in doing that, as Mr. Baedeker has suggested, on an informal basis, but do not think it should be part of the licensing process.

COMMISSIONER SHAPIRO: Well, I personally would be okay to revise the application or amend the application to omit Section 14a -- or I guess I'd revise it to provide an advertising plan or marketing plan that isn't encompassed in 14b. I'd personally be okay with that.

CHAIRPERSON HARRIS: And my concern is just basically that racing is not showing any growth. And, you know, right or wrong, that the marketing hasn't worked as well as it needed to. And it would create a monopoly here. I mean any track you basically -- the state of California's authorizing it to have a monopoly on for

those dates. And I don't think it's that intrusive to get a feel for what they plan to do to try to maximize that potential. I mean this doesn't really --

COMMISSIONER MORETTI: But I hear them saying that they are willing to give a marketing synopsis, plan, projection for where they're going to market. But I would --

CHAIRPERSON HARRIS: I guess they're afraid maybe that -- I would guess maybe the conditions that's going to be -- by putting on a license, we could deny them a license because we thought they weren't spending enough, which wasn't really the intent. We just -- we want to encourage -- we always had two competing associations came in. And I think it should be relevant that one was going to spend more than the other maybe, but -- I don't know.

What's the pleasure of the Board?

I know we have four votes here anyway, so --

COMMISSIONER MORETTI: Well, I would --

VICE CHAIRPERSON BIANCO: Well, we can ask them without the --

COMMISSIONER MORETTI: Without what?

VICE CHAIRPERSON BIANCO: -- an application modified. That's all.

CHAIRPERSON HARRIS: Well, we've got to put back -- if we were to take the 14a out and put it back out

for --

COMMISSIONER SHAPIRO: Well, I'll make -- I don't think -- Jackie, would we have to put this back out --

STAFF SERVICES MANAGER I WAGNER: Yes.

COMMISSIONER SHAPIRO: -- if you made that one change?

STAFF SERVICES MANAGER I WAGNER: Yes, we would.

COMMISSIONER MORETTI: Forty-five days?

STAFF SERVICES MANAGER I WAGNER: No, not 45.

CHAIRPERSON HARRIS: Why don't we do that and we can put it back and debate it. I mean it's not a real big issue, but it's a -- we might think of some other changes to the application by then anyway.

COMMISSIONER SHAPIRO: What are you -- you're saying defer basically for another --

CHAIRPERSON HARRIS: Well, what we're looking for now. It takes up the -- we take the advertising out. We don't do anything about it. But we don't --

COMMISSIONER SHAPIRO: No, no.

CHAIRPERSON HARRIS: But I mean -- I know it's a little complex. They're going to tell us about what they're doing. They just don't want to tell us about what they're doing for the license.

COMMISSIONER SHAPIRO: Well, look, I would suggest that we adopt this -- I would move to adopt this

application. We've been back and forth with this thing now I think three times -- two or three times. And simply delete the reference to dollars and -- but with the understanding that they are going to disclose the marketing plan, the advertising plan. And I'd like to see the other issues incorporated into it. So how do we do that as quickly as we can and not keep holding this up?

CHAIRPERSON HARRIS: I guess I -- I could see that. Really the dollars could be manipulated so much anyway with, you know, the allocated overhead or this or that.

COMMISSIONER SHAPIRO: I think in private companies that it gets a bit intrusive. That's me personally. So --

STAFF SERVICES MANAGER I WAGNER: Commissioner, the procedure is since we are making modifications to the application as it was presented to the public for comments -- since we're going to make modifications to that, we would have to go out for another comment period. The APA requires us to do that.

COMMISSIONER SHAPIRO: Well, doesn't that mean then that we're back to having to hear it again next month?

STAFF SERVICES MANAGER I WAGNER: Absolutely. Unfortunately it does mean that.

CHAIRPERSON HARRIS: That's just the way it works. This is not a big deal. We just take it out and we hear it --

COMMISSIONER SHAPIRO: Okay. Well, then I would make a motion to delete 14a and put it back out for comment, to bring it back at the next meeting where hopefully nobody can have any comments --

(Laughter.)

COMMISSIONER SHAPIRO: -- and dam things up.

MR. LIEBAU: Commissioner Shapiro, there's language also in 14b.

CHAIRPERSON HARRIS: So just take out the budget part.

MR. LIEBAU: Right.

CHAIRPERSON HARRIS: We take out 14a completely and just strike "budget" in -- it says you will describe any promotional plans for -- yeah, maybe just describe any promotional plans really.

MR. LIEBAU: Right. Thank you very much.

EXECUTIVE DIRECTOR FERMIN: Did you want that completely deleted or did you want to go with the suggestion of Rick's of the concurrent plan, something simple? Wasn't there --

COMMISSIONER SHAPIRO: I agree with the change that Mr. Liebau suggested, change the word "budget" to

"plans" in B and delete A.

EXECUTIVE DIRECTOR FERMIN: Correct.

MR. BAEDEKER: Yeah, that's acceptable.

EXECUTIVE DIRECTOR FERMIN: Is that what you -- you would prefer that. So we don't have a concurrent submission at all.

MR. BAEDEKER: We don't have to worry about the concurring thing. Just change "budget" to "plans".

COMMISSIONER SHAPIRO: Great.

EXECUTIVE DIRECTOR FERMIN: Okay.

COMMISSIONER MORETTI: Second.

CHAIRPERSON HARRIS: All in favor?

(Ayes.)

CHAIRPERSON HARRIS: Okay. Next is Entry of Claimed Horse.

STAFF SERVICES MANAGER I WAGNER: Jackie Wagner, CHRB staff.

The proposed amendment to Rule 1663 will make claimed horses ineligible to race in another racing jurisdiction until 60 days after the close of the meeting where it was claimed. The proposed amendment also states that for the purpose of this rule the California fairs circuit is considered one meeting.

In addition, Rule 1663 will include standard regs in the 60-day prohibition while maintaining the breed's

exemption from the remaining provisions of the rule. The amendment has been noticed to the public. We have not received any comments. And staff would recommend that the Board adopt the rule as presented.

CHAIRPERSON HARRIS: Any comments on this?

COMMISSIONER SHAPIRO: I don't want to slow this up and have it done. I just think that if you can explain -- I think I know what it means. But the second sentence in Section 1663a is -- would we have to put this back out if that sentence was rewritten so that it's a little more intelligible?

STAFF SERVICES MANAGER I WAGNER: Yes, we would.

COMMISSIONER SHAPIRO: Never mind.

STAFF SERVICES MANAGER I WAGNER: Yes, we would.

CHAIRPERSON HARRIS: With these, I mean the only one I could see might be a -- if Los Alamitos has essentially a meet that goes the whole year. But then the quarter horse people were concerned about it.

STAFF SERVICES MANAGER I WAGNER: I received no comments on the proposal.

CHAIRPERSON HARRIS: Well, I think it's a good rule. It could be argued on an interstate commerce issue that we're trampling on that. But I think that there is some law I think that -- it's a case law that says a state can protect its assets and things like that. So I think

it's enough -- I think it's fair enough where it's not too onerous, but it would permit the same action as the horses do.

COMMISSIONER SHAPIRO: Chairman Harris, can you explain what that sentence says?

CHAIRPERSON HARRIS: What sentence?

COMMISSIONER SHAPIRO: Sentence 1660, the sentence that says: "The horse is not eligible to start in a claiming race for 25 days after the date of the claim for less than 25 percent more than the amount for which it was claimed."

CHAIRPERSON HARRIS: Well, this is a current rule. This is if you claim a horse for 10, you got to run it back for at least 12-5 the first 25 days. But that's a current. That's not a change. That's just a jail rule of -- but this rule doesn't have anything to do with that. It's just saying we don't -- I mean in addition to that you also can't run it out of state.

CHAIRPERSON HARRIS: Is there a motion?

COMMISSIONER SHAPIRO: So moved that we adopt this.

VICE CHAIRPERSON BIANCO: Second.

All in favor?

(Ayes.)

CHAIRPERSON HARRIS: Okay. Now we've got the CO2

testing.

STAFF SERVICES MANAGER I WAGNER: Jackie Wagner, CHRB staff.

As you know, in January 2005 the Board adopted the proposed addition of Rule 1843.6 which is our total carbon dioxide testing rule. The proposed addition of the rule was adopted in anticipation of the change in the horse racing law, which was AB 52, that would exempt TOC testing from the provisions of our split sample program.

Subsequent amendments to the legislation now provides for a duplicate test sampling. As a result we need to amend our Rule 1843.6 to allow for the duplicate test sample. This amendment would allow the owner or trainer to request that a duplicate test sample be taken. The request must be made prior to collection of the official sampling, and the owner or trainer is responsible for all costs associated with the duplicate test sample. The rule has been noticed for the appropriate notice period. We have received no comments on the amendment. And we would recommend that the Board adopt it as presented.

COMMISSIONER SHAPIRO: I'll so move.

COMMISSIONER MORETTI: Second.

CHAIRPERSON HARRIS: Any discussion?

All in favor?

We got one point.

DR. COLEMAN: Hi. I'm Tim Coleman. I'm a practicing veterinarian.

As far as adopting the split sample program for this particular rule, I was speaking with Rick Sams at Ohio State. And all alternative method for a split that he suggested, which would be fair to the owner and the trainer in question if there were a positive, would be to -- once a positive has been directed, with the agreement of the TOC and the trainers group in California, would be to go ahead and directly ship that positive sample to another lab and have it tested within 24 hours. It would save -- there's going to be certain trainers that are not going to plan on pulling a pre-race sample for a split. And all of a sudden they're going to have a positive. And by going ahead and doing it this way, they're not subject to a bunch a split sample money, that it could be just taken out and allocated at the time.

And Dr. Sams felt that the fact that these blood samples are not being tested immediately post-sample drawing, and they're being shipped off anyway, if you can get the sample taken within the 24 hours -- run within 24 hours of the first sample, there's not going a significant difference.

CHAIRPERSON HARRIS: I think the problem is the

timing, which it doesn't lend itself very well to put a sample -- Dr. Jensen, can you comment on what kind of time frames we're looking at here.

DR. JENSEN: The maximum amount of time that you get an accurate analysis on total carbon dioxide is between four and five days. So I think that the way it's -- I think the way with rule is written, it allows a procedure to be developed that would allow for a duplicate sample. And just about the only way to ensure that you're going to get those samples tested in a timely manner -- and by samples, I mean the primary and the duplicate sample -- is to have them collected and sent almost immediately.

You get in to shipping a sample that's been tested by the primary lab, then sending it to a split sample lab and getting it done in 24 hours I think is -- I think that's problematic. And I think that, especially when you get into situations where you have holidays and weekends when Fed Ex does not deliver on Sundays -- they do not pick up or deliver on Sunday -- I think about the only practical way to do it is to have it collected and sent to this -- to this sample lab at the same time.

CHAIRPERSON HARRIS: I guess one of the issues with being at the primary lab -- you described the procedures there -- they find a positive, they don't

just -- don't they retest it a few times and everything?

DR. JENSEN: Yes. It's retested and the -- it's retested at least three times. But then to send that sample or a duplicate sample from the primarily lab to the laboratory that's designated as the split or the duplicate sample lab involves another two or three days. I mean if you get that in 24 hours, you might be able to do it sometimes but I don't know if you could do it consistently.

COMMISSIONER SHAPIRO: It was my understanding that that concept had in fact been discussed with CTT and TOC and that this is what was more of a failsafe manner to do it to ensure there wouldn't be any breakdown of the sample. And that's why it was decided to go this way. Because we -- I remember being part of a discussion where we originally suggested that. And that they prefer to do it this way, even though it would mean additional cost.

CHAIRPERSON HARRIS: On the overall split sample issue, do most states allow basically split sample -- have a split sample concept or is this unique to California?

DR. JENSEN: For all drug testing?

CHAIRPERSON HARRIS: For drug testing --

DR. JENSEN: It's not universe, but the majority of states do provide a split sample.

CHAIRPERSON HARRIS: Yeah, I agree with Kim. It

is going to be not the standard of practice, I don't think, for a trainer to request a split sample. So this is just sort of something I guess is that -- we're going out there, going to talk to us, why they're going to -- but I think the key would be that the primary lab does, you know, an outstanding job on testing that sample. And whatever it is, it is.

DR. JENSEN: And we think so. But in order to assure that, if somebody has a question, that this procedure that's outlined for duplicate sample is in place, that is an option for the owner or the trainer.

CHAIRPERSON HARRIS: But I mean that's the option.

The problem is he's got to do it before -- usually -- eventual drugs that he's -- that somebody could do, you know, if he gets a bad test back. But this, regardless, he doesn't have any way to wait for the test to come back. He's got to do it before the race.

DR. JENSEN: Yeah, unfortunately that's just the nature of total carbon dioxide.

DR. COLEMAN: And the thing that sort of concerns me and other veterinarians are the fact that this is a stack of paperwork that does -- that research has been done on T CO2 testing by veterinarians in different referee journals. And they go into different ways,

different alkalinizing agents that were raised at T CO2, lasix, et cetera, et cetera. My concern and other veterinarian's concerns are you're going to have a high profile trainer that everybody knows did not administer any kind of alkalinizing agent is going to come up with a positive. And he's going to have no recourse whatsoever. He's going to get fried in the media and branded as a cheater. And it's unfair the way it's set up right now.

CHAIRPERSON HARRIS: Well, I mean he would still be subject to a hearing and he could present mitigating circumstances and all -- I mean there have been -- the system's been in place, has been with the CHRB system has been from each association. And it is remarkable how the numbers have dropped, I mean from quite a few to none. So I think it's a controllable thing. I would be concerned if it looked like there was a lot of this background ways you could get it. But it doesn't appear that there are.

EXECUTIVE DIRECTOR FERMIN: Dr. Jensen, you could correct me. But I think everything that's been named or suggested by trainers that they may have had for reasons, they've tested at Davis and have to date found anything that has raised the T CO2 level to the degree that puts them in violation, is that correct?

DR. JENSEN: I believe that's correct. And I think that -- you can raise the T CO2 level for a horse

without passing the stomach tube and administer bicarbonate. But at level 37 you have to do several different things to get up to that level. Normal horses are usually around 30 to 31.

DR. COLEMAN: There's a study that was presented by Dr. Carlson at UC Davis in 1997. And just by the administration of lasix he had a range of up to 37 millimoles of bicarbs. And it's published in the American Journal of Veterinary Research.

So I can't imagine that there's not going to be an occasional horse that's going to come up and do that. You know, it's going to be very rare, and I understand that. But I think it's going to be unfortunate for the trainer and the owner that does have a positive, because it's a Class 2 offense, correct?

CHAIRPERSON HARRIS: It's a Class 3. It would result in a purse -- that is a purse loss so it's a very serious problem.

Well, I think we hear you. It's just this is kind of where we are, and I think we've got to go forward. I think we've got to have ultimate faith in the lab getting the test right. And they continue to do research to see if there's some, you know, unknown things that could raise, bicarbs, that had nothing to do with any purposeful action.

But is there a motion on it?

COMMISSIONER SHAPIRO: We've already made a motion?

CHAIRPERSON HARRIS: Okay. All in favor?

(Ayes.)

CHAIRPERSON HARRIS: Okay. Pick(N)Pool.

STAFF SERVICES MANAGER I WAGNER: Jackie, CHRB staff.

Board Rule 1976.9, the Pick(N)Pool requires selection of the first place finisher in each of the number of races is dated by the association. The pick in must be comprised of more than three but no greater than ten races.

The proposed amendment to this rule would provide that if the conditions of the racing surface change from turf to dirt or dirt to turf or the race included in the pick-in wager and the public was not informed of the change prior to the closing of the wager, all wagers on that race shall be considered winning wagers for the purposes of the pool.

In addition, the rule also permits the totalizator to provide information regarding the possible pick-in and payouts for each of the runners when the last race comprising the pick in is the only race remaining.

This amendment has been noticed to the public.

We have not received any comments on these changes. And staff would recommend the Board adopt the amendment as presented.

CHAIRPERSON HARRIS: Any comments on this?

Will California be the only jurisdiction that basically approaches this way?

STAFF SERVICES MANAGER I WAGNER: Yeah, I'm going to have to defer that to --

COMMISSIONER SHAPIRO: I think New York does, John.

SENIOR PARIMUTUEL EXAMINER REAGAN: John Reagan, CHRB staff. We won't be the only one. But there are a few of them that are out there, and we'll be joining the group.

CHAIRPERSON HARRIS: Yeah, I purposely think -- I'd personally would like to rule. But the only thing, we probably do need to publicize that is the game that people would be playing. So that people all over the country, if there is a surface change, which happens pretty frequently, the winner, that they know that that race is out of it, that every horse in that race is a winner.

SENIOR PARIMUTUEL EXAMINER REAGAN: Right.

CHAIRPERSON HARRIS: Okay. A motion on this?

COMMISSIONER SHAPIRO: So move that we adopt it.

COMMISSIONER MORETTI: Second.

CHAIRPERSON HARRIS: All in favor?

(Ayes.)

CHAIRPERSON HARRIS: Okay. We've got the approval of stewards' contracts.

ASSISTANT CHIEF OF ADMINISTRATION VOSS: Wendy Voss, CHRB staff.

At the May 26th, 2005, regular Board meeting the Board approved a list of stewards official vet and service contracts, with a total dollar amount included. And since then staff have created contracts for some new stewards which are part of agenda Item No. 11 on the second page. And as a formality the State Contracting Manual requires Board approval for those new names. There will be no dollar amount increase. The dollar amount that you approved at the May meeting is sufficient for all the contracts. I just need Board approval for the names in order to get those contracts approved.

So staff recommends that the Board approve the names listed on Agenda Item No. 11 for those new stewards.

CHAIRPERSON HARRIS: Yeah.

VICE CHAIRPERSON BIANCO: Move.

COMMISSIONER MORETTI: Second.

CHAIRPERSON HARRIS: Yeah, I remember the stewards were -- endorse this. I think that our Executive Director, Ingrid Fermin, has done an excellent job of

reviewing the steward assignments and has brought in some very competent people that will strengthen racing. And I think this contract is very appropriate.

All in favor?

(Ayes.)

ASSISTANT CHIEF OF ADMINISTRATION VOSS: Thank you.

Okay. We did charity day at Oak Tree and microchips.

Okay. The jockey weight issue. I understand that by concurrence of both the -- well, Craig Fravel and the Jockey's Guild we're both working on this. But I don't know if anybody -- if they're still here. But I think they want to defer this to the July meeting because the study is still proceeding.

Darrell, do you have any comment on it?

MR. HAIRE: Mr. Harris, members of the Commission. Darrell Haire, National Member Representative of the Jockey's Guild.

Barry wishes he could have been here today. And Craig had to catch a plane of course. But Barry had a medical emergency.

But he just -- we just wanted to express that we are working close with Craig putting together a study, a health assessment study, and we're working close. And we

appreciate what Craig's doing. And Barry wanted me to express to you that he thanks the Commission for working together on resolutions to some issues and also with working together on legislation concerning jockey safety. So we appreciate that and Barry does immensely.

Thank you.

CHAIRPERSON HARRIS: Thank you.

I hope that we can keep this study moving along, because it is very important to jockey health and safety. And that we just -- you know, I think we're sometimes criticized for not moving fast enough on the jockey weight. But I think the whole idea is we need to have a right scientific data and see what the best outcome should be.

COMMISSIONER SHAPIRO: I can tell you, Mr. Chairman, that I did speak with Barry day before yesterday, and he was pleased. And he sent his regrets. I've also spoken with Mr. Fravel. And the plan has also been disseminated to, through the RCI, the Racing Commissioners International, to all other major racing jurisdictions to see if they are also willing and interested in participating with us on a national basis. So that hopefully this issue can be addressed nationally and not just here in California. And the Jockey's Guild I think is behind that.

And I also spoke with Dr. Gerbanian, who was also appreciative of this as well.

So I think it is moving along. And I know that Craig Fravel was working very hard on it. And we've got good cooperation with the Guild as well.

CHAIRPERSON HARRIS: Okay. Let's go on to Item 15, which deals with these pool wagers.

Do you have somebody from staff to report on that?

The issue I think is basically maybe -- they didn't frame it, but it's really legal issue, should California allow people to commingle in our pools that are basically a pool of wagers? It's not one person. It could be 100 people that are part of a program that allows them to partner with other people to buy particularly Big 6 tickets. And one of those fans in California, Roger Newell, had brought this to our attention, that he felt that that was not in compliance with our law. And -- oh, you've got a legal opinion on it.

DEPUTY ATTORNEY GENERAL KAUFMAN: Peter Kaufman, Deputy Attorney General.

I was asked to look at this on an informal basis, preliminary views -- to give you a preliminary view of the office. It's not the -- any final and ultimate opinion of the Attorney General's office, but it's our preliminary

view that these -- there are two issues with respect to these pools.

As you know, a wager or bet that is not authorized by statute and the Board's implementing regulations is unlawful and constitute bookmaking. And so we looked at this as to whether the accounts from which these -- the betting instructions were made were lawful accounts within the meaning of the Board's regulations. And, one, they're not. The Board's regulations anticipate that they be -- the accounts are individual accounts for personal use. These accounts appeared to us to be accounts that are held by entities for commercial purpose. And, therefore, they don't qualify as accounts from which an ADW wager can be made.

The second issue is whether these -- from our point of view is whether these bets are being made within a racing enclosure as required by statute. And while the statute, 19595, says that wagering instructions issued from an ADW account or considered to have been made within the enclosure, what you have here are bets being made without instructions and are going into the pool account from which the wagering instructions are made. So the actual bets are coming from the bet. One aspect of the bet is being made outside of that enclosure and it's not an exception nor authorized by statute as being within the

enclosure. So it would be unlawful for that purpose as well.

And ultimately the fact that these are occurring outside of the State of California we felt didn't make a difference because, one, the pool hub licensee is required to comply with California law; and, number 2, that California law provides that if you participate in any aspect of an unlawful activity, it is still an unlawful activity, so a track accepting an unlawful bet is participating in the unlawful activity and couldn't do so.

So our preliminary view is that it's not appropriate and shouldn't be received by the track or accepted by the track.

COMMISSIONER SHAPIRO: So let me ask you a question. What do we do? I mean this kind of leads into, just like yesterday, there was an airplane flying around above us promoting an offshore bookmaker here at the fair. It goes on at Santa Anita. What do we do in a circumstance like this.

DEPUTY ATTORNEY GENERAL KAUFMAN: Oh, good. Thank you.

(Laughter.)

DEPUTY ATTORNEY GENERAL KAUFMAN: I haven't considered that. I mean we offer opinions and then we figure out how to go ahead and have you implement them.

CHAIRPERSON HARRIS: Well, I think this is simple -- I mean the offshore deals, you know, can get very complex. I think this would be that we would just tell tracks that they cannot send their signal to people that are allowing these pool-type bets because that is not part of our laws. Illegal basically. And I mean it's really is not going to impact them too terribly much because they would just not take that particular type of bet. It's kind of an emerging thing anyway. But I don't know, we'd probably need to -- I think it's one company that's doing it mainly. And I think we almost need to hear it from the tracks and the company to see if they've got some good rebuttal why it really is legal. And if it's not legal, it's just like anything else that's not legal, they shouldn't be commingling.

DEPUTY ATTORNEY GENERAL KAUFMAN: Well, I mean it's a License issue. I mean licensees can't perform -- undertake illegal acts. So there's disciplinary action that can be taken the affects licenses. So I mean that's one avenue.

CHAIRPERSON HARRIS: Yeah. We do approve -- when we approve a license we approve everybody that will be commingling in a pool. So I think we would say you can't take those people -- or unless they change their ways.

DEPUTY ATTORNEY GENERAL KAUFMAN: Right. Well, I

mean their license is conditional. It's at risk.

EXECUTIVE DIRECTOR FERMIN: And then they need to cease and desist.

CHAIRPERSON HARRIS: Yeah, I think that would be the best thing to do, just tell them that they've got to stop and, you know, see what happens. But I don't think that we need a new regulation or anything for it.

DEPUTY ATTORNEY GENERAL KAUFMAN: No.

EXECUTIVE DIRECTOR FERMIN: So then if they don't, then comes a discussion and/or a possible sanction or we're looking at the license or whatever comes down the road?

DEPUTY ATTORNEY GENERAL KAUFMAN: Correct.

CHAIRPERSON HARRIS: Yeah, let's put together some sort of memo of all the different racing associations to explain the situation.

Okay. Thank you.

Next item, 16 is altering sex of a horse, mainly geldings.

(Laughter.)

CHAIRPERSON HARRIS: Well, actually --

COMMISSIONER SHAPIRO: I thought you were talking about sex changes.

CHAIRPERSON HARRIS: Well, just -- yeah, as the background on it, we've gotten a lot of fan complaints of

horses that have been gelded unannounced. It's really probably not that big of a problem if a horse was gelded before it started, where the first time it started it was a gelding. It's more a problem where a horse started one or several times as a colt and then was gelded, which may or may not -- but I think the consensus is it could well influence its future performance favorably, but the fans don't know about it.

So sort of like adding blinders or a horse on lasix or anything. There's no notation in the program or form that this has happened.

And it's two parts of the program. One is sometimes people have not reported geldings through the racing office, so it doesn't show up correctly in the entries. But then even if it does show up correctly, it is a gelding. I think there should be something that would note that it was a first-time gelding to show that that that, you know, was a factor that a handicapper might consider.

So I think something we've got to work basically with Equibase, who is a database for racing, they supply the information forum, to have some line -- on the past performance line that would note this, that would show just like notes: Lasix or Bute or blinkers or front wraps or a lot of things.

MR. FICK: Dan Fick from the Jockey Club.

We saw this on the agenda and we reviewed what we've been doing. And this is -- it's obviously a very serious concern because we don't want horses misreported in the program or horsemen led to believe that a horse is a stallion and he's not, and especially to the fans.

We implemented a program in January of 2004 through our In Compass System, which I talked about earlier, which manages the software in the office. And when entries are taken, it is sent up against the jockey Club database for the past performance information. And if it shows up to be a gelding and our database shows it to be a stallion, we immediately e-mail the race track to the designee they've told us, which is usually somebody in the racing secretary's office with a horse identifier, and ask them to verify that this horse is indeed a gelding. If they verify it, then they immediately change it in the program it's right.

And it's working. We've done over 25,000 geldings in the last, whatever it is, 18 months. But what happens, and I think the problem in this is, is getting it reported at the time that it happens. According to the model rules, and California's rules are very close to the model rules, it's really the responsibility of the trainer to notify the racing secretary and the horse identifier

that the horse has been gelded.

If you can ensure that that happens and enforce that, then it shouldn't be too complicated for us to write the software at the request of our clients, the tracks again, to go ahead and compare the date of gelding that's reported to us, because we do report the horses date of gelding and compare it to the date of the race and see if that's the next race since that horse has ran. And so I don't think that would be a problem for us.

If the horse has already run, if he was gelded on March 1st and he runs on March 15th, because it wasn't reported, it wasn't changed, then he comes back and runs on March 30th and it's finally been reported, we go back and say, "Well, this isn't the first time he's run since he's been gelded," so we wouldn't put it in the program.

CHAIRPERSON HARRIS: Yeah, I think just give me a line whenever he was gelded it would show -- I mean just sort of like it shows for a claim or anything, I guess you could -- I think we're getting, you know, a lot closer with these reportings. But I think we've got to just be stricter on what the rules are and encourage, you know, both the -- get trainers to properly report a gelding. It' not really much of a problem if some horse was gelded on the ranch as a yearling and it just -- but the problem is just horses gelded once they're at the track.

MR. FICK: Only liability you run is you're not going to be consistent, because if it's not reported, you're going to have two horses in the race, one that's reported and is correctly recorded in the program, one that's not recorded and is incorrect in the program. So you're going to have some liability there. Now, that liability obviously rests with the trainer. But it's going to take some time to get it reported accurately.

CHAIRPERSON HARRIS: Well, I think the horse normally I think does get caught eventually by the horse identifier. I don't think we've got too many that are running as colts that really are geldings. The problem is just people don't know about it till the last minute. I mean when they bring over the receiving bar they I think they check in there somewhere.

ASSOCIATE ANALYST MARTEN: Mike Marten of the California Horse Racing Board.

No, it's not many. But even a few make bad publicity.

And what Dan was saying -- and I can tell you what the Racing Forum's position is -- they're going to go to the trouble and put their own reputation on the line of putting something notable in the performances. They need to have confidence that California's providing them with accurate information at the time of entries. They would

love to be able to do that if they have confidence in the information being provided to them at time of entry. So it all comes back to getting the gelding reported at time of entry. And then that's up to you on how you're going to ensure that.

CHAIRPERSON HARRIS: I think it should be before the entry. I mean that would be the last time they could do it. But hopefully it gets done whenever the gelding's done.

CHAIRPERSON HARRIS: Okay. We just wanted to bring this up as something to work on. And hopefully we can work Equibase to get it in. Because it's -- I think a gelding is probably a bigger potential performance change than a lot of things we make a bigger thing about.

Anything else on that?

We've got last item that they -- got to order our wine tasting.

Is the year-end results for 2000 -- oh, no, I'm sorry. We've got the fair this going good eye fair publicly item which I originally put this on because I was concerned -- well, mainly with the Racing Forum's coverage on the fairs, which I've now talked to the Racing Forum people, and they do seem to be, you know, intent on improving their coverage.

But then also the northern California I was

concerned what they were doing in the local areas. And I didn't even realize they were doing as much as they were.

But it's really important for the fairs to reach out to their media and, you know, get -- since it's a short meeting, gives them a chance to really get the story just about every day. And they've been having them quite a bit. I just wanted to hear a few examples of some success stories they've had.

We've got one interesting note to add that Alameda County Fair has done.

(Thereupon a video was played.)

CHAIRPERSON HARRIS: You see why they don't like to see how much we spend on marketing because --

(Laughter.)

CHAIRPERSON HARRIS: It doesn't include sound.

(Laughter.)

(Thereupon a video was played.)

CHAIRPERSON HARRIS: That's not an actual race, is it?

Well, why don't we stipulate it was a good ad?

(Laughter.)

CHAIRPERSON HARRIS: Chris, can you explain some of the things going on?

MR. KORBY: Chris Korby, California Authority of Racing Fairs.

Just briefly two aspects of this I'd like to address the Board on. Number one, with respect to the racing media, we've had several productive conversations with the President of the Daily Racing Forum over the last few weeks about the extent of coverage in the forum on fair races. And they've have been very cooperative and --

(Thereupon a video was played.)

COMMISSIONER SHAPIRO: Okay. Who wants to do the bungy jump?

CHAIRPERSON HARRIS: That's one of the jockeys.

(Laughter.)

MR. KORBY: The forum study, been very responsive extending and increasing the coverage of fair racing in the forum. We're continuing to meet and talk and with them. And I'm happy to report the progress we've made with them.

With respect to the other media coverage of fairs and fair racing in northern California, bear in mind that fairs are major events in their local communities. So they're newsworthy events in their own right, and that generates significant media coverage, which includes coverage of the racing that takes place at the fairs. And that coverage is, for the most part, very positive. So I think that the fairs have done a good job of increasing public awareness of racing in their individual markets.

And there are fair managers there who can talk about specific success stories for individual fairs. And any one of them want to come up and talk about that.

But the coverage extends from newspapers, radio, local television, all the media in each of these markets.

Thank you.

MR. GHIDELLA: Jim Ghidella, TOC, Director, North.

I thought, Mr. Harris, when you put that on the agenda you were talking about Racing Forum publicity, articles in the Racing Forum coverage. Because it's a signal we want to market. We want the southern California people who did that, but -- out of state, et cetera, et cetera. And I think to get more coverage you have to offer something that's interesting. And, you know, we've had Black Ruby in the past who's been -- you know, how many futures articles were written about Taz and Black Ruby and all of that?

But the best way -- or one of easiest ways is to feature some good racing, to put some stakes on the calendar. And I had suggested Stockton this year to revive the Sweepida, which has a rich history in California racing. In fact, the Stockton Record is going to run a feature article on the Sweepida and its history.

But, you know, we've had -- we've had the stakes

scheduled at Pleasanton and chopped by two.

CHAIRPERSON HARRIS: I thought that TOC negotiated all that though.

MR. GHIDELLA: Well, we made suggestions. But we can't -- you can't force them to run something they don't want to run. I mean my suggestion to Santa Rosa was not to drop two stakes this year, especially in light of their -- the inaugural running of their turf course. And I would hope that the fairs would look at their budgets and schedule some more stake racing, because I think it makes good copy. It gives these guys something to write.

CHAIRPERSON HARRIS: Yeah. Well, I think -- really, you know, TOC and the tracks should work together it is a program. But actually Mr. Manuel from Fresno is here. He went out and got a sponsorship from Fresno race of like $60,000 from somebody. I think -- this was few years ago, but --

MR. GHIDELLA: Well, Ron Cloud --

CHAIRPERSON HARRIS: And then Ron Cloud.

I mean there is potential like that in each of these communities. Maybe not that much, but there's something. I think we need to look and start thinking outside the box at some of these races.

MR. GHIDELLA: Yeah. I just think that stake -- I mean when you have a meet that just has all lower

claimers and, you know, lower maiden claimers, it's -- it's a tough thing to write about. You know, it's tough for a writer to make a lot of hay about that. And, you know, I think a renewal of the Sweepida -- you know, would have been important at the Stockton meeting and would have, you know, created some excitement.

CHAIRPERSON HARRIS: You know, I'd like to see it come back. I thought TOC was the one that wanted to get rid of it. But I like it personally.

But the Stockton --

MR. GHIDELLA: That's incorrect, the Sweep -- TOC's for it.

CHAIRPERSON HARRIS: Actually the fair manager at Stockton had to leave. But he did bring me a bunch of articles that were in those area papers. They did do a good job of covering different aspects. I mean sometimes you'll have a big horse because you've got some owner or trainer or jockey or something -- I mean there's a lot of color in racing that lends itself well to media. So I can sort that out.

MR. KORBY: Well, we're happy to negotiate with the TOC about the stakes program and the purse schedule and all of that. And we're proud of the media coverage that fairs get in their markets. And I want this to become an entree into an unrelated discussion about purses

and stakes at the fairs. But I do agree with Jim that the better racing we offer, the better coverage will be. So we're also striving for that objective.

CHAIRPERSON HARRIS: The Forum actually, since I brought this up, did start to do the closer look on the -- I noticed in today's Forum in Pleasanton. So the President of the Forum is new look. The Brent Diamond Desmond. Anyway, he's going to be out in California in August because he's a westerner that's just newly into that job and is coming out to Del Mar. So I hope to visit with him there. You know, the Forum's a valuable thing. It' all over the country. But I think there's people -- well, even though maybe it's not a real big race, if people make good field sizes they're going to get attention. But to really -- you're back in some eastern state looking at a card, the more information you get on that race, the better, even if it's just, you know, ordinary horses.

MR. PICKERING: Yes, welcome back to Pleasanton.

(Laughter.)

MR. PICKERING: And at the encouragement of our friends in the media we actually put Pleasanton on the roof of our paddock this year. So that as we're televising the signal around the world, people realize it's Pleasanton, even though our local politicians

remember us as Alameda County Fair, and we're both.

Contrary -- or just in addition to some earlier comments, our technical difficulty is when we load it on to these screens, it also plays in the rest of the house. And we didn't want to play it on top of a race that was being called. So we turned off the sound. Now, in order to get the tape out and get it back again, we'll have to disrupt racing on the other side of the house.

CHAIRPERSON HARRIS: Why don't we see if the wine tasting is something --

MR. PICKERING: We can do that.

We had another tape that we wanted to show to you as well, but we don't want to take all of your time.

You're familiar with the Pontiac racing commercial that aired during the Super Bowl and since then. That was filmed here at the fair track where the horses in the dark are snorting, et cetera, et cetera. Lost in the Fog, being a very famous horse here in the Bay Area, and we did Lost in the Fog T-shirt given away today. And we have those for everyone who attending the barbecue tonight. In fact, we worked with the artist and made suggestions on how we could actually do the painting. So we're real pleased for that.

We'll have more than 400,000 people come through the fair this year. For the Commissioners that we're at

the race track yesterday, we saw grandparents with grandchildren setting in chairs and blanket down on the apron cheering for the horses. Yesterday we were 19 percent up on handle.

Through today -- I just gave the numbers to John for his 2005 handle reports. But through the close of business today we're up 8 percent on track, we're up 6 percent overall for the first two days of the meet. And it was rather hot today, so we're pleased with that. And I can't remember when any racing in northern California has had fields of 8, 9 and 10 horses running back to back. I believe we ran seven races yesterday of superfectas, and we're doing seven races today of superfectas.

So in spite of perhaps not having as many stake races, we're certainly putting the product out that the gaming public wants to bet on across the country. So we're very pleased with that. And we're very pleased with our partnership with Sam Spears and what he does for our racing and our interviews. The special stories that we receive; the win, place, and show contest this year. We're also marketing our golf course. So the $10,000 putting contest that takes place during -- between the 7th and 8th race each day. And the winners of those contests come back later on.

The number of things that we are already do. A

number of our TV stations come out and do the weather broadcast each morning from the race track or from the fairgrounds. Evening Magazine, which is one of the largest shows in the Bay Area, comes out to the races. They were out at the fair last Friday. They'll come back to the races again.

The promotion that we get for that very short period of time, we are the happening event in each of these county fairs. And I know many of my partners here, these fair managers, in the newspaper everyday on something new and exciting at the fair. We are big news, we are local news, and we get people to the track who can't travel or for whatever reason can't get to the other tracks.

So the fairs -- we're here. We presented you with our birthday book, which we did a few years ago in honor of our 90th birthday. This track, as you know, started running back in 1858. As California was an infant, so was racing in California. And we were here running horses, at Dom Bernal's from Bernal Avenue.

So we believe we have that history. The history is in the book there. We also market our facilities year-round. So we have hundreds of thousands of golfers hitting golf balls on that beautiful golf course. They're also shagging them off the track. No, we don't let them

do that. But they know that the track's out there.

Our track trains on a year-round basis. On a good year roughly anywhere from 12 to 14 percent of the starters at Bay Meadows and Golden Gate are trained here in Pleasanton on a fair track. On a good year more horses trained at Pleasanton start at Bay Meadows and Golden Gate than horses trained at Fairfax and San Luis Rey combined. So we're a very valuable facility in northern California, right here at a fair. But we just can't wait for people to come and negotiate with us about putting more dates at a publicly owned nonprofit facility.

And we thank all of you for your support on handle today and yesterday. Commissioner Harris, you got to view our new paddock. Commissioner Shapiro, the paddock was out there. It was nice to see owners and trainers standing on the grass in the middle of the paddock, admiring the paddock. And most of all, admiring the product. So thank you for being here.

The barbecue, we had to slow the fire down just a little bit. But I talked to them and they're slicing the ribs and they've had a bit to drink, so they're going to be --

CHAIRPERSON HARRIS: Better get over there.

(Applause.)

CHAIRPERSON HARRIS: I would like mention on the

part of publicity, we've got three excellent of writers here that have been key in northern California: Chuck Dibdahl, who is now with the Racing Forum, has been a real institution in northern California racing, he's an expert on it. And Debbie Harrington from the Sacramento Bee, who is an excellent, probably -- for the overall value covers racing very well and comes up with a lot of very good stories. And Jack Shinard with the Thoroughbred, wrote for the Blood Horse, among other things. And so we're fortunate we've got some good racing riders here. Just need to keep developing the stories.

COMMISSIONER MORETTI: I have a comment, John.

Debbie and I were talking earlier. And all those of us that live in the Sacramento area, I might not be a bad idea if we wrote some letters in to the sports editor over there, because I guess they have a new editor and he is not -- we need to educate him about the value of horse racing over there. Let me put it that way.

CHAIRPERSON HARRIS: Okay. I think we'll skip the last item. It's just an update.

But appreciate everybody being here and appreciate all the hospitality from Pleasanton and look forward to seeing everybody over at the barbecue.

(Thereupon the California Horse Racing Board meeting adjourned at 5:45 p.m.