

CALIFORNIA HORSE RACING BOARD**POLICY MEMORANDUM**

DATE ISSUED: November 26, 2014
EXPIRES: Until Rescinded or Amended

TO : ALL CONCERNED PARTIES

SUBJECT : TRIBAL CONSULTATION POLICY

BACKGROUND

In September 2011, Governor Edmund G. Brown Jr. issued Executive Order B-10-11 which, among other things, reflects the administration's policy to encourage communication and consultation with California Indian Tribes. Accordingly, the California Horse Racing Board (CHRB) adopts this Tribal Consultation Policy to memorialize CHRB's commitment to strengthening and promoting government-to-government relationships between California Indian Tribes and the CHRB.

TRIBAL CONSULTATION POLICY

This Policy is intended to foster effective consultation and collaboration between CHRB, and federally-recognized California Indian Tribes. This Policy provides information and procedures relative to California Indian Tribes securing a license to operate a simulcast facility (aka satellite facility) that allows parimutuel wagering on horseracing on Indian lands, if negotiated terms in said tribal state compacts contain provisions permitting off track wagering on horseracing.

CHRB's goal is to provide clear concise direction, to facilitate the application and licensing process, in a timely manner while fostering an interactive process to respectfully seek, discuss and resolve Tribes concerns at the earliest opportunity and in a manner that respects and furthers the interests of Tribes and the CHRB.

DEFINITIONS

For purposes of this policy, the following definitions shall apply:

California Indian Tribe: Refers to a federally-recognized California Indian Tribe, as listed on the Federal Register. With respect to cultural resources, a federally-recognized Indian Tribe and a non-federally recognized California Native American Tribe that is on the California Tribal Consultation List maintained by the Native American Heritage Commission (NAHC).

Tribe: Refers to a California Indian Tribe.

Tribal Leaders: Refers to elected officials of Indian Tribes and their designees.

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Tribal Sovereignty: Refers to the unique political status of federally-recognized Indian tribes. Federally-recognized Indian tribes exercise certain jurisdiction and governmental powers over activities and Tribal members within its territory. Some of these powers are inherent, and some have been delegated by the United States. Existing limitations on Tribal sovereignty are defined through acts of Congress, treaties, and federal court decisions.

Applicant: Refers to a California Indian Tribe.

Guiding Principles for Implementing this Tribal Consultation Policy:

Department Tribal Liaisons

The CHRБ will designate a liaison to be its first point of contact with Tribes seeking assistance in the simulcast facility application and approval process and to act as the CHRБ's representative in matters pertaining to this Policy, as well as overseeing and implementing the duties described in this Policy.

CHRБ Background/Authority/ Tribal-State Compacts and CHRБ Recognition of Compacts

Business and Professions Code (B&P) section 19420 et seq. specifies jurisdiction and supervision over meetings in this State where horse races with wagering on their results are held or conducted, and over persons or things having to do with the operation of such meetings, is vested in the California Horse Racing Board.

Under the horse racing law (B&P Code section 19590) the CHRБ adopts rules governing, permitting, and regulating parimutuel wagering on horse races under the system known as the parimutuel method of wagering. Parimutuel wagering may be conducted only by a person or persons licensed to conduct a horse racing meeting or authorized by the Board to conduct advance deposit wagering.

California law authorizes the negotiation of Tribal-State Compacts between federally recognized Indian Tribes. Compacts are negotiated between the Governor on behalf of the State of California and the Tribes. Tribal-State Compacts, among other things, may permit regulated parimutuel wagering on horseracing at authorized simulcast wagering facilities (aka satellite wagering facilities) at various locations within the State, under the California Horse Racing Law and Regulations. CHRБ Rules(s): The California Horse Racing Board rules referencing simulcast wagering are found in Title 4, California Code of Regulations, Article 24 Rules 2056 through 2061. The horseracing law referencing simulcast wagering is Business and Professions Code Article 9.2 sections 19605 through 19608.8.

Tribal-State Compacts recognize the CHRБ as the department established under California state law to administer and enforce all laws, rules and regulations affecting horseracing and parimutuel wagering within the State; and specify the operation of a simulcast wagering facility is a Class III gaming activity pursuant to the Indian Gaming Regulatory Act, 18 U.S.C. sections 1166-1168, 25 U.S.C. sections 2701-2721 (IGRA).

In addition, Compacts acknowledge the Tribes that have enacted a Tribal Ordinance permitting such gaming activities (parimutuel wagering on horseracing) on and within the Indian land if conducted in conformity with an applicable Tribal State Compact.

The CHRБ as the State's parimutuel licensing authority together with the Tribe applicants, recognize the sovereign authority and interests of the other in regulating gaming activities within their respective areas of jurisdiction and ensures that simulcast wagering is conducted fairly honestly, professionally and in a manner that promotes the California horse racing industry.

Outreach

CHRB will consult with Tribes to make relevant information available at the earliest possible time and allow a reasonable opportunity for Tribes to respond and substantively engage in assisting with completion of the application to ensure the process is completed in a timely manner.

Initial Application and Approval of a Simulcast Facility

Applicants may request a copy of CHRB 25, Application to Operate a Simulcast Wagering Facility, by contacting the CHRB's Liaison. Copies of the application are also available at the CHRB's website: http://www.chrb.ca.gov/forms/chrb_25_application_simulcast_wagering.pdf

Collaboration

CHRB will communicate and work together with Tribes to resolve respective issues relative to the application process. This exchange will be conducted by respecting the protocols each respective Tribe has established for contacting its governing body or its delegated official.

CHRB is committed to ensuring a sound and productive relationship with tribal governments by interacting with Tribes in a manner that fosters meaningful dialogue, effective collaboration, mutual respect and informed decision-making. CHRB is committed to engaging in a substantive meet and confer process, exchanging information openly and freely, and compromising to reach understandings that, whenever possible, result in mutually-beneficial sustainable outcomes.

Communication

When appropriate, CHRB will engage early and frequent communication with tribal applicants regarding issues pertaining to or impacting simulcast facility applications. The types of communication mechanisms used will be determined on a case-by-case basis with the goal of utilizing the most efficient form of communication for a particular issue.

Tribes may initiate consultation with CHRB by contacting the department Liaison. Contact information will be maintained on the department's website.

This Policy expresses CHRB's intent to strengthen the ability of CHRB to work collaboratively with Tribes to resolve issues of mutual concern relative to the submission of applications to operate simulcast wagering facilities. While the communication and collaboration encouraged by this Policy provides opportunities for strengthening and promoting government-to-government relationships between Tribes and the CHRB, it may not result in a resolution of all issues. Inherent in this Policy is the right of Tribes and the CHRB to elevate an issue to any decision-making authority of another entity including, when appropriate, the highest levels of state and tribal government.

This policy implements Executive Order B-10-11 and is intended to improve CHRB's internal management and communication; it is not a regulation and does not supersede, create, expand, limit, waive or interpret any state or federal legal rights or obligations including but not limited to treaty rights, immunities or jurisdiction of any Tribe or the State of California.

Effective Date:

CHRB's Tribal Consultation Policy shall take effect immediately and shall be posted on CHRB's website. This Policy shall be subject to periodic review to ensure its provisions remain current and consistent with state law and policy.