

TEXAS RACING COMMISSION

MEETING

10:36 a.m.  
Wednesday,  
September 20, 2017

John H. Reagan Building  
Room JHR 140  
105 W. 15th Street  
Austin, Texas

COMMISSIONERS PRESENT:

JOHN T. STEEN III, Chairman  
RONALD F. EDERER, Vice Chair  
MARGARET MARTIN  
STEVEN P. MACH  
SID MILLER

NOT PRESENT:

GLORIA HICKS  
ROBERT SCHMIDT, M.D.

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P R O C E E D I N G S

1  
2 CHAIRMAN STEEN: Good morning. The time is  
3 10:36 a.m. At this time I would like to call today's  
4 meeting of the Texas Racing Commission to order.

5 Jean, could you please call the roll.

6 MS. COOK: Yes, sir.

7 Commissioner Gloria Hicks?

8 (No response.)

9 MS. COOK: Commissioner Steven Mach?

10 COMMISSIONER MACH: Here.

11 MS. COOK: Commissioner Margaret Martin?

12 COMMISSIONER MARTIN: Present.

13 MS. COOK: Commissioner Sid Miller?

14 COMMISSIONER MILLER: Here.

15 MS. COOK: Commissioner Robert Schmidt?

16 (No response.)

17 MS. COOK: Vice Chair Ron Ederer?

18 COMMISSIONER EDERER: Present.

19 MS. COOK: And Chairman John Steen.

20 CHAIRMAN STEEN: Here.

21 Do we have a quorum?

22 MS. COOK: Yes, sir.

23 CHAIRMAN STEEN: Thank you. I would first like  
24 to take a moment to introduce Commissioner Sid Miller and  
25 welcome him to the Commission. Commissioner, we look

1 forward to your contributions, given your expertise in  
2 this area.

3 COMMISSIONER MILLER: Thank you, and it is good  
4 to be with you. And I am the commissioner with the  
5 Department of Agriculture, and I did not think I was going  
6 to be able to make this meeting. I have had a double knee  
7 replacement. I got to looking at the agenda and I  
8 thought, You know, I had better go; there might not be  
9 another meeting, so I decided I would show up today.

10 (Laughter.)

11 CHAIRMAN STEEN: We are happy you are here.

12 COMMISSIONER MILLER: So I am glad I am here.  
13 Thank you.

14 CHAIRMAN STEEN: Okay. We will move on to  
15 Item II, Public Comment.

16 Devon, has anyone signed up?

17 MS. BIJANSKY: No.

18 CHAIRMAN STEEN: Okay, then moving on to Three,  
19 General Business, the next item is Agenda Item III(A),  
20 Budget and Finance Update.

21 Adrienne Courtney, would you give us the  
22 update, please.

23 MS. COURTNEY: Good morning, Commissioners. On  
24 pages 4 through 8 of your agenda packet is the Agency's  
25 fiscal year 2017 operating budget, reflecting revenue

1 collected and expenditures as of July 31. It does not go  
2 through August as we were still in the process of closing  
3 out 2017.

4 As we have discussed for several months, the  
5 Agency faces a serious revenue shortfall. In September  
6 the Agency collected approximately \$384,000 in fees from  
7 five racetracks. But five other racetracks refused to pay  
8 their fees. These nonpaying tracks are Gulf Greyhound  
9 Park, Gulf Coast Racing, Laredo Downs, Valle de los  
10 Tesoros, and Gillespie County Fair.

11 The nonpayments represent \$180,000 in missing  
12 revenue, and if these tracks continue withholding  
13 payments, the Agency will run out of money by the end of  
14 October or soon thereafter. The Agency will then have to  
15 stop operations because there will not be any money to pay  
16 employees or any of its obligations.

17 There is no other revenue available under the  
18 current rules that would address this shortfall. I  
19 understand that the racetracks have proposed rule changes  
20 that would help to address this issue, and these proposals  
21 are listed later in the agenda. If you have any questions  
22 about the budget, I would be happy to answer them now or  
23 later on in the meeting.

24 COMMISSIONER EDERER: If we run out of money  
25 and we close our doors, racing ceases in the state of

1 Texas. Is that correct?

2 MS. COURTNEY: Yes. That is correct.

3 COMMISSIONER EDERER: Thank you.

4 CHAIRMAN STEEN: Commissioners, any other  
5 questions?

6 (No response.)

7 CHAIRMAN STEEN: Thank you, Adrienne.

8 The next item is Agenda Item III(B), report on  
9 wagering statistics. Curley Trahan.

10 MR. TRAHAN: Thank you, Mr. Chairman. Good  
11 morning, Commissioners. In your meeting materials on  
12 pages 10 through 12 is the comparison report on wagering  
13 statistics for the period of January 1 through September 3  
14 for calendar years 2016 and 2017.

15 For the reporting period, total wagering  
16 activities at the greyhound racetracks showed a decrease  
17 of 10.68 percent from 2016. Total wagering activities at  
18 the horse racetracks showed a decrease of 2.64 percent for  
19 the same period. Overall total wagers placed in Texas  
20 have decreased by 6.36 percent while total wagers placed  
21 on Texas races reflects an increase of 2.53 percent.

22 I would be happy to answer any questions.

23 CHAIRMAN STEEN: Commissioners, do you have any  
24 questions?

25 COMMISSIONER MACH: What do you attribute the

1 decreases to?

2 MR. TRAHAN: Overall, the trend across the  
3 United States tends to be lower, although I cannot say  
4 with certainty the exact causes; there could be several  
5 contributing factors.

6 First, last year was a leap year so there is  
7 one extra day in the simulcast wagering for each of the  
8 tracks in 2016; secondly the recent events surrounding  
9 Hurricane Harvey and the subsequent torrential rains  
10 resulted in four tracks closing anywhere from one day to  
11 one week. Inclement weather also resulted in Gillespie  
12 having to cancel their last live race day of their eight-  
13 day meet.

14 While these things do not fully account for the  
15 decreases, they do have a significant effect on the total  
16 overall handle. You're welcome.

17 COMMISSIONER EDERER: There is also the  
18 greyhounds not running in Houston.

19 MR. TRAHAN: Well, these figures only go  
20 through September 3, so the closings were done due to the  
21 hurricane, but up to that point.

22 CHAIRMAN STEEN: Commissioners, any other  
23 questions?

24 (No response.)

25 CHAIRMAN STEEN: Thank you, Curley.



1 MR. TRAHAN: Thank you.

2 The next item is Agenda Item III(C),  
3 Enforcement Report, Jim Blodgett.

4 MR. BLODGETT: Mr. Chairman, Commissioners,  
5 good morning. Commissioners, you will find your  
6 Enforcement Report in your materials on pages 13 and 14.

7 Commissioners, Retama Park concluded its summer  
8 meet on August 12, 2017. This is the county fair's eight-  
9 day meet; it was cut short this year by one day, which was  
10 Sunday the 27th, due to inclement weather. Lone Star Park  
11 and Retama Park are currently conducting live race meets.

12 Commissioners, the completed steward's ruling  
13 report from Retama Park provided in your material includes  
14 a wide variety of infractions. The largest number of  
15 completed rulings by our Steward Board were medication-  
16 positives and trainer infractions. The drug clenbuterol  
17 was by far the most common drug-positive identified in  
18 this meet.

19 Completed steward's rulings for Gillespie  
20 County Fair meet totaled a total of 14, which included one  
21 medication-positive for clenbuterol at the time of this  
22 report. I would be happy to answer any questions that you  
23 might have.

24 CHAIRMAN STEEN: Commissioners, any questions?

25 (No response.)

1 CHAIRMAN STEEN: Thank you, Jim.

2 We are now going to take Item Number VII,  
3 Executive Session, out of order. The Commission will now  
4 enter an Executive Session under Government Code  
5 Section 551.071 (1) and (2), to seek the advice of its  
6 attorney regarding pending or contemplated litigation, to  
7 consider a settlement offer, and to seek the advice of its  
8 attorney as privileged communications under the  
9 Disciplinary Rules of Professional Conduct.

10 In this case, the litigation is a suit filed  
11 against the Commission by Laredo Downs, Valle de los  
12 Tesoros, Gulf Coast Racing, Gulf Greyhound Park, and  
13 Gillespie County Fair. The time is now 10:43.

14 (The Commission met in Executive Session at  
15 10:43 a.m.)

16 CHAIRMAN STEEN: The Commission is now  
17 reconvening after concluding its Executive Session under  
18 Government Code Section 551.071 (1) and (2), the time is  
19 now 11:10. We have made no decisions following Executive  
20 Session and take no action at this time.

21 Let us move on to Item IV, Funding Issues  
22 including potential rule proposals.

23 Mark, will you lay out these items, please.

24 MR. FENNER: Yes, sir. Commissioners, as  
25 Adrienne described earlier during the budget portion of

1 the meeting, the Agency is facing a budget shortfall that  
2 jeopardizes its ability to continue operations. The  
3 Agency lost \$690,000 in annual revenue last year due to  
4 the revocation of three Class 2 horse racetrack licenses  
5 and, as you know, five additional racetracks have refused  
6 to pay their annual fees.

7 And this is an additional annual loss of \$1.25  
8 million a year. And unless these issues are addressed  
9 promptly, the Agency will soon be unable to pay Staff or  
10 continue operations past October.

11 Now the ad hoc committee on finance met in June  
12 and July on this issue and rule proposals were considered  
13 by the full Commission in June and in August. But none of  
14 these previous proposals gathered consensus from either  
15 the industry or Commission support.

16 But you will find in your materials on pages 18  
17 and 19 a proposal from nine of the ten licensed  
18 racetracks -- this includes both those who are continuing  
19 to pay and those who are not -- that addresses the  
20 shortfall. And it does it by doing the following:

21 First, it reduces the base number of live race  
22 days for horse tracks from 143 days to 68 days, and  
23 projects that the horse tracks will conduct a total of 143  
24 days of racing instead of what they are doing this year,  
25 which is 182. The total number of race days though is

1 subject to negotiation, between the tracks and the  
2 horsemen.

3 The proposal increases the daily fee for live  
4 race dates beyond the base from \$3,750 to \$6,313. The  
5 proposal that they have submitted also redistributes the  
6 annual fees among the tracks by increasing the fees on the  
7 Class 1 horse tracks, and decreasing the fees on all of  
8 the other classes of racetracks.

9 The proposal calls for additional revenue  
10 shortfalls to be met through increases on occupational  
11 licenses, license fees. Staff projects that occupational  
12 license fees would have to increase by 20 percent across  
13 the board to meet that need, and that is assuming that the  
14 total number of occupational license fees remains  
15 constant.

16 The proposal calls for the Agency to make  
17 further cuts in the current biennium, and it calls for us  
18 to secure a third party review of operations with industry  
19 input, and they propose that they might be willing to pay  
20 for that review through additional fees if necessary and  
21 agreed to.

22 And finally it calls for all of the racetracks  
23 including the five tracks that are currently withholding  
24 payments to begin monthly payments under the proposed fee  
25 schedule by September 22, 2017. This would allow the

1 Commission to continue operations into calendar year 2018  
2 and depending on the number of occupational licenses  
3 issued and whether the Agency is able to achieve further  
4 budget reductions, possibly through the remainder of the  
5 biennium.

6 The proposal has the support of nine of the ten  
7 licensed racetracks, and is missing the concurrence of  
8 only Lone Star Park. I have not been advised yet by the  
9 horsemen of their position on this, though. If you have  
10 any questions I would be happy to try to answer them or  
11 perhaps some of the racetracks could answer these as well.

12 CHAIRMAN STEEN: Mark, is there anything in  
13 this proposal that limits the number of possible race  
14 days?

15 MR. FENNER: No, sir. It does establish the  
16 base but the number beyond the base is up to negotiation.

17 CHAIRMAN STEEN: And besides the ones that we  
18 have reviewed, have any other proposals been put forth by  
19 the industry?

20 MR. FENNER: Not by the industry.

21 CHAIRMAN STEEN: Okay. I would like to  
22 recognize Joel Speight to come up and just review, I know  
23 this has been several months, but the Agency's efforts to  
24 reduce costs to date, to where we are right now.

25 MR. SPEIGHT: Good morning, Commissioners. TRC

1 has initiated aggressive cost reduction actions to address  
2 the \$690,000 in lost revenues that --

3 COMMISSIONER MACH: Mr. Chairman?

4 CHAIRMAN STEEN: Yes.

5 COMMISSIONER MACH: Could you get him to repeat  
6 his name and what his position is, please.

7 MR. SPEIGHT: Joel Speight, Deputy Executive  
8 Director, Texas Racing Commission.

9 TRC has issued aggressive cost reduction  
10 actions to address the \$690 in lost revenue from three  
11 racetracks' revoked licenses in fiscal year 2015. In  
12 fiscal year 2016 and '17, TRC reduced the Agency's  
13 operating budget by \$372,000, and reduced the staff by 4.8  
14 full-time equivalents.

15 In this past August 2017, TRC implemented plans  
16 that will result in an additional \$231,000 and \$261,000  
17 budget cuts for fiscal years 2018 and 2019, respectively.

18 These plans will also reduce staff an additional 2.75  
19 FTEs. In total, TRC has taken actions to reduce the  
20 operating budget by \$633,000, and staff by 7.5 FTEs, over  
21 a four-year period.

22 This four-year budget reduction does not cover  
23 the \$690,000 loss in revenue TRC experienced in 2015. TRC  
24 is continuing to explore ways to further reduce its  
25 operating budget to manage the deficit between revenue

1 collected and operating expenses that has existed since  
2 2014.

3 A growing TRC expense that is counterproductive  
4 to the Agency's cost savings effort is the monthly bill  
5 charges for permanent annual lifetime health insurance  
6 premiums for 46 retired individuals. TRC is paying for  
7 lifetime annual health insurance premiums for individuals  
8 who retired as early as 1989, 28 years.

9 This is a \$397,000 annual, nonnegotiable  
10 financial obligation. Currently there are an additional  
11 eight staff members who are retirement-eligible. If these  
12 individuals exercise their option to retire, TRC's  
13 lifetime health insurance premiums cost could escalate to  
14 \$456,000 for 54 retired individuals.

15 That concludes my --

16 CHAIRMAN STEEN: Any questions, Commissioners?

17 COMMISSIONER EDERER: I have a question, I  
18 think it would be proper to give it to you. At the  
19 present time, I see that Lone Star Park and Retama Park  
20 are overlapping. Have you thought about or discussed with  
21 the industry the possibility of not allowing any  
22 overlapping. It is my understanding that overlapping  
23 doubles your costs during those particular meets. Is that  
24 correct?

25 MR. SPEIGHT: Yes, Commissioner. It is. And

1 so what we are hoping comes in on the 24th of October is  
2 sequential racing versus in parallel. Because if we have  
3 three tracks going at once, with the reductions we have  
4 taken, we do not have any surge capability and I do not  
5 even know if we have enough staff to cover all of those  
6 meets.

7 COMMISSIONER EDERER: All right. So in the  
8 future if race dates given to the tracks would not  
9 overlap --

10 MR. SPEIGHT: It would help tremendously.

11 COMMISSIONER EDERER: Thank you.

12 CHAIRMAN STEEN: Thank you, Joel.

13 I would like to recognize Andrea Young,  
14 representing Sam Houston Race Park, Valley Race Park, and  
15 Manor Downs.

16 MS. YOUNG: Good morning, Commissioners. Good  
17 morning Mr. Chairman. Thank you very much for calling me  
18 up first today, on this delightful matter that we all get  
19 to discuss.

20 Look, this is not a new matter for anyone  
21 except our new Commissioner here, Agricultural  
22 Commissioner Miller.

23 This agency has been operating at a partial  
24 deficit for some time. We have known that; it has been  
25 exacerbated as where it is already laid out in the opening



1 comments when three of the licenses last year determined  
2 to -- they were worth nothing and so they surrendered them  
3 back to the Commission.

4 I think the industry at large, the one thing  
5 that we can mostly all agree on is that we think there is  
6 additional opportunity at the Agency. Joel did talk about  
7 some of the work that has been done. But we think that  
8 there is a lot more work that can be done.

9 The proposal that nine of the ten racetracks  
10 have come to support, I think you could call it a bad  
11 proposal, you could call it a good proposal. The reality  
12 is, it is the only proposal.

13 We are, as our licenses representing Sam  
14 Houston Race Park being the most significant of the three,  
15 the reason, single reason that we were willing to support  
16 this proposal and sign on to the agreement is because of  
17 the commitment that we feel like we have received from the  
18 Commission to continue to look at ways to reduce operating  
19 expenses. It is our view -- for many of us, can't say  
20 everyone -- but then rather than saying, Hey, we have got  
21 50 employees today and let us peel back one here and one  
22 there, let us go back and start at the beginning and say,  
23 Hey, here are the three positions mandated from the Racing  
24 Act, and let us build it back up for today.

25 Because I feel like, our feeling is that, you

1 know, this current agency is designed largely around an  
2 industry that existed ten years ago, and that is not what  
3 is here today.

4 And so that commitment is important. There are  
5 some that I think you will hear from today that will say  
6 that lacks teeth; personally I don't think it lacks teeth.

7 Because the reality is as the Commission has just  
8 witnessed, if folks aren't happy with the way it is going,  
9 people will just stop paying their license fees. And so  
10 it has the teeth because we are all committed to doing it  
11 together.

12 The kind of ugly, really part of the proposal  
13 is the significant increase on the Class One tracks in  
14 Houston, Retama, Lone Star. But the alternative, at least  
15 for Sam Houston I can say is that if \$1.25 million went  
16 away from the current system, that that increase on the  
17 Class Ones would be far greater. And for us, that was not  
18 something that we were willing to take on at this time.

19 I think there is also some focus on what does  
20 this mean for race dates for the horsemen. And I think  
21 the horsemen have a genuine and right concern about that.

22 The current fee structure for Class One racetracks is a  
23 base fee plus a certain number of dates, 45. So that  
24 model has existed for some time. The new proposed rule is  
25 a higher base fee and fewer race dates. So obviously we

1 have heard from a lot of horsemen that they are concerned  
2 about that.

3 I think the most logical next step, kind of, is  
4 that the industry has to get together and determine really  
5 what are those race dates going to look like. On Sam  
6 Houston's part I can say that, without a doubt we are not  
7 going to run the minimum race dates. We have already been  
8 granted 32 race dates for next year. We are going to run  
9 those 32 dates and then we are going to come in after this  
10 meeting and we are going to apply for a quarter horse  
11 meet, and so we expect we will run close to 50 dates. Is  
12 that less than the 56 this year, yes. Okay, but it is not  
13 20 either.

14 Finally I want to say that I wish every single  
15 track was able to sign on to this proposal, but nine out  
16 of ten is still an A when my kids bring home a test. And  
17 so it's an ugly A, I do not like it. I do not like being  
18 here, but we do look forward to working with the  
19 Commission diligently and we will be here at every meeting  
20 following up on how do we kind of reduce the burden to all  
21 of the stakeholders in the industry going forward.

22 I am happy to answer any questions you may  
23 have.

24 CHAIRMAN STEEN: Any questions?

25 COMMISSIONER EDERER: Andrea, you said that

1 nine out of ten has signed up.

2 MS. YOUNG: That is correct.

3 COMMISSIONER EDERER: The tenth is Lone Star.  
4 Their fee for '18 is \$700,000.

5 MS. YOUNG: Correct.

6 COMMISSIONER EDERER: It is my understanding  
7 they have agreed to pay that. They are not agreeing to  
8 pay the increase. Is that correct?

9 MS. YOUNG: Their current fee is \$500,000, plus  
10 whatever --

11 COMMISSIONER EDERER: Oh, I'm sorry.

12 MS. YOUNG: -- they pay above. So I think they  
13 probably paid, you will have to ask them, in excess of  
14 about \$650 or more. But they are here and I am sure they  
15 could answer the question better than me.

16 COMMISSIONER EDERER: I understand that but my  
17 question to you is, are the other nine license holders  
18 willing to pick up the slack that Lone Star is dumping on  
19 you?

20 MS. YOUNG: No. So I -- the rules proposal is  
21 going to impact everyone. Whatever you guys pass here  
22 today is going to impact all the Class Ones. So we are  
23 not -- we do not want to pick up anyone's slack at all,  
24 which is largely the reason why we are here, and we did  
25 not want to end up being in a position where there were

1 only five stakeholders, or maybe even three left. Because  
2 with just three Class One tracks in the Agency's current  
3 budget, that is not sustainable for Sam Houston Race Park.  
4 It may be sustainable for Lone Star, but it is not for  
5 us.

6 Any other questions?

7 (No response.)

8 MS. YOUNG: Can I go?

9 CHAIRMAN STEEN: Yes.

10 MS. YOUNG: Thank you.

11 CHAIRMAN STEEN: I would like to call next Bill  
12 Belcher representing Retama Park. He is for the proposal.

13 MR. BELCHER: Good morning. Bill Belcher from  
14 Retama Park. I just wanted to say thank you for allowing  
15 me to come up and talk about it.

16 Much to what Andrea said is, this is a proposal  
17 that we feel is the best compromise to buy us time to get  
18 where we need to be with the overall fees. So we do not  
19 like it any more than anybody else for our fees to go up  
20 that much. However, we feel it is good for the industry  
21 as a whole to buy us some time, and that is the way we  
22 looked at it, and that is why I signed it, because we  
23 agree with it and we just need to continue to dive deep  
24 and see where we can make it better.

25 So, she said all of the detailed stuff and I

1 just wanted to come up and say that we go along with it,  
2 we are in. We are trying to make the industry better and  
3 that is where we would like to go. And the 20-day thing,  
4 we are going to run more than 20 days too. We do not have  
5 a determination yet.

6 We are running live right now with  
7 Thoroughbreds, so we will -- our best guess estimate is  
8 32-ish to 36-ish days. Once we get through today when we  
9 know where we are going, we will line all that out.

10 CHAIRMAN STEEN: Any questions of Mr. Belcher?

11 COMMISSIONER EDERER: How is the meet going?

12 MR. BELCHER: This last weekend was much better  
13 than the first couple of weeks, so it is going okay.

14 CHAIRMAN STEEN: Thank you.

15 MR. BELCHER: Thank you.

16 CHAIRMAN STEEN: I would like to call up Scott  
17 Wells next, representing Lone Star Park.

18 MR. WELLS: Thank you, Mr. Chairman, members of  
19 the Commission. By the way Lone Star Park did have a  
20 successful spring season, we were up 4 percent in live  
21 handle and 16 percent in our export, due in large part to  
22 an investment we made in trying to get our signal out  
23 there to a broader audience. So we are happy with the  
24 progress we have been able to make under difficult  
25 circumstances.

1           However, we cannot support this agreement. We  
2 feel that it unfairly penalizes the tracks that have been  
3 conducting live racing, in our case for 20 years, and  
4 actually benefits those who have speculated but have not  
5 been conducting live racing.

6           So I do not give it an A, I give it a failing  
7 grade. We think it is highly inequitable, and just to  
8 make it clear, Lone Star does not plan to dump our  
9 increases or expenses on anybody.

10           When asked by the Commission recently to sort  
11 of pay forward, we have done that promptly. We are going  
12 to pay whatever fee this Commission decides we should pay  
13 two days from now. But we are not going to continue to  
14 support those who are having a decreased scenario whereas  
15 we are expecting a big increase.

16           I am very eager to hear what the horsemen have  
17 to say. Of course they are our partners. And Lone Star  
18 was built as a pinnacle to racing in this state, and we  
19 are going to do everything we can to maintain that  
20 position.

21           And I realize this Commission is put in a very,  
22 very difficult situation. You know, what is important is  
23 what is next, what is important now. We are not holding  
24 any grudges on anybody, but we say, what is important now,  
25 and we have to draw the line somewhere, and we expect to

1 do that as the situation clarifies itself.

2 Any questions?

3 CHAIRMAN STEEN: Any questions for Mr. Wells?

4 COMMISSIONER MACH: If the proposal passes,  
5 what is your position on the fees moving forward?

6 MR. WELLS: We will do whatever this Commission  
7 prescribes, because we operate at the pleasure of this  
8 Commission. Now, what our day scenario will be, I can  
9 tell you it will drastically impact the Texas horse  
10 industry. It will cause a reduction of staff among my  
11 team of people who have worked hard for 20 years to run  
12 the most efficient operation possible, while at the same  
13 time running a first class operation.

14 So I, as a former horseman myself, have it deep  
15 in my heart that horsemen and people who have worked hard  
16 to support the industry in an active racing program are  
17 going to suffer greatly.

18 CHAIRMAN STEEN: Thank you.

19 MR. WELLS: As again, we stand willing to act  
20 in accord with whatever the Commission decides as regard  
21 to fees.

22 CHAIRMAN STEEN: Thank you, Mr. Wells. I will  
23 call next Marsha Rountree representing the Texas  
24 Horsemen's Partnership.

25 MS. ROUNTREE: Just had to do that, didn't you?



1 Make me go first.

2 (Laughter.)

3 Commissioner Miller, my condolences. Welcome  
4 to the fray.

5 Good morning Mr. Chairman and Commissioners,  
6 and my name is Marsha Rountree, and I am Executive  
7 Director of the Texas Horsemen's Partnership. The members  
8 of our organization are the men and the women of the  
9 industry first, who is the horsemen. The men and the  
10 women who pay the bills, do the work and actually put on  
11 the performance that is called, live horse racing.

12 It is the reason this Agency exists, and it is  
13 why we have racetracks in Texas. Without these horsemen  
14 there would be none of these jobs for anyone.

15 Andrea did testify earlier that they were not  
16 interested in picking up the slack for anyone. But in  
17 this proposal that is being discussed, the three Class One  
18 tracks are picking up the slack for something that I am  
19 going to object to now.

20 Mark and others are referring to this as nine  
21 out of ten racetracks have signed this agreement. That is  
22 not accurate. Some of them are pieces of paper. The only  
23 thing they contribute to the racing economy is their  
24 annual license fees.

25 And now those pieces of paper, because they are

1 sued, this Commission have put the rest of us in a  
2 position to have to negotiate an agreement like this. And  
3 Mr. Wells testified that the tracks that have been  
4 supporting the racing economy for well over 20 years have  
5 stood by us; they have walked hand in hand with us. They  
6 are being penalized now and their fees are being increased  
7 substantially, while the fees on the licenses that have  
8 done nothing for this industry are being reduced by half.  
9 And I feel that's completely inequitable.

10 So the horsemen are the ones that put on the  
11 show, and yet it seems that we were completely left out of  
12 the dialogue and the decision making that resulted in a  
13 proposal that is being presented to you today. And that  
14 was the wrong approach.

15 I don't really have much of anything new to say  
16 that I have not already said to you at the ad hoc finance  
17 committee meeting or at the last meeting of this  
18 Commission. You have heard it all before. But I can  
19 assure you that the proposal that was submitted to you by  
20 some of the track license holders will be the final nail  
21 in the coffin for the horsemen that do still race here.

22 The enormous reduction in race dates, even if  
23 the tracks were to pay for the additional days that were  
24 used in an example in this proposal, that reduction will  
25 result in many more of our horsemen leaving the state.

1 They will have no choice.

2 It will make no sense financially to race here;  
3 trainers cannot incur the cost -- and it is substantial --  
4 to move their stables to Texas if there is no confidence  
5 that their horses will even get to run during a short meet  
6 that is being prescribed.

7 Retama is requesting a cut in race dates for  
8 its current meet, rather than write a check for an  
9 overpayment, which is recouped later on from simulcasting.

10 So how can I be confident, or the horsemen be confident,  
11 how many additional days they are going to pony up and  
12 write a check for above that 20, in addition to the huge  
13 increase in their annual license fee?

14 Padding race days is not the answer the  
15 Agency's budget woes. Cutting the operating expenses of  
16 this Agency is the answer to this Agency's budget woes.  
17 The model that this Agency operates under is broken and it  
18 needs to be changed. The Agency needs to be restructured,  
19 to more accurately reflect the industry that it regulates.

20 I have no doubt that if the Governor called  
21 today and said that this state agency must cut its budget  
22 by 15 percent, I am certain that a solution would be found  
23 to accomplish that immediately. So I will close with this  
24 question: Mr. Chairman, what if anything prevents you  
25 from ordering your executive director to make an immediate

1 15 percent cut in the operating budget. That is all I  
2 have. Thanks for letting me address you all today. Do  
3 you have any questions?

4 CHAIRMAN STEEN: Thank you. Any questions?

5 (No response.)

6 COMMISSIONER STEEN: I will call next Mary  
7 Ruyle representing the Texas Thoroughbred Association, who  
8 wishes to testify against the proposal.

9 MS. RUYLE: Good morning, Commissioners. My  
10 name is Mary Ruyle, and I am the Executive Director for  
11 the Texas Thoroughbred Association. Thank you for this  
12 opportunity to make some comments regarding the TRC  
13 funding proposal.

14 Even though it is struggling mightily, the  
15 Texas racing industry currently provides thousands of jobs  
16 and contributes millions of dollars in general revenue to  
17 the State. This includes not only the Class One  
18 racetracks, who have invested tens of millions, that  
19 extends to the thousands of small farms and small  
20 businesses that support the entire industry. Each of  
21 these businesses, regardless of size, have had to adjust  
22 to make themselves competitive and remain solvent.

23 This proposal clearly is not in the best  
24 interests of our racing industry. The obvious big winner  
25 in this proposal is the Commission. As our members and

1 our businesses have made the necessary sacrifices to  
2 remain in business, the Racing Commission has not. Are we  
3 trading the job security of 50 or so, for the livelihoods  
4 of thousands.

5 This proposal allows a few of the racetrack  
6 licenses to benefit from reduced fees. However this comes  
7 at a great cost to the Class Ones licensees, as we have  
8 talked about this morning.

9 It is our opinion that these paper licenses  
10 have for far too long been allowed to remain dormant, and  
11 not fulfill their obligation to the racing industry. It  
12 is our position these licenses should not be allowed to  
13 have their fees reduced, but remain the same or be turned  
14 in to the Commission and be available to others who may  
15 wish to fulfill the requirements.

16 In our opinion, the fees being imposed on the  
17 Class One tracks are exorbitant, and only cover that 20  
18 days of racing regulation at each track. And I do  
19 understand that more days can be purchased, at a cost of  
20 \$6,300 a day, and I applaud those licensees who will do  
21 that. But how long will they be able to make that  
22 commitment?

23 Cutting race days is devastating to the  
24 industry. Marsha just spoke about the ordeal for the  
25 horsemen who race. I need to address the issue from the

1 perspective of the breeding industry.

2 Texas-bred incentive awards for owners and  
3 breeders and stallion owners are paid for eligible horses,  
4 placing first, second or third, in Texas races only. In  
5 today's market, Texas-breds are not worth as much as other  
6 state-breds, where they have much higher purses and more  
7 lucrative incentive programs.

8 If our race days are cut significantly, so are  
9 opportunities for Texas-bred horses. Along with the  
10 opportunities to earn those ATB incentive funds. That  
11 translates to no incentive to breed in Texas. While our  
12 surrounding states continue to thrive, there have been  
13 less and less reasons for our horsemen and breeders to  
14 remain in Texas, and this plan may be the final straw.

15 Over the years, TTA has reduced our budget as  
16 necessary, downsizing staff from 13 to 2 and a half. We  
17 have eliminated benefits. We have moved to smaller, less  
18 expensive quarters. We have outsourced some of our tasks  
19 and in-sourced others as we needed to achieve savings, and  
20 eliminated all, absolutely nonessential expenditures.

21 The first step in that process is to determine  
22 what our revenues are, and then reduce our expenses to  
23 match. That is just good business practice. And it seems  
24 to be the exact opposite of this approach.

25 In the proposed agreement, we are once again

1 asking the agency to make all efforts necessary to find  
2 ways to curtail expenses over the next two years. This is  
3 something that needs to be addressed quickly. Making an  
4 effort without implementing change is worthless.

5 I applaud them for the money they have found.  
6 But it is not enough. Further, the proposal reads that  
7 the industry would like the TRC to commit to a third-party  
8 review. That does not have any teeth.

9 To be funded through additional fees if  
10 necessary. Why in the world should the industry have to  
11 pay for a review that TRC Staff will likely say is not  
12 practicable. Asking or encouraging agency budget  
13 reductions have not been productive. And as Marsha said,  
14 I feel certain if the agency was mandated to reduce the  
15 budget by 15 percent or 20 percent or whatever, it would  
16 happen.

17 And I do want to point out one more thing about  
18 the license fees. You are talking about raising  
19 individual license fees on owners, trainers, industry  
20 reps, jockeys, grooms. If you raise those fees,  
21 100 percent of those people are not going to renew. So  
22 you cannot count on that happening. You have to figure in  
23 the loss of a certain number of those people that are not  
24 going to pay.

25 And you get in that never-ending cycle if when

1 you raise something, people drop out. So you raise more,  
2 and more people drop out. It is just not effective.

3 I would be happy to answer any questions.

4 CHAIRMAN STEEN: Any questions of Ms. Ruyle?

5 COMMISSIONER EDERER: I have a question for  
6 Mark.

7 Mark, the last time fees were raised, as I  
8 understand it, was in '09.

9 MR. FENNER: I believe that is correct, sir.

10 COMMISSIONER EDERER: All right. So there has  
11 been no raise in fees since '09, as far as the licensees  
12 are concerned.

13 MR. FENNER: Correct.

14 COMMISSIONER EDERER: The occupational license  
15 fees.

16 MR. FENNER: Occupational license fees.

17 MS. RUYLE: Correct. But I am saying that, do  
18 not count on 100 percent of those people renewing because  
19 they won't.

20 COMMISSIONER EDERER: I understand. Now, the  
21 highest fee is \$100?

22 MR. FENNER: Yes, sir.

23 COMMISSIONER EDERER: So the highest fee, if  
24 the increase goes through, would be \$120.

25 MR. FENNER: Yes, sir.



1                   COMMISSIONER EDERER:  And that is for the  
2 horsemen --

3                   MR. FENNER:  It is for owners and trainers.

4                   COMMISSIONER EDERER:  Owners, trainers --

5                   MS. RUYLE:  Commissioner, I do not think the  
6 issue is somebody having to pay another \$20.  It is the  
7 cumulative effect of, I'm having to pay more to run less  
8 days, for less purse money, less incentive money, so on.  
9 It is a cumulative effect.  Thank you.

10                  CHAIRMAN STEEN:  Thank you.

11                  I will call next Rob Werstler from the TQHA,  
12 also testifying against the proposal.

13                  MR. WERSTLER:  Good morning, Mr. Chairman,  
14 Commissioners.  Welcome, Commissioner Miller.  Good to see  
15 you here.

16                  Just to kind of peel back what you all were  
17 just talking about, licenses.  What Mary says is right;  
18 the \$20 is not the issue.  It is -- this proposal, people  
19 won't come to race in Texas.  They are not going to come  
20 to run for 20 days.

21                  Rob Werstler, representing the Texas Quarter  
22 Horse Association.  And we are opposed to this proposal.

23                  First, I would like to address the proposal as  
24 written.  In the first line it says, In an effort to  
25 preserve racing.  Twenty days preserves nothing.  And if

1 they do add more days and do pay for them themselves, that  
2 still does nothing to preserve racing, in my opinion.

3 Second line, All affected parties agreed. The  
4 horsemen were not a part of -- were not on the signatory  
5 page, not one single horsemen's group. We were not a part  
6 of this proposal whatsoever.

7 And I think as far as the affected parties, I  
8 do not think anybody is more affected than the horsemen  
9 with this proposal.

10 Under Notes, it basically says the italicized  
11 additional race dates is optional and shall be negotiated  
12 between Class One license holder and the official  
13 horsemen's rep.

14 Basically in other words if horsemen want to  
15 run more race days they can pay for them, they can help  
16 pay for them.

17 Quarter horse purses in Texas are the worst in  
18 the United States. They are the lowest right now. We do  
19 not have the money, we cannot afford to buy more race  
20 dates.

21 The next point I would like to make is about  
22 the Commission itself. You are tasked with administering  
23 and enforcing the Texas Racing Act. In Section 6.18(b) of  
24 the Texas Racing Act, it states, The Commission may  
25 prescribe a reasonable fee. I do not think anybody could

1 consider these reasonable fees.

2 In 8.01 of the Act, it states, Each race track  
3 shall afford reasonable access to all breeds of horses.  
4 I do not think anyone could split up 20 days and call that  
5 reasonable access. And in 3.02(g) of the Act it states:  
6 The Commission in adopting rules and in the supervision  
7 and conduct of racing shall consider the effect of a  
8 proposed Commission action on the State's agricultural,  
9 horse-breeding, horse-training, greyhound-breeding,  
10 greyhound-training industry.

11 The effects of this proposal basically ends  
12 horse-racing and -breeding industries in Texas, not to  
13 mention what it does to the Texas ag industry.

14 I have been marking off some of the things that  
15 Mary and Marsha have stated, but -- horsemen have made  
16 cutbacks. Racetracks have made painful cutbacks to staff  
17 and service, if you have been to the racetracks, it does  
18 not take much to see how bad they have cut back in  
19 services and such.

20 Horsemen in the state have made terrible  
21 sacrifices, doing a lot of the work themselves. Some of  
22 you know Jerry Windham. Jerry Windham is a legendary  
23 horseman. He is in the -- he is always one of the top  
24 breeders in the nation. He is in the Texas Horse Racing  
25 Hall of Fame and he is in the American Quarter Horse

1 Association Hall of Fame.

2 He has cut back his operation so drastically  
3 that he foals out all of his mares himself, cuts and bales  
4 all of his hay, cleans stalls -- and he is in his 70s.  
5 But he has done everything he can to keep his operation  
6 afloat.

7 I was in a meeting with him yesterday and he  
8 said, You know, I have the money; I could leave Texas. He  
9 says, I do not want to leave Texas, I love horses, I do  
10 not want to get out of the industry.

11 I can tell you there are probably horsemen and  
12 -women standing behind me or sitting behind me that can  
13 come up and tell you the exact same stories. So every  
14 racetrack and every horseman in this state have made cuts,  
15 made sacrifices.

16 A few months ago, as Commissioner Ederer  
17 alluded to, we all attended a meeting and we all sat down  
18 to discuss ways to help fund the Texas Racing Commission,  
19 help keep it going. And one of the ideas was for the  
20 Commission to make those tough cutbacks that everybody  
21 else in the industry have made.

22 I can tell you one thing. If you move forward  
23 with this proposal, you will not have an industry to  
24 regulate.

25 And from a Quarter Horse standpoint -- I mean,

1 this is bad from everybody but from a Quarter Horse  
2 standpoint I think we will take the worst cuts. And  
3 nobody is going to come set up a barn at a racetrack for a  
4 ten-, 12-day meet. It is just not going to work.

5 I thank you for my time.

6 CHAIRMAN STEEN: Any questions, Commissioners?

7 COMMISSIONER EDERER: I have a question for  
8 you. Now, I am going to shift gears on you a little bit.

9 MR. WERSTLER: Yes, sir.

10 COMMISSIONER EDERER: Again overlapping is a  
11 huge expense to the industry. Right now -- to the  
12 Commission. Right now I see that you have got a Quarter  
13 Horse meet running at Lone Star, and Retama has a  
14 Thoroughbred meet. They are overlapping.

15 MR. WERSTLER: Uh-huh.

16 COMMISSIONER EDERER: In the future, let us --  
17 I am assuming things are going to go forward. Assuming  
18 that they do go forward, what effect would it have on the  
19 Quarter Horse industry if in fact there was no  
20 overlapping?

21 MR. WERSTLER: Well, you know, we would all  
22 have to sit down and come to the table and actually look  
23 at the calendar.

24 COMMISSIONER EDERER: I understand.

25 MR. WERSTLER: I can tell you now the Lone Star

1 meet, or the Quarter Horse meet is a very important meet  
2 for us. They have run those same days, it is set into the  
3 calendar to be a few weeks after Ruidoso closes, so those  
4 horses can come there and race.

5 And like say, Retama Park, they have gone to a  
6 two-day meet -- a two-day week to spread out over 20 days.

7 We have always had overlapping meets, for years and years  
8 and years and years.

9 If you go to these 20-day meets, I imagine --  
10 again, the racetracks are all saying they are going to run  
11 more than that -- but the only way you are going to do  
12 that, in my opinion, is you are going to have to cut back  
13 race dates so drastically --

14 COMMISSIONER EDERER: Not necessarily. Not if  
15 everybody would sit down and look at a calendar, in the  
16 future --

17 MR. WERSTLER: Well --

18 COMMISSIONER EDERER: -- race dates, you would  
19 have, say, these dates you have to have, because they are  
20 cut in stone as far as Quarter Horse is concerned, then  
21 you talk to Retama and get Retama to bump theirs, so that  
22 we are not doubling our effort and our cost.

23 Because it is a huge cost, and you are  
24 asking us to cut back --

25 MR. WERSTLER: Or --

1                   COMMISSIONER EDERER: -- on our expense. That  
2 is one way to do it, but we need your help.

3                   MR. WERSTLER: Right. And one of those ideas  
4 that came to mind with 20-day meets is, they are going to  
5 have to be mixed meets. You are not going to be able to  
6 run a Thoroughbred meet and a Quarter Horse meet. You are  
7 going to have to run mixed meets.

8                   COMMISSIONER EDERER: Well, if they are mixed  
9 meets that is fine, as long as it is one particular meet.

10                  MR. WERSTLER: Well, that is what I am saying,  
11 yes. And then if you did, like I say you only need three  
12 stewards. The stewards could move from place to place to  
13 place. But still that many race days at our current purse  
14 structure -- these people have cut to the bone now. I am  
15 amazed that the racetracks are actually trying to stay  
16 open. I am amazed we have horsemen, trainers and breeders  
17 that still are in Texas.

18                  And I said this years ago and I have probably  
19 said it before this Commission before, the only thing that  
20 is saving Texas is Texans are stubborn, and they are  
21 prideful about Texas. If what is going on in Texas right  
22 now was going on in Louisiana, they would shut their  
23 doors.

24                  And I think the same with Oklahoma, New Mexico  
25 or any other state. We have people that have dug in here,

1 they do not want to move because they love Texas. But we,  
2 to answer your question, absolutely we would want to sit  
3 down and see. But that was one of the other problems with  
4 this; this proposal was worked on without any input from  
5 horsemen whatsoever.

6 CHAIRMAN STEEN: Any other questions?

7 (No response.)

8 CHAIRMAN STEEN: Thank you, Rob.

9 MR. WERSTLER: Thank you.

10 CHAIRMAN STEEN: Next I will call Jan Haynes  
11 representing the Texas Horsemen's Partnership, also  
12 wishing to testify on the proposal, I guess.

13 MS. HAYNES: Yes. I am Jan Haynes, Texas  
14 Horsemen Partnership.

15 Chairman Steen, Commissioners, I am not going  
16 to stand up here and tell you our industry is in crisis.  
17 We are beyond that. We are heading off a cliff without a  
18 parachute. I believe over the last ten years the Class  
19 One tracks and the horsemen have tried to work together to  
20 keep our heads above water. In 2008 the three Class One  
21 tracks had a total of 250 live race dates, and the cost to  
22 regulate the live race date by the TRC was \$2,075.

23 In 2017, we have 174 live dates, and that same  
24 regulation cost is up \$3700 a day. So the horsemen have  
25 taken over a 30 percent reduction in live race dates,



1 close to 50 percent purse reduction, not to mention the  
2 greyhounds, who have over 250 days and now they are down  
3 to 36 while the TRC is considering the proposal to  
4 increase the cost of regulation, ballooning it up  
5 300 percent. Our industry can no longer afford to stay  
6 afloat being regulated by this industry.

7           Commissioners, you were appointed to oversee  
8 this agency and, Chairman Steen, you were appointed to the  
9 lead. Our racing industry needs each of you to step up  
10 and do what you were appointed to do. Mr. Chairman,  
11 simply listening to the EDs and we are trying to figure  
12 out ways to cut back and we just cannot figure it out.

13           And listening to Joel testify that it is going  
14 to take four years to cut staff is no longer acceptable.  
15 This agency's bloated budget is choking the life out of  
16 every horseman in this state.

17           Governor Abbott talks about eliminating  
18 wasteful state spending. Call his office, listen to his  
19 staff for help, for suggestions, for guidance. But  
20 sitting back and not taking action is just -- is no longer  
21 an option. I do not think the governor would want to have  
22 an ag industry that employs thousands of hard-working  
23 Texas taxpayers collapse on his watch due to overzealous  
24 spending by a state agency, especially with an election  
25 year coming up.

1           And I would like to address that track proposal  
2 in your agenda packet. A couple of years ago the agency  
3 spent time and money restructuring the whole active and  
4 inactive track license system.

5           This proposal is a perfect example of wasteful  
6 spending and resources by this staff. According to the  
7 rules you adopted, at who knows what the cost, you voted  
8 and approved that just paying the license fee for an  
9 inactive track was no longer a show of good faith for  
10 these paper licenses.

11           But now here we are, years later, you are  
12 considering this proposal that decreases the inactive  
13 track license by 50 percent. Let me remind you they  
14 contribute absolutely zero to the industry, other than  
15 paying their fees, and now they want that reduced by  
16 50 percent. You will be punishing the three Class Ones  
17 and the horsemen by increasing our fees.

18           So all of the industry active participants will  
19 be punished. Why in the world would the Commission vote  
20 to approve restructuring the entire active and inactive  
21 license holders if you are not going to enforce your own  
22 rules. These Class Two inactives should have been forced  
23 to surrender their license years ago if they are not going  
24 to pay their full fees.

25           So Commissioners and Chairman Steen, you must

1 rein in this state agency's spending and demand a 15  
2 percent reduction to keep the industry alive. And I  
3 notice, Chairman Steen, you did not answer Marsha's  
4 question about what is stopping you from demanding the 15  
5 percent immediately.

6 And in just looking at their budget, just a few  
7 things that kind of just jump out -- I mean, and I didn't  
8 even look at it but like five minutes last night -- the  
9 lab testing. Do you get bids from other labs, or is it  
10 just because A&M always has it, they get it, they can  
11 charge whatever they want? I mean, do you look nationwide  
12 to see what other labs charge for fees? I mean, has that  
13 been done?

14 And fingerprinting every three years. A  
15 person's fingerprints are not going to change. I mean, I  
16 race in other states, I do not have to fingerprint every  
17 three years. That is another thing you could look at.

18 And like the full-time stewards and track vets.  
19 We have 174 race dates, but they are being paid to work  
20 all year. And I realize benefits and stuff but there is  
21 just different things to look at. And like, office space,  
22 at THP we had to cut back on our office space when we  
23 reduced staff and we are going to have to do it again.  
24 The TTA did the same thing. Why can't this office?

25 And travel expenses. Our race dates have been

1 cut over 50 percent but the travel budget goes up. I  
2 mean, just little things like that.

3 And Commissioner Ederer, you were talking about  
4 overlapping race dates. It is an easy fix. But again we  
5 were not asked to participate in drafting anything in that  
6 proposal. So that is one cost we can fix, and we are  
7 happy to. So, thank you. Do you have any questions?

8 CHAIRMAN STEEN: Any questions?

9 MR. WERSTLER: Thank you, Mr. Chairman.

10 CHAIRMAN STEEN: Sure.

11 COMMISSIONER MILLER: Mary talked about a 15  
12 percent reduction and now you have talked about a 15  
13 percent reduction. Is there facts behind that, or where  
14 did that number, that percentage come from?

15 MS. HAYNES: Well, in a meeting some of us in  
16 the industry had last week, and like I said this was the  
17 first time the horsemen were even part of anything to do  
18 with this -- for me to even see the proposal -- those were  
19 just the numbers, they were thinking that 15 percent would  
20 be enough to get us out of the trouble that we are in  
21 without the Class Ones having to pay this huge amount of  
22 money, to run.

23 COMMISSIONER MILLER: So it is not really about  
24 Commission efficiency, it is about what it would take to  
25 get a reduction to make it economical for the industry.

1 Is that what you are saying?

2 MS. HAYNES: Well, years ago when we had even  
3 more race dates, the Staff was way less, if you look back.

4 And now there is what, 40-what, I do not know, 40-  
5 something employees. They do the same job that six used  
6 to do. It is just -- their cost of regulation just keeps  
7 going up and up.

8 So I just think within their own budget, yes,  
9 sir, we have to look at each thing and try to figure out  
10 ways to cut it back so we can all survive. Because if  
11 racing, if we go away, the agency does too. And at 20  
12 days -- I'm an owner. I don't train, don't breed don't  
13 even know anything about breeding. But as an owner, I am  
14 not going to pay \$1,000 to ship a horse to run one time at  
15 a meet. Can't do it. We can't afford it, with what the  
16 purses are in Texas.

17 So I have to race out of state in order to  
18 claim a few horses that I can run in Texas to watch. So  
19 my out-of-staters can pay for the ones I race in Texas.  
20 Because you can win one or two races every time, which is  
21 all you are going to get in, and you are still going to  
22 lose money at the end of the month. The purses are just  
23 too low. So -- but people like me that love the sport and  
24 horses, you just keep doing it.

25 COMMISSIONER MACH: So we have an obligation to

1 effectively regulate the industry.

2 MS. HAYNES: Right.

3 COMMISSIONER MACH: And the concern is that as  
4 we right-size to get to the industry, we can no longer  
5 effectively do our jobs as regulators.

6 MS. HAYNES: But if you do not try, how do you  
7 know?

8 COMMISSIONER MACH: Well, I think the agency is  
9 trying very hard.

10 MS. HAYNES: Okay. So. Anybody have any  
11 questions?

12 CHAIRMAN STEEN: Thank you.

13 MS. HAYNES: Okay.

14 CHAIRMAN STEEN: Appreciate it.

15 Next, I have Kristine Fullerton, representing  
16 the TTHBPA, wishing to testify on the proposal.

17 MS. FULLERTON: Good morning, Chairman,  
18 Commissioners. Thank you all for hearing me out. I am  
19 really not comfortable with this. This is the second time  
20 I have had to do it, and I am not any happier than I was  
21 the first time two years ago. But thank you for the  
22 opportunity to speak on this very important matter.

23 I am a trainer in Texas. I am now a member of  
24 the Texas Thoroughbred HBPA Board, and I also manage a  
25 farm for some clients that breed. So I kind of have a big

1 stake in this game here.

2 As a horseman, the TxRC's continuing budget  
3 shortfalls are very worrisome. My livelihood, keeping my  
4 family and my horses fed hinges on your solvency. I  
5 cannot say this is a real warm, fuzzy feeling right now.  
6 The proposal being pitched today that severely curtails  
7 the racing calendar will decimate the horse industry. As  
8 a trainer, I cannot afford to ship horses all the way to a  
9 track for what might be a ten- or a 15-day meet, for my  
10 breed.

11 Transportation costs, bedding the stalls the  
12 first time, getting employees settled and all other setup  
13 costs can be between \$400 to \$800 a horse. That is  
14 prohibitive for more than two or three moves a year, to  
15 longer meets.

16 So now you are going to give us six moves; we  
17 are going to have short meets here, we are going to have  
18 to be out of state, we are going have to come back for a  
19 little bit, we are going to have to go to another meet, it  
20 is not cost effective for me and it is not cost effective  
21 for any of us.

22 Sorry, I'm not good at this and I lost my  
23 place.

24 (Pause.)

25 When the days go down, the number of licensees

1 is going to be down, because again we cannot have six  
2 moves a year. So you were talking about your 20 percent  
3 increase in license fees, we will pay it. I mean, I will  
4 pay an extra \$20, my grooms will pay an extra \$4, but we  
5 will not be here to pay them.

6 We are going to be somewhere else where we can  
7 stay. We will not be here. So that and the revenue, we  
8 don't mind paying it, if we are here. We are not going to  
9 fight you on that. But we won't be here to pay it. We  
10 are going to be somewhere we can run 35, 45, 50 days. We  
11 will not be here where we can run 10 or 15 days.

12 You are going to haul horses in and you won't  
13 even get an opportunity to race them. And then your  
14 owners are going to fire you and leave. When there's  
15 exploring ways to decrease the Commission's expenses, the  
16 horsemen are constantly met with the refrain that there is  
17 nowhere to cut, and that I have also heard most of our  
18 positions are mandated.

19 I am a big one on research. I do not know a  
20 whole lot, but I can read. The latter, in regard to the  
21 large number of full-time employees the Texas Racing  
22 Commission has. Now, you just said that you do not want  
23 to cut regulation. You know what, horsemen do not want  
24 you to either.

25 Okay, it has been said that one of the reasons



1 you need so many regulators is that we are all cheating.  
2 Here is the deal: We have bad apples and we want you to  
3 catch them because they take money out of our pocket. But  
4 if you go out in the general public, I will tell you  
5 90 percent are going to say, Anyone in a state or  
6 political position is crooked, and I do not think you all  
7 are crooked, are you?

8           Because 90 percent of people are going to say  
9 you are. Okay, we get painted with the same brush. We do  
10 not want to see regulation go down, but I do believe it  
11 can be done more efficiently, and here is where I get that  
12 number:

13           With not a lot of time to work on this, I have  
14 spoken to racing commissions in eight other states so far.  
15 I did this in an effort to compare race days versus  
16 staffing. While I understand every state operates  
17 slightly differently in terms of funding source and  
18 composition, believe, me a couple of the executive  
19 directors were handing me their budgets and everything  
20 else; it was a lot of information I did not understand.

21           They all have the same basic jobs, which are  
22 regulating live racing and simulcast facilities, although  
23 in some states, the racing commission is also tasked with  
24 regulating historic racing, casinos that exist at the  
25 track, and full distribution duties of state-bred awards.

1 Some of them are even tasked with promoting the racing in  
2 their state.

3 Here are some of the examples I have found so  
4 far: State of Kentucky, everyone knows their horse  
5 racing, right? Thirty-four full-time, two part-time  
6 employees. They oversee 291 race days of Thoroughbred and  
7 Standardbred, eight different tracks, four of which have  
8 historic racing and they also have several simulcast  
9 facilities.

10 State of Ohio has 22 full-time and four part-  
11 time employees, for 293 Thoroughbred, five Quarter Horse  
12 days, at seven different race tracks, and also 473  
13 Standardbred days, but they said the Standardbred guys do  
14 have a couple of their own, and they use some of theirs.

15 State of Oklahoma, I hate to bring Oklahoma  
16 into comparison with Texas -- do not throw things at me --  
17 but they did answer my questions so I had to use them.  
18 Twenty-one full-time, 10 part-time employees for 209  
19 Thoroughbred-Quarter Horse days. They also oversee the  
20 casino at two of those tracks, and they are responsible  
21 for distributing their breed awards.

22 The state of Maryland, 36 full-time, 12 part-  
23 time for 165 Thoroughbred and 100 Standardbred days, so  
24 265 a year plus racino oversight.

25 New Mexico, 19 full-time, four part-time for

1 282 Thoroughbred and Quarter Horse days at five different  
2 race tracks across a rather large geographic area.

3 California: Oh, God, I am going to bring  
4 California and compare it to Texas. I am really going to  
5 get thrown at. Fifty-five full-time employees, while  
6 overseeing the racing of Thoroughbreds, Quarter Horse,  
7 Standardbreds, Arabians, Appaloosa, Paints and mules at  
8 four major race tracks, five fair meets over 600 total  
9 days of racing in the state.

10 Arizona runs comparable to us, they have nine  
11 full-time and up to 15 seasonal or contract employees, for  
12 146 days of racing and 60 OTB sites.

13 That is some comparisons, okay? If you guys  
14 want to cut costs, maybe see how they are doing it? And  
15 these are states that are known for tough-regulation  
16 states. They are not states of winner-take-all.

17 Now, New Mexico has had its issues, I will not  
18 throw them in, but they have a new executive director.  
19 And they are tightening down, and they are still doing it  
20 with a reasonable number. We do not want to see people in  
21 the field cut.

22 Also on that note, I wanted to look and see  
23 what positions were mandated, so I pulled up the Racing  
24 Act, and from what I can read, please correct me if I am  
25 wrong, of the mandated positions we have Executive

1 Director/Executive Secretary, it has the same number.  
2 Clerk of Scales, official Starter, Paddock Judge, Patrol  
3 Judge, which we have not had in a long time, you all might  
4 get that off of there someday.

5 Placing officials, stewards, horseshoe  
6 inspector, timer, judge, which is basically the stewards  
7 at the greyhound meet, and State Veterinarian. I went  
8 through. The racetracks pay most of these people. The  
9 Commission is responsible for paying the three stewards or  
10 the three judges if it is greyhound, and the state  
11 veterinarian. I was informed last night the racetracks  
12 even pay the test monitor technicians here.

13 Now, understanding the license clerks are your,  
14 you have to pay them and yes, we need them. But of all of  
15 these mandated positions that we have to have by the  
16 Racing Act, most of them are paid by the racetracks. So  
17 we should be able to keep a lot of the regulation within  
18 budget, I would think.

19 You know, the whole deal with this proposal  
20 where the productive tracks pay more and the least  
21 productive and unproductive licenses pay less, I went to  
22 school during the Cold War. Okay? The Berlin Wall fell  
23 the year I graduated. They spent a lot of time teaching  
24 us that taking money from those who produce and giving it  
25 to those who don't is supposed to be un-American and not

1 what we are supposed to do.

2 And I mean, that went against everything we  
3 were ever taught in school and it kind of goes against the  
4 grain of people that work as hard as horsemen do.

5 In closing, I would just like to say, in tough  
6 economic times, individuals have to make very, very  
7 serious calls in our lives about what are wants and what  
8 are truly necessities. Wants have to be left by the  
9 wayside till more prosperous times. Statewide,  
10 nationwide.

11 The people are starting to demand that those  
12 same honest judgments be made by their government, which  
13 has for far too long made no discrepancy between what it  
14 wants and expects to have, and what it truly needs to  
15 function.

16 Thank you for your time and attention. Any  
17 questions?

18 CHAIRMAN STEEN: Any questions?

19 (No response.)

20 COMMISSIONER MILLER: Thank you for your hard  
21 work.

22 CHAIRMAN STEEN: Thank you.

23 Okay, next we have LeeAnn Nalls representing  
24 herself, wishing to testify.

25 MS. NALLS: Good afternoon, Texas Racing

1 Commission. This is the first time I have gotten to  
2 speak. I have only been to four or five meetings.

3 I have been in the racing industry since the  
4 age of five; today I'm an owner-breeder in the State of  
5 Texas, and I still have a passionate love for horses. So  
6 this morning I get up and feed seven horses before I take  
7 off to Austin.

8 I live down in Victoria; we were greatly  
9 affected by Hurricane Harvey with a little over \$100,000  
10 in damage to the ranch. So thank God for good insurance.

11 And by trade I am a financial advisor, for  
12 those of you who I haven't met, and I am a little bit  
13 active in the Association, The Texas Quarter Horse  
14 Association. My father was active in the Texas  
15 Thoroughbred, back when I was a kid in the '70s.

16 MR. FENNER: Could we take a short recess?

17 CHAIRMAN STEEN: Let us take a --

18 MR. FENNER: Ten minutes or so.

19 CHAIRMAN STEEN: A ten-minute recess. I'm  
20 sorry to interrupt.

21 MS. NALLS: Sure. No problem. Thank you.

22 MR. FENNER: So 12:20?

23 CHAIRMAN STEEN: Okay, the time is now 12:10  
24 and we will reconvene at 12:20.

25 (Whereupon, at 12:10 p.m., a recess was taken.)

1                   CHAIRMAN STEEN: Okay. Let us reconvene here  
2 in one minute.

3                   (Whereupon, the recess continued.)

4                   CHAIRMAN STEEN: Okay, we are now going to  
5 reconvene, the time is 12:22. I would like to bring Ms.  
6 LeeAnn Nalls back up, our apologies for cutting her short.

7                   Due to some other obligations of the  
8 Commissioners, we are going to have to hold testimony at  
9 this point going forward to just three minutes.

10                  Our apologies for interrupting.

11                  MS. NALLS: No problem. I did not have a  
12 speech written, but back to where I was, I was going back  
13 to what I do for a living today. I am a financial advisor  
14 and a licensed insurance agent.

15                  And part of what I do today is teaching people  
16 about financial efficiency, how to cut expenses, how to  
17 look at their loans, things like that.

18                  And one of the things I do understand, if it  
19 was 2013 or 2014 when the Texas Racing Commission was  
20 asked to look at their overall expenses, and I guess I  
21 understand today that we have not been able to cut the  
22 expenses I assume, as everybody thought, that the  
23 Commission could cut.

24                  And I would like to know, in a way, why?  
25 Because I know in a lot of the organizations that I am a

1 part of, we have had to cut our rent expenses. We have  
2 had to cut employees.

3 I mean, my husband is oilfield related, so we  
4 have to outsource our payroll. Instead of renting a  
5 building, we were able to eventually buy property out in  
6 the county instead of the city to cut expenses.

7 And I understand it is a government  
8 bureaucracy, but at the same time, are your people cross-  
9 trained? These are some basic questions. Anybody can  
10 answer a telephone, anybody can enter information in a  
11 computer. And I understand at the racetracks that they  
12 have cut, and now that a lot of those things have been  
13 cut, and now I understand that the racetracks are paying  
14 for a lot of things that I actually did not know the  
15 racetracks paid for.

16 In the contract about the labs; I am a Texas  
17 Aggie. I am sure A&M is doing a good job. But to keep  
18 everybody honest, somebody should look at those fees, what  
19 is being charged, what is being reimbursed by the tracks.

20 I do not know those numbers.

21 But you cannot sit here and tell me that you  
22 cannot cut expenses. The horsemen out here -- and I am  
23 small part of the horsemen; I am small breeder. I won  
24 eight races last year, and our horse operation barely  
25 broke even.



1           So I am here to tell you, as a person that  
2 inherited part of a ranch, it is very difficult living in  
3 Texas to make a horse operation profitable at all. Why am  
4 I still in it? I am passionate about it. I am going to  
5 be here next year with or without you all, but I want to  
6 run in Texas. I have a horse in the Texas Classic Dobie  
7 Trials in October; I have two horses running at Lone Star  
8 Park on Friday night.

9           So I am just here to implore you all to cut  
10 your employees, independent contractors, there are so many  
11 options out there, and obviously, it is obvious to me. I  
12 did print the 49-page agenda. It is obvious to me that we  
13 have not done what needed to be done.

14           And the horsemen were not included in the  
15 current proposal. I do not understand that. I am not  
16 here to understand that.

17           But an ad hoc committee could be created to sit  
18 down with all of the people involved, and try to figure  
19 out what we could do that would be positive for the  
20 industry.

21           We are Texas. We raise more American Quarter  
22 Horses than any other state as far as numbers; I do not  
23 have the numbers for the Thoroughbreds, I am not a  
24 Thoroughbred breeder. But we are the biggest state, we  
25 are the best state. And I want to run my horses here in

1 Texas. So I would appreciate if we would all get back to  
2 what we are here to do today is to try and find a way.

3 Do not tell me there is not a solution. I know  
4 there is a solution. But for some reason, we have not  
5 done, found the solution. And I just implore you to find  
6 a solution. There is one. Let us not all put our heads  
7 in the sand and act like we cannot find a way to cut  
8 expenses at the Racing Commission, or whatever needs to be  
9 done.

10 Look at what we are doing with every bit that  
11 we are paying fees for. What would it take, two days,  
12 three days? Four days? I would be willing to give some  
13 time to it. I think everybody in this room would be  
14 willing to give some time to it.

15 And --

16 VOICE: Mr. Chairman, I'm sorry but --

17 MS. NALLS: That is all. Thank you. I just  
18 want to see us continue. Thank you.

19 CHAIRMAN STEEN: Thank you, Ms. Nalls.

20 I do have two other comment cards not wishing  
21 to testify but both against the proposal, Jennifer Gibbs,  
22 representing the TTA, and also Mr. Henry Witt, against the  
23 proposal.

24 I would like to address a few things that were  
25 said there. I want to say that I am sympathetic to both

1 Lone Star's position in this matter, as well as the  
2 horsemen.

3 I am supportive of the proposal because I do  
4 not think that we have another proposal. I think that we  
5 are seriously facing a zero-race-day scenario. I know  
6 this is not an optimal solution, but it is better than  
7 zero, and it is what we have right now in front of us.

8 A lot of you have made comments about the  
9 agency's budget. I am, as Joel reported, we have made  
10 some cuts. Occasionally that is tough, to make cuts, you  
11 know, look at that from an internal standpoint and not  
12 have from a third party taking a look at that, but a part  
13 of the proposal here is to potentially have a third party  
14 look at the agency and evaluate it.

15 I am not an expert on regulation; there is a  
16 lot of complexities here. I do not -- I am an appointed  
17 volunteer. I do understand what you are saying and I am  
18 supportive of a third-party review to take a look at any  
19 opportunities that we have for cost savings here. So I  
20 think that is an important part of the proposal, and  
21 something I am supportive of, and I am supportive of the  
22 proposal overall.

23 As far as a third-party review goes, I think  
24 that would go to the ad hoc committee, which is now  
25 meeting, Commissioner Ederer and Commissioner Mach, and I

1 would like for that committee to work, assuming this  
2 proposal went through, to work with Staff and the industry  
3 to identify the next steps towards getting a third party  
4 to take a look at our budget.

5 Any other comments from Commissioners?

6 VOICE: No. I think that was very good.

7 CHAIRMAN STEEN: Do we have a motion on this  
8 item? Possible motion to entertain -- entertain a motion  
9 to publish the proposed amendments to Rules 309.8 and  
10 311.5 in the *Texas Register* for public comment?

11 COMMISSIONER MACH: I will make that motion.

12 CHAIRMAN STEEN: Motion made by  
13 Commissioner Mach.

14 COMMISSIONER MARTIN: Second.

15 CHAIRMAN STEEN: Seconded by Commissioner  
16 Martin. Any discussion?

17 (No response.)

18 CHAIRMAN STEEN: Jean, will you call roll?

19 MS. COOK: Yes, sir.

20 Commissioner Mach?

21 COMMISSIONER MACH: Aye.

22 MS. COOK: Commissioner Martin?

23 COMMISSIONER MARTIN: Aye.

24 MS. COOK: Commissioner Miller?

25 COMMISSIONER MILLER: Aye.

1 MS. COOK: Commissioner Ederer?

2 COMMISSIONER EDERER: Aye.

3 MS. COOK: Commissioner Steen.

4 CHAIRMAN STEEN: Aye.

5 That motion carries.

6 Moving on to Item V., Proceeding on Racetracks,  
7 5A., Action on applications by inactive racetrack license  
8 holders for license renewal under Commission Rule 309.52.

9 Mark, will you please lay out the item.

10 MR. FENNER: Yes, sir. Section 6.0602 of the  
11 Act requires the Commission to conduct annual reviews of  
12 the inactive racetrack licenses. And at the conclusion of  
13 the review, you can either renew the license as inactive;  
14 you can re-designate the license as active, or you can  
15 refer it to the State Office of Administrative Hearings  
16 for nonrenewal proceedings.

17 Now, on page 25 of the packet, there is a memo  
18 from Chuck that describes the criteria used in deciding  
19 whether to renew a license.

20 And then there is also copies of their actual  
21 forms that they have completed, in the packet on pages 30  
22 to 40.

23 Now, of particular note is that two of the  
24 licenses do have grounds for nonrenewal. Specifically,  
25 both Laredo Downs and Valle de los Tesoros are in this

1 dispute about fees, and so they have not paid their fees,  
2 and that is a ground for nonrenewal.

3 In addition, Laredo Downs has a ground for  
4 nonrenewal in that it has not maintained either the  
5 ownership or a leasehold interest in the property where  
6 the license is designated to be.

7 But under the rules, the presence of a ground  
8 for nonrenewal does not require a referral to SOAH  
9 proceedings, but it remains an option if you believe it is  
10 not in the best interest of the industry, or of the  
11 public, or if you believe that they have failed to make  
12 good faith efforts to conduct live racing.

13 And so I defer to the racetracks to come up and  
14 make their presentation as to why your license should be  
15 renewed.

16 CHAIRMAN STEEN: Do we have a representative  
17 from Manor Downs?

18 MS. YOUNG: Good afternoon, Commissioners. I  
19 am here on behalf of one of our licenses, Manor Downs.  
20 Manor Downs is a license we acquired late last year. We  
21 actually paid all of their back fees to bring the license  
22 into good standing, as we have done straight up through  
23 our other licenses, we are pretty committed to live  
24 racing.

25 We have run meets at both our greyhound and

1 horse-racing tracks this past year. We are still  
2 committed to bringing live racing back to the Manor Downs  
3 license. We have spent a lot of time this past summer in  
4 particular as evidenced in the documentation in the  
5 Commission package, evaluating all of the opportunities  
6 available to us in Travis County, everything from  
7 partnering with the rodeo, to looking at temporary  
8 simulcasting facilities here in Travis County.

9 So we are hopeful, you know, once we can get  
10 past this resolution on understanding where the Commission  
11 is headed, that we can probably in short order come back  
12 to the Commission with some ideas around some things we  
13 would like to do with the license.

14 I am happy to answer any questions you may  
15 have.

16 COMMISSIONER EDERER: The present status is  
17 what?

18 MS. YOUNG: The present status is we are  
19 evaluating opportunities to start simulcasting again with  
20 the license, and --

21 COMMISSIONER EDERER: And you hope to come back  
22 to us?

23 MS. YOUNG: We do. Probably once all of the  
24 fees are figured out, and sorted out, and we can -- our  
25 Board can make an educated business decision on

1 understanding the investment that is going to require of  
2 us. So realistically, maybe later this year or early next  
3 year.

4 COMMISSIONER EDERER: First meeting of the  
5 year, probably?

6 MS. YOUNG: Yes, probably.

7 COMMISSIONER MACH: To confirm, the issue with  
8 Manor Downs is, they are not conducting live racing.

9 MR. FENNER: Actually, no. Manor Downs doesn't  
10 have an issue that independently is a ground for  
11 nonrenewal. Laredo Downs and Valle de los Tesoros do.

12 MS. YOUNG: We have been paying all of our  
13 fees.

14 CHAIRMAN STEEN: I think we should take up  
15 Manor because they have been paying their fees, separately  
16 from the other two licenses. Do we have any discussion  
17 regarding Manor license?

18 (No response.)

19 COMMISSIONER MACH: I would move that we renew  
20 the license for Manor Downs.

21 COMMISSIONER EDERER: Second.

22 CHAIRMAN STEEN: Motion made by Mach, seconded  
23 by Ederer to renew Manor Down license as inactive. Any  
24 discussion?

25 (No response.)



1           CHAIRMAN STEEN: We will take this up for a  
2 vote. All in favor please signify by saying aye.

3           (A chorus of ayes.)

4           CHAIRMAN STEEN: The motion carries.

5           Next, we will move on to the other two  
6 licenses, Laredo Downs and Valle de los Tesoros.

7           Mark, do you have any further comment on that?

8           MR. FENNER: No, sir. I would not.

9           CHAIRMAN STEEN: Do we have a representative  
10 for those licenses?

11           MR. MOLTZ: Good afternoon, Commissioners. My  
12 name is Bill Moltz, and I am actually here on behalf of  
13 both of the licenses, Laredo and Valle de los Tesoros.

14           I won't go over everything that is in the  
15 applications. I will note that in the materials where it  
16 is summarized the -- there is a table in here -- there was  
17 a -- anyway, the table for Valle de los Tesoros is  
18 actually a copy of the LRP table, and it is very similar,  
19 but it is not the right one in the summary. But in the  
20 application it is correct.

21           And so we will stand on the application. There  
22 is one thing I will add, or a couple of things I will add.

23           With respect to the grounds for referral, I will call it,  
24 of not paying the fees, we have not paid the fees, that is  
25 correct. We are in litigation over the fees as all of you

1 know.

2           And we have signed off on the proposal that is  
3 in the package which would call for -- under the way it  
4 works, of payment of fees under that proposal beginning in  
5 two days. So I think that is about to be addressed pretty  
6 soon; within a couple of days.

7           With regard to other activities, the -- both  
8 McAllen and Laredo, that's Valle de los Tesoros in Laredo,  
9 we are still committed to these tracks. I mean they are  
10 spending a lot of money on all of these proceedings and  
11 everything, they have not just turned them in, which is  
12 definitely an alternative. It is what has been on the  
13 table all along, it is just to say, Here is your  
14 licenses, we go home.

15           We do not want to do that. We are trying to  
16 work through this; we think the proposal addresses that.  
17 And as part of that, we are contemplating for both Laredo  
18 and McAllen, getting with the Staff relatively soon. I  
19 mean, we have got to resolve this litigation and things.  
20 But getting with the Staff with regard to actually  
21 proposing simulcasting for those locations, a similar  
22 schedule as what Andrea first put out to you to actually  
23 increase the purse money for the horsemen.

24           And with that I will stand on the application,  
25 and request that those licenses be renewed. And I will

1 answer any questions.

2 COMMISSIONER EDERER: Yes, I have a few  
3 questions.

4 First off, you said that you are going to, you  
5 are working toward putting it in simulcast?

6 MR. MOLTZ: Yes. I mean, that is the plan, and  
7 has been, and --

8 COMMISSIONER EDERER: About eight years.

9 MR. MOLTZ: Excuse me?

10 COMMISSIONER EDERER: It has been that plan for  
11 about eight years as I remember.

12 MR. MOLTZ: No. No, we did propose it once for  
13 McAllen, and got denied. Talking about trying again. It  
14 has not previously been proposed for Laredo. The proposal  
15 there was to move it to Fort Worth, but there was pushback  
16 there, so now we are looking at actually, Okay, let us do  
17 it in --

18 COMMISSIONER EDERER: As far as the moving to  
19 Fort Worth, that is not going to happen. Is that correct?

20 MR. MOLTZ: I think they would still like to,  
21 but it is somewhat off the table due to the feedback  
22 they've received.

23 COMMISSIONER EDERER: Okay. Second, what you  
24 are asking us to do is to approve the inactive license for  
25 you and to allow you to begin paying the fees. Is that

1 correct?

2 MR. MOLTZ: Yes.

3 COMMISSIONER EDERER: At the same time, there  
4 is a lawsuit sitting out there, saying that you are not  
5 going to pay the fees; you're challenging these fees.

6 MR. MOLTZ: Well, as of today, yes, sir, that  
7 is correct. But the fees that are being challenged are  
8 not the fees in the proposal. They are the existing fees.  
9 The proposal calls for payment of fees under the  
10 proposal.

11 COMMISSIONER EDERER: Okay, so if the lawsuit  
12 was won, from what you are asking for, then you would not  
13 be paying any fees. Is that correct?

14 MR. MOLTZ: I'm sorry. Run that by me again?

15 COMMISSIONER EDERER: If in fact you were to  
16 win, you would get what you are asking for as far as the  
17 lawsuit is concerned. Then you would not have to pay any  
18 fees. Is that right?

19 MR. MOLTZ: That is correct.

20 COMMISSIONER EDERER: All right. So what is  
21 your intention? If in fact we would go along with you and  
22 allow you to keep your license, in an inactive status,  
23 what is your intention?

24 MR. MOLTZ: With respect to what? I am not --

25 COMMISSIONER EDERER: You have said that you

1 will go ahead and you will start paying some fees, but on  
2 the other hand you have got a lawsuit pending saying that  
3 you do not want to pay any fees.

4 MR. MOLTZ: I am not sure I understand. The  
5 lawsuit does not say, We do not want to pay any fees.

6 COMMISSIONER EDERER: Uh-huh.

7 MR. MOLTZ: It never has. The -- and I do not  
8 want to get too much into the lawsuit here, Commissioner,  
9 but that is not -- has not been the claim that they are --  
10 The Texas Racing Act does allow the collection of fees.  
11 We do not dispute that. The amount of the fees is  
12 basically what is in dispute.

13 COMMISSIONER EDERER: I understand that. So I  
14 guess what my question to you is -- and you say you do not  
15 want to get into the lawsuit. Well, we are in the  
16 lawsuit.

17 MR. MOLTZ: Yes, I realize that --

18 COMMISSIONER EDERER: So you are asking us to  
19 allow you to stay in an inactive status, allow you to pay  
20 partial fees, and at the same time, you have got a lawsuit  
21 pending saying that you do not want to pay any fees, and  
22 whatever else your allegations are.

23 MR. MOLTZ: Well, Mr. Chairman, this will --

24 COMMISSIONER EDERER: I don't have the petition  
25 here to go over it with you, but --

1 MR. MOLTZ: Okay. This will have to be --  
2 based on the action taken here today previously, that may  
3 very well change the complexion of the lawsuit.

4 COMMISSIONER EDERER: And how would it change  
5 the complexion of the lawsuit --

6 MR. MOLTZ: Well --

7 COMMISSIONER EDERER: -- if it is a favorable  
8 ruling on your behalf?

9 MR. MOLTZ: If what is a favorable ruling?

10 COMMISSIONER EDERER: The Commission allows you  
11 to keep your inactive license and allows you to pay fees  
12 as set out the agreement.

13 MR. MOLTZ: Well, we would have to get into the  
14 details with your counsel, Mr. Willard, from the Attorney  
15 General's Office, and work through these things. But for  
16 example, for one thing, there is a temporary injunction  
17 hearing to basically shut this fee thing down, set for  
18 October 2, which I imagine will be --

19 COMMISSIONER EDERER: Well, that would --

20 MR. MOLTZ: -- passed on.

21 COMMISSIONER EDERER: -- moot. Correct?

22 MR. MOLTZ: Excuse me?

23 COMMISSIONER EDERER: That would be moot.

24 MR. MOLTZ: It -- I am not willing to admit  
25 here today that it's all moot. But I think that that is

1 going to be your counsel's position, and it may be we'll  
2 pass on that hearing. That may very well be.

3 I guess what I am telling you is, it does  
4 change the complexion of it, and we will have to get with  
5 your counsel to work through all of the details of that:  
6 what that means in the real world as far as status of the  
7 lawsuit, and the timing and things like that.

8 We have not talked with your counsel on --  
9 other than depositions that are scheduled for next week  
10 may very well not be necessary anymore.

11 MR. FENNER: Commissioner, may I ask a  
12 question?

13 (No verbal response.)

14 MR. FENNER: So, Mr. Moltz, if the Commission  
15 approves the renewal of the inactive license and your  
16 client pays their fees in accordance with the proposal,  
17 then between now and the November meeting, can you tell us  
18 what your intent is towards the litigation? Is it to  
19 pursue it, or is it to set it to the side and wait to see  
20 what happens?

21 MR. MOLTZ: Let me say, in all likelihood --  
22 there's a lot of details. The devil's in the details. In  
23 all likelihood, it would be to a great degree if not  
24 entirely abated until we see if we have a final rule.

25 MR. FENNER: And then once -- if the Commission

1 were to take this up and adopt the proposal and adopt the  
2 rules at the November meeting and have the rules go into  
3 effect by December 1, can you tell me what your plans --  
4 anticipated plans would be regarding the litigation then?

5 MR. MOLTZ: That is a lot of ifs. I do not  
6 believe there will be much that we would be --

7 COMMISSIONER EDERER: But your answer is very  
8 important to us.

9 MR. MOLTZ: The current litigation would be  
10 relative to a rule that would be no longer effective and  
11 would be replaced. I don't believe there is any plan to  
12 continue that litigation on the new rule, if that is what  
13 you are asking.

14 MR. FENNER: Okay. I think that is --

15 MR. MOLTZ: We have signed on this proposal --  
16 I mean, the proposal does have two parts to it. It has  
17 the fees, and it has the evaluation of the Commission's  
18 budget and all of that sort of thing. So you have to kind  
19 of look at that as a package. But assuming that the whole  
20 package goes forward, we are on board on that.

21 MR. FENNER: Okay. Thank you.

22 COMMISSIONER EDERER: You would be on board on  
23 that if the Commission goes forward and allows you to keep  
24 your inactive status and the fees are as proposed?

25 MR. MOLTZ: Yes.



1 COMMISSIONER EDERER: Okay.

2 MR. MOLTZ: I was just trying to follow my way  
3 through that.

4 COMMISSIONER EDERER: I understand. We are  
5 putting you on the spot; I understand that.

6 MR. MOLTZ: There are signatures on this  
7 agreement that are on behalf of the five tracks -- the  
8 proposal that was voted on earlier.

9 CHAIRMAN STEEN: Did you have a comment?

10 COMMISSIONER MACH: I just have a motion.

11 CHAIRMAN STEEN: I know that there's been some  
12 discussions about these licenses here, the ones that are  
13 under discussion right here.

14 My view on it is that if we undertake a review  
15 in earnest, then various participants in the industry,  
16 including these, would be able to make an educated  
17 decision on what their fees could look like going forward.

18 And for that reason, I am in favor of renewal  
19 of this license at this point -- these two licenses.

20 COMMISSIONER MACH: Mr. Chairman, subject to  
21 the fees being paid Friday as agreed, I would move that we  
22 approve the renewal of these two licenses for Laredo Downs  
23 and for Valle de los Tesoros.

24 MR. FENNER: To clarify, Commissioner Mach, you  
25 are making the approval contingent upon approval -- upon

1 payment of the fees.

2 COMMISSIONER MACH: Upon payment of the fees.  
3 Yes.

4 COMMISSIONER MILLER: I'd second that.

5 CHAIRMAN STEEN: Motion made by Commissioner  
6 Mach and seconded by Commissioner Miller. Any further  
7 discussion?

8 (No response.)

9 CHAIRMAN STEEN: We will take this up for a  
10 vote. All in favor, please signify by saying aye.

11 (A chorus of ayes.)

12 CHAIRMAN STEEN: Any opposed?

13 (No response.)

14 CHAIRMAN STEEN: That motion carries.

15 Okay. On to Item (C), next is Retama's request  
16 for an application period of race dates.

17 MR. FENNER: I think we skipped Item (B).

18 CHAIRMAN STEEN: Oh, I'm sorry.

19 (B), request from Retama to amend their live  
20 racing schedule.

21 MR. FENNER: Oh, yes, sorry. Apologies.

22 CHAIRMAN STEEN: Item (B), request by Retama to  
23 amend its 2017 live racing schedule.

24 Mark, please lay this out.

25 MR. FENNER: Yes, sir. Retama Park has

1 requested approval to amend its 2017 Thoroughbred schedule  
2 by eliminating four race days, and this is to prevent a  
3 purse overpayment of over \$350,000. Eliminated dates  
4 would be October 27, November 3, 10 and 11.

5 This request follows a previous request of  
6 Retama to cancel four other Thoroughbred race dates which  
7 were approved by the Executive Director because there was  
8 the written support of the Horsemen's Partnership and the  
9 Thoroughbred Association.

10 But this request has not received the support  
11 of those two organizations, so the Executive Director by  
12 rule cannot approve them. So they have to bring this  
13 request to the Commission for consideration.

14 CHAIRMAN STEEN: Thank you. In the essence of  
15 time, could I ask Bill Belcher and Steve Ross to come to  
16 testify together.

17 Representing Retama Park, IV.

18 MR. BELCHER: Yes, sir. So good afternoon  
19 again.

20 CHAIRMAN STEEN: Would you identify yourselves,  
21 because she's having to track two people at one time.

22 MR. BELCHER: Oh, I'm sorry. Bill Belcher from  
23 Retama.

24 MR. ROSS: And Steve Ross, director of racing  
25 operations, Retama Park.

1 MR. BELCHER: This request is to avoid  
2 overpayment of just over a quarter million dollars. We  
3 have been forecasting -- so last Thoroughbred meet, my  
4 understanding -- I wasn't here then but my understanding  
5 was we overpaid by approximately a quarter million  
6 dollars.

7 This -- earlier this year in the Quarter Horse,  
8 we overpaid by 137,000-ish, and we worked with the  
9 Association, the horsemen, and they helped offset that.  
10 We paid 100,000, they paid 37,000-ish.

11 And now with our reforecasting for our  
12 Thoroughbred meet that we are currently in right now, with  
13 the handle going the way it is, we are looking at  
14 overpaying by now, as a reforecast, just under 300,000.  
15 So we made a little ground up since we sent you that  
16 letter, and we reached out to the associations.

17 We were originally just going to -- our  
18 proposal was to cut the last two weekends off, the last  
19 two Friday-Saturdays. But Mary actually reached out back  
20 to us and said it would be better if we cut these dates;  
21 that's why it is a couple Fridays, and then the one  
22 weekend.

23 And we said, Great, that is a great compromise,  
24 so we put that in the letter, and that is our request.  
25 And that is it.

1 CHAIRMAN STEEN: Any questions, Commissioners?

2 (No response.)

3 CHAIRMAN STEEN: Thank you.

4 MR. ROSS: Okay, thank you.

5 CHAIRMAN STEEN: I would like to recognize  
6 Marsha Rountree and Jan Haynes. Would you guys, in the  
7 interest of time, mind stepping up together to represent  
8 the Texas Horsemen's Partnership, both wishing to testify  
9 against.

10 MS. ROUNTREE: Marsha Rountree, Executive  
11 Director, Texas Horsemen's Partnership.

12 MS. HAYNES: Jan Haynes, member of the board.

13 MS. ROUNTREE: Just for clarification, for  
14 those of you who might not understand what an overpayment  
15 means, it means that the purses that are paid are in  
16 excess of the balance in the purse account at the time of  
17 the payment. It is an industry standard and very  
18 customary for racetracks to pay -- overpay purses.

19 That amount is recouped from simulcast, from  
20 money earned from simulcasting; it goes right back to the  
21 racetracks over a period of time. So it is not a gift; it  
22 is a loan. The racetracks do get to recoup it.

23 We did agree at the -- before the meet started  
24 at Retama Park this fall, they came to us and requested  
25 that they be allowed to cut four days of racing from their

1 approaching, very quickly, Thoroughbred meet.

2 We did agree to that, reluctantly. At that  
3 time we would rather have cut a couple of days rather than  
4 purses. The horsemen agreed with that. And we thought  
5 everything was going to be fine.

6 So the Thoroughbred horsemen have already lost  
7 four days for the current meet that is in progress, now  
8 that our horsemen have shipped to Retama, are  
9 participating in the meet, they are being, now that they  
10 are there, and they are already gone to the expense of  
11 shipping into Retama, they are asking to agree to cut  
12 another four days from the existing ongoing Thoroughbred  
13 meet.

14 This should have been announced well before the  
15 meet started, and not to pull the rug out from under the  
16 horsemen that are already there. We understand their  
17 dilemma; we understand that their handle is down; it has  
18 been during the Quarter Horse meet as well as this  
19 Thoroughbred meet.

20 But we would really like for Retama to consider  
21 the options that might include a reduction in purses,  
22 rather than cutting four more days out of a meet that the  
23 horsemen are already there, they are already expecting to  
24 be able to run those days.

25 MS. HAYNES: Yes. I agree with her. The purse

1 cut would be better, because it is already a short meet as  
2 it is, and like I testified before, it is very expensive  
3 to move a stable, you know, your employees and everything,  
4 and now after everybody is already there, the horses and  
5 all, now they want them to work four days less, and that  
6 is not fair. So the purse cut would be better than the  
7 elimination of the days.

8 CHAIRMAN STEEN: And have you had discussions  
9 regarding the purse cut?

10 MS. ROUNTREE: No, we have not. The  
11 discussions that we have had with Retama Park have all  
12 revolved around an overpayment, which Retama Park says  
13 that they absolutely will not do. And quite frankly, we  
14 have been kind of immersed in other issues lately, and  
15 this has not been at the top of our list, although this  
16 request was just made recently, and it was after the meet  
17 started.

18 So we are more than willing to discuss this  
19 with Retama, but we would like for them to not come before  
20 the Commission and request that they be allowed to cut  
21 four more days from an existing meet, rather we would like  
22 for them to meet with us and see if we can solve this  
23 problem with some strategic purse cuts.

24 CHAIRMAN STEEN: When are the race days in  
25 question being run?

1 MS. ROUNTREE: I do not have it in front of me  
2 right here, but it's some Fridays -- it is the last  
3 weekend of racing plus two other Fridays, is that what it  
4 is?

5 VOICE: The 27th and the 3rd.

6 MS. ROUNTREE: The last whole weekend, the  
7 Friday and the Saturday, and then two Fridays before that.

8 CHAIRMAN STEEN: Steve, would you have  
9 something to say in that regard?

10 MR. ROSS: Sure. Yes. Regarding a purse cut,  
11 there is 14 days left in the meet if we go through the  
12 11th. So if we were to, assuming in this model, business  
13 about 85 percent of 2016 levels, we are looking at about  
14 at \$17,000 a day purse cut, to get to the point where we  
15 do not have an overpay.

16 That is \$17,000 a day on purses that are not  
17 very high to begin with. So I do not really know if that  
18 is something that a horseman would like to see. I mean,  
19 you might be looking at purses of \$60,000 a day.

20 CHAIRMAN STEEN: Do you want to respond to  
21 that?

22 MS. ROUNTREE: I think that, I mean --

23 MS. HAYNES: There is no good thing.

24 VOICE: Yes. There is no good solution.

25 MS. HAYNES: But with the stables already being



1       there, I think that the purse cut is the better option.  
2       You know, if we knew this before the meet, then we could  
3       have notified trainers and said, Hey, give us feedback.  
4       What do you guys want to do? But we did not know, I mean,  
5       and the meet has already started, they are already there,  
6       I just think that cutting the dates now out from under  
7       them now, is unfair.

8               MS. ROUNTREE: I think that a lot of these  
9       horsemen have shifted their expectation that they are  
10       going to run races on those days. They have got horses  
11       that they have planned to run on those days, and so if we  
12       go to those horsemen now and say, Guess what, we have  
13       already cut four days off the meet that you were expecting  
14       to run.

15              Now we are taking four more days off the meet  
16       when you have got a certain number of horses' expectations  
17       of being entered into these races. They are going to have  
18       the opportunity to actually participate in these races,  
19       and now we say, Nope, you are not going to be able to do  
20       this.

21              My guess is that a lot of these horsemen are  
22       going to say, Okay, fine. See you. And they are going to  
23       pick up and go. So they are going to -- they were going  
24       to have short fields anyway, so I do not know, there is no  
25       good answer. There really is no good answer to this. But

1 my feedback from the horsemen that I have spoken to about  
2 this issue is, they would rather run the days, and to  
3 decrease the purses somewhat, but they would rather keep  
4 the days there than eliminate the days.

5 CHAIRMAN STEEN: Steve, is this an acceptable  
6 solution?

7 MR. ROSS: Well, let me just say, in some  
8 correspondence, I mean, our goal was to get to the end of  
9 the meet with no purse overpayment. One way or another.

10 One way was -- and this was in some  
11 correspondence that we had -- was to either cut days, or  
12 reduce purses. And we did not -- only today did I hear  
13 that reducing purses is the preferred course of action.

14 Now, for us, in fact in the past it has always  
15 been, or at least if you go back to what we did in July,  
16 it was, We do not want to run for these low purses. We  
17 would rather cut dates.

18 CHAIRMAN STEEN: Do we have a solution here in  
19 front of us, potentially? Or is that something, the  
20 cutting of the purses, is that a solution that is  
21 acceptable to you guys?

22 MR. ROSS: I would like to get Bill's input on  
23 that before --

24 CHAIRMAN STEEN: All right.

25 MR. BELCHER: Yes, my direction on this was

1 just the overpayment. And we did correspond and ask what  
2 options, and we just did not hear anything. I would  
3 assume they had other things going on. And we were on a  
4 deadline to get it on the agenda, so we had to get it on  
5 the agenda. How we do it, we are open to figuring it out.  
6 But we have got to do it.

7 CHAIRMAN STEEN: Okay.

8 MS. ROUNTREE: And I would like to add that  
9 what Steve said is absolutely correct. When the request  
10 was made before the meet began --

11 CHAIRMAN STEEN: Right. Now that you have your  
12 people there, it is a different story --

13 MS. ROUNTREE: It is different. Yes. But it  
14 is different now. These people are there with the  
15 expectation that they are actually going to run.

16 CHAIRMAN STEEN: So Retama, are you willing to  
17 work with them to cut the purse money and keep the days?

18 MR. ROSS: Yes.

19 CHAIRMAN STEEN: Okay. And so can we scratch  
20 this item off of the list?

21 (Crosstalk.)

22 CHAIRMAN STEEN: All right. Now we are moving  
23 on to Item (C). This is Retama's request for an  
24 application period for race dates.

25 Mark, can you please lay out the item.

1 MR. FENNER: Yes, sir. Retama Park has filed a  
2 request to open a new application period for race dates,  
3 and they are proposing that they be conducted during  
4 calendar year 2018, with the application period itself to  
5 close on November 10, 2017.

6 This request was supported by both Lone Star  
7 Park and Sam Houston Park. This request duplicates in  
8 part the current application period the Commission opened  
9 at its April meeting, but I gather -- and maybe I am  
10 wrong -- that the tracks wish to start anew, a fresh start  
11 on the application period since the proposed fee schedule  
12 changes or calculations towards race dates.

13 However, the proposed closing of November 10 is  
14 too late. I mean, we are going to have a Commission  
15 meeting that week. I think that they were thinking there  
16 would be a December meeting.

17 CHAIRMAN STEEN: Okay.

18 MR. FENNER: So Staff would propose that if you  
19 approve a new application period, that it be from  
20 January 1 through December 31, 2018, and then also from  
21 January 1 through August 31 of 2019. That gives us  
22 through the remainder of that fiscal year and helps us to  
23 do some planning.

24 And then to close the application due date on  
25 August 24, 2017, which will be October 24 -- I'm sorry --

1 August 24, 2017 --

2 VOICE: October.

3 MR. FENNER: Wow, did I do it again? I'm  
4 sorry.

5 (Laughter.)

6 MR. FENNER: October 24, 2017.

7 CHAIRMAN STEEN: Do we have anybody signed up  
8 to speak on this?

9 (No response.)

10 CHAIRMAN STEEN: Okay. Do we have any  
11 Commission discussion?

12 COMMISSIONER EDERER: I would just like to make  
13 a comment in the request for Retama. If in fact this is  
14 approved, during this period, get together with the other  
15 tracks and let's try to eliminate all overlapping, so we  
16 don't have that problem. It'll be a big savings to the  
17 Commission.

18 VOICE: (Away from microphone.)

19 COMMISSIONER EDERER: All right, good. Well, I  
20 understand from Lone Star they have committed. I haven't  
21 heard from Andrea, but I am sure she will commit also.

22 There you go.

23 CHAIRMAN STEEN: Great. Do we have a motion?

24 COMMISSIONER MARTIN: So moved.

25 CHAIRMAN STEEN: Made by Commissioner Martin.

1 COMMISSIONER MACH: I second.

2 CHAIRMAN STEEN: Second by Commissioner Mach.

3 MR. FENNER: Could I get a clarification on  
4 what the motion is?

5 CHAIRMAN STEEN: The motion to designate a race  
6 date application period to begin on September 25, 2017,  
7 through October 24, 2017, to all racetracks to apply for  
8 race dates in calendar 2018 and the first months -- first  
9 eight months of 2019.

10 MR. FENNER: Motion was made by Martin and  
11 Mach?

12 CHAIRMAN STEEN: Martin, seconded by Mach. Any  
13 further discussion?

14 (No response.)

15 CHAIRMAN STEEN: I will take this up for a  
16 vote. All in favor please signify by saying aye.

17 (A chorus of ayes.)

18 CHAIRMAN STEEN: Any opposed?

19 (No response.)

20 CHAIRMAN STEEN: Motion carries. In the  
21 interest of time, we are going to skip over Item VI,  
22 Proceedings on Drug Testing Matters; Item VII, Executive  
23 Session we have already undertaken.

24 Item VIII, Scheduling of the Next Commission  
25 meeting: Our next meeting will be moved to the week of

1 November 6. This will allow us to review and possibly  
2 adopt the fee rule changes in time for them to be  
3 effective by December 1.

4 The time is now 1:04 p.m. With all business  
5 concluded, we are now adjourned. Thank you.

6 (Whereupon, at 1:04 p.m. the meeting was  
7 adjourned.)

8  
9 I certify that the foregoing is a correct transcript  
10 from the electronic sound recording of the proceedings  
11 produced by me in the above-entitled matter.  
12  
13

14 /s/ Nancy H. King  
15 Certified Electronic Reporter  
16 AAERT No. CET-153

10/04/2017  
Date