

The Stakes Are High



From the Executive Corner

by DOUG BURGE

As outlined earlier this year, in both this publication and our weekly e-mail newsletters, the focus of the CTBA's legislative agenda has been to secure mitigation funds from any Tribal Gaming Compacts that are approved.

The exclusivity clause associated with the new compacts would further prevent California from competing with other horse racing states that have significantly grown their purses and incentive awards through alternative gaming.

We have spent a considerable amount of time and resources both educating legislators as to California racing's inability to

compete with other racing venues and testifying at the various legislative hearings that have centered around the proposed compacts; as the future of our industry is at stake.

With that said, this month's editorial includes a question-and-answer session with current CTBA President Scoop Vessels, focusing on the importance of seeking legislative relief and the CTBA's position as it relates to the tribal compacts.

We are very fortunate to have Debbie Arrington, who covers the horse racing industry for the *Sacramento Bee* newspaper, author this Q&A session.

by DEBBIE ARRINGTON

Racing may get a piece of the action. That's the bottom line of possible mitigation for the California Horse Racing industry from the Tribal Gaming Compacts.

When voters approved gaming to help impoverished Native American tribes, it launched a slots empire. After the first compacts were drawn up in 1999, local tribal gaming has grown to an estimated \$7 billion a year. As of April, 66 tribes now have state compacts for gambling.

Under consideration in the California's Legislature are new compacts with two major tribes in the Palm Springs area, the Agua Caliente Band of Cahuilla Indians and the Morongo Band of Cahuilla Mission Indians. If approved, these compacts would add a combined 8,500 gaming devices to their casinos and bring in billions of dollars in new state revenue through 2030. Compacts for four other tribes are also under review: the Pechanga Band of Luiseno Mission Indians (Temecula); the San Manuel Band of Serrano Mission Indians (San Bernardino County); the Sycuan Band of the Kumeyaay Nation (San Diego County); and a tiny 99-machine request from the Yurok Tribe (Klamath).

The California Thoroughbred Breeders Association (CTBA) currently opposes these new compacts, mostly because of a clause. As part of the proposed compacts, a new exclusivity clause grants Indian casinos further rights to block potential competition and any future attempts by the horse racing industry to get its own alternative gaming, according to racing industry leaders.

This clause strengthens the tribal-only rule over gaming rights established in the original ballot proposition. Basically, the tribes have sole rights for slot machines and other casino-type gaming in the state.

That situation has severely impacted California's horse racing industry, which had its own monopoly on legal wagering for

half a century before the introduction of the lottery. Not only did racing lose gambling dollars to tribal casinos, racetracks in other states were getting their own slot machines and increasing purses.

That double whammy continues to hurt the state's \$2.5 billion Thoroughbred racing industry. The racino boon has drawn owners, breeders and horses out of California to such states as West Virginia and New Mexico. Meanwhile, industry leaders and horsemen have turned to the Legislature for relief.

One possibility is tribal mitigation, an arrangement in which a share of tribal gaming monies could be used directly or indirectly to help another cause and soften the impact of more and bigger casinos. In this case, mitigation would help California racing get back on a more even playing field in its nationwide competition for horses and handle.

Such mitigation is the basis for Senate Bill 873. Introduced by Senator Dean Florez (D-Shafter), the measure would allow racing jurisdictions to keep an estimated \$38 million in annual license fees to reinvest in purses and improvements. Those fees currently pay for the operation of state and county fairs as well as the California Horse Racing Board's supervision of the sport. Funding for those purposes would come from tribal casinos via the new compacts.

A trust fund, supported by tribal casino monies, would be created to help stabilize the industry's economics and better compete with the racino states. As part of the bill, fair racetracks—which are on state property—could bond against \$20 million a year for facility upgrades including the installation of safer synthetic tracks.

Approved by an earlier committee, SB873 stalled in the senate's appropriations



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committee as the July 1 budget deadline neared. Florez hopes to resurrect the legislation later this year, perhaps as part of a more comprehensive package.

Addressing these matters while the compacts are under review is important. SB873 is dependent on approval of the compacts, which were negotiated with Governor Arnold Schwarzenegger's office.

"The Legislature can't amend the compacts, the tribes don't want to open compacts," explained Bob Alvarez, Florez' Chief of Staff. "So, how do you address these ancillary issues? Sen. Florez believes there still needs to be some mechanism to keep the state's racing healthy.

"People forget, the state owns racetracks," Alvarez added. "The state has an interest to make sure horse racing stays healthy."

In addition, racing employs more than 48,000 Californians. Another example of possible mitigation would allow tribal casinos, at a fee, to open racebooks with simulcasting of California and out-of-state tracks.

The compacts' fate and any possible mitigation for racing are still up to the Legislature. Last year, racing banded together with the Labor Unions to successfully block the compacts' approval. Helping win that support were Unite HERE, representing hotel and restaurant workers, and Service Employees International Union, which includes many racetrack personnel.

During a recent visit to the State Capitol in Sacramento, CTBA President Frank "Scoop" Vessels sat down to discuss mitigation and the association's position:

Q: *Where do things stand on mitigation and the compacts?*

Vessels: "We are currently opposing the compacts along with Hollywood Park, Bay Meadows (Racecourse), Los Alamitos (Race Course) and the Labor Unions. As of right now, the rest of the industry is on the other side. The main reason that we're opposed to these compacts is the exclusivity clause. It really has nothing to do with the tribes whatsoever, but everything to do with the future of horse racing.

The exclusivity clause allows only Native Americans to have (gaming) machines for the life of the compacts (through 2030). Basically, if horse racing is ever able to stand on its own two feet, we have to be able to use everything available to us, including alternative gaming. With that clause in there, it would not allow horse racing to help itself."

Q: *Don't the tribes already have exclusive rights to such gaming?*

Vessels: "The clause in effect now is not actually a clause. (With the interpretation of the Attorney General), racetracks would have to have a Referendum of the citizens (to get slot machines). But by including an exclusivity clause in these compacts, it precludes us from even putting something on the ballot."

Q: *What forms of mitigation look possible?*

Vessels: "Currently, there's only talk about mitigation in various forms. The only way we can have talks about any kind of mitigation from the tribes is to stop any kind of compact commitment and at least force them to come to the table.

"The other side of the racing industry has been talking to the tribes for at least three years. We believe there's been very little movement.

"We think by opposing the compacts with our friends in labor we can at least get the tribes to sit down and take a look at this. We're not against the tribes, but against the exclusivity cause.

"There's been talk about money in some form of mitigation coming from the tribes. People are a little excited about Instant Racing, which looks like a gaming machine but is still racing. There have been pretty lively talks with the Legislature about license relief that could go into purses.

"If nothing happens, at least in this past year we've been able to really bring to the forefront the fact that horse racing will be in dire straits in a number of years. Very soon, we will be behind any number of states with alternative gaming (to support purses).

"But if we succeed and get some kind of relief, we'll be able to get to the point where we can concentrate on making racing a 21st century game."

Q: *Why come to Sacramento?*

Vessels: "Racing is the most regulated form of gaming ever offered in California; even with so much other gaming, it is still so today. When you add it all up, racing needs a break somehow. We need to not let anything slip by to benefit racing. That's why we took the stand that we did.

"When these compacts came up last year, because of our friends at the racetracks and with the unions, we were able to find enough votes to actually hold the compacts up. That was the first time we elected to take that route.

"It was very simple. If the compacts went through with the exclusivity clause, horse racing in our state would be doomed."

Q: *Do you continue to have the support of labor?*

Vessels: "Yes, we have a lot of racetrack unions and food and beverage people. They want to keep racetracks open; they want the jobs. Some employees in the racing industry have been there (at racetracks) for generations. We've got to keep these jobs for them.

"Racing affects lots of people—nearly 50,000 people are employed by racing all over the state. We've spent a lot of time talking to legislators. For the first time in a long, long time, the state of California is willing to take a hard look at racing and see where they can help. I think the legislators finally understand the urgency of our plight in racing. We can see a little bit of light at the end of the tunnel."

