

IBOP's Semi-Annual Progress Report

By Eddie Martin, IBOP President

We've all heard the proverb, "the more things change, the more they stay the same." That may very well be the theme for Indiana Breeder & Owner Protection, Inc.'s (IBOP) current Semi-Annual Progress Report. In our last Semi-Annual Progress Report from July, 2012 we noted that the Indiana Horse Racing Commission (IHRC), for the first time ever, filed a Notice of Intent to Adopt a Rule for eight administrative rules. Sadly, none of these rules, including a controversial rule that would reallocate purse and breed development money from the thoroughbred and the standardbred program to the quarter horse program, have taken the next step in the process.

As a reminder, after the Notice of Intent the process includes; filing of the proposed rule, solicitation of comments, a public notice, a public hearing, and if the administrative rule is then approved by the IHRC, a review by the Indiana Attorney General's Office and a review by the Governor's Office before any filing of the rule with the Indiana Secretary of State and Indiana Register to become effective.

The timeline involved with these rules really calls into question just how genuine the IHRC's commitment to the regular rulemaking process is, if any. These rules were first considered at the IHRC meeting on April 19, 2012 with the Notice of Intent to Adopt filed on May 30, 2012. Even though these rules were slated to begin the regular rulemaking process, each was also approved as an emergency rule and went into effect on May 16, 2012. Therefore, the reallocation of revenues to the quarter horse program went into effect on January 1, 2013 as scheduled by the emergency rule.

Generally, as per Indiana law, an agency has one year from the time of the Notice of Intent to Adopt to gain a final approval. The only exception to the one year rule is if the agency notifies the Chairman of the Administrative Rules Oversight Committee, which IHRC General Counsel Lea Ellingwood did on December 20, 2012. Her notification

to Senator Michael Young, which can be found on our website under the heading 'Rulemaking in Indiana,' states that these rules "may not be completed within one year after publication of the Notice of Intent to Adopt a Rule." The notification provides an estimated approval date of July 15, 2013 which now becomes the IHRC's deadline for a final approval. The question is with the emergency rules already in place, does the IHRC even care?

Ms. Ellingwood's notification, again with a date of December 20, 2012, says that "The Commission expects to publish a proposed rule by December 15, 2012, and expects to hold a public hearing by January 15, 2013." No proposed rules were filed on December 15th, and as of this writing which is beyond the proposed date for a public hearing, no proposed rules have been filed. Ms. Ellingwood's reason for the delay, which is required by law, is that "the rule-making process stalled due to other issues." The "other issues" might very well be the IHRC willingness to follow the regular rulemaking process. (The 'Timetable for Action' for these rules can be found on the IHRC's website, as now required by law, at <http://www.in.gov/hrc/2332.htm>.)

At their August 30th meeting, under the direction of new commission Chairman Bill Diener, the IHRC did adopt

a policy regarding their rulemaking. In effect, the policy is designed to assist in determining when the emergency rulemaking "process is appropriate." The items listed in the policy as considerations are; whether the Association of Racing Commissioners International has adopted the rule as a model rule, the effect on the safety of race participants, the impact on the integrity of racing, the impact on the integrity of pari-mutuel wagering, housekeeping, the resolution of conflicts or inconsistencies between existing rules, and time sensitive matters. With this expansive list of considerations, almost any issue can be (and will be) considered an emergency, so we expect the emergency rulemaking process to continue with limited use of the more open, but more extensive, regular rulemaking process.

The IHRC's adopted "Policy on Rulemaking" also states that, "A copy of emergency rules adopted by the Commission will be posted on the Commission's website, along with a paragraph describing the purpose of the rule or rule change." As of this writing, we've not seen any copies of emergency rules adopted by the IHRC or a paragraph "describing the purpose" on the commission website. Since the IHRC adopted this policy, there have been nine emergency rules filed as final with the Indiana Register. In light of the fact the IHRC is not following their own policy; IBOP will provide a short paragraph or two on the most relevant emergency rules.

On August 30th, the commissioners voted unanimously to modify '71 IAC 8.5-2-5 Out of competition testing' and '71 IAC 8-3-5 Out of competition testing' by striking "**or its designees, in the case of out of state collections**" from each rule. While we were characterized as "a member of the public" by Ms. Ellingwood, this modification was an IBOP initiated change. On August 19, 2012 we petitioned the IHRC to strike this language by pointing out that their own rules define out-of-competition testing as being done "on a horse located in Indiana" and that they define their jurisdiction as "the state of Indiana," and not beyond the state's borders. You can view our petition by going to our website, www.ibopindy.blogspot.com, and click 'Letters to the Commission' on the tool bar.

The modification to the out-of-competition testing rules is a step in the right direction. We still see problems within the out-of-competition testing rules and will continue to petition for further changes. In our view, many aspects of the out-of-competition testing rules go beyond the IHRC's statutory authority and infringe on constitutional rights. (See our July, 2012 Newsletter.) We've also noticed an apparent unauthorized change or clerical error to the out-of-

competition testing rule for standardbreds. The final rule submitted to the Indiana Register differs from commissioner-approved version from August 30th. In reviewing the official transcript of the meeting, there was no mention of any additional change to the rule beyond IBOP's request, and the hand-out provided at the meeting didn't include any other change. Look for more on this topic in later newsletters.

Another emergency rule approved at the August 30th IHRC meeting modified '71 IAC 2-9-1 Allocation of race dates and permits.' This modification delegates the authority to the Executive Director to "authorize cancellation of all or a portion of any race day." While this rule went into effect when filed with the Indiana Register on September 10th, this authority had already been exercised on June 14th in the cancellation of two days of racing at Indiana Downs. Please read our special report on the Indiana Downs Track Closure in this newsletter.

Fast forward to the December 14th IHRC meeting, the Commissioners, including newest appointee Greg Schenkel, made another change to '71 IAC 2-9-1 Allocation of race dates and permits.' This particular emergency rule allows for flat racing to take place at Indiana Downs with a minimum of 120 race days and standardbred racing at Hoosier Park with a minimum of 180 race days. What is being incorrectly called 'one track, one breed' will only take place should Centaur Holdings, the owners of Hoosier Park, complete their purchase of Indiana Grand & Indiana Downs. The 'one track, one breed' plan will only take place in 2013 if the sale can be completed by March 1st and by having an appropriate amount of time to build 150 additional stalls there by the end of July.

While the minimum of 120 flat racing days was approved as 114 thoroughbred race days and 6 quarter horse-only, the original "plan" floated by the IHRC staff was an administrative rule that would have limited flat racing days even further. This unnamed rule became the subject of IBOP's October 'Administrative Rule of the Month- (Number of Flat Race Days Rule)' which includes our direct input to the IHRC where we "reminded" them of their responsibilities within their own rules regarding the assignment of race meetings. After the subsequent withdrawal of this proposed rule which could have reduced flat racing days to 50 per track, we provided another reminder with our November 'Administrative Rule of the Month - Allocation of Race Dates and Permits.' Both are available in our 'Admin Rule of the Month Archive' on our website.

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Indiana Downs Track Closure

On June 14th at 6:27 PM, Indiana Horse Racing Commission (IHRC) Executive Director Joe Gorajec issued an email “DIRECTIVE” cancelling thoroughbred racing and training at Indiana Downs on Friday, June 15th and Saturday, June 16th. This action was attributed to a petition from the Indiana Horsemen’s Benevolent and Protective Association (Indiana HBPA) to the IHRC “seeking relief from an allegedly dangerous racing surface.”

Within less than 24 hours, on June 15th at 5:25 PM, Mr. Gorajec issued a second “DIRECTIVE” reopening the track for training on the morning of Saturday, June 16th with live racing resuming on Monday, June 18th. After beginning an investigation on the morning of June 15th, the commission staff concluded that the Indiana HBPA’s petition was “unsubstantiated.” The IHRC staff issued a Final Report on the matter that was provided to and approved by the three commissioners, including former Chairman Sarah McNaught, in attendance (of five) at the June 26, 2012 IHRC meeting.

Given that what the IHRC staff calls the “Petition” from the Indiana HBPA in the Final Report was sent to Mr. Gorajec on June 12th at 1:39 PM, over two full days lapsed before the June 14th DIRECTIVE closing the track, the IHRC staff’s Final Report and its subsequent approval raises even more questions than it answers given the number of inconsistencies. Considering that the IHRC’s own investigation took less than 24 hours, and concluded that the Petition “was not intended to be a Petition to the Commission for relief,” was the cancellation of racing, let alone two days of racing even warranted? And, did Mr. Gorajec have the expressed authority to cancel race days?

Not only were the trainers, owners, and jockeys scheduled to race on June 15th & 16th deprived of the opportunity to earn income, those in supporting roles lost income and wages. Those participants include; practicing veterinarians, farriers, exercise riders, outriders, minor racing officials, and the gate crew to name a few. Since the race tracks in Indiana are economic engines that generate benefits beyond those participating on the track, the closure of live racing for two days also impacted waiters/waitresses, food service personnel, other employees at Indiana Downs, Indiana Downs itself, and even the State of Indiana with lost revenues.

Who has the expressed authority from the IHRC to cancel race days?

In examining that question, Indiana statute, through IC 4-31-3-10, provides for the appointment of an executive director who is employed by and serves at the pleasure of the appointed members of the commission, not an elected official. There is no expressed authority within IC 4-31-3-10 that would allow an Executive Director to cancel a scheduled race day already approved by the IHRC. The only possible exception would be via IC 4-31-3-10(b)(4) which states that the Executive Director shall “perform other duties the commission prescribes.” With no expressed authority in Indiana law, the IHRC would have had to provide the Executive Director such cancellation authority within the Indiana Administrative Code or by other means of an official delegation.

In the Indiana Administrative Code, which is essentially the IHRC’s rule book, ‘71 IAC 2-2-1 General authority,’ provides via 71 IAC 2-2-1(b) that the IHRC “may delegate to the executive director and the judges all powers and duties necessary to fully implement the purposes of the Act.” While the IHRC “may delegate to the executive director and the judges,” the use of the term judge does, by definition, include a thoroughbred “steward.” According to 71 IAC 1.5-1-49, a judge and a steward are synonymous terms.

Clearly, the commissioners CAN delegate certain “powers and duties” to the Executive Director, judges, and stewards. And, in the case of cancelling race days, the IHRC had provided such authority as of June 14th by 71 IAC 2-9-1(c) which states, “In the case of emergencies, the **judges** may authorize cancellation of all or a portion of any race day.” Mr. Gorajec’s DIRECTIVE to cancel racing at Indiana Downs surely treated the Petition from the Indiana HBPA as an emergency. However, on June 14th, Mr. Gorajec had not been delegated the authority to cancel “all or a portion of any race day” by the Indiana Horse Racing Commission.

The expressed intent of the IHRC in 71 IAC 2-9-1(c) is that “in case of emergencies” that the stewards at Indiana Downs would have had the authority to cancel races or a race day. This delegation to the stewards makes perfect sense because they are at the race track every day for training and racing. The stewards are the IHRC officials who are the most capable of monitoring and understanding track conditions and being in a position to note any changes in track conditions or sentiment regarding the race track.

Apparently the stewards were not involved, as the June 14th DIRECTIVE states, “The IHRC staff, working in conjunction with the stewards, **will conduct** an investigation...” The use of “will conduct” is a future tense implying that no investigation had been conducted either on June 12th, June 13th or June 14th. An investigation involving the stewards beginning after the June 14th DIRECTIVE is confirmed by the Final Report which states, “On June 15th, Commission staff, including Senior Steward Stan Bowker, **initiated** its investigation...” The key word is “initiated,” as in “began,” on June 15th. There is no other indication in the Final Report that any of the stewards were engaged until after the cancellation took place on June 14th. Based upon this review, Mr. Gorajec had no expressed authority to cancel race days without first involving the stewards, yet did so anyway.

In a further review of the Indiana Administrative Code, ‘71 IAC 3.5-3-10 Cancellation of a race’ (copied below) is the only place where the phrase “cancellation of races due to hazardous track conditions” can be found. While the intent of this poorly written rule is to allow for jockeys or the association management (race tracks) to cancel races due an unsafe track, usually due to weather, the rule establishes protocols for doing so which apparently were not followed prior to Mr. Gorajec’s June 14th DIRECTIVE to cancel. The Final Report does not indicate any communication with The Jockey’s Guild representatives or track management at Indiana Downs prior to issuing the cancellation. A question not answered by the Final Report is why weren’t the protocols by 71 IAC 3.5-3-10 followed if there was a potentially “hazardous” race track?

71 IAC 3.5-3-10 Cancellation of a race

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 10. The commission shall post in the jockey’s quarters a policy regarding the process of **cancellation of races due to hazardous track conditions**. All licensees shall be required to adhere to the posted policy. The policy shall not prevent the association management from cancelling the races due to track or weather conditions or other unavoidable causes without consultation with the stewards and the horsemen’s representative. *(History line deleted for brevity.)*

Perhaps the greatest example of Mr. Gorajec’s lack of any expressed authority to cancel race days occurred at the commission meeting on August 19, 2012. By a unanimous vote of the commissioners, 71 IAC 2-9-1(c) was modified via an emergency rule to add “or the executive director” as

having expressed authority to cancel races or race days.

This rule change, which is copied below, went into effect on September 10, 2012 when filed as a final rule with the Indiana Register almost three months after Mr. Gorajec exercised the authority to cancel race days.

71 IAC 2-9-1(c) now reads, “(c) The association shall be obligated to conduct pari-mutuel racing, except in the case of emergencies, on each race date allocated. Any change in race dates must be approved by the commission. In the case of emergencies, the judges, stewards, **or the executive director** may authorize cancellation of all or a portion of any race day.”

One of the three recommendations in the Final Report on the closure was, “The commission should establish a clear line of decision-making authority for similar such issues which may arise in the future.” Based upon the language in 71 IAC 3.5-3-10 and 71 IAC 2-9-1(c) as of June 14th, there WERE clear lines of decision-making authority; however, that authority did not include the Executive Director. This begs the question, if Mr. Gorajec had the expressed authority to cancel race days on June 14th, then why was there a need to use an emergency rule on August 19th to modify 71 IAC 2-9-1(c) to add the delegation of race cancellation authority to his position?

When considering any potential implied authority to cancel race days, ‘71 IAC 4.5-3-5 Race track’ through 71 IAC 4.5-3-5(a) does state that, “The surface of a race track must be designed, constructed, and maintained to provide for the safety of the jockeys and horses.” The IHRC also requires “adequate equipment and personnel to maintain the track surface in a safe training and racing condition.” Therefore, the IHRC does have an interest, to a degree, in the safety of an Indiana race track. However, the phrase ‘to a degree’ is used because with ‘71 IAC 4.5-2-1 Insurer of the race meeting,’ the IHRC attempts to limit or remove altogether their responsibility for any liability regarding the safety of association grounds. 71 IAC 4.5-2-1(a) and (b) state, “(a) Approval of a race meeting by the commission **does not establish the commission as the insurer or guarantor of the safety or physical condition of the association’s facilities** or purse of any race. (b) An association shall agree to indemnify, save, and **hold harmless the commission from any liability, if any, arising from unsafe conditions of association grounds** and default in payment of purses.”

By the IHRC’s own definition, via 71 IAC 1.5-1-12, the association grounds include “the race track.” Clearly, the liability for the safety and condition of the race track has been “delegated” to the race tracks, not retained by the

IHRC. This delegation of the “safety” of the race tracks was very evident in one of Mr. Gorajec’s concluding statements to the Commissioners in attendance at the IHRC meeting on June 26, 2012 where the Final Report was considered. He said, “My point is the Commission doesn’t need to involve itself in safety issues or whether the track is safe because the participants decide that on an ongoing basis on a day-by-day basis.” (Transcript Page 28, Line 25 through Page 29, Line 3). This statement, which is very inconsistent with Mr. Gorajec’s June 14th DIRECTIVE, is a reference to 71 IAC 3.5-5-10 mentioned earlier. Given his own view and comment to the Commissioners, then what were his motives for the two-day cancellation?

Mr. Gorajec’s ‘delegation of safety-related issues’ statement is also inconsistent and conflicts with an earlier comment on June 26th where he said, “I don’t think that clear line of decision-making authority exists.” (Transcript Page 22, Line 23 to 24) The ‘delegation of safety-related issues’ statement directly contradicts the first recommendation in the Final Report to “establish a clear line of decision-making authority.” If track safety issues are decided on a “day-to-day basis” by those participating directly in racing, then a clear line of decision making WAS already in place, just not followed.

In addition, another of the recommendations in the Final Report was, “The commission should identify an individual or entity, available on short notice, to evaluate and make recommendations to Commission staff regarding the track surface.” If the commission had already taken an active and on-going interest in the safety and the condition of the race tracks in Indiana, then why didn’t the IHRC already have an expert to assist with evaluating any track condition? An internet search can find many articles regarding alleged problems with the track condition at Indiana Downs over the years, including the cancellation of two days of standardbred racing in 2010 which led the Indiana Standardbred Association to consult with and pay for their own track expert.

The Final Report implies that only after Mr. Gorajec’s cancellation was the most appropriate time for the IHRC to consider identifying a resource as a track expert. The timeliness of this recommendation seems a bit inconsistent with the IHRC’s prior actions or inactions when issues regarding the safety of the track conditions at Indiana Downs were raised. Again, Mr. Gorajec’s comments create even more inconsistencies with, “The third recommendation, when we approached this issue, we approached the issue from the standpoint of not making our own independent

determination whether the track surface was dangerous or whether it was safe. We didn’t go out there, walk the surface. That’s, quite frankly, not our job. That’s well beyond our expertise.” (Transcript Page 23, Line 20 through Page 24, Line 1) If the IHRC staff’s approach was not to determine “whether the track surface was dangerous or whether it was safe,” then what was the point of any cancellation? Their “approach,” as outlined in the Final Report, was to talk with those participating in racing who Mr. Gorajec readily admits are already charged with deciding on the relative safety of the race track “on a day-by-day basis.”

The relevant pages quoted from the official transcript of the IHRC’s June 26, 2012 meeting can be found on the Home page of our website at www.ibopindy.blogspot.com.

Other Questions Raised by the Final Report: Indiana Downs Track Closure

Beyond what has been mentioned so far, other aspects of the Final Report seem to raise more questions than provides answers. Except where indicated, the documents listed below comprise the Final Report which was handed out at the June 26, 2012 IHRC meeting. To view each of these documents in their entirety, please go the Home page of our website at www.ibopindy.blogspot.com.

- Indiana Horse Racing Commission's Final Report - Indiana Downs Track Closure: (Four Pages)
- Indiana Horse Racing Commission's DIRECTIVE, June 14, 2012: (One Page)
- Indiana Horse Racing Commission's DIRECTIVE, June 15, 2012: (One Page)
- Indiana HBPA Track Condition Petition, June 12, 2012: (Three Pages) ****
- Indiana Downs' Response to Indiana HBPA Petition, June 12, 2012: (Three Pages)

****The "Original Message" (Page 1 of 3), which was the body of the email sent June 12, 2012 at 1:39 PM from Indiana HBPA Executive Director Mike Brown to IHRC Executive Director Joe Gorajec, was NOT included in the IHRC's Final Report. Given that the conclusion in the Final Report was that the Petition was not a petition to the IHRC for relief, the language used in this email needs to be explored.

Mr. Brown’s email states, “This morning, nearly 50 trainers/owners signed a petition of complaint about the condition of the track (too hard) at Indiana Downs. Copies of the complaint and petition were delivered to the track superintendent, the race secretary and to Jon Schuster. Attached is a copy of the complaint and the petition, **for your information**. If you have questions, please feel free

to contact Randy (Indiana HBPA President Randy Klopp) or me.” Emphasis was added to the phrase “for your information” for a reason. Generally, this particular phrase is considered to be a statement that implies that a response is not needed. Of course, the content of any additional statement(s) could be construed as to change the meaning of “for your information.” In this case, the two page attachment to the email, termed as “for your information,” created enough doubt that two days from its delivery passed before two days of racing were cancelled without any investigation prior to doing so. Was this a logical reaction to what was presented as an FYI?

What is especially troublesome is that the final paragraph of the June 14th DIRECTIVE states, “Indiana Downs has had an admirable track safety record—well within industry norms. The current race meet is on pace to be one of the safest meets in the United States in 2012.” Mr. Gorajec’s statement is confirmed by Indiana Downs General Manager Jon Schuster’s response, also dated June 12th, to the Indiana HBPA’s Petition, where he states, “Finally, I would like to point out, for the safety record, that in speaking with Executive Director Gorajec just yesterday, Monday, June 11, we discussed what an excellent safety record Indiana Downs is having in 2012.” Given the understanding of the safety record of Indiana Downs in 2012, Mr. Gorajec’s June 14th cancellation DIRECTIVE without even a preliminary investigation seems very inconsistent with that knowledge.

At the very minimum, and considering the IHRC’s own Findings, could any misunderstanding of the communication from the Indiana HBPA have been cleared up with telephone calls to Mr. Brown, Mr. Klopp, and/or Mr. Schuster? There is no indication within the Final Report that would suggest that Mr. Gorajec immediately attempted to contact anyone from the Indiana HBPA after the receipt of the so-called Petition. Nor, is there any indication he immediately attempted to contact Mr. Schuster.

The Final Report indicates that Mr. Gorajec only “conferred” with IHRC Chair at the time, Sarah McNaught and General Counsel Lea Ellingwood. To quote the Final Report, “Upon receipt of the Petition, Executive Director Joe Gorajec conferred with Commission Chairperson Sarah McNaught and General Counsel Lea Ellingwood.” The next sentence in the Final Report jumps two days forward to when the first DIRECTIVE was issued on June 14th. So, when did Mr. Gorajec confer with Mrs. McNaught and Ms. Ellingwood? And, what happened between June 12th and June 14th? The Final Report provides no answers.

What we do know, from the fulfillment of a public

records request, is that Mr. Gorajec forwarded Mr. Brown’s email, including the two-page attachment, and Mr. Schuster’s response letter to the Indiana HBPA to Ms. Ellingwood on June 14th at 3:16 PM. Was this the first time Ms. Ellingwood had seen either communication? What Mr. Gorajec’s email does establish is that he had Mr. Schuster’s response letter to the Indiana HBPA prior to the cancellation DIRECTIVE on June 14th. The letter is worth the read as Mr. Schuster takes issue with the logic behind the Indiana HBPA’s Petition of which Mr. Gorajec should have taken notice, and at the very least questioned prior to the DIRECTIVE to cancel and prior to beginning of the IHRC staff investigation on June 15th. Mr. Gorajec could have also easily taken notice that Mr. Schuster’s letter refers to language in a “form attached to this complaint” which was never submitted to the IHRC by Mr. Brown.

The “form” being referred to was the Indiana HBPA “Question-Complaints” form which was only submitted as part of the petition to Indiana Downs. The Indiana HBPA “Questions-Complaints” form (One Page) can be found on the Home page of our website.

This form, which is designed for use by the Indiana HBPA Backside Committee, indicates that “TRACK TOO HARD – HORSES COMING BACK BAD!” and “Ever Since QH (quarter horse) Trials” as the only complaints. This internal form is designed for record keeping purposes as it includes a sign-off from an HBPA Board Member regarding the response or action taken to the complaint or question. Had a copy of this form been submitted to Mr. Gorajec on June 12th, would it have made a difference in his response? It’s impossible to know with any degree of certainty. The Final Report does note “that Mr. Brown had failed to submit all relevant pages of the HBPA complaint.” However, the Final Report failed to comment on why the entire ‘for-your-information’ email from Mr. Brown was not included for the Commissioner’s review, giving the impression it was being hidden.

The Final Report suggests that “liability issues raised by recent Indiana State Fair litigation and equine and jockey health issues highlight in the recent series of New York Times articles,” was a contributing factor in deciding to cancel. To the degree there was a concern, then why wasn’t racing cancelled on Tuesday, June 12th, which had an 11 race card, or on Wednesday, June 13th, which had a nine race card that included Indiana Downs’ signature stakes race, the \$200,000 Oliver Stakes? In one of our interviews, a person involved with the Indiana HBPA, who

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What's next for IBOP?

Our August 'Administrative Rule of the Month - Cost of Split Sample Testing,' outlined IBOP's position that IHRC administrative rules that place the burden of the cost of split sample testing on an owner or trainer is not authorized by Indiana law. (Indiana law says, "The cost of analyzing specimens shall be borne by the commission.") Later in August, we petitioned the IHRC to change these split sample testing rules. Since the IHRC staff disagreed with our position, we were invited to make our case at the December 14, 2012 IHRC meeting. However, due to the length of that meeting, our agenda item was pushed to the first meeting of 2013 which has yet to be scheduled. If you have a moment, please read our position from the 'Admin Rule of the Month Archive' on our website and send any comments or questions to ibopindy@aol.com.

We've also petitioned to have the IHRC's self-determined ability to appoint their veterinarians to administer race day salix removed from the Indiana Administrative Code. Our rationale was laid out in our December our 'Administrative Rule of the Month- Furosemide as a Prohibited Substance.' Simply put, Indiana law prohibits, "A veterinarian appointed by the commission or employed by a permit holder may not, during the period of the veterinarian's employment, **treat or issue prescriptions for a horse on the**

grounds of or registered to race at a track, except in case of emergency." You can also find that position on our website. If you'd like to provide comments on this subject, please email us.

Finally, to better serve the owners and breeders participating in the Indiana programs, IBOP has decided to split our organization into two pieces; Indiana Breeder & Owner Protection, Inc. and IBOP Foundation, Inc. Our original charitable purposes, which will be continued by IBOP Foundation, Inc., actually limited our ability to provide representation where legislative issues are concerned. Therefore, changing IBOP to a not-for-profit business association made perfect sense to eliminate any lobbying restrictions. With the Indiana Legislature in session, we've already seen a number of bills that could affect our industry. We'll provide updates as we can on our website on a page labeled '2013 Session' or you can follow IBOP on twitter @IBOPIndy. Thank you! 🐾

Eddie Martin is a past Indiana Horse Racing Commission member, a past chairman Thoroughbred Development advisory committee, past chairman/co-founder Indiana Horse Racing and Breeding Coalition, past President and co-founder of ITOBA, past 1st V.P. Florida Thoroughbred Breeders and Owners Association. He is also a multiple time member of the Jockey Club's yearly Top 250 breeders in North America based upon money earned.

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prefers to be anonymous for this report, noted, "He (Gorajec) told us he didn't want to be 'precipitous' (rash), and that the \$200,000 race had nothing to do with it (timing of the cancellation)." Isn't initiating a two-day track closure prior to completing any investigation or asking any questions of those involved the definition of a rash response? And, if so, why was such a precipitous response taken after racing and training continued for two days?

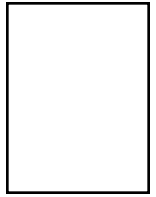
If there truly was sensitivity to "liability issues," notwithstanding the hold-harmless administrative rule pointed out earlier in this report, then why was any thoroughbred allowed to set a hoof on the track until an investigation could be completed? And, if an investigation was deemed necessary, then why wasn't Thursday, June 14th, a "dark day" with no scheduled racing, used for any IHRC-initiated investigation? Once a post-cancellation investigation was initiated on June 15th, it was completed within 24 hours which was more than 24 hours prior to June 16th scheduled first post time. Yet, racing had already been can-

celled for June 16th, bringing into question why there was any necessity to cancel two days of racing in the first place.

The "Findings" in the IHRC's Final Report (page 4) opens by saying, "Based upon the foregoing, it is the opinion of the Commission staff that the Petition addressed to the Commission was not intended to be a Petition to the Commission for relief." Given what was quickly determined on June 15th, couldn't the IHRC staff have easily come to this conclusion on June 12th, June 13th or June 14th with just a little effort without the need for any cancellation at all? Only a much more detailed investigation by the Office of the Indiana Inspector General could possibly answer that question as the inconsistencies outlined in this report proves that the IHRC staff is incapable of investigating their own actions and their own inactions. 🐾

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