



**Delaware Thoroughbred Racing Commission
Minutes of Regular Meeting Held On
June 13, 2012**

The Delaware Thoroughbred Racing Commission held a regular meeting on Wednesday, June 13, 2012, at 10:15 a.m., in the first floor conference room of the Horsemen's Office, located on the grounds of Delaware Park, 777 Delaware Park Boulevard, Wilmington, Delaware 19804.

The following Commission members were present:

Bernard J. Daney, Chairman
W. Duncan Patterson, Jr., Secretary/Commissioner
Henry James Decker, Commissioner
Debbie Killeen, Commissioner
Edward J. Stegemeier, Commissioner

The following individuals also were present:

Ed Kee, Delaware Secretary of Agriculture
Andrew Kerber, Esq., Deputy Attorney General, Commission Counsel
John F. Wayne, DTRC, Executive Director
Frederick Burkhardt, DTRC, Associate Steward
Robert E. Colton, Delaware Jockey's Association, Director
Jeff Ganc, Delaware Park, Assistant Director of Security
Bessie Gruwell, DTHA, Executive Director
G. Jack Houghton, Jr., DTRC, Chief State Steward
Gary Katz, Esq., DTHA Board Member, Owner/Trainer
Madeline Locke, DTHA, President
Edwin Long, Horseman
John E. Mooney, Delaware Park, Executive Director of Racing
Nancy Myshko, Delaware Park Senior Vice President Human Resources
Shelley Perkins, DTRC, Paralegal I (recording minutes)
John T. Peters, D.V.M., DTRC, Chief Veterinarian
Keli Rizer-Peterson, Trainer
Kathleen Picciano, D.V.M., DTRC, Associate Veterinarian
Ramon L. Rodriguez, DTRC Inspector
Andrew Singleton, Delaware Park Security, Shift Manager
Francis J. Swift, Jr., DTRC Inspector
Paul Trapani, Owner/Trainer, DTHA Board Member
Michael Vild, Esq., Delaware Park, Sr. Vice President of Racing/General Counsel

1. WELCOME & CALL TO ORDER

At 10:15 a.m., Chairman Daney called the meeting to order and welcomed those in attendance. An audio recorder is in use by the commission and a digital recording of the meeting is underway. Attendees should silence their cell phones and personal devices.

2. **APPROVAL OF MINUTES**

Upon a motion duly made (Commissioner Killeen) and seconded (Commissioner Decker) minutes of May 9, 2012, were approved as submitted.

3. **PUBLIC HEARING ON APPEAL/PROTEST**

A. **DTRC Protest/Appeal # ASD 7th Race, 05/24/2012**

Request to withdraw was received on June 7, 2012 by Executive Director Wayne from Mr. Alex R. Lieblong. The request to withdraw was accepted and no further discussion was held. A reply to Arkansas Commissioner Lieblong's letter, was sent on June 27, 2012.

4. **NEW BUSINESS**

A. **Void Claims Rule – Commissioner Stegemeier**

Commissioner Stegemeier asked if the commission should be considering emergency regulations to allow claims to be voided in the event that a claimed horse dies during a race or is euthanized on the track following a race.

Commissioner Stegemeier remarked: *"We are dealing right now with a lot of perception issues having to do with racing, and medications, and what the public thinks, and one of the realities is that we are having a lot of breakdowns and, according to the veterinarians a lot of horses running that are sore. That's the reality and it's probably going to be more of a problem as time goes on because there are fewer horses and there's a demand to get horses in races. I've noticed since coming on the commission that "buyer-beware" only applies to claiming races and politics. I've often wondered why someone would put in a claim for a horse and the horse stumbles coming out of the starting gate and dies and the owner gets the purse, if there's a purse, and the trainer who put the claim in gets a dead horse. And I was reading where New York has changed their claiming rule to be a little more compassionate, if you will."*

Commissioner Stegemeier then read into the record the DTRC claiming rule, DTRC # 13.12.1, as follows:

13.12.1 Claims are irrevocable except as otherwise provided for in these Rules. Title to a claimed horse shall be vested in the successful claimant from the time the said horse is a starter and said claimant shall then become the Owner of the horse, whether it be alive or dead, sound or unsound, or injured, during the race or after it. A claimed horse shall run in the interest of and for the account of the Owner from whom claimed.

On April 2, 2012, the New York State Racing and Wagering Board (NYSRWB) adopted an emergency rule that voids claims in the event that a claimed horse dies during a race or is euthanized on the track following a race. The emergency rule goes into effect immediately and will expire on June 30, 2012. The text of New York's emergency regulation is inserted below – the new emergency rule language is underlined.

4038.5. Requirements for claim; determination by stewards.

(a) All claims shall be in writing, sealed in an envelope and deposited in a locked box provided for this purpose by the racing secretary or his designee, at least 10 minutes before post time. Claim slip forms must be completely filled out and must, in the judgment of the stewards, be sufficiently accurate to identify the claim, otherwise the claim will be void. No money shall accompany the claim. Each person desiring to make a claim, unless he shall have such amount to his credit with the association, must first deposit with the association the whole amount of the claim, in a manner approved by the racing secretary or designee for which a receipt will be given. All claims shall be passed upon by the stewards, and the person determined at the closing time for claiming to have the right of claim shall become the owner of the horse when the start is effected, whether it be [alive or dead,] sound or unsound or injured before or during the race or after it, except that:

(i) the claim is voidable at the discretion of the new owner pursuant to the conditions stated in section 4038.18 of this subchapter unless the age or sex of such horse has been misrepresented, and subject to the provisions of subdivision (b) of this section; **and**

(ii) **a claim shall be void for any horse that dies during a race or is euthanized on the track following a race.**

In the event more than one person should enter a claim for the same horse, the disposition of the horse shall be decided by lot by the stewards. Any horse so claimed shall then be taken to the test barn for delivery to the claimant after the test sample is taken.

4. **NEW BUSINESS - continued**

A. **Void Claims Rule – Commissioner Stegemeier**

An open-discussion too place and included the following remarks noted below for future reference.

- Secretary/Commissioner Patterson reported that the national racing community has been discussing the issue. California has already instituted the rule and made an adjustment as to what injury constitutes a horse being put down, i.e. compound fracture. Therein lies the problem – who determines if the horse is to be euthanized. Soft tissue injuries probably shouldn't be. Perhaps we wait.
- 99% of the time the claim is subject to a vet's examination
- If the horse is vanned off the track
- Furosemide certainly an issue but close and gaining are corticoid steroids and shock wave therapy
- Years ago the DTHA board discussed and found claiming insurance covers the buyer. In Florida, the Florida Horsemen's Association will reimburse that owner up to \$15,000 if they claim a horse that is euthanized.
- Secretary/Commissioner Patterson – the other side of that is the insurance will protect the claimer however on the other side people are entering horses they shouldn't be.
- Mr. Mooney – Our stables that claim the most horses always have and continue to pay for testing on the claimed horse.
- Commissioner Decker – sounds pretty good initially – but sore horses are at issue. And as the horse population decreases the sore horses will increase. How do we overcome that and we should collect empirical evidence – isn't it incumbent upon us to examine that side of the issue
- Secretary/Commissioner Patterson – sore horses are run through shock-wave therapy – the Racing and Medication Testing Consortium (RMTTC) is working on developing bio-markers to test for shock-wave therapy The other problem is the corticoid steroids and people are injecting horses all the time that shouldn't be and the horses are basically running bone on bone which could end in catastrophic breakdown.
- Mr. Mooney – change must be throughout the Mid-Atlantic. Delaware Park is very dependent on area race tracks. And although we don't want to think about it, some people want to get rid of a horse and put it up for claim to do that.
- Chief State Steward Houghton – every horse euthanized here is tested
- Delaware Jockey's Association Director, Robert Colton – in favor of this – as a rider and as a representative of riders – he's ridden for owners/trainers who have bullied him saying whatever you do don't let this horse be scratched – it happened to him.
- Chief State Steward Houghton – heat stroke do we void the claim – unsaddles do we void the claim –
- Secretary/Commissioner Patterson – agreed let's see how this plays out in other states
- Commissioner Decker – New York has put it out there and that should tell us how to act
- Secretary/Commissioner Patterson – California has been doing it –
- Dr. Peters - our responsibility is to ensure the soundness of the horse. We don't want them to race if they can't come out of the race the same they went in. We do our very best to see them 5 to 6 times before they race and we do a pretty good job. The problem we have is when the horse appeared to us to be perfectly sound and they race and fall down and break a cannon bone.
- Commissioner Stegemeier remarked that we have a responsibility to maintain the integrity of racing and a responsibility to protect the horse. We have a responsibility to protect the health and welfare of the jockeys. I understand this is statistically a single digit percentage. From my perspective it's less of a concern for us to protect the buyer of the horse as much as it is our concern as to how we treat the betting public, how we treat the horses, and how we treat the jockeys.

4. **NEW BUSINESS – continued**

A. **Void Claims Rule – Commissioner Stegemeier**

- Secretary/Commissioner Patterson – in his opinion, responsibility to 5 different entities
 - horse 1
 - jockeys 2
 - betting public 3
 - owner trainer 4
 - association 5
- Chairman Daney – so what do we want to do?
- Commissioner Stegemeier – wanted to get it on the table and Secretary/Commissioner Patterson is on the front-end of all of this
- Commissioner Decker – wants a briefing on paper and have a debate on if the drug testing we do needs to be expanded. Those statistics may be indicative to any number of things. We should include in this a review of our drug testing regimen. Executive Director Wayne reported the information is available and he can get that information to the commission this afternoon. (*done*)
- Secretary/Commissioner Patterson – most breakdowns occur not because someone is doping the horse – he maintains that bad things do happen to good horses. The contributing factors is the increase in breakdowns is a combination of tired horses, violations of shock-wave therapy, and corticoid steroids, and then lastly (most rare) is someone using something like snake venom.
- Mr. Mooney – I learned from a North American leading jockey that all his injuries were on sound horses.
- DTHA President Locke – agrees with Patterson that bad things happen to good horses – and – people who are responsible for the care of the horse are the ones responsible for the horse
- Dr. Picciano – over the years she has scratched horses that are very obviously dropping in class because they are trying to get rid of the horse.

B. **2013 Contract Plan & Schedule – Secretary of Agriculture, Ed Kee**

Secretary Kee reported that planning is underway for facilitating the 2013 contract between the horsemen and Delaware Park. And, as promised, there are planned discussions that will be scheduled over the summer and fall with reference to the condition of the industry as it relates to Delaware.

To that end, although Mr. Vild and Mr. Mooney have not yet been consulted, the first meeting is scheduled for Tuesday, July 10, 2012. At that time we will bring a few people together to start the process and build an agenda.

- Commissioner Decker asked to be included in the process, and in his opinion, the rest of the commission should be included as well. Secretary Kee cautioned that the meeting laws within Delaware preclude the more than two (2) commissioners from meeting at one time. Commissioner Decker was of the opinion that any number of commissioners may gather for an educational meeting (*if not discussing racing business*).

C. **Analysis of Economic Impact– Secretary of Agriculture, Ed Kee**

Secretary Kee reported that an analysis of economic impact of the racing industry in Delaware is planned with the University of Delaware's agricultural economist.

D. **Meeting Facility – Secretary of Agriculture, Ed Kee**

Secretary Kee remarked that although meeting today in the first floor conference area of the horsemen's office was working out well, we need to find a different meeting room for the commission meetings. If that's at the White Clay Creek Country Club and a room charge is incurred then the Department of Agriculture will find a way to budget for that expense.

5. **REPORT FROM EXECUTIVE DIRECTOR**

A. **Summary of Activities Report**

Executive Director Wayne submitted his written report to the commission and read into the record the following statistics for the period May 1 through May 31, 2012. Report details included the following:

Total number of persons fingerprinted	50
Fingerprint fees collected during May (\$2,607.00) Total year-to-date	\$ 3,950.00
DTRC Licenses issued (May 1,022) Total year-to-date	2,512
Amount of fines collected (May \$2,850.00) Total year-to-date	\$ 2,950.00
License fees collected (May \$41,930.00) Total year-to-date	\$77,295.00
Contacts to Executive Director by other Commissions	14
ARCI National Surveys answered	9
National Background Investigations	6
National License Applications Reviewed	52
Out-of-Competition Tests Conducted	20
Human Drug and Breathalyzer Tests Conducted	7
DCTP Farm Verifications	1
Media Contacts	4
Inquiries from the Public	10
Total Number of Investigations Opened in May 2012	39

Executive Director Wayne also reported the following:

- Received a call from New York State Racing and Wagering Board Chairman, John Sabini requesting advice and guidance on security arrangements for the Belmont Stakes. Chairman Sabini was particularly interested in sequestering the horses for this show case event in a manner similar to the way the DTRC Executive Director handled security arrangements at Churchill Downs and Santa Anita while he was employed as their Director of Security. A substantial time was spent discussing what security procedures would be most effective with minimum inconvenience to the horsemen. The NYSR&WB forwarded media inquiries that they received to Mr. Wayne for comment. One reporter, Ms. Jennie Rees of the Louisville Courier Journal did contact Mr. Wayne and several quotes and information were furnished after gaining approval from the DDA information officer.
- During May, 2012, Mr. Vincent Moscarelli, the acting Program Director of the DCTP requested of Mr. Wayne to visit the Almosta Farm in Kent County and secure photographs. The farm was visited on 5/25/12 and photographs were taken and sent to Mr. Moscarelli per his request. The photos displayed a farm that appeared to be suitable for the stabling of horses.
- During the first week of June, 2012, the Commission received a letter dated June 6, 2012 from Congressional Committee members, U.S. Senator Tom Udall, New Mexico, U.S. Representative, Ed Whitfield, Kentucky, and U.S. Representative, Joe Pitts, Pennsylvania. The letter pertained to a national inquiry posed to racing jurisdictions about modifications to the Horse Racing Improvement Act of 2011 to ensure strict compliance and consumer protection regarding disciplinary sanctions against racing rule violators. A comprehensive letter in reply to the congressional inquiry was sent to the Committee members on June 13, 2012. A follow-up inquiry via telephone was received from Senator Udall's assistant wanting additional information regarding Delaware racing. That information was provided during the phone call.

B. Comparative Analysis

As requested by Commissioners, Executive Director Wayne ran a yearly comparative analysis for previous years through May 31 of each year, as follows:

	2011	2010	2009	2008
Persons Fingerprinted	63	198	306	103
DTRC Licenses Issued	3,238	3,500	3,032	2,306
Fines Collected	\$680	\$3,887	\$2,300	\$8,762
License Fees Collected	\$96,920	\$105,505	\$109,880	\$95,486

6. REPORT FROM CHIEF COMMISSION VETERINARIAN

A. Veterinary Health Statistical Report

Dr. Peters submitted the attached report that was prepared by Dr. Picciano.

During April and May 2012, Dr. Peters reported 4 horse fatalities. 1 due to pneumonia, 2 during racing and 1 while training. Dr. Peters reported 0 horse fatalities to-date in June 2012.

Dr. Peters commented that Delaware Park has done a nice job of redoing and refurbishing the race track and remarked that they (the veterinarians) are paying close attention to their jobs and will continue to do so.

B. Breakdown Information

DTHA President Locke inquired, of the horses that breakdown do the commission veterinary staff keep a record of whether it's a \$10,000 or \$20,000 claimer?

Dr. Picciano confirmed that their office does keep a database that includes that information.

C. Scratches

Commission Decker inquired about what seemed to be an increase in the number of scratches. Dr. Peters explained that scratches may be up a little but a scratch is based on an opinion and may just be because the horse rears up and hits its head in the paddock, gate or some other accident and may not necessarily be "pulled up lame."

7. REPORT FROM DELAWARE THOROUGHBRED HORSEMEN'S ASSOCIATION

A. Delaware Certified Thoroughbred Program (DCTP)

Executive Director Gruwell reported submitted the attached report for the period ending

8. PUBLIC COMMENT

Chairman Daney recognized the following public members in attendance.

Michael Vild, Esq., Delaware Park, Sr. Vice President of Racing/General Counsel: No report. Commissioner Decker inquired as to the handle. Executive Director Wayne reported that the comparison of handle on a per-diem basis is updated regularly and has been sent to the Commissioner periodically. The information is also reported when applicable in the Governor's Weekly Report that is submitted by the Department of Agriculture.

John E. Mooney, Delaware Park, Executive Director of Racing: The barns are not full and, although we have horsemen scheduled to come soon to Delaware Park, the barns won't be full. Mr. Mooney reported that, at best we'll have 1200 horses with a capacity of over 1400. Mr. Mooney talked to Churchill Downs and they reported empty stalls all the way to Chicago. Mr. Mooney remarked that some from Delaware Park have been lost to Monmouth where they don't require the insurance that we do. There have been more 2-year-old races this year than Mr. Mooney ever remembers.

9. EXECUTIVE SESSION

At 11:35 a.m., upon a motion duly made (Commissioner Decker) and seconded (Commissioner Killeen) the commission was moved into executive session to discuss matters relating to commission business and personnel.

At 12:10 p.m., upon a motion duly made (Commissioner Killeen) and seconded (Commissioner Stegemeier) the commission was returned to public session.

10. ADJOURN

At 12:15 p.m. Chairman Daney adjourned the meeting.

The commission will meet next on Wednesday, July 11, 2012, at 10:15 a.m.

DELAWARE PARK
2012 BREAKDOWN/INJURY STATISTICS

	May-12	Jun-12	Jul-12	Aug-12	Sep-12	Oct/Nov12	2011 total	2010 total	2009 total	2008 total	2007 total	2006 total	2005 total	2004 total	2003 total	2002 total
# STARTED THIS MONTH	656															
# STARTED TO DATE	656						7377	8177	8188	8460	8536	9318	10100	9967	10,184	10,962
Horses added to Vet's list	25						176	133	167	189	171	185	210			
Prerace scratches	8						69	51	44	80	53	76	90			
Gate scratches	7						20	27	35	27	37	27	31			
Pulled up/return lame	9						60	41	59	55	63	71	69			
Other	1						31	14	29	27	18	11	20			
Removed via ambulance																
racing	7						42	21	38	35	38	45	46			
training	1						9	16	10	8	6	10	6			
Total racing fatalities	2						20	14	14	16	11	12	15	10	17	18
M-S fatalities	2						19	12	13	15	10	9	15			
Sudden death/heart att	0						1	2	0	0	0	2	0			
Other							0	0	0	1	1	1	0			
*fatal M-S rac. Inj/1000 sts (*cumulative)	3.05						2.58	1.47	1.59	1.77	1.17	0.97	1.49	1	1.67	1.58
Total training fatalities	1						7	12	8	7	5	8	7			
M-S fatalities	1						7	10	8	6	5	7	6			
Sudden death/heart att	0						0	2	0	1	0	0	1			
Other							0	0	0	0	0	1	0			
Other deaths on site	1 (April)						9	12	7	3	5	8	9			
musculoskeletal injury								0	1 (pony)		0	2	2			
colic/colitis							2	4	2	0	1	3	1			
neurologic disease							2	1	0	0	2	0	0			
laminitis	1						3	3	3							
pleuropneumonia								1								
other							2	3	1	2	2	3	6			

6-A

C-A

Delaware Certified Bonus Monthly Balance

2012	Available Funds	June	July	Aug	Sept	Oct	Nov	Balance
	\$ 916,806.63	124,420.50						\$ 792,386.13

DELAWARE CERTIFIED THOROUGHBRED PROGRAM

Friday, June 01, 2012

2010	DCTP Applications	Foals	Yearlings	Totals
	Jan - Mar	0	15	15
	Apr - Jun	6	77	83
	Jul - Sept	25	110	135
	Oct - Dec	46	166	212
	Total Applications	77	368	445

2011	DCTP Applications	Foals	Yearlings	Totals
	Jan - Mar	0	31	31
	Apr - Jun	3	57	60
	Jul - Sept	9	63	72
	Oct - Dec	43	117	160
	Total Applications	55	268	323

2012	DCTP Applications	Foals	Yearlings	Totals
	Jan - Mar	0	25	25
	Apr - Jun	0	17	17
	Jul - Sept	0	0	0
	Oct - Dec	0	1	1
	Total Applications	0	43	43

Total DCTP Applications to date: 2948

2012 DCTP Horses of Racing Age: 2849

346 (2 yr. olds), 451 (3 yr. olds), 476 (4 yr. olds), 1576 (older horses),

Year	# of Starters	# of Starts	1st	2nd	3rd	15% DCTP Earnings	15% Certifier Awards	Total Annual Awards
2012	96	107	17	16	17	\$ 62,210.25	\$ 62,210.25	\$ 124,420.50
2011	414	1331	166	189	181	\$ 715,099.86	\$ 773,251.86	\$ 1,488,351.72
2010	364	1150	142	180	146	\$ 705,631.25	\$ 778,203.75	\$ 1,483,835.00
2009	287	922	105	120	121	\$ 511,810.00	\$ 584,382.50	\$ 1,096,193
2008	210	690	94	82	109	\$ 367,963.60	\$ 433,265.20	\$ 801,229
2007	271	608	90	87	102	\$ 331,809	\$ 355,609	\$ 687,418
2006	139	476	68	61	72	\$ 201,286.80	\$ 214,936.80	\$ 416,224
2005	99	366	52	49	53	\$ 179,690.00	\$ 193,340.00	\$ 373,030
2004*	56	134	20	19	19	\$ 44,947.00	\$ 44,947.00	\$ 89,894
2003*	9	17	7	3	2	\$ 13,505.00	\$ 13,505.00	\$ 27,010
						Total DCTP	\$6,587,604.12	

- * DCTP owners and certifiers received 10% each bonuses in 2003 & 2004
- * DCTP owners and certifiers received 15% each bonuses in 2005 thru May 2008
- * DCTP owners and certifiers received 20% each bonuses beginning June 1, 2008
- * DCTP owners and certifiers received 25% each bonuses beginning April 25, 2009
- * DCTP owners and certifiers received 20% each bonuses beginning April 30, 2011
- * DCTP owners and certifiers received 15% each bonuses beginning May 12, 2012

7-A