MINUTES OF THE
ANNUAL MEETING OF THE
STRUCTURAL PEST CONTROL BOARD
October 20, 2006

The meeting was held on Friday, October 20, 2006, at the Sportsmen's Lodge Hotel, 12825 Ventura Blvd., Studio City, California, commencing at 9:11 AM with the following members constituting a quorum:

Jean Melton, President
Mustapha Sesay, Vice President
Terrel Ferreira
Bill Morris

Board member Cris Arzate was absent.

Board staff present:

Kelli Okuma, Executive Officer
Susan Saylor, Assistant Executive Officer
Carl Smitley, Enforcement Coordinator
Ryan Vaughn, Administration Analyst

Departmental staff present:

Kurt Heppler, Legal Counsel
Donald Chang, Legal Counsel

Board Liaison Deputy Attorney General Christina Thomas was also in attendance.

Ms. Okuma administered the oath to appoint Board member Terrel Ferreira.

I. ROLL CALL

Ms. Saylor read the roll call.

III. FLAG SALUTE

Ms. Okuma led everyone in the flag salute.

IV. APPROVAL OF MINUTES OF THE APRIL 21, 2006, AND JULY 20 AND 21, 2006, BOARD MEETINGS

Mr. Sesay moved and Ms. Ferreira seconded to approve the minutes of the April 21, 2006, Board meeting. Passed unanimously.

Mr. Sesay moved and Mr. Morris seconded to approve the minutes of the July 20 and 21, 2006, Board meeting. Passed unanimously.

V. EXECUTIVE OFFICER'S REPORT

Ms. Okuma reported on the following:

- The move date for the Board's office has been set for September 2007. The new location is approximately one mile from the current office. The building is easily accessible with free parking and is next to a Regional Transit station. The public will check in at a front desk, and the Board's office notified of a visitor.
- Ms. Melton and Ms. Okuma attended the Association of Structural Pest Control Regulatory Officials (ASPCRO) Annual Meeting in August in New Orleans. A request had been made for both to attend, however the Board received approval for only one person to attend. Ms. Melton attended at her own expense. The meeting was very informative and examined the 1-year aftermath of Hurricane Katrina as well as the termite damage in the area.
- There was a Board specialist meeting in September. Carl Smitley has been working on current working procedures for the Board's specialists and these procedures were reviewed at the meeting.
- In October, Ms. Okuma accompanied a specialist in southern California while the specialist inspected homes, responded to consumer complaints, and performed office record checks. Ms. Okuma will accompany each Specialist on a rotating basis while performing their daily tasks.
- Governor Schwarzenegger held a Board Member Appreciation Day on October 3rd to which Mr. Sesay attended.
- Former Board staff member Dennis Patzer is retiring from state service but will be returning to the Board as a retired annuitant in January 2007, as a Special Projects Analyst.

Ms. Saylor reported on the following:

- Licensing statistics and survey results were reviewed with the Board members.

II. REINSTATEMENT HEARING

The Board sat with Administrative Law Judge Joseph Montoya and Deputy Attorney General Christina Thomas to hear the Petition for Reinstatement of Michael William Goettig, Field Representative's License No. FR 34916. The petitioner was informed that he would be notified by mail of the Board's decision.

V. EXECUTIVE OFFICER'S REPORT continued

Ms. Saylor reported on the following:

- Ms. Saylor handed out documents summarizing recent regulation changes. Applicators will now be required to pay a license and renewal fee of $10 and these fees will be effective January 1, 2007. Any Applicator that renews after their expiration date will be subject to a $5 delinquent fee. Applicators that renew on or after January 1, 2009 will be required to complete 12 hours of continuing education for renewal. The Board is working on revising the approved continuing education course list and will compile a separate list to identify courses acceptable for Applicator renewal.
- To offset the revenue gained from the Applicators fees, the Board has decreased the license and renewal fee for Operators from $150 to $120. This change was effective September 25, 2006.
- Steve Thomason, the Board's Office Services Supervisor has been out on disability since January 2006, and will be out until at least July 1, 2007. The vacant position will be filled on December 1, 2006 on a temporary basis.
- A new Staff Services Analyst position has been filled in the Administration unit. Carolyn Albers, formerly a half-time analyst, has accepted the position as Criminal History Analyst. Nancy Gaytan is now working fulltime as the Board's Enforcement Analyst.
- The examination desk has been vacant since Ryan Vaughn was promoted to the Regulation Analyst position. This Office Technician position is currently being advertised and should be filled within a few weeks.
- Kim Weitnauer has been hired as an Office Assistant in the Licensing Unit.

Mr. Morris asked if the Board would be fully staffed when the positions are filled.

Ms. Okuma responded that these are the only vacant positions and that the Board is optimistic that the positions will be filled shortly.

Ms. Okuma reported on the following:

- Complaint survey results were reviewed with the Board members.
- Assembly Bill 87 was approved by the Governor which exempted Department of Pesticide Regulation and Structural Pest Control Board licensees from obtaining a license with the Department of Fish and Game.

- Assembly Bill 2247, which would have imposed a time restriction on San Diego County for assessing civil penalties did not pass.
- Assembly Bill 2098 was approved which established an electronic funds transfer task force, to study the ability to allow state agencies to accept credit card payments.
- Assembly Bill 2591 was approved which will require state agencies to provide reports on accounts that have outstanding funds owed.
- Senate Bill 230 was approved which removed the sunset dates for the Structural Fumigation Enforcement program.

VI. RECOMMENDATION TO RELEASE RESEARCH GRANT FUNDS

Ms. Saylor reported that in 2005, $850,000 was available for research grants. Four projects were approved, three of which are currently being conducted. The fourth research project is waiting for UC Berkley's review and approval of the research contract. It is projected that by the end of fiscal year 2008, the Board will have $500,000 available for additional research. Since the Department's review and processing time is approximately one year for research projects, it would be beneficial to start the process now.

Ms. Okuma indicated that the process could begin in one of two ways. One option would be for the Board to nominate a panel consisting of two representatives from the pest control industry, one representative from DPR, one representative from the University of California, and one Board member. The panel could meet and make recommendations on areas of research to advertise for request for proposals. Another option is to have staff release a generic request for research proposals. There would still be a need for a panel but involvement would begin after the request for research proposals had been prepared and released.

Mr. Morris recommended that a panel be nominated however he suggested that the Board use caution when nominating the panel members. Mr. Morris cited past panels in which the representatives withdrew from the panel because of conflicts of interest.

Ms. Okuma suggested that it might be premature to nominate panel members before a subject matter has been agreed upon.

Mr. Morris recommended that the issue of nominating panel members be taken up at the next Board meeting in hopes that there might be additional Board members present.

John Van Hooser suggested using the research funds for a research center and training facility. Mr. Van Hooser added that the Pest Control Operators of California (PCOC) would like to be involved and that the University of California Berkeley has

indicated that there might be land available for such a facility. It would be a site where pest control companies could send their employees for training.

Harvey Logan, PCOC, concurred Mr. Van Hooser's suggestion. He mentioned that Louisiana, Washington, and Georgia all have such facilities and he believed that it would be an outstanding opportunity to benefit the whole industry. Mr. Logan suggested that the available Board research funds could act as seed money and he felt confident that PCOC could also generate some funds for the project.

Gail Getty, UC Berkeley, stated that Dr. Lewis's lab has already started a business plan and received a commitment from the Dean's office to provide the necessary land needed for the facility. The lab hopes to collaborate with PCOC as well as other organizations to provide hands-on continuing education.

Larry Musgrove, Western Exterminator Company, agreed that the facility would be a good idea however much of the pest control industry is located in southern California.

Ms. Getty suggested a possible collaboration with a University of California campus in southern California that would provide a southern facility.

Mr. Morris asked what the yearly cost would be to operate such a facility and who would be responsible for the building and insurance.

Ms. Getty responded that these are pre-mature questions at this point. UC Berkeley is committed however that it will be a collaboration with various organizations. It will depend on the industry's support for such a facility.

Mr. Van Hooser suggested that a panel be put together with representatives from UC Berkeley, PCOC, and the Board so that these questions can be answered.

Ms. Melton suggested that Board staff meet with Legal Counsel to ascertain if research funds could be so expended.

Mr. Heppler cited Business & Professions Code statute 8674(t) in which it states that funds are to be used only for structural pest control research, not for use in building a research facility. If the Board did decide to use the funds for the project, it would be hampered by the statute.

Mr. Van Hooser suggested that if the Board did wish to proceed, the statute could be changed to allow the project.

Mr. Chang recommended that the proposal for a research facility be added to the agenda for the next Board meeting. He requested clarification on what action the Board had decided on for the releasing of the research project grants.

Ms. Okuma responded that the issue of the current funds will have to wait until the next Board meeting to allow the Board to determine if it will support legislation that would allow the funds to be used for something other than structural pest control research.

Mr. Sesay moved and Mr. Morris seconded to continue the discussion to the next Board meeting. Passed unanimously.

VII. ANNUAL REVIEW OF BOARD PROCEDURES

Ms. Okuma suggested amending procedure G-4, election of officers. Current procedure indicates that election of officers will be conducted at the meeting preceding the October Board meeting and the officers will take office at the meeting following the October Board meeting. This procedure is causing confusion with officers being elected six months before taking office. The proposed amendment would hold the election of officers at the annual Board meeting in October and the newly elected officers would serve starting at the following Board meeting.

Mr. Morris moved and Ms. Ferreira seconded to approve the proposed amendment. Passed unanimously.

VIII. STRATEGIC PLAN UPDATE

Ms. Okuma reported that the last Strategic Plan had not been adopted. Since there had been some concerns about the Board's mission/vision statement it was decided that the Board would meet with a facilitator from the Department of Consumer Affairs. Ms. Okuma has been in contact with the Department and there are no facilitators available. Ms. Okuma requested that the Board schedule a Strategic Planning Meeting and if a facilitator was necessary.

Mr. Morris believed that staff could act as facilitator and recommended meeting as soon as possible.

Ms. Okuma said she would be in contact with the Board members in order to set a date for the Strategic Planning Meeting.

IX. RECOMMENDATION TO AMEND THE OCCUPANT'S FUMIGATION NOTICE TO INCLUDE STATEMENT REGARDING OCCUPANT'S AWARENESS OF CONDUITS

Ms. Okuma reported that a fumigation death several years ago that was caused by gases passing to a neighboring structure through conduits resulted in the Board attempting to update it's regulations to prevent a future accident. The Board

ultimately adopted an amendment to section 1970 which required the fumigation log to include any construction elements that may allow fumigants to pass to another structure. The regulation requires inspectors to identify conduits, drains, vacuum systems, or any other construction elements and to note these construction elements in the fumigation log. The Board also adopted section 1970.6, which states that prior to the process of fumigation, all single units and rooms within the entire structure must be vacated. When recommending a fumigation, the private contractor for the fumigation shall inquire about and inspect for any of the construction elements that would permit gas to pass to neighboring structures. The individual performing the fumigation must also ask about and inspect the structures prior to fumigating. In the Board's last published laws and regulations from 2001, the Occupant Fumigation Notice (OFN) is incorrect in that it includes information regarding connecting structures. The published document was not the correct version of the OFN that the Board adopted.

Lee Whitmore, Beneficial Exterminating, offered that having the conduit section on the OFN would eliminate the necessity of having a supplemental document to report the presence of conduits. Mr. Whitmore would like the version of the OFN that was published, which included the question regarding conduits, to be approved by the Board.

Ms. Okuma asked if the Board wanted staff to pursue a public hearing to amend the OFN.

Mr. Morris responded the issue appears to be a safety issue and he would recommend that the Board pursue a regulation amendment to the OFN.

Darrel Ennes, Terminix, asked that if the OFN was updated to include the conduit language, would it be illegal to continue using a supplemental document for the presence of conduits.

Mr. Chang added that it would be possible to amend the regulation to require the conduit disclosure either on the OFN or on a separate document.

Mr. Ennes requested that if the Board is going to update the OFN, he would like to see references to specific products changed to sulfuryl fluoride.

Ms. Okuma requested that there be a motion for a notice of public hearing which will either amend the OFN or to require as a separate addendum, information regarding the connecting structures. At the same time the Board will update the forms and regulation as it addresses specifically Vikane versus sulfuryl fluoride.

Mr. Morris moved and Ms. Ferreira seconded to approve the motion for the notice of public hearing. Passed unanimously.

The Board recessed at 11:42 AM and resumed at 12:00 PM

X. LAWS AND REGULATIONS COMMITTEE RECOMMENDATIONS FOR STRUCTURAL PEST CONTROL ACT REORGANIZATION

Mr. Musgrove reported that the Laws and Regulations Committee met recently and it was determined that the committee was trying to accomplish too much at one time. The committee decided that a smaller scale update with immediate changes would be easier for the industry to process. These proposed changes will be brought to the Board at the January Board meeting.

Ms. Okuma introduced Kurt Floren and Bob Adkins, representing the Los Angeles and San Diego County Agricultural Commissioners Offices.

XI. PROPOSAL TO RESTRICT THE NUMBER OF REGISTERED COMPANIES A QUALIFYING MANAGER MAY QUALIFY

Ms. Okuma reported that the process for becoming a qualifying manager was different a few decades ago. Once an applicant took and passed the operator examination, he/she applied for the license as an individual (John Doe) or he/she applied for the license as a company (John Doe's Pest Control). The applicant would be working as the qualifying manager under the company's license. If the individual wanted to have multiple companies, he/she could have DBA's off the main company license. That was the only circumstance in which an individual could qualify multiple companies. The law changed requiring companies to be issued company registrations. As a result, more often than not, the owner is no longer the qualifying manager. There is nothing currently in the laws and regulations to prohibit an operator from qualifying multiple companies, however, much of the Board's enforcement resources are being used to investigate multiple companies that have the same qualifying manager and that are owned by non-licensees or non-operators, and do not have a qualifying manager present or available to supervise the daily business functions. The Board members were provided printouts of internet advertisements where individual operators are offering to rent their license to multiple companies to act as qualifying managers. An individual posted one advertisement three weeks before he was issued his operator's license. Another ad came from an individual who qualified seven different companies in the last thirteen years. Three of the companies were owned by non-licensees and were responsible for significant consumer complaints as well as significant enforcement resources. One of the companies was ultimately revoked. One ad came from an individual who qualified eight companies in the last three years with one company located two hundred miles from his residence. Mr. Heppler indicated that the Contractors State License Board has a limit of three companies that a licensee can qualify.
Ms. Okuma asked if the Board would entertain a similar limit for the Board's operators.

Mr. Van Hooser offered that he believed that 8569 and 8570 contain language that prohibited an individual from qualifying multiple companies.

Ms. Okuma reported that 8569 and 8570 were the subject of previous discussions and it was determined that there is no limitation on the number of companies an individual can qualify.

Mr. Heppler asked the Board if they would like Legal Counsel to examine the statutes.

Mr. Sesay moved and Ms. Ferreira seconded to direct Legal Counsel to research the Board's laws and regulations and make recommendations to the Board at the next meeting. Passed unanimously.

XII. WATER QUALITY COMMITTEE UPDATE AND RECOMMENDATIONS

Ms. Okuma reported that the Water Quality Committee had met and are currently formulating their recommendations into a written proposal, which will be presented at the January Board meeting.

XIII. BOARD MEETING CALENDAR

The next Board meeting will be held on January 18th and 19th in Napa. The following meeting will be held April 19th and 20th in San Diego.

XIV. ELECTION OF OFFICERS

Ms. Okuma asked for nominations for the office of President.

Mr. Morris nominated Jean Melton for president of the Structural Pest Control Board.

Passed unanimously.

Ms. Okuma asked for nominations for the office of Vice President.

Ms. Melton nominated Mustapha Sesay for vice president of the Structural Pest Control Board.

Passed unanimously.

XV. PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA

Mr. Van Hooser asked if the Board is enforcing 8519.5, which states that a Branch 1 company performing a fumigation shall provide the certification of fumigation to the Branch 3 company that made the inspection within five working days.

Ms. Okuma responded that without the Board being notified, there is no way for the Board to determine a violation. She asked Mr. Van Hooser to report the cases to the Board.

Patrick Clark, Clark Pest Control, asked why the Board amended the regulation 1918 which removed the Board's authority to deny confusingly similar name styles for companies.

Ms. Okuma responded that when the Board did have the authority, there were often disputes to the Board's denial of a company name, or an existing company complained that a name was approved that they felt was confusingly similar. The Board ultimately decided that it was not in a position to regulate name styles and that there are legal remedies for a company if a company wished to protect its name style.

Lee Whitmore, Beneficial Exterminating, stated his concern with the advertising practices of orange oil treatments, which claim to be as effective as other products on the market in treating for termites. Mr. Whitmore has filed a complaint and it is being processed. One advertisement claims that the orange oil treatment kills all termites and their eggs on contact. Mr. Whitmore has spoken with Ms. Okuma about this issue and there have been several complaints from consumers concerning the treatment and the guarantees that the advertisements promise. Mr. Whitmore recalled that a few years back there was a similar product that used unsubstantiated evidence in their advertisements and the Board took an active approach and provided training at PCOC meetings to distinguish what would be considered false and misleading advertisement. He requests that the Board take a similar role with the advertisements for the orange oil treatment.

Ms. Boyle, Department of Pesticide Regulations (DPR), reported that there is a list of exempt products with DPR and the County Agricultural Offices, and products that use citric acid are on the list. In some cases other pesticides are added to the orange oil treatment and the mixed product might allow further investigation by DPR.

Ms. Getty, UC Berkeley, reported that there has been a huge increase in the number of calls the university is receiving about the orange oil treatment. The calls mostly concern the claims that the advertisements provide and whether or not the claims are accurate.

Rick McKenzie, Great Western Termite Control, reported that his company has also received numerous calls concerning the product.

Michael Katz, Western Exterminator Company, commented that the Environmental Protection Agency is considering registering all products that are currently listed as exempt.

Mr. Morris wished to express his appreciation for the presence and input of Larry Musgrove, Western Exterminator Company, who will soon be retiring.

Ms. Melton reported that Mr. Logan, PCOC, will be retiring in June of 2007.

XVI. CLOSED SESSION

The Board adjourned to closed session at 12:37 P.M. to consider proposed disciplinary actions in accordance with subdivision (d)(3) of Section 11126 of the Government Code.

Ms. Melton adjourned the meeting at 1:24 P.M.

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JEAN MELTON, President KELLI OKUMA, Executive Officer

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DATE