MINUTES OF THE
SPECIAL MEETING OF THE
STRUCTURAL PEST CONTROL BOARD
January 16 and 17, 2013

The meeting was held on Wednesday and Thursday, January 16 and 17, 2013, in the Hearing Room located at 2005 Evergreen Street in Sacramento, commencing at 9:05 A.M. with the following members constituting a quorum:

Curtis Good, President
David Tamayo, Vice President
Cliff Utley
Marisa Quiroz
Mike Duran
Naresh Duggal

Board staff present:

Susan Saylor, Interim Executive Officer
Robert Lucas, Consumer Services Manager
Ronni O'Flaherty, Staff Services Analyst
Ed Ackerman, Board Specialist
Melissa Sowers-Roberts, Disciplinary Action Analyst
Tom Ineichen, Board Specialist

Departmental staff present:

Jodi Clary, Legal Counsel
Jim Shattuck, Environmental Program Manager
Kathy Boyle, Enforcement Program Specialist

Board Liaison, Deputy Attorney General, Langston Edwards was also in attendance.

PETITON FOR REINSTATEMENT

Administrative Law Judge Marilyn A. Woolard sat with the Board to hear the Petition for Reinstatement for David Barry Yarrish, Field Representative License No. 11359 and Operator License No. 10262. The petitioners were informed that they would be would notified by mail of the Board's decision.

Petitioner Abel Villasenor did not appear to petition for reinstatement.

ROLL CALL

Ms. Saylor read roll call. Ms. Brand was not present.

FLAG SALUTE

Mr. Good led everyone in the flag salute.

APPROVAL OF MINUTES FORM THE OCTOBER 24 AND 25, 2012 BOARD MEETING

Ms. Saylor asked that the closed minutes from the October Board meeting be revised to reflect that Ms. Clary was present.

> Mr. Utley moved and Mr. Tamayo seconded to approve the minutes of the October 24 and 25, 2012 Board meeting with Ms. Saylor's correction. Passed unanimously.

DEPARTMENT OF PESTICIDE REGULATION UPDATE

Ms. Boyle reported on the following:

- The filing of Pesticide Use Reports (PUR) for structural applications requires companies to apply a stamp to the PUR for submittal to the County Agricultural Commissioner (CAC). With the CalAg Permit System, the PUR can be filed electronically, but it needs to be determined how to best report the stamp number as well as the legalities surrounding the stamp number being reported online. For the time being, the stamp numbers being reported are being checked against each other to make sure the stamp numbers are not being used more than once.

Mr. Duggal stated that there needs to be a meeting with DPR, the CACs and the Board to make the filing process of PURs consistent throughout all of the counties.

Ms. Boyle recommended that DPR staff meet with Ms. Saylor and the IT developers of the CalAg Permit System to address any questions.

- Beginning January 1, 2013, the online fling of PUR requires companies to report the number of applications per pesticide being used each month.

- The California Aeration Plan is undergoing revisions. One of the key changes will be regarding the number of inlets and their sizes. The new CAP should be released this spring. Once released, CAP training will be provided throughout the state to help fumigators learn and abide by the new plan.

- DPR is working with the Board regarding CAC Structural Regulatory Training. Generally, this training is held in both Northern and Southern California, but this year the CAP training may take the place of the CAC Structural Regulatory Training.

- The Pyrethroid Working Group has been working with a number of individuals in the structural industry to prepare training videos highlighting the components of the regulations dealing with surface water issues. There is a link to YouTube on DPR's website that will route interested parties to these videos.

- DPR has funded two projects regarding surface water. One is specifically for Pest Management Professionals to develop an educational program to educate and train them to reduce the use of pyrethroids in child day care centers. The second project is targeting Spanish speaking landscapers in Southern California with the intent to educate them and reduce any potential surface water run-off. There are several surface water run-off studies being conducted by DPR as well. Updates can be found on DPR's website.

- USEPA is requiring label changes to rodenticides. DPR is reviewing second generation rodenticides and it is possible that these rodenticides will be classified as California Restricted Materials (CRM). This will require Applicators to be certified, have a restricted materials permit, and notify the CAC before applying such rodenticides. Field Representatives and Operators are certified and are exempt from needing a CRM Permit and from having to notify the CAC. A Field Representative would be required to supervise an Applicator who is not certified and does not have a CRM Permit. For those structural licensees who also hold DPR licenses, they would need to possess a Qualified Applicators License (QAL) and would have to get a CRM Permit, and notify counties before applications. As a QAL they are certified to supervise employees who would be using such materials.

DEPARTMENT OF CONSUMER AFFAIRS UPDATE REGARDING TRANSITION OF SPCB TO DCA

Ms. Saylor reported that there was a transitional meeting among the Chief Deputy Directors of both departments on December 11, 2012. Teams have been established in both departments and meetings will be ongoing until the transition on July 1, 2013.

FINAL REPORT ON RESEARCH PROJECT "BEDBUG DETECTION USING AIRBORNE PHEROMONE CUES"

Dr. Neil Tsutsui made a final report and Power Point presentation on the research project "Bedbug Detection Using Airborne Pheromone Cues". He stated that he is in the process of finalizing the manuscripts and the information is not yet published. He will submit his final report to the Board.

Dr. Venard Lewis stated that the University asked all four bed bug researchers to submit a manuscript to California Agriculture, which is in review and should be available by the second or third quarter of the year.

EXECUTIVE OFFICER'S REPORT

Ms. Saylor reported on the following:

- Licensing Survey results were reviewed with the Board members.
- WDO statistics were reviewed with the Board members.
- Research projects funded by the Board summaries were reviewed with the Board members.

Mr. Good expressed concern with the licensing survey results in regards to phone calls being returned in a timely manner.

Ms. Saylor stated that she was concerned with the high percentage of people who were surveyed indicating that their calls were not promptly returned and added that she has spoken with the Licensing Unit Supervisor in these regards.

Mr. Good expressed concern with the licensing survey results in regards to the increasing passing rate of Field Representative examinees.

Ms. Saylor responded that this is an area that she is diligently looking into.

Mr. Good stated that the Wood Destroying Organisms (WDO) filings are down again. He asked Ms. Saylor if staff is still monitoring the filings of each company.

Ms. Saylor replied that staff is very aggressively auditing and monitoring companies in regard to WDO filings.

Mr. Utley commented that the housing market is going back down, which will explain the decrease in WDO filings. He added that people buying a house no longer have to have a WDO report.

- Karen Costley retired after 30 years with the Board and will be greatly missed. Interviews were conducted to fill her position and the new staff person will start on January 28, 2013.
- Elizabeth Chervenak had her baby and will be out on maternity leave until mid-March.
- Kristina Jackson-Duran will go on maternity leave next week and return sometime in April.

Mr. Lucas reviewed the Complaint Handling Survey with the Board members.

Mr. Tamayo commented that he will miss Karen as she was very helpful and diligent.

Mr. Whitmore asked who will take over Karen's duties.

Ms. Saylor responded that Kristina and Ronni will take over Karen's duties until the person hired to fill her position starts.

BOND AND INSURANCE REQUIREMENTS – RECOMMENDATION FROM ACT REVIEW COMMITTEE TO INCREASE MINIMUM REQUIREMENTS AND ELIMINATE OPTION TO POST A CASH DEPOSIT IN LIEU OF INSUANCE OR BOND

Bob Gordon, Chairman of the Structural Pest Control Act Review Committee (SPCARC) stated that it is the Committee's recommendation to increase the bond requirement from $4,000 to $12,500. He added that he brought this recommendation in front of the Pest Control Operators of California (PCOC) Board of Directors, who agreed that they are in favor of the proposed change. He also reported that the SPCARC recommends to the Board that the insurance requirement should be increased from $25,000 to $500,000; which was also endorsed by PCOC Board of Directors. Finally, Mr. Gordon recommended to the Board on behalf of the SPCARC to no longer allow cash deposits (CDs) in lieu of the bond or insurance requirements.

Mr. Good asked Mr. Gordon to introduce the committee.

Mr. Gordon introduced the SPCARC as follows: Darrell Ennes, Terminix International; Allen Kanady, Omega Termite Control; Mike Katz, Western Exterminator Company; Lee Whitmore, Beneficial Exterminating. He stated that he and Mr. Whitmore are representing Southern California, Mr. Kanady is representing the Northern California, and Mr. Ennes and Mr. Katz have larger pest control companies that are spread throughout the state. He stated that the committee is well diversified among small and large companies, and includes licensees from each branch. He added that Board Member Ronna Brand is also on the committee as both a public member and a representative from California Association of Realtors (CAR) and Mr. Good has also been in attendance at all of the committee meetings. He added that Ms. Saylor and Ms. O'Flaherty as well as a board specialist, either Tom Ineichen or Ron Moss have attended each meeting. He added that either Peggy Byerly or Kathy Boyle have represented DPR at each meeting and Sherlan Neblett from the Los Angeles CAC has also attended most meetings.

Mr. Utley asked Mr. Gordon if he was met with any resistance regarding the recommendation of the committee to no longer allow CDs in lieu of a bond when he presented it in front of PCOC Board of Directors.

Mr. Gordon responded that there was no resistance to this recommendation from the PCOC Board of Directors.

Joanna Gin, Assembly Business, Professions, and Consumer Protection Committee, asked how many companies have a CD in lieu of insurance.

Mr. Gordon responded that there are approximately 2,600 registered companies in California, and only six of them currently are operating with a cash deposit in lieu of an insurance policy.

Ms. Gin asked if there have been any issues with the six companies who have CDs in lieu of an insurance policy.

Ms. Saylor stated that there are none that she is aware of.

Mr. Whitmore stated that his company was unable to collect on a CD that was on file in lieu of a bond after another company failed to honor a contract with his company; and that company was able to cash out the deposit before they went out of business.

Mr. Good stated that he would like to address each recommendation separately.

> Mr. Good moved and Mr. Utley seconded to move forward with the SPCARC's recommendation to no longer allow CDs in lieu of an insurance policy.

Mr. Tamayo asked if it was preferable for the Board to vote on the exact language or the concept of the proposed changes.

Ms. Gin responded that it can work either way, but it is preferable to vote on the concept because there may be additional changes that the Legislature may want to make.

Martyn Hopper, PCOC, stated that any legislation that passes will not go into effect until January of the following year.

Ms. Gin stated that if there are concerns with companies not being able to comply with the changes, that the Board can add a provision for delayed implementation.

Ms. Saylor stated that staff can reach out to the few companies with CDs in lieu of insurance policies to give them time to comply with changes.

Mr. Katz asked how many companies have a CD in lieu of a bond.

Ms. O'Flaherty stated that she would get this information.

Steven McLean, Chief of Legislative Office for CalFire, recommended that the Board seek legislation that allows for the Board to change the bond and insurance requirements via regulation.

Ms. Saylor stated that there are approximately 60 CDs posted by companies in lieu of a bond.

> The motion passed unanimously.
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> Mr. Good moved and Mr. Tamayo seconded to move forward with the SPCARC's recommendation to no longer allow CDs in lieu of a bond. Passed unanimously.
>
> Mr. Good moved and Mr. Tamayo seconded to move forward with the SPCARC's recommendation to increase the bond requirement from $4,000 to $12,500.

Larry Sharp, PCOC, stated that he was opposed to increasing the bond requirement because the cost would make smaller companies struggle. He asked if any consumers have been harmed or not made whole by the lesser bond requirement.

Ms. Saylor stated that she does not have exact statistics, but is confident that it happens quite frequently, especially when the Board receives numerous consumer complaints about one bad company. She added that if more than one consumer files

against a bond, the bond only has $4,000 and that doesn't go far with the cost of repairs.

Mr. Good stated that he sees a lot of cases in which the consumer is not made whole.

Mr. Gordon stated that he currently pays $200 for a three year, $4,000 bond and he met with his insurance broker who quoted him $295 if the bond amount increased to $12,500. He added that for a company who has bad credit, the increase in cost for a higher bond will be significantly more. He stated that someone with bad credit who is currently paying about $800 for a three year, $4,000 bond, would probably pay $1,200 to $1,400 for a three year, $12,500 bond.

Mr. Sharp asked if a company held both a Contractor's State Licensing Board (CSLB) license as well as a pest control license if they could obtain one bond to cover both licensing requirements.

Mr. Utley replied that one bond would not cover both licenses. He asked Mr. Sharp what the CSLB bond requirement is.

Mr. Sharp responded that the CSLB requires a $12,500 bond.

Bill Gaither, Pest Control Operator, commented that California SPCB bond requirements may be the lowest of the surveyed states because other state's requirements may not be fixed by legislation and can be raised by the overseeing agency rather than go through a due process. He added that PCOC represents less than 1000 companies in California. He stated that when this issue was brought in front of PCOC Board of Directors, it was met with opposition and it was not a unanimous decision to support the increase. He asked if there were any instances where one consumer filing against a bond is not made whole after being given the $4,000 from the company's bond.

Ms. Saylor stated that she is sure that it has happened on more than one occasion.

Mr. Gaither stated that he wants facts.

Mr. Good stated that at numerous hearings and in several cases that he has dealt with, the damages were well over $4,000. He added that in some cases several consumers are lined up to go against one company's bond while at the same time the Board is taking licensing action.

Mr. Gaither stated that he has seen similar cases but going after the bond is the last resort after all insurance policies have been exhausted.

Mr. Ineichen stated that the main point of the bond is to allow the consumer to have something to go after once a company has closed or has been revoked. He added that there are many instances where the consumer is damaged in excess of $4,000.

Mr. Gordon stated that a bond does not cover $4,000 per incident or per consumer; it is $4,000 in total.

Mr. Gaither stated that he wants proof that $4,000 is not sufficient.

Mr. Whitmore stated that he is all for increasing the bond requirement as California has the lowest bond requirement in the country and too many consumers cannot be made whole by $4,000.

Mr. Tamayo stated that this, as well as all committee meetings, are open meetings and everyone is welcome to attend and speak their opinions. He added that he understands where the request for proof is coming from, but by hearing the testimony in the room it is obvious that consumers are being damaged by the low $4,000 bond requirement. He added that there is a deadline and he would like to move forward with this issue and will be discussed again in front of the Legislature.

Harold Matson, Chairman of the PCOC Vintage Coastal District, stated that his district met and had conversations with Michael Glauser, a representative from the PCOC Insurance Group. He stated that because of the poor economy, people's credit scores are decreasing and an increase in the bond requirement can cost some companies four to five thousand dollars. He added that his district voted to oppose this increase.

Steve Scoville, Pest Control Center, suggested that the Board make separate motions for the bond and insurance increases.

Mr. Ineichen stated that insurance policies exclude fraud, so when a consumer is fraudulently damaged, an insurance policy does nothing, which is another reason a bond is required.

Mr. Katz stated that it is not about the cost of the bond, but the protection of the consumer.

Mr. Duran stated that at the previous meeting he was opposed to increasing the bond requirement because of the financial stress it could put on his company. He stated that since then, he has had time to think about the reality of whether or not $4,000 protects his customers. He commented that some homes in California are worth millions of dollars and one little mistake can easily cost $4,000. He added that he is in favor of the increase, and that the additional cost to his company is a good investment for the industry and the people of the state of California.

The motion passed unanimously.

Mr. Utley moved and Mr. Duggal seconded to move forward with the SPCARC's recommendation to increase the insurance requirement from $25,000 to $500,000. Passed unanimously.

Mr. Gordon stated that in addition to raising the bond requirement, the SPCARC recommends that the restoration bond requirement is also increased from $8000 to $25,000, being consistent with the maximum amount being double what the original bond requirement is set at.

Ms. Clary suggested that the Board recommends to not allow a CD for the purpose of satisfying the restoration bond.

Mr. Utley moved and Mr. Duran seconded to move forward with the SPCARC's recommendation to increase the restoration bond maximum amount from $8,000 to $25,000 and to not allow CDs in lieu of this restoration bond. Passed unanimously.

Mr. Utley moved and Mr. Good seconded to move forward with the SPCARC's recommendation to strike Section 8697.5. Passed unanimously.

FREDDIE MAC HOMES / HOMESTEPS UPDATE

Ms. Saylor stated that the most recent communication with Homesteps / Freddie Mac was on November 28, 2012 from Curtis Good, and to date, the Board has not received any response.

Mr. Katz stated that when Congressmen Miller and Dole made contact with Freddie Mac they did not really address the main concern of the Board, that the correspondence from Freddie Mac is in direct conflict with California law. He indicated that Congressman Miller is no longer his Congressman, and Congressman Royce, who has taken that position also sits on the same committee. He added that he will continue to push for a response and is hopeful that Congressman Royce will be able to obtain a response from Edward DeMarco, the Acting Director of the Federal Housing Finance Agency.

Mr. Good stated that he would like to see all California registered pest control companies to be on Freddie Mac's vendor list. He asked if anyone knew what was required to be added to Freddie Mac's vendor list.

Mr. Utley responded that he knows someone who is on this list and it took them over a year to get on it, at which point they were only put on the list for certain areas; and it took another six months to expand the area that they were allowed to do work in.

Mr. Tamayo commented that the Board should take action changing the laws in California to no longer allow such policies.

Mr. Utley stated that such law would have to be put into the California Code of Civil Procedures.

Mr. Whitmore suggested removing the requirement to do a reinspection and certify a property if your company was not hired to perform the work.

Mr. Utley stated that he agrees.

Mr. Duggal commented that it could be considered a conflict of interest because the termite company who performs the inspection can make unnecessary recommendations and overcharge if they are the ones performing the work.

Mr. Logan stated that he would not support language to remove the requirement to reinspect.

Mr. Good stated that he and Mr. Katz would continue to work on getting a response.

Mr. Utley asked that this agenda item not be put back on the agenda unless there is new information being provided.

STRUCTURAL FUMIGATION ENFORCEMENT PROGRAM REVIEW AND UPDATE

Mr. Whitmore updated the new Board members regarding the history of Chapter 14.5. He stated that the program was due to renew and PCOC and the Board of Directors voted to renew the program with the following proposed stipulations:

- Santa Clara County will be removed from the program
- The fee will be increased from $5.00 to $8.00
- A collection mechanism for the fee be established

Mr. Whitmore stated that Senator Raul Bocanegra has agreed to sponsor this bill.

> Mr. Utley moved and Mr. Good seconded to support PCOC's legislation as Mr. Whitmore described. Passed unanimously.

SAN FRANCISCO CITY ORDINANCE REGARDING BED BUG COMPLAINTS

Ms. Saylor reviewed the information that she provided to the Board members in regards to the addition of Article 11A to the San Francisco Health Code.

Mr. Tamayo asked if the City of San Francisco has the authority to require pest control operators to report bed bug treatments to them.

Ms. Clary stated that it is surprising to see a local agency make ordinances that oversee or put requirements on state agencies.

Mr. Edwards stated that he has not had a chance to look into the legalities of this ordinance.

Mr. Utley suggested that the Board send a letter to San Francisco Department of Public Health telling them that the requirement for Pest Control Operators to report to the city does not apply to SPCB licensees.

Ms. Clary stated that such letter may be appropriate but she would like to look into the issue further before doing so.

Darren Van Steenwyk, Clark Pest Control, stated that this ordinance is not pesticide related and these reporting requirements may go against client confidentiality.

Mr. Gordon suggested that the Board thoroughly review this ordinance before objecting to it because there are some requirements in this ordinance that are beneficial to the industry.

Mr. Gaither stated that he agrees with Mr. Gordon. He questioned why only pest control operators are required to report.

Mr. Ennes stated that he spoke with the San Francisco CAC and they stated that they have been told that they will be enforcing this ordinance and nothing has been set up to collect the information that this ordinance is requiring. He added that the San Francisco CAC will send letters to all pest control operators when this ordinance becomes active.

Jerry Motak, Standard Pest Control, commented that this ordinance went through too quickly without input from the industry. He recommended that the Board write a letter to the San Francisco Department of Public Health supervisor.

Tami Stuparich, California American Exterminator, stated that San Francisco Department of Public Health did seek input from interested parties. She commented that the ordinance is a lot better than it was in its original form, but still needs improvement.

Mr. Whitmore commented that a lot of the requirements in this ordinance should be under the Board's jurisdiction.

Mr. Duggal suggested funding a project through the University of California to produce a database for companies to enter data that still protects the consumer's privacy but will be able to provide statistical data. He asked that this be added to the next Board meeting agenda.

Mr. Utley asked that staff and legal look into this because he does not think that the San Francisco Department of Public Health has the right to impose fines on Pest Control Operators.

Mr. Good asked Ms. Clary and Mr. Edwards to look further into the legalities of this ordinance.

COMMUNICATION EFFORTS TO INDUSTRY AND GENERAL PUBLIC

Ms. Saylor stated that there have been discussions regarding increasing outreach to the public and industry. She stated that the quarterly newsletters are no longer being sent out because of the cost and resources necessary to produce and distribute. She added that once the Board is back under the jurisdiction of Department of Consumer Affairs that the department has a unit specifically assigned to help with outreach.

Mr. Tamayo commented that the Integrated Pest Management (IPM) Certification Committee wanted the Board to communicate to the public regarding how to obtain a bonafide IPM service.

Ms. Boyle stated that the National Pest Management Association has information on their website reaching out to the public regarding IPM services and the Board has a link on their website regarding how to choose a pest control company.

CASH PAYMENTS TO BRANCH – 3 INSPECTORS FOR FUMIGATION WORK

Mr. Good stated that the person who asked for this to be put on the agenda does not wish to speak on this topic today.

CALIFORNIA LABOR ENFORCEMENT TASK FORCE

Mr. Good stated that this item is going to be postponed for a future meeting to compile more information.

ELECTRONIC DELIVERY ON BRANCH – 2 SERVICE SLIPS

Mr. Good stated that this topic has been referred to the SPCARC for their January 2013 meeting.

BOARD MEETING CALENDAR

Ms. Saylor stated that the next meeting has already been scheduled for April 24, 2013 at 1:00 P.M., if needed and April 25, 2013 at 9:00 A.M.

The Board scheduled the following meeting for July 17 and 18, 2013 in San Diego.

Ms. Quiroz offered to check the availability of the conference room at The San Diego Foundation for this meeting.

FUTURE AGENDA ITEMS

Mr. Duggal asked to have a discussion regarding IPM awareness as it relates to Pest Control Operators and the public as well as a presentation regarding special mapping and electronic data management for reporting on all pests.

Ms. Boyle asked who would give such a presentation.

Mr. Duggal responded that he would get a few pest control companies to make the presentation or seek help from the University of California, Davis.

Dr. Lewis stated that he is on the committee for the Pest Prevention By Design project and is willing to make a presentation.

Mr. Good asked that the renewal process in regards to certifying continuing education be put on the next meeting agenda.

Mr. Duran asked that a future discussion be held regarding the renewal dates for Applicators.

Mr. Gordon stated that there is a recommendation from the SPCARC coming soon in regard to the renewal date for Applicators.

Mr. Gaither stated that included in his renewal for Solano CAC was a letter regarding notification for interior treatment which mainly applied to multiple unit structures. He added that Solano CAC is requiring, in conflict with Business and Professions Code Section 8538 and California Code of Regulations Section 1970.4, the company to notify each tenant prior to an interior treatment. He added that this has been referred to the SPCARC but action is needed immediately.

Mr. Tamayo asked that legal looks into this.

Ms. Boyle stated that she was contacted by Solano CAC and she was under the impression that this type of notification is only required for buildings with four units or less.

Mr. Gaither stated that he was told that it is for any building.

Mr. Good stated that staff can look into this and possibly send out a letter as well as put it on the agenda for a future meeting.

PUBLIC COMMENTS NOT ON THE AGENDA

There were no public comments.

ADJOURNMENT

The meeting adjourned at 1:21P.M.

Board President

Susan Saylor, Interim Executive Officer

4/25/13
DATE