MINUTES OF THE MEETING OF THE
STRUCTURAL PEST CONTROL BOARD
October 16 & 17, 2014

The meeting was held October 16 & 17, 2014 at the Structural Pest Control Board, Hearing Room, 2005 Evergreen Street, Sacramento, California

Board Members Present:

Dave Tamayo, President
Curtis Good, Vice President
Naresh Duggal (October 17)
Mike Duran
Cliff Utley

Board Staff Present:

Susan Saylor, Executive Officer
Robert Lucas, Assistant Executive Officer
David Skelton, Administrative Analyst

Departmental Staff Present:

Kyle Muteff, Legal Counsel

Thursday, October 16 - 9:00 A.M.

ROLL CALL / ESTABLISHMENT OF QUORUM

Ms. Saylor read roll call at 9:01 A.M. Board members Tamayo, Good, Duran, and Utley were present. Quorum established.

FLAG SALUTE / PLEDGE OF ALLEGIANCE

Mr. Tamayo lead everyone in the pledge of allegiance.

PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA

There were no public comments for items not on the agenda.

APPROVAL OF MINUTES FROM THE JULY 9 & 10, 2014 BOARD MEETING

Mr. Duran moved and Mr. Utley seconded to approve the minutes from the July 9 & and 10, 2014 Board meeting. Passed unanimously.

EXECUTIVE OFFICER'S REPORT

Ms. Saylor reported to the Board on licensing and enforcement survey results and statistics, WDO statistics, Computer Based Testing, and insurance and bond requirement compliance.

Mr. Utley stated that the Branch 2 Field Representative Exam still had an extremely low passing rate.

Ms. Saylor stated that the Branch 2 Field Representative passing rate is being addressed and that the Office of Professional Examination Services (OPES) would be giving a presentation to, and answering questions from the Board and public later during the meeting.

Ms. Saylor stated that there would be two additional Subject Matter Expert workshops in December for the Field Representative Examinations and asked the industry to contact the Board if they wished to participate.

Mr. Good asked for an update on industry compliance with the new insurance and bond requirements.

Ms. Saylor stated that the Board set a deadline for companies to comply with the new insurance and bond requirements by September 15, 2014. Around 200 companies had not complied by that date and were placed on suspension. As a result the Board was flooded with documentation from many of those companies that the requirements had been met. Most companies had complied with the requirements but had failed to provide the necessary documentation to the Board.

Mr. Utley asked about the drop in WDO submissions for July and August and if there was anything specific to which it could be attributed.

Ms. Saylor stated that it appears to be an aberration and that it would be continue to be monitored.

UPDATE ON SB-1244, AB-1685, AND SB-1405

SB-1405

Ms. Saylor stated that the Board's Sunset Bill, SB-1244 was signed by Governor Brown on September 25, 2014 and will become effective January 1, 2015. SB-1244 extended the Board's sunset date to January 1, 2019, changed Applicator expiration dates to June 30, and also included 40 recommendations from the Act Review Committee.

Mr. Utley asked if there was a plan for how to handle Applicator expiration dates moving to June 30.

Ms. Saylor stated that new Applicator licenses will be issued with a June 30 expiration date and all existing applicators will be issued a June 30 expiration date as they reach their current expiration dates.

AB-1685

Ms. Saylor stated that AB-1685 was signed by Governor Brown on September 9, 2014 and will become effective January 1, 2015. AB-1685 increased the maximum amount the Board may charge for challenge and licensure examinations in order to pay for Computer Based Testing. AB-1685 also provided the ability for companies to submit pesticide use reports electronically.

SB-1405

Ms. Saylor stated that SB-1405 was signed by Governor Brown on September 29, 2014 and will become effective July 1, 2016. SB-1405 amended the Healthy Schools Act to require anyone making a pesticide application at a school site to complete a 1 hour training course on IPM and the safe use of pesticides in the school environment administered by the Department of Pesticide Regulation or its designee.

ACT REVIEW COMMITTEE UPDATE AND PROPOSED LEGISLATIVE CHANGES TO BUSINESS AND PROFESSIONS CODE SECTIONS

Bob Gordon, Act Review Committee Chairman, presented the Act Review Committee's recommendations for change to the Board.

Mr. Muteff stated that in his opinion the Board had not been given adequate time to review the Committee's recommendations and suggested that the topic be put on the agenda for the January 14 & 15, 2015 meeting in San Diego as an item the Board could vote on and possibly delegate authority to Ms. Saylor to find a legislative author.

The Board thanked the Act Review Committee for all its hard work and for the excellent quality of its recommendations.

The Board agreed to review the Committee's recommendations and to place the topic on the agenda for the January 14 & 15, 2015 Meeting.

DISCUSSION AND CONSIDERATION OF POSSIBLE AMENDMENTS TO BUSINESS & PROFESSIONS CODE SECTIONS 8506.2, 8610, AND 8611 IN CONJUNCTION WITH CALIFORNIA CODE OF REGULATION SECTION 1918 REGARDING SUPERVISION OF REGISTERED COMPANIES AND EMPLOYEES

Mr. Lucas presented recommended changes to Businesses & Professions Code Section 8506.2 that attempted to make specific a Qualifying Manager's obligations related to supervision of a registered company and its employees.

Harvey Logan, Western Exterminator Company stated that the proposed changes needed to make more clear that Qualifying Managers would not be required to be physically present in every branch of a registered company with multiple locations.

Darrell Ennes, Terminix stated that language should be added to make clear that the time requirements for Qualifying Managers to be physically present applied only to the principle office of the company.

Darren Van Steenwyk, Clark Pest Control stated that the proposed changes were not clear enough in regard to Qualifying Managers and their requirement to be in the principle office and also for contingencies in the event of a Qualifying Manager being unable to meet his or her obligations.

The Board asked staff to bring back language that attempted to address the concerns that were raised and continued the matter to October 17, 2014.

Qualifying Manager Discussion Cont.

Mr. Lucas presented 7 possible options to amend Business and Professions Code Section 8506.2 to address the supervisory responsibilities and requirements of a Qualifying Manager.

Mr. Steenwyk stated that the proposed amendments to Business and Professions Code Section 8506.2 need to address how being physically present in the principle office is defined. Many small business owners are out working all day and its conceivable they would be in violation the way the proposed amendment is currently written.

Billy Gaither, Van Hooser Enterprises, stated that he found the proposed amendments to be ambiguously worded and that he wasn't sure what hours he would be required to be present.

The Board discussed the concerns that were raised and delegated the issue to the Act Review Committee and encouraged any interested parties to attend those meetings.

Mr. Skelton stated that the next Act Review Committee Meeting would be held on November 5, 2014 at the Orange County Agricultural Commissioner's Office.

REVIEW OF RESEARCH FUND PROCESS AND POSSIBLE ESTABLISHMENT OF THE RESEARCH ADVISORY PANEL

Ms. Saylor reported to the Board on the statutory and regulatory requirements for the establishment of the Research Advisory Panel.

> Mr. Duran moved and Mr. Utley seconded to reconvene the Research Advisory Panel and to delegate authority to the Board President to select its members. Passed unanimously.

ANNUAL REVIEW AND POSSIBLE AMENDMENT OF BOARD POLICIES AND PROCEDURES

Mr. Muteff stated that he reviewed the Board's Policies and Procedures and identified two recommendations for change. In section G-3 Mr. Muteff recommended removing the sentence stating that all Board Members are Ad Hoc Committee Members. In section G-9 Mr. Muteff recommended adding language to address how the Board's mail votes are to be conducted.

Mr. Utley moved and Mr. Duran seconded to adopt the recommendations for change to the Board's Policies and Procedures outlined by Mr. Muteff. Passed unanimously.

UPDATE ON BOND AND INSURANCE INCREASE

Ms. Saylor recapped the timeline of SB-662 becoming law and the Board's implementation of its provisions. After many notices to the industry the final date for companies to comply was set at September 15, 2014. As of that date around 200 companies had not complied and as a result, were placed on suspension. Since then many of those companies have sent in their updated insurance and bond information. Many companies had the new requirements in place but failed to provide the necessary documentation to the Board.

Mr. Duran asked if the Board had received feedback from the industry on the new requirements.

Ms. Saylor stated there has been some negative feedback specifically stating the new insurance and bond requirements were too high but that was to be expected and the new requirements were necessary for public protection.

Mr. Good asked if there was an update on companies who had cash deposits in lieu of their bond requirement.

Ms. Saylor stated that having a cash deposit in lieu of a bond is no longer acceptable and that companies who previously had them will wait 5 years, as required in case of a consumer complaint, to have the cash released.

PETITION FOR REINSTATEMENT
DAWN MARIE CHARRETTE – OPR 9119 BRANCHES 1 & 3

Administrative Law Judge Dian Vorters sat with The Board to hear the Petition for Reinstatement for Dawn Marie Charrette, Operator License Number 9119. The petitioner was informed that she would be notified by mail of the Board's decision.

PETITION FOR MODIFICATION OF PROBATION
D & S TERMITE CONTROL – PR 1164 BRANCHES 1, 2, & 3

Administrative Law Judge Dian Vorters sat with The Board to hear the Petition for Modification of Probation for D & S Termite Control, Principle Registration Number 1164. The petitioner was informed that she would be notified by mail of the Board's decision.

PETITION FOR REINSTATEMENT
JASON BOHANNON – RA 48306 BRANCH 3, & FR 45160 BRANCH 2

Administrative Law Judge Dian Vorters sat with The Board to hear the Petition for Reinstatement for Jason Bohannon, Applicator License Number 48306, Field Representative License Number 45160. The petitioner was informed that he would be notified by mail of the Board's decision.

PETITION FOR REINSTATEMENT
SEAN D. NEUFELD – RA 50644 BRANCHES 2 & 3

Administrative Law Judge Dian Vorters sat with The Board to hear the Petition for Reinstatement for Sean D. Neufeld, Applicator License Number 50644. The petitioner was informed that he would be notified by mail of the Board's decision.

CLOSED SESSION

Pursuant to subdivision (c) (3) of Section 11126 of the Government Code the Board met in closed session to consider proposed disciplinary actions, stipulated settlements, and petitions for modification / termination of probation and reinstatements.

The open meeting resumed at 5:30

ADJOURNMENT

The meeting adjourned for the day at 5:30 P.M.

Friday, October 17, 2014, 9:00 A.M.

Ms. Saylor read roll call. Board members Tamayo, Good, Duggal, Duran and Utley were present. Quorum established.

REVIEW AND POSSIBLE AMENDMENTS TO DISCIPLINARY GUIDELINES

Mr. Muteff reviewed the Board's Disciplinary Guidelines and recommended that the Board direct staff to work on improving the areas of concern and bring back recommendations for change at the January 14 & 15, 2015 Meeting in San Diego.

Mr. Tamayo requested that legal counsel bring back recommended language for the Disciplinary Guidelines for the Board to review and possibly implement at the January 14 & 15, 2015 Meeting.

Mr. Good asked if the Board's Disciplinary Guidelines were consistent with other programs.

Mr. Muteff stated that each program has unique Disciplinary Guidelines but where applicable, language could be borrowed and included in recommendations for change.

Mr. Tamayo requested that the recommended changes to the Disciplinary Guidelines be included with the January 14 & 15, 2015 Board packages.

UPDATE REGARDING STRATEGIC PLANNING

Ms. Saylor stated that the Board conducted Strategic Planning on October 15, 2014 and that goals and objectives were identified. DCA SOLID Training unit will have the Strategic Plan completed by October 30, 2014 and it would be voted on by the Board at the January 14 & 15, 2015 Meeting.

ANNUAL ELECTION OF BOARD MEMBER PRESIDENT AND VICE PRESIDENT

Mr. Good moved Mr. Duran seconded to elect Dave Tamayo as Board President. Passed unanimously.

Mr. Utley moved and Mr. Duggal seconded to elect Curtis Good as Board Vice President. Passed unanimously.

PRESENTATION FROM DEPARTMENT OF CONSUMER AFFAIRS – OFFICE OF PROFESSIONAL EXAMINATION SERVICES (OPES) REGARDING REFERENCE MATERIAL, STUDY GUIDES, CBT REGARDING STRONG AND/OR WEAK AREAS OF THE EXAMINATIONS, AND OTHER EXAMINATION SERVICES

Amy Welch-Gandy gave a presentation to the Board about the Office of Professional Examination Services and the process they use to create and implement examinations.

Robert Baker, PCOC President, Clark Pest Control stated that there are too many reference materials used to create the examinations and that the timing and member selection of the Subject Matter Expert Workshops need to be improved.

Mr. Tamayo stated that the Board is aware of the issues related to exam creation, and the lack of effective study materials for the exams, and that the Board will continue to address those issues.

PRESENTATION FROM UNIVERSITY OF CALIFORNIA STATEWIDE INTEGRATED PEST MANAGEMENT (IPM) GROUP AND POTENTIAL BOARD ACTION ON DEVELOPING A STRUCTURAL IPM STUDY GUIDE FOR LICENSEES

Dr. Andrew Sutherland, UCIPM Urban Integrated Pest Management Advisor, gave a presentation to the Board on the potential services UCIPM could provide to the Board in the area of study guides, industry education, and exam preparation.

Mr. Duggal stated his support for the potential services offered by UCIPM and encouraged the Board to consider them.

Mr. Tamayo thanked Dr. Sutherland for his presentation and stated that the topics that were covered would be put on the agenda for the January 14 & 15, 2015 Meeting so the Board could decide on a course of action.

PRESENTATION FROM DEPARTMENT OF PESTICIDE REGULATION (DPR) ON SULFURYL FLOURIDE AND MITIGATION DEVELOPMENT FOR STRUCTURAL USES

Lisa Ross, DPR Branch Chief Worker Health & Safety gave a presentation to the Board on Sulfuryl Fluoride and potential mitigation being developed for its use.

Mr. Duggal asked if the measurements for concentration levels surrounding a structure are made with consideration to wind direction.
Ms. Ross stated that the models that are used look at all directions surrounding a structure with a given set of weather data to predict concentration levels during a fumigation, and during aeration.

Mr. Good asked if testing had been conducted throughout the different climate and weather conditions California.

Ms. Ross stated that testing has been conducted in southern California, the central valley, and the Sacramento region and that they are currently looking to test in the coastal regions

Mr. Good asked what manufacturers DPR was working with.

Ms. Ross stated that currently DPR was working with Dow.

Dr. Vernard Lewis, UC Berkeley asked if the Air Resources Board had overlapping jurisdiction on concentration levels and if there were any studies conducted by them that are relevant.

Ms. Ross stated that the Air Resources Board conducted studies in the past and that DPR has used them in their models.

PRESENTATION FROM DPR PRODUCT COMPLIANCE BRANCH ON PRODUCT COMPLIANCE AND ONLINE SALES OF PESTICIDES

Patrick Thalken, DPR gave a presentation to the Board on online sales of pesticides and DPR's enforcement of it.

Mr. Good asked about the online sales of restricted use pesticides and what tools DPR has for tracking them and for disciplining unauthorized sales.

Mr. Thalken stated that when DPR receives complaints about unauthorized sales in California it will contact the entity making the sale and instruct them to become a licensed dealer / broker. DPR can levy fines against entities that conduct unauthorized sales of pesticides into California.

Mr. Duran asked what kind of material does DPR see that is being sold into California.

Mr. Thalken stated that they are seeing a lot of bed bug pesticides and also a lot of pesticides associated with the marijuana industry.
Mr. Duggal stated that perhaps a proactive approach to enforcement of illegal online sales would be more effective and that whether a pesticide is restricted use or not it can still be extremely dangerous to consumers and they should all be monitored and enforced.

PRE-TREATMENT COMMITTEE UPDATE

Mr. Tamayo stated that Eric Paulsen, Clark Pest Control has agreed to chair the Pre-Treatment Committee and that Dr. Lewis has agreed to be a member.

Ms. Saylor stated that Kathy Boyle had agreed to be a Committee member but since she recently accepted a position at the Board perhaps another DPR member could be selected. Ms. Saylor also stated that she was in the process of speaking to Joshua Huntsinger from the Placer County Agricultural Commissioner's Office about possibly serving on the Committee.

Mr. Tamayo asked industry members for their help in identifying an industry member who is involved in pretreatment to possibly serve on the Committee.

BOARD MEETING CALENDAR

The next 3 meetings were previously scheduled for January 14 & 15, 2015 in San Diego, March 25 & 26, 2015 in Sacramento and July 22 & 23, 2015 in San Diego.

The following meeting was scheduled for October 7 & 8, 2015 in Sacramento.

FUTURE AGENDA ITEMS

The following topics were identified as future agenda items -

- Study Guides and examination improvement
- The Board's Disciplinary Guidelines
- Formation of the Research Advisory Panel

ADJOURNMENT

The meeting adjourned at 12:26 P.M.

Board President

January 15, 2015
Date