

MINUTES OF THE
SPECIAL MEETING OF THE
STRUCTURAL PEST CONTROL BOARD
July 20 and 21, 2011

The meeting was held on Wednesday and Thursday, July 20 and 21, 2011, in the Auditorium located at 6150 Van Nuys Blvd. in Van Nuys, commencing at 1:20 P.M. with the following members constituting a quorum:

Curtis Good, President
David Tamayo, Vice President
Cliff Utley
Cris Arzate

Board staff present:

Bill Douglas, Interim Registrar / Executive Officer
Susan Saylor, Assistant Executive Officer
Ronni O'Flaherty, Staff Services Analyst
Charles Alsky, Board Specialist

Departmental staff present:

Chuck Andrews, Associate Director
Jodi Clary, Legal Counsel

Board Liaison, Deputy Attorney General, Rene Judkiewicz and Supervising Deputy Attorney General Karen Chappelle were also in attendance.

REINSTATEMENT HEARINGS

The Board sat with Administrative Law Judge Nancy Beezy Micon to hear the Reinstatement Hearing of Juan Manuel Gonzalez, Applicator License No. 46411. The petitioner did not appear.

The Board sat with Administrative Law Judge Nancy Beezy Micon to hear the Reinstatement Hearing of Lance Kelsey, Operators License No. 10063. The petitioner was informed that he would be notified by mail of the board's decision.

The Board sat with Administrative Law Judge Nancy Beezy Micon to hear the Reinstatement Hearing of Bryan Kaye, Operators License No. 10930. The petitioner did not appear.

CLOSED SESSION

The Board adjourned to closed session to discuss recruitment of a new Registrar, legal representation alternatives, and consider proposed disciplinary actions in accordance with subdivision (c)(3) of section 11126 of the Government Code.

The open meeting resumed at 4:05 P.M.

APPROVAL OF MINUTES OF THE APRIL 27-28, 2011 BOARD MEETING

Mr. Utley moved and Mr. Tamayo seconded to approve the minutes of the April 27 and 28, 2011 board meeting. Passed unanimously.

APPROVAL OF MINUTES OF THE JUNE 30, 2011 TELECONFERENCE BOARD MEETING

Mr. Tamayo moved and Mr. Utley seconded to approve the minutes of the June 30, 2011 teleconference board meeting. Passed unanimously.

The meeting adjourned for the day at 4:15 P.M.

The meeting reconvened at 8:37 A.M on July 21, 2011.

ROLL CALL

Ms. Saylor read the roll call.

FLAG SALUTE

Mr. Douglas led everyone in the flag salute.

DEPARTMENT OF PESTICIDE REGULATION UPDATE

Mr. Andrews reported on the following:

- The department has been working with the Air Resources Board on the economic analysis for the pyrethroid regulations and intends to notice it for public hearing in late August.
- The department has been evaluating data relating to Fipronil, a pesticide used mostly for ant control and as a termiticide in Southern California and finding it in surface waters. There was a recent label change to eliminate the use of Fipronil in structural applications for ant control away from structures. The department is working with Pest Control Operators of California (PCOC) to look into outreach activities for licensees regarding label direction. The department will continue evaluating this data and determine whether or not Fipronil should be reevaluated.

DISCUSSION OF ELECTRONIC FILING OF PESTICIDE USE REPORTS

Mr. Andrews stated that the department is interested in working with the board and County Agricultural Commissioners (CACs) to find a way for companies to file their pesticide use reports electronically while maintaining compliance with payment of the stamp.

Mr. Utley questioned the possibility of pesticide use reports being filed similarly to WDO reports where a company prepays into their account and as they file the necessary funds are deducted.

Mr. Andrews replied that the law requires that a stamp is affixed to the report.

Mr. Utley responded that the board can change the law requiring a stamp to physically be affixed to the report.

Mr. Andrews stated that changing the law is an option to be looked at but the department is seeking an interim solution to expedite the electronic filing system hoping to launch it January 2012. He added that the CACs are developing a permitting and use reporting system in which the ability to electronically report the stamp number can possibly be developed.

STATUS OF APPOINTMENTS REGARDING BOARD MEMBER VACANCIES

Mr. Andrews reported that the current board vacancies are posted on the department's website and the department is encouraging applicants to apply. He added that they have received five applications and all applications have been forwarded to the Governor's

Office for review but the Governor's Office has been slow making appointments, making the timeframe in which vacancies may be filled unknown.

EXECUTIVE OFFICER'S REPORT

Mr. Douglas reported on the following:

- AB417 is a bill that prohibits a city or county from prohibiting a licensee of the board from engaging in the profession in which they are licensed in and was enrolled July 12, 2011.
- SB394 is the Healthy Schools Act of 2011 that is now dead.
- AB942 is a bill that would require unspent agency monies to be deposited into the State General Fund.
- AB1176 is a bill that would require control measures to be specified within two years of determining that a pesticide is considered a toxic air contaminant and this bill has been referred to committee.
- Unlicensed activity cases are still being investigated by the Division of Investigation and will be reported on at future meetings.

Ms. Saylor reported on the following:

- Licensing statistics and survey results were reviewed with the board members.
- WDO filing statistics were reviewed with the board members. WDO filings are still down but have increased over the past six months.

Mr. Good asked Ms. Saylor if the statistics reflect activities filed late by companies.

Ms. Saylor responded that the statistics reflect the month in which an activity is filed, not the month in which it was performed.

- Current expenditures relating to research contracts were reviewed with the board members.
- Two clean up regulation packets have been returned from the department with approval.
- She has been working with the department to have section 1970.5, in regards to changing from the Tarpaulin Removal Aeration Plan (TRAP) to the California Aeration Plan (CAP) repealed.

- Dorothy Nakagawa, the board's cashier, retired after being with the board for 25 years. Staff submitted a hiring freeze exemption to get permission to fill the position, but the exemption was denied at agency level. Currently the licensing unit supervisor and another staff person are taking over the cashiering duties.

Mr. Arzate asked Ms. Saylor if there was an appeal process in place for hiring freeze exemptions.

Ms. Saylor replied that she is unaware of an appeal process.

Mr. Arzate asked Ms. Saylor when the board would be updated on the research projects.

Ms. Saylor responded that generally the researchers report every quarter but were granted additional time due to the delay in the projects being started. She added that there should be an update at the October meeting.

- The final numbers relating to the 2010-2011 budget have not been received and will be reported at the next board meeting. She expects a revision of approximately \$400,000.

Mr. Tamayo suggested that industry members contact their representatives or people at agency level to urge them to consider filling staff vacancies since the lack of staff can potentially negatively impact the industry.

Mr. Lewis reported that the research project is coming along and the researchers have acquired ten bud bug monitors and will be picking up the live bed bugs on Monday to begin research.

UPDATE ON COMMITTEE TO CONSIDER REGULATION OF INTEGRATED PEST MANAGEMENT (IPM) CERTIFICATION PROGRAMS

Mr. Tamayo reported that Darren Van Steenwyk and he would like to have nine members on the committee, not all of which have been selected but desire to have the members selected by the end of August. He questioned the ability to have a teleconference meeting to discuss the purpose of the committee among the selected members.

Mr. Douglas responded that the selection of members would be put on the agenda for the next meeting at which time the board members would vote to approve the candidates and each approved committee member would have to be registered with DPR for reimbursement of travel expenses. He added that both conference calls and committee meetings are open to the public and have to be noticed 10 days prior to the meetings.

Mr. Good expressed concern with the costs involved in having nine committee members unless the committee meetings are via teleconference. He asked Mr. Tamayo to provide

at the next meeting a list of what members are necessary and what each member will bring to the committee.

Mr. Tamayo asked for this to be put on the agenda for the October meeting.

Dr. Vernard Lewis stated that if the committee is looking for an academic member that he is available to serve on the committee.

Matt Copps asked Mr. Tamayo what the point of the committee is.

Mr. Tamayo replied that the committee is to validate IPM certifications.

Mr. Copps commented that these are third party certifications and another level of regulation is not necessary.

Mr. Tamayo responded that the purpose is to set standards that an IPM certification program has to meet and the committee may or may not come up with any recommendations.

Bill Gillespie, Research Endeavors Company, stated that the National Pest Management Association (NPMA) may have similar intentions at this time and developing this committee may not be necessary in addition to what is being done at the national level.

Mr. Good asked Mr. Tamayo if his intentions are for the board to have oversight over the certifications being issued.

Mr. Tamayo responded that he would like the committee to look into what the responsibilities of the certifying organizations are and to assure that an IPM certification in this industry actually holds significance.

Mr. Utley stated that the board has been in the process of forming and publicizing their definition of IPM and added that he does not think that this committee was going to go any further.

Mr. Good stated that it would be difficult for the board to regulate IPM certifications.

Mr. Utley stated that having a standard would give the specialists ground to stand on when dealing with a substandard IPM certification program.

Mr. Arzate suggested that this discussion is going to flow into the next board meeting and should be held then.

Mr. Good stated that he is not sure whether section 1999.9 gives the board authority to oversee these certification programs or not.

TEST HOLE COMMITTEE REPORT FROM ITS MAY 26, 2011 COMMITTEE MEETING

Mr. Katz reported that the Test Hole Committee consisted of the following members: Alan Kanady, Darrell Ennes, Bob Gordon, and himself. He stated that the committee's recommendation is to leave the Act as it relates to test holes as permitted under section 8516 (b) (6,7,9) and directed staff to provide clarification of the process to the industry.

Mr. Utley moved and Mr. Tamayo seconded to accept the recommendations of the Test Hole Committee. Passed unanimously.

DISCUSSION REGARDING INTERAGENCY AGREEMENT BETWEEN DPR AND DCA FOR SERVICES PROVIDED TO THE BOARD

Mr. Douglas reported that the interagency agreement was set to expire at the end of each fiscal year, at which time each contract would have to be renewed. He stated that an interagency agreement has been signed to continue services for three years.

DISCUSSION REGARDING BUSINESS AND PROFESSIONS CODE 8520.0 (e)

Mr. Arzate requested that this item be put on the agenda for the next meeting.

DISCUSSION REGARDING CLOSED ACCUSATIONS BEING POSTED ON THE BOARD'S WEBSITE

Ms. Saylor reported that current retention schedule is 25 years for closed accusations but legal counsel confirmed that this can be changed at the discretion of the board. She added that at some point the board asked that accusation documents be removed from the website after five years, but without deleting internal board records from the database the website will always show that there was an accusation at some point in the license history.

Mr. Good asked that staff look into having the entire history of the accusation removed from the website after five years.

Ms. Saylor asked for additional time to complete the research and to report at the next board meeting.

DISCUSSION REGARDING RENEWAL PERIOD FOR APPLICATORS

Mr. Good stated that it is difficult to monitor the expiration dates of Applicators because they expire through out the year on the day in which they were issued.

Mr. Douglas stated that this was voted on and approved by the board in July of 2009 and suggested that in order to make the workload manageable for staff that the Applicator renewal dates be split to two dates, preferably March 31 and September 30. He added that a vote would be required to direct staff to seek a legislative amendment to change the Applicator renewal dates.

Steve Delk, PCOC President, stated that this will be discussed again at the September board of directors meeting.

Mr. Good asked Mr. Delk to put this discussion up in front of PCOC's branch 2 and 3 committees.

Mr. Utley commented that it would be nice to see more continuing education hours approved that covered technical hours for both an Applicator and Field Representative license.

Mr. Good moved and Mr. Utley seconded to direct staff to seek a legislative amendment to amend the triennial Applicator renewal dates. Passed unanimously.

DISCUSSION REGARDING BUSINESS AND PROFESSIONS CODE SECTIONS 8564.5 AND 8566 PERTAINING TO APPLICATORS AND FIELD REPRESENTATIVES

Mr. Good suggested that this item is addressed during the meetings of the Structural Pest Control Act Review Committee.

APPOINTMENT OF THE STRUCTURAL PEST CONTROL ACT REVIEW COMMITTEE

Mr. Good suggested that Mr. Gordon chair this committee with Mr. Katz, Mr. Ennes and Mr. Kanady serving on it as well. He added that there was a previous Act Review Committee and their recommendations would be a huge jumpstart to meeting this committee's objectives.

Mr. Gordon asked that Lee Whitmore also serve on this committee to represent branch 1.

Mr. Arzate suggested that a public member also serve on this committee.

Mr. Good suggested that Mr. Arzate serve as the public member on the committee.

Mr. Utley moved and Mr. Arzate seconded to accept the members of the Structural Pest Control Act Review Committee as follows: Mr. Gordon,

Mr. Katz, Mr. Ennes, Mr. Kanady, Mr. Whitmore and Mr. Arzate. Passed unanimously.

Mr. Tamayo suggested that the committee look for the opportunities to amend parts of the act that are over detailed to allow simplicity in possible future amendments.

UPDATE REGARDING TRAINING OF BED BUG SNIFFING DOGS

Mr. Douglas stated that a person with a Field Representative license would have to accompany a service animal and their trainer when performing an inspection. He added that he spent time watching the training and inspection process of a bed bug sniffing dog and commented that the accuracy of these dogs is impressive. He asked the board for permission to continue investigating the training of bed bug sniffing dogs.

Mr. Utley commented that bed bugs are a high liability subject and should a person without a Field Representative license be allowed to do an inspection they should have to carry liability insurance.

Mr. Katz stated that there are a lot of protocols in place right now for certification and training of bed bug dogs and the NPMA has developed a bed bug task force. He added that the Falco K-9 Academy in Anaheim recertifies their dogs daily.

David Syck, Top Dog Detection, stated that a trained dog detects the scent of a ferimone within a bed bug and if a person was to take their dog into someone's house and the dog does not signal that they detect the odor, the dogs trainer is going to tell the consumer that the dog did not detect the odor of bed bugs and the consumer will assume they do not have an infestation; therefore a license is needed to identify and treat bed bugs.

Mr. Katz stated that the board has jurisdiction over any person or company who does pest control for hire, whereas most other states only have jurisdiction over those who use pesticides so a lot of non licensed pest control people are bringing a dog in to detect the bedbugs and doing a heat treatment to treat the infestations and are not required to obtain a license. He added that he feels it is appropriate to require an accompanying licensee while performing inspections with these trained dogs.

Mr. Utley asked that should the act be amended that any future detection equipment be considered as well.

Mr. Utley moved and Mr. Tamayo seconded to direct Mr. Douglas to continue investigating the training of bed bug sniffing dogs. Passed unanimously.

ENFORCEMENT OF COMPANIES FAILING TO FILE WOOD DESTROYING ORGANISM (WDO) ACTIVITIES

Mr. Douglas reported that periodically reports were ran to determine what companies were not filing and it was noticed that many of the companies who were not filing were repeat offenders. He stated that enforcement efforts by staff will begin August 1, 2011 to crack down on companies who make habit of not filing their WDO reports by using an aggressive fine structure as follows: the first violation would receive a \$2500 fine plus the cost of the unfiled activities, the second violation would receive a \$5000 administrative fine plus the cost of the unfiled activities, and the third violation would receive a \$2500 fine for each unreported activity. He added that anything after the third violation would be automatic cause for disciplinary action and that he would issue a notice to all branch 3 companies and operators to inform them.

Martyn Hopper, PCOC, asked Mr. Douglas to write an article in this regard for the PCOC News Briefs.

Mr. Copp asked if the licensee would be punished as well.

Mr. Utley responded that only the Qualifying Manager should be disciplined as it is the responsibility of the Qualifying Manager to make sure the reports are being filed with the board.

OPERATIONAL PLAN – EARLY STAGES

Mr. Douglas reviewed the summary description of functions, performance goals, and training plan with the board members. He added that ultimately the board's operational plan will tie into the Strategic Plan.

DISCUSSION REGARDING A STRATEGIC PLANNING MEETING

Mr. Douglas stated that because of the need for 100 days in between board meetings, the Strategic Plan and October board meeting need to be rescheduled from the originally scheduled dates of October 12-14.

BOARD MEETING CALANDAR

The October board meeting was scheduled for October 5-7 in Sacramento and is scheduled to include Strategic Planning on October 6-7.

The January board meeting was scheduled for January 11-12 in Sacramento.

FUTURE AGENDA ITEMS

Mr. Douglas reviewed the future agenda items discussed at this meeting as follows:

- Appointment of members to Committee to Consider Regulation of IPM Certification
- Update on research projects
- Presentation of policy derived from the recommendations of the Test Hole Committee
- Discussion regarding Business and Professions code 8520.2 (e)
- Report on closed accusations being posted on the board's website
- Discussion regarding applicator renewal period
- Update regarding the Structural Pest Control Act Review Committee
- Update regarding the training of bed bug sniffing dogs

Mr. Utley asked for a discussion to be held at the next meeting regarding Freddie Mac requiring a licensed contractor to perform branch 3 work.

PUBLIC COMMENTS NOT ON THE AGENDA

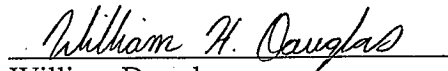
There were no public comments.

ADJOURNMENT

The meeting was adjourned at 11:06 A.M.



President



William Douglas,
Interim Executive Officer

10/05/11
DATE