

**MINUTES OF THE MEETING OF THE  
STRUCTURAL PEST CONTROL BOARD**

The Meeting was held April 6 & 7, 2016, at the Department of Consumer Affairs,  
Hearing Room, 2005 Evergreen Street, Sacramento, California.

**Board Members Present:**

Dave Tamayo, President  
Curtis Good, Vice President  
Mike Duran  
Marisa Quiroz  
Cliff Utley

**Board Members Absent:**

Ronna Brand  
Naresh Duggal

**Board Staff Present:**

Susan Saylor, Executive Officer  
Robert Lucas, Assistant Executive Officer  
Kathy Boyle, Chief Enforcement Officer  
David Skelton, Administrative Analyst

**Departmental Staff Present:**

Frederic Chan-You, Legal Counsel  
Kurt Heppler, Legal Counsel

**Wednesday, April 6, 2016**

**ROLL CALL / ESTABLISHMENT OF QUORUM**

Mr. Tamayo called the meeting to order at 12:02 P.M. and Ms. Saylor called roll.

Board members Tamayo, Good, Duran, Quiroz, and Utley were present.

Board members Brand and Duggal were absent.

A quorum of the Board was established.

### **FLAG SALUTE / PLEDGE OF ALLEGIANCE**

Mr. Tamayo led everyone in the flag salute and recitation of the Pledge of Allegiance.

### **PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA**

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

### **PETITION FOR REINSTATEMENT**

#### **DAWN MARIE CHARRETTE – OPR 9119, BRANCHES 1 & 3**

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

### **PETITION FOR REINSTATEMENT**

#### **RODNEY J. OVERSTREET, JR. – RA 51309, BRANCHES 2 & 3**

Administrative Law Judge Timothy Aspinwall sat with the Board to hear the Petition for Reinstatement for Rodney J. Overstreet, Jr., Applicator License Number 51309. Mr. Overstreet was informed that he would be notified by mail of the Board's decision.

### **PETITION FOR REINSTATEMENT**

#### **GEORGE DON PEDRO – OPR 8197, BRANCH 3**

Administrative Law Judge Timothy Aspinwall sat with the Board to hear the Petition for Reinstatement for George Don Pedro, Operator License Number 8197. Mr. Don Pedro 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 reinstatement.

### **Return to Open Session**

### **ADJOURNMENT**

The Meeting adjourned for the day at 3:08 P.M.

**Thursday, April 7, 2016**

**ROLL CALL / ESTABLISHMENT OF QUORUM**

Mr. Tamayo called the meeting to order at 9:01 A.M. and Ms. Saylor called roll.

Board members Tamayo, Good, Duran, Quiroz, and Utley were present.

Board members Brand and Duggal were absent.

A quorum of the Board was established.

**FLAG SALUTE / PLEDGE OF ALLEGIANCE**

Mr. Tamayo led everyone in the flag salute and recitation of the Pledge of Allegiance.

**PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA**

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

**APPROVAL OF MINUTES FROM THE JANUARY 13 & 14, 2016 BOARD MEETING**

Mr. Duran moved and Mr. Utley seconded to approved the Minutes of the January 13 & 14, 2016 Board Meeting. Passed unanimously. (AYES: TAMAYO, GOOD, DURAN, QUIROZ, UTLEY. NOES: NONE. ABSTENTIONS: NONE.)

**EXECUTIVE OFFICER'S REPORT**

Ms. Saylor reported to the Board on licensing and enforcement survey results and statistics, examination statistics, WDO statistics, examination development, the Board specialist examination, and regulatory and legislative updates.

Ms. Saylor reported to the Board on the approval and implementation of California Code of Regulations (CCR) section 1960, a regulatory addition to require licensees who have never been fingerprinted to do so as a condition of license renewal.

Mr. Utley asked about the response from industry to the approval of CCR section 1960.

Ms. Saylor stated that the Board notified all licensees who were affected by CCR section 1960 and that the Board initially received a high volume of phone calls from the industry. Ms. Saylor stated that the Board would continue to conduct outreach to those affected by CCR section 1960 throughout the renewal process.

Ms. Saylor updated the Board on Assembly Bills 2529 and 1874 and Senate Bill 1039.

Martyn Hopper, Pest Control Operators of California (PCOC), updated the Board on Assembly Bill 2596 to ban all anticoagulant rodenticides in California and stated that PCOC is strongly opposed to the Bill.

Mr. Tamayo stated for the record that the Board has not taken a position on Assembly Bill 2596 and that PCOC's opposition should not be interpreted as the Board's position.

**CONSIDERATION AND POSSIBLE BOARD ACTION ON ACT REVIEW COMMITTEE'S  
RECOMMENDED REGULATORY CHANGES TO CALIFORNIA CODE OF REGULATIONS  
SECTIONS 1902, 1970.4, 1991, AND 1992, AND LEGISLATIVE CHANGES TO BUSINESS  
AND PROFESSIONS CODE SECTION 8619 AND ADDITION OF BUSINESS AND  
PROFESSIONS CODE SECTION 8504.4**

Mike Katz, Structural Pest Control Board Act Review Committee, presented the recommendations of the Act Review Committee to the Board.

Mr. Utley moved and Mr. Duran seconded to approve the recommendations for change to B&P Code section 8504.4. Passed unanimously. (AYES: TAMAYO, GOOD, DURAN, QUIROZ, UTLEY. NOES: NONE. ABSTENTIONS: NONE.)

**8504.4.** "Inspection" is the act of a field representative or operator physically performing an on-site assessment of real property.

Mr. Good moved and Mr. Utley seconded to approve the recommendations for change to B&P Code section 8619. Passed unanimously. (AYES: TAMAYO, GOOD, DURAN, QUIROZ, UTLEY. NOES: NONE. ABSTENTIONS: NONE.)

**8619.** (a) An inspection tag shall be posted whenever any inspection for wood destroying pests or organisms is made.

(b) If the registered company completes any work with respect to wood destroying pests or organisms, it shall post a completion tag next to the inspection tag, unless both the inspection and completion tags are combined on the same form.

Mr. Good moved and Mr. Utley seconded to approve the recommendations for change to CCR section 1902. Passed unanimously. (AYES: TAMAYO, GOOD, DURAN, QUIROZ, UTLEY. NOES: NONE. ABSTENTIONS: NONE.)

**§ 1902. Definitions.**

(a) For the purpose of these rules and regulations, "board" means the State Structural Pest Control Board, and "code" means the Business and Professions Code.

(b) "Spray Adjuvant" as used in 8504.1 of the Code shall be defined as it is in Section 12758 of the Food & Agricultural Code.

Mr. Utley moved and Mr. Duran seconded to approve the recommendations for change to CCR section 1970.4. Passed unanimously. (AYES: TAMAYO, GOOD, DURAN, QUIROZ, UTLEY. NOES: NONE. ABSTENTIONS: NONE.)

**§ 1970.4. Pesticide Disclosure Requirement.**

(a) The primary contractor for fumigation shall have in his or her possession and shall provide to any subcontractor for fumigation a form (See Form 43M-48 (Rev. 5/07) at the end of this section) signed by the occupants or designated agent of a structure. The primary contractor for fumigation and the subcontractor for fumigation shall retain a copy of the occupants fumigation notice for a period of at least three years. In case of multiple-family dwellings, the owner, manager or designated agent of the building may obtain signatures and/or verify the notification of the occupants.

The form shall state the name of the pest to be controlled, the pesticide(s)/fumigant(s) proposed to be used, the active ingredient(s) and the health cautionary statement as required under section 8538 of the code. The form shall also state that a lethal gas (poison) will be used in the building on indicated dates and that it is unsafe to return to the building until a certification notice for reentry is posted by the licensed fumigator. The form shall also indicate that the occupant has received the prime contractor's information regarding the procedures for leaving the structure.

The properly signed form or a copy, written or electronic, thereof shall be in the possession of the licensed fumigator when the fumigant is released. Such form shall be attached to and become a permanent part of the fumigation log upon completion of the fumigation.

(b) Any death or serious injury relating to pesticide application or use, whether to a worker or member of the public, shall be reported to the nearest Structural Pest Control Board office immediately.

(c) Whenever a licensee employed by a branch 2 or branch 3 registered company applies a pesticide within, around or to any structure such person shall leave in a conspicuous location, or provide via electronic mail, if an electronic mailing address has been provided, a written, or electronic notice identifying the common, generic or chemical name of each pesticide applied and the registered company's name, address, and telephone number. In case of a multiple family structure, such notice may be given to the designated agent or the owner. Such pesticide identification notice may be a door hanger, invoice, billing statement or other similar written, or electronic document ~~which contains the registered company's name, address, and telephone number.~~ Notices provided electronically must be transmitted no later than the conclusion of service.

(d) All pest control operators, field representatives, applicators and employees in all branches shall comply in every respect with the requirements of section 8538 of the code. Failure to comply with section 8538 of the code is a misdemeanor and shall constitute grounds for discipline.

(e) Where notification is required under section 8538 of the code, and the premises on which the work is to be performed is a multiple family dwelling consisting of more than 4 units, the owner/owner's agent shall receive notification and other notices shall be posted in heavily frequented, highly visible areas including, but not limited to, all

mailboxes, manager's apartment, in all laundry rooms, and community rooms on all external pest control servicing. Complexes with fewer than 5 units will have each affected unit notified. Any pest control servicing done within a tenant's apartment requires that the tenant be notified according to section 8538 of the code.

(f) A registered company which applies any pesticide within, around or to any structure shall provide to any person, within 24 hours after request therefore, the common, generic or chemical name of each pesticide applied.

(g) For the purposes of section 8538 "commercial" and "industrial" are defined as business structures.

Mr. Utlej moved and Mr. Duran seconded to reject the proposed changes to CCR section 1991 concerning the removal of the terms "pellets and frass" and the addition of the term "evidence" and to reject the proposed changes to CCR section 1991 concerning the addition of the phrase "with an approved termiticide." Passed unanimously. (AYES: TAMAYO, GOOD, DURAN, QUIROZ, UTLEY. NOES: NONE. ABSTENTIONS: NONE.)

Mr. Utlej moved and Mr. Duran seconded to approve the remaining proposed changes to CCR section 1991. Passed unanimously. (AYES: TAMAYO, GOOD, DURAN, QUIROZ, UTLEY. NOES: NONE. ABSTENTIONS: NONE.)

#### **§ 1991. Report Requirements Under Section 8516(b)10.**

(a) Recommendations for corrective measures for the conditions found shall be made as required by paragraph 10 of subdivision (b) of Section 8516 of the code and shall also conform with the provisions of Title 24 of the California Code of Regulations and any other applicable local building code, and shall accomplish the following:

(1) Comply with the provisions of section 2516(c)(1) of Title 24 of the California Code of Regulations.

(2) Remove from the subarea all excessive cellulose debris in earth contact. This excludes shavings or other cellulose too small to be raked or stored goods not in earth contact. Stumps and wood imbedded in footings in earth contact shall be treated if removal is impractical.

(3) When evidence of moisture, infestations or infections exists as a result of faulty grade levels, earth fill planters or loose stucco, a recommendation shall be made to correct the condition. Any method of controlling infestations arising from these conditions is considered adequate if the infestation is controlled.

(4) Comply with the provisions of section 2516(c)(6.1) of Title 24 of the California Code of Regulations (Effective July 1992).

(5) Structural members which appear to be structurally weakened by wood-destroying pests to the point where they no longer serve their intended purpose shall be replaced or reinforced. Structural members which are structurally weakened by fungus to the point where they no longer serve their intended purpose shall be removed or, if feasible, may remain in place if another structural member is installed adjacent to it to perform the same function, if both members are dry (below 20% moisture content), and if the excessive moisture condition responsible for the fungus damage is corrected. Structural

members which appear to have only surface fungus damage may be chemically treated and/or left as is if, in the opinion of the inspector, the structural member will continue to perform its originally intended function and if correcting the excessive moisture condition will stop the further expansion of the fungus.

(6) Comply with the provisions of section 2516(c)(6) of Title 24 of the California Code of Regulations.

(7) Comply with the provisions of section 2516(c)(4) of Title 24 of the California Code of Regulations.

(8) Exterminate all reported wood-destroying pests. Such extermination shall not be considered repair under section 8516(b)(12) of the code. If evidence indicates that wood-destroying pests extend into an inaccessible area(s), recommendation shall be made to either:

(A) enclose the structure for an all encompassing treatment utilizing materials listed in Section 8505.1 of the code, or

(B) use another all encompassing method of treatment which exterminates the infestation of the structure, or

(C) locally treat by any or all of the following:

1. exposing the infested area(s) for local treatment,

2. removing the infested wood,

3. using another method of treatment which exterminates the infestation. (If any recommendation is made for local treatment, the report must contain the following statement: "Local treatment is not intended to be an entire structure treatment method. If infestations of wood-destroying pests extend or exist beyond the area(s) of local treatment, they may not be exterminated.")

When a complete inspection is performed, a recommendation shall be made to remove or cover all accessible pellets and frass of wood-destroying pests.

When a limited inspection is performed, the inspection report shall state that the inspection is limited to the area(s) described and diagrammed. A recommendation shall be made to remove or cover all accessible pellets and frass of wood-destroying pests in the limited areas. The limited inspection report shall include a recommendation for further inspection of the entire structure and that all accessible evidence of wood-destroying pests be removed or covered.

(9) For the extermination control of subterranean termite infestations, treat an the infested area under of the structure when subterranean termite tubes are found ~~connected to the ground~~ or when active infestations are found in the ground.

Subterranean termite tubes shall be removed where accessible, except where a licensee is using an above ground termite bait station that requires the use of the termite tubes to be effective. Where a licensee is using an above ground termite bait station that requires the use of termite tubes to be effective, subterranean termite tubes can remain in place for the duration of the licensee's use of the termite bait stations. At the conclusion of the treatment, the subterranean termite tubes shall be removed.

(10) Comply with the provisions of section 2516(c)(2) of Title 24 of the California Code of Regulations.

(11) Correct any excessive moisture condition that is commonly controllable. When there is reasonable evidence to believe a fungus infection exists in a concealed wall or area, recommendations shall be made to open the wall or area.

(12) Repair a stall shower if it is found to leak when water tested for a minimum of fifteen (15) minutes after the shower drain has been plugged and the base filled to within one (1) inch of the top of the shower dam. Stall showers with no dam or less than two (2) inches to the top of the dam are to be water tested by running water on the unplugged shower base for a minimum of five (5) minutes. Showers over finished ceilings must be inspected but need not be water tested. If water stains are evident on the ceiling, recommendations shall be made for further inspection and testing.

(b) Preconstruction application of termiticide for protection from subterranean termites shall not be made at less than the manufacturer's label specifications.

(c) If in the opinion of the inspector a building permit is required, it must be noted on the wood destroying pests and organisms inspection report (Form No. 43M-41 as specified in section 1996 of the California Code of Regulations).

Mr. Good moved and Mr. Duran seconded to approve the recommended changes to CCR section 1992. Passed unanimously. (AYES: TAMAYO, GOOD, DURAN, QUIROZ, UTLEY. NOES: NONE. ABSTENTIONS: NONE.)

#### **§ 1992. Secondary Recommendations.**

In addition to the recommendations required in section 1991, the report may suggest secondary recommendations. When secondary recommendations are made, they shall be labeled as secondary recommendations and included as part of the inspection report with a full explanation of why they are made, with the notation that they are below standard measures. If secondary recommendations are performed, ~~any letter of completion, billing or other document referring to the work completed, the notice of work completed and not completed~~ must state specifically which recommendations were secondary and below standard and specify the name of the person or agency requesting completion of the secondary recommendations.

Mr. Duran moved and Mr. Good seconded for Ms. Saylor to seek a legislative author to enact the previously approved B&P Code sections 8504.4 and 8619. Passed unanimously. (AYES: TAMAYO, GOOD, DURAN, QUIROZ, UTLEY. NOES: NONE. ABSTENTIONS: NONE.)

Mr. Utley moved and Mr. Good seconded to authorize staff to begin the rulemaking process for the previously approved CCR sections 1902, 1970.4, 1991, and 1992. Passed unanimously. (AYES: TAMAYO, GOOD, DURAN, QUIROZ, UTLEY. NOES: NONE. ABSTENTIONS: NONE.)



**RESEARCH FUND BALANCE UPDATE AND POTENTIAL APPOINTMENT OF A  
RESEARCH PANEL TO IDENTIFY NEED FOR SPECIFIC RESEARCH TOPICS OR AREAS**

Mr. Chan-You stated the Research Advisory Panel is responsible for establishing criteria for research proposals, sending out requests for proposal, and selecting which research proposals will be funded.

Ms. Saylor stated that Nita Davidson, Department of Pesticide Regulation (DPR), Karey Windbiel-Rojas, University of California Statewide Integrated Pest Management Program, and Mike Katz, Western Exterminator Company, have agreed to serve on the Research Advisory Panel.

Pat Copps, Orkin, volunteered to serve on the Research Advisory Panel.

Mr. Tamayo appointed Mr. Copps to the Research Advisory Panel and stated he would speak to the other public Board members and appoint one of them at some point in the near future.

**CONSIDERATION AND POSSIBLE BOARD ACTION REGARDING STAFF  
RECOMMENDATION TO AMEND BUSINESS AND PROFESSIONS CODE SECTION 8621  
TO EXTEND THE LENGTH OF TIME FOR THE BOARD TO TAKE FORMAL ACTION ON A  
COMPLAINT FROM 12 TO 18 MONTHS**

Mr. Lucas stated the proposed changes are staff recommendations intended to give the Board more enforcement flexibility.

Mr. Good asked if the proposed changes were consistent with the length of time other programs have to take formal action on a complaint.

Mr. Lucas stated that the proposed changes were fairly consistent with other programs.

Mr. Heppler stated that in his opinion the wording of some of the recommended changes could be improved.

Mr. Chan-You recommended staff and legal be given an opportunity to review the proposed changes and present any changes to the Board at a future meeting.

Mr. Good moved and Ms. Quiroz seconded for staff and legal to review the proposed changes and bring back a recommendation that extends the length of time the Board has to take formal action on a complaint from 12 to 18 months at a future meeting.  
Passed unanimously. (AYES: TAMAYO, GOOD, DURAN, QUIROZ, UTLEY. NOES: NONE. ABSTENTIONS: NONE.)

## **STAFF UPDATE AND BOARD DISCUSSION ON THE REDUCTION OF REFERENCE MATERIALS USED IN LICENSING EXAMINATION CREATION**

Ms. Saylor updated the Board on the reduction in reference material used in the creation of licensing examinations. Ms. Saylor stated that by working with the Office of Professional Examinations Services (OPES) the Board has been able to reduce the reference material to 10 books.

## **DISCUSSION AND POSSIBLE BOARD ACTION REGARDING THE DEVELOPMENT OF A POTENTIAL STRUCTURAL IPM STUDY MANUAL / REFERENCE MATERIAL**

Mr. Chan-You advised the Board that creating a study guide could be construed as a conflict with the Board's primary mission.

Tracy Montez, Department of Consumer Affairs Chief of Programs and Policy Review, stated that the Board should not be involved in the creation of a study guide and that if a third party were to create one it could be used as reference material in the exam creation process.

Mr. Tamayo stated that the Board's goal is for applicants to be aware of what they are expected to know before they take the examination.

Ms. Montez stated that examination applicants are provided with a candidate handbook that identifies what the applicants are expected to know.

Mr. Good stated that experienced and knowledgeable subject matter experts are needed and that continuing education providers should be able to contribute in the exam creation process.

Ms. Montez stated that the criteria that is used in the selection of subject matter experts can be reviewed and that reducing reference material is an ongoing process. Ms. Montez further stated that the use of continuing education providers in the exam construction process could perhaps be accomplished if they were not exposed to the actual test questions.

Mr. Hopper stated that PCOC would begin the process of developing a study guide.

## **BOARD CALENDAR**

Mr. Tamayo thanked and congratulated Ms. Quiroz and Mr. Utley for their contributions and accomplishments during their tenure as Board members.

Mr. Utley thanked the industry and Board staff for everything they did during his tenure as a Board member.

Mr. Good thanked Ms. Quiroz and Mr. Utley and stated that it was a privilege to work with them as Board members.

Mr. Duran thanked Ms. Quiroz and Mr. Utley for all they've done as Board members.

Ms. Quiroz thanked everyone for their help during her time as a Board member.

Ms. Quiroz and Mr. Utley were each presented with an award to commemorate their tenure as members of the Board.

The following 4 Board Meetings were scheduled for July 13 & 14, 2016 in Sacramento, October 12 & 13, 2016 in Sacramento, January 11 & 12, 2017 in San Diego, and April 5 & 6, 2017 in Sacramento.

### **FUTURE AGENDA ITEMS**

The following were identified as future agenda items –

Assembly Bill 2596 and other legislation impacting the Board.

Staff and Legal recommendation for amendments to B&P Code section 8621.

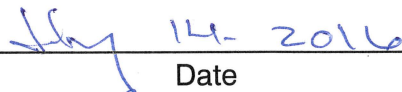
Staff recommendation for amendments to B&P Code section 8617.

### **ADJOURNMENT**

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



Curtis Good, Vice President



Date