

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

April 18 & 19, 2018

The meeting was held at the Department of Consumer Affairs, Hearing Room,
2005 Evergreen Street, Sacramento, California

Board Members Present:

Darren Van Steenwyk, President
Dave Tamayo, Vice President
Ronna Brand
Mike Duran
Curtis Good
Servando Ornelas

Board Members Absent:

Naresh Duggal

Board Staff Present:

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

Departmental Staff Present:

Sabina Knight, Legal Counsel

Wednesday, April 18, 2018

ROLL CALL / ESTABLISHMENT OF QUORUM

Mr. Van Steenwyk called the meeting to order at 1:04 P.M. and Ms. Saylor called roll.

Board members Van Steenwyk, Tamayo, Duran, and Good were present.

Board members Brand, Duggal, and Ornelas were absent.

A quorum of the Structural Pest Control Board (Board) was established.

Board member Brand arrived at 1:31 P.M. Board member Ornelas arrived at 2:12 P.M.

FLAG SALUTE / PLEDGE OF ALLEGIANCE

Mr. Van Steenwyk lead everyone in a 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

MORRIS ARTHUR HIATT, OPR 20010, BRANCHES 2 & 3

Administrative Law Judge Timothy J. Aspinwall sat with the Board to hear the Petition for Reinstatement for Morris Arthur Hiatt, Operator License Number 20010. Mr. Hiatt was informed that he would be notified by mail of the Board's decision.

PETITION FOR REINSTATEMENT

JASON ERWIN SCHOENSTEIN, FR 38469, BRANCHES 2 & 3

Administrative Law Judge Timothy J. Aspinwall sat with the Board to hear the Petition for Reinstatement for Jason Erwin Schoenstein, Field Representative License Number 38469. Mr. Schoenstein was informed that he would be notified by mail of the Board's decision.

PETITION FOR REINSTATEMENT

ALONZO G. CONTRERAS III, OPR 11760, BRANCH 3

Administrative Law Judge Timothy J. Aspinwall sat with the Board to hear the Petition for Reinstatement for Alonzo G. Contreras, Operator License Number 11760. Mr. Contreras 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 reinstatements, proposed disciplinary actions, and stipulated settlements.

Pursuant to subdivision (a)(1) of Government Code section 11126 the Board met in closed session to evaluate the performance of the Executive Officer.

Return to Open Session

RECESS

The meeting adjourned for the day at 4:42 P.M.

Thursday, April 19, 2018

ROLL CALL / ESTABLISHMENT OF QUORUM

Mr. Van Steenwyk called the meeting to order at 1:00 P.M. and Ms. Saylor called roll.

Board members Van Steenwyk, Tamayo, Brand, Duran, Good, and Ornelas were present.

Board member Duggal was absent.

A quorum of the Board was established.

FLAG SALUTE / PLEDGE OF ALLEGIANCE

Mr. Van Steenwyk lead everyone in a flag salute and recitation of the Pledge of Allegiance

PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

Bill Gaither, BG Inspections and Pest Control, brought a newspaper article from the Daily Republic to the Board's attention wherein a columnist responded to a letter from a consumer by stating that a pest inspector was possibly liable for failing to identify rust in a home's steel support beams. Mr. Gaither asked that the Board consider writing to the author of the column to inform him that pest inspectors are not responsible for identifying rust and asking that a retraction or correction be printed.

Karey Windbiel-Rojas, University of California Statewide Integrated Pest Management Program (UCIPM), on behalf of her research colleagues, requested a future agenda item to discuss the predictability of the research grant solicitations and stated that she would soon be submitting a letter to the Board that outlined their position.

Peggy Byerly, Department of Pesticide Regulation (DPR), stated that due to the hiring of several new county inspectors DPR would be scheduling a structural enforcement training event in northern California this summer and that industry volunteers will be needed to assist in the training. Ms. Byerly also stated that Patrick Thalken at DPR has retired and that she would be performing the staff functions formerly handled by Kathy Boyle.

REVIEW AND APPROVAL OF THE JANUARY 9, 2018 BOARD MEETING MINUTES

Mr. Duran moved and Mr. Tamayo seconded to approve the Minutes of the January 9, 2018 Board meeting. Passed unanimously.

(AYES: Van Steenwyk, Tamayo, Brand, Duran, Good, Ornelas. NOES: None. ABSTENTIONS: None.)

EXECUTIVE OFFICER'S REPORT

Ms. Saylor reported to the Board on licensing, enforcement, examination and wood destroying organism (WDO) statistics, survey results, examination development, and sunset review.

Mr. Van Steenwyk stated that the passing rates for the Applicator and Field Representative examinations appeared to be significantly lower than at the same time the previous year and asked if there was an explanation for that.

Ms. Saylor stated that the only explanation for the change in passing rates would be the introduction of new examinations. Ms. Saylor stated that a new Applicator examination was released in January, 2018 and that it was the first new Applicator examination in 18 months. Ms. Saylor further stated that perhaps in the future new examinations could be introduced later in the year after the industry's busy season.

Mr. Duran asked if the Board was providing applicants with adequate study material to prepare for the examinations.

Ms. Knight stated that the Board could request a closed session meeting with the Office of Professional Examination Services (OPES) to discuss how the examinations are created and what changes have been incorporated into them.

Mr. Tamayo stated that previously the Board had been advised by its legal counsel against developing a study guide for licensing examinations. Mr. Tamayo requested that Ms. Knight review that advice and provide the Board with an updated opinion.

Ms. Saylor updated the Board on the following staffing developments:

Melissa Zanetta was recently promoted to fill the vacant Lead Licensing Analyst position and recruitment would soon begin to fill the Applicator Licensing position.

Board Investigator Fred Bartley is retiring at the end of the month and recruitment would begin to fill the vacant position. Ms. Saylor further stated that this position could possibly be relocated from northern, to southern California.

UPDATE ON DEPARTMENT OF CONSUMER AFFAIRS INTERNAL OPERATIONAL AUDIT OF THE STRUCTURAL PEST CONTROL BOARD

Ms. Saylor informed the Board that the Department of Consumer Affairs (DCA) performed an internal audit of the Board covering fiscal years 2015-2017.

Ms. Saylor stated that 4 minor issues were identified in the audit and that in comparison to other programs that had undergone similar audits, the Board performed very well and she was very proud of the job staff did.

REGULATIONS UPDATE AND POSSIBLE ACTION

Ms. Knight updated the Board on status of the effort to amend Title 16, California Code of Regulations (CCR), section 1970.4. Ms. Knight stated that after reviewing the proposed amendments to CCR section 1970.4 she felt that more clarification was needed. Ms. Knight further stated that she expected updated proposed language for CCR section 1970.4 to be presented to the Board at its July, 2018 meeting.

LEGISLATION UPDATE AND POSSIBLE ACTION

Assembly Bill 2986 — Structural Pest Control Pesticides

Ms. Saylor stated that Assembly Bill (AB) 2986 has been completely changed and is no longer relevant to structural pest control

Assembly Bill 2422 — Pesticides: Use of Anticoagulants

Mr. Van Steenwyk updated the Board on the status of AB 2422 and asked if the Board wished to consider taking an oppose position on it given the Board's previous opposition to AB 1687.

Mr. Good stated his opposition to AB 2422 and his belief that DPR should determine the appropriate guidelines for these pesticides rather than the legislature.

Mr. Tamayo stated that given the Board's mandate he wasn't sure it was appropriate to take a position on AB 2422.

Mr. Good stated that consumer protection is the Board's primary function and that consumers would be harmed by AB 2422.

Mr. Tamayo stated that he would be comfortable taking an oppose position on AB 2422 if some language were added to the letter to the author supporting the notion of wildlife protection training being made available to Board licensees specifically as it relates to the use of these pesticides.

Mr. Good stated that in his opinion Board licensees are adequately trained and that more research is needed to identify who is responsible for the misapplication of these pesticides. Mr. Good further stated that he would agree to adding the language requested by Mr. Tamayo to the letter to the author.

Mr. Duran stated that he agreed with Mr. Good and that the people who are responsible for misapplying these pesticides need to be held accountable.

Mr. Good moved and Mr. Duran seconded to take an oppose position on Assembly Bill 2422 and to send a letter to the author's office stating that opposition which includes a

statement explaining that the Board supports the notion of wildlife protection training being made available to its licensees specifically as it relates to anticoagulant pesticides. Passed unanimously.

(AYES: Van Steenwyk, Tamayo, Brand, Duran, Good, Ornelas. NOES: None. ABSTENTIONS: None.)

Assembly Bill 2816 — Pesticides Schoolsites

Mr. Van Steenwyk stated that AB 2816 began as a bill proposing to ban all pesticide use at school sites but has since been amended to mandate a DPR study to determine the effectiveness of the Healthy Schools Act of 2010 and its update in 2015. Mr. Van Steenwyk mentioned that Los Angeles Unified School District was an opponent of AB 2816 in its original form.

Senate Bill 1481 — Structural Pest Control: Certification: Fumigation: Penalties

Ms. Saylor stated that in addition to extending the Board's sunset date by 4 years, SB 1481 would soon be amended to add the remaining Act Review Committee recommended changes.

DISCUSSION OF THE BOARD'S ANNUAL BUDGET AND POSSIBLE ACTION REGARDING WDO FILING FEE INCREASE: BUSINESS AND PROFESSIONS CODE SECTION 8674 AND TITLE 16, CALIFORNIA CODE OF REGULATIONS, SECTION 1997

Ms. Saylor stated that during the sunset review process, one of the issues raised in the background paper was the Board's long term fund condition. Ms. Saylor stated that by fiscal year 2018 / 2019 the Board is projected to have only 2.4 months in reserve funding and that typically DCA boards and bureaus maintain a reserve balance of 6 months.

Ms. Saylor presented the Board with proposed language to amend CCR section 1997 to raise the wood destroying organism (WDO) inspection filing fee from \$2.50 per property address, to \$3.00 per property address, and to amend Business and Professions (B&P) Code section 8674 to raise the cap on the WDO inspection filing fee from \$3.00 per property address to \$5.00 per property address.

Ms. Saylor stated that the proposed amendments would alleviate the budget concerns as well as provide the Board with flexibility in the future if a WDO fee increase became necessary again.

Mr. Ornelas stated that the fee increase would ultimately be passed on to consumers.

Mr. Tamayo moved and Mr. Good seconded to authorize the Executive Officer to begin the rulemaking process to implement the proposed amendments to CCR section 1997

and to grant the Executive Officer the authority to make any technical or non-substantive changes that may be necessary during the rulemaking process. Passed unanimously.

(AYES: Van Steenwyk, Tamayo, Brand, Duran, Good. NOES: None. ABSTENTIONS: Ornelas.)

§ 1997. WDO Inspection and Completion Activity Fee.

Pursuant to the provisions of section 8674 of the Business and Professions Code, the following fee is determined, set and established:

(1) ~~Activity Reporting fee per Property Address \$1.50.~~ Effective July 1, 2010, the Activity Reporting fee per Property Address is \$2.50. Effective July 1, 2019 the Activity Reporting fee per Property Address is \$3.00.

Note: Authority cited: Sections 8525 and 8674, Business and Professions Code. Reference: Sections 8518 and 8674, Business and Professions Code.

Mr. Tamayo stated that he felt it was very important for the Board to be adequately funded in order to fulfill its consumer protection mandate and to provide the industry with the services they require in a timely manner.

Mr. Good stated that the Board is funded entirely by fees that the industry pays and that it receives no money from the general fund.

Mr. Duran moved and Mr. Tamayo seconded to approve the proposed amendments to B&P Code section 8674 and to authorize the Executive Officer to seek a legislative author to implement the amendments. Passed unanimously.

(AYES: Van Steenwyk, Tamayo, Brand, Duran, Good, Ornelas. NOES: None. ABSTENTIONS: None.)

8674. The fees prescribed by this chapter are the following:

- (a) A duplicate license fee of not more than two dollars (\$2).
- (b) A fee for filing a change of name of a licensee of not more than two dollars (\$2).
- (c) An operator's examination fee of not more than one hundred dollars (\$100).
- (d) An operator's license fee of not more than one hundred fifty dollars (\$150).
- (e) An operator's license renewal fee of not more than one hundred fifty dollars (\$150).
- (f) A company registration fee of not more than one hundred twenty dollars (\$120).
- (g) A branch office registration fee of not more than sixty dollars (\$60).
- (h) A field representative's examination fee of not more than seventy-five dollars (\$75).
- (i) A field representative's license fee of not more than forty-five dollars (\$45).
- (j) A field representative's license renewal fee of not more than forty-five dollars (\$45).
- (k) An applicator's examination fee of not more than sixty dollars (\$60).
- (l) An applicator's license fee of not more than fifty dollars (\$50).
- (m) An applicator's license renewal fee of not more than fifty dollars (\$50).

- (n) An activity form fee, per property address, of not more than three dollars (\$3 5).
- (o) A fee for certifying a copy of an activity form of not more than three dollars (\$3).
- (p) A fee for filing a change of a registered company's name, principal office address, or branch office address, qualifying manager, or the names of a registered company's officers, or bond or insurance of not more than twenty-five dollars (\$25) for each change.
- (q) A fee for approval of continuing education providers of not more than fifty dollars (\$50).
- (r) A pesticide use report filing fee of not more than five dollars (\$5) for each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month.
- (s) A fee for approval of continuing education courses of not more than twenty-five dollars (\$25).
- (t) (1) Any person who pays a fee pursuant to subdivision (r) shall, in addition, pay a fee of two dollars (\$2) for each pesticide use stamp or stamp number purchased from the board. Notwithstanding any other law, the fee established pursuant to this subdivision shall be deposited into the Structural Pest Control Research Fund that is hereby continued in existence and continuously appropriated to be used only for structural pest control research.
- (2) A charge for administrative expenses of the board in an amount not to exceed 5 percent of the amount collected and deposited in the Structural Pest Control Research Fund may be assessed against the fund. The charge shall be limited to expenses directly related to the administration of the fund.
- (3) The board shall, by regulation, establish a five-member research advisory panel, including, but not limited to, representatives from the Structural Pest Control Board, the structural pest control industry, the Department of Pesticide Regulation, and the University of California. The panel, or other entity designated by the board, shall solicit on behalf of the board all requests for proposals and present to the panel all proposals that meet the criteria established by the panel. The panel shall review the proposals and recommend to the board which proposals to accept. The recommendations shall be accepted upon a two-thirds vote of the board. The board shall direct the panel, or other entity designated by the board, to prepare and issue the research contracts and authorize the transfer of funds from the Structural Pest Control Research Fund to the applicants whose proposals were accepted by the board.
- (4) A charge for requests for proposals, contracts, and monitoring of contracted research shall not exceed 5 percent of the research funds available each year and shall be paid from the Structural Pest Control Research Fund.

UPDATE AND POSSIBLE ACTION ON BRANCH 1 EXAMINATION OCCUPATIONAL ANALYSIS COST AND LOGISTICS

Ms. Saylor stated that the Board has traditionally had greater difficulty performing occupational analyses for Branch 1 examinations due to challenges with low industry participation. Ms. Saylor introduced Heidi Lincer and Shana Larrucea from OPES to update the Board on the process.

Ms. Larrucea stated that the last occupational analysis for Branch 1 examinations was completed in 2010 and that OPES was currently brainstorming ways to overcome the recruitment issues.

Mr. Good stated that the best time for fumigators to volunteer for the occupational analysis workshops would be in January, February, or perhaps early March before their busy season began. Mr. Good further stated that if OPES was able to hold its occupational analysis workshops in southern California that could potentially help turnout.

Ms. Lincer stated that OPES is capable of holding workshops in southern California and Ms. Larrucea stated that January and February of 2019 would be good target dates.

Mr. Good stated that he would reach out to industry to get feedback on the availability of licensees and venues.

Ms. Saylor stated that volunteers for the occupational analysis workshops receive \$150 a day and have their meals and travel expenses reimbursed.

Larry Habben, Ace Professional Termite and Pest Control Training Courses, stated that he would be willing to offer his classroom to host the occupational analysis workshops.

UPDATE AND POSSIBLE ACTION ON PRE-TREATMENT COMMITTEE RECOMMENDATIONS

Mr. Van Steenwyk stated that the Pre-Treatment Committee is still in the process of being formed and therefore has not yet held any meetings. Mr. Van Steenwyk stated that he would continue to work on appointing members to the Pre-Treatment Committee.

RESEARCH ADVISORY PANEL RESEARCH REQUEST FOR PROPOSALS UPDATE AND POSSIBLE ACTION

Ms. Knight presented an amendment that was recommended by the Research Advisory Panel to the "Purpose and Description of Services" section of the solicitation for research proposals that the Board previously approved at its January 12, 2017 meeting.

Mr. Good moved and Mr. Duran seconded to accept the amendment to the "Purpose and Description of Services" section of the solicitation for research proposals previously approved by the Board at its January 12, 2017 meeting. Passed unanimously.

(AYES: Van Steenwyk, Tamayo, Duran, Good, Ornelas. NOES: None. ABSTENTIONS: Brand.)

~~SPCB is soliciting to any University in California for research in the field of structural pest control.~~ Proposals should focus on the study of and treatment of integrated pest

management (IPM) for, the following structural pests-ants, bed bugs, cockroaches, drywood termites, rodents, and yellowjackets. Within this framework, proposals may also include original innovative research on new procedures, processes, practices or programs.

SPCB is soliciting proposals from educational research institutions in California with scientific research history focused in the field of structural pest management.

Mr. Van Steenwyk asked if there was a timeline for when the solicitation for research proposals would be distributed to researchers.

Ms. Saylor stated that during the April 11, 2018 Research Advisory Panel meeting, William Pequinot from DCA's Business Services Office (BSO) expressed his belief that the research solicitation would be distributed to researchers no later than June 30, 2018.

DISCUSSION AND POSSIBLE ACTION REGARDING UNLICENSED PERFORMANCE OF TERMITE INSPECTIONS BY HOME INSPECTORS

Mr. Gaither stated that there are significant numbers of home inspectors who are performing both general pest, and WDO inspections without the proper license. Mr. Gaither added that the Board should focus enforcement activity on curtailing the practice.

Mr. Tamayo asked if home inspectors are also licensed by DCA.

Mr. Gaither stated that in California home inspectors are not licensed by any government entity.

The Board encouraged anyone who encounters unlicensed activity to file a complaint that the Board can investigate.

Mr. Habben stated that if the Board wished to do so he would help facilitate outreach to home inspectors about the performance of general pest or WDO inspections without the proper license. Mr. Habben mentioned the California Real Estate Inspection Association (CREIA), the American Society of Home Inspectors (ASHI), and Internachi, as home inspector certification organizations he could help facilitate correspondence with.

Mr. Good stated that he would like staff to write a letter to CREIA, ASHI, and Internachi informing their membership about the licensing requirements in California to perform general pest or WDO inspections.

Ms. Knight stated that the Board could also add information to its website about licensing requirements to perform inspections in California.

Mr. Tamayo asked if staff could report back at the July 26, 2018 meeting with what it has learned and what it thinks can be done about this issue.

FUTURE AGENDA ITEMS

The following were identified as future agenda items —

Staff report on home inspectors performing pest inspections without the proper license to do so.

Internal process for distributing solicitations for research proposals with a focus on creating a more predictable timeline.

Status of the pre-treatment committee.

An examination of the Board’s renewal process with a focus on the way licensees certify their continuing education hours and possibly emulating DPR’s renewal process.

BOARD CALENDAR

The next 4 meetings of the Board were scheduled for —

Thursday, July 26, 2018 in Claremont.

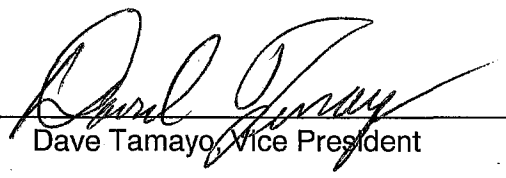
Tuesday, October 16, and Wednesday October 17, 2018 in Sacramento.

Tuesday, January 15, and Wednesday, January 16, 2019 in Claremont.

Wednesday, April 17, and Thursday, April 18, 2019 in Sacramento.

ADJOURNMENT

The was adjourned at 3:08 P.M.



Dave Tamayo, Vice President



Date