

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

March 12, 2020

The meeting was held March 12, 2020 at the Department of Consumer Affairs,
Hearing Room, 2005 Evergreen Street, Sacramento, 95815

Board Members Present:

Curtis Good, President
Dave Tamayo, Vice President
Mike Duran
Darren Van Steenwyk

Board Members Absent:

Ronna Brand

Board Staff Present:

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

Departmental Staff Present:

Sabina Knight, Legal Counsel

ROLL CALL / ESTABLISHMENT OF QUORUM

Mr. Good called the meeting to order at 9:03 A.M. and Ms. Saylor called roll.

Mr. Good, Mr. Tamayo, Mr. Duran, and Mr. Van Steenwyk were present.

Ms. Brand was absent.

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

FLAG SALUTE / PLEDGE OF ALLEGIANCE

Mr. Good led 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
ANDY ALFONSO BASTIEN – OPR 11417 – BRANCH 3

Administrative Law Judge Tiffany King sat with the SPCB to hear the Petition for Reinstatement for Andy Alfonso Bastien, Operator License Number 11417. Mr. Bastien was informed he would be notified by mail of the SPCB’s decision.

PETITION FOR REINSTATEMENT
CHRISTOPHER J. CRAIG – FR 51975 – BRANCH 2

Administrative Law Judge Tiffany King sat with the SPCB to hear the Petition for Reinstatement for Christopher J. Craig, Field Representative License Number 51975. Mr. Craig was informed he would be notified by mail of the SPCB’s decision.

CLOSED SESSION

Pursuant to subdivision (c)(3) of section 11126 of the Government Code the SPCB met in closed session to consider reinstatements, proposed disciplinary actions, and stipulated settlements.

REVIEW AND APPROVAL OF MINUTES OF THE OCTOBER 23 & 24, 2019 BOARD MEETING

Mr. Van Steenwyk moved and Mr. Tamayo seconded to approve the minutes of the October 23 & 24, 2019 Board Meeting. Passed unanimously.

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

DEPARTMENT OF CONSUMER AFFAIRS (DCA) UPDATE WHICH MAY INCLUDE GENERAL UPDATES ON DCA’S ADMINISTRATIVE SERVICES, HUMAN RESOURCES, ENFORCEMENT, INFORMATION TECHNOLOGY, COMMUNICATIONS AND OUTREACH, AND LEGISLATIVE, REGULATORY, OR POLICY MATTERS

Kimberly Kirchmeyer, DCA Director, updated the SPCB on her recent appointment and highlighted several areas she intends to focus on as Director of DCA including the following:

- DCA working cooperatively and efficiently with the boards and bureaus and providing them excellent client services so they in turn can provide an excellent experience to the consumers they serve and the professions they regulate.
- Data transparency & utilization to inform decision making and expedite timelines as they pertain to disciplinary, licensing, and regulatory functions.
- Streamlining DCA’s review process for regulatory packages, investigations performed by the Division of Investigations, and FISCAL budget reporting.

- Ensuring that DCA and all boards and bureaus are in compliance with the Americans with Disabilities Act (ADA).
- Ensuring that DCA and all board and bureaus are implementing legislation as it is passed.

Ms. Kirchmeyer also updated the SPCB on the following topics:

- The recent appointment of Lourdes Castro Ramirez as the Secretary of the Business Consumer Services and Housing Agency.
- The recent appointment of Jennifer Simoes as DCA's Deputy Director of Legislative Affairs.
- The formation and staffing of DCA's new regulations unit and the upcoming implementation of Cherwell software to improve efficiency and streamline DCA's regulations review process.
- The future availability of FISCAL data in DCA's Ad Hoc reporting system and the improved ability it will provide for boards and bureaus to access their budgetary data.
- The effort by DCA to use a variety of methods to ensure that all documents that are posted on board and bureau websites are fully compliant with the ADA.

Mr. Tamayo stated that the SPCB will have multiple vacancies before its July 2020 meeting and asked Ms. Kirchmeyer about the status of having new members appointed.

Ms. Kirchmeyer stated that the Governor's office is aware of the upcoming vacancies and that interviews are underway to appoint new members to the SPCB. Ms. Kirchmeyer also stated that she has reached out to the appropriate parties at the Senate to encourage an appointment under their authority.

DEPARTMENT OF PESTICIDE REGULATION (DPR) UPDATE WHICH MAY INCLUDE GENERAL UPDATES ON DPR'S ADMINISTRATION, COOPERATIVE ENFORCEMENT WITH SPCB AND COUNTY AGRICULTURAL COMMISSIONERS, AND PERTINENT LEGISLATION, REGULATION, OR POLICY TOPICS

Peggy Byerly, DPR, updated the SPCB on the following topics:

- The recent promotion of Ken Everett to DPR's Assistant Director over Enforcement.
- The upcoming relocation of some DPR staff to an office location in Rancho Cordova.
- The upcoming structural regulatory training from September 22-24, 2020 in Dublin, California.

Mr. Tamayo asked if there is ongoing training provided to county enforcement staff in addition to the structural regulatory training held for new enforcement personnel.

Ms. Byerly stated that although it isn't mandated by code DPR develops and provides ongoing training modules for county enforcement staff.

Mr. Tamayo asked if Pyrethroid restrictions were included in the structural regulatory training and the ongoing training modules.

Ms. Byerly stated that the Pyrethroid restrictions are informally referred to as surface water regulations and have been included in the structural regulatory training and training modules since their adoption in Title 3 of the California Code of Regulations (CCR).

Mr. Tamayo asked if DPR could give a presentation at a future board meeting about industry compliance with the Pyrethroid restrictions.

Ms. Byerly stated that if provided enough notice DPR could give a presentation at the October 2020 SPCB meeting that included both scientific and enforcement data on surface water regulations.

PRESENTATION AND DISCUSSION ON SCHOOL PESTICIDE USE DATA

Eric Denemark, DPR, gave a presentation to the SPCB on school site pesticide use and the tools and reporting mechanisms DPR has in place for monitoring and outreach. Mr. Denemark touched on the following topics during his presentation:

- The school site pesticide use database and the ability it provides to perform targeted analysis and outreach opportunities.
- The importance of proper training and sound strategy in school site pest management and pesticide application.
- The pest control strategies specific to schoolsites the industry has implemented such as making pesticide applications on Saturdays.

Mr. Good asked if school districts were following the label requirements for applications of pesticides that are water activated.

Mr. Denemark stated that for the most part pest control companies are making the applications and school districts are not applying restricted use pesticides. Mr. Denemark further stated that it can be difficult for pest control companies to ensure that school districts are irrigating in a manner that would maximize the efficacy of the application.

Mr. Good stated that the Pest Control Operators of California (PCOC) could help disseminate information about effective use of water activated pesticides.

Mr. Tamayo stated that the PowerPoint presentation Mr. Denmark gave to the Pesticide Registration and Evaluation Committee (PREC) was very informative and asked if he could give it at a future SPCB meeting.

Mr. Denmark stated that he would be happy to return and give the PowerPoint presentation at the October 2020 SPCB meeting.

DISCUSSION AND POSSIBLE ACTION ON THE STRUCTURAL PEST CONTROL BOARD'S COMPLIANCE WITH U.S. ENVIRONMENTAL PROTECTION AGENCY PESTICIDE APPLICATOR REGULATIONS

Leslie Talpasanu, DPR, updated the SPCB on the status of DPR and SPCB compliance with the U.S. Environmental Protection Agency's (EPA) certification and training regulations. Ms. Talpasanu stated that the California state plan was submitted, and the preliminary feedback indicated that the state plan would ensure California compliance with the EPA regulations.

Ms. Talpasanu further stated that the next steps in the process would be implementation and public outreach and she anticipated that process beginning in the summer of 2020.

BUSINESS MODERNIZATION PLAN UPDATE BY OFFICE OF INFORMATION SERVICES

Lisa Rangel and Sean O'Connor, DCA Office of Information Services (OIS), updated the SPCB on the business modernization plan SPCB is currently undergoing. Ms. Rangel outlined the process and timeline for both partial, and full implementation of a new information technology (IT) system for the SPCB.

Mr. Van Steenwyk asked what the anticipated timeline is for full implementation of the new IT system and if there would be capability for online payment and submission of documents.

Ms. Rangel stated that the expectation is for the new IT system to be fully operational in 18 months and that there would be capability for online payment and document submission.

Ms. Saylor stated that the new IT system will require licensees to input their continuing education course numbers and dates at the time of their renewal. Ms. Saylor further stated that her hope was to deploy this functionality in April 2021 in time for renewals.

Mr. O'Connor stated that that timeline could be feasible and that it would be something to consider including in the contract once a vendor is selected.

EXECUTIVE OFFICER'S REPORT

Ms. Saylor updated the SPCB on survey results and licensing, enforcement, examination, and wood destroying organism (WDO) statistics.

Ms. Saylor stated that although the Branch 1 Operator (OPR) and Field Representative (FR) exam construction workshop was rescheduled to January, it was very successful and resulted in a significant reduction of reference materials. Ms. Saylor thanked Mr. Good and Newport

Exterminating for hosting the workshop and stated that the first new Branch 1 OPR and FR exams in a decade will be debuted in June or July 2020.

Ms. Saylor stated that volunteers are still needed for other exam development efforts including Branch 2 FR and especially the Applicator Occupational Analysis. Ms. Saylor stated that 8 Applicators are needed to participate in a 1-hour phone interview.

Mr. Good stated that Newport Exterminating would provide 2 or possibly 3 Applicators to participate in the phone interviews.

Ms. Saylor stated that she is working with Chris Reardon and the Pest Control Operators of California (PCOC) to include the SPCB approved amendments to Business and Professions Code (BPC) sections 8572, 8593, 8593.1, and 8610 in a bill.

Ms. Saylor stated that the publication of a new SPCB Act Book will likely occur in the spring of 2021 in order to capture the upcoming statutory and regulatory changes.

Ms. Saylor stated that renewals are typically mailed out the first week of April and that continuing education hours must be completed no later than June 30.

Ms. Saylor stated that the initial letters for the 2019 continuing education audit were mailed less than a month ago and the response rate has been very good. Ms. Saylor attributed the improved response rate to licensees having the ability to submit their certificates electronically.

Mr. Tamayo asked if the survey comments are submitted anonymously or if management has the ability to contact commenters to address their concerns.

Ms. Saylor stated that survey comments are submitted anonymously.

REVIEW OF THE STRUCTURAL PEST CONTROL BOARD'S (SPCB) 2015 STRATEGIC PLAN AND DISCUSSION AND POSSIBLE ACTION ON THE FORMULATION OF A NEW SPCB STRATEGIC PLAN

Ms. Saylor stated that 2015 Strategic Plan is included in the meeting materials and has been updated with progress reports on each of the goals.

Ms. Saylor further stated that one of the goals in the 2015 Strategic Plan was increased outreach and the SPCB has been coordinating with Contractors State License Board on attending Senior Scammer Stopper events.

Ms. Saylor stated that it is time for the SPCB to adopt a new Strategic Plan and that the tentative plan is to coordinate with DCA's Solid Training unit at the March 2021 board meeting.

UPDATE ON THE STATUS OF THE RESEARCH PROPOSALS SELECTED FOR FUNDING AT THE JULY 26, 2018 BOARD MEETING

Ms. Saylor stated that there are progress reports in the meeting materials for each of the 5 research proposals the SPCB selected for funding at its July 26, 2018 meeting. Ms. Saylor added that the SPCB has the option to request that the researchers provide in person progress reports at a future meeting.

Mr. Good stated that he found several of the progress reports in the meeting materials very thorough and informative.

Mr. Tamayo stated that it would be great for the researchers to give presentations about their research once their projects have been completed.

REGULATIONS DISCUSSION, POSSIBLE ACTION, AND UPDATE:

California Code of Regulations (CCR), Title 16, Sections 1970.4, 1970.41, 1970.42 – Pesticide Disclosure Requirements

Ms. Knight stated that there has been excellent feedback on this topic from stakeholders. Ms. Knight recommended that a working committee be established to consider the feedback and prepare a final recommendation for the SPCB.

Ms. Knight stated that Mr. Van Steenwyk has volunteered to serve as the committee chairperson.

Mr. Good stated that Todd Veden, Terminix, has also volunteered to serve on the committee.

Mr. Van Steenwyk stated that he would like 5-7 people to serve on the committee. Mr. Van Steenwyk added that he would include the county agricultural commissioners in the process.

Diana Acosta, Sacramento County Agricultural Commissioner, stated that she wanted to provide input on behalf of her office as well as from the agricultural commissioners who were unable to attend the meeting.

Ms. Knight stated that Ms. Acosta could provide the input to Ms. Saylor and through her it would be distributed to Mr. Van Steenwyk and the committee for consideration during their meetings.

CCR, Title 16, section 1997 - WDO Emergency Fee Increase Certificate of Compliance

Ms. Saylor stated that the Certificate of Compliance to make the WDO Emergency Fee Increase regulation permanent was being reviewed by the Office of Administrative Law (OAL) and would soon be distributed to the public to begin the 45-day comment period.

CCR, Title 16, sections 1936, 1936.1, 1936.2, 1937.1, 1937.2 – AB 2138 Compliance

Ms. Knight stated that OAL recently suggested that the proposed language for the Disciplinary Criteria regulatory file be amended. Ms. Knight stated that the file has already been distributed

for the 45-day public comment period and that the additional amendments would require a 15 Day Notice of Modified Text.

Ms. Saylor stated that the Disciplinary Criteria regulatory file will bring the SPCB into compliance with the provisions of Assembly Bill 2138 (Chiu, Chapter 995, Statutes of 2018) which goes into effect July 1, 2020.

Mr. Van Steenwyk moved and Mr. Tamayo seconded to approve the proposed text for a 15 Day Notice of Modified Text public comment period and delegate to the Executive Officer the authority to adopt the proposed regulatory changes if there are no adverse comments received during the public comment period, following established procedures and processes in doing so and also to delegate to the Executive Officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file. Passed unanimously.

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

LEGISLATION UPDATE AND POSSIBLE ACTION

Assembly Bill 434 (Baker): State Web Accessibility: Standards and Reports

Ms. Saylor stated that AB 434 (Baker, Chapter 780, Statutes of 2017) requires the SPCB to ensure that all documents posted on its website are fully compliant with the Americans With Disabilities Act. Ms. Saylor further stated that SPCB's cost for document remediation is \$134,000 and that she has already entered into a contract for half of the documents to be remediated. Ms. Saylor added that DCA is in the process of working with students and interns to complete some of the work at a lower cost.

Mr. Good stated that all documents posted on SPCB's websites must be fully remediated by July of 2021.

Assembly Bill 613 (Low): Professions and Vocations: Regulatory Fees

Ms. Saylor stated that AB 613 (Low, 2019) is a bill that would allow the SPCB to circumvent the regulatory process once in a specified period to raise fees in amounts commiserate to the Consumer Price Index. Ms. Saylor stated that she would continue to watch AB 613 and would report on it at a future meeting.

Mr. Tamayo asked members of the industry for their thoughts on AB 613.

Mr. Van Steenwyk stated that if AB 613 helped the SPCB maintain its operational budget and avoid scenarios like the recent emergency fee increase then he would support it.

Mr. Reardon stated that he concurred with Mr. Van Steenwyk and if AB 613 helped avoid the necessity of emergency fee increases the industry would support it.

Assembly Bill 1024 (Frazier): Home Inspector Licensure Act

Ms. Saylor stated that AB 1024 (Frazier, 2019) would require home inspectors to be licensed and regulated. Ms. Saylor further stated that originally the bill called for Contractors State License Board to license them, but the bill was amended to create a new bureau within DCA for them.

Assembly Bill 1616 (Low): Department of Consumer Affairs: Boards: Expunged Convictions

Ms. Saylor stated that AB 1616 (Low, 2019) would require the SPCB to remove documents related to convictions for individuals who have had their convictions expunged.

Ms. Knight state that it would require the SPCB to post documentation of the expungement on its website.

Ms. Knight stated that AB 1616 appears to be a companion bill to AB 2138 (Chiu, Chapter 995, Statutes of 2018) in that it is intended to reduce barriers to licensure.

Mr. Reardon stated that in his opinion AB 1616 is likely to be amended further and that due to Covid-19 it is unclear how the legislative session is going to proceed.

Mr. Good stated that the SPCB would continue to watch AB 1616 and asked that it be included on the Agenda for the July 2020 meeting.

Assembly Bill 1788 (Bloom): Pesticides: Use of Anticoagulants

Mr. Reardon stated that PCOC and its membership oppose AB 1788 (Bloom, 2019) and believe that it will cause negative consequences for public health. Mr. Reardon stated that DPR has been in contact with Assemblyman Bloom's office and the sponsors of AB 1788 on possible amendments but have thus far been unsuccessful.

Assembly Bill 2373 (Blanca Rubio): Structural Pest Control: Second Generation Anti-Coagulant Rodenticides

Mr. Reardon stated AB 2373 (Blanca Rubio, 2020) is a bill sponsored by PCOC to address some of the potential deficiencies of AB 1788 should it move forward as currently written.

Ms. Saylor stated that she has recommended AB 2373 be amended to place it more appropriately within the Structural Pest Control Act.

Mr. Reardon stated that he supports the amendment offered by Ms. Saylor.

Assembly Bill 2028 (Aguiar-Curry): State Agencies: Meetings

Ms. Saylor stated that AB 2028 (Aguiar-Curry, 2020) would require the SPCB to post all board meeting materials a minimum of 10 days prior to the meeting.

Mr. Tamayo asked how difficult it would be for staff to comply with the provisions of AB 2028.

Ms. Saylor stated it would be difficult for staff to comply with the provisions of AB 2028 especially in rapidly evolving scenarios.

Ms. Knight stated it would potentially preclude discussions about legislation that is amended within 10 days of a board meeting.

Mr. Tamayo stated that while he understood the intent of the bill it could potentially limit the public's ability to meaningfully participate in policy discussions and would therefore be counter-productive.

Mr. Good asked Ms. Saylor to contact the author's office and share the SPCB's concerns about AB 2028.

Senate Bill 53 (Wilk): Open Meetings

Ms. Saylor stated that the author's office has indicated that they will not be moving forward with SB 53 (Wilk, 2018).

FUTURE AGENDA ITEMS

The following were identified as future agenda items:

- Legislative and regulatory updates including WDO Fee Increase and AB 2138 compliance
- Update on EPA certification and training rule
- Pyrethroid surface water training module (October meeting)

Mr. Good stated that Mr. Duran's and Mr. Van Steenwyk's terms were expiring and thanked them for their outstanding dedication and service.

Mr. Tamayo expressed how much we appreciated serving as a board member with both Mr. Duran and Mr. Van Steenwyk.

Mr. Good stated that both Mr. Duran and Mr. Van Steenwyk would be receiving certificates of appreciation for their outstanding performance during their tenure as board members.

BOARD CALENDAR

The SPCB scheduled meetings as follows:

July 7 & 8, 2020 in Claremont, California.

October 20 & 21, 2020 in Sacramento, California.

The SPCB agreed to wait until the July 2020 meeting to schedule the March 2021 meeting.

ADJOURNMENT

The meeting was adjourned at 1:13 P.M.

Signature on File

10-21-2020

Curtis Good, President

Date