

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

October 20, 2021

The meeting was held via Webex Events

Board Members Present:

Curtis Good, President
Derek Devermont, Vice President
Kyle Finley
Magali Flores Nunez
Janet Thrasher

Board Members Absent:

Nicky Kapadia

Board Staff Present:

Susan Saylor, Executive Officer
Robert Lucas, Assistant Executive Officer
Melissa Sowers-Roberts, Disciplinary Analyst
David Skelton, Administrative Analyst

Departmental Staff Present:

Sabina Knight, Legal Counsel
Jason Hurtado, Legal Counsel

I. ROLL CALL / ESTABLISHMENT OF QUORUM

Mr. Good called the meeting to order at 9:02 A.M. and Ms. Saylor called roll.

Mr. Good, Mr. Devermont, Mr. Finley, Ms. Flores Nunez, and Ms. Thrasher were present.

Ms. Kapadia was absent.

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

II. FLAG SALUTE / PLEDGE OF ALLEGIANCE

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

III. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

Mr. Good thanked the industry for their dedication, perseverance, and for continuing to do a great job servicing consumers throughout the pandemic. Mr. Good stated that it has been a challenging time for everyone but both licensees and non-licensees in the pest control industry have done an outstanding job.

Mr. Good thanked SPCB staff and specifically Ms. Sowers-Roberts and Melissa Zanetta for their hard work and dedication to the SPCB throughout the pandemic. Mr. Good stated that both Ms. Sowers-Roberts and Ms. Zanetta continued to work in the office during the entirety of the pandemic.

Dean Wiley, President, Pest Control Operators of California (PCOC), stated that PCOC would be seeking legislation to require pest control companies to carry workers' compensation insurance in order to obtain or renew a license. Mr. Wiley requested this topic be placed on the Agenda at the next SPCB meeting.

Bill Lamb stated that the SPCB should consider revising its regulations related to treatment recommendations when termites are found. Mr. Lamb stated that in his opinion the best treatment option is dependent on case specific circumstances and options other than fumigation are not necessarily sub-standard in certain cases.

IV. PETITION FOR REINSTATEMENT

JUAN CARLOS AQUINO – RA 45842 – BRANCHES 2 & 3

Administrative Law Judge Wim van Rooyen sat with the SPCB to hear the Petition for Reinstatement for Juan Carlos Aquino, Applicator License Number 45842. Mr. Aquino was informed he would be notified by mail of the SPCB's decision.

V. CLOSED SESSION

Pursuant to section 11126(c)(3) of the Government Code the SPCB met in closed session to discuss and take action on disciplinary matters, including reinstatement petitions.

RECONVENE IN OPEN SESSION

VI. REVIEW AND POSSIBLE APPROVAL OF THE MINUTES OF THE JULY 21, 2021 SPCB MEETING

Mr. Finley moved and Mr. Devermont seconded to approve the minutes of the July 21, 2021 SPCB Meeting. Passed unanimously.

(AYES: Good, Devermont, Finley, Flores Nunez, Thrasher. NOES: None. ABSTENTIONS: None.)

VII. DEPARTMENT OF PESTICIDE REGULATION (DPR) UPDATE

Peggy Byerly, Department of Pesticide Regulation (DPR), stated that several one day county enforcement trainings were held via Zoom over the previous month. Ms. Byerly stated that 50 counties and 357 individuals attended the trainings which covered, elements of the violation, investigation planning, and enforcement case development in both agricultural and structural scenarios.

Ms. Byerly stated that the comment period for the Federal Environmental Protection Agency's (EPA) sulfur fluoride mitigation document closed on September 23, 2021 and that DPR provided public comment in letter form. Ms. Byerly summarized DPR's public comment letter and stated that is available to be viewed on DPR's website <https://www.regulations.gov/comment/EPA-HQ-OPP-2009-0136-0329>.

Mr. Good stated that there appears to be a lack of fumigation inspections occurring in the counties that participate in the Structural Fumigation Enforcement Program (Los Angeles County, Orange County, Santa Clara County, and San Diego County) and asked Ms. Byerly if she had any comments about it.

Ms. Byerly stated that the pandemic has caused some staffing issues that has affected some enforcement activities in the Structural Fumigation Enforcement Program counties.

Mr. Good stated that fumigations have fully returned to pre-pandemic levels but fumigation inspections have not. Mr. Good further stated his concern that the industry funds the Structural Fumigation Enforcement Program and is not seeing the funds used properly. Mr. Good asked if the counties had plans to return any of the funding from the Structural Fumigation Enforcement Program.

Ms. Byerly stated that the counties had not discussed any plans to return funds with DPR.

Mr. Good asked Ms. Byerly to provide an update on this topic at the next SPCB meeting.

VIII. EXECUTIVE OFFICER'S REPORT

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

Ms. Saylor stated that SPCB's strategic planning has been pushed back to March 2022 and Senate Bill 607 (Min) extended the SPCB's sunset date from January 1, 2023 to January 1, 2024. Ms. Saylor stated that the SPCB's sunset date was extended a year to give the legislature more time and flexibility due to the pandemic.

Mr. Good asked Ms. Saylor if she could elaborate on why the transfer of employment numbers in the licensing statistics were so high.

Ms. Saylor stated the transfer of employment numbers were unusually high due to a clean up that was performed on the Field Representative desk. Ms. Saylor stated that often one licensee would have to file several transfers of employment if they previously failed to file one when they changed companies.

Mr. Good asked if the clean up was completed on the Field Representative desk and Ms. Saylor stated that it was.

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

Ms. Saylor updated the SPCB on the status of the research projects that were selected for funding at the July 26, 2018 Board Meeting. Ms. Saylor stated that 4 of the 5 projects that were selected have had their deadlines extended due to the pandemic and there is a remaining balance of \$427,000 to fund these projects. Ms. Saylor further stated that Dr. Quinn's project has just begun and the completion date has been extended to June 30, 2023.

Ms. Thrasher asked if the researchers would come before the SPCB to present their findings once their projects are completed.

Ms. Saylor stated that the researchers will come before the SPCB to present their findings and additionally their reports are posted on the SPCB's website.

X. ANNUAL REVIEW AND POSSIBLE ACTION REGARDING THE BOARD'S POLICIES AND PROCEDURES

Ms. Saylor stated this agenda item is an annual review of the SPCB's Policies & Procedures and that this year Melissa Sowers-Roberts, SPCB Disciplinary Analyst, has a proposed change to

section E.4. Ms. Saylor added that Ms. Knight has already reviewed and approved the proposed change to section E.4.

Ms. Sowers-Roberts stated that her proposed amendment to section E.4. of the Policies & Procedures would add Applicators and bring about consistency with the SPCB's Disciplinary Guidelines with respect to stipulated agreements.

Mr. Finley moved and Ms. Thrasher seconded to approve the proposed changes to section E.4. of the SPCB's Policies & Procedures. Passed unanimously.

(AYES: Good, Devermont, Finley, Flores Nunez, Thrasher. NOES: None. ABSTENTIONS: None.)

XI. ANNUAL REVIEW AND POSSIBLE ACTION REGARDING THE BOARD'S RESEARCH FUND

Ms. Saylor stated that the research fund condition that is included in the meeting materials is not accurate and that the actual expenditures from the research fund in 2021 totaled \$483,000. Ms. Saylor stated that she would not recommend at this time for the SPCB to solicit any new research proposals since there are still 4 existing research projects underway one of which has been extended to June 30, 2023. Ms. Saylor added that her recommendation would be for the SPCB to direct staff to begin working on the research solicitation process in late 2022.

XII. DISCUSSION ON CALIFORNIA CODE OF REGULATIONS, TITLE 16, SECTION 1996.3 ELECTRONIC SUBMISSION OF WDO INSPECTION AND COMPLETION ACTIVITY REPORT FORM

Ms. Saylor stated that an analysis was done and that of the 900,000 WDO activities that were submitted in 2021, 1.3% were submitted on paper rather than electronically. Ms. Saylor stated that the process for SPCB staff to handle these paper submissions is extremely time consuming and involves the use of outdated technology. Ms. Saylor added that only 30 out of the 1,250 companies who submit WDO activities are still submitting them on paper.

Ms. Saylor asked the SPCB to support the concept of moving to 100% electronic submission of WDO activities and to direct staff to bring proposed regulatory language to the next SPCB meeting.

Ms. Thrasher moved and Mr. Finley seconded to support the concept of eliminating paper submission of WDO Inspection and Completion activities and to direct staff to bring back proposed regulatory language for the SPCB to vote on. Passed unanimously.

(AYES: Good, Devermont, Finley, Flores Nunez, Thrasher. NOES: None. ABSTENTIONS: None.)

XIII. REGULATIONS UPDATE

Pesticide Application Notice Requirements: California Code of Regulations, Title 16, sections 1970.4, 1970.41, 1970.42, 1970.43

Mr. Skelton stated that he is in the final stages of writing the initial rulemaking documents and the rulemaking package should be in the formal process by the next SPCB meeting.

XIV. LEGISLATION UPDATE AND POSSIBLE ACTION REGARDING:

AB-29 (Cooper) – State Bodies: Meetings

Ms. Saylor stated AB-29 proposes to make board meeting materials available to the public on the same day they are made available to board members and that it is a 2 year bill with no action since May 2021.

Assembly Bill 105 (Holden) – Upward Mobility Act of 2021: Board and Commissioners: Civil Service: Examinations: Classifications

Ms. Saylor stated that AB-105 proposed to make board member appointments from under-represented groups and that it was vetoed by Governor Newsom on October 8, 2021.

Assembly Bill 107 (Salas) – Licensure: Veterans and Military Spouses

Ms. Saylor stated that AB-107 proposed to require military spouses to be issued a temporary 1 year license within 30 days and was signed into law by Governor Newsom on October 8, 2021.

Assembly Bill 225 (Gray) – DCA: Boards: Veterans: Military Spouses: Veterans

Ms. Saylor stated that AB-225 does not apply to the SPCB.

Assembly Bill 361 (Rivas) – Open Meetings: State and Local Agencies: Teleconferences

Ms. Saylor stated that AB-361 allows teleconference and WebEx Board meetings to continue until January 31, 2022 and that it was signed into law by Governor Newsom on September 16, 2021.

Assembly Bill 646 (Low) – Department of Consumer Affairs: Boards: Expunged Convictions

Mr. Saylor stated that AB-646 proposes to require the SPCB to post notice of expungement of a conviction that was used to revoke or deny a license within 90 days of notification and that this is a 2 year bill with no action since May 2021.

Senate Bill 607 (Roth) – Professions and Vocations

Ms. Saylor stated that SB-607 extended the SPCB's sunset date from January 1, 2023 to January 1, 2024 and that it was signed into law by Governor Newsom on September 28, 2021.

Ms. Saylor added that the Structural Fumigation Enforcement Program's sunset date remains January 1, 2023 and that when she inquired with the legislature about extending it via SB-607 she was told there could not be any amendments made. Ms. Saylor added that she notified PCOC and they are aware of the January 1, 2023 sunset date for the Structural Fumigation Enforcement Program.

Senate Bill 731 (Durazo) – Criminal Records: Relief

Ms. Saylor stated that SB-731 proposed to require that any conviction prior to 2005 that met certain conditions be automatically removed from that person's record and that this bill failed to pass the Assembly on September 10, 2021.

Ms. Flores Nunez asked Ms. Saylor for an explanation of how AB-107 would impact the SPCB.

Ms. Saylor stated that SPCB would be working with DCA to determine if draft regulations are needed to comply with AB-107 and working with the regulations unit if it was determined that they are.

XV. ANNUAL ELECTION OF BOARD PRESIDENT AND VICE PRESIDENT

Mr. Devermont moved and Ms. Thrasher seconded to nominate Mr. Finley for SPCB President. Passed unanimously.

(AYES: Good, Devermont, Finley, Flores Nunez, Thrasher. NOES: None. ABSTENTIONS: None.)

Mr. Finley moved and Mr. Good seconded to nominate Mr. Devermont for SPCB Vice President. Passed unanimously.

(AYES: Good, Devermont, Finley, Flores Nunez, Thrasher. NOES: None. ABSTENTIONS: None.)

XVI. FUTURE AGENDA ITEMS

The following were identified as future agenda items:

Draft language to require SPCB registered companies to carry workers' compensation insurance.

Fumigation enforcement inspection analysis for the Structural Fumigation Enforcement Program.

Draft language to eliminate paper filing of WDO Inspection and Completion activities.

XVII. BOARD CALENDAR

The following 3 SPCB meetings were scheduled for:

March 22 & 23, 2022 in Sacramento.

July 19 & 20, 2022 in Claremont.

October 18 & 19, 2022 in Sacramento.

XVIII. ADJOURNMENT

The meeting was adjourned at 1:25 P.M.

Signature on File

March 23, 2022

Kyle Finley, President

Date