



Structural Pest Control Board Meeting Minutes

June 28, 2023

Location:

The meeting was held via WebEx events

Board Members Present:

Kyle Finley, Board President
Ankur Bindal
Mark Paxson
Janet Thrasher
John Tengan

Board Staff Present:

Sophia Azar (Cornejo), Executive Officer
Melissa Sowers-Roberts, Disciplinary Specialist
Melissa Zanetta, Chief of Licensing & Administration
Kristina Jackson-Duran, Administrative Analyst

Board Members Absent:

Yessenia Anderson, Board Vice President

Departmental Staff Present:

Sabina Knight, DCA Legal Counsel

Agenda Item 1. Roll Call / Establishment of Quorum

The Structural Pest Control Board (Board) meeting was called to order by President Finley at 9:00 a.m. and Executive Officer (EO) Azar called roll.

President Finley, along with Board members Bindal, Paxson, Thrasher, and Tengan were present.

A quorum of the Board was established.

Agenda Item 2. Flag Salute / Pledge of Allegiance

President Finley led everyone in a flag salute and recitation of the Pledge of Allegiance.

Agenda Item 3. Public Comment for Items Not on the Agenda

No public comments.

Agenda Item 4. Petition for Modification/Termination of Probation Demetrius D. Howard – FR 55408 – Branch 2 & RA 61276 – Branch 3

An Administrative Law Judge and Deputy Attorney General appeared with the Board to hear Mr. Demetrius Howard's petition. A court reporter was not available for the meeting; however, audio/video recording of the proceedings are available on the Board's website for reference.

After much discussion, Mr. Howard was informed he would be notified by mail of the Board's decision.

Agenda Item 5. Petition for Reinstatement
Shuzhu Huang – OPR 11395 – Branches 2 & 3

An Administrative Law Judge and Deputy Attorney General appeared with the Board to hear Mr. Shuzhu Huang's petition. A court reporter was not available for the meeting; however, audio/video recording of the proceedings are available on the Board's website for reference.

After much discussion, Mr. Huang was informed he would be notified by mail of the Board's decision.

Agenda Item 6. Petition for Reinstatement
Eduardo Santillan – OPR 10743 – Branch 1

An Administrative Law Judge and Deputy Attorney General appeared with the Board to hear Mr. Eduardo Santillan's petition. A court reporter was not available for the meeting; however, audio/video recording of the proceedings are available on the Board's website for reference.

After much discussion, Mr. Santillan was informed he would be notified by mail of the Board's decision.

Agenda Item 5. Closed Session

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

The Board entered closed session at 12:01 p.m., and in addition to President Finley who called roll, Board members Bindal, Paxson, Thrasher, and Tengan were present.

A quorum of the Board was established.

**The Board recessed following the conclusion of Closed Session until
9:00am, Thursday, June 29, 2023.**

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Location:

The meeting was held via WebEx events

Board Members Present:

Kyle Finley, Board President
Yessenia Anderson, Board Vice President
Ankur Bindal
Mark Paxson
Janet Thrasher
John Tengan

Board Members Absent:

None.

Board Staff Present:

Sophia Azar (Cornejo), Executive Officer
Melissa Sowers-Roberts, Disciplinary Specialist
Melissa Zanetta, Chief of Licensing & Administration
Heather Jackson, Regulation & Legislation Specialist
Kristina Jackson-Duran, Administrative Analyst

Departmental Staff Present:

Sabina Knight, DCA Legal Counsel

Agenda Item 9. Roll Call / Establishment of Quorum

The Structural Pest Control Board (Board) meeting was called to order by President Finley at 9:00 a.m. and Executive Officer (EO) Azar called roll.

President Finley, Vice President Anderson, and Board members Paxson, Thrasher, and Tengan were present.

A quorum of the Board was established.

Agenda Item 10. Flag Salute / Pledge of Allegiance

President Finley led everyone in a flag salute and recitation of the Pledge of Allegiance.

Agenda Item 11. Public Comment for Items Not on the Agenda

Peggy Byerly from Department of Pesticide Regulation provided an update on the 2023 Structural Regulatory Training which will be held in Northern California for the new County Ag Commissioner staff who currently are or will soon be performing structural pest control inspections and investigations. Due to the overwhelming attendance nominations, coordinators are having difficulties finding a venue to accommodate the event. However, they are targeting later September, early October/November 2023.

[No further public comments.](#)

Agenda Item 12. Discussion and Possible Approval of the March 9, 2023, SPCB Meeting Minutes

Board Vice President **Anderson moved**, and Board member **Tengan seconded** the motion to approve the minutes of the March 9, 2023, Structural Pest Control Board meeting.

No Board or public comments.

Motion carried 5-0 by roll call vote.

Agenda Item 14. Discussion and Possible Action on the use of National Pest Management Association Wood Destroying Insect Inspection Form 33 in California

Board member Bindal joined the meeting.

EO Azar provided the Board background on the use of the National Pest Management Association's Wood Destroying Insect Inspection Form (NPMA-33) in California. She explained the Housing and Urban Development (HUD) requires the NPMA-33 form to be completed for all HUD or Veteran Affairs guaranteed property transactions. However, in HUD's suggested guidelines for completing the inspection, it defers to State regulatory requirements, where applicable. She stated that in California we use Form 43M-41 (Wood Destroying Pests and Organisms Report).

Board Member Thrasher expressed concerns about allowing licensees to complete the NPMA-33 form in addition to California's form. She explained the concern is the lender may dismiss California's findings and form – which does not resolve the consumer protection concern.

Board staff offered further clarification on the NPMA Wood Destroying Organism Attachment that can be used in addition to the NPMA-33 form, to report evidence of wood decay fungi.

Board **President Finley moved**, and Board member **Paxon seconded** the motion to direct EO Azar to issue formal guidance to the industry on the use of the NPMA-33 in California.

No further Board or public comment.

Motion carried 6-0 by roll call vote.

Agenda Item 15. Review, Discussion, and Possible Action on Legislation Related to the Board, the Structural Pest Control Profession, and/or DCA

Heather Jackson provided an update on legislation that either affects the board, has an impact on the pest control industry, or has department-wide impact and may affect the board or its operations.

Board President **Finley moved**, and Board member **Tengan seconded** the motion to take a support position on Senate Bill 544 (Bagley-Keene Open Meeting Act).

No further Board or public comment.

Motion carried 6-0 by roll call vote.

On behalf of the Pest Control Operators of California (PCOC), Dean Wiley expressed concerns with AB 1322 (Pesticides: second-generation anticoagulant rodenticide: diphacinone) and requested the Board to actively oppose the bill by submitting a letter of opposition.

Board Member Paxon commented that he does not have enough information on what the issues are in order to take a position on the bill. Board staff offered additional information on the bill and its possible impact, if successful.

Board Member **Thrasher moved**, and President **Finley seconded** the motion to oppose AB 1322 (Pesticides: second-generation anticoagulant rodenticide: diphacinone) in order to allow DPR to complete their evaluation and make a final determination; and direct staff to compose a letter to *submit on the Board's behalf*.

Board Member Dr. Bindal asked about data provided in the materials where it stated that 39 out of 40 mountain lions in Los Angeles County tested positive for diphacinone and requested more data regarding what exactly the product is doing to non-target wildlife populations; he also asked about available alternatives in the market to control rodents which may be safer; and finally he asked about the national statistics on the matter and how other states are responding to the issues identified in the legislation.

Dean Wiley of PCOC commented his understanding of other causes contributing to the death of the mountain lions, he gave an example of being hit by a car; and explained that the autopsy revealed trace amounts of diphacinone in the system but was not the cause of death. He further explained that while alternatives exist, second-generation anticoagulants are the best tools pest control operators have for controlling rodent populations.

Jim Stead of Neighborly Pest Management and PCOC commented the risks of removing rodenticides from use in California. He explained that second- and first- generation rodenticides have antidotes and stated that a primary concern is the remaining rodenticides do not – effectively placing the public and pets at higher risk. He emphasized that the Department of Pesticide Regulation's (DPR) reevaluation process is designed to assess concerns, include stakeholders, and make decisions based on science.

Board Member Thrasher commented that there are various channels for homeowners to purchase products privately and distribute them around their property in an unprofessional or

non-contained manner. Considering this, she stated that it would be incorrect to assume the impact to non-target wildlife originates exclusively from licensed pest control operator.

Board Members Dr. Bindal and Paxon expressed concerns with the provided information. Specifically, where it suggests a correlation between exposure to these products and sub-lethal/lethal issues, which remain ambiguous without further information or data. Both Board members emphasized the need for further information in order to make an informed decision and take a position.

Motion carried 4-2 by roll call vote.

(Ayes: Finley, Anderson, Thrasher, Tengan. NOES: Dr. Bindal, Paxon. Abstentions: None.)

EO Azar recommended the Board to take a support position on the Board's sunset bill, SB 813 (Structural Pest Control Board).

Board President **Finley moved**, and Vice President **Anderson seconded** the motion to take a support position on Senate Bill 813 (Structural Pest Control Board).

No Board or public comment.

Motion carried 6-0 by roll call vote.

Agenda Item 16. Rulemaking Report

Heather Jackson provided the following status updates on three regulation packages, one requesting Board action:

Item 16a -

The Certification and Training regulation is intended to address new federal standards related to Certification of Pesticide Applicators which are Structural Pest Control Field Representatives (FR) and Operators (OPR) – those that handle restricted use pesticides. She directed the Boards attention to the proposed language included in the materials for consideration. EO Azar recommended the Board approve the proposed text and direct staff to submit to the Department and Agency for review.

Discussion

Board Member Paxon asked if the federal standards have been reviewed against the current California laws to ensure we don't already meet the new standards. EO Azar explained many of the new standards are already a California requirement or practice. Those that are not, are addressed in the proposed regulation package, or through policy. She reported the Board's FR and OPR exams are undergoing a full evaluation by DCA's Professional Examination Services (OPES) to ensure they meet the new requirements, and if needed, address areas that fall short.

Board Member Paxon inquired about the proposal deleting categories for which continuing education (CE) can be approved. EO Azar explained that specific change restructures the existing requirements, so the language is more user friendly and readable by moving paragraph formats into a table. She explained this was at the request from the industry.

The Board's Regulatory Counsel explained the regulatory process to the Board and provided additional clarification on the effect of the requested motion.

Board Member Tengan asked for clarification on the proposed changes to the hour value system where it reduces the number of hours for laws and regulations (L&R) and integrated pest management (IPM). Ms. Jackson clarified that those changes were a result of the CE IPM Review Committee and the underlying data for the regulatory proposal includes minutes from a meeting where the Board adopted such recommendation.

President Finley tabled for future meeting in order to discuss the major changes being made to the hours and directed staff to prepare a more detailed overview of each revision and the rationale for each item.

Jim Steed of PCOC who also served on the CE IPM Review Committee commented to reiterate the Board's prior adoption of the revised hour value system that is included in the current proposal. No action taken.

Item 16b –

At the March 2023 Board meeting the Board considered updating and modernizing some of the language in its Disciplinary Guidelines (DGs). The current guidelines were provided in the meeting materials.

Discussion

EO Azar recommended the Board consider assembling a workgroup to review the current DGs and for the workgroup to provide a recommendation to the Board on potential revisions at a future meeting.

Board Members Paxon and Tengan offered to provide assistance with the review and recommendation of revisions to the Board's disciplinary guidelines.

Item 16c –

The Pesticide Application Notice regulation is progressing through the Production Phase of the Rulemaking Process. The Board's regulatory counsel reviewed the initial materials for the package and provided comment. Staff continues to work with them to revise where necessary and move the package to Agency for approval. The package is on target to file with the Office of Administrative Law in the coming months.

Agenda Item 13. Discussion and Possible Action on Separating the Branch 2 and Branch 3 Applicator Examination and Licenses

EO Azar provided the Board with history on the current examination structure and reported that staff worked with DCA's OPES to determine the feasibility of separating the Branch 2 and 3 Applicator examinations.

Heidi Lincer, Chief of OPES, presented an overview of examination development, and provided historical context and rationale for the combined applicator examination structure.

Board Member Tengan expressed concerns with the examinations being combined and asserted that each respective Branch should have an adequate amount of content to treat as individuals with regard to licensing and examinations. President Finley stated that it is in the favor of consumers that a Branch 3 licensee have knowledge of Branch 2 information and asserted that after the presentation from OPES, he is comfortable with proceeding with the current structure.

Board Member Thrasher commented it would be beneficial to separate the branches, so the examination is specific to the role of the individual.

EO Azar provided the costs associated with separating the examinations. President Finley reiterated his concerns for the potential effect on consumers and business if the examinations were to be separate.

Board member **Tengan moved** to separate the Branch 2 and Branch 3 Applicator examinations and licenses. There was no second and the motion therefore died.

Jim Steed of Neighborly Pest Control commented in support of separating the examinations. He stated that companies who are in Branch 3 will not typically have a need for an Applicator with Branch 2 knowledge.

A commenter 'S. Roy' submitted a written public comment, and it was read by the moderator. "Was the difficulty getting Applicators due to the low reimbursement or the cost of lost revenue to the companies they work for?" Kristina Jackson-Duran explained these concerns likely contributed to the difficulty in recruitment. However, she advised future workshops will have a virtual option. This should eliminate or reduce the need for travel and time commitments. She stated the reimbursement amounts are consistent with other DCA programs but can be revisited if there continues to be a concern.

Ms. Lincer stated the Applicator examination was recently updated and will be available later in the year. She suggested the Board consider allowing the new examination to roll-out and evaluate the response after some months have passed.

Agenda Item 17. Licensing Update

Melissa Zanetta provided the Board with an update on the Board's licensing statistics, the status of the Board's business modernization project, and directed the Board's attention to the materials for additional information.

President Finley inquired about the status license renewals considering the renewal printing issues. Ms. Zanetta assured the Board that despite the printing backlog, all renewals have been sent out, and processing is still on target to be completed prior to the deadline.

Board Member Thrasher expressed her gratitude for the licensing process moving to electronic format.

Agenda Item 18. Enforcement Update

EO Azar provided the Board with an update on the Board's enforcement statistics and directed the Board's attention to the materials for additional information.

President Finley inquired about the average number of days to close investigation cases. He noticed the reported number of days exceeds the target and wondered what that may be attributed to. EO Azar explained some possible causes for the Board's average case aging numbers to be higher than targeted timeframes have been identified and assured the Board she is working closely with the enforcement team to address.

Agenda Item 19. Outreach and Communication Update

Heather Jackson presented the Board with an update on the current outreach efforts, including email communications, partnerships, live events, and speaking engagements. Kristina Jackson-Duran provided an overview of the social media efforts, statistics; and provided an update on the Board's newsletter relaunch.

Vice President Anderson gave kudos to Kristina and the outreach program for their efforts in rolling out the social media campaign. She also asked if there are any limitations the Board may have as a state entity with regarding to funding for advertisements or posts putting money into social media posts. Ms. Jackson-Duran stated she can work with DCA's Public Affairs Office to determine what options are available to the Board. Legal Counsel suggested the Board consult with the Board of Barbering and Cosmetology for their social media strategy.

Agenda Item 20. Executive Officer's Report

(a) Staffing Update

EO Azar reported Greg Adams, a Board Specialist from the Los Angeles area, is retiring effective August 2, 2023, and staff is working to backfill the position as soon as possible.

(b) Budget Update

The Board was referred to the meeting materials for detailed reports. EO Azar reported the Board completed the fiscal year with a reserve of \$5.3 million, which is approximately 6 months of operating overhead cost.

Board Member Paxon expressed concerns with the report indicating a significant reduction in the reserve fund. EO Azar explained the report is a projection based on expenditures being at full appropriated levels, and stated the Board is not, and has not historically, expended at those levels. She assured the Board that she is confident the Board is in good financial standing with a healthy reserve fund and the report is not an accurate reflection of its current standing.

(c) 2023-2028 Strategic Plan Update

EO Azar reported on the status of the Board's Strategic Plan, referred to the meeting materials to review the status for each goal.

(d) Report on Status of Board Funded Research Projects

EO Azar provided the Board with a brief background on the Board's current Pest Control Research Fund and projects. President Finley requested at a future meeting, for Dr. Quinn to present her findings as it may relate to proposed legislation.

Agenda Item 21. Future Agenda Items

- Revisit regulations to enhance out-of-state qualifying manager renewal requirements and verification process
- Bait station enforcement
- Research project update from Dr. Quinn
- DCA budget office present an accurate revenue and expenditure report

Agenda Item 22. Adjournment

President Finley adjourned the meeting at 1:24 p.m.

/s/

10/10/2023

Board President Signature

Date