



STATE OF ARIZONA

Janet Napolitano
Governor

Structural Pest Control Commission

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Lisa Gervase
Executive

NOTICE OF COMMISSION MEETING MONDAY, August 14, 2006, 9:00 A.M.

**Structural Pest Control Commission
9535 E. Doubletree Ranch Road
Scottsdale, AZ 85258**

NOTICES

Comments on any item may be made to the Commission by attending the meeting to speak, or communicating with Lisa Gervase by email: lisagervase@sb.state.az.us, fax: (602) 255-1281, mail: SPCC office address, or phone: (602) 255-3664.

For people who need language interpretation services or a reasonable accommodation for a disability, please contact Rosemary Celaya by email: rcelaya@sb.state.az.us, fax: (602) 255-1281, mail: SPCC office address, or phone: (602) 255-3664.

Please quiet your cellular telephones and pagers. Do not hold telephone or other conversations in the hallway outside of the Commission room, as voices carry.

Pursuant to A.R.S. § 38-431.02, notice is given to the members of the Structural Pest Control Commission and to the General Public that the Structural Pest Control Commission will hold a meeting open to the public, as indicated on the following agenda.

Pursuant to A.R.S. § 38-431.03(A)(3), the Commission may vote to go into executive session to obtain legal advice for matters on the agenda. Pursuant to A.R.S. § 38-431.03(A)(2), the Commission may vote to go into executive session to discuss records exempt from public inspection. Pursuant to A.R.S. § 38-431.03(A)(1), the Commission may vote to go into executive session to discuss personnel matters. Pursuant to A.R.S.

§ 38-431(A)(4), the Commission may vote to go into executive session to discuss pending or contemplated litigation. The executive session will not be open to the public.

All items except items I, II, III, and IV are subject to decision and vote by the Commission.

AGENDA

I. 9:00 A.M.: Call to order (Chairperson), Commissioner roll call (Mr. Francis)

II. Call to the public (Chairperson). Each speaker is limited to five minutes. This is the time for the public to comment. Members of the Commission may not discuss items that are not on the agenda. Therefore, action taken as a result of public comment is limited to directing staff to study the matter or scheduling the matter for further consideration and decision at a later date.

III. Communication with Commissioners (Chairperson)

IV. Summary of Current Commission Events, Activities, Notices (Ms. Gervase)

☞ Status of *Proposed* Law and Rule Changes. Also, watch web www.azleg.state.az.us and www.sb.state.az.us

✓ Applicator License Renewal status - Licensees who did not renew by July 29 must reapply - cannot be operating.

☞ ILT (Initial Licensure Training) courses posted on web site. Registration: 480-ILT-SPCC; ILT@sb.state.az.us

V. Consent Agenda

Items will be read and voted on in one group excluding those pulled for discussion. Any matter on the Consent Agenda will be removed from the Consent Agenda and discussed as a regular agenda item upon the request of any Commissioner. All persons are encouraged to stay for the entire Commission meeting. However, a person who appears for a matter on the consent agenda may leave after the Commission approves the consent agenda in its one vote; and a person who appears for a matter on the consent agenda that was pulled from the consent agenda is free to leave after the Commission votes on that matter.

For new business and existing business license applicants, if applicants do not appear and the Commissioners have questions, those applications may be denied or tabled to a future meeting.

A. Applications for New Business License and Activating Qualifying Party License (Mr. Tolton)

<u>Business</u>	<u>Qualifying Party</u>
1. Critter Busters	Michael E. Bollier ("B3" Right of Way & Weed Control and "B5" Turf & Ornamental Horticulture)

B. Applications to activate Qualifying Party for Existing Business License (Mr. Tolton)

<u>Qualifying Party</u>	<u>Business</u>
1. Steve M. Fisk ("B1" General Pest & Public Health)	Blackjack Pest Control
2. Jerome Davis ("B8" Wood-Destroying Insect Inspection)	AJF Engineering, Inc.
3. Stephen M. Strong ("B1" General Pest & Public Health)	Ecolab
4. David L. McDaniel ("B2" Control of Wood-Destroying Insects and "B8" Wood-Destroying Insect Inspection)	Canyon State Termite & Pest Control, LLC.
5. Eric L. Case ("B3" Right of Way & Weed Control, "B5" Turf & Ornamental Horticulture & "B9" Aquatic Pest Control)	McCormick Ranch Golf Club, Inc.
6. William S. Calvert ("B3" Right of Way & Weed Control)	Asplundh Tree Expert Co.
7. Michael E. Gibson ("B3" Right of Way & Weed Control)	Agave Environmental Contracting, Inc.
8. Dave Lannes ("B1" General Pest & Public Health)	A Busy Bee Removal Company

For Qualifying Party applicants, Temporary Qualifying Party applicants, renewal applicants, and name change requests, if applicants do not appear and the Commissioners have questions, those applications may be denied or tabled to a future meeting. An applicant that the Commission approves for licensure is approved subject to passing required exams. Qualifying Party applicants are not placed on the Agenda until the Commission receives a background report.

C. Applications for Qualifying Party License (Mr. Tolton)

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|--------------------------|---|
| 1. Juan M. Cardenas | “B3” (Right of Way & Weed Control) and
“B5” (Turf & Ornamental Horticulture) |
| 2. James R. Kane | “B3” (Right of Way & Weed Control) and
“B5” (Turf & Ornamental Horticulture) |
| 3. Larry Salaz | “B1” (General Pest & Public Health) |
| 4. Richard J. Strickland | “B1” (General Pest & Public Health) |
| 5. James L. Davis | “B1” (General Pest & Public Health) |

D. Business License Name Change Requests

1. Pest Ex to Pest Ex Pest Control, Inc.

End of Consent Agenda

VI. Applications not on Consent Agenda

If applicants do not appear and the Commissioners have questions, those applications may be denied or tabled to a future meeting.

A. Request for Temporary Qualifying Party License Renewals (Mr. Tolton)

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|--------------------|---|
| 1. Clyde L. Hughes | (“B8” Wood-Destroying Insect
Inspection) |
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B. Applications to activate Qualifying Party for New or Existing Business License (Mr. Tolton)

- | | |
|---|--------------------------------------|
| 1. Thomas L. Camp (“B1”
General Pest & Public Health,
“B2” Control of Wood- | Quality Termite & Pest Control, LLC. |
|---|--------------------------------------|

Destroying Insects, "B3" Right of Way & Weed Control, "B5" Turf & Ornamental Horticulture and "B8" Wood-Destroying Insect Inspection)

C. Applications for Qualifying Party License

None

D. Business License Name Change Requests

None

VII. Complaints

Licenses: The Commission may discuss, consider and take action on any matter below. The Commission's action may include those set forth in A.R.S. § 32-2321(A), such as an administrative warning, civil penalty up to \$1,000.00 per violation, probation requirements, suspension or revocation. This action may be taken pursuant to a Consent Agreement or a matter may be sent to a Formal Hearing. The Commission may issue an advisory letter pursuant to A.R.S. § 32-2321 (N). A matter also may be continued for further investigation, further settlement negotiations, or dismissed.

If a Consent Agreement is not executed by the deadline stated in the Consent Agreement Transmittal letter, the case will be sent to the Office of Administrative Hearings.

Unlicensed: The Commission may discuss, consider and take action on any matter below. The Commission may take action such as issuing a Cease and Desist order and/or imposing a civil penalty of up to \$1,000.00 for the first offense and up to \$2,000.00 for a subsequent offense, according to A.R.S. § 32-2304(B)(16). Action may be taken by Direct Commission Order without a Consent Agreement or Formal Hearing. A matter also may be continued for further investigation, further settlement negotiations, or dismissed.

A. Robert Morency (APP) - Case # 2006-004 (Mr. Craig)

This complaint contains allegations that in 12-05, Robert Morency violated a Commission Order. On 11-07-05, the SPCC issued a Consent Agreement and Order granting Mr. Morency's Applicator License contingent that he complied with probationary terms. Among the terms outlined in the Commission Order was that Mr.

Morency must appear before the Commission to report employment and residence status and specific information from his employer and probation officer. Mr. Morency failed to appear before the Commission as directed in a 1-03-06 letter. He also failed to provide the information outlined in the Commission Order and has failed to respond to correspondence sent to him. Mr. Morency has not renewed his applicator license.

Staff's recommendation:

Suspend the applicator license of Robert Morency for nonpayment of renewal fees and dismiss the complaint without prejudice (license automatically revoked in one year)

B. Keith Breidenbach (APP) - Case # 2006-014 (Mr. Craig)

This complaint contains allegations that 7-22-05, Keith Breidenbach caused a non-target contamination by using a water fountain at a public park, in Sedona, Arizona to fill his one-gallon compressed air sprayer. SPCC staff obtained lab results that indicated the presence of Cyfluthrin and Cypermetherin on the water fountain. Products containing both of these active ingredients were in Mr. Breidenbach's vehicle at the time of the event and the Cyfluthrin product was the last one he used in his compressed air sprayer.

The following proposed resolution was reached:

1. That **Keith Breidenbach APP LIC #950946** be issued an **Administrative Warning**, pay a **\$400.00 Civil Penalty** and obtain **2 hours of continuing education in the categories of Safety and/or Environmental Factors (separate from that required for the purposes of license renewal (due within 30 days of Commission Order))** pursuant to A.R.S. § 32-2321(A) (Disciplinary action) for a violation of A.R.S § 32-2321(B)(1) (Violating rules), via A.A.C. R4-29-304© (Operated application equipment for mixing in a manner to create a non-target contamination).

Commission's Options:

1. **Accept** the proposed resolution;
2. Return the matter to settlement conference to **Modify** the proposed resolution based on stated factors and rationale; or
3. **Reject** the proposed resolution and send the matter to hearing.

C. Catalina Landscape Maintenance (BL)/Murray Dew (QP) - Case # 2005-095 (Mr. Craig)

This complaint contains allegations that on 5-24-05, Catalina Landscape Maintenance (CLM) had an applicator working beyond the 90-day grace period to be licensed. CLM did have another applicator, not the person initially complained about, working beyond the time allowed without a license. The unlicensed applicator also performed a pest control treatment without the equipment required per label. SPCC staff also found evidence that CLM failed to maintain treatment records for the years of 2003 and 2004 and that the treatment records left with consumers were void of the precaution statement.

The following proposed resolution was reached:

1. That **Catalina Landscape Maintenance, BUS LIC #5226** be issued an **Administrative Warning and pay a \$300.00 Civil Penalty (due within 30 days of Commission Order)** pursuant to A.R.S. § 32-2321(A)© (Disciplinary action) for a violation of A.R.S § 32-2321(B) (1) (Violating laws/rules), via A.R.S. § 32-2321(B)(15) (Failure to make and maintain records), A.A.C. R4-29-305(B) (Warning statement missing on notifications of treatments), and A.A.C. R4-29-315 (Unequipped service vehicle); and A.A.C. R4-29-301(A) (Unlicensed applicator misused a pesticide), A.A.C. R4-29-302(A) (Allowed an applicator to apply pesticides without a license) (due to A.A.C. R4-29-104 (Joint Responsibility)).

2. That **Murry Dew QP LIC # 8291** be issued an **Administrative Warning, pay a \$300.00 Civil Penalty, obtain 2 hours of continuing education the the category of Safety (separate from that required for the purposes of license renewal) (due within 30 days of Commission Order)** pursuant to A.R.S. § 32-2321(A) (Disciplinary action) for a violation of A.R.S § 32-2321(B)(1) (Violating laws/rules), via A.R.S. § 32-2321(B)(15) (Failure to make and maintain records), and A.R.S. § 32-2314(G) (Qualifying party failed to properly train and supervise); and A.R.S. § 32-2321(B)(5) (Unlicensed applicator misused a pesticide due to the QP's lack of training) and A.R.S. § 32-2325(4) (Allowed an applicator to apply pesticides without a license) (due to A.A.C. R4-29-104 (Joint Responsibility)).

Commission's Options:

1. **Accept** the proposed resolution;
2. Return the matter to settlement conference to **Modify** the proposed resolution based on stated factors and rationale; or
3. **Reject** the proposed resolution and send the matter to hearing.

VIII. Requests for Review or Rehearing of Previous Commission Decisions. (Ms. Gervase)

None

IX. Review or Rehearing of Previous Commission Decisions. (Ms. Gervase)

None

X. Consideration of Suspension of Business, Qualifying Party and/or Applicator Licenses for Non-payment of Civil Penalties and/or Nonpayment of Renewal Fees [Possible Dismissal of Cases without prejudice, if applicable]. (Ms. Gervase)

A. Keith R. Jones, Case No. 2005-051 - Applicator License No. 020457 (B3) (Issued 5/31/02) (Expires 5/31/07) - Commission's consideration of Suspension of Keith R. Jones' Applicator License for nonpayment of civil penalties.

XI. Consideration of lifting Suspension of Business, Qualifying Party and/or Applicator Licenses. (Ms. Gervase)

None

XII. Recommended Decisions and Orders of the Office of Administrative Hearings' Administrative Law Judges. (Ms. Miles)

None

XIII. Settlement Proposals [not part of Complaints agenda item]. (Ms. Miles)

None

XIV. Consideration of Informal Settlement Conference proposed resolutions [for License Denial Applicants]. (Ms. Gervase)

None

XV. Reporting by Licensees on Probation. (Ms. Gervase)

A. Joseph D. Wilkerson, Applicator License No. 060328 - Case No. 2006-003. Mr. Wilkerson reports the status of his compliance with criminal probation, employment status and rehabilitation status. Mr. Wilkerson was granted a license pursuant to a consent agreement in February 2006.

B. Robert J. Iovinelli, Applicator License No. 050756 - Case No. 2005-030. Mr. Iovinelli reports the status of his compliance with criminal probation and his employment. Mr. Iovinelli was granted a license pursuant to a consent agreement in August 2005. Mr. Iovinelli only reports to the Commission every six months.

XVI. Applicants with Criminal Convictions. (Mr. Tolton)

If applicants do not appear and the Commissioners have questions those applications may be denied or tabled to a future meeting.

A. Timothy Erron Lewis

XVII. Commission Updates and Reports; Miscellaneous Action Items.

A. Ant Brian Exterminating (Business License No. 8369), Brian W. Oldham (Qualifying Party License No. 2029, Applicator License No. 940470)

Complaint 2006-031 (Inquiry 2006-100): Pursuant to A.R.S. § 32-2329, Commission's consideration of continuing the Summary Suspension of Ant Brian's Business License and Brian Oldham's Qualifying Party and Applicator Licenses. (Ms. Gervase)

B. None

C. None

D. Complaint Status Log (Mr. Francis/Mr. Craig).

E. Computer Based Testing "CBT" Status and Statistics (Mr. Francis)

F. Expenditure Report - separate handout (Ms. Gervase)

G. Case Status Report (Every other month - last report 7/06) (Ms. Gervase)

XVIII. Approval of Minutes and Continuing Education Programs

A. July 14, 2006 (regular session) Minutes (Ms. Gervase)

B. July 25, 2006 (regular session) Minutes (Ms. Gervase)

C. July 25, 2006 (executive session) Minutes - separate handout (Ms. Gervase)

D. Continuing Education Program Applicants (Mr. Francis/Mr. Craig)

XIX. Scheduling of future meetings/agenda items (Ms. Gervase)

Current Proposed dates

**September 8, 2006
October 13, 2006
November 9, 2006 (Thursday)
December 8, 2006
January 12, 2007
February 9, 2007
March 8, 2007
April 12, 2007
May 11, 1997**

XX. Adjournment