

**NOTICE OF COMMISSION MEETING
FRIDAY, July 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. Bauer)

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 - Licenses not renewed by May 30 are expired (cannot operate). Must renew before July 29 to avoid retesting. Renew Online Now www.sb.state.az.us

☞ 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. Western Weed Control, Inc.	Lee A. Spencer ("B3" Right of Way & Weed Control)
2. D.O.A. Pest Control Service	Leslie C. Robbins ("B1" General Pest & Public Health)
3. RDB Management and Construction, LLC.	David D. Stevens ("B3" Right of Way & Weed Control)
4. MC Pest Control	Jung W. Pyon ("B1" General Pest & Public Health)
5. Arizona Bug Company	Kody F. Robinson ("B1" General Pest & Public Health)
6. Red Ant, Inc.	Anthony J. Mazeika ("B1" General Pest & Public Health, "B2" Control of Wood-Destroying Insects and "B8" Wood-Destroying Insect Inspection)
7. Rim Country Applicators	Robert E. Gaunt ("B3" Right of Way & Weed Control and "B5" Turf & Ornamental Horticulture)
8. Arizona Innovative Home Inspections, LLC.	Steven L. Davis ("B8" Wood-Destroying Insect Inspection)
9. Crowley's Pest Control	Terrence G. Crowley ("B1" General Pest & Public Health)
10. B.M. Termite & Pest Control, LLC.	Larry C. Holmes, Jr. ("B2" Control of Wood-Destroying Insects and "B8" Wood-Destroying Insect Inspection)

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

<u>Qualifying Party</u>	<u>Business</u>
1. Jonathan D. DeBee ("B2" Control of Wood-Destroying Insects and "B8" Wood-Destroying Insect Inspection)	Your Exterminating Solution
2. Harry Davis, III ("B2" Control of Wood-Destroying Insects and "B8" Wood-Destroying Insect Inspection)	Ozone Pest Control
3. Joey R. Neff ("B8" Wood-Destroying Insect Inspection)	Neff Exterminating, Inc.

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)

1. James C. Somers	"B1" (General Pest & Public Health)
2. Kandy K. Van Meeteren	"B3" (Right of Way & Weed Control) and "B5" (Turf & Ornamental Horticulture)
3. Chad D. Lowder	"B1" (General Pest & Public Health)
4. Joshua D. O'Connor	"B1" (General Pest & Public Health)
5. James S. Saitman	"B4" (Fumigation)

- | | |
|----------------------------|---|
| 6. Eric J. Godinez | "B1" (General Pest & Public Health), "B2" (Control of Wood-Destroying Insects) and "B8" (Wood-Destroying Insect Inspection) |
| 7. Napoleon O. Pisano, Jr. | "B1" (General Pest & Public Health) |
| 8. Thomas M. Van Duinen | "B1" (General Pest & Public Health) |
| 9. Foree R. Cooley | "B1" (General Pest & Public Health) |
| 10. John E. Jung | "B1" (General Pest & Public Health), "B2" (Control of Wood-Destroying Insects) and "B8" (Wood-Destroying Insect Inspection) |
| 11. Saul C. Marquez | "B3" (Right of Way & Weed Control) and "B5" (Turf & Ornamental Horticulture) |
| 12. Jesse E. Diehl | "B3" (Right of Way & Weed Control) and "B5" (Turf & Ornamental Horticulture) |
| 13. Dean J. Isaac | "B1" (General Pest & Public Health) |
| 14. William M. Boswell | "B1" (General Pest & Public Health), "B2" (Control of Wood-Destroying Insects) and "B8" (Wood-Destroying Insect Inspection) |

D. Business License Name Change Requests

1. Zeb-Tec Services to Zeb-Tec Termite & Pest Control
2. Carefree Weed Control to Carefree Tree Service

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)

1. John E. Jung "B1" (General Pest & Public Health), "B2" (Control of Wood-Destroying Insects) and "B8" (Wood-Destroying Insect Inspection)
2. Michael T. Connors "B3" (Right of Way/Weed Control)

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

None

C. Applications for Qualifying Party License

None

D. Business License Name Change Requests

1. Proven Ecological to Alpha Ecological

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. Economy Pest Control (BL)/Chandler Pearce (QP) - Case # 2005-089 (Mr. Craig)

This complaint contains allegations that in early 2005, Qualifying Party Chandler Pearce of Economy Pest Control, LLC (Economy) allowed two applicators to perform pest control services beyond the 90-day requirement to be licensed. Economy is only licensed to perform B1 (General Pest Control) work. However, Mr. Pearce directed the unlicensed applicators to perform weed control services. Additionally, Economy distributed flyers advertising weed control and termite control. Mr. Pearce alleges the company never performed such work for consumers but simply distributed the flyers in hopes of conducting such work in the future.

The following proposed resolution was reached:

1. That **Economy Pest Control, LLC BUS LIC #8321** be issued an **Administrative Warning** 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) and A.A.C. R4-29-307(A)(B) (Failure to make and maintain true and accurate records), A.R.S. § 32-2325(2) (Performing pest control services without a qualifying party license in the B3 and B2 category), A.A.C. R4-29-302(A) (Allowed an unlicensed applicator to apply pesticides), A.R.S. § 32-2312(E) (Applicator not licensed within 90 days of being employed by business licensee), A.A.C. R4-29-207(A)(B) (Treatment records and vehicle void of correct business license number), A.A.C. R4-29-314(A)(C) (Unlocked and unattended pesticides on vehicle), A.A.C. R4-29-311(B)(C) (Two service containers not properly labeled and stored), A.A.C. R4-29-305(A) (Incorrect pesticide recorded on the record of application) and A.A.C. R4-29-305(B) (Failed to have complete precaution statement on treatment records).
2. That **Chandler Pearce QP LIC # 8291** be issued an **Administrative Warning**, **pay a \$1,400.00 Civil Penalty (due within 60 days of Commission Order (payment of civil penalty shall consist of no more than two installments of at least \$700.00 each, due within 30 and 60 days of the Commission Order, respectively))**, **obtain 3 hours of continuing education (separate from that required for the purposes of license renewal (1 hour in the category of Laws and 2 hours in the category of Safety))** and **provide the 13 consumers (who received incorrect notification of applications) and copy the SPCC with the correct notification of applications (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. § 32-2314(G) (Qualifying party failed to properly supervise), A.R.S. § 32-2321(B)(15) (Failure to make and maintain true and accurate records), A.R.S. § 32-2325(2) (Performing pest control services without a qualifying party license in the B3 and B2

category), A.A.C. R4-29-314(A) (Unlocked pesticides on vehicle), A.A.C. R4-29-311(B)(C) (Two service containers not properly stored and labeled), A.A.C. R4-29-305(A) (Incorrect pesticide recorded on the record of application); and A.R.S § 32-2325(4) (Pesticides applied by person without an applicator 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.

B. Bob Anderson (Unlicensed Applicator)/Jess Allan Sixkiller, Jr. (APP) - Case # 2006-013 (Mr. Craig)

This complaint contains allegations that in January, February and March of 2006, licensed applicator employee of Tempe Union High School District, Jess Allan Sixkiller, directed an unlicensed applicator (under his supervision) to apply pesticides on school grounds. Additionally, Mr. Sixkiller failed to provide 72-hour notice and written pre-application notification to the school. While Jess Allan Sixkiller worked under the direction of the Director of Plant Operations, Bob Anderson, Mr. Anderson is not a licensed applicator and entrusted Mr. Sixkiller, as the licensed supervising applicator, to ensure pesticide applications were being performed properly.

SPCC Staff recommends that this complaint be dismissed against Bob Anderson.

The following proposed resolution was reached:

1. That **Jess Allan Sixkiller, Jr. APP LIC #980490** be issued an **Administrative Warning, pay a \$500.00 Civil Penalty and obtain 2 hours of continuing education in the category of Laws (separate from those required for license renewal) (due within 30 days of the 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), via A.R.S. § 32-2307(A)(B) (Failed to provide 72-hour notice to school) and A.R.S. 32-2325(4) (Allowed an unlicensed applicator to apply pesticides) due to A.R.S. § 32-2328 (Joint Responsibility).

Commission's Options:

1. **Accept** the proposed resolution and dismiss the complaint without

prejudice against Bob Anderson;

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. Lisa Leach (Unlicensed Company)/Kim Merrit (Unlicensed Company) - Case # 2005-083 (Mr. Craig)

This complaint contains allegations of unlicensed activity, falsification and misrepresentation. On 6-3-05, Lisa Leach (while working for a realtor (her father, Kim Merrit)) completed a Wood Insect Inspection Report (WDIIR) for the sale of a home. She performed this act allegedly unbeknownst to Mr. Merrit, but, as the licensed realtor, he knew or should have known what was happening in this real estate transaction (particularly since he was the buyer). She gained access to a WDIIR issued by another company, from another real estate transaction file on her father's desk, erased the address on the WDIIR and wrote the address of the other home which was for sale.

The following proposed resolution was reached:

1. That **Lisa Leach and Kim Merritt each** be issued a **Cease and Desist Order** and jointly and severally pay a **\$500.00 Civil Penalty (due within 30 days of the Commission Order)** pursuant to A.R.S. 32-2304(B)(16) (Disciplinary action that can be taken against unlicensed pest control activity) for a violation of A.R.S. 32-2325(1) and (2) (performing the work of structural pest control without a business license or qualifying party license as making the written inspection report is the business of structural pest control).

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)

A. Jordan P. Dietz - Case No. 2006-006 - Decision and Order denying Mr. Dietz's appeal and license denial.

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. Michael Smoot, Applicator License, Case No. 2005-042 - Applicator License No. 020822 B1 B2 B8 (Issued 10/16/02 "B1" and 1/3/03 (B2 & B8") (Expires 5/31/07) - Commission's consideration of Suspension of Michael Smoot's 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)

A. Dennis Ray - OAH Case #2005A-061 - SPC SPCC Case #2005-061

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.

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. Sterling F. Fields
- B. Christina M. Maunu
- C. Eric G. Ramos
- D. Joseph F. Mayne
- E. Larry D. Bushong
- F. Marcella S. Thomas

XVII. Commission Updates and Reports; Miscellaneous Action Items.

- A. Commission's consideration of closing pending unlicensed weed control complaints - separate handout (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) (Ms. Gervase).

XVIII. Approval of Minutes and Continuing Education Programs

- A. June 14, 2006 (regular session) Minutes (Ms. Gervase)
- B. None

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

Current Proposed dates

August 11, 2006

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

XX. Adjournment