



STATE OF ARIZONA

Structural Pest Control Commission

9535 E. Doubletree Ranch Road
Scottsdale, Arizona 85258-5514
(602) 255-3664 - (602) 255-1281 fax
<http://www.sb.state.az.us>

Janet Napolitano
Governor

Jack Root
Executive Director

NOTICE OF COMMISSION MEETING FRIDAY, November 9, 2007, 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 Jack Root by email: jroot@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 Helen Turner by email: hturner@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 members will attend either in person or by telephone conference call to 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 business conducted in executive session is confidential.

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 (Ms. Vallery).

II. Call to the public (Chairperson). Each speaker is limited to five minutes. This is the time for the public to comment. Pursuant to A.R. S. Section 39-431.01(G), action (if any) taken as a result of public comment will be limited to directing staff to study the matter, responding to any criticism, or scheduling the matter for further consideration at a later date.

III. Communication with Commissioners (Chairperson). This is the opportunity for Commissioners who may be involved in decision-making to disclose any written communication or the substance of any verbal communication that occurred with an interested person outside the public meeting, including the name of the person with whom they communicated. This ensures public confidence that deliberations and decision are made in open meetings. If there are no disclosures, the assumption is that there were no such communications.

IV. Reports and Summary of Current Commission Events, Activities, Notices (Mr. Root)

⇒Arizona Pest Professional Organization (AzPPO) Report/Education (exam/study material) Committee Report

⇒“MyAccount” system - new licensee information management tool online – lets business and individual licensees update vitals information, review testing history, print renewal forms during renewal processing times, print licenses, allows businesses to add and delete applicator employees, and allows all licensees to reset their passwords - via the website www.sb.state.az.us. More features to come.

⇒New Schedule: CE (Continuing Education) courses posted on web site. Registration : 480-CEU-SPCC; <mailto:CEU@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. Mohave Pest Control	Darryl A. Ogden "B1" (General & Public Health Pest Control)
2. Maricopa County Environmental Services	John D. Townsend "B1" (General & Public Health Pest Control)
3. Pacheco Brothers Gardening, Inc.	Mark A. Pacheco "B3" (Right-of-Way & Weed Control) & "B5" (Turf & Ornamental Horticulture Pest Control)
4. JNB Pest Control	Jeffrey A. Barnes "B1" (General & Public Health Pest Control)

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

<u>Qualifying Party</u>	<u>Business</u>
1. Frank R. Woodward	Rim Country Applicators "B3" (Right-of-Way & Weed Control) & "B5" (Turf & Ornamental Horticulture Pest Control)
2. Randy G. Darris	Rick's Pest Control "B2" (Control of Wood-Destroying Insects) & "B8" (Wood-Destroying Insect Inspection)
3. Scott J. Schrader	Trugreen Chemlawn "B3" (Right-of-Way & Weed Control) & "B5" (Turf & Ornamental Horticulture Pest Control)
4. James G. Cummings	All Organic Pest Control, LLC. "B2" (Control of Wood-Destroying Insects) & "B8" (Wood-Destroying Insect Inspection)
5. Christopher S. Gorodenski	Care-Free Termite Protection, LLC. "B1" (General & Public Health Pest Control)

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. Dean A. Jenny | “B1” (General & Public Health Pest Control),
“B2” (Control of Wood-Destroying Insects) &
“B8” (Wood-Destroying Insect Inspection) |
| 2. Thomas J. Siegfried | “B5” (Turf & Ornamental Horticulture Pest Control) |
| 3. Justin I. Buell | “B3” (Right-of-Way & Weed Control) |
| 4. Gerry S. Hatch | “B1” (General & Public Health Pest Control) |
| 5. Daniel P. Dietrich | “B5” (Turf & Ornamental Horticulture Pest Control) |
| 6. Fredrick T. Duke, Jr. | “B1” (General & Public Health Pest Control) |
| 7. Dennis D. Patterson | “B1” (General & Public Health Pest Control) |
| 8. Ty M. Birdsall | “B1” (General & Public Health Pest Control) |
| 9. Richard B. Pavlasek, Jr. | “B3” (Right-of-Way & Weed Control) & “B5”
(Turf & Ornamental Horticulture Pest Control) |
| 10. Rodger B. Albertson | “B2” (Control of Wood-Destroying Insects) |
| 11. Kent C. Coburn | “B3” (Right-of-Way & Weed Control) & “B5”
(Turf & Ornamental Horticulture Pest Control) |
| 12. Raymond F. Campsen, Jr. | “B1” (General & Public Health Pest Control),
“B2” (Control of Wood-Destroying Insects) &
“B8” (Wood-Destroying Insect Inspection) |

D. Business License Name Change Requests: (Mr. Tolton)

1. Calvary Pest Control to Cavalry Pest Control

E. Applicants for new Applicator Licenses: (See list on website under agenda). (Mr. Tolton)

1. Licenses to be Issued for completed applications.

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 or Renewal: (Mr. Tolton)

1. Anthony J. Roberts “B1” (General & Public Health Pest Control)

2. John N. Beebe

“B2” (Control of Wood-Destroying Insects) &
“B8” (Wood-Destroying Insect Inspection)

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

None

C. Applications for Applicator License Renewal: (Mr. Tolton)

1. Jose A. Rodriguez

“B1” (General & Public Health Pest Control),
“B2” (Control of Wood-Destroying Insects) &
“B8” (Wood-Destroying Insect Inspection)
(Application for Renewal of expired
Applicator License)

D. Business License Name Change Requests: (Mr. Tolton)

None

VII. Complaints: (Mr. Craig)

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 notice 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 issue a Cease and Desist order and/or impose 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) for unlicensed activity involving other than weed control. For unlicensed activity involving weed control, the Commission may issue a written notice of correction for the first violation, impose a civil penalty of up to \$250.00 for the second violation, and impose a civil penalty of up to \$500.00 for the third or subsequent violation, according to A.R.S. § 32-2311(C). 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. BUG SNUFFERS PEST & TERMITE CONTROL, INC. (BL)/COLLEEN O’BRIEN

(QP) - CASE NO. 2007-038

This complaint, stemming from an E.P.A. referral (on 4-25-07), contains allegations that from 8-06 to 5-07, Bug Snuffers Pest & Termite Control, Inc. (Bug Snuffers) allowed an applicator to apply pesticides without an applicator license. During this time frame, the applicator also performed a pest control treatment at a licensed childcare facility. Additionally, treatment records were noted as not containing the complete company name as registered with the Commission. On 5-9-07, the business licensee informed the Commission that the unlicensed applicator has been terminated, due to multiple failures at attempting to pass the licensing examination.

Staff recommends that the Commission send this matter to Settlement Conference to offer a Consent Agreement with the following terms, and if the Consent Agreement is not executed, that the matter go to formal hearing:

1. That **Bug Snuffers Pest & Termite Control, Inc., BUS LIC #5123**, 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), via A.R.S. § 32-2312(E) (Applicator was not licensed within 90 days of employment) and § A.A.C. R4-29-302(A) (Company allowed an applicator to apply pesticides without an applicator license); and A.R.S. § 32-2307(A) (An unlicensed applicator applied pesticides at a licensed childcare facility) due to A.R.S. § 32-2308 (Joint Responsibility); and that **Bug Snuffers Pest & Termite Control, Inc., be issued an Advisory Notice** for a violation of A.A.C. § R4-29-207(B) (Not using actual name as registered with the Commission).

3. That **Colleen O'Brien, QP LIC #1546**, be issued an **Administrative Warning and a \$300.00 Civil Penalty (due within 30 days of the entered date 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. § 32-2325(4) (Qualifying party allowed an applicator to apply pesticides without an applicator license) and A.R.S. § 32-2307(A) (An unlicensed applicator applied pesticides at a licensed childcare facility) due to A.R.S. § 32-2308 (Joint Responsibility).

B. COCONINO PEST CONTROL, INC. (BL)/ WILLIAM MCDAVID (QP)/FREDRIC DAVIS (APP)/ANTONIO MARTINEZ (APP) - CASE NO. 2006-072

This complaint contains allegations that between 8-18-03 and 8-7-06, William McDavid, Fredric Davis and Antonio Martinez issued inaccurate WDIIRs. SPCC staff found evidence of conditions conducive (past evidence of excessive moisture, sunken living room, termite damage, earth to wood contact and evidence of termites). Mr. Davis did not note any evidence of wood destroying insects and he failed to note termite damage and conditions conducive when issuing a WDIIR on 4-17-06. Mr. Martinez and Mr. McDavid both failed to note conditions conducive and termite damage when issuing their WDIIRs on 8-17-03 and 8-7-06 respectively. The respondents attributed the failure to note certain conditions conducive were based on their training and how they interpreted Arizona Administrated Code. While the qualifying party did provide training documentation (which was four years prior to the incident), staff noted no documented evidence of supervision.

Staff recommends that the Commission send this matter to Settlement Conference to offer a Consent Agreement with the following terms, and if the Consent Agreement is not executed, that the matter go to formal hearing:

1. That **Coconino Pest Control, Inc., BUS LIC #4365**, 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), A.R.S. § 32-2324(C) (Failed to note evidence of wood destroying organisms); and A.A.C. § R4-29-413(A)(8)(9)(12) (Failed to note visible evidence of wood destroying insects, visible damage and conditions conducive) due to A.R.S. § 32-2308 (Joint Responsibility).

2. That **William McDavid, QP LIC #1166**, be issued an **Administrative Warning and a \$200.00 Civil Penalty and obtain 1 hour of continuing education (separate from that required for license renewal) in the categories Rules, Termite Inspections and/or WDIIRs (due within 30 days of the entered date 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/rules), A.A.C. § R4-29-413(A)(9)(12) (Failed to note conditions conducive and termite damage); and A.A.C. § R4-29-413(8) (Applicator Davis failed to note visible evidence of wood destroying insects) due to A.R.S. § 32-2308 (Joint Responsibility).

3. That **Fredric Davis, APP LIC #020140**, be issued an **Administrative Warning and a \$200.00 Civil Penalty and obtain 3 hours of continuing education (separate from that required for license renewal) in the categories Rules, Wood destroying insects and Termite Inspections/WDIIRs (due within 30 days of the entered date 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 rules), A.A.C. § R4-29-413(A)(8)(9)(12) (Failed to note evidence of wood destroying insects, conditions conducive and termite damage).

4. That **Antonio Martinez, APP LIC #990437**, be issued an **Administrative Warning and obtain 1 hour of continuing education (separate from that required for license renewal) in the categories Termite Inspections/WDIIRs (due within 30 days of the entered date 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 rules), A.A.C. § R4-29-413(A)(12) (Failed to note conditions conducive).

C. AAA AFRICANIZED BEE REMOVAL SPECIALISTS, INC. (BL)/THOMAS MARTIN (QP)/THOMAS SMITH (UNLICENSED APP) - CASE NO. 2007-032

This complaint, stemming from a consumer (on 4-2-07) an unlicensed applicator for AAA Africanized Bee Removal Specialists, Inc. (AAA) failed to record the name of the pesticide on the notification of treatment record left with the homeowner. Additionally, the pesticide was applied in an area not designated on the label.

Staff recommends that the Commission send this matter to Settlement Conference to offer a Consent Agreement with the following terms, and if the Consent Agreement is not executed, that the matter go to formal hearing:

1. That **AAA Africanized Bee Removal Specialists, Inc., BUS LIC #5180** 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 rules), via A.A.C. § R4-29-305(A) (Failed to leave written notification of pesticide applied) due to A.R.S. § 32-2308 (Joint Responsibility); and that the company be issued an **Advisory Notice** for a violation of A.R.S. § 32-2321(B)(4) (Applicator applied pesticides to a site not on the label).

2. That **Thomas Martin, QP LIC #1658**, 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 rules), via A.A.C. § R4-29-305(A) (Failed to leave written notification of pesticide applied) due to A.R.S. 32-2308 (Joint Responsibility).

3. That this complaint be **dismissed** against Thomas Smith due to the fact that he does not hold an applicator's license and there is no evidence that he failed to follow specific instructions or training.

D. URBAN FOREST TREE CARE, INC. (BL)/JOSEPH GONZALES (QP/APP) – CASE NO. 2007-010

This complaint, stemming from a consumer (on 11-3-06), contains allegations that applicators from Urban Forest Tree Care, Inc. performed a total of four herbicide applications between 4-6-05 and 7-5-06, to soil in a manner that caused harm to the consumer's Ash trees. Based on label language, SPCC Staff initially believed the application performed was contrary to label directions, and therefore, a violation of Arizona Administrative Code. However, after conferring with the United States Environmental Protection Agency, Region 9, about the interpretation of the label directions, staff does not believe the licensee violated the label directions. Additionally, Staff found insufficient evidence to indicate that the damage to the trees was a result of the herbicide applied to the soil.

Staff recommends the following:

That the complaint regarding Urban Forest Tree Care, Inc. BL #8399 and Joseph Gonzales, QP #30012 and APP #050080 be dismissed.

VIII. Requests for Review or Rehearing of Previous Commission Decisions. (Mr. Root)

None

IX. Review or Rehearing of Previous Commission Decisions. (Mr. Root)

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]. (Mr. Root)

None

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

None

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

None

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

None

XIV. Consideration of Informal Settlement Conference proposed resolutions [for Appealable Agency Actions such as License Denials, Disciplinary actions taken without a prior hearing, and Cease & Desist/civil penalties for unlicensed activity]. (Mr. Root)

None

XV. Reporting by Licensees on Probation: (Mr. Root)

None

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. Oby Allen Dunn

B. Shea Patrick Callahan

C. Justin Gerritt McAtee

D. John Jeffrey Watson

E. Jeffrey Joseph Eder

F. Mark Heckman

XVII. Commission Updates and Reports; Miscellaneous Action Items.

A. Commission's review, discussion and possible decision pertaining to concerns raised in Arizona Pest Professional Organization correspondence on behalf of the pest management industry. (Prior handout).

B. Commission's discussion and possible decision pertaining to agency policies, process and procedures that were reviewed at the September 14, 2007 meeting. (Prior handout).

C. Commission's review, discussion and possible action on Election of Commission officers for 2007 (Chairperson, Vice-Chairman & Secretary): (Mr. Root).

D. Commission's review, discussion and possible action on Commissioner O'Neal's communication with Ken Fredrick, President of Arizona Pest Professional Organization (AzPPO): (Mr. Root).

E. Commission's review, discussion and possible action on annual evaluations of SPCC employees: (Mr. Root).

F. Commission's review, discussion and possible action on State Employee Surveys – 2003-2008: (Mr. Root).

- G. Commission's review, discussion and possible action on line item budget: (Mr. Root)
- H. Explanation of Recruiting Process – Presentation by Susan Lawrence & Tom Kernen of Arizona Department of Administration (ADOA).
- I. [Complaint Status Log: \(Mr. Francis/Mr. Craig\)](#)
- J. [Computer Based Testing “CBT” Status and Statistics: \(Mr. Francis\)](#)
- K. Expenditure Report: (Mr. Root) (Separate Handout)
- L. Case Status Report (Every other month - last report 09/14/07): (Mr. Root) (Separate Handout)

XVIII. Approval of Minutes and Continuing Education Programs

- A. September 14, 2007 (public meeting) Minutes (Mr. Root)
- B. October 12, 2007 (public meeting) Minutes (Mr. Root)
- C. October 19, 2007 (public meeting) Minutes (Mr. Root)
- D. October 19, 2007 (executive session) Minutes (Mr. Root)
- E. October 24, 2007 (public meeting) Minutes (Mr. Root)
- F. October 26, 2007 (public meeting) Minutes (Mr. Root)
- G. [Continuing Education Program Applicants “\(See list on website under agenda\)”](#). (Mr. Craig)

XIX. Scheduling of future meetings/agenda items: (Mr. Root)

Current Proposed dates

December 14, 2007
January 11, 2008
February 8, 2008
March 14, 2008
April 11, 2008
May 9, 2008
June 13, 2008
July 11, 2008
August 8, 2008
September 12, 2008
October 10, 2008

XX. Adjournment