



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

Vince Craig  
Interim Executive Director

### **NOTICE OF COMMISSION MEETING FRIDAY, April 11, 2008, 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 Vince Craig by email: [vcraig@sb.state.az.us](mailto:vcraig@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](mailto: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 (Mr. Craig).**

**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. Craig)**

⇒“My Account” 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](http://www.sb.state.az.us). More features to come.

⇒RenewEZ now open for Applicator License Renewals

⇒Arizona Statement of Citizenship and Alien Status for State Public Benefits – details will be given during item XVII. E.

⇒New Schedule: CE (Continuing Education) courses posted on web site. Registration: 480-CEU-SPCC; <mailto:CEU@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)**

<b><u>Business</u></b>	<b><u>Qualifying Party</u></b>
1. Talking Rock Golf Club, LLC.	John W. Noyes "B3" (Right-of-Way & Weed Control) and "B5" (Turf & Ornamental Horticulture Pest Control)
2. TKO Landscaping, Inc.	Daniel D. Northrup, Jr. "B3" (Right-of-Way & Weed Control) and "B5" (Turf & Ornamental Horticulture Pest Control)
3. Pointe Pest Control	Teresa M. Kitchens "B1" (General & Public Health Pest Control)
4. Desert Star Landscaping, Inc.	Jessy R. Sindelir "B3" (Right-of-Way & Weed Control) and "B5" (Turf & Ornamental Horticulture Pest Control)
5. Sargeant Pest, LLC.	Daniel W. Monson "B3" (Right-of-Way & Weed Control)
6. Estrella Water Systems, Inc.	John M. Cook "B9" (Aquatic Pest Control)

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

<b><u>Qualifying Party</u></b>	<b><u>Business</u></b>
1. Robert L. Weymouth	Ersland Touch Landscape, LLC. "B3" (Right-of-Way & Weed Control) and "B5" (Turf & Ornamental Horticulture Pest Control)
2. Michael L. Lindsey	GoGreen Environmental, LLC. "B1" (General & Public Health Pest Control), "B3" (Right-of-Way & Weed Control) and "B5" (Turf & Ornamental Horticulture Pest Control)
3. Matthew S. Kennedy	All Guard Pest Control, LLC. "B3" (Right-of-Way & Weed Control)
4. Dan R. Smith	ABC Scapes, Inc. "B3" (Right-of-Way & Weed Control), "B5" (Turf & Ornamental Horticulture Pest Control) and "B9" (Aquatic Pest Control)
5. Floyd W. Austin	Super Pest Control "B1" (General & Public Health Pest Control) and "B3" (Right-of-Way & Weed Control)

6. Norvin C. DeSpain

Asplundh Tree Expert Co. "B3" (Right-of-Way & Weed Control) and "B5" (Turf & Ornamental Horticulture 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. Robert M. Davies "B3" (Right-of-Way & Weed Control)
2. Edward D. Thomas "B3" (Right-of-Way & Weed Control)
3. Frank C. Hoffmeister "B1" (General & Public Health Pest Control) and "B3" (Right-of-Way & Weed Control)
4. Stephen M. Strong "B8" (Wood-Destroying Insect Inspection)
5. Lyle J. Ferguson "B8" (Wood-Destroying Insect Inspection)
6. Scott M. Michaud "B1" (General & Public Health Pest Control)
7. Sarah G. Kennedy "B1" (General & Public Health Pest Control)
8. Steven R. Chrismer "B3" (Right-of-Way & Weed Control)
9. Clinton A. Bruner "B8" (Wood-Destroying Insect Inspection)
10. Kevin M. Etheridge "B3" (Right-of-Way & Weed Control) and "B4" (Fumigation)
11. Dane J. Deal "B1" (General & Public Health Pest Control)
12. Gerald P. Walsh "B3" (Right-of-Way & Weed Control) and "B5" (Turf & Ornamental Horticulture Pest Control)
13. Arthur L. Hicks "B1" (General & Public Health Pest Control)
14. Joseph D. Sirek "B3" (Right-of-Way & Weed Control) and "B5" (Turf & Ornamental Horticulture Pest Control)
15. Brent T. Bingham "B1" (General & Public Health Pest Control)

- 16. [Kenneth D. Brower](#) "B5" (Turf & Ornamental Horticulture Pest Control)
- 17. [Scott J. Murray](#) "B3" (Right-of-Way & Weed Control)
- 18. [Brian S. Myers](#) "B1" (General & Public Health Pest Control)

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

- 1. [AZEX, LLC. to AZEX Thermal Solutions](#)
- 2. [Verrado Pest Control, LLC. to On Target Pest Control, LLC.](#)
- 3. [JCB Exterminating to JCB Pest and Weed Control](#)
- 4. [Super Pest Control to Super Pest & Weed Elimination](#)

**E. Applicants for new Applicator Licenses:** (No Document -- 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. [Gloria L. Kilian](#) "B1" (General & Public Health Pest Control)
- 2. [Jose R. Gonzalez, Jr.](#) "B1" (General & Public Health Pest Control), "B2" (Control of Wood-Destroying Insects) and "B8" (Wood-Destroying Insect Inspection)
- 3. [Robert W. Couch](#) "B5" (Turf & Ornamental Horticulture Pest Control)

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

None

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

None

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

None

**E. Applications for Qualifying Party License: (Mr. Tolton)**

None

**VII. Complaints: (Mr. Craig)**

**Licensees:** 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. BIRCHER EXTERMINATING SERVICES (BL)/RICHARD BIRCHER (QP)–  
Case No. 2007-030**

In 02-08, a settlement conference was conducted at the State of Arizona Structural Pest Control Commission (SPCC). Interim Executive Director Jack Root represented the SPCC. Richard Wayne Bircher represented Bircher Exterminating.

This complaint contains allegations that from 12-01-01 to 12-13-06, Bircher Exterminating Services (Bircher) failed to submit Termite Action Registration Forms (TARFs). On 12-20-06, SPCC staff performed a TARF audit, which revealed that 767 TARFs were not filed. A complaint was filed against the business licensee and the qualifying party licensee.

**Because the responsibility of filing TARFs is the responsibility of the business licensee and not the qualifying party, staff recommends that the complaint be**

**dismissed against the qualifying party.**

**The following agreement was reached:**

1. That the complaint against Richard Bircher, QP LIC # 5240 be dismissed.
2. That Bircher Exterminating Services, BL LIC # 5240, be issued an Administrative Warning and file the 767 TARFs in connection with this complaint (due within 30 days of the entered date of the Commission Order) and pay the TARF fees totaling \$6,138.00 (to be divided in 5 increments of \$1,227.20 each, first installment due 30 days of the entered date of the Commission Order each additional installment due 30 days apart).

**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. FM GOLF HOLDINGS, LLC. (UNLICENSED COMPANY) - Case No. 2007-052**

This complaint contains allegations that in the summer of 2007, golf courses owned by FM Golf Holdings, LLC (FM Golf), performed weed control services without the benefit of a business license, qualifying party license or applicator license. The allegations, received on 7-11-07, came from an employee of FM Golf. SPCC staff investigated the issue and obtained evidence that establishes that at least one golf course-- Canoa Ranch Golf Club— did perform herbicide applications in 2007. SPCC records indicate that Canoa Ranch previously held a license, but it expired on 12-31-03. A complaint was filed on 9-5-07. FM Golf obtained a business license and qualifying party license on 9-14-07. Neither the employee who reported the issue, nor the manager responsible for supervising the applications is presently employed with FM Golf.

**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:**

That FM Golf Holdings, LLC, be issued a \$200.00 Civil Penalty (due within 30 days of the entered date of the Commission Order) pursuant to A.R.S. § 32-2304(B)(15) (Disciplinary action for unlicensed activity) for a violation of A.R.S. § 32-2325(B)(1)(2)(4) (Performing pest control without a business license, qualifying party license or applicator license)..

This complaint contains allegations that on 10/02/07, SPCC staff observed Ricky Encinas attach a pretreatment tag to a site in Tucson, Arizona, without ever performing the termite pretreatment. While covertly video recording Mr. Encinas, staff observed him graph the site, create a pretreat tag, go for what appeared to be a walk, sit in the cab of his vehicle and then depart from the site one hour later. The pretreatment tag indicated Mr. Encinas applied 464.5 gallons to 4,381 square feet and 66 linear feet.

When asked why he committed the violation, Mr. Encinas stated that he received a personal call and later realized he was late for the other sites he needed to pretreat, so he departed the site. Upon being informed of the violation, Mr. Encinas' employer suspended him from pretreatments. Another applicator performed the pretreatment. SPCC staff viewed detailed in-house training records along with non in-house continuing education vendors. SPCC staff found no evidence that would indicate the violation was due to a lack of training or supervision.

**C. RICKY JO ENCINAS (APP) - Case No. 2007-059**

**Staff recommends that the Commission send this matter to formal hearing to pursue a REVOCATION of Mr. Encinas' Applicator License # 060922, pursuant to A.R.S. § 32-2321(B)(1) (Violating Laws), via A.R.S. § 32-2321(B)(2) (Making a fraudulent pretreatment record).**

**D. AMERICAN PRIDE SERVICES, LLC (BL) / MICHAEL RAY SMOOT (TEMPORARY QP) / CHRISTOPHER SPARROW (APP) - Case No. 2007-016**

This complaint contains allegations that in 11-06, American Pride Services, LLC (AP) allowed two unlicensed applicators to perform termite control without a valid qualifying party license. The temporary qualifying party license for Michael Ray Smoot had expired on 10-31-06. Yet, one of the applicators-- Christopher Sparrow (who was only licensed in the B1 (general pest control) category-- performed eight termite treatments in 11-06. On 1-23-07 a statement of complaint was mailed to the respondents. All the letters returned unclaimed. Staff mailed other documentation to the respondents, notifying them of the Commission Meetings, which has also returned unclaimed. To the date of this report, none of the respondents have contacted SPCC staff.

**Staff recommends that the Commission send this matter to formal hearing.**

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

None

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

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. Craig)**

None

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

None

**XII. Recommended Decisions and Orders of the Office of Administrative Hearings - Administrative Law Judges. (Mr. Blair)**

None

**XIII. Settlement Proposals [not part of Complaints agenda item]. (Mr. Blair)**

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. Craig)**

None

**XV. Reporting by Licensees on Probation: (Mr. Craig)**

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. Daniel Egan Lee**

**B. Michael James Gracie**

**C. Nickolas Enrique Mesa**

**D. Justin Blu Enriquez**

**E. Dennis Michael LiBerge, Jr.**

**F. Christopher Walter-Ronald Kirchen**

**G. Jesus Alejandro Corella**

**H. Eric Joseph Hinton**

**I. Rodolfo Aladueña Leon**

**J. Justin Lee Becker**

**K. Shawn Eric Phillips**

**XVII. Commission Updates and Reports; Miscellaneous Action Items.**

**A. Complaint Status Log: (Mr. Craig)**

**B. Computer Based Testing "CBT" Status and Statistics: (Mr. Craig)**

**C. Commission's review, discussion and possible action on the Commission's transition and Legislation (HB 2822): (Mr. Craig)**

- D. Commission's review, discussion and possible action to consider the Education Committee's Report on the exams: (Mr. Craig)
- E. Arizona Statement of Citizenship and Alien Status for State Public Benefits form (Craig/Tolton)
- F. Commission's review, discussion and possible action to consider Metro Institute's contract: (Mr. Craig)

**XVIII. Approval of Minutes and Continuing Education Programs**

- A. January 11, 2008 (public meeting) Minutes (Mr. Craig)(Separate Handout)
- B. February 8, 2008 (public meeting) Minutes (Mr. Craig)(Separate Handout)
- C. March 14, 2008 (public meeting) Minutes (Mr. Craig)(Separate Handout)
- D. March 25, 2008 (public meeting) Minutes (Mr. Craig)(Separate Handout)
- E. Continuing Education Program Applicants "(See list on website under agenda)". (April 11, 2008) (Mr. Craig)

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

**Current Proposed dates**

**May 9, 2008**  
**June 13, 2008**

**XX. Adjournment**