

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

**COMMISSION MEETING
FRIDAY, March 10, 2006, 9:00 A.M.
MINUTES**

I. Call to order, Commissioner roll call

Commissioners Present: Commissioners Paul Baker, Patrick Black, Dave Burns, Dan DeVere, Robert Hartley, and Debbie Runbeck

Commissioners Absent: One Vacancy

Staff Present: Eric Bauer, Vince Craig, Mike Francis, Lisa Gervase, Robert Tolton, Chris Wilson, and Assistant Attorney General M. Elizabeth (Lisa) Miles

★Acknowledgment of Industry Member Robert “Bob” Hartley’s service on the Arizona Structural Pest Control Commission.

Lisa Gervase stated that today’s meeting is the final meeting for Commissioner Hartley, who will be replaced by Bert Putterman from Arizona Exterminating Co., Inc., as the large company industry member. Commissioner Runbeck added that Commissioner Hartley is the Vice President of Truly Nolen, has been there for 36 years, and has been on the Commission for 7 years. He has attended 84 meetings, which is a record. Commissioner Runbeck presented a token of appreciation in recognition of Commissioner Hartley’s service for 2+ terms. Commissioner Hartley thanked Lisa Gervase and the Commission staff, who he said has made his job easy. He stated that he has watched the Commission grow and develop, that it is doing a good job and heading in the right direction. He is confident that Bert Putterman will do a fine job in his succession.

II. Call to the public

Mike Francis introduced Christopher Wilson, one of the Commission’s two new inspectors. The other new inspector, George Driver, was taking one of the licensing exams and will be present at a future Commission meeting.

III. Communication with Commissioners

Commissioner Black stated that each of the Commissioners received a letter from Scott Richardson, to which Ms. Gervase responded.

IV. Summary of Current Commission Events, Activities, Notices

☞ Watch website for status of *Proposed Law and Rule Changes*.
www.sb.state.az.us

✓ Business License & Qualifying Party License Renewal status

Lisa Gervase stated that in staff's final count, it was encouraging to see that almost 50% of business licensees and QPs renewed online. She added that she thinks that there was a record low number of people who did not renew their licenses. Only about 35 QPs and 20 business licensees didn't renew their licenses for reasons unknown to Commission staff.

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

Lisa Gervase stated that the Commission is providing four upcoming all-day Continuing Education ("CE") courses: March 17 in Apache Junction, March 23 in Bullhead City, April 7 in the Tucson/Marana area, and April 21 in Peoria. Staff has also been giving presentations to homeowner groups. "Termite" Program/Project Specialist Alan Pugh recently spoke at a HOA meeting in Mesa, that was very well received.

V. Consent Agenda

A. Applications for New Business License

Qualifying Party

1. Campbell, Teresa R. **Bees N Bugs Be Gone Pest Control (Activating Qualifying Party for new business license in "B1" General Pest & Public Health)**

2. Ruiz, Justin C. **Lawn & Order of Arizona (Activating Qualifying Party for new business license in "B3" Right of Way & Weed Control and "B5" Turf & Ornamental Horticulture)**

3. Saimo, Shigeki **Finishing Touch Landscape Maintenance & Nursery, LLC. (Activating Qualifying Party for new business license in "B5" Turf & Ornamental Horticulture)**

4. Herron, Steven J. **Bison Golf & Country Club, LLC. (Activating Qualifying Party for new business license in "B3" Right of Way and Weed Control and "B5" Turf & Ornamental Horticulture)**

5. Nyquist, Barry **Wickenburg Country Club Golf LC. (Activating Qualifying Party for new business license in "B3" Right of Way and Weed Control and "B5" Turf & Ornamental Horticulture)**

Commissioner DeVere noted his friendship with Mr. Nyquist.

6. Johnson, Jr.; Jess A. **Bugs R' Us Termite & Pest Control Company (Activating Qualifying Party for new business license in "B1" General Pest & Public Health, "B2" Control of Wood-Destroying Insects and "B8" Wood-Destroying Insect Inspection)**

7. Camfield, Meredith W. **Wass Gerke & Associates, Inc. (Activating Qualifying Party for new business license in "B9" Aquatic Pest Control)**

8. Seemann, Douglas L. **Arizona Termite Solutions, LLC. (Activating Qualifying Party for new business license in "B1" General Pest & Public Health, "B2" Control of Wood-Destroying Insects and "B8" Wood-Destroying Insect Inspection)**

Mr. Seemann appeared.

Commissioner Burns asked Mr. Seemann about his business changes and outstanding customer warranties. Mr. Seemann stated that D & S Termite Solutions, LLC, a Phoenix company, is restructuring because the former partner is no longer part of the company. Mr. Seemann stated that he is just moving over to the new company, Arizona Termite Solutions, LLC. Mike Francis clarified that an existing company was trying to sever ties and start a new company. Staff had concerns regarding whether warranties to consumers would be honored. The owners of the new company, Arizona Termite Solutions, LLC, said they would honor the warranties and gave to staff a copy of the letter to that effect that would be sent to the consumers, notifying them of the impending change.

MOTION: To approve the application for new business license in "B1", "B2" and "B8" by Commissioner Burns.
Seconded by Commissioner Black.

VOTE: 6-0 Motion carried.

9. Schmeits, Larry T. Poco Verde Landscape, Inc. (Activating Qualifying Party for new business license in "B1" General Pest & Public Health)
10. Kosinski, Thomas M. Desert Shield Pest Management, LLC. (Activating Qualifying Party for new business license in "B1" General Pest & Public Health and "B3" Right of Way & Weed Control)
11. Ferraro, Susan M. Ferraro Landscaping, LLC. (Activating Qualifying Party for new business license in "B3" Right of Way and Weed Control, "B5" Turf & Ornamental Horticulture and "B9" Aquatic Pest Control)

B. Applications to activate Qualifying Party for Existing Business License

1. Szymanski, Edward J. Termico Solutions, LLC. (Activating Qualifying Party for existing business license in "B1" General Pest & Public Health, "B2" Control of Wood-Destroying Insects and "B8" Wood-Destroying Insect)

Inspection)

2. Bussey, Daniel L. Western Exterminator Company (Activating Qualifying Party for existing business license in "B1" General Pest & Public Health, "B2" Control of Wood-Destroying Insects, "B4" Fumigation and "B8" Wood-Destroying Insect Inspection)
3. Walsh, Kevin B. Flagstaff Golf Maintenance Company II, LLC. (Activating Qualifying Party for existing business license in "B3" Right of Way & Weed Control and "B5" Turf & Ornamental Horticulture)

MOTION: *To approve the application to activate qualifying party for existing business license in "B3" and "B5" by Commissioner Baker.
Seconded by Commissioner Hartley.*

VOTE: *5-0 Motion carried (Commissioner DeVere recused).*

4. Oare, Robin L. Par #1 Pest Control (Activating Qualifying Party for existing business license in "B3" Right of Way and Weed Control)

C. Applications for Qualifying Party License

1. Calvert, William S. "B3" (Right of Way & Weed Control), "B5" (Turf & Ornamental Horticulture) and "B9" (Aquatic Pest Control)

Commissioner DeVere noted his friendship with Mr. Calvert.

2. Cooper, Timothy S. "B3" (Right of Way & Weed Control) and "B5" (Turf & Ornamental Horticulture)
3. Davis, III; Harry "B1" (General Pest & Public Health), "B2" (Control of Wood-Destroying Insects) and "B8" (Wood-Destroying Insect Inspection)

4. Morgan, Travis K. "B2" (Control of Wood-Destroying Insects) and "B8" (Wood-Destroying Insect Inspection)

5. Saggio, David P. "B1" (General Pest & Public Health)

Commissioner Hartley noted that Mr. Saggio is a former employee of Truly Nolen.

6. Zehr, Kevin R. "B3" (Right of Way & Weed Control) and "B5" (Turf & Ornamental Horticulture)

7. Gonzalez, Joseph J. "B5" (Turf & Ornamental Horticulture)

8. Brower, Kenneth D. "B5" (Turf & Ornamental Horticulture)

9. Kelty, William L. "B3" (Right of Way & Weed Control) and "B5" (Turf & Ornamental Horticulture)

10. Majewski, Ronald J. "B1" (General Pest & Public Health)

11. Triemert, Jr.; Andrew "B1" (General Pest & Public Health)

12. Miller, Joseph T. "B3" (Right of Way & Weed Control) and "B5" (Turf & Ornamental Horticulture)

13. Nygren, Gregory R. "B1" (General Pest & Public Health)

14. Yanez, Manuel F. "B3" (Right of Way & Weed Control)

15. Poplin, David E. "B1" (General Pest & Public Health)

D. Business License Name Change Requests

1. Marriott's Camelback Inn Resort to Marriott International, Inc.

End of Consent Agenda

MOTION: *By Commissioner Baker to accept Consent Agenda with the exception of the item pulled for discussion (A8, B3). Seconded by Commissioner Hartley.*

VOTE: 6-0 Motion carried.

VI. Applications not on Consent Agenda

A. Request for Temporary Qualifying Party License Renewals

1. Gile, Barbara Beth "B3" (Right of Way & Weed Control) and "B5" (Turf & Ornamental Horticulture)

Commissioner Runbeck noted that this is the second renewal request, but staff has had a problem with the fingerprint card request. Robert Tolton stated that Ms. Gile did submit a new set of prints, staff now has them back, so she will be on next month's Commission meeting agenda to apply for her own QP license.

MOTION: *To approve a 60-day temporary QP renewal by Commissioner Hartley.
Seconded by Commissioner DeVere.*

VOTE: 6-0 Motion carried.

VII. Complaints

A. Arizona's Best Choice Pest & Termite Services (BL)/Shane Buntin (QP)/Kevin Knudson (Unlicensed Applicator) - Case # 2005-085

Mr. Buntin was present.

MOTION: *To accept proposed resolution and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to send the case to the Office of Administrative Hearings, by Commissioner Black.
Seconded by Commissioner Hartley.*

VOTE: 5-1 Motion carried (Commissioner Burns opposed).

B. Dennis Lynn Ray (APP) - Case # 2005-061

MOTION: *To send the matter to hearing, by Commissioner Black.
Seconded by Commissioner Burns.*

VOTE: 6-0 Motion carried.

C. United Bat Control, LLC. dba First Inspection Termite & Bat Removal (BL)/Theodore Lafforthun (QP)/Michael Saldivar (APP) - Case # 2005-031

Scott Richardson, attorney for the business licensee and QP, was present.

MOTION: *To accept proposed resolution and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to send the case to the Office of Administrative Hearings, by Commissioner DeVere.
Seconded by Commissioner Black.*

VOTE: *6-0 Motion carried.*

D. Beaver's Exterminating (BL)/Richard K. Smith (QP) - Case # 2005-060

MOTION: *To accept proposed resolution and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to send the case to the Office of Administrative Hearings, by Commissioner Hartley.
Seconded by Commissioner DeVere.*

VOTE: *6-0 Motion carried.*

E. David DeBaca (APP)/Keith Jones (APP) - Case # 2005-051

Commissioner Burns stated that he felt that the applicators did everything they could to protect the application. When doing right of way work on Interstate 10, especially at 1:30 in the morning, it is tough to protect against a truck putting chemical on a crop. He stated that he finds it difficult to ding the applicators monetarily if they do take responsibility. Lisa Gervase stated that if the Commissioners have perspectives different from the proposed resolution, then they can reject it, send the matter back to settlement conference, dismiss it, or can ask staff to offer a modified proposed settlement.

MOTION: *To accept proposed resolution and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to send the case to the Office of Administrative Hearings, by*

Commissioner Black.
Seconded by Commissioner Hartley.

VOTE: 6-0 Motion carried.

F. Termite Specialists, Inc. (BL)/Tamara Painter (President/CEO) - Case # 2005-068

Commissioner Black asked if Ms. Painter is going out of business. Lisa Gervase stated that she already has. Commissioner Black noted that there were 648 pretreatments for which the company failed to perform final grade treatments. He asked what type of protection the consumers have. Vince Craig stated that, unfortunately, there is no protection for them because the business is gone. The business licensee has agreed to revocation. Commissioner Runbeck stated that the business licensee may have had insurance that covered them while in business, and the consumers may have recourse in civil court. Commissioner Hartley asked if the company was operating in 2005 without a license, given that its license expired in December, 2004. Vince Craig stated that the company was not doing work in 2005, and the investigation in this case began in September, 2004. Lisa Gervase stated that Jack Chase and Tamara Painter, the principals of this expired business licensee, parted ways. Staff conducted an investigation and subpoenaed records and, to their knowledge, Mr. Chase is not doing any pest control work. Commissioner Black asked about his partner. Lisa Gervase stated that she thinks that Ms. Painter is an office manager for a current business licensee, Termite One Pest Management. Her husband is the QP there. Commissioner Black noted that her husband was the QP for Termite Specialists, Inc. also. So, do they escape liability? Lisa Gervase stated that they do escape it from the Commission's jurisdiction, but not necessarily civilly. Commissioner Black asked if Mr. Painter can just move over and be the QP of another company. Lisa Gervase stated that the responsibility under these facts falls on the business licensee, not on the QP. Commissioner Burns asked if there is anything that the Commissioners can do to pull the QP into this situation. Lisa Gervase stated that there isn't, as Mr. Painter was not the owner/principal/business licensee. Commissioner Burns stated, however, that the infractions happened while Mr. Painter was the QP. Lisa Miles stated that the violations are assessed against the business licensee. Commissioner Black asked if this discipline is the most that the Commissioners can impose. Lisa Miles stated that it is, and added that, administratively, revocation is the death penalty.

MOTION: To accept proposed resolution and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to send the case to the Office of Administrative Hearings, by

Commissioner Black.
Seconded by Commissioner Burns.

VOTE: 6-0 Motion carried.

G. Eliminox (BL)/Robert Schor (QP)/Dustin Vrska (APP) - Case # 2005-065

Mr. Schor appeared.

Commissioner DeVere asked if the Commission knows whether the people whose house was treated is taking Eliminox to civil court over the damage done to their house. Lisa Miles stated that the Commissioners can know about it but it shouldn't impact their decision. Mr. Schor stated that the business's insurance company paid the consumer for her flooding damages; it was determined that there was no reason to say that his company was at fault for the flooding. He stated that they also extended the warranty on the house based on the spacing issues, though there was no way to determine if the stucco was drilled incorrectly. Mr. Vrska has not been with the business for two years now. Commissioner Burns stated that he lives in the Arrowhead Lakes neighborhood where this incident occurred, and every house there was flooded. He stated that water settled in the lakes and went into the plumbing lines. Commissioner Black asked if the QP mentioned the two-year warranty. Vince Craig stated that the homeowner was not informed. Mr. Schor stated that they are sending a letter to the homeowner. Commissioner Black stated that he is glad that Mr. Schor's company is trying to make it right.

MOTION: *To accept proposed resolution and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to send the case to the Office of Administrative Hearings, and to suspend the applicator license of Dustin Vrska due to non-payment of renewal fees (with automatic revocation in one year) and dismiss the complaint against Dustin Vrska without prejudice, by Commissioner DeVere. Seconded by Commissioner Baker.*

VOTE: 6-0 Motion carried.

H. Tacit Services, LLC. (BL)/John McClure (QP)/Ryan Gielow (APP)/John Geiss (APP) - Case # 2005-020

Scott Richardson, attorney for the business licensee and QP, was

present.
Mr. McClure was present.

Commissioner Burns stated that he is really struggling with this case and that he is not a proponent of a rental license. Here we have a business owner who is renting a QP and now the QP is taking a hit, which he needs to, but we are not sufficiently addressing the business owner, who is Mr. Gielow. Commissioner Hartley stated that he agrees with Commissioner Burns's thought process. Vince Craig stated that it could be argued that Mr. Gielow is running the business, but he is working under Tacit Services's business license, so disciplinary action is assessed against Tacit Services. Commissioner Burns stated that he is not comfortable with Mr. Gielow, who is running the business and is the owner for all intents and purposes, paying a fee for the use of Mr. McClure's license while he owned the business; he is not ponying up to anything. The business licensee, who is knowledgeable, has the responsibility to ensure that everything is done correctly in the office. That is why the Commission has statutes that say that a company has to properly supervise and do business under the name as licensed. Commissioner Burns also stated that Mr. Gielow is just as guilty as Mr. McClure in the failure to run the business properly.

MOTION: To accept proposed resolution as it pertains to Tacit Services, LLC (business licensee) and John McClure (qualifying party) and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to send the case to the Office of Administrative Hearings. Also, to return the matter to settlement conference as it pertains to Ryan Gielow (applicator), and to suspend the applicator license of John Geiss due to non-payment of renewal fees (with automatic revocation in one year) and dismiss the complaint against John Geiss without prejudice, by Commissioner Black.
Seconded by Commissioner Hartley.

VOTE: 6-0 Motion carried.

I. Matrix Pest & Termite Elimination (BL)/Dennis Garrett, Jr. (President/APP) - Case # 2005-054

MOTION: To accept proposed resolution and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to send the case

to the Office of Administrative Hearings, by
Commissioner Hartley.
Seconded by Commissioner DeVere.

VOTE: 6-0 Motion carried.

Chairperson Runbeck thanked staff for working hard to properly resolve the complaints.

XII. Recommended Decisions and Orders of the Office of Administrative Hearings' Administrative Law Judges.

A. Charles H. Tisdale (APP) - OAH Docket No. 2005A-029-SPC/SPCC Case No. 2005-029

Lisa Miles, Assistant Attorney General for the State of Arizona, representing the Structural Pest Control Commission, appeared.

Lisa Miles encouraged the Commission to accept the Findings of Fact, Conclusions of Law and Recommended Order.

MOTION: *To accept the ALJ's Findings of Fact and Conclusions of Law, by Commissioner Hartley.
Seconded by Commissioner Baker.*

VOTE: 6-0 Motion carried.

MOTION: *To adopt the ALJ's Recommended Order, by Commissioner Burns.
Seconded by Commissioner DeVere.*

VOTE: 6-0 Motion carried.

XV. Reporting by Licensees on Probation.

A. Guillermo Sotelo- Case No. 2004-120 - Mr. Sotelo reports the status of his compliance with criminal probation and his employment.

Mr. Sotelo appeared.

Lisa Gervase stated that Mr. Sotelo entered into a probationary consent agreement with the Commission to obtain an applicator license, and he reports to the Commission quarterly and provides letters from his employer and his Yuma County

probation officer. She stated that Mark Williamson from Desert Web wrote a letter saying that Mr. Sotelo continues to do good job, and the probation officer said that everything is working out and Mr. Sotelo is progressing well. Mr. Sotelo has been subject to 37 random drug tests since September, 2005, and all have been clean. Commissioner Runbeck commended Mr. Sotelo. Commissioner Burns also commended Mr. Sotelo's good work.

(Break from 10:00 A.M. to 10:10 A.M.)

XVI. Applicants with Criminal Convictions.

A. Case, Steven E.

Mr. Case appeared.

Murray Dew, owner of Catalina Landscape Maintenance, appeared.

Commissioner Runbeck noted that Mr. Case's conviction is very old and asked if he has had any serious problems with the law since then. Mr. Case stated that he had a misdemeanor DUI in 1990. Mr. Dew stated that this is the second time that Mr. Case has come back to work for him and Mr. Case is an outstanding employee. Commissioner DeVere noted that three letters of recommendation speak well of him.

MOTION: *To approve by Commissioner DeVere.
Seconded by Commissioner Black.*

VOTE: *6-0 Motion carried.*

B. Michaux, Ronda N.

Ms. Michaux appeared.

Charles Hickle, pretreatment supervisor for S O S Exterminating, Inc., appeared.

Mr. Hickle stated that Ms. Michaux is in training to do final grade treatments and she would be a great addition to their team and the industry. She is a good employee who is very reliable. Commissioner Baker asked Ms. Michaux if she has had any instances with the law since 1995. Ms. Michaux stated that she has not. Commissioner Runbeck asked when the letters of recommendation from OnlineCafe were written. Ms. Michaux stated that they were written about three months ago. Commissioner Runbeck asked how much time Ms. Michaux served. Ms. Michaux stated that she served five years, ten months and got out in 2000. She stated that she is not on parole now, but had been on parole for about nine months, and has

paid restitution, done counseling, and has had no dirty drug tests. She stated that she has worked for OnlineCafe since she got out and just left them to go to SOS. Commissioner Runbeck asked Ms. Michaux what made her interested in pest control. Ms. Michaux stated that her uncle worked for SOS. She also stated that she is a people person and needs to show good examples for her grandchildren. She added that she has owned a home for four years and has been married for three and a half years.

MOTION: *To approve by Commissioner Burns.
Seconded by Commissioner Baker.*

VOTE: *6-0 Motion carried.*

C. Bocskovits, Nicholas R.

Mr. Bocskovits appeared.

Commissioner Baker asked if Mr. Bocskovits has had any problems since the mid-1990s. Mr. Bocskovits clarified that the offense occurred in the early 1990s and stated that he has bought a house since then, has a grandson, and works with antiques in a rent area in a store. He stated that he used to work for Eliminox about ten years ago until the company was sold; he then worked for Winter Bros. Commissioner Runbeck noted that the reason the application was placed on today's agenda is because burglary is a crime involving moral turpitude.

MOTION: *To approve by Commissioner Black.
Seconded by Commissioner DeVere.*

VOTE: *6-0 Motion carried.*

D. Boisjolie, Georgia Gahr

Ms. Boisjolie appeared.

Andy Weber, from S O S Exterminating, Inc., appeared.

In response to a question about the spelling of her name in court documents, Ms. Boisjolie stated that in August, 1995, she was arrested and put in jail for a few months, and somehow her name became messed up in the documents. Commissioner Baker asked Ms. Boisjolie if she has a potential employer. Ms. Boisjolie stated that she will work for SOS. Mr. Weber stated that this will be the second time that Ms. Boisjolie will be working with them; she has been before the Commission ten years ago for this also. She left SOS and is now coming back. Ms. Boisjolie stated that she was employed previously from 1997-2003 and she let her

license lapse. Commissioner Runbeck asked if Ms. Boisjolie has been on probation or parole with random drug tests. Ms. Boisjolie stated that she has. Mr. Weber added that his company has a drug testing program also. Ms. Boisjolie stated that she successfully completed probation in 1996 and became clean and sober then, and her drug tests have been clean since then. She stated that the reason that she left SOS is because she relapsed and got a DUI immediately. She stated that she is clean and sober again and trying to get her life back.

MOTION: *To approve by Commissioner Baker.
Seconded by Commissioner Black.*

VOTE: *6-0 Motion carried.*

E. LaVarnia, Kansas Eric

Mr. LaVarnia did not appear. Tabled.

F. Webb, Christopher

Mr. Webb appeared.

Richard Rupkey, II, from University Termite & Pest Control, Inc, appeared.

Mr. Rupkey stated that Mr. Webb has been with the company for about a month and a half and is doing herbicide applications for them and has been fabulous and reliable. He stated that Mr. Webb has been very up-front with his issues and he is very comfortable with Mr. Webb. Commissioner DeVere asked when Mr. Webb moved from Washington. Mr. Webb stated that he moved right after Thanksgiving and had no problems there since the offense and wasn't on probation, though he had to see someone from the Department of Corrections in Washington once a month. Mr. Rupkey stated that the agency that his company goes through screens employees before they get to the company, and Mr. Webb's screen came back negative. He also stated that his company has a random drug test policy.

MOTION: *To approve by Commissioner Hartley.
Seconded by Commissioner DeVere.*

VOTE: *6-0 Motion carried.*

XVII. Commission Updates and Reports; Miscellaneous Action Items.

A. *None.*

B. Legislative Bills/Proposals

1. SB 1221 - weed control license exemption

Jack McClure, from ChemTech Supply, appeared.

Doug Seemann appeared.

Gavin Gallifant, from National Environmental Solutions, Inc., appeared.

Susan Tomlinson, from North Country Pest Management, Inc., appeared.

Bert Putterman, from Arizona Exterminating Co., Inc., appeared.

Chairperson Runbeck stated that the Commission's lobbyist accurately testified at the House Commerce Committee about the Commission's position on this bill. She thanked Mr. Goodman and Lisa Gervase for their hard work and negotiating that led to agreement on some amendments. Chairperson Runbeck stated it appears that this bill will not be amended; however, without the Commission's support.

Lisa Gervase provided a status update of this bill and the proposed amendments. The bill passed the Senate by an overwhelming majority vote. It passed 8-1 in the House Commerce Committee. Seventeen people appeared to oppose the bill. There were only six people who were in support of the bill. The bill will hit the House floor in the next week or so, and there is every indication that this bill will get a majority vote as written now, and there will only be amendments now with Commission support of the bill. These amendments will make the bill better for the public, better for the existing licensed industry, and better for the Commission's regulation. She stated that in past laws, when there was an exemption between 1985 and 2003, the most restrictive language that she has found says that the exemption only applied if a person was licensed by the Registrar of Contractors and used application equipment that could contain no more than 5 gallons. The language in this current bill with the Commission's amendments in some respects is better from a regulatory standpoint because there are more fences. Staff has not been questioned regarding the realities in practice of what has happened when there has been an exemption as opposed to when there has not been an exemption. There was a significant case in 1998 when she believes that chemical was intentionally dumped, causing a hazardous material cleanup situation. Most of the Commission's unlicensed cases, though, involve people not following PPE requirements.

Mr. McClure gave a lengthy personal background and explanation of the Commission's charge to protect the public and the environment. He believes that SB 1221 is absolutely an anti-environment bill; the proposed changes do not sound like they were written by members of the industry who understand the dangerous chemicals involved in weed control applications. The amendments still are not going in the right directions. Unlicensed people who use chemicals for a fee are

professionals; they need to be able to read and do calculations, and they need to be monitored by a professional who knows what is going on. He stated that he has photos of lots of bushes that were killed by untrained applicators using over-the-counter products, and he monitored damage from a gardener at a trailer park in 1973. Some herbicides have even killed potatoes and dozens of palm trees that were over 40 years old. All of these products were purchased over-the-counter. Gardeners are buying 30-gallon containers of chemical and using incorrect concentrations. Also, the dust that comes up from the land after soil sterilant applications can damage nearby property. He noted an example of one applicator who dumped chemical in Salt River Project. He also stated that Bud Paulson found a guy dumping herbicide in a gutter on Pima Road and his company cleaned it up. Commissioner Runbeck asked Mr. McClure if he went down to the House of Representatives. Mr. McClure stated that he did and that he wasn't allowed to speak. He stated that the three Senators to whom he spoke said that the Commission's lobbyist told them that the Commission is not opposed to the bill. Senator Leff wouldn't talk with him. This is not about "spritzing", however; this is about more than that. There are only three sterilants that last for only a few days. These sterilants are deadly and dangerous. Commissioner Runbeck stated that the Commission did send a letter to Senator Leff's office outlining the Commission's concerns. Mr. McClure stated that the Commission wasted its time because Senator Leff said that she won't speak to the Commission because the bill is now out of her hands. She has about 40 bills. He stated that we need trained professionals and that this bill is more serious than it reads because there are no limitations for pre-diluted material. A homeowner can buy chemical and hand it to a gardener to "spritz", but one gallon of diluted material will make over 64 acres of treatments. Commissioner Runbeck noted that the Commission did have its own language in its own bill that would have contained a lot more limitations, but that the Commission's bill was withdrawn because of some objections.

Mr. Seemann gave a personal background. He stated that he knows a number of pest control companies who are looking for weed QPs so they can do weed control work. But you really don't need a weed QP anymore. Any pest control company can now open a weed control division and apply pesticides as they see fit. He stated that the Commission did not take an active and strong stand on this issue, and this is inconsistent with the recent stand that the Commission has taken in prosecuting unlicensed people in recent years. He stated that the thing that really upsets him is that in Tucson, where people seem more concerned about water quality and water tables than in Phoenix, there are untrained people applying 25 pounds of herbicides. Pest control companies don't even go through that much in a week. He stated that people doing herbicide work during monsoon season sometimes let chemical go down slope, which is not good. These dosages are dangerous, especially if the application is done uphill from a school, swimming pool or pond. He stated that he doesn't know why the Commission didn't take a strong

stand against the bill. It is odd that the people who are trained and apply the smallest amount of chemical are the most regulated and the people who spray the most chemical are the least regulated. The Commission should reflect the views of the industry; we are asking for more regulation.

Mr. Gallifant stated that he spoke with Gene Harrington from the National Pest Management Association, who has been talking with Senator Leff and Representative Reagan and said that the Commission regulates pest control applications, and weed control is one of them. Mr. Gallifant apologized for not being involved in the stakeholder meetings during 2005 when the Commission was working on an omnibus bill. He also stated that cutting a deal with Senator Leff on anything is tough. We asked for record keeping, we are not getting that, and we aren't getting insurance requirements either. He stated that he thought that the Commission's position last month was very clear, that it would be unanimously opposing the bill if no amendment was made. He stated that he was shocked when Stuart Goodman spoke. He also stated that he believed that the letter written to the legislature does not say "neutral position"; rather, it says "no position". This Commission was not established for this purpose. He asked that the Commission oppose this bill. Even with these amendments, the Commission can't regulate weed control work other than to impose a Cease and Desist Order.

MOTION: To enter Executive Session to obtain legal advice by Commissioner Hartley.
Seconded by Commissioner Baker.

VOTE: 6-0 Motion carried.

(Executive Session from 11:20 A.M. to 11:47 A.M.)

Ms. Tomlinson stated that as QP of a company that provides weed control services, this bill would put her at a major disadvantage in competition. She stated that her company has approximately 300 post-emergent customers per month, similar to a gardener/landscaper who does occasional weed control work. She stated that it costs \$18 to service 300 customers. If she has to maintain licenses, provide training and pay for insurance and try to compete with gardeners and landscapers who are exempt from licensure and don't have to have a QP, then she shouldn't be in business and another landscape company will emerge in the Tucson area. Commissioner Runbeck responded, stating that the Commission is not an arm of the industry and is not set up to protect the industry from competition.

Mr. Putterman stated that, as a QP for Arizona Exterminating, he is not trying to protect the industry from competition. People doing weed control are in a different solar system from his weed business. He stated that his concern regards public

safety. He stated that Senator Leff talked about wanting her poor gardener to be able to spritz a weed. But, he stated, there is no weed that needs 8 gallons or 25 pounds of material. Integrated pest management ("IPM") strategies encourage using the least toxic, most effective ways to handle weeds, which is by pulling them out by the roots. He encouraged the Commission to oppose the bill and to not be too concerned about how it might come across in the eyes of the legislature. Then let the tailwind be as it may afterwards. He stated that we are not talking about manageable quantities, but rather insanity. Allowing someone who chooses to spray pesticides and not use IPM to be exempt from licensure is not good public policy or protection.

Commissioner Hartley stated that from the outset he has opposed the weed control license exemption and has done everything that he knows is reasonable and prudent, including going to legislative hearings to testify, sending emails, etc. He stated that he now sees, having talked to a bunch of different people, that the handwriting on the wall is that this bill is going to go through. The industry's concern is public safety, but somehow the perception, as untrue as it is, people, including the media, have said that the industry is trying to keep competition away. He stated that he doesn't even do weed control and his arguments have been for consumer safety, etc. But that has fallen on deaf ears. Although Senator Leff is not willing to make major changes, the SPCC did get some compromise. At the very least, he appreciates Representative Reagan's help in compromise and getting some small concessions. He stated that he will support the bill with amendments. Small concessions, that's what negotiating/compromise is all about.

Commissioner Black echoed Mr. Hartley's statements. He further stated that the Commission is being presented with a Hobbsian choice here. He stated that under section "D" regarding persons using application equipment that contains more than 8 gallons of liquid herbicide or more than 25 pounds of non-liquid herbicide, he interprets that to mean that a person can't use more than that, so the containers can't be refilled.

Commissioner Runbeck agreed with Commissioner Hartley that there seems to be a perception that the industry is trying to protect its turf and that the Commission is power hungry. She thinks that the articles in the newspapers try to lay that out, but she doesn't think this is the case. The Commission certainly has to enforce the laws that are in place and has to be concerned about public safety. She agreed that she thinks we see the writing on the wall. And, as currently written, the bill doesn't even have provisions regarding child care facilities and schools.

Commissioner Burns stated that he is in the weed control business, yet he doesn't see this bill as a threat to his business. Rather, he is speaking from the position of the Commission's own mission statement and what it has been directed by the

legislature to do as a governing agency. We are in a no-win position and have to give and take. He stated that he thinks that at least the amendments that the Commission put in the bill are good ones. The Commission still needs to attempt to make a position on two points: worker safety, and insurance protection for transportation and off-site misapplications.

Commissioner Runbeck added that there have been strong attempts to get more amendment language, but they did not go any further. She asked if persons who do not follow label directions would qualify for the exemption. Lisa Miles stated that they would not. Commissioner Runbeck stated, then, that if one of the Commission's inspectors sees someone spraying without PPE, the inspector can go after that person for not having license. Lisa Gervase added that insurance issues, worker protection issues and record keeping issues were proposed and rejected. Commissioner Burns asked if the Commission is on the record with Senator Leff's group regarding these issues. Lisa Gervase stated that the Commission is on the record and that these issues were brought up in the nine bullet points in the letter sent to Senator Leff.

MOTION: To support the bill with the amended language, by Commissioner Black.
Seconded by Commissioner Hartley.

VOTE: 6-0 Motion carried.

The record reflects that the Commission has voted to support the bill but wants to emphasize the two issues of worker safety and insurance and that they would like the legislature to consider and address these issues if they further amend the bill. Commissioner Burns stated that he wants to be on the record for when this backfires. Commissioner Baker stated that he also would like property owners to be notified of what product was used on their property.

MOTION: To ask the legislature to consider the above additional concerns if there are future amendments, by Commissioner Burns.
Seconded by Commissioner Hartley.

VOTE: 6-0 Motion carried.

2. SB 1388 - utility license exemption

Lisa Gervase stated that this bill is pretty much on the same track that SB 1221 is on, as it will be on the House floor soon.

3. SB 1350 - child care facility pre/post notification

Lisa Gervase stated that this bill passed the full Senate this week on March 7 and is on its way to the House.

4. Others

Lisa Gervase stated that there were several other bills pending that affected multiple agencies, but these bills have been taken off of the table. She stated that the one that she talked about last month regarding requiring departments, agencies or employees of the state to post notice before and after right-of-way applications has been taken off of the table.

C. Proposed Rule Changes

Lisa Gervase stated that she passed out a list of people who would comprise the work groups for the three rules packages. She stated that as soon as staff can gather drafts pertaining to the groups, she will distribute them.

D. Complaint Status Log - update

E. Computer Based Testing "CBT" Status and Statistics - update

F. Expenditure Report - update

Lisa Gervase stated that the Commission has expended 70% of its appropriated funds eight months into this fiscal year, spending approximately 8.5% per month, so we are right on target. She expressed concern about the statewide budget being \$65,000 less than anticipated and stated that staff will work on trying to figure out where that number came from.

G. Case Status Report - update

Lisa Gervase stated that there are currently 49 active cases in various stages, 26 cases being monitored for revocation, 66 cases at the Attorney General's Office for collections totaling \$105,000, and there are still 23 cases to be sent to the Attorney General's Office for collections. There are 14 cases that were sent to collections for which staff is trying to track down the status. There is one old case for which staff is trying to collect on a civil penalty owed. Now, staff is working on reviewing, data-entering, and ensuring compliance with 1999 -2002 cases.

H. Gloria Kilian, dba Kilian's Termite and Pest Control, Co., vs. Structural Pest Control Commission, Case No. C20053438

Lisa Miles stated that the filing fee was due last week, and we don't know if it was paid. The Commission will be informed next month.

XVIII. Approval of Minutes

A. January 13, 2006 (regular session) Minutes - separate handout

MOTION: *To approve the January 13, 2006 Minutes by Commissioner Hartley.
Seconded by Commissioner Baker.*

VOTE: 4-0 *Motion carried (Commissioners Burns and DeVere abstained).*

B. February 10, 2006 (regular session) Minutes - separate handout

MOTION: *To approve the February 10, 2006 Minutes by Commissioner Hartley.
Seconded by Commissioner Baker.*

VOTE: 6-0 *Motion carried.*

C. February 15, 2006 (Telephonic) Minutes - separate handout

MOTION: *To approve the February 15, 2006 Telephonic Minutes by Commissioner Hartley.
Seconded by Commissioner Baker.*

VOTE: 6-0 *Motion carried.*

D. Continuing Education Minutes

MOTION: *To approve the Continuing Education Minutes by Commissioner Hartley.
Seconded by Commissioner DeVere.*

VOTE: 6-0 *Motion carried.*

XIX. Scheduling of future meetings/agenda items

Lisa Gervase stated that we will probably have a training session for the Commissioners sometime after the next meeting, hopefully with 7 members. Commissioner Runbeck noted that a CLE seminar on public records is scheduled for May 5 in Tucson. She stated that the Commission may have to notice it as an open meeting if too many Commissioners attend.

Current Proposed dates

April 14, 2006

May 12, 2006

June 9, 2006

July 14, 2006

August 11, 2006

September 8, 2006

October 13, 2006

November 9, 2006 (Thursday)

XX. Adjournment - 12:15 p.m.

MOTION: *To adjourn by Commissioner Hartley.
Seconded by Commissioner DeVere.*

VOTE: 6-0 *Motion carried.*