

**STRUCTURAL PEST CONTROL COMMISSION**  
**Veterans' Memorial Auditorium**  
**5825 Florida Blvd., Baton Rouge, LA**  
**October 10, 2018 – 9:30 a.m.**

**PROCEEDINGS**

**CALL TO ORDER**

The meeting was called to order by Mr. Bass at 9:43 a.m.

**ROLL CALL**

Members present: Fred Bass, Benjy Rayburn, Joe Arceneaux, Dr. James Ottea, and Bob Kunst.

Others present: Harry Schexnayder, LDAF; Amy McInnis, LDAF Attorney; Kelly Moore, LDAF; Michael Heier, Hearing Officer; Julie Nauta, LDAF; Milton Schleismann, LDAF; Amy Hernandez, LDAF; Michelle Pool, LDAF; Jeff Porter, LPMA; Jeff Hargrave, Cajun Bug; Robert Soileau, J & J Exterminating; and Katie Davis, general public.

**AMENDMENTS TO THE AGENDA**

Ms. Moore recommended adding an additional licensee application for consideration, Ryan Domingue.

**Motion:** Mr. Kunst made a motion to add the additional licensee application, Ryan Domingue, for consideration. The motion was seconded by Mr. Arceneaux and passed unanimously.

**PUBLIC COMMENTS**

There were no public comments.

**APPROVAL OF THE MINUTES**

**Motion:** Mr. Kunst made a motion to approve the minutes from the July 18, 2018 meeting, as distributed. The motion was seconded by Mr. Rayburn and passed unanimously.

**ADJUDICATORY HEARING**

Hearing Officer Michael Heier conducted the hearing. LDAF Attorney Amy McInnis presented the following cases:

**Kenneth Aucoin, Case No. 2088**

Ms. McInnis stated that the Defendant requested this matter be continued. Mr. Heier granted the request.

**Rhian Quebedeaux, Case No. 2137**

Ms. McInnis stated that the Defendant requested this matter be continued. Mr. Heirer granted the request.

**Michael McDermott: Case No. 2135**

The Department charged Mr. McDermott with One (1) violation of LRS 3:3371(A)(1). Following the penalty matrix, the charge included a penalty of \$500.00 for the one (1) violation, due within 30 days. The stipulation was signed by all parties.

Mr. Heier admitted LDAF's Exhibits 1 and 2 into the record.

**Motion:** Mr. Kunst made a motion to accept the facts set forth in the stipulation. The motion was seconded by Mr. Arceneaux and passed unanimously.

**Michael Ritchie: Case No. 2135-A**

The Department charged Mr. Ritchie with one (1) violation of LRS 3:3371(A)(14), specifically LAC 7:XXV 119(A)(1). Following the penalty matrix, the charge included a penalty of \$1,000.00, with \$500.00 suspended, due within 30 days. The stipulation was signed by all parties.

Mr. Heier admitted LDAF's Exhibits 1 and 2 into the record.

**Motion:** Mr. Rayburn made a motion to accept the facts set forth in the stipulation. The motion was seconded by Mr. Arceneaux and passed unanimously.

**Wesley Douglas: Case No. 2136**

The Department charged Mr. Douglas with one (1) violation of LRS 3:3371(A)(1). Following the penalty matrix, the charge included a penalty of \$1,500.00, due within 30 days. The stipulation was signed by all parties.

Mr. Heier admitted LDAF's Exhibits 1 and 2 into the record.

**Motion:** Mr. Arceneaux made a motion to accept the facts set forth in the stipulation. The motion was seconded by Mr. Kunst and passed unanimously.

**Wayne Huth: Case No. 2138**

The Department charged Mr. Huth with one (1) violation of LRS 3:3371(A)(14), specifically LRS 3:3370(A)(1). Following the penalty matrix, the charge included a penalty of \$500.00, with \$250.00 suspended, due within 30 days of Commissioner's acceptance of the stipulation.

Mr. Heier admitted LDAF's Exhibits 1 and 2 into the record.

Mr. Kunst was opposed to reducing the \$500.00 fine to \$250.00, due to concern if Mr. Huth had taken care of the customer. Mr. Schexnayder explained it was a first offense and considered a moderate violation under the penalty matrix.

**Motion:** Mr. Arceneaux made a motion to reject the stipulation as presented, based on unanswered questions by the Commission. The motion was seconded by Mr. Kunst and passed unanimously. Mr. Huth will be served to appear before the Commission at the next meeting.

**Jeremy Calais: Case No. 2141**

The Department charged Mr. Calais with Seventy (70) violations of LRS 3:3371(A)(14), specifically LAC 7:XXV 141(E)(4). Following the penalty matrix, the charge included a penalty of \$7,000.00, with

\$3,500.00 suspended, due within 30 days. Mr. Calais further agreed that, if within six (6) months from the date of the approval of this stipulation he violates any provision of the Louisiana Pesticide Law, Rules or regulations promulgated under that law, and is thereafter found guilty by this Commission, the entire suspended portion of the monetary penalty shall become immediately due and payable. The Stipulation was signed by all parties.

Mr. Schexnayder said all of the jobs were reported to the Department. To his knowledge, Mr. Calais had no previous violations.

Mr. Heier admitted LDAF's Exhibits 1 and 2 into the record.

**Motion:** Mr. Arceneaux made a motion to accept the stipulation as presented. The motion was seconded by Mr. Kunst and passed unanimously.

**Russell Callen: Case No. 2146**

The Department charged Mr. Callen with One (1) violation of LRS 3:3371(A)(3). Following the penalty matrix, the charge included a penalty of \$1,000, due within 30 days. The Stipulation was signed by all parties.

Mr. Heier admitted LDAF's Exhibits 1 and 2 into the record.

**Motion:** Mr. Kunst made a motion to accept the stipulation as presented. The motion was seconded by Mr. Arceneaux and passed unanimously.

**Robert Soileau: Case No. 2090**

Mr. Soileau was present, represented himself and contested the matter involving his case. A hearing proceeded. Ms. McInnis stated that the Department charged Mr. Soileau with seven (7) violations of LRS 3:3371(A)(14), specifically LAC 7XXV.141(A)(2). This matter involved the concentration at which product was applied during pre-construction treatment.

Mr. Heier opened the floor to Mr. Soileau for opening remarks. Mr. Soileau stated he would not contest the case and would accept the penalty. He further stated he appeared to address the Commission. Mr. Heier said that Mr. Soileau would be given an opportunity to address the Commission, but the State's evidence still had to be presented.

Ms. McInnis asked for a short recess to reach a stipulation as to the nature of the testimony and the exhibits.

*Five-minute recess. Everyone was present after the 10:15-10:20 a.m. break.*

The Defendant and the Department reached an agreement regarding the facts of the matter. Mr. Soileau was sworn in by Mr. Heier. Ms. McInnis introduced Exhibits LDAF 1-13. As there was no objection, Mr. Heier accepted Exhibits LDAF 1-13 and they were entered into the record and shared with the Commission members.

Mr. Heier opened the floor to questions by the Commission regarding the stipulated facts. The Department's witnesses were still present, and Mr. Soileau had no objections to limited questions.

The Department called witness Michelle Poole, the AES Supervisor in the Crowley District, and she was sworn in by Mr. Heier. She stated her duties and role regarding the pre-treat samples. After questioning by the Department and by Mr. Soileau, the Commission questioned Ms. Poole regarding process.

Mr. Heier opened the floor to questions of Mr. Soileau, by the Commission, then asked Ms. Poole to take the stand for additional questions from the Commission. With no further questions forthcoming, Mr. Heier asked Mr. Soileau to step back up for additional questions by the Commission.

Mr. Heier concluded the fact-finding portion of the hearing.

**Motion:** Mr. Rayburn made a motion that the facts presented supported the charges brought by the Department. The motion was seconded by Mr. Kunst and passed unanimously.

Following the penalty matrix, the Department recommended a penalty of \$200.00 per violation, for a total of \$1,400.00, due within 30 days.

**Motion:** Mr. Kunst made a motion that the Mr. Soileau be charged \$350.00 per violation, for a total of \$2,450.00. The motion was not seconded.

**Motion:** Mr. Rayburn made a motion to follow the Department's penalty recommendation of \$200.00 per violation, for a total of \$1,400.00. The motion was not seconded.

**Motion:** Mr. Arceneaux made a motion to amend Mr. Rayburn's motion that the charge be \$1.00 per violation for a total of \$7.00. Mr. Arceneaux stated "I don't find that this gentleman intentionally, purposefully, did anything wrong. The State inspector says that they have witnessed his practices and procedures in mixing the sealed containers out in the field." The motion was seconded by Mr. Bass and passed unanimously.

## **OLD BUSINESS**

### ***Standard Pre-Treat Contract Update – Kelly Moore***

Ms. Moore presented the revised Standard Pre-Treat Contract. The only change recommended previously was that the check box for "Inspection Diagram" say "Inspection/Treatment Diagram." A revision date was added to the front of the Contract, and the Customer Initials and Date lines at the bottom of the back of the form were moved up underneath Item 11, on the back page. LPMA did not have any comments. The Standard Contract will be put in place, as previously approved by the Commission.

## **NEW BUSINESS**

### ***LPMA Report – Jeff Porter***

LPMA completed recertifications last week, with good attendance. There is a convention coming up January 22-24, 2019 at the Renaissance.

### ***Contract Review -- Harry Schexnayder***

### ***Terminix Sentricon Termite Contract and Terminix Sentricon Termite Contract with Damage Repair***

There were several contracts submitted to the Department for review. Although the changes were not substantial and did not justify conducting a Committee meeting for review, Mr. Schexnayder said they still needed to come before the Commission for approval. There were changes to the two bait contracts, mainly relating to product information being included--striking out consumer information and putting in the active ingredient for *Sentricon*.

**Motion:** Mr. Arceneaux made a motion to accept the contracts. The motion was seconded by Mr. Kunst and passed unanimously.

**Rules Committee Report – Harry Schexnayder**

Mr. Schexnayder reviewed the changes made by the Rules Committee:

*§111. Certified Fumigation Technician:* This section was proposed to be deleted, as there are no Certified Fumigation Technicians currently in the State, nor is there a test to give those technicians. This section of the Rule had never been implemented.

**Motion:** Mr. Kunst made a motion to accept the deletion of *§111. Certified Fumigation Technician*. The motion was seconded by Mr. Rayburn and passed unanimously.

*§117. Obligations of the Licensee/Permittee:* Changes were proposed in the language of (E)(1)(b) to read that “recertification shall be completed by December 31 of the *third year following the* original certification or the most recent recertification.”

**Motion:** Mr. Arceneaux made a motion to accept the change in the language of *§117(E)(1)(b)*. The motion was seconded by Mr. Kunst and passed unanimously.

*§117. Obligations of the Licensee/Permittee (H)(1)(p)(q)(r):* Changes were proposed in the language of *§117(H)*, which added a requirement for licensees to record inspections for wood destroying insects. Also added to this section was language requiring, in addition to contracts, that copies of records be kept including waivers and wood destroying insect reports. In (H)(1), records for applications of pesticides *and inspections* for wood destroying insects was added, with the addition of *(1)(p) inspection date and time (if applicable); (1)(q) waiver (if applicable); and (1)(r) WDIR (if applicable)*.

The Commission would like to see further language that adds WDIR and annual inspections.

**Motion:** Mr. Arceneaux made a motion to accept *§117. Obligations of the Licensee/Permittee (H)*, with the proposed changes. The motion was seconded by Mr. Kunst and passed unanimously.

*§119. Contracts for Termite Control Work:* It was suggested to modify the title of this Section to say “*Contracts for Wood Destroying Insect Control Work*” and to modify it to include wood destroying insects, beyond termites. Accordingly, language was proposed to be added to *§119(D)* to read “The permittee or a licensee shall report to the commission, no later than the tenth day of each month, **each wood destroying insect contract, including** termite contract...”.

Revisions were suggested to the proposed language changes of *§119(H)*, concerning carpenter bees and ants. Mr. Schexnayder stated the Law requires a contract on every wood destroying insect, in a form approved by the Commission. He will research the recommendations, to see if they want to proceed, for the next Commission meeting.

*§121(B). Wood Destroying Insect Report:* Recommendation was to limit the guarantee in WDIR’s to *subterranean termites*. The second sentence is being revised to delete “wood destroying insects” and replace the language with “The report shall carry a guarantee that the property will be treated without charge should live *subterranean* termites, covered by the report be found in a readily accessible area within 90 days from the date of inspection.” The last sentence about presence of frass for powder post beetles will be deleted in its entirety.

Questions were raised and a discussion ensued. The floor was opened up for public comment. Jeff Hargrave, with Cajun Bug Exterminating, asked for clarification and made comments.

**Motion:** Mr. Kunst made a motion to accept §121(B). *Wood Destroying Insect Report* with the suggested changes. The motion was seconded by Mr. Arceneaux and passed unanimously.

§141. *Minimum Specifications for Termite Control Work:* Changes were proposed to be made in the Rules that were already on the contract: in (G) Infested Properties (1) to keep the language "...Whenever any agent of the department finds" then strike the next language "that any property is infested with termites" and replace it with "**an active infestation of termites (meaning presence of live termites)...**" It was also proposed to add item: **(G)(3): "Whenever an active infestation of termites (meaning presence of live termites) is found on any property treated for or under a current termite contract for the type termite found, the pest control operator contracted shall retreat the property within 30 days of discovery or notification."**

**Motion:** Mr. Kunst made a motion to accept changes to §141(G)(1) and (3). The motion was seconded by Mr. Arceneaux and passed unanimously.

In §141(H) Waiver of Requirements of Minimum Specifications for Termite Control Work: In (H)(1), it was proposed to change the language from "may" to "**shall**" request... It was proposed to strike out the word "initial," so it reads "...treat one or more areas of the structure in accordance with these minimum specifications for treatment." It was also proposed that a signed copy of the waiver be kept on file by the owner/agent and no longer sent to the Department. Accordingly, it was proposed to strike out the language "and shall be sent to the department with the company's monthly eradication report."

It was proposed to *delete the entire content of §141(H)(2)*, which was a repeat of §141(H)(1) but was in regard to re-treats of properties.

The Commission asked the Department to rework the language so a waiver can be written if a property is under contract, and the homeowner changes the property, and either does not want it treated or it cannot be treated. Mr. Schexnayder will provide updated recommendations at the next Commission meeting.

**CONSIDERATION OF LICENSEE APPLICATIONS**

NAME OF APPLICANT	PHASES	STAFF RECOMMENDATION
Rodney Beloso (LA – 18 Years' Experience)	TC	Approve (pending CACTP)
Robert John Buller (LA – 17 Years' Experience)	GPC CVC TC	Approve Approve Approve (pending CACTP)
Mark French (LA – 6 Years' Experience)	GPC CVC TC	Approve Approve Approve (pending CACTP)
Troy Gibbs (LA – 13 Years' Experience)	GPC TC	Approve Approve (pending CACTP)
Laurie Knight (LA – 21 Years' Experience)	GPC CVC	Approve Approve

Philip Merrihew (LA – 8 Years' Experience)	GPC CVC	Approve Approve
Matthew Mills (LA – 4 Years' Experience)	GPC CVC	Approve Approve
James Ray Rowzee, Jr. (GA – 4 Years' Experience)	GPC CVC	Approve Approve
Rémy Turner (CA – 9 Years' Experience) (TX – 3 Years' Experience)	GPC CVC	Approve Approve
Nathaniel Washington, Jr. (LA – 10 Years' Experience)	GPC CVC	Approve Approve
William E. Wilson, Jr. (LA – 7 Years' Experience)	GPC CVC TC	Approve Approve Approve (pending CACTP)
Ryan Domingue (LA – 23 Years' Experience)	TC	Approve (pending CACTP)

Mr. Kunst asked to be recused from the vote on licensee applications for Laurie Knight and Matthew Mills, as he is their supervisor. Ms. Moore asked the Commission to consider those two applications first, with a separate motion.

**Motion:** Mr. Rayburn made a motion to accept and approve the applications of Laurie Knight and Matthew Mills. Mr. Kunst recused himself from the vote. The motion was seconded by Dr. Ottea and passed unanimously, by remaining numbers.

The remaining applications were presented to the Commission, by Ms. Moore.

**Motion:** Mr. Arceneaux made a motion to approve the remaining applications. The motion was seconded by Mr. Rayburn and passed unanimously.

### **STATUS REPORTS**

Mr. Schexnayder presented the status report for the 3<sup>rd</sup> Quarter of 2018. There were 360 routine inspections and 54 inspections initiated by complaints, for a total of 414 inspections.

The count for WDIE's was 15,144. The count for WDIR's was 10,475. Looking at the contracts reported to the Commission for 2<sup>nd</sup> and 3<sup>rd</sup> Quarter (15,000), these were some of the highest numbers reported in the last five years.

There continue to be problems with the online reporting system. Even with these issues, the Department was still able to get the numbers, as reflected by the 3<sup>rd</sup> Quarter.

## **OTHER BUSINESS**

Mr. Schexnayder asked to address questions posed earlier in the meeting, regarding whether the Department was following proper scientific protocol in collection, retention, maintenance and analysis of a sample.

Mr. Schexnayder said the inspectors are trained. Among hundreds of samples pulled at the same time and handled exactly the same way, they have found no difference in terms of results. Mr. Kunst asked for a comparison of the Department's protocol with the manufacturer's suggested protocol for pulling and maintaining samples.

Amy Hernandez, Supervisor for Pesticide Analysis for the Department, jointly with LSU AgCenter, addressed the concern. She had 25 years' experience, all in pesticide. They run over 300 samples a year, with only a 12% fail rate. Ms. Hernandez affirmed that the Department has a protocol and that over 20 years' experience has proven that neither the time period from which the sample was collected, nor the temperature, mattered in the results. She suggested that manufacturers were likely carrying the formulation used for mixing in the back of their truck, for weeks at a time, which can cause degradation in level. There is an ALAC method that runs the same method as the Department and most other states in the country do the same procedure.

Mr. Schexnayder said the Department would contact some manufacturers to see what their storage protocols were. Ms. Hernandez explained that manufacturers do not have concerns about storage. They differ in analytical methods. The Department has had samples analyzed, by a third party lab, using both analytical methods, and it made no difference.

## **PUBLIC COMMENT**

Katie Davis, from the audience, addressed Mr. Arceneaux and the Commission regarding Russell Callen, Case No. 2146, and a flea treatment. She wanted to convey to the Commission, from her personal experience, that when a technician does not apply the chemicals according to the label, it has a lasting, detrimental effect on the consumer. Ms. Davis stated that she and her family were still not able to return to their home and that most insurance policies do not cover these instances. She appreciated and was pleased with the Commission and the questions they ask in these cases.

There were no further public comments.

## **FUTURE MEETINGS**

The next Structural Pest Control Commission meeting will be held on January 16, 2019, at 9:30 a.m., at the Department of Agriculture and Forestry, Veterans' Memorial Auditorium.

## **ADJOURN**

**Motion:** Mr. Kunst made a motion to adjourn the meeting. The motion was seconded by Mr. Rayburn and passed unanimously. The meeting adjourned at 12:32 p.m.