

# MASSACHUSETTS PESTICIDE BOARD MEETING

## *Minutes of the Board Meeting held at the McCormick BLDG, 1 Ashburton Place, on Wednesday, June 6, 2012*

The meeting was called to order at approximately 9:30 A.M.

### **BOARD MEMBERS ATTENDANCE**

Lee Corte-Real, MDAR Designee for Commissioner Watson,	Present
Michael Moore, DPH, Food Protection Program	Present
Martha Steele, DPH, Designee for Commissioner Auerbach	Present
William Clark (Conservation/Environmental Protection Member)	Present
Jack Buckley, DFG, Designee for Commissioner Griffin	Absent
Kathy Romero, DEP, Designee for Commissioner Kimmell	Present
Ken Gooch, DCR, Designee for Commissioner Lambert	Absent
Richard Berman	Present
Cheryl Barbanel, M.D.	Absent
John Looney	Absent
Brian MaGee	Present
Richard Bonanno	Present
Laurell Farinon	Present

The Board met or exceeded the minimum number (7) of members present to constitute a quorum and conduct business.

### **OTHER INDIVIDUALS IN PRESENT:**

Bill Siegel, Orcan; Daniel Dente, Abatem Exterminating Company; Carol Szocik, MDAR; Taryn Lascola, MDAR; Hotze Wijnja, Ph.D., MDAR, Michael McClean, MDAR; and Steven Antunes-Kenyon, MDAR.

## **A. Minutes**

### **Discussion**

The minutes from the December 7, 2011 Meeting were presented for consideration. Brian Magee described a number of desired changes in the Minutes. The requested changes do not significantly change the content of the Minutes and are relatively minor corrections in grammar or word choice.

Lee Corte-Real asked that the Pesticide Board Meeting Minutes be posted on the Department's website.

**Voted:** To accept the minutes of the December 7, 2011 Meeting with minor corrections requested by Brian Magee.

**Moved:** Laurel Farinon  
**Second:** Richard Bonanno

**Approved:** 9 – 0

## **B. Review of MDAR Hearing Officer Recommendation Regarding Suspension of Pesticide License**

### **Discussion**

Lee Corte-Real introduced the Pesticide Enforcement Case against Certified Pesticide Applicator Mr. Martin Meyers, whom recently appealed the Department's suspension of his pesticide credential. After an investigation into allegations of pesticide misuse, some 4-months ago, the Department suspended the Commercial Certification credential of Mr. Meyers, License Number 1593 for 6-months.

A number of Board Members requested a clarification of the Board's role with respect to this matter. An overview of the proceedings was outlined; whereby, MDAR staff explained that the Department has the authority under MGL c. 132B Section 10., to suspend a Department issued pesticide credential. The person aggrieved has the right to an adjudicatory hearing. Carol Szocik, MDAR Legal Division was assigned as Hearing Officer by the Department and presided over the adjudicatory hearing held within the MDAR Boston Office.

At this point the Board is being asked to review the Hearing Officer's Report and recommendations, exhibits, and facts in the case. The Pesticide Board at this point may sustain, reduce, increase or reject the Department's penalty and Hearing Officer's recommendation.

Bill Clark commented that this appeal process appears to have taken a relatively long period of time and asked for clarification with respect to why it took 4-months from the point where the license was suspended to the date when the appeal was presented to the Board.

Lee Corte-Real shared the above sentiments and explained that it has taken time to move the issue forward, conduct the appeal, and provide the needed Hearing Officers Report for use by the Board.

Taryn Lascola, Pesticide Inspector provided an in-depth overview of the facts in the case as they unfolded during the investigation and outlined the evidence used in making the Department's license suspension determination.

Carol Szocik explained that she based the Hearing Officer's report on written documentation, exhibits presented, and the laws and regulations that govern the Pesticide Control Act. The Department's inspection reports, evidence of misapplication, lab confirmation of the tracking powder, failure to provide notification, and Mr. Meyer's inconsistent and changing testimony in the case were all presented.

The Board engaged in an in-depth discussion of the case, asking Staff a number of questions to better understand the products involved, evidence collected, and statements made by all parties involved in the investigation.

**Voted:** To maintain the decision of the Department's License Suspension and support the Hearing Officer's Report and Recommendations.

**Moved:** Richard Bonanno

**Second:** Richard Berman

**Approved:** 9 – 0

## **Brief Updates**

### ***New Self Service Time and Attendance (SSTA) System from Human Resources Division (HRD)***

The Department as well as many other State Agencies is implementing an HRD led daily time reporting system known as Self Service Time and Attendance (SSTA). The Pesticide Board will also have to use this system in order to be paid for attending the Meetings. The system is going into effect for the Department after 07/18/2012. The Department is looking to provide training options and communications to the Pesticide Board Public Members who are eligible to receive the stipend.

### ***Lockbox System for Processing Pesticide Examination and Licensing Fees and Product Registration Fees***

The Department has resolved all its problems with the Lockbox maintained by Bank of America (BOA). In particular the BOA Lockbox Services are able to process single payments associated with multiple forms.

The Board inquired as to whether the new Lockbox system has led to faster turn-around with respect to processing applications and issuing credentials. Steven Antunes-Kenyon and Lee Corte-Real explained the efficiencies gained by this system. They also provided an overview of the many issues facing the with the Department's more than 20-year old data system which is currently used for Pesticide Products and Licensing and Certification.

The Board briefly discussed some of the issues facing the current data system and how it does not meet current industry needs. It expressed a desire to move forward with a new e-Licensing data system that would provide online access and electronic payments.

**Voted:** That the Department's Commissioner and the EEA Secretary appropriate funds needed to provide an effective e-Licensing System. This request is based on the fact that there is increased revenue to the Commonwealth from Pesticide Program related fees collected by the Department and that the current data system is antiquated and adversely affects small businesses in Massachusetts.

**Moved:** Bill Clark

**Second:** Richard Bonanno

**Abstentions:** Martha Steele, Michael Moore, Kathy Romero, and Lee Corte-Real.

**Approved:** 5 – 0 – 4

#### ***National Pollutant Discharge Elimination System (NPDES)***

Hotze Wijnja, Ph.D. provided an update on the new filing requirements under the Clean Water Act, National Pollutant Discharge Elimination System (NPDES) permit program. This is the first-year of the filing requirements. The permit program is set-up; such that, most applications are automatically covered.

A Notice of Intent is required to be filed for pesticide applications made in mosquito control, aquatic weed and algae control, animal pest control in water bodies, and pest control in the forest canopy.

In New England, when application areas exceed the U.S. EPA set-criteria, a Notice of Intent (NOI) must be filed with EPA Region One. To date there have been 77-applications filed online with U.S. EPA Region 1 data system. The EPA has indicated that to date there have not been any remarkable compliance problems or reporting issues. Additional approvals and State permit requirements still apply—as the NPDES program does not supersede other requirements from state/local agencies.

**No motions were made or votes taken.**

#### **D. Meeting Adjourned**

**Voted:** To adjourn the Pesticide Board Meeting.

**Moved:** Richard Berman

**Second:** Richard Bonanno

**Approved:** 9-0

The Meeting was adjourned at approximately 11:05 A.M.