

Nursery Advisory Board (NAB) Meeting
California Department of Food and Agriculture (CDFA)

2800 Gateway Oaks Dr., Room 101
Sacramento, CA 95833

Tuesday, August 26, 2014
10:00 a.m. – 2:00 p.m.

Voting Members

Mike Babineau
David Cox
Don Dillon
Janet Silva Kister
Steve Maniaci
Scott Nicholson
Elizabeth Elwood Ponce

Non-Voting Members

Fred Crowder
Ha Dang
John Kabashima
Marilyn Kinoshita
Eric Larson
Lorence Oki
Karen Suslow

CDFA & Guests

Denise Alder
Vince Arellano
Nick Condos
John Heaton
Dean Kelch
Kathy Kosta
Joshua Kress
Phuong Lao
Jason Leathers
Erin Lovig
Jan Merryweather
Amber Morris
Kristina Weber

1. Call to Order and Roll Call

Meeting was called to order at 10:05 a.m. by Elizabeth Elwood Ponce, Board Chair.

2. Opening Remarks and Housekeeping

Joshua Kress welcomed Board Members and guests, and reviewed housekeeping and agenda items.

3. Review of Minutes from February 26, 2014 Board Meeting

Scott Nicholson moved to approve the Minutes for the February 26, 2014 Board Meeting as submitted. David Cox seconded. Board unanimously voted in favor. Motion carried.

4. Neonicotinoid Use in Nursery Stock

Denise Alder, Senior Environmental Scientist, Department of Pesticide Regulation (DPR), Pesticide Registration Branch, thanked the Board for giving her an opportunity to provide an update on DPR's neonicotinoid reevaluation (Attachment 1). Alder began with a background on the neonicotinoid reevaluation, which was initiated in 2009, and then discussed current data requirements for neonicotinoid registrants, recent study findings, and agency partnerships.

Alder reported that the results of honey bee studies indicate that the larva of the honey bees is not the sensitive life stage for these chemicals. DPR is working with US EPA to continue to investigate which life stage of the honey bee colony is the most critical to pesticides.

Based on the data reviewed by DPR, bee kills seen in other states appeared to be due to direct bee exposure to dust at plantings. Talc used in seed coatings is pushed into the air by certain seed planters at planting. California farmers do not use these types of seed hoppers.

Alder reported that there was still uncertainty regarding the toxicity to honey bees. Studies had found sufficient levels in the compounds that are toxic to adult bees, but it was not known if such exposure affected the hive as a whole.

DPR had recently updated their webpage (<http://www.cdpr.ca.gov/>) to include a timeline of events for the reevaluation. DPR also provides updates twice a year in their annual report to stakeholders. Interested parties can sign up to receive these updates.

In August 2013, the U.S. Environmental Protection Agency (US EPA) issued the Pollinator Protection Labeling Initiative, which requires the labeling of all outdoor foliar-applied neonicotinoid products with bee advisory information and a statement that application of some neonicotinoid products when bees are present is prohibited. The new labels were due in the markets in February 2014; at the time of this meeting, 80% of the labels had been amended and were available.

The Board discussed the importance of the use of imidacloprid in agriculture and the possible negative effects these labels could have on growers and farmers. Board members also questioned the enforceability of the label language. Alder responded that the labeling initiative is a requirement from US EPA and that DPR cannot approve a label that is less restrictive.

Nick Condos (CDFA) asked if advisory label requirements were enforceable. Alder stated that it was her understanding that the label requirements were advisory in nature, but suggested contacting the DPR Enforcement Branch for more information. Condos additionally mentioned pending legislation that would require DPR to expedite their review and complete the reevaluation by July 2018.

The Board asked how different types of crops such as indoor plants would be affected by the label requirements. Alder stated that the pollinator protection labeling initiative was primarily for outdoor foliar applications of these compounds and that indoor uses had been excluded. However some homeowner products, which are excluded from most labeling requirements, were included in the US EPA initiative.

The Board expressed concerns about the current outreach being performed by DPR to big box stores and the public to let them know that that the scientific research is still being conducted and to distribute the current study results concerning bee larva. Alder reported that they are reaching out to the growers through the county agricultural commissioners' offices, the Enforcement Branch, and the updated website. The Board requested an aggressive proactive outreach effort to let the community know that scientific research is occurring to help answer questions about the effect of neonicotinoids on bees. Alder stated that she would take the Board's concerns regarding public outreach to the program director.

Condos reported about the Pollinator Group at CDFa has funded a significant amount of research through their Project Aphis M (<http://projectapism.org/>) to help generate the science to assist DPR in making a science-based decision and suggested having a joint meeting between this group and the Board. The Board also discussed additional groups working on the bee issues, including backyard and urban bee issues, homeowner's use of neonicotinoids, and native bee issues. The Board also discussed working with other stakeholder groups to determine common ground and do positive outreach.

Janet Silva Kister moved that the Board make a recommendation to the Secretary for CDFa to work with DPR to issue a joint statement or press release about the neonicotinoid issue and how both departments are working diligently on the reevaluation and additional research and looking forward to seeing how the science turns out,

including the recent results concerning the bee larva, and for a task force to be created consisting of members of the Nursery Advisory Board and the CDFA Pollinator Group to find common ground and to work together to address this issue. Mike Babineau seconded. Board unanimously voted in favor. Motion carried.

5. PlantRight: Promoting Noninvasive Plants for California

Jan Merryweather, from Sustainable Conservation (Attachment 2) provided an overview of PlantRight's mission to phase out at invasive ornamentals in ways that make economic and environmental sense. Merryweather explained the purpose of PlantRight and that the work that they do is collaborative, science-based, and voluntary.

The Board discussed and asked about how PlantRight determines which plants are placed on their list. Further discussion continued about the economic impact to nurseries.

6. New Pests of Concern in California

Insect Pests of Concern:

Jason Leathers, Primary State Entomologist, provided information on four pests (Attachment 3) that were not currently in California but may be a concern to the nursery industry: Bougainvillea Mealybug (*Phenacoccus peruvianus*), Barred Fruit-tree Tortrix (*Pandemis cerasana*), Carnation Tortrix (*Cacoecimorpha pronubana*), and the Red Streaked Leafhopper (*Balclutha rubrostriata*).

Weed Pests of Concern:

Dean Kelch, Primary State Botanist, provided information on three parasitic weed pests that mostly affect farmers but could be introduced to nurseries via seed/transplants: Japanese Dodder (*Cuscuta japonica*), Branched Broomrape (*Orobanche ramosa*), and Egyptian Broomrape (*Orobanche aegyptiaca*).

Plant Diseases of Concern:

Kathy Kosta, Senior Environmental Scientist, provided an update on recent detections of *Phytophthora tentaculata* in several counties in California (Attachment 4). Most detections had occurred on plants that had been planted in forest restoration sites. The original positive find was at a restoration nursery in Monterey County in 2012.

Polyphagous Shot Borer:

John Kabashima provided information on Polyphagous Shot Hole Borer (Attachment 5). The pest had been found in Los Angeles, San Diego, Orange, San Bernardino, and Riverside counties. It had been shown to attack over 300 species of trees and carry two types of plant pathogenic fungus. The Avocado Commission was funding ongoing research on this pest. Kabashima had also received a small grant from the U.S. Forest Service to perform outreach regarding this pest.

7. State Interior Quarantines Update

Pest Exclusion Emergency Response update:

Vince Arellano, Senior Environmental Scientist, provided an update on current quarantines in California. The Mediterranean Fruit Fly quarantine in Los Angeles was scheduled to end on August 27, 2014. The Asian Citrus Psyllid (ACP) program received a permit to allow interstate/intrastate movement of mandarins with stems and leaves after going through an approved packing process. There had been no changes to the Huanglongbing (HLB) quarantine in Hacienda Heights (Los Angeles County). There was a new area under quarantine in San Diego for Light Brown Apple Moth (LBAM). CDFA was working closely with all nurseries found to be infested. The European Grapevine Moth (EGVM) program was working to deregulate part of the current quarantine area. Japanese Beetle had been detected several times in Sacramento County;

at the time there were no quarantines in place for the beetle and eradication activities were ongoing.

Phytophthora ramorum Program

Erin Lovig, Senior Environmental Scientist, provided an update on the *Phytophthora ramorum* Program's new USDA Federal Order that became effective on March 31, 2014. This federal order lifted certification requirements for many interstate shipping nurseries located in the non-infested counties of California. Requirements for nurseries located in the 15 infested counties of California remained mostly unchanged. However, this order increased the requirements for nurseries that ship interstate and had been found positive for *Phytophthora ramorum* in the last three years.

The new requirements for positive nurseries included biannual inspections, and increased the minimum number of samples taken at a nursery from 40 samples collected once per year to 200 samples collected twice per year. These nurseries are also required to be under compliance and ship with a federal shield for a minimum of three years.

In Spring 2014, teams consisting of USDA, CDFA, and county agricultural inspectors conducted inspections at seven California interstate shipping nurseries that were previously positive for *Phytophthora ramorum* (*P.ram*) using the new protocols. Of the seven nurseries inspected, one was found positive for the pest. The required Critical Control Point investigation was conducted and the results of the inspection were currently being reviewed to determine what mitigation measures the nursery would choose.

Also in Spring 2014, approximately 440 nurseries and regulated establishments located in the 15 California *P.ram* infested counties were inspected as required.

In September 2014, USDA was scheduled to hold a program meeting to bring together representatives from all regulated states (California, Oregon, and Washington) to assess the new requirements outlined in the Federal Order and determine if any changes or improvements needed to be made. CDFA had several recommendations for improvement and was planning to present them at this meeting.

In October, representatives from CDFA, USDA, and the National Plant Board (NPB) planned to hold the National *Phytophthora ramorum* Program meeting in Sacramento at CDFA Headquarters. The meeting was to include both regulated and non-regulated states to review the national program activities. CDFA requested that the NPB present a review of the Program's National Survey at this meeting. This request was in response to the inequality that existed between what was required of positive nurseries located in the non-infested areas of California and those located in other parts of the US. This included differences in the requirements for advance notification of host shipments, appearing on a public list of approved shippers, and official recognition from USDA APHIS in regulation.

Amber Morris, Environmental Program Manager for the Interior Pest Exclusion Program, added that the intention of the Federal Order was to create a level playing field; however, that still had not happened and suggested that if industry had concerns they should vocalize them.

Morris stated that other states with positive nurseries were not required to provide pre-notification for host nursery shipments, and were not being officially recognized in

regulation. For example, New York and Virginia had positive nurseries that were not listed in regulation; the only notification regarding positive nurseries in non-regulated states is through a confidential nursery list intended for regulatory officials. CDFA had brought this to USDA's attention, but had not made much headway. Morris stated that this made it more difficult for nurseries in California, Oregon, and Washington to sell to nurseries in other states.

Morris also noted that many non-regulated states had opted out of the national survey, meaning they were no longer looking for *P.ram* and would not find it in their states unless associated with a trace forward from California, Oregon, or Washington.

Morris added that the benefit of the new Federal Order was that most California nurseries were no longer required to have mandatory samples for Pram taken. However California was required to maintain a list of all nurseries eligible to ship interstate, while other states did not have to maintain a similar list. CDFA asked USDA about this discrepancy and did not get a response.

The Board discussed how this could be considered a constitutional issue and that it may require input from the Attorney General.

Janet Silva Kister moved that the Board make a request to the Secretary for CDFA to draft a letter to USDA concerning the issues of inequality in the *Phytophthora ramorum* regulations. David Cox seconded. Board unanimously voted in favor. Motion carried.

8. Systems Approach to Nursery Certification (SANC)

David Cox provided an update on the National Plant Board's Systems Approach to Nursery Certification (SANC) committee (Attachment 6). Cox reported that the committee was in the process of starting a pilot program for utilizing a systems approach for regulatory certification. Eight nurseries had been selected and were listed in the handout (Attachment 6); two nurseries were selected from each of the four Plant Board regions.

At the previous Board meeting, Cox had reported that the standards had not been set, and the Board had commented that without knowing the rules of the program they did not want California nurseries and regulators to commit to participating in the pilot. The standards for the pilot were now in place and could be found on the SANC website (<http://sanc.nationalplantboard.org/state-tools/>).

Karen Suslow reported that the SANC Training and Outreach Committee was developing trainings for the participating nurseries and regulators.

The Board discussed the current shipping requirements for these nurseries to ship interstate, the purpose of the pilot program, and the data collection period for the pilot.

9. Nursery Services Budget Update and 2015/16 Proposed Spending Plan

Joshua Kress provided the Board with a Budget Summary and Fund Condition Statement (Attachment 7-8).

For Fiscal Year 2013/14, the largest change from the projections presented at the February 26 Board Meeting was an increase in benefits. Overall, there was an increase in projected expenditures of about \$60,000.

For 2014/15, an increase in permanent salary was projected to account the 'like pay for like work' court settlement affecting the salaries of supervising scientists. As required, salary increases would be implemented and backdated to July 1, 2014. Additionally, CDFA was no longer using the temporary labor service CASS for office staff; the staff were now hired in

CDFA seasonal/temporary positions. The expenditures previously projected for CASS had been moved to Temporary Salary.

For 2015/16, permanent salary was again increased due to the court settlement mentioned, as well as a projected salary increase for the rank-and-file scientists that were negotiating a new contract. Total proposed expenditures of \$3,278,765 were presented. Recoveries from other programs and the 224(c) recovery were projected at a total of \$300,000. Total revenue for 2015/16 was projected to be \$2,865,150.

\$2,000 was included in out-of-state travel for 2015/16 to cover the cost in sending a Nursery Services staff member to the Western Horticultural Inspection Society Annual Meeting. This organization consists of a regional group of inspectors from the western states and the meeting is moved to a different western region state each year.

Joshua Kress requested that the Board make recommendations concerning the out-of-state travel funds to send CDFA staff to the Western Horticultural Inspection Society Annual Meeting and for the proposed spending plan for Fiscal Year 2015/16.

The Board discussed the staff benefit costs, county contract estimates, attorney general costs, and reserve level requirements.

Steve Maniaci moved to approve the \$2,000 budget amount for out-of-state travel to continue to send CDFA staff to the Western Horticultural Inspection Society Annual Meeting. David Cox seconded. Board unanimously voted in favor. Motion carried.

Don Dillon moved to recommend to the Secretary the proposed budget of \$3,278,765 for 2015/16. Mike Babineau seconded. Five members voted in favor, two opposed. Motion carried.

10. Nursery Services Website Update

Joshua Kress reported that the Nursery Services Program's website (<http://cdfa.ca.gov/plant/PE/nsc/nursery/index.html>) had been updated to include more information about the program.

Kress requested that the Board Members visit the new website and provide feedback or requests for additional information.

11. County Agricultural Commissioners Update

Fred Crowder reported that the CACASA Pest Prevention Committee formed a working group to develop a definition for 'Abandoned and Neglected Orchards' to address concerns that Huanglongbing (HLB) may be present in these orchards. The committee was also looking at abatement authority issues and ways to streamline the process. Crowder also reported that there was an ongoing investigation concerning a shipment of crepe myrtle nursery stock that was determined to be infested with Glassy Winged Sharpshooters. There had also been significant pest finds at the Sacramento postal facility, including high-profile pests such as HLB, fruit flies, and Citrus Scab. Other counties were not finding these types of pests in their mail facilities. Crowder also noted that a warrant program was established in Santa Clara County to request warrants to open suspect first-class mail packages, and that this would be an important tool moving forward.

Ha Dang reported that San Diego County had appointed Enrico Ferro as the ACP growers' liaison. Ferro worked to coordinate the area-wide ACP treatments in August. The county was looking at infrared mapping to map citrus production areas in preparation for an HLB detection survey and to identify 'abandoned and neglected' citrus orchards.

There were two active LBAM quarantines, in Oceanside and in Rancho Santa Fe. Since there had not been any finds in three life cycles, San Diego County was working with CDFA to release the quarantine for the area in Oceanside. The Rancho Santa Fe site had recent LBAM finds and would not be released from quarantine. Dang also reported that the Regional Water Quality Board in San Diego was drafting a new Ag. Order to replace the Ag. Waiver. San Diego County was looking at the new Ag. Order and the new Stone Water Permit to determine what entities would be affected and who would be performing any enforcement.

Marilyn Kinoshita reported that legal actions against a citrus grower that violated citrus regulations were at county council. Kinoshita also reported that a drought survey was available on Tulare County's website to collect information about how the drought was affecting growers.

12. Committees Updates: None

13. New Items: None

14. Terms of Office and Election of Officers

Joshua Kress suggested that having Board Member terms running from February 1 through January 31 would improve logistics for required documentation at reappointment.

Mike Babineau moved that the term period for serving on the Board be adjusted from January 1-December 31 to February 1-January 31. Janet Silva Kister seconded. Board unanimously voted in favor. Motion carried.

Non-voting board members would not have set term expirations.

Six Board Member terms were set to end prior to the next Board Meeting. Two of these Board Members had expressed that they no longer wished to serve on the Board (Justin Brown and John Rader). This would leave at least two Board vacancies. A vacancy announcement was scheduled to be posted on or around November 1, 2014 (Attachment 9, Vacancy Posting).

A memo was provided to Board Members present whose terms were ending (Mike Babineau, David Cox, Don Dillon, and Steve Maniaci) to state their interest in reappointment.

Election of officers was not completed, and will be added to the agenda of the next meeting.

15. Public Comments: None

16. Next Meeting/Agenda Items

The next meeting will be held in Sacramento between mid-February and mid-March. A Doodle poll will be sent out by Joshua Kress around December 1, 2014 to determine the best date available.

17. Adjournment

Meeting was adjourned at 2:35 pm.

Respectfully submitted by:

Joshua Kress
Program Supervisor
CDFA Nursery, Seed, & Cotton Program

Approved by Board Motion on February 24, 2015