

## **AGRICULTURAL CHEMICALS SUBCOMMITTEE MEETING RECORD**

### **TIME AND DATE:**

10:30 AM, February 2, 2006

### **LOCATION:**

TCEQ, Park 35, Building F, Room 2210, Austin, Texas

### **PURPOSE OF MEETING:**

The FY06 Second Quarter Meeting of the Agricultural Chemicals Subcommittee of the Texas Groundwater Protection Committee.

### **ATTENDEES:**

#### **AGENCIES**

Texas Department of Agriculture [TDA]  
Texas Commission on Environmental Quality [TCEQ]  
Texas Water Development Board [TWDB]  
Texas Structural Pest Control Board [TSPCB]  
Texas Alliance of Groundwater Districts [TAGD]

#### **REPRESENTATIVES**

Steve Musick	Chair, Member, TCEQ, Austin
Ambrose Charles	Member, TDA, Austin
Janie Hopkins	Member, TWDB, Austin
Jeff Isler	Member, TSPCB, Austin
Barry Miller	Member, TAGD, Gonzales

#### **AGENCY STAFF**

Kathy McCormack	TCEQ, Austin
Alan Cherepon	TCEQ, Austin
Joseph L. Peters	TCEQ, Austin
John Williams	TCEQ, Austin
Richard Eyster	TDA, Austin
Lynne Fahlquist	USGS, Austin

#### **INTERESTED PARTIES**

Ed Baker	Syngenta Crop Protection, Mineola
Denise Gentsch	Syngenta Crop Protection, Austin
Dan Yates	Ground Water Protection Council

## **MEETING SUMMARY:**

### **I. Opening Remarks**

The Chairman of the Agricultural Chemicals Subcommittee, Mr. Steve Musick (TCEQ), called the meeting to order. He welcomed everyone to the meeting. He had the Subcommittee members introduce themselves. Subcommittee members not present included Bruce Lesikar (TCE), C Allan Jones (TAES), and Richard Egg (TSSWCB). Mr. Musick proceeded immediately to the Task Force Reports.

### **II Task Force Reports**

**Site Selection Task Force:** Janie Hopkins (TWDB), the Task Force Chair, provided a brief summary of work the TWDB will be performing through the 2006 fiscal year, which was the same information as at the previous meeting. The TWDB has not begun sampling. They will also be working with the BEG this year, to get some additional analytical work done on selected Carrizo-Wilcox aquifer samples. Alan Cherepon (TCEQ) added that TCEQ will be providing refresher training for the TWDB groundwater sampling team on 2/28/06. The training will emphasize important sampling and transporting procedures for taking samples that the TCEQ will analyze for atrazine and metolachlor by immunoassay method. Additionally, a brief summary of the revised FY06 monitoring plan was presented later in the agenda. The TCEQ is still working out the details of having the lab at TAMU conduct metabolite analyses for atrazine and metolachlor. Arrangements are in place for the standard pesticide analysis by LCRA, and the TCEQ will likely only need to conduct one sampling trip to the Panhandle region this year.

None of the Task Forces had anything new to present, or the chair was absent.

### **III. What is the Texas Structural Pest Control Board (and the urban side of pesticides) ?**

Jeff Isler (TSPCB) presented an overview of the Texas Structural Pest Control Board and some of the more pressing issues related to urban pesticides. The TSPCB regulates the pest control industry in Texas by licensing anyone who provides this service as a business. This includes commercial, non-commercial, and wood treatment facilities. Structure includes buildings, landscape and lawn maintenance. They do not license homeowner applicators, certain businesses, aquatic applicators, and TDA licensed applicators can be exempted. Generally there is little overlap with the TDA applicator licenses, since TDA applicator licenses are for raw agricultural production, and the TSPCB is specific to processed food. A vast percentage of the licensed applicators pertain to pest control and lawn/landscape applicators.

The TSPCB has two basic levels of licensing; Certified applicators, who can supervise other applicators, and Technicians, who work under the supervision of a certified applicator. They also allow for Technician apprentices, for those in training. They check commercial licenses every two years, and the non-commercial ones as they can. Complaints or referrals are typically provided by the industry members, with most involving home inspection related issues. The TSPCB does an estimated 2000 plus inspections per year, and some 881 complaints are

investigated. The number one violation is for being an unlicensed applicator. Only Texas and Arizona have separate SPCBs, with all other states having this work under their department of agriculture.

The TSPCB gets its authority from the SPC Act, Texas Occupational Safety Code, and FIFRA. It is governed by a 9-member Board, has 16 investigators, and one office, in Austin. Three cases were presented, relative to potential ground water impact and pesticides. The first was a golf course, where the issue was alleged improper cleaning, disposal, and handling of pesticides. There was evidence of a spill, and during the investigation/inspection, they noticed a golf course employee in label violation by how he was cleaning and disposing of pesticides in the parking lot. Since label violations are under TDA's jurisdiction, it was turned over to them. One question relative to golf courses was whether there is a favorite herbicide they use or have been using. Roundup was the one most often used.

The second case study involved pre-treatment of a building/house site for termites prior to laying the foundation. Someone complained that they saw runoff from the recently treated site during heavy rains, and shortly after, identified a fish-kill in the creek. One scientist was brought in to testify that fish-kills are common after heavy rains, and the analysis of the fish tissue samples from the dead fish were non-conclusive.

A more recent issue involves pesticide application for fire ants along sleeves on plumbing lines in newer homes. Some termite solvents break down the plastic/PVC pipe in the u-turns, and are getting into the water pipes, with people complaining about drinking pesticide waters. Fipronil was the pesticide mentioned, and this was recently detected in samples at Barton Springs, by the USGS. This pesticide is designed to adhere to soils and anthropogenic materials used in building construction, so it is a bit of a mystery of how this is migrating into water.

A new product being tested and yet unproven as safe, is a pesticide that requires heating to about 145 degrees Fahrenheit, and it is supposed to keep fire ants out. Home and business owners need to be careful, as they have found heat-sensitive materials, such as art objects and antiques, such as books, have been badly damaged or destroyed by the heat. Another product uses sharp grained sand shards around the foundation to keep out fire ants, termites, and other insects.

#### **IV. Business Items for Discussion and Possible Action**

##### **Revised FY06 Groundwater Monitoring Plan**

Alan Cherepon (TCEQ) provided a handout of the revised FY06 Groundwater Monitoring Plan. The only significant changes from the previous draft was the inclusion of some details as to where the TWDB will be sampling this year, as applicable to the cooperative monitoring program, the inclusion ofalachlor immunoassay analysis for a limited number of samples, and additional details still required to finalize metabolite analysis by the TAES lab at Texas A&M University. Mr. Musick asked if there were any questions, and since there were none, he said the revised plan would be implemented, and proceeded with the next agenda item.

#### **IV. Information Exchange**

Even though Bruce Lesikar was not present, Ambrose Charles (TDA) offered some input on the Continuing Education Units for the atrazine training module that the TCE has put together. Dr. Charles said the TCE has sent in a course outline, which is required. They need to determine the number of CEUs that would be appropriate, which they are still working on.

Richard Eyster (TDA) provided an overview of key items covered at the 10/31/05 Water Quality related SFIREG meeting, and the related conference call of 2/1/06. Containers and containment issues centered on discussion of certain states having problems with the collection contractors passing by drop points if they feel insufficient volume is present, with the containers sitting around for long periods of time. If the containers are improperly washed, there could be considerable residue being spilled or leaked, with little to no containment. New guidance on this may be out by the 4/6/06 meeting.

Performance Assessment Measures was the main item of interest at the meeting. The latest discussion indicates a tiered approach. The states will evaluate the pesticides of interest for their respective state, and determine how best to manage them. The final tier, demonstrating progress in managing them, is still under discussion on how best to do this. The next step will be to reduce the number of impaired or threatened water bodies affected by pesticides. Should a state have 2 impaired bodies one year, and still have 2 the following year, will that be a problem? Many details of evaluation are still up for discussion. The End-of-Year reports will be combined with the assessment reports so as to only require one report. The next meeting is scheduled for April, then the draft will be sent out to the states for review. The finalization of the process will not be any time soon.

Other issues discussed include confusing language on labels, how to address silver ions in washer machines, the 15-year re-review of pesticides by stricter standards, and pesticides in the aftermath of Hurricane Katrina. The EPA is in the process of removing ambiguous wording from labels, such as “may”, “should”, or “shall”, in order to remove any uncertainty in what the applicator must do. Use of silver ions in detergents used for clothing, is considered an anti-bacterial agent. The decision will be needed on whether washer machine discharge waters now contain pesticides, should the detergents be registered, and what to do with the waste water. The 15-year re-review of pesticides resulted from studies that indicate more serious impacts from lower concentrations of pesticides, requirements under the Food Quality Protection Act (FQPA), and better techniques and tools for studying these impacts on health and the environment. EPA determined that all pesticides should undergo re-assessment as to whether they should retain their registration, be de-registered, or require more stringent guidelines/labels, and such. The final issue was a decision by EPA to allow spraying for mosquito control in the aftermath of Hurricane Katrina. They felt malaria control to protect human health was more important at this time than concerns about their affects on the water or organisms.

Mr. Musick felt it necessary to brief the subcommittee on the Program Assessment Measures that Mr. Eyster addressed in his summary. The Office of Management & Budget audited the EPA and found no assessment measures in certain program areas, for determining whether programs

were working or not, and could not determine whether taxpayer dollars were wisely being spent. Programs that could not demonstrate effectiveness had their budgets cut. The problem is that each program has some overlap with other programs, and they approach the assessment measures differently. The debate continues over what is actually required, or how to address this to suite all program needs.

Mr. Musick also asked for clarification on the 15-year pesticide re-review process. Dr. Charles (TDA) provided this. The FQPA addresses pesticide residues in food and drinking water, which was the primary reason for needing to re-assess pesticides for registration and potential label changes. He said that EPA was committed to evaluating all pesticides, by family groupings, in a 15-year schedule. The organophosphates have been completed, they are presently working on the carbomates, and will continue until all have been reviewed. Then they will decide which ones to continue registration for use, which ones to remove, or are in need of label changes.

There was nothing new to report on Endangered Species/FIFRA Act issues related to the Barton Springs Salamander and pesticides in Barton Springs.

## **V. Public Comment**

Ed Baker (Syngenta) provided comment on the pesticide container/containment issue mentioned in Mr. Eyster's summary of the SFIREG meeting. He simply said that the pesticide manufacturers felt there are sufficient regulations for this, and that if people would do what is required and triple rinse and drain the containers as they are supposed to, there would not be a problem. The regulations are in place, and homeowners are typically the worst offenders in proper disposal of pesticide containers.

## **VI. Announcements**

Janie Hopkins (TWDB) announced that the TWDB will be hosting the Gulf Coast Aquifers Conference in Corpus Christi, on 2/16, and will have a field trip on 2/17.

The USDA-CSREES National Water Conference will be in San Antonio from February 5-9, 2006, but it does not appear to have much pesticide-related topics this year. They will have a field trip following the meeting, but it will be in the Watershed Protection Project area in Austin, and is open to those who do not attend the conference.

John Williams, the TCEQ TGPC legal advisor, provided some important information related to the Open-Meeting Act. Mary Ambrose and Kathy McCormack (TCEQ) had asked him what our legal requirements were under the Open Meetings Act, as related to the TGPC and the various subcommittees, and whether teleconferencing could be used for any of these meetings. The short answer on the teleconferencing was no, except for emergencies or imminent danger of health or the environment, or for an advisory committee. He is looking into this further to see if there are any other exceptions.

Mr. Williams next addressed SB 286, which requires that elected officials or appointed public officials are required, under the Open Meeting or Public Record Acts, to undergo a 1-hour training if they are participating in these meetings, and that everyone should take this training. The question arose, if we are not elected or appointed officials, why do we need this training. Since the TGPC is subject to Open Meetings requirements as provided in its enabling legislation, this subjects the ACS, as a subcommittee of the TGPC, to this requirement. The curriculum is specific, free, and doing so is based on the honor system, as it can be accomplished by checking out and viewing a video tape. There is no penalty if you don't take the training, but if you are convicted at some point of criminal violation related to a meeting and material covered, it could and probably will be held against your ruling and sentencing if you haven't had the training. He won't tell us specifics of this, as that is the purpose of taking the training, as verification that you have done so.

Mr. Williams next brought everyone's attention to the handout of the state Attorney General's website Homepage, where you could find the videos to view under the open government training area. There are two separate videos, one for the Open Meetings and one for Public Information. Not all computers can view these, so you can also order a free DVD to view at home. There are verification codes at the end of these videos, so you can provide these when you send for your certificate of completion. The certificate copies will need to be kept on file with the TGPC, by either Mary Ambrose, as Chair, or her designated person. The training certification is good for life, which can be useful, should anyone need a similar training for political office or school boards. If the designated representative for the committee or subcommittees is so named before 1/1/06, they have one year in which to complete the training and get certified. If they have been designated after 1/1/06, they have 90 days in which to do so. This also includes alternates. The purpose is to foster open government, yet so many politicians have violated this, though not intentionally. This is why the Legislature has enacted this required training.

In conclusion, all committee and subcommittee members and their designees/alternates are encouraged and recommended to take the training and have your certificate on file with the TGPC by the next quarterly meeting.

## **VI. Adjournment**

Recorded and transcribed by Alan Cherepon.

## **Attachments**

Revised FY06 Groundwater Monitoring Plan

State Attorney General's Website and material on the Open Meetings and Public Information Act training

## **Addenda**

Lynne Fahlquist (USGS) mentioned (following the meeting) several corrections/clarifications to the groundwater monitoring tasks of the USGS, which were included under Item V of the previous meeting minutes. These changes are as follow:

- 30 monitoring wells were planned on being drilled in the Barton Springs and northern segment of the Edwards aquifer recharge zone in March and April.
- 39 PWS wells were also sampled in the San Antonio segment of the Edwards aquifer, most in Bexar County.
- USGS conducted joint monitoring with the TWDB east of the Trinity River watershed in the vicinity of Houston.
- The USGS plans on conducting Carrizo-Wilcox aquifer monitoring from San Antonio to the College Station area in 2007.

In their afternoon meeting, the decision was made by the Texas Groundwater Protection Committee that the FY06 third quarter meeting of the Agricultural Chemicals Subcommittee will take place on 4/20/06 at 10:30 a.m., in TCEQ Building F, Conference Room 2210.