

**AGRICULTURAL CHEMICALS SUBCOMMITTEE MEETING RECORD**

**TIME AND DATE:**

10:30 AM, October 26, 2009

**LOCATION:**

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

**PURPOSE OF MEETING:**

The FY10 First Quarter Meeting of the Agricultural Chemicals Subcommittee of the Texas Groundwater Protection Committee

**ATTENDEES:**

**AGENCIES**

- Texas AgriLife Extension Service [TAES]
- Texas AgriLife Research [TAR]
- Texas Commission on Environmental Quality [TCEQ]
- Texas Department of Agriculture [TDA]
- Texas State Soil and Water Conservation Board [TSSWCB]
- Texas Water Development Board [TWDB]

**REPRESENTATIVES**

- |                  |                               |
|------------------|-------------------------------|
| Joseph L. Peters | Chair, Member, TCEQ, Austin   |
| Richard Eyster   | Member, TDA, Austin           |
| Janie Hopkins    | Member, TWDB, Austin          |
| Bill Harris      | Member, TAR, College Station  |
| Donna Long       | Member, TSSWCB, Temple        |
| Bruce Lesikar    | Member, TAES, College Station |

**AGENCY STAFF**

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|------------------|--------------|
| Alan Cherepon    | TCEQ, Austin |
| David Villarreal | TDA, Austin  |

**INTERESTED PARTIES**

- |          |                   |
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| Ed Baker | Syngenta, Mineola |
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**MEETING SUMMARY:**

## I. Opening Remarks

The Chairman of the Agricultural Chemicals Subcommittee, Dr. Joseph Peters (TCEQ), called the meeting to order. Subcommittee member David Van Dresar (TAGD) was not in attendance. Dr. Peters welcomed everyone to the meeting and had the Subcommittee members introduce themselves (Ms. Janie Hopkins arrived about 10:45 and Dr. Bruce Lesikar arrived about 11:05). The meeting proceeded to the Task Force Reports.

## II Task Force Reports

**Site Selection Task Force:** Ms. Hopkins, the Task Force Chairman, reported that the TWDB is continuing its sampling and taking cooperative samples for TCEQ, sampling in the Carrizo-Wilcox aquifer. She also reported that their lab contract is now with LCRA. They have completed sampling for the year, and will resume in March. Dr. Harris asked several questions about the sampling program. Ms. Hopkins responded that the program is monitoring for general water quality indicators; that it attempts to get a representative spread of wells per county, but is often limited by where the wells are located and which area or county has more wells and greater pumping; that sufficient well construction data is usually not available; and that the same wells cannot always be re-sampled from one sampling cycle to the next. They also measure water levels. The TWDB does not have any programs to try and limit or prevent certain chemicals from being used or reducing the probability of them getting into the groundwater. There was also some discussion about the Barnett Shale and Trinity aquifer, especially in Parker County. The TWDB did a report on the Barnett Shale a couple of years ago, but Ms. Hopkins could not recall many specifics. She did recall one person asking about high alpha readings in her well, but was unable to give her an answer, but only state that the TWDB will possibly be doing some groundwater monitoring in the area in the future. Ms. Hopkins asked if TCEQ had conducted any monitoring up in the Parker County area, but nobody could recall or knew of anything specific (possibly public water supply monitoring).

Also discussed was whether TWDB is involved with the national groundwater monitoring initiative being advocated by the USGS and other federal agencies. Ms. Hopkins said that the TWDB was keeping abreast of this discussion, and that Cary Betz will likely be talking about it in the Texas Groundwater Protection Committee meeting in the afternoon. A major issue in Texas monitoring is insufficient detail about well construction and the condition of the well casing. Mr. Eyster said that downhole cameras have become more available and less expensive, so this may be something to consider in this work. Dr. Harris said he is more concerned with the condition of the well outside of the casing.

**Education Task Force:** Dr. Bruce Lesikar (TAES), the Task Force Chair, reported that the TAES staff has been planning their educational efforts for the year. These will include the following.

- Applicator training
- Water well evaluation, protection, and screening
- Pesticide usage education
- Preparation of a proposal for revising the TEX-A-Syst materials

Donna Long (TSSWCB) asked Dr. Harris to summarize a specific topic that had been discussed during the Groundwater Research Subcommittee meeting (GRS) earlier in the day. In the GRS meeting it had been suggested that a program be developed for rural areas where private wells

are completed in an aquifer with water quality problems, but where the homeowners are too dispersed or too few in number for it to be feasible to install a conventional Public Water System. In a situation such as this, individual homeowner water treatment systems make sense. In the proposed program a type of Public Water System would be formed that would provide maintenance and operational assistance for the individual water treatment systems and perhaps provide BMP education that would include things like keeping chemicals out of well houses or areas, wellhead protection, proper well siting and general well maintenance.

**PMP Task Force:** Mr. Alan Cherepon (TCEQ) reported that he and TDA staff have had phone conversations and e-mails regarding TDA providing characteristics and toxicity data on the 16 pesticides to be assessed by the end of the 2009 calendar year. Mr. Cherepon added that he doubts, based upon monitoring data, any of the pesticides being assessed would qualify as being pesticides of concern (POCs) and perhaps not even pesticides of interest (POIs).

None of the other task forces were active.

### **III. Updated 2009 Groundwater Pesticide Monitoring Summary**

Mr. Cherepon (TCEQ) provided handouts and gave a presentation giving a summary of the 2009 groundwater pesticide monitoring activities. The presentation was really just an update of the one he presented at the previous meeting in July. The update included additional cooperative monitoring data/numbers and the correction of a couple of immunoassay results for the Austin and Panhandle samples.

Several questions were raised. Dr. Harris wanted to know why Austin was chosen for monitoring. Mr. Cherepon replied that the great number of springs and the shallower depth of wells in the Austin area, along with their proximity to the TCEQ offices (making possible lower travel cost) were among the most important reasons. Also the Edwards Aquifer in the Austin area is vulnerable to the infiltration of pesticides. Urban pesticides were the target of this monitoring, while the Panhandle monitoring primarily targeted agricultural pesticides; however, some of the chemicals on the SFIREG list belong to both categories of pesticides. Another question was whether TCEQ would be interested in other pesticides not on the SFIREG list. Mr. Cherepon said that the agency is interested in any of the new and up-and-coming pesticides, and even older ones no longer widely used and therefore not on the list, if there would be some data indicating their high to moderate use to justify their monitoring. A continuation of the question was if pharmaceuticals, personal care products, or other chemicals might also be monitored. Mr. Cherepon replied that the FIFRA grant funding only provides for monitoring pesticides in groundwater at present. Unless the grant requirements change, TCEQ is required to only monitor for pesticides.

### **IV. Business Items**

None were scheduled for this meeting.

## **V. Information Exchange**

### **The 6<sup>th</sup> Circuit Court of Appeals pesticide application permit ruling**

Mr. Cherepon (TCEQ) provided a brief update on the recent 6<sup>th</sup> Circuit Court of Appeals ruling requiring National Pollutant Discharge Elimination System (NPDES) permits for all pesticide applications in or near water bodies. Originally TCEQ's NPDES staff was to present information for us but since not much has changed since the initial ruling they decided to postpone their presentation to a future ACS meeting.

Mr. Cherepon informed the attendees that there had been a meeting between EPA and state NPDES and agricultural pesticide program staff, in Kansas City, on October 1st, and that TCEQ staff had participated in a recent Web telecast by EPA. The 6<sup>th</sup> Circuit Court of Appeals ruling was also the subject of primary interest at a recent SFIREG and Region 6 EPA/States/Tribes pesticide meetings. EPA anticipates that a draft general permit format will be developed and presented to the workgroup at EPA by next December, and that the permitting program will go into effect on April 10, 2011. Many items remain to be defined, such as what is meant by "near water", who will be responsible for submitting Notices of Intent (NOIs), who will be responsible for completing reports, and what size water body will trigger the need for a permit. The organization, Crop Life, is contesting the ruling, which may bring the case up before the Supreme Court. However, EPA and the states are proceeding as if the ruling will stand, so as to meet the deadlines established.

### **SFIREG Environmental Quality Committee Meeting Summary**

Dr. Villarreal (TDA), the region VI representative for the environmental quality committee of SFIREG, provided a summary of the recent SFIREG meeting. The NPDES permitting was the most important issue at this meeting which took place last week.

- Some states are developing their own general permit, others are waiting to see what EPA and the workgroup develop.
- Crop Life is contesting the ruling by the 6th Circuit Court of Appeals, but even if they get a reversal it may not be before the 4/10/11 deadline for having the program in place.
- There is some confusion as to what direction this permit will take since there are numerous definitions and responsibilities to advance, as well as other issues for which EPA has no answers at present.
- EPA encouraged each state to move ahead quickly on this permitting program, and for the water quality/environmental agencies to coordinate and communicate with their agricultural agencies to develop a good program that will work in their state, in their particular circumstances.
- There will be exemptions, but too much is yet to be defined at this point to be able to say which situation or what water body will require permitting.
- One of the primary issues will involve determining where the FIFRA act is applicable and where the CWA is applicable.
- Determining interactions between groundwater and surface water will also be important.

Some questions followed. Dr. Harris asked what brought this ruling about. Mr. Cherepon answered that a case was brought up in California where an agricultural application resulted in the pesticide contaminating a canal. In this case the pesticide was applied according to label specification, yet it was impacting surface water quality. The court ruled that the FIFRA regulations were not sufficient to protect water quality. The court thus invoked the CWA regulations to take precedence over FIFRA. Dr. Harris further asked if anything else was driving this change in taking a local issue and making it a national one. Mr. Cherepon said that in his opinion (not TCEQ's official stance or view), this was at least partially driven by the new environmentally friendly administration, and that we may see more similar rulings. Mr. Eyster added that the court ruling considered the application nozzle a point source and that residue left on crops or in the environment was considered waste product. Dr. Villarreal also said the environmentalist stakeholder's organizations felt that drinking water was being impacted, and the court agreed greater protection was needed than what FIFRA was providing. Also, the anti-pesticide organizations are using this as the next step to make the use of pesticides so cumbersome and costly that they will eventually remove pesticides from the environment. Dr. Villarreal stated, that to the best of his understanding, most states opposed this ruling, as did EPA; however, EPA is taking the stance of just following the court ruling, rather than initiating any counter suit.

Mr. Cherepon concluded that TDA will at some point schedule a meeting with TCEQ's NPDES management and will likely invite the FIFRA staff as well. This meeting will be to better plan and develop the pesticide permitting process under NPDES in Texas. Dr. Harris asked if the purpose of the permit was to be able to bring contamination cases to court and point the blame on someone. TDA staff responded they felt that anything was possible, but this seems like the most likely reason, holding someone responsible for these releases. Dr. Villarreal added that most states don't feel the permits are needed, but are going forward, adding yet another level of bureaucracy. Mr. Cherepon asked if anyone had done an impact assessment on what this change is going to cost and involve. Nobody has done so, as they are not even sure what will be acceptable by the court. One comment was that Texas does Bill Impacts, which is one of the reasons why Texas has yet to go bankrupt, unlike some of the other states.

Dr. Villarreal said there were two other issues at the SFIREG meeting. One was the Pesticides-Of-Interest Tracking System (POINTS), a system for assessing pesticides from the SFIREG list of 57. In the first year of using the system, last year, 16 pesticides were assessed. Atrazine was the only pesticide found to be of concern. This year another 16 pesticides are scheduled for assessment by Mr. Cherepon. TDA is compiling characteristics and toxicity data for these, but do not anticipate any to be of concern. Most states' assessments consist only in examining their records for any detections of the pesticide, and finding none, declare the pesticide as not being a pesticide of concern. California, Florida, and Texas are going beyond this, using additional information as indicated above for a more complete assessment.

The second issue involved certain chemicals, such as pharmaceuticals, hormones, and antibiotics, associated with livestock production as well as human activity. EPA is showing an increased interest in these chemicals, since they are showing up in food and water. These categories of chemicals may come under much more scrutiny in the future, but as yet have not been added into the FIFRA grant. However, the Texas Groundwater Protection Committee may

want to begin looking at these chemicals, so as to be ahead of the curve, as awareness of problems with these chemicals increases. Micro-organisms in water will be another area of interest in the future, and could be of concern. Ms. Donna Long added that Texas is already monitoring for micro-organisms and is putting together a reference database as well as developing analytical methods for monitoring. So Texas is prepared for this aspect of up-and-coming water issues. Ms. Long mentioned that she had attended the recent EPA QA conference in Dallas and heard a presentation by a Ms. Susan Richardson which addressed some of these newer drinking water quality concerns. Some information on the presentation can be found at <http://www.epa.gov.us/safewater/ccl>.

An interesting mention from Ms. Richardson's presentation was that the sweetener, Splenda, was ending up in our water because it is very stable under ambient conditions. Ms. Long also noted that Texas wastewater treatment plants are ahead of most states because we are using best available technology.

Dr. Villarreal asked if there was a subcommittee under the TGPC that deals with non-agricultural chemicals and one that deals with biological hazards. Mr. Cherepon said there was not, because most of these are already regulated under other existing programs, such as RCRA, Superfund, NPDES, TMDL, PDW, etc. The TGPC would need to name any additional subcommittees.

### **EPA Region 6 Pesticide Meeting Summary**

The biennial pesticide meeting was held in Dallas on 10/21-22/09. The main issue of discussion was the development of the NPDES permit as required by the 6<sup>th</sup> Circuit Court of Appeals ruling. At the meeting there was a phone presentation on this subject made by EPA's Dan Helfgott.

Mentioned during the discussion was that one state (Washington) was turning over the NPDES program, resulting from the court ruling, from their water quality agency to their department of agriculture. There was some discussion whether this would be permitted under the CWA.

The new containment rules were also brought up, addressing spill prevention and the requirements of secondary containment at bulk container facilities.

### **Summary on Atrazine Monitoring of Surface Waters for Re-Registration**

Ed Baker (Syngenta) provided a brief summary of the atrazine re-registration surface water monitoring in Texas over the past few years, with Mr. Cherepon furnishing some of the earlier data available on the EPA re-registration website. Mr. Baker said that EPA required any surface water bodies that had detects of atrazine at 2.6 ppb or higher to be monitored under this program for several years. There were 156 such detects nationally, and nine in Texas. Mr. Baker's data was for running-average totals for the year for the nine sites in Texas. Both finished and raw samples were analyzed. Mr. Cherepon's data handout had additional yearly data, by county.

Questions arose such as why the City of Crosby had high atrazine values: the answer being that there were a large number of sod farms around Crosby. The city of Corsicana had high values because of some of the crops grown near it. It was pointed out that the Health Advisory Level (HAL) for atrazine is 100 ppb, for an infant child 1-10 days of age. Thus, a child can ingest 100

ppb atrazine for up to 10 days before they exceed the HAL. This should bring things into perspective. Most everyone in the World Health Organizations, who have studied atrazine, has found that it is one of the safest pesticides on the market. Ms. Long brought up that EPA is re-opening an atrazine review/re-assessment for the next year. Mr. Baker pointed out additional studies that found no atrazine link to cancer. He also mentioned that the recent articles in the New York Times mentioned the re-assessment of which Ms. Long informed us. Mr. Baker was stated that the manufacturers are confident that if they stay on sound science, there will be no change in the outcome from a new assessment of atrazine.

## **VI. Announcements**

No announcements were made.

## **VII. Public Comment**

No public comments were made.

## **VIII. Adjournment**

With no further announcements or public comment, the meeting was adjourned.

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Recorded and transcribed by Alan Cherepon.

In their afternoon meeting, the decision was made by the Texas Groundwater Protection Committee that its FY10 second quarter meeting would take place on 1/20/10 at 1:00 P.M., in TCEQ Building F, Conference Room 2210. The Agricultural Chemicals Subcommittee meeting will take place on the same date and in the same room at 10:30 A.M.

## **Attachments**

Presentation slides on 2009 Groundwater Pesticide Monitoring Summary  
Summary of EPA plan to re-assess risk of atrazine  
Update on Atrazine Reregistration Surface Water Monitoring in Texas