

Tribal Pesticide Program Council – Full Council Meeting

October 10-11, 2018

Chandler, Arizona

Meeting Notes - Final

The meeting was called to order by Fred Corey, TPPC Chairperson, at the Wild Horse Hotel at 8:00 AM local time.

Attendees:

Tribes (24)

- Lorinda Antone, Ak-Chin Indian Community
- Brenda Begay, White Mountain Apache Tribe
- Laura Clark, Yavapai-Apache Nation
- Tonia Cleveland, Shoshone Paiute Tribes
- Fred Corey, Aroostook Band of Micmacs
- Jasmine Courville-Brown, Confederated Salish and Kootenai Tribe
- Ryan Evans, Confederated Salish and Kootenai Tribe
- Annette George, Duckwater Shoshone Tribe
- Eric Gjevre, Coeur d'Alene Tribe
- Nina Hapner, Kashia Band of Pomo Indians
- Joe Herrera, Yakama Nation
- Daniel Hoyt, Gila River Indian Community (Day 1)
- James, Jackson, Muscogee Creek Nation
- David Lewis, Yavapai-Apache Nation
- Tony McCandless, Gila River Indian Community
- Esperanza Mix, Gila River Indian Community (goes by Hope)
- Ralph Morris, Gila River Indian Community (Day 1)
- Dale Ohnmeiss, Gila River Indian Community (Day 1)
- Lucy Parker, Southern Sierra Miwok Nation
- Dustin Roy, White Earth Nation
- Larry Scrapper, Cherokee Nation
- Vivian Stevens, Yavapai-Apache Nation
- James Williams, Muscogee Creek Nation
- Martina Wilson, Fort Peck Tribes

Tribal Organizations (2)

- Africa Dorame-Avalos, Inter-Tribal Council of Arizona
- Diania Caudell, California Indian Basketweavers Association

EPA (7)

- Ganesa Curley, U.S. EPA, Office of Inspector General
- Amanda Hauff, U.S. EPA, OCSPP
- Carol Galloway, U.S. EPA, OECA
- Jackie Mosby, U.S. EPA Office of Pesticide Programs
- Emily Ryan, U.S. EPA, OPP
- Denton Stafford, U.S. EPA, Office of Inspector General
- Cindy Wire, U.S. EPA, OPP

Other (2)

- Suzanne Forsyth, University of California Davis Extension

- Bob Gruenig, TPPC Consultant

Traditional Opening Ceremony, Welcome, Introductions

The group was led in traditional prayer by Barnaby Lewis, Gila River Indian Community, Tribal Historic Preservation Officer.

EPA's Office of the Inspector general attendees introduced themselves and their goal for attending. The OIG is conducting research into EPA's management of tribal pesticide enforcement cooperative agreements to see if they support the achievement of agency goals and requirements. They thanked the TPPC for allowing the OIG to attend the TPPC meeting.

Opening Remarks / TPPC Chairman Update, by Fred Corey

Fred welcomed the group and reported on the number of outreach efforts to introduce other tribes to pesticides issues may be happening on their lands which they may not be aware of.

May - Western Region Pesticide Meeting – Fred presented and received positive feedback by states. The other regions resent were interested in learning more about DI and strengthen tribal pesticide program capabilities.

August – Tribal Environmental Lands Forum – presentation on the TPPC and what some of the pesticide issues are affecting Indian Country. Fred thanked CSKT for brochures and banners and this was another successful opportunity.

Pesticide inspector training in Phoenix offered by Colorado Indian Tribes and ITCA. It was another means to interact with tribes and promote the TPPC.

Tribal PIRT hosted by the Fort Peck Tribe – presentation by TPPC with interest by others to join.

Invasive pest workshop – Mohican tribe interested in being a TPPC member.

All of these were excellent in raising awareness of tribal pesticide issues and interest in TPPC. Fred thanked the Gila River Indian community for hosting TPPC. Gila River has an award-winning program and they have been willing to share their expertise with other programs.

Fred thanked Suzanne and the UCDE team for setting up the meeting and agenda.

TPPC Coordinator Update, by Suzanne Forsyth

[Refer to the session slides on the TPPC website for more detail]

Hot Topics Presentations

[Slides for the session will not be available]

Featured topic: Eric Gjevre, Coeur d'Alene Tribe of Indians

Eric Gjevre works for 6 tribes. His case study deals with container containment (C/C). EPA revamped the regulations that applied to re-packagers across the US. McGregor facility was the focus of his presentation.

Colville reservation – apples and cherries, does a lot of WPS work there. Palouse is a rich agricultural area with some forestry, but mostly cropland. Inside Nez Perce is the Camas Prairie where they use a 2-year rotation wheat / peas and lentils. They use a lot of Round Up via bulk delivery using shuttle containers. Round up RT3 and Round up Powermax are repackaged. Eric performed a C/C inspection of McGregor Company Prairie Facility. Based on his findings, the resulting enforcement action was the largest fine ever for the CdA/Region 10 Pesticide Enforcement Circuit Rider Program. \$7,500 per violation count- is the fine based on the new C/C regulations. Statutory maximum was 7 violations at \$7,500 = \$52,500. Proposed penalty after calculations = \$35,300. Good Faith adjustment (20%) = \$28,240.

Items cited: no containment pads (six counts). There used to be five facilities in this area but now there are three, as two of them came offline

Lucy Parker, Southern Sierra Miwok Nation. Yosemite Park was closed for two weeks due to fires. The tribe is working on the round house and will take two years to get together. They just signed a 30-year agreement with the Park allowing them to continue their cultural practices in the park. Climate change has affected their environment has caused the acorns to fall so they can be gathered. Looking for different help from agencies and keep collecting back materials and keeping the practice alive. She is gathering now for next year.

Martina Wilson, Fort Peck Tribes. She has been planning the tribal PIRT. Invasive plants are a problem. Hawk's Beard is present and now also Palmer Amaranth (Pigweed). She is doing outreach and education to the tribes for these. Her outreach and education also announces that she's doing inspections. The bed bug packet has been widely accepted with her tribes. Thanks to Emily Ryan who put it together. A major success is that the tribe is on board with steam cleaning and is going to buy a heating machine to treat tribal housing.

Tonia Cleveland, Shoshone Paiute Tribes. She is new to this area of tribal pesticide issues and is learning a lot. She did her first couple of inspections following the tribal PIRT in Montana.

Fred Corey, Aroostook Band of Micmacs. The tribe does not have enforcement program successes but will share some of the happenings. Black Ash puts their forestry resources at risk. USDA-APHIS wants to deregulate emerald ash borer but the tribes are concerned that this will affect their resources. Put in some NRCS pollinator habitat (5 acres), a multi-year effort.

Jasmine Courville-Brown, Confederated Salish and Kootenai Tribes. The CSKT enforcement agreement serves four agricultural reservations. Their workplan states they need to do 50 inspections, but due to circumstances, they completed 44. She thanked OECA for issuing notices of violation which has helped with the compliance assistance. They have 6-10 fines processed (four human exposure cases). The northwest has a lot of fires and planes drop fire retardants, which they are finding in the water, they contain organophosphates. Brittani has done over 22 pollinator events this year, reached over 2K kids, partnerships, others. She's on the bed bug outreach task force, which uses the bed bug kit created by Emily Ryan.

Diania Caudell, California Indian Basketweavers Association. One of the first organizations as TPPC was formed. Each tribe in CA uses different materials and portions of a plant. One of the things that happens in the State of CA is that they cannot control where pesticides are applied (private, public lands, etc.) Also with the bad fire across CA, they have to be cautious of the retardants applied. For re-planting, they are not sure these will be replanted. Acorns are also a staple. Basketweavers use their mouths and cannot always wash the materials before they work with them. Did an outreach presentation at Region 9 and throughout the state. Did outreach with the State of Hawaii for their basketweavers.

Larry Scrapper, Cherokee Nation and Intertribal Environmental Council of Region 6. They have a policy that applicators must notify 48 hours in advance that they will apply. They are building a new hospital on the land and the entertainment industry wants to bring buffalo onto the property. The industry wants to apply pesticides and one is an RUP, which was not allowed on Cherokee property. Contracts with the casinos and healthcare facilities all have applications with the national certification program in case they want to apply RUPs. Last summer had their ITEC conference. Oklahoma has new regulations and laws on cannabis and the hemp industry. ITEC is hosting a children's health symposium in Tulsa. Amanda Hauff with EPA/OCSPP and Amity Furr from Eight Northern Tribes will also present there. Language preservation program is offering a conference and invited the environmental program to give them words to out into the Cherokee language. He sits on an IPM tick program call every month. There's a new tick (Asian Longhorn tick). Capable of transferring the majority of diseases carried by others.

Annette George, Duckwater Shoshone Tribe. She is happy to start attending the meetings to see what she can do to promote outreach in her communities. Some of the members of her tribes will be engaged in gathering practices.

Africa Dorame-Avalos, ITCA. Successful pesticide inspector training, focus on WPS and inspection-writing. Allocated funds to put on IPM workshops. Navajo Nation Public Health for a 2-day workshop. Working with ASU and ITEP to do this. Working with tribes to have their brochures translated into Spanish. Asked by NPSEC as non-voting members to represent tribes on how they can serve tribal programs. Has agreements with various tribes to conduct WPS and structural inspections on tribal lands. For those tribes which don't have agreements in place, Africa offered services with them as a means to help offer oversight of pesticide applications in their communities.

James Williams and James Jackson, Muscogee Creek Nation. They have a lot of agriculture and cattle operations. Have casinos, hospitals and clinics and they have folks on contract who do the work there. Working on drafting codes. They have a golf course which had some noxious pesticides from the 1970s. They plan to work on. The impacts of pesticides water quality. They will be looking at cultural impacts as well.

Joe Herrera, Yakama Nation. His reservation has roughly 65K acres of ag lands (apples, cherries, berries, others). Has a big pesticide use on the reservation. Joe did a ride-along with Eric Gjevre which resulted in a warning letter and violation for aerial pesticide drift onto workers. He reflected on how much work is it to complete these inspection and investigation reports. Bed bugs – schools are calling once a week with reports. They are handing out packets to parents. Joe's life was threatened by someone at a site he was inspecting. Received trainings on antimicrobials. This year he conducted some structural inspections (use observations) and an applicator at Yakama was spraying at a food establishment without care and a worker is believed to have been exposed.

Dustin Roy, White Earth Nation. This growing season was his first with federal credentials. He's received no complaints this year which is a success. Another success is the positive working relationship with the State of Minnesota, which added restrictions on Dicamba for this season. No Dicamba complaints and it's looking really good and a lot better this year! Dustin will be looking for areas with culturally sensitive plants and tape them off so there won't be exposure issues. In March, he talked about chlorpyrifos, and EPA has canceled its registration. This means that neonicotinoids will be used which is also not good for White Earth. The reservation is checker-boarded and the Indians on the reservation don't feel they need to follow their tribal codes for pesticide applications.

Ryan Evans, Confederated Salish and Kootenai Tribes. A success from this past season was a for-cause inspection. The Crow Reservation has a bad actor who refused to allow access to his land for an inspection. CSKT was able to gain access via a BIA agreement. The applicator was cited for blatant misapplication of an herbicide.

David Lewis, Yavapai Nation. They have 500 acres they farm and have contracted with ITCA to do the inspections. There are pesticide containers which sit on the ground with no secondary containment. The water treatment facility uses chlorine, and they don't have secondary containment. Public Works had some used oil and there was no secondary containment for this kind of waste. Question for the group: do they combine the inspections for these types of concerns (hazardous materials, pesticides, others)? Some resources were shared for David to follow up.

Action item: Davis Lewis and Hauff and Carol Galloway to follow up with David on his questions for inspections for multiple environmental concerns.

Dale Ohnmeiss, Gila River Indian Community. The environmental program is a shining star for DEQ and their inspection reports are well documented.

Lorinda Antone, Ak-Chin Indian Community. Located nearby in Maricopa. They have a vacancy for a pesticide program specialist which has been vacant for 2 months. Lorinda has been handling the duties in the meantime. Mosquito surveillance and fogging and larvicide applications. Hurricane Rosa created an onset of water and the golf course was closed. Mosquito populations will be a concern with the standing water

Brenda Begay, White Mountain Apache Tribe. Do a collaborative work with tribes RMSF problems on their reservation and DOT who sprays pesticides along the highway.

Vivian Stevens, Yavapai-Apache Nation. The Tribe does not have a pesticide program but has a cooperative agreement with ITCA to do inspections. Last summer they did their first inspections. She thanked TPPC for the opportunity to attend and learn to help them geode the creation of their greenhouse (currently underway), alternatives to pesticides. They keep up with their AZDEQ trainings and they assist Yavapai. Laura Clark on their staff plan to create a pollinator protection plan and one of the staff is a beekeeper.

Direct Implementation in Indian Country: Regional Survey Results and Discussion, by Carol Galloway, EPA/OECA

[Refer to the session slides on the TPPC website for more detail]

Carol explained the purpose of the session was to have a dialogue about what direct implementation (DI) is. She noted there are some different points of view and hopes to have a more aligned vision for the purposes of the work group advancement.

First, Carol explained how EPA's DI Strategy (February 25, 2016) describes DI:

- EPA is responsible for implementing federal environmental statutes in the United States including in Indian country.
- EPA largely implements its responsibilities through partnerships with tribes, states and other agencies.
- Where eligible, EPA works with interested tribes to prepare them to assume implementation responsibilities.
- In the absence of a federally approved tribal program, EPA is responsible for program implementation

Carol asked the tribes what their thoughts are about DI what experiences they have had.

- Fred began by stating that some tribal applicators in Region 1 feel that they aren't regulated at all. It's a complaint driven system. Fred reflected that if there's a threshold for EPA action to a tribe, that EPA should be treating the small states the same way. Wyoming is one state where

EPA does DI. No matter how small the program is (tribal or state) there should be some basic level of service and not only a 1-800 number which deals with complaints.

- Jasmine Brown supports Fred's thoughts as well. She cited a Bald Eagle kill with the Crow Tribe in 2009 and what recourse was available to them. Some tribes don't want to invite the state agency in and risk setting precedent that could challenge tribal sovereignty. EPA never responded to the tribe directly about it. This incident prompted the tribe to get involved in the CSKT circuit rider program. Montana Department of Ag reached out to the tribe directly and this was the start of a successful collaborative relationship. Jasmine wants to broaden the conversation about DI in Indian Country and think about different options. Could the cooperative agreement funding be used to conduct an activity like a one-week container recycling event at a reservation not covered by a cooperative agreement? The activities don't necessarily need to be large but they would make a positive impact.
- Larry Scrapper – was not able to get his federal credential under an enforcement agreement because the Cherokee don't have reservation land; most Indian lands in Oklahoma are "jurisdictional areas".
- Africa Avalos reflected on how this works in Region 9. Not sure if this model would work well in other regions as well.
- Jasmine Brown - who in Region 6 would provide inspection coverage? Larry says it would be the enforcement folks at Region 6 in Dallas (Gerardo Costa and his inspectors.)
- James Williams - Muscogee Creek is challenged to get fee lands defined. They cannot get federal credentials - they have to rely on the state, but the state cannot come onto tribal trust lands. James Jackson said, if funded, the Muscogee Creek would gladly take the inspection program.

EPA/Tribal Environmental Plans (ETEPs) are jointly developed docs which define responsibilities on each side and help direct where EPA can best support the tribes. GAP supports activities to reach long-term priorities and goals GAP funds for pesticides are only for capacity-building.

Action item for DI workgroup: talk about how GAP funds could be used to support pesticide activities. Create 1-page outreach document on how to use GAP funding. Need to take into account nuances for each region.

Eric - Is a cooperative agreement with a tribe the same as direct implementation? No, under a cooperative agreement the tribe is acting on behalf of EPA. DI is where EPA acts. A tribal compliance and enforcement program is not the same as a state's program because under the FIFRA statute, states are allowed to have primacy (primary responsibility for monitoring and enforcement of pesticide use requirements), but tribes are not.

Carol explained that EPA's DI responsibilities include: setting tolerances and exemptions for pesticide chemical residues; registering and reviewing pesticide registrations; registration of pesticide producing establishments; certifying applicators of restricted use pesticides; conducting inspections at producing establishments, distributors, retailers, on-line sales of pesticides, imports, etc.; responding to and investigating complaints, incidents; monitoring compliance to ensure pesticides are used in accordance with their labels; and taking appropriate enforcement actions.

Although not defined as DI responsibilities, EPA also conducts other important pesticide program activities including: providing technical assistance, education and outreach on the safe use of pesticides and pest-control alternatives; answering questions, providing compliance assistance; providing training on new regulatory requirements, revisions; and other special projects such as identifying pesticide use on a reservation, helping to develop pesticide code and IPM plans, evaluating analytical results from water samples, exploring unique tribal exposure concerns, and reviewing invasive species plans.

Several different approaches are possible for implementation of pesticide programs.

- Tribes may develop their own tribal pesticide codes, monitor compliance, take enforcement actions under their own authority.
- Tribes can also enter into Cooperative Agreements with EPA to implement either the pesticide program and/or compliance monitoring/enforcement program.
- EPA can use other types of grant funding to one or more tribes or a consortium, or another federal agency. These arrangements can be single year or multi-year, and can be broad or focus on specific areas, like IPM.
- Finally, there are activities that are conducted by EPA staff or contractors.

There are 573 federally recognized tribes in the U.S.

- 350 tribes in the lower 48 states on 326 reservations. Of the 10, tribes with the largest land areas, 5 of them have cooperative enforcement agreements.
- Region 1 – 10 federally recognized tribes, no cooperative agreement, one tribal grant each year
- Region 2 – 8 federally recognized tribes, one OPP cooperative agreement
- Region 3 – 7 federally recognized tribes, no cooperative agreements, EPA is evaluating Indian Country
- Region 4 – 6 federally recognized tribes no cooperative agreements, they fund tribal consortium and project grants
- Region 5 – 35 federally recognized tribes. 1 pesticide cooperative agreement
- Region 6 – 66 federally recognized tribes. They fund consortia (ITEC and ENIPC) versus individual tribes.
- Region 7 – 9 federally recognized tribes, no cooperative agreements.
- Region 8 – 27 federally recognized tribes, 7 cooperative agreements covering 17 reservations.
- Region 9 – 148 federally recognized tribes, 9 OPP/OC cooperative agreements. 8 with tribes and 1 with ITCA.
- Region 10 – 43 federally recognized tribes (state of Alaska implements the program for 228 AK tribal villages), 2 cooperative agreements, interagency agreement with Indian Health Service

Understanding the Current DI situation

- The starting point is different in each Region
- Changes in personnel and funding levels are forcing EPA to sharpen our focus on priorities to set realistic goals and objectives

Moving forward

- TPPC DI work group objectives:
 - Understand EPA's DI responsibilities under FIFRA and associated key activities
 - Identify and collect baseline data on key activities
 - Identify possible sources of assistance, resources and technical support to fulfill these responsibilities

Luncheon Presentation: Overview of Gila River Pesticide Program, by Dan Hoyt

[Refer to the session slides on the TPPC website for more detail]

The team has been working on building the capacity of the program to where it is today.

Priorities

- Compliance & Enforcement
- C&T
- Pesticide Safety and PM

- Capacity Building and Integration

One of the first tribal cooperative agreements – 1983. Of 101 potential enforcement activities, GRIC commits to doing 46 annually, based on resources.

Community applicator certification – nearly 200 trained as of Jan 2018. Gila River gave a shout out to PERC and they use their materials. They do a quarterly newsletter, phone consultations, flyers, booklets, things for the kids – they consider all of it compliance assistance. Procured software to create online certification courses. Tony manages the website.

They received special project funding from Region 9 to complete the next phase of a database project they pitched to R9 last year. One database to rule them all, by Unicon.

GRIC is working off a 2014 pesticide ordinance. Once they started building the inspection schemes, QAPP and other pieces, they realized they needed to revise their pesticide code.

Action item: obtain link to 2014 GRIC code to share on the TPPC web site. Post a link and not the PDF.

Working on submitting their own C&T plan. Over 3 years in the making, and now it's all changed.

National Tribal Toxics Council Presentation, by Dianne Barton, Council Chair, National Tribal Toxics Council (via telephone)
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[Refer to the session slides on the TPPC website for more detail]

Dianne joined via telephone from Portland, Oregon. NTTC membership is fairly heavy in Region 10 compared to other areas.

1976 TSCA Existing Chemicals – law to protect humans and the environment from industrial chemicals. TSCA grandfathered in 62K chemicals already in commerce in 1976 were presumed safe but gave EPA authority to collect safety information on them as necessary.

New TSCA amended 6/22/16. Passed both Houses of Congress with overwhelm bipartisan support in 2016. Risk evaluation is required to consider the potential risk to human health and the environment including **susceptible populations**.

Significant preemption of state authority to restrict the use of high-priority chemicals. States would be able to implement regulations that cover a different scope related to the use or affected populations of a studies chemical.

December 2019 – risk evaluations expected to be completed for the first 10 high priority chemicals

Risk evaluations for existing chemicals – 6/1/18 EPA released problem formulation documents for the initial 10 chemicals.

HBCD known health effects with impacts to human health (thyroid disease), the consumer is unaware of this being used in materials used to build their homes.

5 PBTs in commerce:

- DecaBDE in flame retardants
- PCTP in golf balls
- HCBd found in hydraulic fluid in vehicles
- Phenol
- 2,4,6 Tris Phenol

Surveys document a higher consumption rate of fish by tribal people. These need to be considered by EPA risk evaluators.

NTTC recommend how tribal populations be considered in risk exposures – sediment exposures, pottery, pant materials for basketmaking, smoke inhalation of trash burning, processing of game and game meat, etc. This is not the scenario EPA uses for exposures by the general population. A tribal lifeway should be considered for tribal exposures.

The same exposures considerations fall short in TSCA as well.

Action item: Suzanne to obtain a copy of the June 2015 NTTC report, Understanding Tribal Exposure to Toxics, to email to TPPC members and post on the TPPC website.
http://www.zendergroup.org/docs/NTTC-Understanding_Tribal_Exposures_to_Toxics-2015-06-19.pdf

Moving ahead – could our Councils work together to have this chemical inventory prioritized?

Amanda asked if Dianne could mention a tribal risk assessment forum. NTTC has not pulled together dates for this. Fred was at a risk evaluator conference in 1998 which had a focus on tribes. NTTC wants to pull this together after the TSCA 2016 which opened the door for tribal risk evaluations. NTTC has no firm plans as of now but there is interest in revitalizing this. It would be multi-media across Office of Water, etc.

Closing image is a lamprey eel, an anadromous fish. They are considered a pest in most waters, but they are an important species to tribes for healing. They are as old Jurassic times and they are on the brink of extinction with hatcheries in the PNW.

Jasmine – does the NTTC report address endocrine disruptors? No.

Action item: Amanda will provide in a few weeks an update on EPA's Endocrine Disruptor screening program.

Action item: Amanda to invite the program staff to do a presentation at a future call. Could be early November. TPPC may want to consider moving its November 22 call to earlier in November.

Action Items from Day One

The group reviewed the yellow highlighted items above.

Action item: Cindy to send a cancelled calendar appointment for the October 17 TPPC call. Fred (or Suzanne) to email the same.

Tribal Caucus

Fred began by stating that the reason we hold this is to provide a forum for tribes to react to some of the things they've heard today. It's an opportunity to raise questions and concerns.

Questions about OIG Attendance

Fred and Jasmine invited the EPA Tribal Team to remain at the caucus so the TPPC could ask them questions about OIG's participation and intent.

Is OIG looking at the credentialing process and enforcement? Cindy Wire

EPA has asked tribes to notify them if OIG has contacted them to please let EPA know.

Cindy suggests that TPPC asks that they submit their questions in advance to TPPC before they contact tribes. Amanda said that the questions may not eventually be the same for each tribe depending on the nature of the cooperative agreements and work plan.

OIG met with a few folks in Carol's branch and Carol's team helped provide them some framework already. They may also elect to work through the tribes' regional counterparts.

The EPA tribal team spent significant time with the OIG staff before they attended the TPPC meeting in 1) how to be culturally sensitive, 2) tribes and primacy, and others.

The TPPC would like to have a list of questions in advance from OIG.

Amanda: to provide the TPPC with OIG's final recommendations for the state audits.

The EPA Tribal Team left the caucus at this time, with the TPPC's thanks.

Action items:

- Suzanne to email Region 8 reps with the proposal that Ryan Evans serve as the Region 8 EC representative until the next election.
- Suzanne to engage Region 9 tribes and conduct an email-only election to fill the vacancy until the next election in Fall 2019.

Spring 2019 Meeting

Martina asked Suzanne to expand on the decision to keep the March 2019 meeting dates the same. Suzanne reported that she only received an 11% return rate, only 7% of TPPC members supported a change, and only half the EC members responded. Given that the TPPC had discussed this five (5) different times since April and could not reach a consensus, the March 2019 dates will remain the same. Nina encouraged the EC to be more participative and send in their opinions when asked.

\$35K OECA Funding

Jasmine brought up the mention of the \$35K funding that Carol Galloway mentioned (e.g., Tribal PIRT) and how it could be used. She asked for some feedback on the kinds of trainings tribes with and without cooperative agreements would be interested in. The group talked about challenges for gleaning interest. The TPPC needs to follow-up with Carol to clarify what she said about "better use of Tribal PIRT funds".

One of the things that came out of the Tribal PIRT was an interest in water quality sampling, and they have little to no funding for the pesticide testing. Dan Hoyt suggested that partnerships could be another means to fund the sampling and that states could be a source. USGS NAWQA used to be a collaborator at one time.

Lorinda suggested as a means to offer to train tribes without cooperative agreements, maybe offer topics of interest at a forum connected to TLEF or other national meetings.

Nina mentioned that there has been a change in EPA policy about IDC so that tribes can ask for their direct funding and tribes to apply the IDC on top of that. Nina's colleague was able to do this successfully with EPA. Dan Hoyt asked who would cover that. Nina said she believes it applies to all EPA grants and not just BIA or GAP funds. Nina to follow up with her tribal contact for more details and the TPPC can decide at a later time if they want to ask EPA about it.

Problematic Label

Jasmine brought up a problematic label with an EPA registration number and approved label, Orange Guard. The label states, “may be used around food, humans and pets.” There are inert ingredients not identified.

Day One adjourned 4:55 PM.

TPPC Full Council Meeting

Day 2

Thursday, October 11, 2018

Tribal Caucus Meeting Update

Jasmine recapped some of the items from yesterday's tribal caucus. The TPPC would like OIG's questions directed to Fred and Denton said he will take this back to his team, with their appreciation.

Efficiency and PIRT resources. The TPPC was exploring ways to expand the audience to tribes without cooperative agreements, who often don't get selected to attend because they don't have cooperative agreements.

They talked about expanding the fall meeting by one day so tribes could have more time to talk.

Groundwater and drinking water sampling for tribes. Pesticides and pharmaceuticals. USGS and Department of Reclamation could be potential partners, could also partner with states to assist with sampling and analyses.

Emily Ryan said that SFIREG will meet in March to talk about environmental quality issues and this could be a good item to bring to them there.

Action item: TPPC members (Jasmine and Emily) to contact SFIREG's EQI (Gary Bahr) before March meeting to talk about ways to partner with states for sampling/analysis.

Fred reflected there has not been a lot of tribal participation at AAPCO and this is unfortunate because there are opportunities for capacity building and fostering state/tribal relationships there.

Breakouts on TPPC Workgroup Topics

Amanda introduced the activity and how the attendees would break into groups.

Tribal Risk Assessments

Risk Assessment Workgroup Structure Document

Members: Fred, Jasmine, Dustin, Joe, Nina, Emily, Rachel, Mary, Cindy, Amanda

Objective I: Coordinate with NTTC on TSCA tribal risk assessment work

7 activities identified and 5 completed.

Current: Action 1.6 Clearly ID action plans for the TPPC to focus on

On hold – collaborate on the 2019 Tribal Risk Forum – how can the TPPC be involved? And asking OPP for their involvement?

Objective II: Action Items

Understand the OPP RA process and

ID the status of inclusion of tribal lifeway exposure scenarios, data, etc.

5 activities identified and 1 completed.

Jackie Mosby offered to help keep Division Directors apprised this is coming up and to keep it moving along.

Objective 3: Educate OPP Risk Assessors

2 activities identified and 1 current.

Topic #1: Sources (i.e., practice, process, action, thing) exposes tribal members to pesticides?

Topic #2: Scenarios – how are tribal members exposed to pesticides? What is happening?

Topic #3: Data and information?

Topic #1 – Identify Exposures

- What (i.e., practice, process, action, thing) exposes tribal members to pesticides?
- Tribal life pathways
- Non-industrial use of products

Amanda facilitated a conversation amongst tribal members asking about how their tribes are potentially exposed to pesticides.

White Earth: white rice is a staple for them and Dustin plans to look into sampling

Joe H: huge number of fires and one of their local towns was affected. Fire retardant dumped on houses, which saved them. Rivers – one of the confluences flowing into the Yakama River. Hop to collaborate with Fire Management to sample upstream.

Nina – fire retardants. Not that cannabis can be grown but with no pesticides approved to be applied. It's a concern because there will be pesticides used that are not registered for use and they will have no idea what they are.

Ryan – flood irrigation

Jasmine – persistence of chemical in the environment. Based on the half-life of Tordon 22K being about a year, they are hanging out in the environment a lot longer and should be considered on the TPPC's list. Others reflected on potential tribal exposures as well

Medicinal uses and harvesting places youth at risk as they gather for the elders.

Topic #2: Identify Exposure Scenarios (personal, community, occupational)

The entire group broke into 4 sub-groups and addressed Topics 1-2, followed by reporting back to the larger group.

Possibilities:

- Gathering baskets and materials, exposure to ticks/fleas/lice
- Domestic home use for insects and other pests
- Aerial applications
- Structural applications at work
- Public works applications on greenways
- WPS ag worker, pesticide handler exposure
- Public utilities
- Soil (pregnant women sometimes eat soil since their bodies are craving a certain mineral), traditional foods, teas, ingestion of materials
- Home cabinets & other building materials, railroad ties

Personal

- Homes (insecticides, herbicides, disinfectants, insect repellents)
- Handling pet collars, cat litter
- Consumption of fish and other resources
- Repatriation of ceremonial objects

Community

- Mosquito abatement
- Recreational (visiting treated parcels)
- Perimeter & interior treatments
- Health care facilities
- Institutional exposures (schools, daycares, elder care facilities)

Occupational

- Ag jobs
- Invasive species control
- Hotel/ restaurant workers
- Grounds / maintenance workers
- golf course workers

Challenges with Data

- some tribes don't want their exposure data made public
- having specific tribal data looking at it at a national scope through the eyes of a national risk assessor

Community-based participatory research – Kashia did this with University of Michigan Ann Arbor.
Possible collaborators: CDPH, NIH.

Amanda said that ORD has offered to peer review collected data.

Direct Implementation

Objective 1: Learn and understand about EPA's Direct Implementation responsibilities under FIFRA as well as current Agency happenings.

[Present] Action 1.1: Review and discuss EPA's Direct Implementation of Federal Environmental Programs in Indian Country document.

[Present] Action 1.3: Create a comprehensive one-pager that describes FIFRA DI responsibilities/mandates.

[Present] Action 1.4: Identify and create a one-pager of frequently asked questions and answers.

Objective 2: Identify the current baseline of activities (i.e., enforcement, number of tribes with cooperative agreements and coverage; number of tribes interested in obtaining a cooperative agreement, etc.).

[Present] Action 2.1: Create draft list of potential activities for baseline exercise

Action 2.2: Identify whether there are other mechanisms, systems, etc. that can be reviewed to identify baseline activities

Action 2.3: Work with EPA AIEO to obtain feedback on which tribes prioritized pesticide programs within their GAP or ETEPs; work with RTOC

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Action 2.4: Capture case studies of DI activities

Action 2.5: Examine current funding and use of OPP and OECA programs

Action 2.6: Identify an action plan to define baselines

Action 2.7: Implement action plan

Objective 3: Ensure the TPPC Pesticides in Indian Country Report has factual direct implementation information within the draft

Action 3.1: Identify where the report mentions or intends to mention direct implementation components

Action 3.2: Check information for accuracy

Objective 4: Explore future partnerships with other federal agencies to identify resource, funding and technical needs.

Action 4.1: Identify and list potential department/agency partners

Action 4.2: Identify: 1) how they work with EPA; 2) how they work with tribes and; 3) the scope of that agency program

Action 4.3: Identify the ask (i.e., funding, technical assistance, etc.) for each potential partner

Action 4.4: Convene with federal partners to identify whether or not collaboration can be created to provide resources

Topic #1: capture questions to develop the FAQ document and one-page information document.

- What questions do you have about DI>?
- What elements should we include in our 1-pager info doc to explain DI?
- Should we think about anything else?

Topic #2: Identify/brainstorm potential topics to be explored to run a baseline analysis.

Draft examples

- Number of enforcement actions
- Number of tribes with cooperative agreements and coverage
- Number of tribes with agricultural lands
- Number of applicators under the federal plan (by region)
- Pollinator protection activities
- Integrated pest management activities

Action items: refer to Amanda's lists for tribal risk assessments and direct implementation (1-pagers, etc.)

Plans moving forward: Monday and Wednesday. Organize all the feedback, set up a monthly call.

RA – Jasmine and Ryan will put everything together and work through the feedback for Topics 1 and 2.

Amanda will put together all of the baseline activities and more forward as well. Work groups will work on the next steps. These will stay on the list of priorities for FY2019.

Gila River Indian Community; a Cultural and Historical Overview

Robert Johns and Joyce Hughes, representing the Huhugam Heritage Center

Joyce belongs to the Buzzard Clan. Started working in May and she has been working in the language all her life. She's lucky to work with Huhugam Heritage so she can share with others in the community to their language and culture can be perpetuated. Their hope is to inspire others to carry on their language.

Will look at how the events of the past centuries have shaped the tribe of today.

Antonio Azol, the last hereditary chief. They did not have a written system and had to learn from memory. Joseph Snake Head was another leader. Gila River is made up of 7 districts.

Where does the knowledge of their history come from? A calendar stick was a rod of a willow tree, carve notches into these to record historic events. Gila River tells its creation stories after the winter solstice, told by rote memory and oral history.

They learned through archaeology and modern research. An excavation of Snake Town. The Gila River sustained their life. There are three forks which traverses the wilderness. There is proof that early Gila River tribal members were here 1-1450 AD.

Sivan Vahki = Casa Grande Ruins, NM, is a natural skyscraper feature.

1450-1694: Villages disbursed and didn't want to be ruled under a ruling class and disbursed with the system.

According to early visitors, there were thickets, grasslands and Sacaton big grass.

O'otham-P Posh Confederacy was formed when tribes decided to live next to one another.

Early Spanish contact – the Jesuit Period 1694-1767. Father Eusebio Kino was an Italian Jesuit, missionary, geographer, explorer, and map maker.

Many wild foods are provided by their Creator. The cactus root is harvested and they make jam from them. Due to climate change they are not able to harvest fruits large enough to yield nectar for preserves.

Fish were an important part of their diet. Razorback suckers, Colorado pike minnow, and Bouy Tail Cub were three important species.

Their farmlands were always productive. Wheat was introduced 300 years ago and it's an important plant crop for their community.

The family is the basic unit of social and political organization for the O'otham. Traditionally the parental side of the family controlled the membership of the larger family, the clan, and the village.

Educating the youth was conducted by the parents of the elders of the tribe. It was an education of virtues discipline, obedience, and hard work.

Boys went to battle at 15 years old and were not retired until they could not move their bodies any longer. The girls were taught to harvest produce, the gather wild foods, weave baskets, and create cooking vessels. The homtha was used to store grains and the hua was used to process foods.

- The Pima Resistance 1695-1767. The Pima uprising began in 1695 with a revolt happening in 1751. The Jesuits were expelled in 1767.
- The Pursuit of Havan Mo'ó and Rebel Army 1757 by Governor Mendoza and allied forces.
- Franciscan visitors 1768-1821.
- 1821 Mexico wins its independence from Spain
- Mexican period 1821-1846.
- US/Mexican War 1846-1849, resulted because the US wanted to build the transcontinental railroad
- 1852 The Boundary Commission – according to the treaty of Guadalupe, lands north of the Gila River became a part of the US and lands to the south bank were still a part of Mexico.
- The Miligan Arrive 1857-1859
- GRIC established in 1859 by Executive Order and it was gradually enlarged to its current size.
- American Civil War 1861-1865
- 1863 five tribes signed a Treaty of Peace
- 1865 First AZ Volunteer Infantry
- The 158th Arizona National Guard's Infantry Regiment is still active, sent to Afghanistan

Deterioration of the Gila River watershed caused destructive flooding, Fields were abandoned due to lack of water.

Water Settlement Act 2010, signed by President Bush.

The copyrighted images used for this presentation were obtained from approximately 10 different federal and tribal sources.

The tribal population is about 21,000. Approx. 20% are over 65 years old. The tribe has 2 native languages which are indigenous and not influenced by Spaniards.

Status of Pesticides in Indian Country Report

Bob Gruenig gave the background and context for the Report and efforts to date.

In 2015 Bob was working with ITCA and he developed a draft of the report. In October 2016 we had breakout sessions in Pauma, CA, which started to address different parts of the report. TPPC members have done this over 4 different meetings since then. In the interim, Bob drafted sections with revisions by the group. Some of the content from one section might get moved to another more relevant section. IPM is missing.

Data –

1. Partnering with EPA in June 2018 Bob suggested specific data the TPPC might request from EPA. Cindy, Suzanne and Bob met in August to go over the list. Cindy reflected on a conversation with the EPA tribal team. She said EPA wanted to have some control over how the data is used and provided in the correct context.
2. Direct Implementation
3. Tribal and other data

Kashia offered the use of their tribal data (broken down by states and not delineated per tribe) but she did not want the data to be massaged by others.

Outreach

- Targeted entities/individuals
- Partial/full distributions

Completion

- First draft
- Ongoing drafts

If there is a pressing need for the TPPC to communicate to EPA about any one topic, then the group can work hard to update it to distribute.

Amanda: coming back to the use and the target audience. The use going with target audience was it to educate federal entities, educate ourselves? Yes to both. It's not a true issue paper

Nina: suggestion is to put out a first draft. For areas still under construction, we indicate "still in progress." Hope is that we all have a better view of what's going on in Indian Country.

The TPPC needs to consider how we will deal with updates. Nina agrees it would be good to have an Executive Summary and this could change if the data shifts. Desire is for it to serve as a very important tool. Nina suggests we create a committee who is charged with keeping it updating it. NTAA updates theirs on an annual basis. Nina doesn't think that the TPPC's would need to be updated annually, but we want one updated more often than 5 years. In the meantime, data for the other sections could no longer be current. Nina offered to be on the committee to assist. We can offer a disclaimer that "more information is forthcoming."

Action item: Bob Gruenig to finish the drafted sections.

Action item: Amanda suggests we create a 1-pager for how we would use this. Plus an executive summary?

Action item: assemble a small workgroup to work with Bob that helps articulate the summary and how to launch in March. Send out Doodle poll for dates.

Workgroup to meet November 5-16; send dates to Suzanne by 10/26 and hold dates and times.

EPA Updates and Discussion – OPP & OECA, by Emily Ryan

[Refer to the session slides on the TPPC website for more detail]

C&T Certification Plan for Indian Country

Nina suggested that EPA rotate through the RTOCs to provide the information. Amanda said that the NTTC helps get the work out so if TPPC wants to assist with that then they can consider it. Fred said that's one of the rules of the TPCP Executive Committee – to be getting the word out.

Jasmine and Joe have experienced denied entries and wondered what options they have to gain access (e.g., suspend, revoke, etc.)

Action item: Emily to take back questions posed to EPA regarding C&T.

Questions about fee lands and exterior boundaries.

WPS

EPA published the training materials June 22, 2018 – so after December 22, 2018 you need to use updated training content for WPS.

The WPS inspection manual has been updated to reflect the changes and includes reformatted inspection checklists. Available at: <https://www.epa.gov/compliance/worker-protection-standard-inspection-manual>

Regulator in Residence Program

- Goal is to help the communication between the OPP and pesticide program managers and participating states, tribes and territories. It used to be under RD but now it's in FEAD.
- Co-regulators participate in the management of pesticide topics affecting their tribes.
- It began in 2012 under RD. ND came out 6 different times with various topics he wanted to address. VA, FL and IN came out for a week in 2013-2014.
- 2018-2019 up to 3 (IN, ME, CA). The head scientist at CDPR came out for a week of straight science with EFED.
- Folks can come out in groups if they would like to but no more than 3 so there can be maximized group participation.

NPM

Cindy Wire reported that EPA is working on the next cycle of the NPM guidance, an internal planning document they work on every 2 years. Name will change to NPG (National Program Guidance) and not NPM. Priorities proposed to be the same for the 2020 cycles. But internal measures will need to change which target the regions. It will still go out for public comment.

OECA

Carol Galloway reflected on the current administration's focus on returning violators to compliance. Some of the OECA measures focus on how quickly they are able to determine compliance, take action and improve compliance rates. A new interim policy sets the goal that 60% of inspection reports in pilot programs should be turned around within 60 days after the inspection. The interim policy does not apply to states and tribes and that's expected to be constant even after the pilot period. EPA is reorganizing some of the regions to make Regions more consistent and to consolidate enforcement resources. Some of the regions are already organized that way but others are not. Need to watch this carefully so that the smaller programs like pesticides are not adversely impacted. Regions 7, 10, 4, and 1 will have enforcement resources consolidated. Amanda said that the regions will also be reorganizing so that the tribal program managers will be located in the immediate office of the Regional Administrator which will better support the tribal programs. Oscar Morales retired. Arnold Layne took his spot on an interim basis. Amanda will soon be moving to the Office of Science and Coordination but all of her duties will remain the same. A hoped output is to build synergies and to move things forward.

Jasmine: if someone wants to be cross media trained and credentialed, is that a possibility? Carol will investigate.

There was one question submitted before the meeting about the WPS enforcement response policy. No estimate for its release yet. The core FIFRA Enforcement Response Policy is being revised and the revisions for WPS will occur after the revisions to the core ERP are finalized. Minor technical changes to the current WPS policy were made back in June 2018 (e.g., removal of outdated instructions and references) and those changes have been posted here:

<https://www.epa.gov/sites/production/files/2018-07/documents/fifraworkerprotectionstandard0518.pdf>

SFIREG Update, by Liza Fleeson-Trossbach

[Refer to the session slides on the TPPC website for more detail]

Liza, director for pesticide services with the VA Dept. of Ag and Consumer Services. Provide an update on current activities.

Background on SFIREG and focus areas, ongoing discussion areas

- For primacy to work, there needs to be cooperation between EPA and the states. States are equal partners in the pesticide programs. SFIRGE allows states and tribes to bring issues to the table. If there's an issue to have widespread significance / national issue or many regions with the same issue then SFIREG is able to work with EPA that they need assistance and offer possible remedies for the issue. Some things need to be resolved on EPAs side but sometimes SFIRGE is able to resolve.
- SFIREG is made up of reps from each of the 10 regions; the 10 regional reps for the full SFIREG. The SFIREG rep is responsible for communicating with the states in the region and bringing the regional issues to SFIREG.
- Full SFIREG acts as states and territories decisions making body for issues forwarded to EPA. Provide information to states and territories on EPA activities and programs. Meet chair is appointed by the AAPCO president, meets biannually, meeting co-sponsored by EPA and uses Working Committees.

SFIREG Working Committees

- POM = Pesticide Operations and Management, chaired by Tm Drake at Clemson University
- EQI = Environmental Quality Issues, chaired by Gary Bahr of WSDA
- 10 members each in addition to a chair

- Working Committee members are chosen for technical expertise, problem solving capacity, and specific skill sets.

Participants

- AAPCO
- TPPC
- ASPCRO
- AAPSE
- Lab directors
- EPA regions, OPP and OECA

How is SFIREG funded? STAG funds appropriated for SFIREG. Sole-source so others cannot compete. EPA recognizes that necessity by advocating for funding for SFIREG.

Select Items of Interest

- Dicamba 2018, growing season 2019 registration decision. This has been a huge topic of conversation.
- Amended C&T Rule (implementation dates, revised C&T plans)
- Ingredient transparency
- National assessment of state pollinator protection plans

Three issue papers will be shared at the December meeting

1. Pesticide use on cannabis – state established pesticide residue Action Levels (CO, June 2017); assigned to POM
2. Pesticide impurities in EPA registered pesticides – PRN 96-8 Toxicologically significant Levels of Pesticide Active Ingredients (OR, June 2018)
3. Special Local Need (24c) and Cannabis (NV, December 2018)

Current White Papers

Commodity fumigation

Integrated Collections and Transfer of Information and Evidence Collection

Ongoing Discussions

- Pesticide feed activities
- Devises and structural fumigation
- RIR Program
- OIG reports

Would like to know if there are issues we share and are there opportunities. What's the best way to do that?

Jasmine: when the priorities as Dicamba and GMO soybeans. Do states approve/register GMO seeds as they do pesticide products? The USDA approved the technology and state programs differ. There is some tye of registration process for the technology in each state. The state registers the actual pesticide. Sometimes these are in different units.

Nina – good to see that cannabis has an issue paper. Posted on the AAPCO web or Liza can send to Suzanne to share with TPPC. There are some states which only allow organic products to be used, or 25(b) or others. Nina can go and get a copy.

Jasmine – Mary Rust and Jasmine administer the pollinator protection workgroup. They could easily conduct their own assessment. Liza feels that this national assessment could be used by tribes. It was not sent to tribes directly. It's still in draft to be reviewed by SFIREG inn December. If the national

assessment works for tribes then they can use it. They are willing to add questions if the tribes would like. AAPCO offered to assist EPA in gathering the information and sending out the assessment tool.

Jasmine – we identified another area we would like to explore. Collaborating on getting groundwater testing done and how to partner with states with the same interests or are they already doing projects, or enhance each other's.

Old Business/New Business/Action Items from Day Two

Amanda would like to take the Bed bug information on the road (RTOCs).

Fred would like EPA to consider opening the TLEF meeting to other media so there could be more collaboration.

Action item: Tap into Stop Pests for funding to print outreach materials.

The meeting was adjourned by Fred Corey, TPPC Chairperson, at 5:00 PM.