

Tribal Pesticide Program Council Executive Committee
Monthly Conference Call
02/17/21
Call Notes – Draft

Join by Zoom: <https://nau.zoom.us/j/89303644703>
or phone: 312-626-6799 or 888-788-0099 (toll free)
Meeting ID: 893 0364 4703
Password: 186136

Roll call:

Tribes (19)

- Jasmine Brown, Confederated Salish and Kootenai Tribes
- Les Benedict, St. Regis Mohawk Tribe
- Larry Scrapper, Cherokee Nation
- Ryan Evans, Confederated Salish and Kootenai Tribes
- Nina Hapner, Kashia Band of Pomo Indians
- Eric Gjevre, Coeur d'Alene Indian Tribe
- Jefferson Biakeddy, Navajo Nation
- James Williams, Muscogee Creek Nation
- Tony McCandless, Gila River Indian Community
- Carol Kriebs, Kootenai Tribe of Idaho
- Dana Adkins, Chickahominy Indian Tribe
- Gerald Wagner, Blackfoot Tribe
- Shyla James, Navajo Nation
- Joe Herrera, Yakama Nation
- Ted Puetz, Ak-Chin Indian Community
- Earl Bautista, Tohono O'odham Nation
- David Anderson, Eastern Band of Cherokee Indians
- Notah Silversmith, Navajo Nation
- Suzanne Fluharty, Yurok Tribe

Tribal Organizations (2)

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

EPA (8)

- Rachel Ricciardi, EPA/OCSPP
- Emily Ryan, EPA/OCSPP
- Amanda Hauff, EPA/OCSPP
- Helene Ambrosino, EPA/OECA
- Kaitlin Picone, EPA/OSCPP
- Michael Goodis, EPA/OPP
- Kimberly Nesci, EPA/OPP
- Thuy Nguyen, EPA/OPP

Other (2)

- Mehrdad Khatibi, Institute for Tribal Environmental Professionals
- Mark Daniels, Institute for Tribal Environmental Professionals

1. Welcome/Introductions

Nina Hapner of Kashia Band of Pomo Indians facilitated the roll call.

2. EPA Updates (Rachel, Emily, Amanda, Blake, et al.)

a. PFAS contamination investigation briefing from OPP/BEAD

Mike Goodis described this as an emerging issue concerning Per- and Polyfluoroalkyl Substances (PFAS) contamination found in a mosquito pesticide and brought to EPA's attention by a citizen science group. Testing showed that it wasn't an ingredient in the pesticide product itself, but a by-product of the fluorination process for the plastic containers. They have identified the contamination in one particular product (Anvil 10+10 by the Clark company), but it's very possible it may be found in other products as well. The case brings up lots of questions, and may prove to be the "canary in the coalmine" for a much larger problem if the contamination is widespread.

In response to various questions Kim Nesci gave some more information about the situation. She stated that the amount of contamination they've seen so far is very low, and the mosquito pesticide is already an ultra-low volume product. That said, there is no safe level of PFAS. They don't know for sure yet about whether other products that may be packaged in fluorinated HDPE could also be contaminated, but are testing a wide variety of containers with different solvent/pesticide formulations to see which is more or less likely to result in leaching into the product. In general the fluorinated containers are used for durability and stability with oily types of substances, so not likely to be used for things like water bottles. EPA is also actively speaking with the Food and Drug Administration (FDA), so that FDA can do their own investigations as needed.

Thuy Nguyen described the laboratory testing process EPA is using to figure out how the contamination is occurring. They've been exposing a fluorinated HDPE container to methanol, with a contact time of one minute, then analyzing the rinsate for PFAS, with a detection limit of 4 PPT. They also analyzed actual product shipped to them by Clark using a different method, with a detection limit of 40 PPT. The methods they used for the analysis are liquid chromatograph and mass spectrometry.

Mike said that EPA is expecting to release some of the testing results in the next week or two. They're just starting to get information from the container fluorination company as well, and still trying to understand the extent of the problem. At present it's too early in the process to consider a regulatory response (in terms of discontinuing use of the containers, for example), but per pesticide labels PFAS are not allowed in the product, so some sort of regulatory response is likely in the future. Kim stated that as the agency learns more about the issue they would be happy to meet with the TPPC again.

In response to a question from Jasmine Brown (of Confederated Salish and Kootenai Tribes) about cleaning up PFAS contamination, Amanda said there's a lot of good work being done with regard to how to clean up spills, contaminated soil, etc. **She will speak with folks on her end and get back to the group.**

b. Update from Status Report priorities meeting

Emily described a call from the day before with Jasmine, Nina, Tony, and ITEP to talk about Status Report priorities, what the agency should hone in on where we can do some good. Building on what the Status Report workgroup has been doing over the last few years, it was agreed to focus on Risk

Assessment, Direct Implementation, and guidance for using GAP funds for pesticide-related issues. There will be more discussion on this in the relevant workgroups and at the Spring TPPC meeting.

c. Additional EPA updates

Amanda announced that JoAnn Chase was appointed to be the Director for the American Indian Environmental Office, Office of International and Tribal Affairs, and reminded the group that she had previously worked under the Obama administration. She asked if the TPPC would like to invite her to the Spring virtual meeting to say hello. Jasmine and Nina said they would like to meet with her, but Nina said she's like to know what Ms. Chase's vision is for this position, as there were lots of mixed messages from her last time around. After some discussion it was agreed to give her an hour time slot for the Spring meeting so she can talk about the recent executive order, her vision, how she would manage the challenges that she had the first time around, then talk about TPPC priorities.

Amanda also announced that Michal Freedhoff has been named the Principal Deputy Assistant Administrator for the Office of Chemical Safety and Pollution Prevention (OCSPP), and she's excited to meet the council and chairs. She will have a meet & greet with Jasmine and Nina next Tuesday, and will give a hello at our Spring meeting. She has more than 20 years of government experience, and has worked with congress in various capacities, including doing legislative work on PFAS and TSCA. She's excited to engage with TPPC and listen to the issues, and environmental justice seems to be one of her main priorities.

3. TPPC Administrator Updates (Mark, Mehrdad)

a. Listserv transition

Mark noted that ITEP set up a new listserv so we can manage adding and removing people from the list as needed, and started using it on January 21. He asked people to let him know if they're not receiving messages on the new list (several have gone out recently), or if anyone would like to be added to or removed from the list, and also reminded folks to please not use the old listserv anymore since it will not reach the new people added recently.

b. TPPC newsletter

The first edition of the TPPC newsletter was sent out January 29 to TPPC listserv, and forwarded to other ITEP listservs as well. Thanks to Tony, Jasmine, and Mehrdad for contributing photos & jokes for this issue. Mark also reminded the group that we're always looking for story material, photos, jokes, etc., so feel free to send anything you might find interesting to him.

c. Priorities document for new administration

In response to a request from Gerald Wagner of the Blackfoot Tribe, and chairman of the National Tribal Caucus, ITEP prepared and submitted a two-page summary of TPPC priorities from the Status Report. The document, along with those from the other Tribal Partnership Groups, will be delivered to the new administration to inform them of tribal environmental priorities. Mark asked if the group is OK with **ITEP posting it on the TPPC website**, and was told that this was fine.

Gerald spoke up and said he feels good about JoAnn Chase coming back to the new administration. She has good experience, and her heart's in the right place, but he agrees that transparency and a clearer message about how to move issues and concerns forward is important. He said he'll be able to make the March meeting, and would like to participate on the same day as JoAnn if possible.

d. ITEP quarterly report

ITEP submitted our first quarterly report to EPA on January 29.

e. Region 4 EC representative confirmed

Mark informed the group that David Anderson of the Eastern Band of Cherokee Indians was recently confirmed as the Region 4 representative to the TPPC Executive Committee, and welcomed David to the EC.

f. Agenda for Spring virtual meeting

Mark noted that the agenda for the TPPC Spring meeting is now fleshed out, and that we are just working on identifying & confirming some speakers. We are still looking for someone from TPPC to present in the hot topics/round robin, if anyone is interested.

g. Training needs assessment

ITEP will be sending out a questionnaire in the next few months to determine training needs for next year, after working with the EC to come up with the questions, so stay tuned.

Nina informed Mark that Camilo Perez of the Quechan Tribe let her know he would like to join TPPC, and she asked Mark to send him an invitation packet she thought Suzanne had used previously. Jasmine said she thought previously they just sent a brochure and a letter template for tribal leadership to appoint someone to TPPC membership. **Mark said will look at the files Suzanne provided him and get back to Mr. Perez.**

4. Discussion About TPPC Workgroups

Mark introduced the discussion by pulling up a spreadsheet showing the current membership of the four workgroups: Risk Assessment, Direct Implementation, Pollinator Initiatives, and Website Upgrade. He noted that we'd like to ask if anyone wants to join or be removed from any of the groups, and to establish co-leads for each (one from TPPC, one from EPA). During the course of the discussion several people asked to be added to various workgroups, or to be co-leads.

The question came up from Les Benedict of St. Regis Mohawk Tribe and Tony McCandless of Gila River Indian Community about what the co-leads might be responsible for, and in partial response Mark pulled up a document showing suggested ground rules for workgroups from ITEP (based on previous experience with workgroups in other Tribal Partnership Groups), and the group discussed the document. Nina, Jasmine, and Tony agreed that it's good to have guidelines for the workgroups, even though they might not be followed all the time, and that **it could be good to send the document out to the whole group for feedback.**

Returning specifically to the responsibilities of co-leads, Mark said he thought they should be the "core" of the workgroup, to help set direction of discussions, keep things on task, delegate responsibilities, etc. It wouldn't necessarily require a lot more work than just being a member of the workgroup, but he agreed with Tony that they would basically be the "glue" that held the group together.

Nina suggested that it might be helpful if ITEP could assist with setting up online or phone meetings, and Mark and Mehrdad both said they would be happy to do this and whatever else they could to support the workgroups (as well as participate and learn from them).

Jasmine suggested that we may want to take a day each month to hold concurrent meetings for each workgroup through breakout rooms on Zoom. Several people expressed support for the idea.

Tony said he also likes the idea, but it could be a problem with people who participate in more than one workgroup. Nina suggested we could potentially hold the meetings on the same day but stacked (1 PM, 2 PM, 3 PM, etc.). Perhaps this can be discussed further at the Spring meeting.

5. Other Issues/Concerns/Hot Topics (All)

Nina suggested that **it would be good to have a list of things on the radar (in terms of consultation or comment periods coming up)** so we can start considering them now for comment letters, etc.

Jasmine said that her tribe is working a hemp policy, and that she could use some help understanding what USDA requires for hemp, and how other Tribes are dealing with it. There was some discussion about the issues around hemp vs. marijuana when it comes to pesticides and regulatory enforcement, with Helene Ambrosino from EPA's Office of Enforcement & Compliance (OECA) noting that unfortunately this is a tricky issue from the federal government's perspective given that some aspects of the plant are legal and others are not (at least at the federal level). Because of this they've told their grantees who would be inspecting under federal authority that they can't use grant money to do it, and that they wouldn't send a federal inspector to inspect a facility where illegal plants are growing. Suzanne Fluharty of the Yurok Tribe noted that in her area (northern California) all of the grow operations are illegal, and that this is exactly where they need implementation and enforcement from federal regulators and the pesticide program. Helene said **perhaps we could address this on another call dedicated to the topic, and she could bring in some colleagues to help**. Suzanne suggested that the TPPC might need a workgroup for this, and that EPA needs to have a serious conversation about the illegal use of pesticides because it is in direct violation of FIFRA, regardless of whether the crop is legal or not.

6. Next TPPC Conference Call: Wednesday, March 17, 2021, 2:00-4:00 p.m. EST

The next meeting time is one week before the Spring meeting, but it was decided to hold the EC meeting anyway, even if it's a short meeting, if just to tie up any loose ends before the Spring meeting the following week.