

## Environmental Justice Taskforce DRAFT Meeting Summary

June 9, 2017 – 8:30am to 2:30pm  
Madras City Hall  
125 SW E St, Madras, OR 97741

### EJTF Members:

Ben Duncan, Chair  
Joel Iboa, Co-Chair  
Robin Collin  
Bob Collin  
Jennifer Coleman  
Julie Samples  
Scott Dahlman

### Governor's Office:

Jason Miner  
Emily Coates  
Justin Galle

**Start 8:45** – Introductions/ Meeting Minutes

### **Farm Workers Rule Making Worker Safety:**

- Request that public comment period be at a time that farmworkers can participate
- OSHA clarified the relationship between federal rule-making, the federal rule, and state rule-making.
- Invited testimony and participation from Lisa Arkin, Beyond Toxics.
- Discussion of width of AEZ, Buffer Zone, and sources of information regarding these standards.
- Conversation about the economics of the worker safety rule. JI asked about impact on workers of exposure and potential for information from ODA and/or OSHA of rule-making. The mechanism for doing something like that would be a Health Impact Assessment.
- Julie Samples, under any rule the housing standards need to be improved, whether the EPA or Oregon OSHA rule is adopted.
- Not just housing is affected or insufficient, shower or play facility, or eating areas.
- Discussion of the context of rule-making, addressing growers concerns and worker protections. The law requires Oregon OSHA to assess the economic impacts on the regulated community.

- Discussion of EPA rule and agency decision to consider an Oregon OSHA approach.
- Timing for the federal decision could be July.
- There was a discussion of balance on the work group for Oregon OSHA.
- Robin suggested recognition program for growers or operators that are exemplary. Inquired as to where in the Governor's Office and agencies there is an opportunity to make positive examples of operators.
- Pesticide stewardship program as a success: voluntary program with a regulatory backstop.
- Oregon Law Center
  - When talking about the AEZ, the EPA rule isn't perfect, but the alternative from OR-OSHA isn't perfect either
  - Housing standards need to be improved, staying in or going out, there is exposure either way
  - Housing standards were not designed with exposure in mind
  - Drift happens, especially with wind
  - Farmworkers want housing to be improved, ie 1 shower for 10 people is not a lot, sinks 1 per 6 people, laundry is 1 per 30 people
  - Current training emphasizes take home exposures, showering after work
  - Standards currently in place aren't sufficient

### **Beyond Toxics Presentation:**

#### Application Exclusion Zones Presentation

Provide a visual, conversation started in Sept 2015 with EJTF in Medford, testimonies from farmworkers

#### What's at stake for farmworkers and exposure to pesticides?

- Medical research shows
  - Neurological damage, cancer, respiratory ailments, eye tissue damage
- Vulnerability
  - Farm workers less likely to complain about sickness or injury, file worker's comp complaints, understand the dangers of working with pesticides, language barriers
  - More likely to be let go for complaining about illness injury, experience discrimination on the job

#### Federal requirement for AEZ

- Requires 100 ft no spray area from aerial, air blast, and small droplet size
- Intent: provide a margin of safety for vulnerable and frequently exposed workers
- Exposure over career, with vulnerable population, 100 ft is not an arbitrary number

### Beyond Toxics

- Around 300 registered labor camps, and around 200 illegal unregistered ag labor housing sites
- Limited air flow, cooking implements, poor amenities
- Worker Housing may include families and children

### OR-OSHA Compliance Alternative 2016

- "Shelter in Place"
- No AEZ
- Farmworkers required to stay inside housing during pesticide application, aerial blast
- Burden of ensuring housing safety (from exposure) is on the farm workers

### Hood River County

- Photo shows 15 ft from orchard row to farmworker housing, very close to application area
- Some housing not safe, depending on application area

### Compliance examples

- Photos show adequate buffer zone, 100 ft from application zone
- What is the economic burden of compliance?
  - o Some farmers say they would have to take out trees to be in compliance
  - o Just some trees out of the thousands in the orchard

### California

- Has adopted in whole the AEZ
- Compliant with the current US EPA WPS Standards

### **Beyond Toxics recommendation to EJTF**

- Please recommend to OR-OSHA full compliance with the US EPA farmworker

### Comments:

- Economic impacts
  - Want to see numbers
  - What is the burden to farmers?
  - What is the increase or decrease to property value?
  - How does the timing of the rule affect the seasonal harvest cycle?
  - Would certain crops be changed?
  - Need to know more specifics in order to determine the effect of the rule
  - Might be a small burden to a big farmer but a big burden to a small farmer
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- Columbia Gorge area
    - o They have some numbers

- Windy area changes the timing of the application, farmworkers may or may not be in the housing at the time
- Rule
  - Farmworkers could leave the housing at the time of application and then return afterwards
  - If that is what we support, that's how it looks on the ground, rather than needing a structural change
  - Growers prefer this to a structural change
- How was 100 ft established? What is the science? Is it enough?
  - EPA rule makers claimed the standard provides a margin of safety
  - For example, there's a 60 ft barrier for other groups (schools, rivers)
  - 100 ft is for the vulnerable population
- Science
  - Concern has been focused on growers and their profits
  - Have not heard as much from the workers, their health and economic impacts
  - What is their earning potential after illness and a shortened lifespan
  - The research is there, the life span is shorter
- Health Impact assessment
  - This should be the vehicle
- OSHA focus of the rulemaking
  - Understand the concern that the focus was on the growers
  - But, the intent was to enhance worker protections
  - The law requires us to assess the economic impacts on the regulated community, with achieving the goal of the rule with the least economic impact
  - Fair to say that growers left to their own devices would say let's wait, and the EPA rule may go away
  - But, the regulators want to stay at the table and focus on Oregon workers
  - Tension between what's achievable and what's feasible
- EJTF
  - What is helpful from us for OR-OSHA?
  - Thinking in terms of suggestions, let's provide a better measure of protection that gives options to the employers who have to implement it
  - Economic impact is always there, even if it's just a training requirement
  - Growers applying pesticides do have regulations, and have to deal with 4 different agencies
  - OSHA is required to provide safe and healthy workplaces
- Pesticide manufacturers
  - They are not included, what would they think?
  - Is there something cheaper, do they have a stake?
  - We moved from DDT because we didn't want chemicals to persist
- OSHA

- Context for why we didn't adopt the EPA AEZ
- It didn't provide protections, no requirements for making sure pesticides weren't getting in the home when people were not there (ie closing windows)
- That's how we got down this path to provide more protections
- Federal rule
  - When's it coming? July?
  - Is our next meeting too late to urge OSHA regardless of EPA ruling? It's September
  - OR-OSHA has an intention to continue with the rulemaking process
- Beyond Toxics
  - It's not all black and white, there are farmers out there doing the right thing, the question should be how do we encourage farmers to implement best practices if they are not already yet?
- Robin
  - Question for Jason, is there some portfolio in GNRO or another agency where we can spotlight or raise up these successful leaders (farmers) in their sector?
  - Other farmers may be interested in hearing from their own leaders, other farmers, as opposed to the government or EJTF
  - Jason: many agencies do that well, OSHA and water enhancement board, dept of Agriculture has a recognition program
  - Department of Geology as well, presented at annual convention
  - Jason: so most agencies have a farmer of the year or some kind of annual recognition for best practices, Dept of State Lands had an awards ceremony that the Gov attended
    - Economic Dev and Regional Solutions, Business Oregon, are the entities that do this most historically
  - Is there a way to connect the dots? Getting the successful farmers linked with these agencies? Can we get Ag or OSHA to help get this good news out?
  - These folks are likely already seen as leaders in their community, also we should recognize that some farmers not in compliance would still care about their workers, all farmers take some steps to protect workers
- Concerns
  - We may not have an AEZ or worker protection standard
  - EJTF should have a strong position if EPA no longer has a strong standard, as OSHA will not be bound formally
  - We could have a much larger conversation around farmworker protections, perhaps a more formal body to address these issues, with advocates and growers on an even playing field
  - WPS would not totally go away, right? OSHA would still have the previous EPA rule in place, with a lot of protections, though not with the AEZ

- OSHA would resist rolling housing concerns into the current rule making process – need for timing concerns and the desire to separate issues
- A voluntary model with a regulatory backstop, avoiding a one size fits all approach, may be better – not sure how that would work, but it may be a good framework for moving forward
- Example of the pesticide stewardship model
  - Hood River area found consistent detections of chemicals from cherry orchards
  - Buy in from the local community, non-regulatory, joint process to address the issue, different chemicals that were able to get the same goal
  - Does it work well in other areas? ODA and DEQ are starting to work in other areas, Hood River was also easy because it was one area with one chemical, it can get more complex with multiple land uses
- ODA and DEQ should be invited to the next EJTF meeting
  - Model of practical, on the ground processes may be better than law and regulation, when there are gains to be made with community engagement
  - ODA and DEQ agreed to come and present on Pesticide Stewardship
- EJTF
  - Serious doubts, community engagement not work between employer and employee, may not be a safe or effective place for engagement
- Unregistered camps
  - Beyond Toxics identified that number of unregistered labor camps, where does that number come from? OSHA also does not know of that many
- Timeline
  - Two years since the first meeting with farmworkers testimony and we have sent letters to the Governor's Office, but we have not received reply – can we get more input from the Gov's Office
- Clarification on request for presenters at next meeting
  - WRD place based (?)
  - ODA, WRD, DEQ Pesticide Stewardship

#### **Water Quality Program (DEQ):**

- Stephanie Caldera (citizen advocate) and Karen Williams (water quality)

#### **Plan**

- Feedback from taskforce on additional groups/communities to include in the process?

#### **Presentation**

- DEQ has begun a public input period regarding the water quality standards – Triennial Review
- Comment period opens officially today, through 17<sup>th</sup> of July

- Background
- Water quality standard – 3 components
  - Use of the water body (ie drinking, aquatic protections)
  - Numeric criteria within standard for those uses
  - Water quality can't be degraded
- Review process
  - Precursor to a formal process
  - Clean Water Act
    - States need to periodically review and revise water quality standards, with public comment component
    - We are at the step before that
    - DEQ needs stakeholder feedback for what are the most important updates and revisions needed, before official public engagement
    - June 26<sup>th</sup>, Eugene, Pendleton, Portland Meeting for public feedback
    - Website has a preliminary list of DEQ priorities now
- EJTF
  - DEQ wants them to know of this public input period and gather a broad constituency for the input process
  - Separate webinar for tribal resources managers on Tuesday, June 13<sup>th</sup>
  - DEQ would love outreach suggestions, or to forward the public notice and the factsheet
- Questions
  - What is the scope of the standards, only surface water?
    - Yes only about surface waters, primarily the standards in Division 340-41
    - As priorities are set, what practical effect does a change have in the scope of work in the DEQ? We are not meeting standards that already exist
    - Revisions are not necessarily for not meeting standards
    - Changes that may be made are also related to internal administrative processes, procedural clarifications, for DEQ and permit writers
    - Effect: we are asking for input on how DEQ and the standards program staff should be dedicating resources and time, 3-5 years out. Work will take place amidst the other work that the standards program has to do.
    - We urge you to take use of our EJTF handbook for outreach, DEQ contributed to that as well as other agencies
    - Stephanie will help me find that information, thank you

- It's on the website and you can please reach out to any of us
- Is there a written outreach and communication plan, or scheduled events?
  - By the end of the day, we will have info on the site, list of public notices is there, but other documents that we are asking for review will be up
  - 3 public meetings scheduled, June 26, 27, and 28 are the only ones currently scheduled
  - Factsheet, draft list of priorities, and a longer list of second tier priorities will be up there, that's what we want public comment on
- Integrated Water Resources Study
  - Place studies, for geographic representation on our chosen sites
  - Went over 100 EPA superfund sites, looked at the unintended impacts on people, cumulative impacts and so forth
  - We can send the committee report to you
  - Instead of a case study, we could use a place study, the history, culture, urbanization, community can speak for themselves
  - Oregon has 6 place studies – experimental, contentious, R&D stage
  - We would like it from an EJ perspective, give the community power over land use decisions, with local engagement
  - Water in rural areas, bringing stakeholders together
  - Believe it will eventually be everyone's responsibility to attend place study meetings and examine the unintended impacts of certain community members
- September EJTF meeting
  - Oregon Water Resources Board should be there, at Newport
  - Describe the place study process
- Place study
  - Public comment period coming
  - Input on the guidelines is on the horizon
  - Framework is strong, but inclusive structure is hard to achieve
  - Action steps
    - Invite for the next meeting
    - Comments on the IWR plan to date

**Break for lunch – Guest speaker Denize Piza**

**EJTF Next Steps:**

Invite Harmony Burrett and Melody on WRC. Newport is a place-based planning site.  
 Recommendation that EJTF meet with DOGAMI coastal office.  
 Goal 11 needs to be updated.  
 Share presentation from Beyond Toxics

Invite pesticide stewardship program  
Conversation about the land use goals in Sept.  
Request for response regarding farmworker issues raised

**Public Comment:**

Robert Gray: La Pine, Oregon

- Oregon State Land Use Goals don't take into account EJ goals. Referendum brought by citizen's action group. Groundwater group. Problem with pollution of groundwater in La Pine.
- La Pine infrastructure challenge. Sewer not allowed in rural area. Goal 11 exception was deemed unacceptable at LUBA.