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PESTICIDE PROGRAM DIALOGUE COMMITTEE MEETING

Radisson Hotel Old Town  
901 North Fairfax Street  
Alexandria, Virginia  
The Jefferson Ballroom

October 21-22, 2004

Day 2

For The Record, Inc.  
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1 P R O C E E D I N G S

2 - - - - -

3 MR. JONES: -- has made it here on time  
4 this morning. We take your time and our time  
5 very seriously here in the Pesticides Program.  
6 In the spirit of equal time, I thought I would,  
7 you know, give a big cheer to the St. Louis  
8 Cardinals for their big win last night. Go  
9 Cardinals. That's great.

10 (Laughter.)

11 MR. JONES: This morning we're going to  
12 start with a presentation from one of our  
13 members, Lori McKinnon, who's going to give us a  
14 presentation around tribal programs in just a  
15 minute or so, and then we will move on to a  
16 discussion around endangered species, and we'll  
17 have some time to -- where I'll talk about some  
18 of the follow-up and some of the take-away  
19 messages for EPA, and some of the follow-up is  
20 going to be actually not just for EPA but for  
21 the PPC and some of its work groups as well, and  
22 give some -- give you some sense as to what

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1 topics we think are -- will be ripe for seeking  
2 your advice at our next meeting and get a sense  
3 from you as to any other topics you may think  
4 are ripe for the Agency receiving your advice at  
5 our next meeting.

6 So, with that, I'll turn it over to  
7 Lori for her presentation.

8 MS. MCKINNON: Okay, good morning. I  
9 hope -- hopefully this won't take the full hour  
10 that I'm scheduled for, so --

11 MR. JONES: Take your time.

12 MS. MCKINNON: -- I know we have a lot  
13 to do today and get through, and we all probably  
14 have some flights or other things to catch,  
15 so...

16 I'm Lori McKinnon, and I'm with the  
17 Yerok Tribal Environmental Program, and I'm also  
18 vice-chair of the Tribal Pesticide Program  
19 Council. So, at a PPDC meeting last year, a  
20 member asked that there be a presentation about  
21 tribal issues and kind of what tribal issues  
22 there are or what this is or who we are or, you

1 know, about pesticide issues. So, this  
2 presentation was prepared by Lillian Wilmar from  
3 the Native Ecology Initiative, and she actually  
4 houses the Tribal Pesticide Program Council in  
5 her organization and organizes it, and I've just  
6 adopted some of her presentation for this and  
7 kind of put it into a little bit of different  
8 format. Next.

9 So, this is kind of an overview of what  
10 I'm going to talk about today. We're going to  
11 talk a little bit about the USEPA Indian policy,  
12 different tribes. We're going to talk about  
13 development of tribal pesticide programs, Tribal  
14 Pesticide Program Council and current tribal  
15 pesticide programs. This is kind of a more  
16 general program overview, because I'm not sure  
17 how much in-depth you all wanted, and I figured  
18 this would be a very good introductory thing for  
19 everyone.

20 So, before you can really understand  
21 tribes and tribal environmental issues, you  
22 really need to understand the USEPA federal

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1 Indian policy, and basically there are several  
2 principles of that policy.

3 One of the core principles is a  
4 commitment to working with federally recognized  
5 tribes on a government-to-government basis to  
6 enhance environmental protection.

7 The second principle of the policy is  
8 that the Agency will recognize tribal  
9 governments as a primary parties for setting  
10 standards, making environmental policy decisions  
11 and managing programs for reservations  
12 consistent with agency standards and  
13 regulations.

14 And the third principle of the policies  
15 is that the Agency will take affirmative steps  
16 to encourage and assist tribes in assuming  
17 regulatory and program management  
18 responsibilities for reservation land.

19 So, tribes, like states, are more than  
20 stakeholders in the process of environmental  
21 protection. They are sovereigns in their own  
22 right. They are recognized government entities,

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1 and they are parties and co-regulators with the  
2 USEPA.

3 Additional promises of the policy are  
4 to take appropriate steps to remove existing  
5 legal and procedural impediments, to working  
6 directly and effectively with tribal governments  
7 on reservation programs, and in keeping with the  
8 federal trust responsibility, to ensure that  
9 tribal concerns and interests are considered  
10 whenever EPA's actions and/or decisions may  
11 affect reservation environments.

12 So, I think one of the things that  
13 brought this presentation about is a comment  
14 that I made about the Endangered Species Act,  
15 where I had asked are tribal trust species going  
16 to be considered along with endangered species  
17 in terms of protection against pesticide use,  
18 and a lot of people didn't really understand  
19 what that -- what that was.

20 So, according to federal law, there is  
21 a general trust relationship between the U.S.  
22 and the Indian people. The Federal Government's

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1 obligation to honor this trust relationship and  
2 to fulfill its treaty commitments is known as a  
3 trust responsibility, and that was usually in  
4 place of ceded lands to the U.S. Government.

5 Next slide, please.

6 So, also, the policy was to encourage  
7 coordination among all of the regulators, and  
8 including the states and the local governments,  
9 to resolve problems and mutual concerns, because  
10 tribes and states do have some -- a lot of the  
11 same concerns and are basically out for the same  
12 interests, to protect the health and welfare of  
13 the people and the resources. Next slide,  
14 please.

15 So, when we talk about -- that was just  
16 the Indian policy USEPA had developed, and they  
17 were one of the first agencies to actually  
18 develop that policy, and so since then, other  
19 agencies have since passed similar policies in  
20 dealing with tribes and tribal issues.

21 So, FIFRA and pesticide issues with  
22 tribes -- FIFRA is one of the first

1 environmental statutes, and it specifically  
2 mentions tribes as partners, and that's in  
3 Section 23. The Federal Government must  
4 consider and evaluate the impacts pesticide  
5 regulations have on existing tribal regulatory  
6 programs. Also, before the USEPA Indian policy,  
7 FIFRA was one of the first programs implemented  
8 on reservations in that they provided funding  
9 for tribes to develop the pesticide program.  
10 Next slide.

11 So, obviously before you can develop a  
12 program, you need to understand why you need a  
13 program, and you know, there are over 500  
14 federally recognized tribes in the U.S. That  
15 number is growing. There are tribes that are  
16 applying for registration, for recognition, even  
17 as we speak.

18 U.S. policy for many years -- well,  
19 prior to European contact, Indian farmers were  
20 responsible for all kinds of considerable  
21 accomplishments in terms of agricultural  
22 production, from rotating crops to maintaining

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1 sustainability to developing sophisticated  
2 irrigation systems, and following contact, it  
3 was the U.S. policy to promote agricultural  
4 initiatives, and this is more seen as an  
5 assimilationist tactic for tribes, and it aimed  
6 as tribes that weren't necessarily agricultural  
7 tribes traditionally.

8           Even today, agricultural remains a  
9 significant part of the economy for over 90  
10 tribes in the lower 48 states, so the need for  
11 pesticides and for agricultural is a big part of  
12 tribes even today.

13           So, the use of pesticides on Indian  
14 country is by tribes, it's by others who either  
15 lease land from tribes or who own fee lands  
16 within reservations, or pesticides are used near  
17 reservations that may impact tribes or ancestral  
18 territories where tribes may gather and still  
19 hunt. So, tribes are concerned with pesticide  
20 issues and pesticides in general because the  
21 health and welfare of their people, culture,  
22 religion and resources depends on certain

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1 things. Tribes use resources in different ways.  
2 They're in the environment different from other  
3 people, and so there has to be some level of  
4 protection.

5 Right now, there are 36 federally  
6 recognized tribes who have continuing  
7 cooperative agreements for management of  
8 pesticides. That number seems a little low  
9 considering the previous number was a little  
10 over 500 tribes in the nation, and in some form,  
11 a lot of them do have issues with pesticides,  
12 and they may either fund their programs  
13 themselves or they may leverage funds with  
14 states or extension services or another program  
15 through EPA may be -- if they want to test water  
16 quality for pesticides or something like that.  
17 So, tribes do find other ways other than OPP to  
18 fund their program. And then also, another 60  
19 tribes have expressed interest in and/or  
20 concerns about pesticides and how to develop  
21 their own programs. Next slide.

22 So, to meet the increasing demand for

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1 pesticide info and create dialogue concerning  
2 federal pesticide rules and regulations, I think  
3 it was decided between OPP and tribes that we  
4 really needed to have a forum to be able to to  
5 just discuss issues and to bring up concerns and  
6 to get information and also to talk about  
7 funding issues. So, in September of 1999, OPP  
8 funded the Tribal Pesticide Program Council, and  
9 basically the Council is a counterpart to what  
10 states already had as SFIREG.

11 It includes -- well, it started out  
12 from a small number. Our first full TPPC  
13 meeting was in -- I think it was March of 2000  
14 was the first official meeting of the full  
15 council. We have a council of about 44 members  
16 now, and there's also about 11 executive  
17 committee members from each region.

18 So, some of the issues that we talk  
19 about on the Pesticide Program Council are not  
20 unfamiliar to you or to the groups that you  
21 represent or to even states. We talk about the  
22 need for more resources. Obviously we have very

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1 little resources. A lot of people who work in  
2 tribal environmental programs have many other  
3 hats that they wear. So, they might not only do  
4 pesticides, but they might work in air quality,  
5 they might work in water quality, they might do  
6 a whole host -- they might be the only person in  
7 their environmental program for that entire  
8 reservation. So, there's definitely a need for  
9 more resources.

10 Training also and being able to conduct  
11 inspections or understand pesticide applications  
12 or worker protection standards or anything, you  
13 know, you have to have the right kind of  
14 training. So, tribes are always seeking  
15 training.

16 We talk about invasive species, because  
17 that's becoming even more of a concern,  
18 especially as more pesticides are used to deal  
19 with invasive species. We talk about the  
20 protection of tribal traditional life ways. A  
21 lot of pesticide use may target species, plants  
22 that -- or other species that are traditional

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1 for the tribes, so they want to be able to  
2 protect that. They also might be impacted by  
3 pesticides because maybe there's not as much  
4 diversity among the species where they are from  
5 now.

6 We talk about NAGPRA, and I don't know  
7 if anybody knows what NAGPRA is. It's the  
8 Native American Graves Protection Repatriation  
9 Act, which basically started in 1996 to help  
10 tribes get back artifacts that were taken from  
11 them, that might be -- hold some really  
12 significant religious or ceremonial purpose for  
13 them. So, these objects are returned to the  
14 tribes, and the tribes would like to use them;  
15 however, museums use a lot of pesticides and  
16 other chemicals to preserve the objects, because  
17 typically they're made of organic materials.  
18 So, there's a concern over health issues if you  
19 get them back to your tribe and you're actually  
20 using them in a ceremony, you can have somebody  
21 get exposed and sick, and that's exactly what  
22 happened on the Hopi Reservation, is some people

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1 did get sick from wearing masks that were  
2 contaminated.

3 We also talk a lot about West Nile  
4 Virus. This is something that's really coming  
5 up, especially for the Sioux tribes and a lot of  
6 the eastern tribes and the Arizona tribes. I'm  
7 in California, so we're just now starting to see  
8 the signs of West Nile Virus. I think it just  
9 hit our county maybe this summer, they had a  
10 couple of cases of birds, but West Nile Virus is  
11 very important to a lot of the tribes,  
12 especially in the Central U.S. and Eastern U.S.

13 Again, one of the things that we talk  
14 about is that when the CDC came in to talk with  
15 us and they promulgated funding to deal with  
16 West Nile, they completely left tribes out of  
17 the picture. So, tribes are not able to access  
18 that funding to be able to deal with West Nile  
19 on their reservation. So, again, that's why,  
20 you know, we need to be at the table and we need  
21 to be at -- participating and raising awareness  
22 so that everyone will remember to include us.

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1           We also talk a lot about integrated  
2   pest management, and I think that tribes are one  
3   of the first, you know, groups to really get on  
4   board with IPM, and there has been a lot of  
5   projects on tribal lands with IPM. Tribes are  
6   really interested in that.

7           Community education, worker protection,  
8   and another thing is that not only U.S. issues  
9   but the recognition that other areas affect  
10  resources here in the U.S. So, persistent  
11  organic pollutants is something that we hear a  
12  lot about, especially from the tribes in Alaska,  
13  because on the coasts, they get a lot of the  
14  lindane and other things that travel over and  
15  have affected a lot of their resources. So,  
16  they're really concerned with pops, and they  
17  would like to see the U.S. doing I think a  
18  little bit more on that, but I think they're  
19  working together on it quite well. Next slide.

20           So, current Tribal Pesticide Program  
21  activities, just as diverse as the issues are  
22  the consistency of tribal pesticide programs.

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1 Some are in the developmental phase, they're  
2 just starting out, they're just trying to get  
3 their feet wet of what FIFRA is and what a  
4 pesticide program needs to be or what they need  
5 a pesticide program to be. They may be just  
6 developing their code and regulation. Others  
7 may be engaging in research and monitoring. And  
8 some tribes hold federal inspector credentials  
9 and conduct FIFRA inspections and worker  
10 protection inspections and report those  
11 inspections to EPA.

12 There -- all tribes are fairly  
13 different. There's some things regionally  
14 amongst tribes that might be similar, but in  
15 terms of use, it could be agricultural, it could  
16 be institutional, it could be, you know,  
17 residential use, it could be, you know, any type  
18 of use that might be affecting them or they  
19 might think is affecting them, where they might  
20 decide that they would need some kind of a  
21 program to help deal with that. Next slide.  
22 Next.

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1           So, that's basically an overview of  
2 tribes and some of the issues that we face. I  
3 don't know if -- oh, should we go to challenges?  
4 I'm sorry, did we skip a slide? Did we do this  
5 one already?

6           UNIDENTIFIED MALE: No.

7           MS. MCKINNON: Oh, okay.

8           So, also on the Tribal Pesticide  
9 Program Council, we talk about challenges for  
10 the next five years and kind of where tribes  
11 want to go. Obviously we want to add more  
12 pesticide programs. There are more tribes that  
13 want pesticide programs that are in the phase  
14 where they can actually conduct inspections or  
15 go forward with a full-blown program.

16           There are some tribes that want to  
17 start a certification and training program, who  
18 want to have a pesticide registration program,  
19 where they are registering pesticides for use on  
20 their reservations.

21           There are -- you know, they just --  
22 they want to be able to do all the things that

1 states can. Right now, there are some issues  
2 with FIFRA in that tribes haven't been able to  
3 access 24-Cs and 18 exemptions because tribes  
4 weren't explicitly written into those provisions  
5 of FIFRA. So, in working -- I know the Navajo  
6 Nation, in working with OPP, has begun a process  
7 to have a memorandum of agreement or  
8 understanding to where they can actually get a  
9 Section 18, the same as a state would. It's a  
10 little bit more of a process, and we're trying  
11 to get it refined, but it's actually -- they  
12 will have that tool when they need it, because  
13 tribes do need those tools as well.

14 We talk about, again, endangered  
15 species protection, because this is something  
16 coming up. Also, because we have a lot of our  
17 funding coming from EPA and from the Federal  
18 Government, we need to develop meaningful  
19 performance measures as well, and in talking  
20 with the Government, you know, we're all along  
21 the same line of, well, how are we going to do  
22 that?

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1           We also want to increase enforcement  
2           capacity and decrease pesticide impacts on  
3           traditional life ways. Some of the things --  
4           one of the projects that has been going on, I  
5           think we're in the second phase of it, is  
6           working with the Lifeline Group and  
7           Dr. Christine Chasen in developing a risk  
8           assessment tool for a tribal scenario where he  
9           might have consumptive rates of fish or plants  
10          or animals that is significantly higher than the  
11          traditional public, and that might be very  
12          important, especially if you're looking at  
13          certain pesticides and if they bioaccumulate or  
14          whatever. So, we're trying to develop the tools  
15          so that we can look at our scenarios and be able  
16          to say with certainty that, yes, you know, we  
17          can eat these foods or we can use these  
18          pesticides and we don't think they're going to  
19          impact our traditional or cultural or religious  
20          practices as much as we might think that they  
21          are. So, it just gives us a better way to  
22          explain to our people and our children what's

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1       happening out there in the environment.

2                   And then, of course, the funding, as  
3       with everybody, and we have heard throughout  
4       this whole meeting, for a long time, because  
5       we're in the field an external affairs budget,  
6       it's kind of been flat-lined for a very long  
7       time, and I do want to recognize the effort that  
8       the extension services have provided to tribes.  
9       We get a lot of training from extension  
10      services, and tribes don't get PSP funding,  
11      because they weren't written into that  
12      provision, and so -- but it has not limited  
13      extension services from providing those services  
14      to tribes and for states working with us to say,  
15      yeah, we understand, we want you guys to, you  
16      know, be able to have those tools also. So,  
17      they've really been forthcoming in providing  
18      that kind of assistance and training for us, and  
19      we really appreciate that.

20                   So, all right, now we're done. But --  
21      so, this is a picture of the Klamath River, and  
22      this is where I'm from up in Northern

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1 California, and if you ever come up that way,  
2 please give me a call or email me, and I'd be  
3 happy to show you around. It's a beautiful  
4 area.

5 So, if there are any questions?

6 UNIDENTIFIED MALE: A curiosity  
7 question. Where there is not a reservation but  
8 there's a recognized tribe, is that handled  
9 differently relative to the Federal Government  
10 and these programs than tribal lands?

11 In other words, does a community  
12 have -- of a group of a tribe have any  
13 privileges or rights other than other citizens  
14 living in that area, unlike what would be on a  
15 tribal ground -- land?

16 MS. MCKINNON: Ah, I guess that just  
17 depends. Usually in the Federal Government, if  
18 there's maybe a Forest Service around or a BLM  
19 land or something like that, tribes that are  
20 recognized have -- and who don't have that land  
21 but maybe once inhabited that land traditionally  
22 do have rights to go access it and gather and

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1 hunt and, you know, whatever those provisions  
2 are. There are a lot of tribes that don't have  
3 a land base, especially in California, where  
4 they created rancherias, which are basically a  
5 home for landless Indians, but usually on the  
6 rancherias, you don't have -- because it's such  
7 a small land base, there is no hunting rights,  
8 there's no fishing rights, there's, you know,  
9 not really any of that. So, the tribes look to  
10 the Forest Service and the Bureau of Land  
11 Management and work with them to be able to  
12 access those resources that were a part of their  
13 tradition.

14 Did that answer your question?

15 UNIDENTIFIED MALE: Yes.

16 MS. MCKINNON: Okay.

17 MR. JONES: Dennis?

18 DENNIS: I am just curious about  
19 endangered species on tribal lands. Do the  
20 tribes have any special dispensation with regard  
21 to endangered species? Does protection apply  
22 there as well as on non-tribal lands?

1 MS. MCKINNON: You know, I can't --  
2 well, obviously if it's a federal regulation,  
3 then tribes also have to abide by it. So, any  
4 time there's a federal regulation or law, it  
5 applies on tribal land. So, we do have to  
6 comply with that.

7 However, if there is a endangered  
8 species that also a tribal trust species, then  
9 it still gives the tribe a right to be able to  
10 access that resource and use it in a traditional  
11 way and traditional manner. Tribes usually take  
12 it upon themselves to regulate that use so that  
13 you're not depleting the resource, but it's very  
14 important for tribes to maintain using that  
15 resource.

16 For instance, we have Kojo salmon that  
17 we catch and eat, and some people have said --  
18 some of the environmental groups have asked us,  
19 well, you shouldn't be doing that, or the people  
20 that are doing the whaling, well, you shouldn't  
21 be doing that because, you know, there's so few  
22 of them, but to us, that's a part of our

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1 culture. So, if we lose that, we lose not only  
2 our culture, we lose our language that goes  
3 along with it. You know, there are many ways to  
4 say Kojo, depending on if you're talking about  
5 it, if you smoked it, if you are eating it raw,  
6 if it's fresh in the water, you know, there's a  
7 whole lot of language that goes along with that.  
8 So, for a tribe to lose a resource like that, it  
9 really takes away a lot of who they are as a  
10 people. But yeah, definitely I think tribes  
11 want to preserve as much of their resources as  
12 possible so that they can have it for future  
13 generations.

14 JOSE: You said you had received help  
15 from the extension service for some of the  
16 training on how to use pesticides. Is there any  
17 way that you can assess how good that was or I  
18 mean how good did it do to the people that  
19 received the training?

20 One of the things that we sometimes  
21 realize it's hard to measure what effect, you  
22 know, the training has on the people. I mean,

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1 what can you show as a result of it?

2 MS. MCKINNON: Um-hum.

3 JOSE: And the second part of that  
4 question is, would there be some people with the  
5 tribe that could take over that responsibility?

6 MS. MCKINNON: There -- there are  
7 actually -- and I'm actually from Region 9,  
8 which you know, we have UC Davis, which is a  
9 really great extension, and then also in  
10 Arizona, the extension services in Arizona, and  
11 there's the Intertribal Council of Arizona,  
12 ITCA, who has taken over some of that  
13 responsibility and is conducting worker  
14 protection training and health and safety  
15 training and, you know, all kinds of trainings  
16 for tribes and others who want to go ahead and  
17 join. So, I don't know that tribes will be able  
18 to replace that. I guess I'm not clear what  
19 your -- did that answer your question?

20 JOSE: Not really. The first part was,  
21 is there any way to measure how good the  
22 training did to the people? I mean, is there

1 any way that you can substantiate --

2 MS. McKINNON: Well --

3 JOSE: -- that the training was  
4 effective? I mean, how can we evaluate that?

5 MS. McKINNON: In terms of the -- if  
6 you have a tribe that's also doing inspections,  
7 if you're seeing less worker protection  
8 violations, if you're -- if they're going out  
9 and doing inspections on the same grower, you  
10 know, the grower is getting a little bit better  
11 with their -- whoever is doing the application  
12 of making sure that they're wearing the right  
13 personal protective equipment or they're  
14 handling the pesticides in the right manner,  
15 they are using the right methods or whatever.

16 So, I mean, I guess it would be the  
17 same with states, of how do you, you know,  
18 identify if training is actually helping? And  
19 I've heard from a lot of tribes, especially the  
20 Pima Maricopa, that they are going back to the  
21 growers, you know, year after year, time and  
22 time again, and they're following the

1 regulations and they're doing everything that  
2 they can, you know, to help make sure that  
3 they're workers are safe. So, I think that what  
4 the extension services are doing in training has  
5 definitely helped and is protecting the health  
6 and safety of people and the environment also.

7 I don't know how I can actually  
8 quantify that for you, but --

9 JOSE: I don't either -- I don't know  
10 either.

11 MS. MCKINNON: But it's something we  
12 can work together on, because it's equally  
13 important to both of us, to everyone.

14 UNIDENTIFIED MALE: Well, is there any  
15 type of regulation that guides the amount of  
16 residue or that even looks at residues on  
17 traditional food sources that might be gathered?  
18 Does that fall under FQPA or how does that work?

19 MS. MCKINNON: You know, I'm not sure.  
20 I'm not that familiar with FQPA myself. So, I  
21 don't know if traditional foods are considered  
22 under FQPA. Our market is only for commodities

1 that are grown and sold. You know, tribes  
2 definitely set standards, we're setting water  
3 quality standards, we're setting air quality  
4 standards.

5 I know at least my tribe, we have a  
6 zero tolerance standard for pesticide residues.  
7 We've worked with the California Department of  
8 Pesticide Regulation. We've done a plant  
9 dissipation study, we've done a fish tissue  
10 study, and we've done a water quality study with  
11 them. So, you know, it's definitely an issue.

12 In our plant dissipation study, we  
13 found herbicides that were used in a forest  
14 setting on plants of interest to our basket  
15 weavers. These were nontargeted species, and  
16 some were off-site, but of the application area,  
17 some of them were on-site, but the residues were  
18 still persistent over 156 days. So, for a  
19 gatherer, that might look like a good place to  
20 go gathering, and they might gather that plant  
21 but not know that it has any kind of residues on  
22 it or in it.

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1           MR. JONES: Eric, we did -- we funded a  
2 project in cooperation with the Tribal Pesticide  
3 Council that -- where we're using Lifeline,  
4 which is a tool that we use to aggregate risks  
5 from pesticides, to try to apply that in a  
6 tribal context, and one of the information  
7 sources coming back is around the diet and how  
8 the diet may be very different from the diet  
9 that we rely on for the general population at  
10 large, and so I -- we have definitely gotten  
11 information that leads you to have different  
12 dietary.

13           I'm not certain -- I don't know if you  
14 know, Ann -- whether or not we also have been  
15 able to ascertain whether the residue profile is  
16 different as well as the diet being different.

17           ANN: I think what Lifeline has done is  
18 to give us a tool, and we have piloted it with  
19 two -- two specific tribes, the -- help me,  
20 Lori, I think it's the Blackfeet --

21           MS. MCKINNON: The Blackfeet and --

22           ANN: -- and the Alaska -- one of the

1 Alaskan native villages, as I recollect.

2 MS. MCKINNON: Yes, yes.

3 ANN: You can see from Lori's  
4 presentations that one of the issues is the  
5 incredible diversity. If you're talking about  
6 over 500 federally recognized tribes, you're  
7 looking at very diverse opportunities, diverse  
8 life ways. So, we've got these two pilots.

9 It has actually shown us that there are  
10 very different exposure scenarios. What you --  
11 but it's built a tool for actually examining  
12 those alternative exposure scenarios. You still  
13 need data to put into the system, and I think in  
14 some cases, there is a fair amount of data, and  
15 in other cases, I suspect that there is  
16 relatively little to none.

17 Sometimes there are just issues about  
18 willingness to identify traditional foods, for  
19 example, and there may be a reluctance often I  
20 think founded on some very real concerns of an  
21 individual tribe to provide that information,  
22 and they know that we operate in pretty much of

1 a fish bowl. So, once you've told us, you've  
2 probably told the world, so there are  
3 complications working that through.

4 One of the other activities that we  
5 provided grants for through the tribal program  
6 budget that you saw yesterday was to try to  
7 provide some expertise to tribes -- and this was  
8 actually in Region 9, as I recollect, in  
9 Arizona -- about how to go about monitoring.  
10 So, rather than us doing the monitoring, it was  
11 trying to teach local experts effective ways of  
12 actually monitoring traditional subsistence  
13 foods. So, it's probably a drop in the bucket,  
14 but it's definitely one of the things that we  
15 know is a priority for the tribes.

16 MS. MCKINNON: Yeah, it definitely  
17 takes a lot of data and a lot of, you know,  
18 testing and monitoring of even -- to -- I mean,  
19 some tribes don't even know what pesticides are  
20 being used on their reservations. Others know  
21 extremely well what's being used on their  
22 reservations. And if you don't know what's

1 being used, then it's really hard to monitor for  
2 it. So...

3 MR. JONES: Melody?

4 MELODY: Thanks for the really  
5 interesting presentation.

6 I was wondering whether or how the  
7 tribes have been working with the Forest Service  
8 and Bureau of Land Management to make sure  
9 that --

10 ^ (end tape 1A.)

11 MELODY: -- the foods that they collect,  
12 you know, would be safe to eat or consume or use  
13 in any other way, because it's not necessarily  
14 just food but other things.

15 MS. McKINNON: Right, and are you  
16 talking in terms of pesticide use that might be  
17 used on those lands?

18 MELODY: Right.

19 MS. McKINNON: Well, I think that goes  
20 back to every Forest Service branch is different  
21 from the next, and so the tribes who work with  
22 their Forest Service branches, at least in may

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1 area, a lot of the Forest Service and BLMs have  
2 just stopped using herbicides, and tribes are  
3 working together with other environmental  
4 organizations, especially where invasive species  
5 are a concern, and they're doing a lot of manual  
6 invasive species removal or, you know, working  
7 together on -- the ^ Seine River Restoration  
8 Council is one of them that's been very active,  
9 at least in the Six Rivers National Forest, to  
10 remove ^ napweed manually and by hand and  
11 working with the tribes and tribal people, and  
12 the gatherers actually come out and do the work  
13 and, you know, donate their time and labor and  
14 stuff for that.

15 So, I guess it would just depend on  
16 what the tribe's relationship is with that  
17 service and with that branch of that service and  
18 whether or not they have agreements that they're  
19 going to try alternatives before they use  
20 pesticides or that they're going to get maps of  
21 where pesticides are used, if they're going to  
22 be gathering in those areas, but usually the

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1 agencies are pretty agreeable and like to work  
2 with the tribes.

3 MELODY: And do the tribes get  
4 compensated for, say, some of the labor that  
5 goes into the manual removal?

6 MS. MCKINNON: Ah, I haven't really  
7 seen that yet, because they're -- you know, they  
8 want to prevent the use of pesticides, just so  
9 that they can go and use those areas to gather.  
10 So, it's kind of like they're helping tend the  
11 garden by doing that, and they're okay with  
12 doing that. So --

13 MELODY: Well, actually, that kind of  
14 brings me to my second question, which is you  
15 said that the tribes don't get funding for  
16 extension services and for West Nile Virus  
17 control. I was wondering how, then, do you fund  
18 those things or do you have to pay for extension  
19 services or is it just given to you through the  
20 states?

21 MS. MCKINNON: Well, a lot of time --  
22 and then again, it depends on the state and the,

1 you know, relationship with the particular tribe  
2 of how well they work together. So, some states  
3 might provide those services to the tribes. I'm  
4 not sure how tribes are really funding West Nile  
5 at this point or research for it or doing  
6 anything with it. You know, we haven't been  
7 getting any funding from CDC for it.

8 You know, it really -- the extension  
9 services have offered, you know, their services  
10 or when they hold trainings for states, they  
11 also invite tribes that they know have similar  
12 issues and want similar training. So, they're  
13 kind of going above and beyond their call of  
14 duty in offering it to tribes.

15 MELODY: Okay, thank you.

16 MR. JONES: Jerry?

17 JERRY: This is more of a comment than  
18 a question, but I see an opportunity with some  
19 of the foods that you're having some issues  
20 about the risk, is to integrate those into a  
21 large-scale project that IR4 and EPA is working  
22 on right now for crop groupings and integrate

1 some of these crops into the expansion of these  
2 crop groupings, which then will allow for  
3 tolerance levels to be established on some of  
4 these very unique crops and then would fit right  
5 into the risk assessments.

6 MR. JONES: Thanks. Eric?

7 ERIC: You said, Lori, that there  
8 was -- lindane was an issue in Alaska. I'm  
9 wondering, is it bioaccumulating in some of the  
10 marine mammals, is that what the issue is, and  
11 are there other organochlorine pesticides that  
12 you're finding are an issue for some of the  
13 tribes?

14 MS. MCKINNON: Well, they found lindane  
15 in not only animals but also in, like, the  
16 breast milk of mothers. They found -- in  
17 Alaska, the lindane studies that they've done, a  
18 lot of the -- I think the antelope that they  
19 eat, they found the lindane in.

20 Another issue that came up at the  
21 Tribal Pesticide Program Council where lindane  
22 is an issue is actually in EIA tribally run

1 schools where they're still using lindane to  
2 fight lice on children, and that's kind of been  
3 an issue of how do we get, you know, that use  
4 kind of stopped or providing those -- that  
5 agency with information about why they shouldn't  
6 be doing that or what the concerns are or  
7 helping them with alternatives for that use.  
8 So, some of the tribes are very upset and  
9 worried about that because of the lindane issue  
10 as a health risk.

11 ERIC: I'll ask EPA, has the Agency  
12 looked at whether to establish tribal  
13 communities as special protected groups that are  
14 highly exposed because of their consumption of  
15 marine mammals and other organisms that are very  
16 high in lindane and other organochlorines?

17 MR. JONES: I don't think, Eric, we've  
18 explicitly asked and answered that question. I  
19 think that we have, however, implicitly opened  
20 the door to it by the very nature of the work  
21 we've been doing with them, where -- when  
22 talking to our colleagues in USDA who collect

1 the food consumption data in the United States,  
2 we would collectively recognize that that data  
3 is not fully capturing the dietary patterns of  
4 some Native Americans, and so we have been  
5 working with tribes to attempt to gather that  
6 information.

7 So, again, I don't think we've  
8 explicitly asked it the way you just did, but I  
9 think that we certainly implicitly opened the  
10 door to exploring that, and that's what the --  
11 this Lifeline project has been about.

12 ERIC: But if you had a significant  
13 number of folks in a tribal community that were  
14 over your reference dose for lindane because of  
15 their consumption of marine mammals, for  
16 example, or antelope, how would you handle that?

17 MR. JONES: That's a good question.  
18 Again, I don't think we've explicitly asked that  
19 question.

20 ERIC: I would suggest that you have a  
21 problem if that's the case, that you know, if  
22 you've got an identified population that's over

1 a reference dose, which is my understanding,  
2 there may be some people that are, that it's  
3 pretty hard to justify continued use of the  
4 chemical under FQPA because of aggregate risk.

5 MR. JONES: Steve?

6 STEVE: I just have a question. With  
7 respect to tribal registration programs, are we  
8 talking about delegation but from the states to  
9 the tribes, or are we talking about a whole  
10 separate program?

11 MS. MCKINNON: We're talking about a  
12 whole separate program.

13 STEVE: Okay. And would that include  
14 fees, also?

15 MS. MCKINNON: Depending on how they --  
16 I think that that's what they would like to do,  
17 is part of the reason they're doing the  
18 registration process, is to kind of leverage  
19 resources on providing a pesticide program, and  
20 that would be one of it, would be assessing  
21 fees.

22 ANN: If I could just elaborate a

1 little bit, one of Lori's early slides made the  
2 point, federally recognized tribes are sovereign  
3 entities. So, we would never delegate anything  
4 through the state to a federally recognized  
5 tribe. It's between the U.S. Government and in  
6 our case USEPA to the tribe as a sovereign  
7 nation.

8 We do a lot to encourage states and  
9 tribes to work together, and in fact, on the  
10 Tribal Pesticide Program Council, whenever they  
11 meet, usually the chair of SFIREG attends those  
12 sessions, so the last session, the current chair  
13 of SFIREG was in attendance and then vice versa,  
14 the Tribal Pesticide Program Council will  
15 usually send someone to key SFIREG meetings.  
16 So, there's been a lot of good interaction on  
17 that front.

18 For the tribes that have pesticide  
19 programs now, I think a lot of the focus is on  
20 what -- some of the things that Lori mentioned,  
21 which is knowing what pesticides are actually  
22 used on tribal lands, making sure that they're

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1 being used correctly, that, for instance,  
2 unregistered pesticides aren't being sold and  
3 distributed. I don't know whether there is a  
4 tribe with a program that actually runs a  
5 registration program.

6 MS. MCKINNON: There isn't yet, and  
7 that's something that I know some of the tribes  
8 have talked about, that they would like to go  
9 with their program. So, it's not currently  
10 happening, but it may in the foreseeable future.

11 ANN: So, they -- I think that the  
12 tribes with programs have taken a very practical  
13 approach of first trying to establish what's  
14 being used there and having a good handle on  
15 that, and it's a -- you know, kind of a  
16 developing activity.

17 MS. MCKINNON: Right. There is also  
18 other issues with tribes in terms of there are a  
19 lot of border tribes, which means that they have  
20 lands both in the U.S. and in Mexico or Canada.  
21 So, obviously differing pesticide use  
22 regulations and laws, especially with Mexico,

1 where they might use chemicals that have been  
2 banned in the U.S. or whatever, it might impact  
3 the tribes or something like that. So...

4 MR. JONES: Rich?

5 RICH: This comment will kind of second  
6 Eric's -- Eric Olsen's observation about  
7 measuring what's happening to Native Americans,  
8 First Nations. It's my impression that there's  
9 a tremendous opportunity to learn what  
10 pesticides or other toxic chemicals are doing in  
11 the environment and to human populations by  
12 really looking hard at Native Americans and  
13 First Nations in Canada.

14 At World Wildlife Fund, we have a  
15 National Science Foundation project working with  
16 native Alaskans along the Bering Sea, and you  
17 know, what we're doing is trying to combine  
18 traditional knowledge about species diversity,  
19 what's happened over time in fishing camps,  
20 other traditional hunting areas, and we're  
21 trying to trace the impacts of chemicals over  
22 time.

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1           One sees in the newspaper reports from  
2 Walpole Island in the Great Lakes, the Okosokee  
3 Nation around New York, the impacts of toxic  
4 chemicals, and I think there's not an  
5 opportunity that probably is largely missed for  
6 lack of funding to mobilize native knowledge --  
7 native traditions, biomonitoring in native  
8 communities, to get a fuller appreciation of  
9 what pesticides and other toxic chemicals are  
10 doing both to the ecosystem -- I shouldn't say  
11 both to the eco -- to the ecosystem and to the  
12 human beings living within it.

13           MR. JONES: Thanks.

14           Dennis, did you put your card back up?

15           DENNIS: Yes, I did.

16           MR. JONES: Okay, go ahead.

17           DENNIS: Yeah, I had a question on  
18 Section 18s, understanding that the tribes are  
19 not able to obtain Section 18s right now. Is  
20 there any reason why a state could not obtain a  
21 Section 18 and have the use of the chemical on  
22 tribal lands? There is?

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1           ANN: It, again, has to do with the  
2 fact that tribes are sovereign nations, and they  
3 have jurisdiction over their lands, though they  
4 may be within the bounds of a state. But we had  
5 developed an initial pilot with USDA's help in  
6 the Navajo Nation where we signed a three-way  
7 memorandum of understanding so that the Navajo  
8 would actually be able to apply for a Section 18  
9 through AFIS.

10           Since then, we have been doing some  
11 exploration of some other approaches that would  
12 I think probably be less cumbersome, frankly,  
13 for tribes and definitely for USDA to give them  
14 legitimate access to Section 18s and 24-Cs, and  
15 we're actually in the process of exploring that  
16 new approach with Washington State and the  
17 Yakima Nation, and at least as of this moment,  
18 both the Yakima and Washington State have  
19 indicated an interest in going forward with the  
20 pilot, and I'm hoping in the very near future to  
21 sort of have some on-the-ground discussion with  
22 all the parties as well as the growers involved

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1 to see if we can move forward with the pilot.

2 If it works in that case, then I think  
3 it will become a mechanism that can be applied  
4 wherever states and tribes are actually able to  
5 work together in a cooperative fashion.

6 MR. JONES: All right, well, thank you,  
7 Lori. I think that was a very enlightening  
8 introductory presentation for probably most of  
9 the people around the table here today. So,  
10 thank you very much.

11 We have a few minutes before our next  
12 topic, so I wanted to go back to one of  
13 yesterday's topics to close that loop and make  
14 sure that I have an understanding of where --  
15 what the sense of the PPAC is as it relates to  
16 PSEP funding.

17 What I'm hearing from this committee  
18 largely, I think this represents a consensus or  
19 near so, is that there's an interest in there  
20 being more funding for that program in  
21 particular, possibly even more funding for field  
22 programs in general, but let's just -- focusing

1 on PSEP. What I have not heard is any  
2 consensus, nor would I expect that there would  
3 be one, around from what part of our existing  
4 resource base such an increase should come from.

5 So, I just want to make sure that I'm  
6 understanding where the consensus is on this and  
7 where it stops, and I understand it to be at the  
8 point which there's an increase for the Agency  
9 to have more funding for PSEP, but that I am not  
10 hearing a consensus about -- from this committee  
11 to recommend how we should do that, which is  
12 fine, you know, I don't need to be told exactly  
13 how to do everything that I do in my job, but I  
14 just want to make sure I'm understanding where  
15 the consensus is and where it ends. So, if you  
16 guys thing I've captured it, that's fine, and  
17 this can be the end of this discussion. If not,  
18 I certainly would like to hear that I don't  
19 quite understand it.

20 John?

21 JOHN: Well, perhaps you can help us by  
22 telling us what the range of possibilities are

1 in your mind.

2 MR. JONES: Well, I -- that basically  
3 was Artie's presentation yesterday, where she  
4 outlined how we spend our money, which is in  
5 everyone's handout, and you know, that's -- it's  
6 all on the table. I mean, if you all can come  
7 to a consensus about how we do it within the  
8 existing base, I'd take that very seriously.  
9 Otherwise, we'll figure out what we think is the  
10 right approach.

11 JOHN: Well, in terms of fees for  
12 registration and reregistration, are there  
13 limitations on what those fees will be used for?

14 MR. JONES: On fees there are, on fees,  
15 yes, but we have more than just fees support  
16 those programs.

17 JOHN: Well, what I'm getting at is if,  
18 for example, the focus of PSEP is RUPs,  
19 restricted use pesticides, is there a way that  
20 the registration and reregistration process fees  
21 for that -- for those chemicals can be -- part  
22 of that can go towards education or is there a

1 limitation there?

2 MR. JONES: Appropriated dollars could,  
3 but I think we'd be reluctant to use fees for  
4 that. I think it would be stretching the spirit  
5 if not the actual legal language of the law  
6 there. But again, I seriously doubt there would  
7 be a consensus around moving registration or  
8 reregistration dollars into PSEP, but I am just  
9 guessing.

10 UNIDENTIFIED MALE: I think in order to  
11 recommend changes in priorities among the  
12 funding for the field programs, we'd have to  
13 have more detail on the other programs, and I  
14 doubt we're ever going to come to a consensus on  
15 that, on what you're going to cut elsewhere in  
16 order to provide more funds for PSEP.

17 On the question of the fees, there is a  
18 million dollar set-aside from those fees for  
19 worker protection, and this is definitely a  
20 worker protection area. So, there may be a way  
21 to put a little bit of that money into the  
22 certification and training.

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1 MR. JONES: Allen?

2 ALLEN: Well, I think John sort of said  
3 what I would propose, that if there are  
4 statutory limits in terms of how the fees are  
5 established and the limits, that might be worth  
6 revisiting at some point in time, but it does  
7 seem reasonable that the fees that are paid to  
8 use the product should be utilized in some way  
9 to provide adequate protection for health and  
10 the public.

11 MR. JONES: Rebeckah?

12 REBECKAH: I think the notion that many  
13 of us who have been working on this issue have  
14 had is we're at least to get back up to our  
15 minimum, which is I guess in all of our minds  
16 the 1.88 million, to get back to that sort of  
17 level that the providers consider stable, at the  
18 very least, obviously hoping to get more in the  
19 future, because we're trying to get the  
20 performance evaluations up to show the need for  
21 getting more money in the program.

22 We're really -- you know, we're talking

1 about a very small, tiny, minuscule amount of  
2 money even in EPA's budget, certainly in the  
3 federal budget, and I think what we have in mind  
4 is getting behind the Office of Pesticide  
5 Programs to get the money from the overall  
6 federal budget in and not shifting priorities  
7 necessarily away from the other programs that  
8 you're doing that are already operating very  
9 lean and mean as well.

10 I don't necessarily think -- and I know  
11 that may be something that you guys don't  
12 necessarily make all the calls on where the cuts  
13 come and things, but we'd like to have  
14 discussions with the people that do in the short  
15 term, just to get the funding back where it  
16 needs to be and not put other things at risk. I  
17 mean, we're pleased that registration and  
18 reregistration is probably finally where it  
19 needs to be in order to meet its obligations and  
20 priorities.

21 So, you know, I don't necessarily know  
22 that most of us want to see things come out of

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1 anything else. We want to get a few hundred  
2 thousand dollars put back in that seems like  
3 nothing to the Federal Government but means  
4 everything to the providers.

5 MR. JONES: Derek?

6 DEREK: I'll repeat a little bit of  
7 what Rebeckah just said. I think that in the  
8 overall scheme of EPA's budget and the federal  
9 dollars allowable, I think that it's not too  
10 great a task to ask for a couple hundred  
11 thousand more dollars to bring the funding  
12 levels back up.

13 However, if it comes down to cutting  
14 one program to do another, I think that pulling  
15 from reregistration and the fees is probably not  
16 the way to go just because you are taking those  
17 fees which are allocated to the reregistration  
18 process under FQPA, which is providing tolerance  
19 reassessments, which are in a way a worker  
20 protection standard. It is not the training  
21 that goes into the appropriate use of  
22 pesticides, but it is in the re-review of the

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1 old pesticides which are currently being used.  
2 So, if there are tolerances that need to be  
3 re-assessed, then I think pulling funds away  
4 from that effort is -- you're just stealing from  
5 Peter to pay Paul.

6 MR. JONES: Eric?

7 ERIC: Yeah, I guess a slightly  
8 different take. To me, the EPA's regulatory  
9 framework is predicated in part on having an  
10 educated user population, and that's not a  
11 relative standard, and it seems to me just as  
12 EPA has set very tight deadlines and production  
13 standards on the registration/reregistration, we  
14 need to have those on the other side as well.

15 And I think that's a message that the  
16 collective "we" need to communicate, you know,  
17 to the folks in Congress. If we cut too much  
18 from the tail end in terms of compliance, in  
19 terms of education, this regulatory framework is  
20 no longer functional, and so it's a different  
21 way of articulating what Rebeckah said, is we  
22 need to get more money in, not cut from some

1 other program, or if anything, I think we do cut  
2 from either registration or reregistration,  
3 because we can front-end it, but if we don't  
4 have the educated users out there being able to  
5 understand your guidelines, all of the work  
6 you've done on the front end is for naught.

7 MR. JONES: Thanks.

8 Dennis?

9 DENNIS: Well, I think -- I think we  
10 can all agree that the PSEP program really needs  
11 to be fully funded, at least back to the levels  
12 that it was before. The question about where  
13 that money comes from is a difficult one, and I  
14 understand the Agency has limited capabilities.

15 What I guess I would like to explore a  
16 little further is on the USDA side of the  
17 equation, what kind of resources they could  
18 bring to bear at least on a temporary basis  
19 until we can get a dedicated source of funding  
20 for this work.

21 UNIDENTIFIED MALE: Perhaps I can  
22 address at least part of your question. In

1 2003, when USDA did step in and provided  
2 approximately 40 percent of the funding that was  
3 available to PSEP, it was done on an emergency  
4 basis. We have, according to our Office of  
5 General Counsel, broadly a mission that covered  
6 the area of pesticide training. The difficulty  
7 is is we don't have any explicit authority to do  
8 so on an ongoing and regular basis.

9           Consequently, the ability to build into  
10 a budgetary scheme and ask for appropriations on  
11 it at this point really does not -- we don't  
12 have an authorized program to do it under, and  
13 so that was the reason why it had to be done  
14 solely on an emergency basis.

15           There also is some history that the  
16 Department has requested funding on behalf of  
17 training programs such as PSEP, and because  
18 there was a perception, if you will, that it was  
19 an EPA program, we were respectfully declined  
20 the opportunity to put funding in.

21           So, it is something that, you know, we  
22 are not adverse to the issue, but we cannot at

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1 this point on a regular basis provide funding  
2 directly for PSEP.

3 UNIDENTIFIED MALE: Just a quick  
4 follow-up, and I can appreciate the constraints  
5 that you're working under. Sometimes  
6 emergencies do extend over more than one year,  
7 though, and is that a possibility for this  
8 year's situation?

9 UNIDENTIFIED MALE: The funding that  
10 was available came from unobligated year-end  
11 funds, and as I understand it, it came from  
12 multiple agencies within USDA in order to  
13 provide the funding that we did provide in 2003.

14 But again, I think that there's a  
15 perception that if it's an ongoing emergency, it  
16 certainly lays open questioning from those in  
17 Congress who do set our spending. So, it's  
18 something that can certainly be looked at, but  
19 it would be programmatically a lot easier with  
20 direct or explicit instructions.

21 MR. JONES: Eric, then Rebeckah.

22 ERIC: Yeah, I think what we're talking

1 about is basically less than 1 percent of the  
2 OPP appropriated budget, is sort of the ballpark  
3 of what's been recommended, and it seems like  
4 when you're talking about that, already it would  
5 be a mistake to take that out of the worker  
6 money in my view, the fee money that's been  
7 collected that was dedicated to workers or any  
8 of the other worker money which is already sort  
9 of almost breadcrumbs that is sort of left over  
10 in the budget. So, I would urge that that not  
11 be the approach, and you know, it is an  
12 important item, and I'm not sure I personally  
13 know enough about every one of the slices in  
14 this pie to tell you.

15 I will say that I understand the  
16 assistant administrator's office has a huge  
17 slush fund, that maybe you just take it out of  
18 that.

19 UNIDENTIFIED MALE: I can't speak to  
20 that.

21 Rebeckah?

22 REBECKAH: Well, if that's the case...

1 UNIDENTIFIED MALE: There goes that  
2 \$1.98.

3 (Laughter.)

4 REBECKAH: Having to maybe shed a  
5 little bit of light on the USDA/EPA balance of  
6 where money comes from, some of the  
7 challenges -- I think there's a lot of folks,  
8 certainly the people that I work with, feel like  
9 EPA regulations sort of compel EPA to be the  
10 major source of funding for education on the  
11 rules that they create, that there is sort of an  
12 accountability, you know, follow-through there.  
13 Obviously we look to, you know, the Department  
14 of Agriculture to be our advocate and often  
15 times where we get a lot of information about  
16 everything else we do on the farm.

17 I will tell you that in the coming  
18 years, this is just sort of a reality check, and  
19 I'm not going to get into any of the details for  
20 why it's controversial, but from henceforth, I  
21 will promise you that for the most part getting  
22 money into USDA's budget is going to be

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1 controversial for a whole host of reasons, and  
2 you know, we can talk about Farm Bill, we can  
3 talk about all sorts of reasons for why that  
4 process ramping up, especially in tight budget  
5 years, is going to become more and more  
6 controversial.

7           The second reason why it's problematic  
8 is the perception that you're shifting something  
9 away from the agency where folks look to as the  
10 lead on regulation and education for pesticides,  
11 which is EPA, and sort of once you start down  
12 that road, even in emergency situations, you  
13 know, other than the unfortunate situation we  
14 had last year, if we start to get in the habit  
15 of that and take the pressure off -- not EPA,  
16 you guys personally, but take the pressure off  
17 making sure that adequate money comes in to EPA  
18 to fulfill its mission, then you create this  
19 sort of culture, especially among appropriators,  
20 among OMB, you sort of set up this thing that  
21 it's okay to keep going to other wells, and you  
22 know, there's a big caution because we, you

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1 know, we just put people in bad habits, they  
2 become kind of little trained squirrels, that  
3 when they are trying to cut and make things fit  
4 where they want to do -- see, I can say this,  
5 you guys can't -- but you know, there's a big  
6 caution among those of us that are working that  
7 process not to want to do that.

8 That said, if USDA finds money to help  
9 the providers this year, it would be awesome,  
10 but you know, we've got to be careful how  
11 publicly we say that.

12 MR. JONES: Allen?

13 ALLEN: The most recent figures that I  
14 think I've seen about -- in terms of how much  
15 money is spent on purchasing pesticides each  
16 year is somewhere in the order of \$12 billion.  
17 It seems to me that somewhere in that \$12  
18 billion, somebody ought to be able to find a  
19 couple hundred thousand to bring this program up  
20 to speed.

21 Looking -- I'm most familiar with the  
22 way the drug and pharmaceutical industry works,

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1 and the pharmaceutical industry dispenses  
2 substantial sums of money in unrestricted  
3 educational grants. Perhaps some mechanism like  
4 that could be utilized.

5 Looking down the road, once the  
6 reregistration process is completed, the  
7 resources necessary to do the risk assessments  
8 that are involved in that ought to diminish  
9 substantially once it's been done once, and  
10 perhaps at some time in the future, then, this  
11 program could be more self-sustaining from the  
12 fees that are collected during the  
13 reregistration process.

14 MR. JONES: All right. Well, thanks  
15 very much. I feel like I understand where the  
16 consensus is on this issue and where there's  
17 diversity of opinion, and that's going to be  
18 helpful for us as we make decisions in the '05  
19 budget context going forward. So, I appreciate  
20 that.

21 Okay, it's time for our next discussion  
22 this morning, which is endangered species. In

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1 particular, I realize -- and I hope that you all  
2 realize -- that there are a lot of issues  
3 associated with endangered species  
4 implementation as it relates to pesticide  
5 regulation. We spent a whole day on Wednesday  
6 talking about one host of issues associated with  
7 that, and that is how does EPA do risk  
8 assessment as it relates to endangered species,  
9 and so we spent a lot of time with many of you  
10 and many who aren't here today, who aren't part  
11 of this committee, in a public meeting talking  
12 about how we do our risk assessments as it  
13 relates to endangered species, and that dialogue  
14 I expect is going to continue as we learn more  
15 about how to do it better and as you learn more  
16 about what questions to ask.

17 Today, this morning, we're going to  
18 talk about another part of the Agency's efforts  
19 to get our arms around endangered species, and  
20 that is specifically about how we foresee we can  
21 engage the public broadly on endangered species,  
22 both assessment and the downstream regulatory

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1 implementation of endangered species. So, it's  
2 a very -- what we want to engage in is a focused  
3 discussion around basically a straw proposal  
4 that we have around how there can be broad  
5 public participation around that, and I realize  
6 that when we're -- when we start talking with  
7 not only the PPDC but all stakeholders around  
8 areas where there's a lot of interest, there's a  
9 lot of questions, it's hard for all of you and  
10 all of us to stay focused on the issue at point.  
11 I do want to sort of encourage you to really  
12 give us feedback around this aspect of the  
13 endangered species work that the Agency is  
14 doing.

15 (End tape 1-B.)

16 MR. JONES: -- around, let's try to  
17 hold that for the last part of this meeting,  
18 which is future topics for the PPDC.

19 So, with that, I am going to turn it  
20 over to Artie Williams.

21 MS. WILLIAMS: Thank you. Good  
22 morning. I appreciate the opportunity to be

1 here and get some good input on how we can be  
2 more effective in terms of allowing the public  
3 to participate in endangered species issues.

4 First slide, please.

5 I did want to just touch on some things  
6 that I believe it was at the last PPDC meeting  
7 we mentioned, but just as a reminder, I want to  
8 walk through some of this pretty quickly so we  
9 can see how it all fits into the context of  
10 public participation.

11 At the last PPDC meeting where we spoke  
12 about endangered species, we articulated an  
13 overall approach to looking at endangered  
14 species considerations, and that approach in sum  
15 was that within existing processes, we'll be  
16 looking at endangered species issues, risks to  
17 those potential mitigations for those risks,  
18 where we can.

19 There are three processes that we're  
20 looking at in that regard. One is  
21 reregistration, the other registration, and the  
22 third registration review.

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1           We also I believe made clear -- and if  
2 we didn't, let me make it clear now -- that  
3 there are going to be times that we're going to  
4 have to work outside those standard processes  
5 for a variety of reasons.

6           As an example, there may be times when  
7 we're reviewing a pesticide and considering the  
8 risks to endangered species, and defining those  
9 risks very explicitly and looking at mitigation  
10 may take a longer amount of time just because of  
11 the scope of the issues and the detail with  
12 which we need to look at those than the normal  
13 processes would take. In cases like that, what  
14 our approach would be would be to continue those  
15 normal processes and review the remaining  
16 endangered species issues outside of those  
17 processes.

18           Thirdly, there may be times when we're  
19 going to be picking up some pesticides kind of  
20 late in the process. This applies particularly,  
21 not exclusively, but particularly over the next  
22 year or year and a half, maybe even two years,

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1 where there are pesticides already in review for  
2 a variety of things, well underway in that  
3 review process, where we identify some  
4 endangered species issues, but we're just not at  
5 the beginning of the process anymore. Where  
6 that occurs, we will, as we can, address those  
7 endangered species issues as they're brought to  
8 our attention.

9 The one thing we did not talk about  
10 last time I don't believe at all, but I do want  
11 to focus on a little bit today, because there  
12 are opportunities in this kind of tail end  
13 process for public participation, is  
14 implementing risk management or risk mitigation  
15 measures. Our approach had been proposed some  
16 time ago for how to do this, and basically that  
17 approach is that where the measure that protects  
18 the species is a national measure, we would  
19 simply use the label to articulate that measure.

20 However, where the measure is  
21 geographically specific -- and we'll talk a  
22 little bit more about this -- the approach would

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1 be to also use the label but not to put the  
2 geographically specific information on the  
3 pesticide label; rather, to put a generic  
4 statement on the label that would refer  
5 pesticide users to what essentially is a  
6 supplemental label that they would have to  
7 follow in specific geographic areas. And again,  
8 we are going to talk about that a little bit  
9 more. Next, please.

10 In December of '02, we issued an  
11 implementation proposal, and basically the  
12 things that it looked at were this overall  
13 approach of how we were going to address  
14 endangered species issues, labels and bulletins,  
15 which is that supplemental labeling that I  
16 mentioned, how we would enforce the  
17 requirements, public participation, and roles of  
18 the states and tribes, were kind of the broad  
19 areas that it touched on.

20 I'm not going to walk through each and  
21 every one of those, but I did want to mention a  
22 couple of them in terms of what was proposed in

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1 2002.

2 Now, in terms of public participation,  
3 which is what we're really here about today,  
4 what we said in that notice almost two years ago  
5 was that we would use existing processes, where  
6 possible, that have public participation already  
7 built into them, but that there also may be  
8 additional opportunities, either before a risk  
9 determination is made, during consultation with  
10 the services and after the services had issued a  
11 draft biological opinion to us as a result of  
12 that consultation process.

13 We still believe there are  
14 opportunities in each of those areas and hope to  
15 take advantage of those in order to get good,  
16 valid, informed public participation in these  
17 decisions. Next.

18 Another area that I want to touch on  
19 just real briefly is the role of the states and  
20 tribes, because it is kind of a unique role in  
21 that their -- the states, and in the case of  
22 tribes, many of the tribes are kind of in the

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1 field enforcement arm, and that notice did  
2 articulate a special role for states and tribes,  
3 and that role included a variety of things.

4 One was to review use limitations that  
5 we wanted to put in place in order to protect  
6 listed species and to provide us some legal  
7 feedback on those limitations, not only in terms  
8 of would the growers in that state be able to  
9 accomplish the use limitation, but even to the  
10 point of providing us input on have we  
11 articulated it in such a way that the growers in  
12 that local area would best understand it.

13 I learned a long time ago in Virginia,  
14 you don't talk township range and section, and  
15 out in the west, you don't talk -- you know, you  
16 go left at this road, you know, you talk  
17 township range and section, north, south, east  
18 and west. So, there are different ways to  
19 articulate the same thing that are more  
20 effective in different locations across the  
21 country.

22 A second role that we had foreseen for

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1 states and tribes was actually to review maps  
2 that we would graphically show the areas where  
3 pesticide use limitations were necessary, and to  
4 review those in the context of where -- what the  
5 scope of that limitation was, but more in the  
6 context of did we get the map right. As many  
7 resources are available, I find that we still  
8 sometimes, when creating something from  
9 something else, can mess it up, and around here,  
10 everybody knows that I-95 runs north and south,  
11 and I sure don't want it on a map running east  
12 and west. So, it's that kind of a review that  
13 we'd be looking for.

14 Third would be to review the bulletins  
15 or the supplemental labels that I mentioned with  
16 local practices in mind, and again, to just give  
17 us kind of a ground truth as to whether or not  
18 how we've articulated things will work in that  
19 area of the country.

20 Assist us in determining the  
21 effectiveness of the program through the  
22 enforcement and inspection programs that the

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1 states and many of the tribes already carry on,  
2 to provide us feedback as they see things, to  
3 make sure that they're looking at whether or not  
4 people are complying with the requirements.

5 And then finally, to perform an ongoing  
6 enforcement role in the capacity of their  
7 standard enforcement role. Next, please.

8 This is a slide that we actually showed  
9 you last time which endeavored to put the  
10 process of looking at endangered species issues  
11 in the context of registration and  
12 reregistration and registration review. All  
13 that this really shows is that there are a  
14 couple of really large steps in this process,  
15 and the red arrows show where the endangered  
16 species review process, if you will, kind of  
17 intersects or melds with the reregistration,  
18 registration and registration review processes.

19 I put this up here only because I  
20 wanted to point out that while these are the  
21 large steps, what we're really going to be  
22 talking about today is this area outlined with a

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1 dotted line, where you actually start refining  
2 the risk relative to endangered species and then  
3 continue on with the program. Next, please.

4 This is that area that was outlined  
5 with the dotted line, a little bit more  
6 explicit. You don't want to see the really  
7 explicit one. We'd be here all day walking  
8 through flow charts. But let me just step  
9 through this for you to show you what the kind  
10 of next level down pieces are. I think it's  
11 these that we need to focus on in terms of  
12 identifying where the public may best be able to  
13 participate, and pardon my back, but I need to  
14 kind of point over here.

15 First I mentioned that this whole  
16 process starts with refining the screening level  
17 ecorisk assessment, and that's this first box  
18 here. From those refinements, we would be  
19 identifying preliminary effects determinations,  
20 and what I mean by "effects determinations" is  
21 an explicit decision by the Agency that a  
22 particular use of a chemical may have or may not

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1 have a particular effect on a listed species.

2 These are preliminary effect  
3 determinations, because this whole process  
4 involves many iterations, if you will, of  
5 refining the exposure for a particular species  
6 to come up with an ultimate decision as to  
7 whether or not mitigation is necessary.

8 In the event that mitigation is  
9 necessary, the next step would be obviously to  
10 identify that potential mitigation. From that,  
11 we would determine whether or not consultation  
12 is necessary, and whether or not consultation is  
13 necessary depends on a variety of things.

14 Well, first, let me ask, everybody  
15 knows what I mean by consultation or does  
16 anybody not know what I mean? Okay.

17 A variety of things would result in a  
18 determination on our part whether or not  
19 consultation was necessary, and those  
20 considerations would be whether or not we had  
21 determined that there was no effect from the  
22 action or the pesticide registration. If there

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1 was no effect, we would not need to go into  
2 consultation. If we determined that there was  
3 an effect, we would look at whether the  
4 mitigation that we were able to put on the label  
5 would reduce that potential risk to a level  
6 where we would not need to consult.

7 If the pesticide still was likely to  
8 affect the species, we would be required under  
9 the law to consult with the services on that  
10 action. So, that's where that determination  
11 would be made.

12 When we look at whether or not  
13 consultation is necessary, if the answer is  
14 no -- I'll go down that path first -- we look at  
15 the measures that we identified and we determine  
16 whether or not those measures are national. I  
17 mentioned earlier that if they're national  
18 measures, that we would use the label itself to  
19 articulate those measures, and let me just give  
20 you an example of that to demonstrate what I'm  
21 talking about.

22 If in the course of the review it was

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1 determined that by reducing the application rate  
2 of a pesticide, listed species would not be at  
3 risk, and the company who owned the registration  
4 for that chemical said, nobody across the  
5 country ever uses it at two pounds per acre,  
6 nobody ever uses it above 1.5 pounds per acre,  
7 so we'll reduce the actual application rate on  
8 the label to 1.5, you may not see on the label  
9 that that was done for endangered species or  
10 that it ultimately protects endangered species,  
11 but the fact of the matter is, with that reduced  
12 application rate, we would wind up in a position  
13 where we could say there is no risk any longer  
14 to the endangered species. So, you would just  
15 see a reduced application rate.

16 That's what we mean by "national  
17 measures," something that would apply across the  
18 board in terms of the use requirements of the  
19 pesticide. If there were national measures,  
20 again, necessary, that ultimately would wind up  
21 in the registrant needing to change the label to  
22 reflect that national measure.

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1           If, on the other hand, national  
2 measures were not appropriate and more local  
3 measures were appropriate, and again, for  
4 example, if you had a particular pesticide that  
5 had an impact on a particular species in a  
6 particular geographic location within a county,  
7 what we don't want to do is get into the  
8 business of having labels ultimately contain  
9 list after list of counties in which there are  
10 very specific requirements.

11           We don't want to do this for a variety  
12 of reasons, not the least of which is years ago,  
13 when we were looking at how to implement a  
14 program such as this, we discovered something  
15 very strange. Pesticide labels are limited in  
16 terms of their space, and the more words you put  
17 on them, the smaller the type gets. We were  
18 looking at some of these lists that, I mean,  
19 literally you would need a magnifying glass to  
20 see.

21           So, we don't want to wind up in a  
22 situation like that. We want the limitations,

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1 when they're necessary, to be very clear to the  
2 pesticide user and for them to make sense to the  
3 pesticide user.

4 In situations where the national  
5 measures then were not appropriate, our plan is  
6 to develop what we're calling an endangered  
7 species bulletin. When we are drafting that  
8 bulletin, we would send that out to the state  
9 lead agencies, the pesticide agencies, again,  
10 for some of that ground truthing that I  
11 mentioned a little earlier before issuing the  
12 bulletin.

13 Also, when we were drafting a bulletin,  
14 the registrant would be in a position to begin  
15 making label changes again to their label, only  
16 this time with a generic statement that would  
17 reference that bulletin.

18 Back up here at the top, if we  
19 determined that consultation is necessary, we  
20 would obviously proceed with the consultation  
21 request to the appropriate service. The result  
22 of that process would be our receipt from the

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1 service of a draft biological opinion on which  
2 we can then provide input back to the service  
3 regarding what's in that opinion.

4 Those opinions would contain reasonable  
5 and prudent measures or alternatives that  
6 basically are recommended or required use  
7 changes, changes to the pesticide registration,  
8 that the service believes are necessary in order  
9 to protect the listed species that are in that  
10 area.

11 After we provide input to the services,  
12 they would issue back to us a final biological  
13 opinion, at which point we would again proceed  
14 with drafting a bulletin and go through the same  
15 review process with the state and the registrant  
16 changing their label.

17 I want to point out on here three  
18 specific boxes. Up here at the front,  
19 preliminary effects determinations, identified  
20 possible mitigation measures, and draft  
21 biological opinion received, those three boxes  
22 are outlined in a color actually that's supposed

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1 to be different from this one over here because  
2 those are three topic areas regardless of where  
3 they are in the process that we think are very  
4 important as a routine to get input on from the  
5 public.

6 We want to make sure that where we can  
7 we're getting input on how we did the risk, just  
8 as we do in our other processes, how we  
9 characterized that, how we intend to mitigate  
10 any risk that's unacceptable, and that would be  
11 the second box I mentioned.

12 And then the third box down here that  
13 is highlighted, draft biological opinion  
14 received, because when we consult -- when we are  
15 in a position where we're going to be consulting  
16 with the services, there are potential  
17 mitigations that come out of that process, and  
18 we will have those in draft with the biological  
19 opinion. We would want to try to get input on  
20 those measures as well, not necessarily the  
21 entire opinion. If any of you have ever looked  
22 through those, I'm not sure you want to look

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1 through all of them, but on the measures that we  
2 believe we need to put in place, we would like  
3 to get input on that as well, where we can.

4 Finally, this box over here, ground  
5 truthing the draft bulletins with the state  
6 agencies, is highlighted. Because it's a  
7 potential for opportunity, our approach there is  
8 not to require the states to, you know, put a  
9 public notice out and get public input on what  
10 we're sending them to look at, but they  
11 certainly would be at liberty at that point to  
12 query local environmental groups, local grower  
13 organizations, have people take a look at the  
14 bulletin in draft to give us any input back on  
15 that. So, I wanted to highlight that area as  
16 well. Next.

17 Again, this is just as a reminder, I  
18 think you've seen this graphic before, but I do  
19 want to remind you again, and I'll probably keep  
20 reminding you over the next year every time I  
21 see you, that this is kind of a time line for  
22 registration, reregistration and registration

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1 review over the next however many years, 20  
2 years I guess. And if you can see -- I hope you  
3 can see, I'm having trouble seeing with my  
4 age -- up here at the top is an estimate of how  
5 many actions we're going to have to be looking  
6 at in each of these two-year periods, and  
7 obviously where all three processes are ongoing,  
8 there are going to be more actions, but in the  
9 long term, if you look out here, we're looking  
10 at upward of 200 actions a year between new  
11 active ingredients and registration review.

12 The reason I wanted to remind everybody  
13 of this, kind of the process for how we're going  
14 to approach this and the number of actions that  
15 are going to be going through the Agency during  
16 those time frames, is because while it is our  
17 goal to incorporate an endangered species  
18 assessment into each of those, I do want to say  
19 again that that may not always be possible, so  
20 the processes that are available through the  
21 registration, reregistration and registration  
22 review may not always line up well with us

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1 trying to get input specifically on an  
2 endangered species issue. Thank you.

3 I did -- because we didn't mention this  
4 last time when we talked to you -- I wanted to  
5 talk to you a little bit about endangered  
6 species bulletins, so when we open this up for  
7 discussion, when we're talking about getting  
8 public comment, you'll have a better sense for  
9 what those are.

10 Again, endangered species bulletins  
11 would be county-based. We would do one for each  
12 county in which there was a use limitation  
13 required, with geographically specific use  
14 limitations articulated in that bulletin. It  
15 would be referenced on the label where  
16 geographically specific risk mitigation is  
17 required through a generic label statement that  
18 we don't have the words tacked down for yet but  
19 that would tell the pesticide user that there is  
20 a need to do something different with this  
21 product because of an endangered species issue,  
22 that they needed to follow the limitations in

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1 the bulletin, that it would be a misuse under  
2 FIFRA if they did not do that, and it would  
3 provide information on where they could obtain  
4 the bulletin.

5 Again, as a reminder, these, because  
6 they're referenced on the bulletin, would be  
7 enforceable under -- we would be enforcing them  
8 under the misuse provisions of FIFRA through our  
9 standard enforcement processes.

10 Years ago, you know, over the past  
11 years, we have developed interim bulletins for a  
12 variety of counties and species for which the  
13 Fish and Wildlife Service indicated there may be  
14 a need to modify a pesticide's use in order to  
15 protect a particular species. We have been over  
16 the past year kind of upgrading those bulletins.  
17 They are not online yet, and the reason they're  
18 not online is because we need to go back and  
19 validate the specific use limitations in those,  
20 but we have updated kind of just how the  
21 bulletins are laid out to make them more user  
22 friendly and a little easier to understand.

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1           The information I'm going to show you  
2 here is just one that we have updated the look  
3 and feel of. The information is still old.  
4 This is -- this is not new information, but we  
5 wanted to show you what these things are going  
6 to look like and how they would -- how they  
7 would work.

8           So, this would be the cover, and it  
9 basically would be information about what the  
10 program is, why this publication even exists,  
11 and then over here on the front cover would be  
12 kind of a quick guide to does this information  
13 apply to me, and it basically asks the user  
14 several questions that let them mentally answer  
15 yes or no to determine whether they even need to  
16 turn the page.

17           If they need to turn the page, and the  
18 pineapple turned the page, inside, as I  
19 mentioned, would be a map of that particular  
20 county, and in this case it's Jackson County,  
21 Alabama, and on the map, there would be  
22 highlighted areas that show where the pesticide

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1 use needs to be limited, and this actually looks  
2 much better on paper. I apologize for the kind  
3 of washed out look of this.

4 In an area where we think the detail is  
5 such that we need something a little larger, we  
6 would do a blowup like this to make sure people  
7 could see the specific area in which the use was  
8 limited.

9 This particular bulletin contains  
10 limitations for four different species. Each of  
11 them has a particular color key which is matched  
12 to the map, and this area down here provides a  
13 little bit more information about the habitat of  
14 the species that we're concerned about. Next.

15 Also included in the bulletin is a page  
16 that has instructions on how to use the  
17 bulletin. There are four steps that match up  
18 with four pieces; the map, the active ingredient  
19 list here, the pesticide limitation codes here,  
20 and the actual limitations here.

21 What this does for the user of the  
22 pesticide is it lets them find their particular

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1 pesticide on the list. They go to the right,  
2 they find the code. This is the species that  
3 it's intended to protect, and in this particular  
4 case, there are three -- it looks like three  
5 different codes. The user then would go over  
6 here and read the use limitations based on that  
7 code number, and that is how the pesticide would  
8 have to be used to be in conformance with FIFRA.  
9 Next.

10 And finally in the bulletins, where we  
11 can without causing further threat to a species  
12 by identifying something that we don't want  
13 people to know about, like it only grows on the  
14 north side of moss-covered trees that have moss  
15 on the south side, where we can describe the  
16 species and provide a picture of it without  
17 causing further threat, we would do that, and in  
18 this case, these are the four species that were  
19 included in this bulletin with use limitations.

20 The text would provide a little bit of  
21 information about the life history of the  
22 species, its status, why it's important and kind

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1 of what its biological requirements are. Next.

2 In terms of public participation in the  
3 standard processes, I do want to point out that  
4 for the registration process, for new actives  
5 and new uses, the participation process in that  
6 venue is still under development. One of the  
7 issues I think that we face there is kind of the  
8 confidential nature of things that aren't yet on  
9 the market, but there is overt work going on to  
10 try and define the participation process that  
11 will work there.

12 In registration review, that also, as  
13 well as the entire registration review program,  
14 is under discussion and development. So, I  
15 don't really have a process to look at yet for  
16 registration review.

17 For reregistration, which has been  
18 going on for some time now, there has been a  
19 process laid out that's very publicly  
20 accessible. The process generally, as you know,  
21 includes four or six phases generally, with one  
22 or two formal opportunities for public input.

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1 In addition to those one or two formal  
2 opportunities for public input, I know there are  
3 a lot of stages in that process where there are  
4 simply communications with people that we know  
5 may have information that would be of value to  
6 the assessment.

7 The third thing I wanted to mention  
8 about reregistration -- and again, I'll probably  
9 say this 14 times -- is that including that  
10 entire flow chart of process into reregistration  
11 is something that's in transition right now.  
12 So, we're going to be seeing some pesticides  
13 come out the door in a year and a half, two  
14 years, that started right at the beginning,  
15 every opportunity under reregistration for  
16 public comment.

17 You will also have opportunity to  
18 comment on the endangered species work. But  
19 you're also going to be seeing a lot of  
20 situations where pesticides are already through  
21 much of the reregistration process, and you may  
22 not see all of those same opportunities specific

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1 to endangered species simply because of the  
2 timing.

3 The third thing I wanted to mention  
4 about kind of transition and even beyond is that  
5 there are going to be situations where late in  
6 the process, outside the process, a pesticide is  
7 determined to have an impact on a particular  
8 species, and that species or the pesticide's use  
9 or something makes it very discrete and very,  
10 frankly, simple to address the issue. We're not  
11 going to forego addressing it simply because it  
12 hasn't gone through the whole process. Where  
13 there are situations where an issue comes up, we  
14 can identify the issue, we can identify  
15 mitigation to address the issue, we're likely  
16 going to take those opportunities to do that.

17 One such scenario that has just  
18 happened very recently -- thanks -- is with a  
19 pesticide carboxin, which was in the  
20 reregistration process, very late in the  
21 process, it was determined that through  
22 refinements of the risk assessment that the only

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1 endangered species issue we had that was not  
2 addressed was for the prairie chicken in four  
3 counties in Texas, and this is a seed use --  
4 seed treatment use chemical in treated seed.

5           It was a very discrete risk to a very  
6 geographically discrete species, and in that  
7 case, even very late in this process of  
8 reregistration, we contacted the field experts  
9 from the Fish and Wildlife Service about the  
10 particular species we were concerned about,  
11 discussed with them the issues, the risk  
12 involved, what the use patterns of this chemical  
13 were, got information from them about the  
14 biology and the habits of the species, how far  
15 it ranges, when it's nesting, how much it eats,  
16 how it eats, does it scratch to get its food,  
17 does it not scratch to get its food, and jointly  
18 with them came up with potential mitigation to  
19 get the risk down to one that we believe is not  
20 likely to adversely affect the species.

21           We spoke to the registrants about the  
22 need to mitigate the risk, and I think once the

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1 carboxin -- it's a phase 6 document, the final  
2 document is published, this will be articulated  
3 in that. I don't believe that document is  
4 online yet, but you'll see in there that there  
5 was a risk for this species. There's a  
6 particular mitigation in there, and it indicates  
7 that we will be implementing that mitigation  
8 through one of these bulletins, endangered  
9 species bulletins that I showed you.

10 At that point, again, the bulletin will  
11 go out to the states. There will be a process  
12 for them to provide input and to get input from  
13 local entities as well if they choose to do  
14 that, but this was one example where it was a  
15 very defined risk, it was relatively easy to  
16 resolve, and we weren't going to let the  
17 opportunity pass simply because we had not  
18 played out the whole process. So, I just wanted  
19 to point out that that's something you may see  
20 some of.

21 I wanted to put this flow chart back up  
22 here with the questions. I think these are

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1 really insightful questions. Broad questions  
2 are often the most difficult to address, though.

3 I'll turn it back over to Ann and Jim  
4 to facilitate, but we basically -- this is the  
5 process for the endangered species component,  
6 and you saw how it fits into registration,  
7 reregistration and registration review, as best  
8 we know it at this point, and we would very like  
9 your input on the opportunities for public  
10 participation, how we can make that more  
11 effective and how we can make it more efficient.

12 And I thank you for your attention.

13 MR. JONES: Amy?

14 (End tape 2-A.)

15 AMY: Artie, in the carboxin example,  
16 it looks like you met with the user community  
17 while you were sort of making your decisions on  
18 what could be risk mitigation.

19 MS. WILLIAMS: Yeah, actually, I didn't  
20 mention that, but the particular use pattern  
21 involved near the habitat of this species, we  
22 did have discussions with the organizations who

1 represent those growers and learned ultimately  
2 that the risk mitigation necessary for the  
3 species did not pose a risk, if you will, to the  
4 growers, so it was kind of a win-win situation.

5 AMY: Well, I guess that's what I'm  
6 getting at. Do you envision that kind of  
7 process working for each -- where you would go  
8 to the user community and the registrant and  
9 maybe the state lead agency, maybe extension,  
10 ahead of time when you're developing your risk  
11 mitigation so that there's some refinement  
12 before it goes out for comment?

13 MS. WILLIAMS: Yeah, I think that's a  
14 good question, and I think if you look at the  
15 reregistration process, where things fit into  
16 that process, the risk mitigation, the proposed  
17 risk mitigation and input even before we propose  
18 risk mitigation would be sought through those  
19 processes.

20 Where this doesn't hook up well with  
21 those processes, we would certainly endeavor to  
22 at least touch base with affected parties to

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1 make sure not necessarily that they were 100  
2 percent cool with it, because that's probably  
3 not going to happen all the time, but so they at  
4 least know where we're headed with it and we can  
5 get some input on it from that perspective. I  
6 would envision that, yes.

7 MR. JONES: Eric?

8 ERIC: Yeah, I guess my question -- I  
9 had a couple questions. One is, it does seem to  
10 me that if you're going to go out to growers or  
11 you're going out to the registrants, you need to  
12 go out more broadly. It shouldn't be just one  
13 set of parties that are -- you seek advice from.

14 MS. WILLIAMS: Um-hum.

15 ERIC: And in that vein, I'm wondering  
16 at what point does the Fish and Wildlife Service  
17 or NOAA, if that's relevant, come into the  
18 process when you're drafting the bulletins? Are  
19 they co-authors of the bulletins? Are they --

20 MS. WILLIAMS: No.

21 ERIC: -- consultants or how do you  
22 integrate them into that process?

1 MS. WILLIAMS: The limitations that we  
2 would be putting in place through these  
3 bulletins, they certainly -- we certainly would  
4 have vetted those limitations with them in the  
5 case where it's intended to reduce a particular  
6 risk to a species.

7 In terms of actually putting the  
8 bulletins together and graphically representing  
9 that limitation, we would not be consulting them  
10 on those necessarily, but the information in  
11 them would clearly be something that we had  
12 discussed, what the limitation would be.  
13 Whether it was a buffer zone around a particular  
14 area or a reduced application rate in a  
15 particular area, those specific limitations  
16 would be vetted with them.

17 MR. JONES: Artie, take Eric back to  
18 where their role is very prominent in the chart,  
19 in the bottom right-hand --

20 ERIC: I see -- you know, I understand  
21 if there's a biological opinion.

22 MS. WILLIAMS: Okay.

1           ERIC: I mean, I understand if you're  
2 going to them for a biological opinion --

3           MS. WILLIAMS: Right.

4           ERIC: -- but what you're talking about  
5 is a separate track.

6           MS. WILLIAMS: What we're talking about  
7 is before a decision -- you mean for like the  
8 carboxin example specifically?

9           ERIC: Sure, any of these examples that  
10 are on a separate track --

11          MS. WILLIAMS: Right, right.

12          ERIC: -- and don't go to Fish and  
13 Wildlife Service or whoever for consultation.

14          MS. WILLIAMS: Right, that don't go to  
15 them for consultation?

16          ERIC: Right.

17          MS. WILLIAMS: Well, this is -- it's a  
18 little off track, Jim, but let me try and answer  
19 it in the short, and if I'm getting way off  
20 track, stop me.

21                 One of the things that we are doing  
22 with the services right now is putting in place

1 processes to train our people under their  
2 tutelage to look at not likely to adversely  
3 affect situations, and we're working very  
4 closely with them so we know when we put a  
5 mitigation in place that gets us so that level,  
6 it's real, it's right, it's going to work.

7           Where we are looking at situations  
8 where there is more risk than that, we do have  
9 an opportunity under new regulations that have  
10 been issued to have the service work with us  
11 hand in hand through basically this whole  
12 process where we would be making effects  
13 determinations, identifying potential mitigation  
14 and determining whether or not we needed to  
15 consult with them more formally.

16           So, I believe they're going to be  
17 involved way up at the front end of most of  
18 these decisions, and we'll get their input at  
19 that point, and if we don't go through formal  
20 consultation, we will have already had their  
21 input in that other venue.

22           ERIC: But in terms of drafting the

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1 bulletins, are they going to be involved in that  
2 or --

3 MS. WILLIAMS: No, I think I answered  
4 that. The answer is no. They will be involved  
5 in identifying the risk mitigation necessary.  
6 How that's graphically represented would be our  
7 responsibility.

8 MR. JONES: Have you looked at some of  
9 the existing bulletins and evaluated how  
10 effective they are for actually protecting the  
11 species?

12 MS. WILLIAMS: We have not evaluated  
13 their effectiveness for one reason and one  
14 reason only. They have not been required. They  
15 have been posted on our web site. There's been  
16 no reference to them made through a pesticide  
17 registration telling a user they had to follow  
18 the information. So, it's hard to judge the  
19 effectiveness of something that's not really in  
20 place in the field.

21 We certainly intend to get feedback on  
22 them once this is an enforceable program out in

1 the field through inspection and investigation  
2 and any other means we can to see whether people  
3 are following them, whether they're effective,  
4 whether it's really keeping pesticides away from  
5 species to the extent that needs to be done.

6 MR. JONES: Now, as you heard from Bill  
7 yesterday, that we're under a lot of pressure  
8 within the Executive Branch to demonstrate  
9 results, and that -- the endangered species  
10 program is one of the field programs explicitly  
11 that we have been asked to demonstrate results,  
12 and so we are working hard to figure out how we  
13 can evaluate the effectiveness of that program  
14 as well as all of our other programs.

15 ERIC: I'm just looking at the bulletin  
16 that you gave us an example, it's pretty  
17 complicated. I mean, it's like an IRS form or  
18 something to have to go through --

19 MS. WILLIAMS: Oh, no, please, no,  
20 don't tell me that.

21 ERIC: I'm just wondering whether, you  
22 know, you have gone through some kind of effort

1 to evaluate whether, number one, the users  
2 actually understand them, and number two,  
3 whether they'll follow them, and number three,  
4 whether there's some kind of training necessary  
5 in order to assure that there would be  
6 compliance, and finally, whether you need to  
7 just put these things as restricted use  
8 chemicals in order to assure that there will be  
9 compliance with these bulletins.

10 MS. WILLIAMS: Um-hum, okay, there were  
11 like four or five questions there. Let me see  
12 if I can get them all right.

13 ERIC: Well, just basically, how are  
14 you going to make sure do people comply and do  
15 you need to put them out as RUPs?

16 MS. WILLIAMS: Right. A lot of years  
17 ago, actually, we did do some focus group  
18 testing on whether or not even the old bulletins  
19 that are currently on our web site were  
20 understandable and people could follow them, and  
21 it was a pretty positive result, which is why  
22 we're kind of continuing down that road. I'm

1 really sorry to hear that you think they're as  
2 complicated as IRS forms. I'm going to have to  
3 go back and look at them again.

4 We have not really looked at whether --  
5 whether we should blanket restrict the use of  
6 any pesticide that has a potential to impact a  
7 listed species. I imagine that if I did look at  
8 that, what I would be seeing was that the  
9 standard for restricted use under our  
10 regulations and statute probably wouldn't be met  
11 in every single instance where there is a need  
12 to put a mitigation in place to protect a listed  
13 species. So, I'm just not sure how that  
14 would -- how that would jive.

15 In terms of training, I think there is  
16 going to be the need for people to be taught  
17 about this and how to understand them, and  
18 clearly for those pesticides that are restricted  
19 use, we're going to be tapping into the vast  
20 resources of the extension community to include  
21 information in their certified applicator  
22 training programs about this. Where these are

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1 not restricted use, we're still going to need to  
2 be able to teach people how to use them, and  
3 I'm -- and I don't have a specific plan for that  
4 right now. It's clearly an area that we need to  
5 delve into, but yes, I think people will need  
6 instruction.

7 ERIC: Will the sellers of the  
8 pesticide be required to have the bulletins at  
9 the point of sale and provide them at the point  
10 of sale?

11 MS. WILLIAMS: No, we have not foreseen  
12 requiring the distributors and dealers to  
13 provide them at point of sale.

14 ERIC: So, how would you disseminate  
15 them and make sure that they're in the hands of  
16 the users?

17 MS. WILLIAMS: We are looking at a  
18 couple of different ways. One is we will have  
19 them in printable format on the web. Knowing  
20 everybody doesn't necessarily have access to the  
21 web, we also at this point in time are planning  
22 on producing them in hard copy, providing them

1 to extension, providing them to state lead  
2 agencies who, in turn, will be getting them to  
3 the user communities in ways that they see fit,  
4 and that may be through dealers at the state  
5 level, it may be through grower meetings,  
6 associations.

7 ERIC: I'm just puzzled, why would you  
8 not have them available at the point of sale and  
9 make that a requirement?

10 MS. WILLIAMS: I'm just not sure we can  
11 require distributors to do that, quite frankly.  
12 I'm not sure what authority we would have to do  
13 that.

14 MR. JONES: Derek?

15 DEREK: I had a suggestion that was --  
16 that kind of gets -- hits on that subject that  
17 Eric was talking about. As opposed to requiring  
18 them to be available at the point of sale, for  
19 the -- most of the endangered species are going  
20 to be restrictions that are very local, like the  
21 prairie chicken covers a four-county area, say.  
22 The number of farmers in that area is probably

1 not that great. For those types of situations,  
2 is it possible for the EPA to notify those  
3 particular growers individually to -- as to the  
4 fact that the prairie chicken's around and we're  
5 doing mitigation based on this and so forth?

6 MS. WILLIAMS: Um-hum, all of these are  
7 really good questions. I just keeping thinking  
8 about, well, you know, for the prairie chicken  
9 it's four counties and a bunch of growers.  
10 Again, where the chemical is restricted use, and  
11 that does have its advantages, clearly, in terms  
12 of communicating with people, the states  
13 actually know who the growers are who -- you  
14 know, what their names, addresses and phone  
15 numbers are probably, and that certainly is  
16 something that we could work with the states to  
17 see if we could do.

18 For example, and I frankly can't  
19 remember if carboxin, as our little example, is  
20 restricted use pesticide or not, but if it were,  
21 we could work with the state and ask them if  
22 they would help us disseminate this information

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1 to the specific growers in those counties.  
2 Where it's not restricted use, we don't know who  
3 the growers are, quite frankly, and again, we're  
4 going to be working with the state lead agencies  
5 on distribution of hard copy of these and are  
6 going to have to rely on their knowledge of how  
7 best to get this into the hands of the right  
8 people.

9 I don't know how to do anything beyond  
10 that. We don't -- unfortunately or  
11 fortunately -- have the names and addresses of,  
12 you know, every grower across the country and  
13 what they grow. So, it would be very difficult  
14 I think to do that routinely.

15 DEREK: Well, I think that a solution  
16 like that would help to increase compliance, and  
17 it would certainly, you know, just from the  
18 grower's standpoint, they have got a thousand  
19 things going on, and so if they are not always  
20 connected with what's going on inside the  
21 Beltway. So, if there is some sort of  
22 restrictions, particularly if it's something

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1 that may not be too evident on a label, like you  
2 were talking about, nationwide restrictions that  
3 reduce use rate, which, of course, they would  
4 notice, but something that would maybe be not as  
5 obvious would -- you know, this would help to  
6 point it out to them.

7 A couple other questions. Is it --  
8 does the Fish and Wildlife Service incorporate  
9 or will they incorporate the mitigations that  
10 you're proposing on the pesticides into their  
11 recovery plans?

12 MS. WILLIAMS: Ah, I don't know. I  
13 don't know the answer to that. I don't -- I  
14 don't believe we've had a conversation about  
15 that.

16 MR. JONES: Greg Madison from the Fish  
17 and Wildlife Service is with us, so I'll ask  
18 Greg to --

19 GREG: I apologize for jumping ahead of  
20 everybody that has their card up, but to  
21 specifically answer your questions, we have 57  
22 field offices throughout the United States and

1 territories that have lists by county for  
2 endangered species. That's something we provide  
3 not only on the internet but through our  
4 offices, working with the extension agents and  
5 our partners programs, et cetera.

6 If there's going to be a label  
7 restriction that would be for certain species,  
8 that would be within our public input into the  
9 recovery plans and probably would be instituted  
10 into the recovery plan as a recoverable  
11 operation. As you know, the recovery plans are  
12 updated every five years, and we seek public  
13 input on each and every one of those, so that we  
14 will incorporate the public comments on those  
15 species.

16 DEREK: Okay, and last question, some  
17 of the -- for instance, taking the prairie  
18 chicken into account again, there is a group of  
19 growers which have a voluntary recovery plan  
20 themselves. They've, I think, taken 15-17,000  
21 acres and kind of set it aside as a voluntary  
22 preserve, and this is a -- something that they

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1 worked out with the Fish and Wildlife Service.

2 MS. WILLIAMS: Um-hum.

3 DEREK: Is there going to be  
4 consideration of these type of voluntary  
5 programs where they exist in the regulation of  
6 or consideration of endangered species?

7 MS. WILLIAMS: There certainly will be  
8 a consideration of them where we know about them  
9 or can find out about them. I think in the  
10 prairie chicken scenario specifically, that was  
11 one of the reasons that the growers would not  
12 have been impacted by the buffer that we put  
13 around the areas where the chickens are, is  
14 because they've basically already done that  
15 themselves.

16 One of the things that we have been  
17 looking at and being admonished for for a long  
18 time is that these limitations need to be  
19 enforceable under FIFRA. So, regardless of  
20 whether there is a voluntary program in place,  
21 we may adopt that voluntary program, but I think  
22 somehow we would still be looking at making it

1 part of the use requirements of the pesticide,  
2 so if it wasn't followed, there would be an  
3 enforcement mechanism.

4 DEREK: So, you are saying that if  
5 they're doing something, you will just  
6 incorporate it onto the label as something  
7 that's already being done as a part of the  
8 mitigation program, if not the --

9 MS. WILLIAMS: If it's something that  
10 we all agree is adequate to mitigate the risk  
11 from the pesticide, we certainly wouldn't, you  
12 know, tell them that that was the wrong way to  
13 do it if it was working, so yes.

14 DEREK: Just as a follow-up on that,  
15 let's -- this is getting very hypothetical, so  
16 forgive me for this, but let's say that on that  
17 particular reserve, for some reason they want to  
18 change the plan. They either want to set aside  
19 other lands because they want to develop those  
20 or, you know, they find oil on it or something,  
21 I don't know, but for whatever reason, they want  
22 to change the voluntary program, and they work

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1 that out with the Fish and Wildlife Service, how  
2 would that work out on the restrictions?

3 MS. WILLIAMS: Well, you know, I really  
4 can't address it specifically. As you  
5 mentioned, it is quite hypothetical. The  
6 bulletins, once they're in place, are not  
7 concrete. One of the real values of not putting  
8 specific limitations on the label and instead  
9 doing it through a bulletin is that we think  
10 it's easier to update those. So, you know, if a  
11 situation like that occurred, I would hope that  
12 our relationship with the service would dictate  
13 that they would, you know, let us know that it  
14 was going on, and we would work out and see what  
15 needed to be changed in the bulletin to  
16 accommodate both.

17 If the change in the voluntary program  
18 was something that still was going to be  
19 protective and the services concurred in that,  
20 we certainly would look at changing the  
21 regulatory limitation under FIFRA.

22 DEREK: Thank you.

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1 MS. WILLIAMS: You're welcome.

2 MR. JONES: Shawny?

3 SHAWNY: Thank you.

4 This may be a little bit more  
5 Endangered Species Registration 101, but I'm  
6 wondering with the carboxin example that you  
7 gave, the first question, how you learned of the  
8 risk. As you said, it was in the advanced  
9 stages of registration. And it -- on that same  
10 note, I'm -- you know, some of our concerns,  
11 especially as we get out of the reregistration  
12 period, as many of us -- these chemicals have  
13 been in the environment for a very long time,  
14 and we've come to know them quite well, for  
15 registration into the future, I'm wondering how  
16 the public -- so, as we look on the front end of  
17 registration, before we even get to bulletins,  
18 just right before we get to the part of are  
19 consultations necessary, how can the public be  
20 assured that the Agency -- that the EPA has, in  
21 fact, all the information that it needs on  
22 specific species' behavior, habitat and the

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1 effects that things -- that the chemicals might  
2 have, and -- and this might be some of my own  
3 ignorance, but I'll just throw this out there.  
4 I'm wondering if -- this, again, is  
5 hypothetical, of course, but if a chemical is  
6 shown to be toxic to amphibians, how does that  
7 play out into the environment, particularly  
8 if -- you know, if there's amphibians out there  
9 that are very specific populations that are  
10 endangered, or even when we talk endangered, we  
11 are talking listed, as well, right?

12 MS. WILLIAMS: Yeah, and you know,  
13 that's something I've got to stop doing. When I  
14 say "endangered species," I actually mean listed  
15 as endangered or threatened and their critical  
16 habitat. Those are the things we have to look  
17 at. So, the amphibians that are listed would  
18 just be part of that equation as we're looking  
19 at risks.

20 Let me address your broader question  
21 about how -- what was your broader question?  
22 I'm focused on amphibians now.

1           SHAWNY: How the public can be assured  
2 that the Agency has all of the information --

3           MS. WILLIAMS: Right, right, right.

4           SHAWNY: -- on its own, particularly  
5 given the budget constraints that the Agency is  
6 facing in the future.

7           MS. WILLIAMS: We actually have been  
8 working with the Fish and Wildlife Service and  
9 NOAA Fisheries over the past -- a little over a  
10 year now, maybe even a year and a half, to put  
11 in writing for them and have them assess our  
12 process for reviewing pesticides' potential  
13 risks to listed species, and the standard under  
14 the Endangered Species Act is that we have to  
15 use best available data when we do that.

16           We have incorporated some changes into  
17 our process based on the services' review of  
18 that process to more broadly, for example, use  
19 data that is not registrant-submitted data, that  
20 is in a database called EcoTox, and also to  
21 review and use, where appropriate, studies,  
22 research papers, that the EcoTox framework has

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1 in the back room that they have not assessed yet  
2 and put up in their data system.

3 We have also committed to make more  
4 routine use of our incident data system, of  
5 monitoring data that we're aware of, actual  
6 field monitoring, which is most prevalent in  
7 aquatic environments.

8 Based on the changes that we agreed to  
9 make to our process, the services -- and Greg,  
10 you can correct me if I'm overstepping here --  
11 but basically with those changes, endorsed that  
12 process as one that they saw using best  
13 available data. So, that's the standard we're  
14 going to be going by.

15 And it's not to say there's not going  
16 to be some piece of data out there that we  
17 didn't catch, and you know, if that's brought to  
18 our attention, certainly we'll consider it and  
19 see whether it's valid and can be used in the  
20 process, but there's kind of a standard box of  
21 what constitutes "best available data," and  
22 we'll consistently be using what's in that box,

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1 and as we know of things that are outside that  
2 box, we'll certainly incorporate them.

3 MR. JONES: If I could just sort of try  
4 to -- I think part of what we would like to  
5 answer is along the lines not only of what we  
6 are going to do, but what we are going to ask  
7 for the public to do, which goes back to the  
8 chart that Artie's provided. We are then going  
9 to do that analysis that's described, and then  
10 we're proposing to make that preliminary  
11 assessment available for public review.

12 So, it's a combination of what -- how  
13 we're going to do it, which is articulated in  
14 this overview document that is publicly  
15 available and has been reviewed and concurred by  
16 the services, and then making our assessment in  
17 individual cases when we get more routinized in  
18 our process available for public review.

19 And I really do want to try to  
20 encourage folks to give us feedback as well on  
21 that process that we have put before you as a  
22 straw for how we're going to engage the public

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1 broadly, and I recognize that when you're in  
2 this stage of a program development, it's not  
3 appropriate to just keep you focused on what we  
4 need on advice on, but to give you opportunity  
5 to also pursue other questions just to inform  
6 yourselves broadly about what we're doing here,  
7 but I really do want to make sure folks are --  
8 we are getting what we need as well as you're  
9 getting what you need, and what we need is some  
10 advice on how to create a process that has  
11 public participation in it.

12 So, again, I don't want to shut down  
13 other questions, because clearly we're so early  
14 in this process, you have a lot of questions  
15 that don't just have to do with public  
16 participation.

17 So, anyway, was that your only  
18 question? Was that --

19 SHAWNY: Well, I was just wondering  
20 about the carboxin and how you found out about  
21 it.

22 MS. WILLIAMS: Oh, yeah, you did say

1 that.

2 Again, the process of identifying a  
3 risk for endangered species, and those of you  
4 who were around at the workshop two days ago are  
5 probably getting sick of hearing this, too, it's  
6 an iterative process where we keep refining the  
7 information, we get more specific information  
8 about the species, where it is, what its habits  
9 are, we refine the exposure assessment relative  
10 to that species in that geographic location.

11 Early on, we had identified that  
12 carboxin posed a potential risk to certain kinds  
13 of species. As it was going through the  
14 process, that was becoming refined and refined  
15 and refined. We thought -- thought -- that we  
16 were going to wind up with a situation where  
17 there was not going to be a concern, and at the  
18 end, there was still this one species for which  
19 there was a concern. So, that's why it was late  
20 in the process.

21 MR. JONES: But again, as we're trying  
22 to bring endangered species considerations into

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1 our standard programs, reregistration,  
2 registration, these are programs that have been  
3 going on for some time, and so often, at least  
4 for the next year, two, maybe three, we're going  
5 to find ourselves where that process has gone  
6 pretty far along, and we're trying to catch up  
7 on the endangered species side. So, it's not  
8 going to be that unusual for, in this interim  
9 transition period, for our -- in our effort to  
10 try to catch up a reregistration action, in  
11 particular, with an endangered species, the kind  
12 of analysis that we need to be doing as per  
13 this -- our -- the guidance that we've developed  
14 with the services, for it to be late in the  
15 process.

16 Over time, we are going to get it to  
17 the place where that assessment starts at the  
18 beginning, and so there isn't this catch-up at  
19 the end, but for a little while, during this  
20 transition, there is going to be this kind of  
21 catch-up occurring where we learn of something  
22 later than we would like to. That's what

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1 carboxin really represented.

2           Okay, I want to make sure I'm going in  
3 somewhat of the order of people's cards going  
4 up. Rebeckah?

5           REBECKAH: A couple of questions on a  
6 couple of different issues. If I'm a user,  
7 well-intended user, I have the chemical, I find  
8 out there is a use restriction specific to my  
9 county, I access the bulletin, perhaps -- I  
10 happen to think it's quite likely simply from a  
11 marketing standpoint and with the  
12 competitiveness that we're going to see, do  
13 already see among some of the retailer and  
14 distribution-level ways that my guys are getting  
15 their chemicals, and I think it's going to be to  
16 the people's advantage at the point of sale to  
17 have that -- to have that information there.  
18 I'm hoping that the market's going to for the  
19 most part help us out on that.

20           But just to make sure that I'm getting  
21 the most recent version of the information,  
22 because it sounds as though because this is an

1 iterative process and because we may find out  
2 things as we learn more about a species or as we  
3 learn more about whatever, perhaps I have  
4 something that's six months old but that there  
5 was some re-adjustment of a buffer or  
6 re-adjustment of something that could put me in  
7 a potential situation of unknowingly violating  
8 something and unknowingly, you know, being in  
9 violence of FIFRA and being fined and those  
10 types of things.

11 What -- you know, what sort of idea do  
12 we have of how to deal with those situations?  
13 Is it going to be a -- you know, we're going to  
14 work with you to get you back in compliance  
15 without fining you, you know, hundreds or  
16 thousands of dollars automatically off the  
17 block, if you were doing the right thing and you  
18 are going to get the right information the next  
19 time and do it right? You know, what is that  
20 sort of compliance assistance notion?

21 MS. WILLIAMS: We do -- we haven't  
22 really developed a clear picture of the

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1 compliance assistance end, but we have been  
2 thinking about the issue you're talking about,  
3 and there does in our view need to be a way that  
4 we're not inadvertently putting people in  
5 noncompliance and we're not shutting down their  
6 operations because they didn't have time to plan  
7 their applications.

8           One of the things that actually we have  
9 not vetted completely internally is whether  
10 there is a time frame in which a particular  
11 bulletin would be valid, like say three months,  
12 six months, and if -- you know, if you've got  
13 one that's within six months or three months of  
14 the application, it's the one you should be  
15 using.

16           There are some issues involved in that,  
17 too, but it is something that we're discussing  
18 internally and trying to figure out how to  
19 address, because it's not our intention to just  
20 be putting people in noncompliance, nor is it  
21 our intention to have a grower well-intentioned,  
22 planting three or four months ahead of a

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1 pesticide application, doing it by the book, and  
2 then having some change go on, and he's already  
3 purchased his product and now can't use it.

4 So, there are real issues that we need  
5 to address, and we need to kind of weigh that  
6 against how quickly we want to get changes into  
7 the field in order to protect listed species.

8 REBECKAH: Have you had -- I'd be  
9 interested in hearing if any of the states  
10 possibly have a perspective on that, because  
11 they're obviously going to be in most  
12 circumstances the folks out there in charge of  
13 enforcing and figuring out how to handle this,  
14 and I know on other issues sometimes they feel  
15 that we're getting into this notion of  
16 professional judgment and their liability and,  
17 you know, sometimes they get a little  
18 uncomfortable with things that aren't absolute  
19 and, you know --

20 MS. WILLIAMS: Well, I want to make it  
21 absolute. We just haven't made it absolute in  
22 our own minds yet. So, I'm hesitant to just lay

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1 something on the table right now.

2 REBECKAH: Okay. Have they discussed  
3 that? Do they discuss their --

4 MS. WILLIAMS: Well, you know, we took  
5 public comment on this with the implementation  
6 notice, and it was an area of a pretty  
7 significant volume of comment.

8 REBECKAH: Okay.

9 MS. WILLIAMS: And I know we also don't  
10 want to put them in that position. They need to  
11 be able to understand what the requirement is so  
12 they can enforce it, not that I'm not happy to  
13 hear from the state rep at any time.

14 UNIDENTIFIED MALE: I don't have  
15 anything intelligent to say on it.

16 REBECKAH: The second question is, the  
17 way I'm understanding the process that you have  
18 graphed out here, it seems as though it's almost  
19 going to look something like an -- and I don't  
20 even know if this exists, maybe I'm making it  
21 up -- but almost like a rolling docket, you  
22 know, throughout the process of -- it's sort of

1 going to be open for comment the whole way  
2 along. Is that somewhat what I'm -- what I'm  
3 hearing, is that it -- regardless of your status  
4 as a stakeholder, registrant, you know, consumer  
5 advocate, whatever, you're going to be able to  
6 provide input to the Agency that's going to be  
7 taken seriously and used to the extent that it's  
8 valid pretty much throughout the process until  
9 the bulletin is issued? Is that reasonably  
10 correct?

11 MS. WILLIAMS: I think it is. I mean,  
12 even with the determinations that we've made to  
13 date that are posted on the web site kind of  
14 outside the normal process, we've articulated  
15 there that, you know, if at any time people have  
16 information that would better inform a decision  
17 that we've made, that they're certainly welcome  
18 to submit that to us, and we'll take a look at  
19 it and use it where we can use it.

20 One of the cautions I would put on the  
21 table, though, relative to that is that we're  
22 not in the position to be able to go back and

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1 revisit each and every decision every two weeks.

2 REBECKAH: Yeah.

3 MS. WILLIAMS: So, if information came  
4 in after, you know, a decision had been made,  
5 the bulletin had been developed, it was out in  
6 the field being used, we certainly would  
7 continue to take that comment, and I think we'd  
8 have to weigh the severity of the information in  
9 terms of risk to the species as to whether or  
10 not it would be something we would, you know,  
11 hold our horses and address it right then or to  
12 keep it for the next iteration of review for  
13 that chemical.

14 REBECKAH: And I guess a little bit of  
15 my specific question is on page 3, when it talks  
16 about the roles of states and tribes --

17 MS. WILLIAMS: Um-hum --

18 (End tape 2-B.)

19 REBECKAH: -- states are probably going  
20 to go through the process that they are going  
21 to -- that among their stakeholders locally as  
22 well, but in the off chance that, you know, that

1 a state just kind of looked at it and didn't get  
2 that -- seek that input, that there would be an  
3 opportunity for, you know, folks on the ground  
4 that may be looking at a use restriction to, you  
5 know, discuss at least with -- even directly  
6 with the EPA if the states weren't receptive or  
7 if there somehow was a lack of communication?

8 MS. WILLIAMS: Yeah. I mean, I have a  
9 telephone.

10 REBECKAH: Okay.

11 MS. WILLIAMS: Yeah. I don't only talk  
12 to states.

13 REBECKAH: Right.

14 MS. WILLIAMS: What we are trying to do  
15 is focus it, though, geographically, so that's  
16 the method that we're looking at, but certainly  
17 we are not going to hang up on somebody that  
18 wants to provide us input.

19 REBECKAH: Okay.

20 MR. JONES: If this provides any better  
21 vision for you, I view, after we've gotten from  
22 feedback from you about are we asking for input

1 around the right issues, then we need to figure  
2 out how we integrate that into the existing  
3 public participation process in our  
4 reregistration program, and so it will be -- we  
5 will be asking it throughout the process, but it  
6 won't always be open, as Artie was sort of  
7 saying. It will give people 60 days, 90 days,  
8 to get back to us at each stage, so you can see  
9 something like this then getting integrated  
10 into -- if we have got the right boxes that are  
11 read, integrating it within those existing  
12 programs.

13 I mean, Amy and then Dennis and then  
14 Jay, thanks for your patience, let's go in that  
15 order, and Derek, I assume yours is down or is  
16 it back up?

17 DEREK: It's back up.

18 MR. JONES: Okay, and Eric, you're --  
19 okay, let's start with Amy.

20 AMY: Okay, I've got a long list, but  
21 I've got a couple of questions and then some  
22 comments.

1           First of all, way back to Eric's  
2           comment about we need to make this a restricted  
3           use pesticide, I think this is an example of the  
4           kind of thing that's going to come up more and  
5           more with pesticides, that you're either going  
6           to have to make everything restricted use or you  
7           are just going to have to rely on the fact that  
8           there does need to be education out there, and  
9           we already do -- we have plenty of avenues to  
10          get to the people who are not restricted use  
11          applicators out there in the counties. So, I'm  
12          not so concerned about that, although I think  
13          we'll need to be innovative, but our county  
14          people do actually know usually who in their  
15          county, at least when it comes to agricultural  
16          and pasture and range land, so they will be  
17          contacting these people and letting them know if  
18          they are not already coming to our  
19          recertification sessions whether they're  
20          restricted applicators or not, restricted use  
21          applicators or not.

22                   As far as putting the stuff in --

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1 putting the bulletins in all of the points of  
2 sale, in Maryland, we have just one snail darter  
3 that's effective in one section of one county,  
4 no other pesticides or combinations that are of  
5 concern. So, I don't think that our dealers  
6 would probably want to have a stack of bulletins  
7 on hand for all of the counties across the  
8 United States that might be affected by other  
9 decisions. So, I think it does need to go, as  
10 Artie has said, I think it probably needs to be  
11 at the discretion of the state as to whether  
12 they're going to put it out at all the points of  
13 sale or where they're going to put it out.

14 And finally, on the participation  
15 process, there is a state network project which  
16 is grant-funded by competitive grants from USDA,  
17 by the way, out in the Land Grant Universities  
18 to act as a two-way conduit on pesticide-related  
19 issues and alternatives to pesticides, and this  
20 would certainly fit. When information like this  
21 is put into the OPP update, for instance, which  
22 I know the name has changed, we just had Carol

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1 Stengel and Clair Gesshelen out to one of our  
2 meetings last week, and we use that kind of  
3 information, we put it out there and make it  
4 available to our stakeholders in our networks to  
5 provide public information -- it participate in  
6 the public information process.

7 So, the more that can be done to  
8 summarize any actions that you're thinking of  
9 taking so that we can put it in there, so that  
10 they don't have to go through 15 sources to get  
11 back to the docket, would be really helpful.  
12 The more information that we can have at the  
13 user level of what kinds of mitigative processes  
14 are being considered and in what areas, you'll  
15 get better participation back.

16 MR. JONES: Thanks.

17 Dennis?

18 DENNIS: I'm wondering -- well, first  
19 of all, I think it's great that the Agency is  
20 entertaining as much public input as you are,  
21 and I do have a question, though, about whether  
22 the first box on the top on the left might be a

1 place where there would be an opportunity for --  
2 at least for the states to provide some  
3 information to the Agency about -- when they're  
4 refining the assessment, to provide information  
5 about the locations at which the pesticide's  
6 being used. I mean, I understand that that  
7 could fit into mitigation later on, but it may  
8 also remove the need for mitigation if there's a  
9 clear identification of where the pesticide is  
10 with respect to where the endangered species  
11 are. So, that's kind of a  
12 location-location-location issue.

13 The other one is on requiring  
14 point-of-sale distribution of the bulletins. I  
15 would think -- and I'm not firm on this -- but I  
16 would think that since it's -- the bulletins are  
17 being referred to as labels or supplemental  
18 labels, that it could be required to have them  
19 distributed at the points of sale, but there may  
20 not be a great utility in doing that if it's at  
21 points of sale where the endangered species  
22 isn't located, maybe more localized in nature.

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1 So, I like the idea of allowing the states the  
2 flexibility to, where it makes sense, to require  
3 that distribution at points of sale but not  
4 mandating it overall.

5 Oh, one other thing. One way to make  
6 this -- the process more efficient, at least at  
7 the state level, would be to have an idea of  
8 which pesticides are coming up when in the  
9 review process so that we could try to align our  
10 limited resources to getting information on the  
11 crops where those pesticides were going to be  
12 used.

13 MS. WILLIAMS: Okay, thanks.

14 MR. JONES: Jay.

15 JAY: Number one, I think it would  
16 appear from the registrant perspective that the  
17 process for public participation up through and  
18 in the current iterations looks more than  
19 adequate to us, but number two, going forward,  
20 probably would be useful for the Agency and its  
21 colleagues in the other related agencies that  
22 have an interest in endangered species issues

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1 and the intersection of pesticide regulation to  
2 figure out how to refine the public  
3 participation in the future, because there may  
4 be too many opportunities and hard for folks to  
5 really understand, you know, where to  
6 participate.

7           So, I would think that maybe narrowing  
8 and focusing the opportunities for public  
9 participation in the future phases, in the not  
10 too distant future, would be a useful next point  
11 of thinking, but it certainly appears to be more  
12 than adequate at this point in time.

13           MR. JONES: Derek, then Eric, and then  
14 Beth.

15           DEREK: Yeah, I think actually Dennis  
16 sort of made one of the points I was going to  
17 make, but if -- I'm not clear. Are these  
18 bulletins actually part of the label or are they  
19 not? Is that -- what's the intention there?

20           MS. WILLIAMS: I'm not a lawyer, so I'm  
21 not going to answer that yes or no. I will tell  
22 you that our legal staff has indicated the

1 reference on the label makes them enforceable.

2 DEREK: So, they are incorporated by  
3 reference?

4 MS. WILLIAMS: Whether they are labels  
5 or labeling or --

6 DEREK: At that point, I think they're,  
7 just from what we just heard from Rebeckah, for  
8 example, I think that a grower in good faith  
9 that wants to do the right thing, if the  
10 additional supplemental label is not immediately  
11 available to them at the point of sale, you  
12 know, I just -- I don't know, I assume you've  
13 talked to your enforcement people and the state  
14 enforcement people, that I think, you know,  
15 there may be some issues there if you're -- if  
16 it's not readily available, and I do think that  
17 there would be ways to have the supplemental  
18 label just disseminated where it's relevant and  
19 put that responsibility on the state, but at  
20 some level, you have to have -- if the label is  
21 going to be enforceable, it needs to be readily  
22 accessible I think to the growers or whoever's

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1 using them or it's going to be difficult to  
2 assure compliance by good faith growers.

3 The other point that I wanted to make  
4 is when you're going to state agencies to  
5 develop the draft, it says in your flow chart  
6 you're going to ground truth the draft bulletin  
7 with state agencies. I'm just curious, are you  
8 talking about the lead agencies or are you  
9 talking about Fish and Wildlife Agencies, and at  
10 what point do the state fish and wildlife folks  
11 get involved?

12 MS. WILLIAMS: We would be working  
13 through our pesticide lead agencies, because  
14 they're the people that are our conduit to the  
15 real world. I would foresee a process whereby  
16 we would encourage but not mandate that they  
17 also get input from other state agencies,  
18 relevant state agencies, and make sure that they  
19 get an opportunity to look at it, too. It's not  
20 something that we would mandate at that point,  
21 but certainly we would welcome.

22 DEREK: Well, I guess I would encourage

1 you to rethink that. I mean, it seems to me  
2 that often the state fish and while life  
3 agencies are going to be the most knowledgeable,  
4 along with the regional Fish and Wildlife  
5 Service people about what's going on with  
6 endangered species in that state and that it  
7 would make sense to have them, you know, brought  
8 into the process automatically when a lot of  
9 this effort is going on so that you're not sort  
10 of blind-sided by something that happens late in  
11 the process.

12 I think bringing them in early in the  
13 process is a good idea, because it will avoid  
14 surprises later in the process where they tell  
15 you that information that you're relying on is  
16 incorrect or whatever. So, it would seem to me  
17 like making that a mandatory part of this whole  
18 public review process would make a lot of sense,  
19 along with -- I'm still not entirely clear at  
20 what points you are assured that you're bringing  
21 in the Fish and -- U.S. Fish and Wildlife  
22 Service in the bulletin process, because it's

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1 not reflected on the flow chart. You said that  
2 they wouldn't be co-authors, but it wasn't clear  
3 to me whether they are automatically going to be  
4 brought in on all the bulletins, and if so, that  
5 ought to be on the flow chart, I would think.

6 MS. WILLIAMS: Again, I -- first of  
7 all, let me address your first comment, if I  
8 might. I think input from field experts  
9 relative to the species is very important in  
10 what we're doing. I think that the ground  
11 truthing the bulletin itself with the state  
12 agencies is probably too late in the process for  
13 that and that that needs to be done actually  
14 earlier.

15 What we're talking about in terms of  
16 that ground truthing of the bulletin, we're at a  
17 point where the mitigation's been identified.  
18 That's what we're going to go forward with, and  
19 we want them to look at it and just make sure  
20 that we didn't screw something up when we  
21 printed the bulletin. So, it's not really a  
22 comment on the mitigation itself, and I think we

1 need that species-specific input on the  
2 mitigation itself much sooner in the process. I  
3 think that's very important.

4 The second -- the second part of your  
5 question relative to the bulletins, again, the  
6 services where it's appropriate for them to be  
7 involved would be involved much earlier than at  
8 the bulletin phase. The bulletin is not new  
9 information that people who need to see it would  
10 be seeing for the first time to decide if the  
11 mitigation is correct. That will have already  
12 been decided. All the bulletin is is a graphic  
13 representation of that mitigation, and we don't  
14 intend to have the services involved in that.  
15 It's an EPA document, and we'll graphically  
16 represent it.

17 Again, you know, when the states take a  
18 look at it, if they want to share it with Fish  
19 and Wildlife Service people, that's fine, but at  
20 that point, the mitigation should be pretty  
21 firmed up. We shouldn't be questioning the  
22 mitigation at that point.

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1 MR. JONES: Eric?

2 ERIC: Dennis had asked my original  
3 question, so I back him on the -- on the ability  
4 to provide input into the -- the up-front  
5 ecorisk assessments; however, Derek's question  
6 kind of made me think about the fact that if the  
7 bulletin is part of the label, when there is a  
8 change -- if and when a new bit of information  
9 is found out about endangered species which  
10 causes a bulletin change, that would, in effect,  
11 therefore be a label change, which would have to  
12 be submitted by the registrant and go through  
13 the public participation process and so forth,  
14 that would kind of delay any sort of mitigations  
15 that were necessary in light of the new  
16 information for the protection of the endangered  
17 species, don't you think?

18 MS. WILLIAMS: Oh, there was a "don't  
19 you think" at the end of that? I was just going  
20 to say, "Thank you." "Don't you think?"

21 ERIC: Would that be a procedural  
22 problem?

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1 MS. WILLIAMS: Actually, I don't think.  
2 I don't think that that's the case, and one of  
3 the reasons -- and I don't -- again, I'm not a  
4 lawyer, and I'm not going to purport to be one.  
5 I don't even play one on TV. But the whole  
6 concept of having a generic statement  
7 referencing the bulletin was in part so that we  
8 could put mitigation in place that needed to be  
9 put in place without going through a two year  
10 long process of getting the label itself on the  
11 container changed and out of the channels of  
12 trade. We think we're actually going to be able  
13 to put necessary mitigations in place much more  
14 rapidly, because it's not attached to the  
15 container.

16 In terms of -- again, I'm not going to  
17 say whether it's a label or labeling. All I  
18 know is I have been told that because it is  
19 referenced, it is enforceable. So, I'm not sure  
20 what the legal process is for making a change to  
21 that, but it's definitely going to be more easy  
22 to do -- it's going to be easier to do than were

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1 we changing actual labels attached to products  
2 out in the channels of trade.

3 ERIC: So, you feel that because it's  
4 not actually on the jug itself, it's a bulletin  
5 that's provided as a supplemental, then it's  
6 not -- you don't have to go through the same  
7 process as in submitting an application for an  
8 amendment to your label and so forth and so on?

9 MS. WILLIAMS: I don't believe so.

10 ERIC: Okay. Now, as a follow-up to  
11 that, is the EPA here going to be in charge of  
12 maintaining those bulletins, or is that going to  
13 be delegated to the regional EPAs or the states?

14 MS. WILLIAMS: We will be doing that.

15 ERIC: Okay.

16 MS. WILLIAMS: We at headquarters with  
17 much help from people who know how to do such  
18 things.

19 ERIC: Thank you.

20 MS. WILLIAMS: Thank you.

21 MR. JONES: All right, Greg and then  
22 Beth and then Shawny.

1           GREG: Boy, I don't even know where to  
2 start, there are so many people I wrote down  
3 things for.

4           A long time ago, Derek mentioned  
5 something about a voluntary program. That is  
6 something -- one of those outside things that  
7 Artie had discussed earlier about an outside  
8 process, and that may be through the Fish and  
9 Wildlife Service, through habitat conservation  
10 plans or something of that. I presume that's  
11 the line you were going down, and that is  
12 something that allows for movement of property  
13 and/or activities within an agreement with the  
14 Fish and Wildlife Service and/or National Marine  
15 Fisheries on a certain limit of (inaudible)  
16 under that definition, and that is something  
17 that we encourage, is any type of voluntary  
18 programs like that.

19           I believe Shawny was asking about the  
20 work. Just to let everybody know, we are  
21 working very closely with EPA. We have changed  
22 our priorities and put in significant resources

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1 to work with them. We provide technical  
2 assistance to them on not only species  
3 specificity, species profiles, which we are  
4 updating for all 1200 and some endangered  
5 species or listed species, critical habitat, et  
6 cetera, so that if there is an adverse  
7 modification or something, and we are also  
8 providing technical assistance on ecological  
9 toxicology effects on species, where we have  
10 experts within the species or within certain  
11 types of products that may have an adverse  
12 impact, including invasive species, which is a  
13 big thing.

14 We have a lot of refuges. We have to  
15 use pesticides on our refuges. We have  
16 cooperative agreements with farmers, too. So,  
17 we have to consult with ourselves on any type of  
18 thing like this, also. But the big thing is  
19 that we are working up front, closely, with EPA.  
20 They have come to us. We are working  
21 cooperatively very well, and we're meeting  
22 regularly, trying to figure out where is the

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1 best point of public participation, and it seems  
2 to be working well right now.

3           There are little glitches in the road,  
4 you know, like even though we all speak the  
5 English language, mitigation means three  
6 different things to us. EPA has mitigation, and  
7 we have two other types of mitigation. So, you  
8 know, vocabulary, even though it's all the same,  
9 is still difficult, and we're learning those  
10 things, but we've gone from baby steps to  
11 running right now, and I think it is a -- the  
12 product will be better for the species, for our  
13 fiduciary responsibilities and for EPA's, and  
14 for the growers, the users and the public in  
15 general.

16           MR. JONES: Thanks, Greg.

17           Beth?

18           BETH: You had asked for information on  
19 efficiencies and effectiveness, and I think  
20 we've kind of mixed and matched on that as we  
21 have been talking here, but I just wrote down a  
22 few things.

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1           We have already accomplished some  
2           efficiencies by including in this process a lot  
3           of the comments that were received from your  
4           2002 request for comments, and I think one thing  
5           that will keep it efficient is what you've  
6           articulated in that you stick as much as  
7           possible to the existing processes as they are  
8           working now rather than recreating the wheel,  
9           although recognizing that interim procedures  
10          will be needed, such as in this carboxin  
11          example.

12           I think some efficiencies will probably  
13          be needed in information technology, which was  
14          brought up at PRIA yesterday as well, and that's  
15          something I think we all know, and if there are  
16          ways we could start thinking about that and  
17          thinking about how to advise you on that, I'm  
18          not sure exactly what the question will be,  
19          because we still don't -- it seems there's going  
20          to be web participation and web sites for the  
21          county bulletins, but exactly how those will  
22          operate, I'm not real clear on yet.

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1           And I understand there's a California  
2 process for a web site for their listing, but I  
3 haven't looked at it, and I am not completely  
4 familiar with it.

5           MS. WILLIAMS: If I could just -- I  
6 think it's a really good model for California.  
7 I'm not sure it's a good model for the nation.

8           BETH: Okay.

9           MS. WILLIAMS: But it's certainly a  
10 place to look.

11          BETH: I think one thing that concerns  
12 me is looking at that time line and that 2006,  
13 which is not that far away, unfortunately, when  
14 FQPA things are going to come to a head, is  
15 going to bump -- is bumping up against all the  
16 work you've got to do on endangered species.  
17 So, I think that reduced duplication of efforts  
18 is something that you really need to look hard  
19 at and make sure that as these -- the regs are  
20 implemented, that the roles kind of get defined  
21 and that people are -- begin to become  
22 consistent in the way that they manage this

1 process.

2           And then lastly, I'll just tell you  
3 that the registrants would like -- you know, we  
4 kind of know what you need to know, but we don't  
5 know exactly what you need to know, because we  
6 haven't really gone through this completely yet  
7 with some good examples, and so as soon as we  
8 can know what the needs are, that the needs can  
9 be made transparent so that we can generate the  
10 data if it's needed or collect the data if it's  
11 needed or provide the data if it's needed, then  
12 we'd like to do that as early in the process as  
13 possible.

14           So, for example, at your problem  
15 formulation stage, the right input parameters  
16 are going in, so we may need to know -- you may  
17 need to know the typical uses rather than the  
18 maximums, and we certainly can provide  
19 information like that, as can the grower  
20 community. The users it at the local level are  
21 going to be some of the experts on what  
22 mitigation measures will work and what won't.

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1                   And I have a question that I don't --  
2                   since you are not a lawyer, I don't know if  
3                   you'll answer or not --

4                   MS. WILLIAMS: We'll see.

5                   BETH: -- but do you guys have any  
6                   intention of, when you determine what needs are  
7                   going to be required for making these  
8                   assessments, as we get down the road and we're  
9                   doing them on a regular basis, will this be  
10                  codified?

11                  MR. JONES: I think it's just premature  
12                  for us to answer that. I think we've got to see  
13                  how it goes before we can get a clear picture as  
14                  to whether that would be appropriate or not.

15                  Okay, Shawny.

16                  SHAWNY: Is it a given that the  
17                  bulletins are just for growers and that the --  
18                  that the non-ag uses -- the pesticides that are  
19                  used for non-ag purposes, that the mitigation  
20                  measures would automatically -- for endangered  
21                  species would automatically either go through  
22                  point of sale or already be taken into account

1 for non-ag uses?

2 In other words, you know, bulletins are  
3 not going to be a good mitigation strategy, I  
4 think, for public use.

5 MS. WILLIAMS: I'd like -- outside the  
6 (inaudible) -- I don't mean to exclude anybody,  
7 but that's just -- I don't think we have time to  
8 get into that today -- I'd like to hear what you  
9 think would be better strategy, short of mailing  
10 everybody something, because again, you know,  
11 something like that -- because we don't know who  
12 these people are. It had been our intent to not  
13 treat non-ag products any differently from ag  
14 products. Where there was a concern and it was  
15 geographically specific, we had intended to  
16 handle it the same way.

17 So, if there are alternatives to that  
18 that we need to look at that we have not already  
19 considered, we've considered quite a few, but  
20 there may obviously be some we have not, then we  
21 need to look at those.

22 SHAWNY: I -- well, just to throw out

1 right now, I would probably say mandatory point  
2 of sale information is one, probably other --  
3 well, we've seen a lot of voluntary -- not a  
4 lot, but we've seen voluntary programs that  
5 don't necessarily achieve their objectives. So,  
6 something would have to be mandatory or it would  
7 probably have to be excluded for use, I would  
8 imagine, but that's just throwing that out  
9 there.

10 MS. WILLIAMS: And I appreciate that.  
11 Just to make sure we're talking the same  
12 language, as Greg mentioned, sometimes the same  
13 words mean different things. The limitation  
14 would be mandatory --

15 SHAWNY: Yeah.

16 MS. WILLIAMS: -- even for non-ag users.  
17 There would be a label statement that says you  
18 have to comply with the bulletin. So, the  
19 limitation would be mandatory. What I think I'm  
20 hearing you say is some kind of mandatory "get  
21 it in their hand," make sure they actually read  
22 the bulletin.

1           SHAWNY: Well, I'm thinking of  
2 pesticides that are used, you know, for -- if  
3 you just take a residential use of a pesticide,  
4 whether it's lawn care chemicals that are  
5 affecting birds in particular areas that are  
6 migratory or something, you know, I mean, these  
7 are broad measures that I'm saying I'm hoping  
8 and I'm taking almost as a given at this point  
9 that the Agency would -- would look at  
10 mitigation, you know, would take into effect --  
11 into account that that would be extremely  
12 difficult to mitigate through some kind of limit  
13 on use for the homeowner or for residential use  
14 or for, you know, other non-ag uses.

15           I don't know quite how to say that in  
16 this particular forum, but you know, so I would  
17 think either -- I mean, a point of sale, a  
18 mandatory point of sale information would be  
19 minimum, I would imagine, to really try to  
20 engage the consumer who's going to use the  
21 pesticide, although you know, I'm not even  
22 confident that that might actually stem the

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1 threat. But I mean, I guess we would have to  
2 take it on a case by case, but you have answered  
3 my questions. I was thinking that the bulletins  
4 were only for growers, so that's good to know.

5 MS. WILLIAMS: No. No, they are not.

6 SHAWNY: Okay, good, thanks.

7 MR. JONES: Okay, Mary Ellen, I think  
8 you're our last comment on this topic.

9 MARY ELLEN: Thanks. Amy, I -- I mean,  
10 Amy, I'm sorry. I mean Artie, when you're  
11 looking at the mitigation measures and whether  
12 or not the growers can implement them, I think  
13 we will also have to look at whether or not the  
14 measures can be documented that they've been  
15 taken, not that that should be the defining  
16 factor whether to include it or not, but to  
17 answer some of your questions about enforcement,  
18 I can envision the states going to a grower, if  
19 there's an investigation, to try to determine  
20 what or if they had the bulletin, so the growers  
21 are going to have to be trained to keep track of  
22 their bulletins, and then they are also going to

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1 probably need information on how to record or  
2 document the steps they took. If it's a  
3 restricted use and it's a usage mitigation  
4 measure, they can record that in a use record,  
5 but if it's a set-back or something else that's  
6 not readily visible after the application,  
7 there's going to need to be some education on  
8 how to prove that.

9 MS. WILLIAMS: We have got that similar  
10 challenge, though, for set-backs that are  
11 already on --

12 MARY ELLEN: Well, that's true.

13 MS. WILLIAMS: I mean, that's kind of  
14 not a new challenge in enforcement. I mean, I  
15 don't think we're creating a new challenge for  
16 enforcement. I think you guys just need to  
17 know, you know, where the break point is of what  
18 the right information is that we're supposed to  
19 have at that point in time.

20 MARY ELLEN: Right.

21 MS. WILLIAMS: And not make it any more  
22 complicated than it has to be for making a

1 decision.

2 Thank you.

3 MR. JONES: Thank you. All right,  
4 thanks, Artie. Thanks for going through what I  
5 think was a very valuable hour and a half spent  
6 on endangered species.

7 At this point, it is -- and I'll give  
8 some of my take-away from this session as I wrap  
9 up, so I will do that in a few minutes.

10 Margie, do we have any public  
11 commenters this morning?

12 UNIDENTIFIED FEMALE: (Inaudible.)

13 MR. JONES: Okay, so, I'm just going to  
14 spend a minute, I think actually we are going to  
15 get nicely ahead of schedule here, as the  
16 remaining two topics are a preview of future  
17 PPDC topics, as well as I'm just going to give  
18 some of the Agency's take-away from this day and  
19 a half.

20 There are a couple of things that I  
21 could use, that the program could use some  
22 advice on above and beyond and including some of

1 the things we talked about today. A lot of  
2 the -- you heard a fair amount about it  
3 throughout the entire day and a half, and it has  
4 to do with results, performance indicators.

5 We've been, as you've heard throughout  
6 the day and a half, been asked -- and I frankly  
7 think appropriately so -- by Congress and by OMB  
8 to be able to identify the results of our work.  
9 What are we doing for public health and the  
10 environment in the work that we do here in the  
11 Pesticides Program? And I have to say that it  
12 has been quite a struggle for us to do this.  
13 It's not what we have been asked historically to  
14 show accountability around, because  
15 accountability has generally been around sort of  
16 the kinds of things that we do that hopefully  
17 lead to results. How many actions did you take  
18 as it related to reregistration, tolerance  
19 reassessment, registration? How many grants did  
20 you give? How many inspections were taken? How  
21 many enforcement actions? And I'm speaking now  
22 somewhat from the enforcement part of our

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1 program, but -- and so, we have been struggling  
2 for the last year or so to get our arms around  
3 this.

4 I had thought about bringing this up  
5 for some advice at the last PPDC, but after  
6 talking internally with folks, it dawned on me  
7 that the conversations quickly get muddled  
8 unless you give people some decent examples.  
9 So, we've now got I think a few examples that  
10 are certainly not comprehensive enough, it has  
11 not passed the test that OMB has created for  
12 having adequate results for the programs, but  
13 it's enough that it would -- you would -- you  
14 would get a general sense as to what's being  
15 considered in the range of adequate, and what  
16 I'd be looking for is advice around, you know,  
17 how else -- what other means can we bring, what  
18 other things should we be measuring, and also,  
19 just getting some general feedback around the  
20 direction we have gone. So, at our next  
21 meeting, I would like to spend some time where  
22 we see, you know, here is the way in which we

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1 have attempted to get our arms around what are  
2 the human health and environmental and economic  
3 results that our work in the Pesticides Program,  
4 the degree to which we have been able to measure  
5 that, get some feedback around it and get some  
6 ideas from you as to how else we could  
7 demonstrate results. So, that would be one  
8 topic that's of great interest for us and  
9 frankly has, as you've heard over and over  
10 again, it matters a lot right now.

11 (End tape 3-A.)

12 MR. JONES: If we are able to meet --  
13 second topic, if we are able to meet our  
14 schedule on registration review, which is -- we  
15 are planning on it, but there are factors  
16 outside of our control, that -- inter-agency  
17 process, for one. At our next meeting, we'll be  
18 in the public comment period in registration  
19 review. So, you will all have, if that happens,  
20 the proposed rule, the preamble that goes with  
21 it, and I would like to use the PPDC as an -- as  
22 one part of that public participation process

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1 where this committee is giving us some advice on  
2 the proposed rule. Now, that doesn't mean that  
3 any of you can't and I would encourage all of  
4 you to still comment on the rule, but I would  
5 like to still use the meeting of the PPDC to get  
6 some comment from all of you around that, around  
7 that rule. That's certainly an acceptable  
8 approach to take during rulemaking.

9 If we're not in the public comment  
10 process, then that obviously won't be available  
11 at that time. There may be some issues within  
12 registration review based on some of the work  
13 group's additional work that I'll talk about  
14 later that may be appropriate for us to talk  
15 about.

16 The consumer labeling effort, which I  
17 have come to understand that we have a member of  
18 the environmental community who has raised their  
19 hand and is willing to participate, so I feel  
20 that we now have a -- we have a credible balance  
21 on that group, and so that group is going to  
22 start working on what they told us about

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1 yesterday. If they are ready, and my  
2 expectation is that they will be, to give us a  
3 report of some of the ideas that they have  
4 explored, some specific language that they'd  
5 like to put before us, then we -- I would like  
6 to get that before this group.

7           And although we don't yet have a  
8 specific topic around endangered species due to  
9 the magnitude of the issue, the pace with which  
10 we're moving on the issue, which as Greg said,  
11 we are running, and the need that I continue to  
12 hear from the stakeholder community in a very  
13 broad way of desire for more information, I  
14 fully expect that there will be some issue  
15 around endangered species that we are going to  
16 want to talk about.

17           So, those are four pretty heavy-duty  
18 items. In general, we have tried to sort of  
19 knock off three big ticket items, since one of  
20 those could fall off for one reason or another,  
21 and I'm comfortable identifying four.

22           Members of the PPDC have over time

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1 consistently said you want to give advice around  
2 topics that the Agency is seeking advice, and so  
3 I'm not going to be shy about telling you where  
4 I think we could use a little advice, and so  
5 I've identified four areas, but I'm certainly  
6 always interested in knowing are there topics  
7 that you think would be useful for this  
8 committee to provide some advice to the Agency,  
9 and you can use -- and I'd certainly accept some  
10 ideas right now, and you can always use the  
11 forum we have created electronically.

12 Caroline?

13 CAROL: I did want to suggest a topic  
14 at this point, but I wanted to go back to your  
15 first topic.

16 In order for us to give you advice  
17 about it, we will need to get paper way ahead of  
18 time, because it's complicated.

19 MR. JONES: Very good point.

20 CAROL: A couple of examples, and  
21 how -- an understanding of how the indicators  
22 that you need to use are different from the ones

1 that you were using before.

2 MR. JONES: Okay.

3 CAROL: Because it seems like we got  
4 used to one system and now we've got another  
5 one.

6 MR. JONES: Yep. Okay, I think that's  
7 a very good point that is absolutely true. You  
8 really would struggle to give us advice if you  
9 didn't have the -- and we will -- we will do  
10 that, as well as give you the guidance that  
11 we're operating under, which is pretty  
12 straightforward for us to do, too, okay? Thank  
13 you.

14 Jay?

15 JAY: In terms of the metrics, I think  
16 putting them in two broad categories, one which  
17 would be risk mitigation for safety, human  
18 health, environment, but also benefits enhanced,  
19 I think those two broad categories would be  
20 useful to kind of parse the approach into.

21 MR. JONES: Right, that's the plan.

22 Thanks.

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1                   Jose?

2                   JOSE: Do you have a feeling on how big  
3 a problem -- not a problem, I don't want to put  
4 it in a negative thing, but how important the  
5 question of drift is becoming, and do you have a  
6 lot of questions at the Agency with drifting of  
7 chemicals and drifting of other things that the  
8 Environmental Protection Agency -- I know this  
9 is the inspection side only, but this is  
10 becoming an issue, you know, where we are, we  
11 are becoming highly urbanized. A lot of farmers  
12 have been pushed out. We are getting people  
13 getting too close to them. There's a lot of  
14 different factors that come into play. Is that  
15 a -- something that we may have to look at  
16 sometime? I mean, I know pesticides is one of  
17 them, but we have a problem with burn issues and  
18 the smoke drifting over and now we have got  
19 people who complain about the farmer working in  
20 the fields and the dust coming over to the  
21 (inaudible) because of the urbanization. I  
22 don't know if this is a problem or not. Maybe

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1 I'm just being oversensitive, because we are  
2 getting a lot of -- we are getting some people  
3 complaining about it. Is that something that  
4 you ever --

5 MR. JONES: We certainly hear about  
6 drift. I think our state colleagues are more  
7 likely to be hearing about issues associated  
8 with drift. I'm somewhat struggling with --  
9 when you say a problem, is it -- what I'm  
10 looking for are topics that we are able to --

11 JOSE: I would like to take that word  
12 back, a problem, but it's an issue that people  
13 have to deal with.

14 MR. JONES: Right. Yeah, clearly it's  
15 an issue that people are dealing with every time  
16 they are engaged in application around  
17 pesticides and the restrictions that we put in  
18 place to help them deal with it. I'm not sure  
19 it's a topic that would benefit from a PPDC-like  
20 dialogue around it, but it's certainly something  
21 to keep in consideration.

22 Eric?

1           ERIC: On the performance measures  
2 issue, I'm wondering as part of that whether  
3 you're looking at sort of end points like  
4 biomonitoring as something that you're  
5 considering, and you know, I think to the extent  
6 you're thinking about environmental monitoring  
7 or biomonitoring as part of those measurements,  
8 it would be useful to have some kind of  
9 background information about those provided to  
10 us in advance so that we can consider what  
11 you're looking at.

12           MR. JONES: I think this is where sort  
13 of the guidance that Caroline referred to would  
14 be very helpful, but just to give you a quick  
15 overview, in the results reporting that we've  
16 been doing under the GPRA basically and a  
17 specific process that OMB's created, but it's  
18 about GPRA, there are sort of various levels of  
19 results. The simplest level is the actions that  
20 you take that lead to results.

21           ERIC: Right.

22           MR. JONES: Then, you know, the higher

1 level of sophistication would include something  
2 like, for example, residues on food,  
3 biomonitoring, but the ultimate results are  
4 improvements in health, improvements in health  
5 of humans, improvements in health in the  
6 environment, and so the ideal is to get to that  
7 most sophisticated level of results, but there  
8 is a general acceptance that there is this sort  
9 of step-wise approach to it and that the -- it's  
10 the actions that you take in registering and  
11 re-registering that can lead to these other  
12 changes that may be more easily measurable, but  
13 ultimately, you want to get to that bottom-line  
14 result, and that will -- we will give you sort  
15 of the general guidance that we have been asked  
16 to follow as it relates to that, as well as what  
17 we've done to try to achieve that, which is  
18 we're certainly not at that end result that  
19 people that we're reporting to are asking for,  
20 but...

21 ERIC: I understand the plutonic ideal  
22 of what you're being asked to look for, but I'm

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1 suggesting maybe some shadows on the cave wall  
2 that you could consider.

3 MR. JONES: Yes.

4 ERIC: The other issue is compliance  
5 with labels and sort of generally compliance,  
6 and to the extent that that is sort of central  
7 to the entire program and one thing that we all  
8 wonder about, I think to the extent you've got  
9 information on that and how you measure that and  
10 how you audit that and what information is out  
11 there on that, that would be extremely helpful.

12 MR. JONES: This is an informational  
13 kind of --

14 ERIC: Well, yeah, it's both  
15 informational, and if we are not currently --  
16 so, if that's not central to how you're  
17 monitoring your own progress, how you might go  
18 about doing that, on both of those issues, the  
19 biomonitoring, environmental monitoring, and the  
20 label compliance.

21 MR. JONES: Okay. Pat?

22 PAT: I'm not sure how you feel about

1 this since I think it's been brought up as a  
2 possible topic before by Jay, myself, perhaps  
3 others, but I continue to think it would be  
4 helpful to haul the OECA people in here and have  
5 a discussion about enforcement from a number of  
6 perspectives, whether resources are being  
7 concentrated sensibly, from the perspective of  
8 what you just outlined as the need to measure  
9 results and human health benefits associated  
10 with the actions that that office takes on your  
11 behalf.

12 As I listened to the PSEP discussion, I  
13 guess what occurred to me is that there may be  
14 some opportunities through supplemental  
15 environmental programs to generate resources  
16 that might help on PSEPs, and those are always  
17 sensitive discussions, but for example, in the  
18 air program, they have placed an emphasis on  
19 negotiating SEPs that can dedicate money towards  
20 the cleanup of school buses, because it's  
21 thought that school buses have real particulate  
22 problems in the back of the bus, and that's been

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1 a concentration, and they've succeeded in  
2 leveraging \$25 to \$30 million over the past five  
3 years for that effort.

4 So, I mean, just some -- you know, some  
5 discussion with OECA I think along several  
6 fronts might be useful.

7 MR. JONES: Okay.

8 Warren?

9 WARREN: Yesterday we had an  
10 opportunity to talk about process improvements,  
11 one of which had to do with electronic labeling  
12 and submission of electronic labels and  
13 ultimately review of electronic labels. As we  
14 get toward trying to implement GHS and the  
15 possible review of 22,000 labels out there over  
16 a short period of time, I wonder if it might be  
17 possible to get an update on where we are on  
18 electronic labeling and a review of electronic  
19 labeling and how that fits in both short term  
20 and long term in the process.

21 MR. JONES: Okay. Jerry and Dennis and  
22 Eric and Steve? Jerry?

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1           JERRY: I'm not sure that this  
2 subject's relevant to this group, but let me  
3 bring it up anyways. I'm hearing from different  
4 stakeholder groups that there's an issue about  
5 indemnification agreements associated with crop  
6 damage liability, both from the state levels,  
7 enforcement, registrants and obviously the  
8 growers.

9           MR. JONES: Okay. Dennis?

10          DENNIS: I'm not sure if this has been  
11 discussed by the committee before since I'm  
12 relatively new, but I was wondering if  
13 there's -- if there'd be any interest in having  
14 a discussion about the Agency's role in Homeland  
15 Security and especially with the pesticide  
16 program's activities in those areas.

17          MR. JONES: Yeah, that might be a good  
18 update. Thanks.

19          Derek, then Steve.

20          DEREK: I just wanted to second what  
21 Eric Olsen and the OECA that Pat suggests, I  
22 think those are great ideas.

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1           Also, theoretically, I guess, the WPS  
2 results of the five-year review, which we're now  
3 coming up I guess on ten years, are going to be  
4 out. I would welcome a presentation of that  
5 report to this committee.

6           MR. JONES: Okay. Steve?

7           STEVE: Just real quick, I think that  
8 we ought to perhaps take a look at 25-B, the  
9 exemption of pesticides from agency regulation,  
10 if that's something that you would like to try  
11 to do. I'm still getting feedback from our  
12 people that they don't feel that it's working  
13 appropriately, and so I wanted to throw that out  
14 to you.

15          MR. JONES: Okay.

16          STEVE: Also, with respect to the  
17 notice of participation that you referenced a  
18 while back, I think that the closer you get to  
19 that in terms of the time limits and time  
20 provided for opportunity to comment, et cetera,  
21 the closer you get to that I think is the  
22 possibility of curing some of the nonconfidence

1     there, that people aren't going to get notice,  
2     and I think there's something there for you and  
3     for us to look at.  If we can stick to those  
4     dates, then I think you will cover a lot of the  
5     problems that people feel are there.

6             MR. JONES:  All right.

7             All right, thanks -- oh, Gary?

8             GARY:  I thought it was very helpful  
9     yesterday to have that PRIA review, and I  
10    thought maybe it might be good to have another  
11    PRIA update within -- the next time we have our  
12    PPDC meeting.

13            Of particular interest to me was the  
14    discussion in some of the registration divisions  
15    regarding the internal tracking mechanisms, and  
16    that's something that I think would be  
17    appropriate to talk about with PPDC in terms of  
18    maybe -- if not standardizing, at least talking  
19    about, you know, let's pull the best from the  
20    BBPD and the AD and RD and get it so that it  
21    would be good for the registrants, good for the  
22    user groups and good for consumers and so on.

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1 MR. JONES: Okay. Mary Ellen?

2 MARY ELLEN: I'm wondering if next  
3 spring would be timely enough to have an update  
4 on the moss kit toe labeling PR notice.

5 MR. JONES: Okay.

6 MARY ELLEN: The draft PR notice.

7 MR. JONES: That's certainly something  
8 we've talked about here before.

9 Okay, good. Well, it will be a six-day  
10 meeting, and we will have night sessions and --  
11 well, this is very helpful feedback, actually.  
12 We'll work to narrow an agenda that keeps it to  
13 a day and a half, maybe two.

14 The next meeting will likely be in the  
15 April time frame, and we'll try to nail down  
16 that as soon as possible, because I know for  
17 your planning purposes, the sooner you know, the  
18 better it is for you.

19 I'll do a little bit of follow-up to  
20 make sure that -- and I don't intend to repeat  
21 every piece of advice I think the office got  
22 over this day and a half, but to hit some of the

1 highlights.

2 I want to start with just how pleased I  
3 am with the advice that we've been getting. It  
4 certainly didn't just happen yesterday morning  
5 for an hour and a half on registration review,  
6 but it's been happening over the course of the  
7 last year on registration review. The degree to  
8 which the PPDC has engaged and invested in  
9 helping us to figure out what is arguably one of  
10 the two-three most important programs that we  
11 operate and its future is invaluable to us, and  
12 I am feeling very confident that we're going to  
13 have in place in an appropriate time, meaning in  
14 the range of '06, when tolerance reassessment  
15 comes to an end, an old chemicals program that  
16 is going to be manageable for all of us and  
17 provide the kind of protection that the statute  
18 envisioned, and frankly, the people expect.  
19 So -- and I really feel that that would not have  
20 happened had not we collectively engaged in the  
21 way that we have to help to identify the  
22 elements of what that program could look like to

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1 meet those objectives, and I really want to  
2 thank all of you who have dedicated I know hours  
3 and hours of time. There were a number of  
4 meetings that were day-long. It's not the kind  
5 of issue that you can sit around in a hotel  
6 ballroom for an hour and a half and, you know,  
7 give the kind of advice that really is needed.  
8 So, for all of you who have participated over  
9 the last year in helping us to get to where we  
10 are, I very much want to thank you.

11 The -- it is not exclusively how I want  
12 to use this committee, but I do want to -- I  
13 want this committee to operate when it's  
14 appropriate in that manner, and when we have an  
15 issue that's that hard, that big, that  
16 complicated, I do want to look to all of you,  
17 and that doesn't have to be the same ones of you  
18 each time. It can -- it will vary by the topic,  
19 and that engages us in a meaningful way between  
20 meetings to give a fuller advice to the Agency.  
21 So, thank you for that.

22 And as it relates to registration

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1 review, the follow-up that I heard yesterday was  
2 the -- that the registration review work group,  
3 the PPDC registration work group is going to  
4 reconvene in the not to distant future, actually  
5 probably pretty quickly, to further vet some of  
6 the issues that were raised by members of the  
7 PPDC. We had two separate presentations, one  
8 about public participation, one about data  
9 needs, that the group was going to get together,  
10 back all together, to further vet some of those  
11 so that the Agency could understand just how  
12 much consensus existed around the various  
13 recommendations that were being made by two or  
14 three stakeholders in those presentations.

15 The anticipated residues, I heard that  
16 there was a desire on the part of most of you  
17 that we make public the analysis that we did  
18 around anticipated residues and a suggestion  
19 that we consider e-docket as a way to do that,  
20 and we are certainly going to make the analysis  
21 public and are going to explore whether  
22 e-docket's the appropriate mechanism, and it

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1 certainly on the face of it seems like it may  
2 well be. We are willing to look into that.

3 On the REI issue, we -- although I felt  
4 that we had touched base with virtually every  
5 stakeholder, the TPPC pointed out that we had  
6 yet to talk to them about that, and so we will  
7 endeavor to do that on the REI issue.

8 Consumer labeling group, as I had  
9 mentioned just a minute ago, that we now have I  
10 think enough representation that it would be  
11 appropriate for that work group to begin  
12 working, and so they will, and I expect that  
13 they'll get far enough along that by our next  
14 meeting they'll be reporting out the product of  
15 their work for all of us to take a look at and  
16 push back on and ask some questions and see if  
17 there's any kind of a -- and give them  
18 direction. I mean, I wouldn't expect that they  
19 are so far along that we would have a final  
20 product that we would be looking for seeing if  
21 there was some consensus around, but I would  
22 expect that by the next meeting we could be

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1 giving them some direction on where they've --  
2 the work that they have done.

3 We are going to after this meeting get  
4 around to all of you a breakdown of two parts of  
5 our budget that were not presented yesterday.  
6 One is the STAG issue, STAG being state grants  
7 basically, and the second is a further breakdown  
8 of the -- of what the pie looks like for those  
9 field programs, so you didn't just have one  
10 word, you actually had a more in-depth  
11 description of what was included in that  
12 category, and we will do that before the next --  
13 well, in very short order.

14 And then on endangered species, what I  
15 believe I heard in our discussion around the  
16 presentation that Artie made around public  
17 participation was that there's general support  
18 for the public participation that we described,  
19 general support. I clearly heard Jay say, you  
20 know, look at it, it may be a little bit too  
21 much, and I think that as we did in our old  
22 chemicals public participation process, as we

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1 did it over time, we began to figure out, you  
2 know what, we may not need to do so much in some  
3 cases, and we collapsed it down to a 401 phase.  
4 I think we would probably follow the same  
5 process here. By doing it, we'll figure out  
6 how -- not just by ourselves, because we are  
7 going to hear from all of you, whether we've  
8 overextended the participation or not.

9 I heard from at least one, if not two  
10 of you, the concern about the degree of  
11 engagement of the Fish and Wildlife Service,  
12 which we don't consider that public  
13 participation, that's the internal government  
14 participation, and we're certainly in discussion  
15 with the Fish and Wildlife Service, as you heard  
16 from Greg earlier, just about how we can work  
17 together, and those conversations are going to  
18 continue.

19 So, again, I think I heard a general  
20 support for the kind of public participation we  
21 described, and our next step is going to be  
22 about how to figure out how to integrate that

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1 into our existing programs.

2 So, those are the highlights of the  
3 advice that -- oh, and I need to repeat the one  
4 that I already mentioned at the time, and that  
5 had to do with PSEP. I think there was clear  
6 consensus around the desire for that program to  
7 have enhanced funding and not a consensus around  
8 exactly how the office should attempt to achieve  
9 that, and so I'll take that advice back in its  
10 toto in the FY '05 process, which by the time we  
11 get back together again, I'll be able to tell  
12 you what decision we made around that.

13 But I think I've heard the advice  
14 pretty clearly, and it certainly will be taken  
15 into consideration when we're sitting around  
16 trying to make those difficult decisions in our  
17 budget. So, I think that that -- you know, I  
18 mentioned it earlier. I wanted to make sure I  
19 repeated that one.

20 So, I think that that sort of sums up  
21 for me the highlight of the advice that was  
22 provided over the course of the day and a half,

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1     although Ann and I and others will sit down and  
2     go through our notes, and I'm sure we will find,  
3     as we go through them, dozens of other smaller  
4     but sometimes even more meaningful advice that  
5     we'll then banter around and figure out how to  
6     take into consideration in our -- the operation  
7     of our program.

8             Again, I want to thank all of you. I  
9     think it's been, you know, a very helpful  
10    meeting, and as an advisory committee, for me,  
11    the judge is basically I think sort of as Thomas  
12    Jefferson, also to end with the quote we started  
13    with, people are inherently capable of making  
14    proper judgments when they are properly  
15    informed. I feel that I come out of this day  
16    and a half better informed. I got good advice,  
17    I think, in a number of areas, and so I expect  
18    I'll be able to make proper judgments.

19            So, thank you all for that, and we will  
20    be getting some information out about our next  
21    meeting, and I hope you all have safe travels  
22    and a good weekend. Thanks.

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(Whereupon, the meeting was adjourned.)

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CERTIFICATE OF TRANSCRIPTIONIST

I, Susanne Bergling, do hereby certify that the foregoing proceedings were transcribed by me via audiotape and reduced to typewriting under my supervision; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were transcribed; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.

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