

Increasing Migrant Farm Worker Protections:

A Region 8 Initiative

June 25, 2004

Introduction

The principal objectives of this initiative are to reduce exposure to pesticides and to contaminated drinking water in migrant farm worker communities. The learning from this initiative will be assessed for its potential application to the remaining Region 8 states.

There are approximately 45,000 migrant farm worker in Colorado. This group constitutes one of the least powerful and most vulnerable populations in the state. The average migrant worker's income is about \$7,500. Access to health care is poor. Working conditions can be hazardous.

We are undertaking a complex and multilayered effort to reduce exposure to pesticides and contaminated drinking water among migrant farm workers. The complexities flow from the differences in the social, cultural, economic, political and regulatory positions of the major stakeholder groups - growers, workers and regulators. The tensions created by these differences makes developing trust among all stakeholders a critical element in the success of this project.

The Region 8 partners in this initiative are the Environmental Justice Program, the OPRA Pesticides Program, the FIFRA Pesticides Enforcement Program and the Agricultural team under the State Partnerships and Sustainable Practices Program. The effort extended by each of these programs represents an enhanced and expanded level of staff commitment to achieve the goals outlined in this document.

The Challenges

In 2002, the Environmental Justice Program's Migrant Farm Worker Initiative found that some drinking water wells located in northeastern Colorado migrant labor camps contain concentrations of nitrates in excess of the Federal standard of 10 ug/mL. Furthermore, concentrations of semi-volatiles have also been detected. It is important to note that the drinking water wells in which contaminants were detected are not subject to regulatory requirements of the Safe Drinking Water Act because these camps' populations were too small. Nonetheless, the Environmental Protection Agency believes that safe drinking water should be provided to this environmental justice community and has undertaken the task of reducing migrant farm worker exposure to contaminants (specifically nitrates) in drinking water.

The second principal dimension to protecting the health of migrant and seasonal workers

is limiting worker (and their families') exposure to pesticides. Working with the Pesticide and Pesticide Enforcement program, the EJ program will help to design an enhanced outreach and education initiative for workers and growers.

The challenges to successfully implementing this initiative are:

- (1) creating a mechanism to address the potentially contaminated drinking water supply of migrant farm workers whose drinking water supply is not subject to the regulatory requirements of the Safe Drinking Water Act (SDWA);
- (2) enhancing and developing an effective working relationship with the migrant farm workers and with the farm owners;
- (3) increasing compliance the Worker Protection Standard through the use of compliance assurance tools, increased inspections, oversight and on-site outreach and education activities on the safe handling of pesticides.

Addressing the Challenges

Safe Drinking Water

Finding a mechanism to address the potentially contaminated drinking water supply of migrant farm workers whose drinking water supply is not subject to the regulatory requirements of the Safe Drinking Water Act (SDWA) will represent a success for this initiative.

According to the Safe Drinking Water Act, a water system must have at least fifteen service connections or serve a minimum of twenty five individuals for a period of 60 days per year to be regulated. Water systems are broken down into several classifications: community systems and non-community systems. Community water systems are public and serve the same people all year. Non-community water systems serve the public, but not the same people all year. Non-community water systems can be further broken down into non-transient, which serve the same people for more than six months (example: a school) and transient which serves the public but not the same people for more than six months (example: rest stop).

Many migrant farm worker labor camps do not fall under any of the water systems as defined above. Sanitary water surveys, which are conducted by the State of Colorado and which ask the grower/farm owner to attest to the number of people and length of time being served by their water system, are used to determine if a water system is subject to the SDWA. The sanitary water survey replies, in most cases, based on our research for farms located in northeastern Colorado, are that many water system serves less than twenty five people for less than 60 days or serves less than 25 people for less than six months at a time.

Solving the challenge of a system serving less than twenty five people is daunting. The major elements of the solution are increasing communication between the major stakeholders, education about the dangers of unsafe water, demonstration of how to improve water quality and

establishing a level of trust among the major stakeholders.

To improve drinking water protections for migrant farm workers this initiative seeks to:

- (1) improve information outreach to workers and their families about the dangers of unsafe water;

Local health departments have unique information about and access to grower properties. Preliminary conversations with local health departments suggest that we may be able to create an outreach and education process which would engage these departments in an effort to improve worker protections.

- (2) expand the education of growers on the dangers of unsafe water and of the true costs for providing safe water; and

Information on the dangers posed by drinking water high in nitrates will be distributed throughout the grower community. Additionally, the Region will develop a practical “pilot” small well treatment system. We will facilitate the design, installation, and maintenance of such a system, and demonstrate the realities of providing safe, economical water to migrant farm workers.

- (3) development of an outreach program to growers to identify feasible and economical pathways to address drinking water concerns will be another measure of success for this initiative.

The outreach will be accomplished through the efforts of sympathetic growers, local Farm Bureau branches and various trade organizations. The message will be that clean water serves the natural interests of growers in preserving an able work force and that to accomplish this goal there is an affordable and manageable process.

The EJ Program has begun a dialogue with the Colorado Rural Water Association (CRWA). We have asked CRWA to look at the technical and economic aspects of providing safe drinking water to small water systems. CRWA has agreed to develop cost estimates for variously-sized point of use controls on nitrates and bacteria. Additionally, CRWA will develop estimates of the costs of installation, operation, and maintenance of such systems. Finally, CRWA will describe the steps required to install and maintain these systems.

When cost estimates are in hand, the EJ Program will leverage funding resources to create and monitor a pilot system. This system can be used to demonstrate the practical cost and operational issues surrounding the installation. A brief handbook can then be created to address cost, operation and maintenance issues. This effort will help to demonstrate that such water treatment is affordable and manageable. If the financial resources are in place, the pilot system

will be designed and installed by the end of Spring, 2005. Operating data will be collected over the 2005 growing season (June-August) and a final report prepared by the end of FY 2005.

It also may be appropriate to leverage funding to supplement county health department budgets devoted to testing water on properties at which migrant workers live and/or work. In this outreach EPA will explore whether it would be most efficient and appropriate to work with and through CDPHE Drinking Water and Environmental Health staffs.

Enhancing and developing an effective relationship with the migrant farm workers and with the farm owners is crucial to the overall success of this migrant farm worker initiative. Migrant workers, by virtue of their history, culture, legal status, and social vulnerability, do not trust most public officials (including those who are tasked with protecting them from environmental hazards) and growers generally are not accepting of regulatory agencies.

Growers and workers often live and work in a tense (and sometimes distrustful) relationship. Growers hold the greater power in their ability to hire and fire workers. The grower needs the worker to produce a crop. At the same time, workers need the jobs, but may believe that they are being taken advantage of by growers. The result is that both parties usually attempt to just do their jobs and not disturb the equilibrium in their relationship.

The steps outlined above largely focus on the types of and avenues for information exchange. We can observe which of the elements yield the greatest return. Some effects will be measurable (e.g. new private water system controls). Other effects will reflect themselves in changes which lead to positive outcomes that we did not anticipate and cannot measure, but which lead to improved worker protection. We need to stand ready to identify, report on and encourage the positive changes which flow from this initiative. Our goal is to have communicated an offer to test water from unregulated wells to all owners of such wells by August of 2004. We will then work with owners of wells showing high levels of nitrates to find and install appropriate control systems.

Pesticide Worker Protection Standard

The Technical Enforcement Program has found that there is currently about a 50% non-compliance rate for Worker Protection Standards (WPS). In an effort to strengthen compliance with the WPS and minimize worker exposure to pesticides, the Region UFO enforcement program will conduct a minimum of forty WPS inspections in FY 2004, this will include those facilities which received notices of warning in 2003. Furthermore, the Pollution Prevention, Pesticides and Toxics Program (Pesticides Program) is developing a strategy that will focus on providing WPS education and awareness to agricultural growers and workers in Colorado.

The Pesticide Program will increase its presence in state farm worker coalitions, work to build relationships with migrant farm worker clinics and collaborate with the Environmental Justice and Technical Enforcement Programs to strengthen the WPS element of this initiative. The objective of this initiative is to increase protection of migrant farm workers through increased outreach and education for the regulated community (growers), focused compliance monitoring,

and timely enforcement.

WPS Background -

- o The Worker Protection Standard (WPS) was developed to provide protection from pesticide use for migrant farm workers.
- o For the past several years, Region 8 has made WPS inspections in Colorado as we have direct implementation authority.
- o In general, we find about a 50% non-compliance rate for WPS.
- o Prior to trying to taking an enforcement action with penalties for violations of WPS, we inspect a facility, issue a notice of warning, provide approximately a year to come into compliance, and inspect again to determine compliance.
- o In 2003, Region 8 initiated five WPS cases and have settled four of them.
- o Region 8 received many Congressional, State of Colorado, and industry group inquiries concerning these five actions; during meetings with these groups, much interest in training and outreach on WPS was expressed.
- o The relative high noncompliance rate for WPS could be considered an environmental justice issue.

Activities in 2004 -

- o Develop and conduct outreach and training activities for the regulated community in Colorado and Wyoming. Activities will be focused on 3 to 4 areas in Colorado that have the greatest concentrations of migrant workers and will involve the use of grants to develop and deliver much of the outreach.
- o Follow up with inspections at facilities that received notices of warning (NOW) in 2003 for WPS (25 NOWs issued).
- o Conduct additional WPS inspection training for Region 8 FIFRA inspectors.
- o Prioritize inspection resources in 2004 to focus on WPS facilities. Conduct a minimum of 40 WPS inspections (this includes follow-up of NOWs).
- o Promptly complete inspection reports and initiate appropriate enforcement follow-up per EPA's WPS Enforcement Response Policy.

Measures of Success -

- o Increased outreach activities/training with the regulated community.
- o Increased compliance rates for WPS.
- o Number of migrant farm workers protected.

The EJ Program, in partnership with the Pesticides Program, will work with grower organizations to identify and assist in the implementation of steps to achieve greater compliance and protections. For example, the Colorado Farm Bureau has voiced an interest in leading an educational outreach effort to its grower members to make them aware of how to best comply with applicable regulations. We will discuss outreach ideas with the Farm Bureau. Additionally, we will seek out other such organizations to determine how we can assist them in furthering our mutual goals.

The Colorado Legal Services Corporation is pursuing resources to expand upon its *Pomotora* project, whereby migrant farm workers are educated by fellow farm workers about worker rights and exposures to pesticides. The EJ program funded this initial, limited effort to “train the trainer” through one of our EJ Small Grants. We are in the process of discussing how we might develop resources for a peer-based outreach program to workers. The program would educate workers about how to protect themselves and their families from the dangers of pesticides and to provide training in the proper handling of pesticides.

The Northern Area Migrant Coalition addresses migrant farm worker issues (housing, working conditions, health, etc.) in northern Colorado counties, principally Adams, Larimer and Weld counties. In a recent meeting with the Coalition, it was agreed to invite EPA and CDPHE to meet with a few farm workers under the auspice of local agencies to ask candid questions about worker concerns. The information gained in such sessions will be used to help adjust priorities and review program effectiveness. Additionally, EPA has been invited to have a booth at the Annual Farm Worker Appreciation Picnic, to be held this summer in Greeley.

The statewide Colorado Migrant and Rural Coalition meets each month to discuss statewide migrant worker issues. EPA has been invited to attend these meetings on a regular basis. Initially, Michael Wenstrom, Barbara Barron and a representative of the Technical Enforcement staff will attend these meetings. This group of service providers offers an opportunity for the Agency to articulate its goals, solicit suggestions and share information. Furthermore, this outreach serves as a direct conduit of information to the growers and workers which assists the Region to implement our goal of protecting this population.