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Endangered Species and Pesticides: The Kansas Program

Sue Ann Funk
Kansas State Board of Agriculture

The U.S. Environmental Protection Agency (EPA), because of its responsibility for registering pesticides for use in the U.S., is subject to the restrictions of federal Endangered Species Law. Before a pesticide can be registered, and subsequently marketed, EPA must guarantee that specific pesticides will not place an endangered species in peril. The Division of Plant Health of the Kansas State Board of Agriculture has received a grant from EPA to enforce the protection of listed species from pesticide exposure in Kansas.

The states were given two options by EPA -either enforce the federal program as it is developed or develop a state-initiated plan. States may choose to follow the federal program for some species while developing state-initiated plans for other species. Thus far, Kansas has chosen to follow the federal program for two migratory birds species and is in the process of developing a state-initiated plan for the two plant species.

The two species that will fall within the federal guidelines are the Interior Least Tern (*Sterna antillarum*) and the Piping Plover (*Charadrius melodus*), two migratory birds that nest occasionally in Kansas. EPA has identified seven counties in Kansas where the birds can be expected to nest: Meade, Clark, Comanche, Reno, Stafford, Barton, and Rice countries. The areas that they can be found include the

Cheyenne Bottoms wetland, the Quivira National Waterfowl Refuge, and the Cimarron River.

The Interior Least Terns are small, gulllike birds that are summer residents in Kansas. Terns require barren areas near water such as saline flats in salt marshes, sand bars in river beds, and shores of large impoundments. A dependable food supply of small fish and aquatic crustaceans must be nearby.

The Piping Plovers are small (6-7 inches long) whitish plovers that are rare migrants or seasonal visitants through Kansas. They require sparsely vegetated shallow wetlands and open beaches and sandbars adjacent to or within streams and impoundments.

The federal program for the two birds will include a spraying set-back allowance from water bodies where nesting is likely. The distance of the allowance depends on the method of pesticide application. After reviewing the maps, it was our belief that developing a state-initiated plan would not fit our criteria for the development of a state-initiated plan, mainly that a state-initiated plan would create less impact on the Kansas land-owner while providing additional protection for the endangered species.

Kansas has chosen to begin the state-initiated plan with the two plants for a

number of reasons. First, the plants are afforded no protection in Kansas under the existing state endangered species act. Federally you cannot "take" the plants but habitat destruction is not covered. Native prairie, the habitat of the two plants, is rapidly decreasing throughout the midwest of one goal of the state-initiated plan is to increase the recognized value of the native prairie.

A second reason is that the plants do not move so we have a better opportunity to narrowly define the areas of plant occurrence, thereby reducing landowner impact.

A third reason is that a state-initiated plan for the two plant species will have a lower impact on the landowner than the federal program because of the habitat characteristics. The type of habitat in which these plants occur represent high quality native hay meadows that have received good management over the years. In most cases, this type of habitat will require little to no pesticide application. So hopefully any pesticide restrictions that will be imposed will have little affect on the landowners.

The two plants that will be the focus of the state-initiated plan are the Western Prairie Fringed Orchid (*Plantanthera praeclara*) and the Mead's Milkweed (*Asclepia meadii*). Both plants occur on native prairie with a long history of use as a hay meadow, high plant diversity, and light to no grazing in eastern Kansas.

The Mead's Milkweed is one of about 22 milkweeds that occur in Kansas. In addition to the habitat condition listed above, the species favors dry, shallow,

well-drained soils that occur on slopes and ridges of hills. Sixty percent of all known populations of the plant occur in Kansas, with populations clustered in the eastern and southeastern corner of the state.

The Western Prairie Fringed Orchid is one of only a few orchid species of the tallgrass prairies and is among the showiest of Kansas orchids. Ideal habitat for this species is found primarily in areas of prairie as described above in the areas of slightly to moderately moist draws, swales and depressions.

The proposed state-initiated plan will follow many of the federal program guidelines. Federal bulletins will be utilized but the bulletins will be customized to include the additional topics of 1) About The Species, and 2) Management of High Quality Hay Meadows. Also, an additional criteria will be added to the section "Does this information apply to you" and that criteria will be: 2". Do you intend to sue pesticides on native prairie with the following characteristics:

- *High plant diversity
- *History of light to no grazing
- *Long history of use as a hay meadow.

The maps on the bulletins will feature legal sections shaded that have plant populations occurring within them. If the landowner has a question in regards to locating plants within the shaded area, the bulletin will direct the person to the Kansas State Board of Agriculture or the Kansas Biological Survey. Both state agencies have the exact legal descriptions

of the plant populations. The bulletins will use the same type of distribution network as will be established by the federal program.

It is important to note that this outline of the program is in a very early stage of development. The Board of Agriculture meets with a number of state and federal agencies on endangered species issues and these individuals have not had the opportunity to review this plan and it has not yet been submitted to EPA. But this short summary explains the general direction that the Kansas program for the protection of Endangered Species from pesticides is progressing.