



Address PFAS challenges with enterprise-level strategy

Description

Haley & Aldrich [Emerging Contaminants](#) Practice Leader [John Xiong](#) recently sat down (virtually) with his colleagues [Tiffany Thomas](#) and [Glenn White](#), to discuss how an enterprise-level strategy has helped their [industrial and manufacturing](#) clients navigate the multifaceted challenges presented by [per- and polyfluoroalkyl substances \(PFAS\)](#).

In the video of their discussion, Tiffany and Glenn talk about how they have partnered with these companies to formulate strategies that address the considerable financial and legal risks related to PFAS. As they note, it's especially important to develop a PFAS strategy now that U.S. Environmental Protection Agency (EPA) has released its [PFAS Strategic Roadmap](#).

Watch the video below or read the complete transcript that follows.

John: Greetings everyone. My name is John Xiong and I am the emerging contaminants practice leader at Haley & Aldrich. Today I am glad to have with me Dr. Tiffany Thomas and Glenn White, both with Haley & Aldrich, who will share some important and strategic work on PFAS that they have been doing on an enterprise-level with our industrial and manufacturing clients across the country. Both have been instrumental in formulating strategies to address financial and legal risks related to PFAS. This is especially important in light of the evolving regulations and the recent EPA PFAS Strategic Roadmap that was just announced on October 18, 2021. Tiffany is a known geochemistry expert in our Portland, Oregon, office and has been involved in a major PFAS litigation in the U.S. Glenn is a Senior Scientist in our Rochester, New York office and he is the main contact for one of our clients with over 100 active industrial facilities across the country and in Canada.-

Let's start first with Tiffany.

Page 1 Certainly, PFAS is all over the news. From your experience, what are some concerns surrounding PFAS and what do you see are the impacts to the industries?

Tiffany: We work with a wide variety of industries and market sectors, each with their own unique perspective on PFAS and their possible liabilities. For example, industries with high-profile PFAS usage – such as those that may have used aqueous film-forming foam (known as AFFF) or incorporated PFAS into their products – are worried about possible lawsuits and financial repercussions. Others are worried about unknown historical usage or that they may be perceived

as a source just because they are in a PFAS impacted area. Especially now, with the release of the new EPA PFAS Strategic Roadmap, we are starting to get a better handle on the scope of planned and potential regulatory measures – and they represent a wide range of repercussions. But I'd say that the universal theme is the anxiety of uncertainty – now that we have a better idea of the scope of federal actions, most clients do not know the true extent and impact of these proposed federal and state regulations. The Roadmap also still leaves us wondering if PFAS will be treated like other contaminant classes. Will we regulate total PFAS or individual constituents? We just don't know. And, on top of that, the science of PFAS is continuing to evolve – new fate and transport pathways such as atmospheric deposition, new non-target PFAS compounds being detected in environmental samples, new human health and ecotox studies, new remedial technologies. The more we learn, the more we realize just how much we don't know, and that can be very scary for the industry.

John: It's interesting that you mention uncertainty Tiffany, because that's a hurdle for our industry. Can you share with us approaches you used to help clients address that uncertainty and how to minimize the anxiety that arises from these uncertainties?-

Tiffany: Well, like I said – there is A LOT we just don't know about PFAS and so many developments that are advancing our overall understanding of PFAS on multiple fronts. As you know John and Glenn, it is quite literally a full-time job to monitor all the regulatory, technical, and legal developments in real time. That is why we need to consider PFAS holistically – we need to evaluate all these moving parts in concert, because PFAS ramifications can affect site operations, regulatory compliance, liability assessments, public perception... and the list goes on. Those sorts of far-reaching impacts affect multiple departments and requires enterprise-level support to understand how all these pieces work together to craft a management strategy that seeks to understand and bound the uncertainty. Ultimately, the goal must become to minimize business risk associated with that uncertainty, homogenizing the corporate response across multiple departments and geographic regions. Understanding how these changes may affect future planning, regulatory responses, etc. requires a depth of knowledge and expertise that is rarely available in-house in most business sectors.-

John: Now to you Glenn. Tiffany mentioned business risks, and I understand that one of your clients had concerns about PFAS in their facilities and their industrial waste and they asked you to help develop a strategy to address these concerns on an enterprise level. What was different about your client's request?

Glenn:- Well, as you mentioned John, my client is deeply concerned about the potential presence of PFAS in industrial wastes that are produced at their facilities – an issue that is specifically mentioned in the recent EPA PFAS Strategic Roadmap. They are also concerned that their disposal facilities and Publicly Owned Treatment Works would begin to require testing to confirm that PFAS in the waste meets disposal permit limitations. So, if they are required in the future to treat waste prior to disposal, it could have a significant financial impact to their business. So, this concern is aligned with what Tiffany mentioned about business risks. My client realized this early on and decided to be proactive in analyzing their current state in order to understand the impact of PFAS on their future business and liabilities. Whereas many of our industrial clients are understandably waiting for regulations to be promulgated, this client chose to be more proactive. They reached out for assistance to create a systematic approach on how to quantify the presence and significance of PFAS in their wastewater treatment processes and waste streams.

John: Interesting. Glenn, can you share generally what you did to help address the uncertainties that your client was facing?

Glenn: Sure. We first worked with the client to identify three facilities that are representative of the many facilities they operate and the various wastes they generate across their operations. We collected samples from different points

across their wastewater treatment processes to assess PFAS before, during, and after treatment. The before samples were important, because as it turned out we found PFAS in the municipal water used by the facilities. We used the data we collected and compared them to guidance values published by various regulatory agencies across the country, but mostly from the State of Michigan which has guidance specific to my client's industry. We did detect PFAS in most samples that we collected, but we found that the concentrations did not exceed the guidance levels. So even the highest concentrations of PFAS did not appear to warrant treatment. In this case, the client upfronted some cost to understand their potential future liabilities from PFAS, and through the enterprise-level strategy and sampling we performed, we were able to conclude that the liabilities were not significant. It could have been the other way around, of course, in which case the client would have sufficient time to develop a strategy for next steps.—

John: Thank you, Glenn. Great outcome for the client and I am glad they take this proactive approach to understand their potential exposure to PFAS early on. Tiffany, you also mentioned “enterprise-level support.”- Can you give us a specific example on how you implemented that?-

Tiffany: Sure. I currently work with a client in the oil and gas industry. As you may know, that is one of the “high profile” industries known to have used AFFF at refineries and bulk terminals. So, this client has first-hand experience dealing with PFAS in several states that have mature regulatory programs for PFAS, such as in CA and MI. However, they also have facilities in states that do not yet regulate PFAS but are still susceptible to possible regulation or litigation. They wanted to standardize their PFAS response across their operations, and that's where I came in.-

This enterprise-level work is a bit different from Glenn's example – I partner with their corporate environmental department and with their existing site consultants to make sure that best practices and lessons-learned are applied across their sites. That support includes senior technical review of PFAS-related work and keeping the client at the forefront of technical developments.- I also work with their legal department to address PFAS-related concerns from a legal and potential risk perspective, which in this case is similar to Glenn's example. And like Glenn, my client has embraced a proactive approach, and my support provides direct access to a pool of experts, bridging the technical frontier with the client's pressing needs. This way they can prioritize and focus their efforts (and budgets) with the best information possible.

John: Thank you both. You present nice examples of enterprise-level thinking. So, what would you both say to a client with concerns about potential PFAS liabilities? Any words of wisdom? We will start first with you Tiffany.

Tiffany: The best advice I can offer is to be informed – be proactive, not reactive. Get ahead of the game. Do some internal digging NOW, before you have a regulator or an attorney asking you to do so. Now that we understand what EPA is planning and prioritizing, as well as their anticipated timelines, it's critical that we use this time wisely. Explore and identify potential liabilities by doing a targeted assessment of operational practices, compliance programs, current permits, monitoring programs, historical property usage, etc. *Look* – and I mean *really look* – for possible PFAS-related practices and possible regulatory ramifications. Watch for news of PFAS impacts in the vicinity of your facilities – check if there is any possible connection between your operations and impacted media. Again, I would stress – be proactive. ~~Do not be caught unaware of potential exposures. Know your business and be prepared with a ready answer if you are contacted by a regulator or find yourself the target of a legal action.~~ This sort of knowledge minimizes the anxiety of all the “what ifs” and allows you to develop a working strategy to manage the uncertainty that we talked about earlier.

John: Thank you, Tiffany. How about you Glenn? What advice do you have?

Glenn: I agree with Tiffany. Right now, I think it is wise to be proactive because there are no required reporting obligations on PFAS for the most part. This is the only window of time that industries can understand their liabilities

ahead of imposed requirements. Otherwise, they will be more in a reactive mode rather than having the luxury of time to plan ahead.—

John: Thank you both Tiffany and Glenn, and I do appreciate your thoughts on enterprise-level strategies for addressing PFAS liabilities. And thank you to everyone watching. Should you have questions, please feel free to contact Tiffany, Glenn, or me at the information posted on the screen. Have a good day everyone.—

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