

A Summary of Cases

February 10, 2020

2018/0674 I was informed, per Ed White, Assistant Pesticide Administrator, that in October of 2013, the Office of the Indiana State Chemist (OISC) received the initial application to register Rat X by ConSeal International. OISC refused to register the product on the basis that it did not qualify for the FIFRA 25(b) exemption because corn gluten meal was not a credible pesticide active ingredient in a rodenticide product and because corncobs, the actual ingredient responsible for any killing of rodents, was misrepresented as an inert/other ingredient in the product.

Disposition:

A. On October 14, 2019, a label review was requested from the Pesticide Product Registration Specialist.

B. EcoClear Products, Inc. was cited for six (6) counts (2 counts for Mouse X, 2017 & 2018); (2 counts for Rat X, 2017 & 2018); (one count for Mouse X Ready-To-Use, 2018) and (one count for Rat X Ready-To-Use, 2018) of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing an unregistered pesticide product into Indiana. A civil penalty in the amount of \$1,500.00 (6 counts x \$250.00 per count) was assessed.

C. EcoClear Products, Inc. was cited for six (6) counts of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that is adulterated. A civil penalty in the amount of \$1,500.00 was assessed for this violation.

D. EcoClear Products, Inc. was cited for six (6) counts of violation of section 57(9) of the Indiana Pesticide Registration Law for distributing a pesticide product that violates the Federal Insecticide, Fungicide, Rodenticide Act (U.S.C. 136 et seq.) or regulations adopted under the Act. A civil penalty in the amount of \$1,500.00 was assessed for this violation.

E. Meijer was warned for violation of six (6) counts of section 57(1) of the Indiana Pesticide Registration Law for offering for sale pesticide products that were not registered in Indiana.

2018/0907 On August 8, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans and trees.

Disposition: Allen Lape was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved and this was Allen Lape's second violation of similar nature. See case number 2017/1090. As of September 12, 2019, Allen Lape had not paid the \$100.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty was still owed to OISC.

PS19-0046 On November 5, 2018, I visited Premier Ag in Franklin, Indiana along with OISC Agents Kreider, Davis, and Becovitz. Agent Kreider was investigating a complaint, reference case PS19-0026, and requested that I assist with a pesticide container containment inspection.

Disposition: Premier Ag was cited for twenty-seven (27) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 5-4-1(a), for storing a bulk storage container(s) outside of secondary containment. A civil penalty in the amount of \$6,750.00 (27 counts x \$250.00 per count) was assessed for this violation. By rule, this violation may not be mitigated. Per email notification from Agent, Aaron P. Kreider, on June 14, 2019, the Premier Ag location in Franklin, Indiana moved to Seymour, Indiana.

PS19-0075 On January 2, 2019, I performed a routine marketplace inspection at Gold Leaf Hydroponics LLC located at 5081 S. Production Drive, Suite B in Bloomington, Indiana. I spoke with the Owner Kyle Billman and informed him of the process of the marketplace inspection.

Disposition:

A. Gold Leaf Hydroponics LLC was warned for two (2) violations (2018 & 2019) of section 57(1) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that was not registered in the state of Indiana.

B. BWGS LLC was warned for two (2) violations (2018 & 2019) of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered for sale in the state of Indiana.

C. Maril Products, Inc. was cited for two (2) violations of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered for sale in the state of Indiana. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed.

PS19-0077 On December 4, 2018, I performed a routine virtual marketplace inspection on Amazon.com. The purpose for this inspection was to purchase and obtain a biological pesticide sample for the OISC Microbiology Lab product integrity sampling initiative.

Disposition: Southern Agricultural Insecticides Inc. was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in the state of Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation. However, the civil penalty was held in abeyance and not assessed provided Southern Agricultural Insecticides, Inc. properly registers the pesticide product within thirty (30) days from receipt of this notice.

Amazon was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing an unregistered pesticide product. A civil penalty in the amount of \$250.00 was assessed for this violation.

As of September 12, 2019, Amazon had not paid the \$250.00 civil penalty. A second letter was sent as a reminder the civil penalty was still owed to OISC.

As of October 28, 2019, Amazon had not paid the \$250.00 civil penalty. The case was forwarded to collections.

PS19-0090 On February 19, 2015, the Office of Indiana State Chemist (OISC) received a pesticide product registration for Green Cleaner Concentrate (25b). On July 21, 2015, OISC received a pesticide product registration for Root Cleaner Concentrate (25b). The applications were incomplete and via email we requested the following:

- a. Root Cleaner – full efficacy data
- b. Green Cleaner – full efficacy data and statement of formula

Disposition:

A. On March 5, 2019, the information was forwarded to the Pesticide Product Registration Specialist for a label review.

B. Bloomington Wholesale Garden Supply LLC (BWGS LLC) was warned for four (4) counts 2 products for 2018 & 2019) of violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale pesticide products that were not registered in the state of Indiana.

C. Central Coast Garden Products was cited for four (4) counts (2 products for 2018 & 2019) of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in the state of Indiana. A civil penalty in the amount of \$1,000.00 (4 counts x \$250.00 per count) was assessed.

D. Central Coast Garden Products was cited for four (4) counts (2 products for 2018 & 2019) of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide that was misbranded. A civil penalty in the amount of \$1,000.00 (4 counts x \$250.00 per count) was assessed.

E. As of October 17, 2019, Central Coast Garden Products had not paid the \$2,000.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty was still owed to OISC.

F. As of December 11, 2019, Central Coast Garden Products had not paid the \$2,000.00 civil penalty assessed. The case was forwarded to the Indiana Attorney General for collection.

PS19-0103 On February 27, 2019, I performed routine marketplace inspection at Memmers Hardware located at 990 N. US Highway 41 in Princeton, Indiana. I spoke with the Owner, Jodie Memmer, and informed her of the process of the marketplace inspection. I issued a Notice of Inspection and informed Mrs. Memmer that I would follow up with him one the inspection was completed.

Disposition:

A. Memmers Hardware was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that was not registered in the state of Indiana. The Action Order was modified to allow for the legal disposal of pesticide products (a) & (b) listed above in paragraph #2.

B. Chemsico was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered for sale in the state of Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation.

PS19-0109

On March 4, 2019, I performed a routine marketplace inspection at Home Depot located at 1714 East Tipton Street, Seymour, Indiana. I spoke with the Store Manager, Jenny Hauck, and informed her of the process of the marketplace inspection.

Disposition:

A. On April 24, 2019, a label review was requested from the Pesticide Product Registration Specialist.

B. Based on the initial inspection and subsequent label review, The Companion Group was cited for two (2) counts (2018 and 2019) of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing an unregistered pesticide product. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed. However, the civil penalty was held in abeyance and not assessed provided The Companion Group properly registers this pesticide product within thirty (30) days from receipt of this notice.

C. The Companion Group was cited for two (2) counts (2018 & 2019) of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that is misbranded. A civil penalty in the amount of \$500.00 was assessed for this violation.

D. Home Depot was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that was not registered for sale in Indiana.

E. On September 4, 2019, Poni Avalos from The Companion Group called requesting an extension for registration due to the delay in obtaining efficacy date. She was given until October 4, 2019 to get their product registered.

F. As of October 15, 2019, the pesticide product was still not registered. The original civil penalty in the amount of \$500.00 for violation of section 57(1) of the Indiana Pesticide Registration Law was re-assessed.

PS19-0118

On March 25, 2019, I conducted a Restricted Use Pesticide (RUP) Dealer inspection of Nutrien Ag Solutions formerly known as Crop Production Services located in Orleans, Indiana. I met with Administrative Coordinator Peggy Tapscott and advised Ms. Tapscott I was a Pesticide Investigator with OISC and of the inspection I would be conducting an

inspection consisting of checking RUP sales records for the past two years and RUP application records for the location.

Disposition:

A. Nutrien Ag Solutions of Orleans was cited for one hundred eighty (180) counts¹ of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-3-3, for distributing restricted use pesticides without having a dealer registration. A civil penalty in the amount of \$45,000.00 (180 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$9,000.00. Consideration was given to the fact Nutrien cooperated during the investigation; corrective action was taken; there was no previous history of similar nature and a good faith effort to comply.

B. As of October 24, 2019, Nutrien Ag Solutions of Orleans had not paid the \$9,000.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty was still owed to OISC.

C. On November 1, 2019, Brooke Long of Nutrien Ag Solutions called requesting more time to pay the civil penalty. A ten (10) day extension was granted. The civil penalty will now be due November 11, 2019.

C. The civil penalty was received on November 4, 2019.

PS19-0124 On April 4, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report he had information that Jared Wright is applying pesticides for hire in Indiana without an Indiana pesticide business license. OISC database indicates Jared Wright is not licensed in Indiana.

Disposition: Jared Wright was cited for two (2) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying fertilizers for-hire without having an Indiana pesticide business license. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$375.00. Consideration was given to the fact Mr. Wright cooperated during the investigation.

PS19-0151 On April 23, 2019, Agent Bill Reid and I observed Joshua Neth making a for-hire pesticide application to a yard on the south side of Indianapolis, Indiana. See Figure 1. Agent Reid and I observed Mr. Neth struggling with the application equipment while a second individual sat in the application vehicle.

Disposition: Clint Gilmore was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual. A civil penalty in the amount of \$125.00 was assessed to TruGreen for this violation.

PS19-0152 On April 23, 2019, I observed David Flynn making a for-hire pesticide application in

Indianapolis riding a tractor with a sprayer attached. Mr. Flynn was wearing a short sleeved shirt. See Figure 1. In addition, I observed Dustin Wethington, of Flynn Mowing & Landscaping, making a for-hire application with a backpack sprayer and short sleeves on the same property. See Figure 2. Both individuals were not licensed.

Disposition: David Flynn and Flynn Mowing & Landscaping were cited for two (2) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for-hire without having an Indiana pesticide business license. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed for these violations. However, the civil penalty was reduced to \$375.00. Consideration was given to the fact Mr. Flynn cooperated during the investigation.

PS19-0155 On April 24, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that on April 23, 2019, the neighboring farmer made a pesticide application to his field while the wind was blowing towards the complainant. Complainant states she had to shut her windows because the smell was so bad. She stated she suspects the herbicide was 'dicamba' based of literature she has read.

Disposition: Donald Head was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved.

PS19-0158 On April 29, 2019, OISC Agent Mitch Trimble and I went to Husband Exterminators to conduct a routine business inspection. Upon arrival, we spoke with the receptionist, Ms. Dawn Tapia. Upon identifying ourselves, she stated her boss told her if OISC ever came to the business and he was not there, she was not to talk with us or give us anything. I asked her the bosses name and she stated Mr. Jack Husband. I asked her if she could get me his contact number. She did so. I attempted to call me Husband and was unable to make contact, thus I left a voicemail requesting he call me on my cell phone to set up the inspection. I asked Ms. Tapia if Husband Exterminators did any termite pre-construction treatments. She stated they do not. She stated they do service contract jobs, general pest, and termite control. I advised her I needed to speak with Mr. Husband and to have him call when he returned. I did not receive a return call from Mr. Husband on April 29.

Disposition:

- A. Jack Husband and Husband Exterminators were cited for eight (8) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to properly supervise a non-certified individual. A civil penalty in the amount of \$1,000.00 (8 counts x \$125.00 per count) was assessed.
- B. As of November 26, 2019, Husband Exterminators had not paid the \$1,000.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC.

PS19-0159 On May 1, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that Doug Luhnnow had cut limbs off of her trees and then applied an unknown pesticide to them without her permission.

Disposition: Doug Luhnnow was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless manner by applying pesticides to someone's property without their permission. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved.

PS19-0165 On May 2, 2019, the Office of Indiana State Chemist (OISC), through internet sources, discovered ELM is professing to be in the business of fertilizing and applying pesticides for hire but is not licensed. See Figures 1 and 2.

Disposition: Coby Mansell and Estate Landscape Management (ELM) were cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides/fertilizers for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation.

PS19-0179 On May 14, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural drift to ornamentals on his property. Mr. Ruth believes the injury was caused by an application of 2,4-D and glyphosate made by Keith Dalenberg on May 1, 2019.

Disposition: Keith Dalenberg was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. Consideration was given to the fact this was Keith Dalenberg's first violation of similar nature and no restricted use pesticides were involved.

PS19-0182 On May 16, 2019, the complainant contacted the Office of Indiana State Chemist (OISC) to report drift to his beech trees. The complainant stated he believed the drift came from a lawn care application made by Earl's Lawn Service.

Disposition:

A. Earl's Lawn Service and Earl Kiesler were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to follow an Order of the state chemist or Board. A civil penalty in the amount of \$250.00 was assessed for this violation. In addition, the business license of Earl's Lawn Service and the applicator license of Earl Kiesler were suspended until such time as complete pesticide application records are received.

B. On November 18, 2019, Earl's Lawn Service sent in the proper information. As a result, the license suspension was lifted. The civil penalty in the amount of \$250.00 was still assessed.

C. Earl's Lawn Service and Earl Kiesler were warned for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-5-3, for failure to provide written customer notification containing all required notification elements. The civil penalty was still assessed.

PS19-0191 On May 20, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report 'this past Friday', a local farmer made a pesticide application to a farm field and now the complainant's flowers have spots.

Disposition: Joshua Butt was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact this was his second violation of similar nature (see case 2017/0820) and a restricted use pesticide was involved.

PS19-0208 On May 28, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that today, Columbus Silgas was making a pesticide application to a neighboring farm field and he was drifted upon.

Disposition: Richard Tucker, James Willard, and Columbus Silgas were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm. Consideration was also given to the fact this was Mr. Tucker's second violation of similar nature. See case number 2017/0843.

PS19-0219 On June 3, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural drift to his person and his property. Mr. Smith stated the field to the south of his property was sprayed by Ceres Solutions when the wind was blowing toward his property. Mr. Smith stated he was outside at the time of the application and could feel the mist hit his arm.

Disposition: Ceres Solutions and Curtis Kixmiller were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to people. Ceres Solutions was assessed a civil penalty in the amount of \$250.00 for this violation. Consideration was given to the fact this was Mr. Kixmiller's first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved and there was potential for human harm.

PS19-0224 On January 10, 2019, Office of Indiana State Chemist (OISC) received an application for a new pesticide registration from Aunt Fannie Inc. for the 25(b), minimum risk pesticide product, Aunt Fannie's Mosquito Wipes.

Disposition:

A. On June 12, 2019, a label review was requested from the Pesticide Product Registration Specialist.

B. Target was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that was not registered for sale in Indiana.

C. Aunt Fannie, Inc. was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered for distribution in Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation.

PSA19-0226 On June 6, 2019, OISC Agent Sarah Caffery and I performed a routine marketplace inspection at Target located at 3630 E. South Street, Lafayette, Indiana. I spoke with a customer service representative and informed her of the process of the marketplace inspection. She explained that Bob Metz would be the employee in charge that I would need to speak with. She radioed for Mr. Metz explaining the scope of the inspection and he responded saying that we could go ahead and do the inspection and he would meet with us when we were finished. I then issued a Notice of Inspection.

Disposition: PIC Corporation was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in the state of Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation.

Target was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that was not registered in the state of Indiana.

As of September 17, 2019, PIC Corporation had not paid the \$250.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty was still owed to OISC.

On September 17, 2019, Sarah K. Caffery, OISC Pesticide Product Registration Specialist, notified us there was a submitter for PIC Corporation. The submitter's information was added to the case summary and a copy of the "draft" case summary and the correspondence previously sent to PIC Corporation was sent to the submitter, EnviroReg / Attn: Janine Gydus.

PS19-0232 On June 10, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report this past Saturday (June 8, 2018) Harvest Land Co-op made a pesticide application to a neighboring field and the complainant stated the pesticide drifted all over his house and vegetation.

Disposition: Harvest Land Co-op and Kevin Beckstedt were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual. A civil penalty in the amount of \$125.00 was assessed for this violation. Consideration was given to the fact that a restricted use pesticide was involved.

Harvest Land Co-op, Kevin Beckstedt and Ted Hunt were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to non-target vegetation. A civil penalty in the amount of \$250.00 was assessed for this violation.

Consideration was given to the fact that a restricted use pesticide was involved. Harvest Land Co-op, Kevin Beckstedt and Ted Hunt were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allowed it to drift off-target in sufficient quantity to cause harm to a non-target site.

PS19-0250 On April 5, 2016, the Office of Indiana State Chemist (OISC) received an application to register FIT ORGANIC MOSQUITO REPELLENT by HealthPro Brands. Healthpro Brands was contacted on June 16, 2016 requesting the following:

- a. Efficacy data
- b. Revised labels, removing USDA Organic and other organic claims. These claims are not acceptable for pesticide repellent products.

Disposition:

A. On June 27, 2019, a label review was requested by the Pesticide Product Registration Specialist.

B. Wal-Mart was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that was not registered in Indiana.

C. Healthpro Brands, Inc. was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered for sale in Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation.

D. Healthpro Brands, Inc. was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that was misbranded. A civil penalty in the amount of \$250.00 was assessed for this violation.

PS19-0253 On June 20, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) via email to report that Mosquito Joe's no longer has a category 8 person in supervision and therefore cannot perform community-wide mosquito pesticide applications.

Disposition: Mosquito Joe of North Indianapolis and Bradlee R. Miller were cited for twenty (20) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to properly supervise a non-licensed employee. A civil penalty in the amount of \$2,500.00 (20 counts x \$125.00 per count) was assessed to Mosquito Joe of North Indianapolis. However, the civil penalty was reduced to \$625.00. Consideration was given to the fact they cooperated during the

investigation; corrective action was taken; there was no previous history of similar nature and no restricted use pesticides were involved.

PS19-0304 On July 22, 2019, I met with Mr. Swaim at the above named facility as a follow up to a non-renewal of Category 4 certification by Mr. Swaim.

Disposition: Jeremy Swaim and Swaim Ag Services were cited for ten (10) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having a valid Indiana pesticide business license. A civil penalty in the amount of \$2,500.00 (10 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$1,000.00. Consideration was given to the fact Jeremy Swaim cooperated during the investigation; there was no previous history of similar nature; no potential for harm and no restricted use pesticides were involved.

PS19-0316 On June 2, 2019, at approximately 12:45 PM, I was in the area of 2925 Country Club Rd., Martinsville, Indiana, performing my regular duties as a Pesticide Investigator for OISC. On the above date, I was observing for lawn care applicators in the area to perform routine use inspections. While in the area, I observed a TruGreen lawn care vehicle parked on the road, in front of the above address. I observed a male, later identified as Bradley Yost, using a push-type spreader to apply the lawn with fertilizer.

Disposition: Clint Gilmore and TruGreen were cited for eighty-two (82) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual. A civil penalty in the amount of \$10,250.00 (82 x \$125.00 per count) was assessed. However, the civil penalty was reduced to \$1,025.00. Consideration was given to the fact TruGreen cooperated during the investigation; corrective action was taken; this was Clint Gilmore's first violation of similar nature; there was no potential for harm and a good-faith effort to comply.

PS19-0322 On July 8, 2019, the Compliance Officer of the Office of Indiana State Chemist (OISC) received information GKM Property Services had an unlicensed applicator making for-hire pesticide applications at the Devinshire Luxury Apartments in Bargersville, Indiana.

Disposition: Brody Kalbaugh was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual. A civil penalty in the amount of \$125.00 was assessed for this violation.

PS19-0338 On July 11, 2019, I performed routine marketplace inspection at Ace Hardware located at 2350 E SR 44 Shelbyville, Indiana. I spoke with the Store Manager Brian Sullivan, and informed him of the process of the marketplace inspection. I issued a Notice of Inspection and informed Mr. Sullivan that I would follow up with him once the inspection was completed.

Disposition:

A. On July 17, 2019, a label review was requested from the Pesticide Product Registration Specialist.

B. Ace Hardware was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that was not registered in Indiana.

C. Nebo was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation.

D. As of November 26, 2019, Nebo had not paid the \$250.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC.

PS19-0378

On July 22, 2019, I performed a routine marketplace inspection at Tractor Supply Co. located at 330 Ireland Rd. Mishawaka, Indiana. I spoke with the Store Manager Rich White, and informed him of the process of the marketplace inspection. I issued a Notice of Inspection and informed Mr. White that I would follow up with him once the inspection was completed.

Disposition:

A. On September 4, 2019, a label review was requested from the Pesticide Product Registration Specialist.

B. Tractor Supply Co. was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale an unregistered pesticide product into Indiana.

C. Bonide Products Inc. was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing into Indiana an unregistered pesticide product. A civil penalty in the amount of \$250.00 was assessed for this violation.

D. On October 4, 2019, a letter was sent to Tractor Supply modifying the Action Order allowing for the return or proper disposal of the pesticide product.

PS19-0380

On July 23, 2019, the complainant, via Brian Smith, contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that Ceres Solutions in New Ross had rinsed out container(s) onto the ground and dumped around 1000 gallons of rinsate. Phil Pirtle, Risk Coordinator for Ceres Solutions, allegedly admitted to the dumping.

Disposition: Ceres Solutions and Robert Surber, Jr. were cited for four (4) counts of violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions by applying to a non-labeled target site. A civil penalty in the amount of \$1,000.00 (4 counts x \$250.00 per count) was assessed to Ceres Solutions. However, the civil penalty was reduced to \$500.00. Consideration was given to the fact Robert Surber, Jr. and Ceres Solutions cooperated during the investigation and corrective action was immediately taken.

PS19-0382 On July 24, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that a neighboring farm field was sprayed and now she has pesticide exposure symptoms to her trees.

Disposition: RJE Fertilizer, Mark Hartman and Neal Riehle were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying pesticides in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a non-target site. A civil penalty in the amount of \$250.00 was assessed to RJE Fertilizer. Consideration was given to the fact no restricted use pesticides were involved. Consideration was also given to the fact this was their second violation of similar nature. See case number 2018/0795.

PS19-0385 On July 24, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that right after a neighboring farm field was sprayed, all of her fish died. She suspects pesticide poisoning.

Disposition: White River Cooperative and Robert Garner were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed to White River Cooperative for this violation. Consideration was given to the fact this was Mr. Garner's first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved. White River Cooperative and Robert Garner were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allows it to drift off target in sufficient quantity as to cause harm to a non-target site. Consideration was given to the fact this was Mr. Garner's first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

PS19-0419 On July 31, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that Premier Ag applied dicamba to a neighboring farm field that drifted on to his tobacco crop.

Disposition: Premier Ag Co-op, Inc. and Terry Walther were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed to Premier Ag Co-op, Inc. for this violation. Consideration was given to the fact this was Mr. Walther's first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved. Premier Ag Co-op, Inc. and Terry Walther were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a non-target site.

PS19-0609 On September 10, 2019, I performed a routine Worker Protection Standard (WPS) inspection at Adrian Orchards. I interviewed George Adrian the owner who is also a licensed private applicator. Mr. Adrian stated he is the only person that makes pesticide applications at the

Orchard. Mr. Adrian explained that he was aware of the WPS and used to have his workers WPS trained, but has not done WPS training in a number of years. He also stated that he does not have the WPS poster up anywhere and does not post his applications. He stated he does keep a daily log of everything done at the orchard including what pesticides were applied, how many apples were picked etc... Mr. Adrian produced the log and showed me the last pesticide application entry, which included pesticide products such as Imidan 70 W (EPA Reg. #10163-169).

Disposition: George Adrian was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding agricultural use requirements. A civil penalty in the amount of \$250.00 was assessed for this violation.

PS19-0610 On September 10, 2019, I performed a routine Worker Protection Standard (WPS) inspection at Anderson Orchard. I interviewed Robin Anderson, the owner. Mr. Anderson stated his brother and his father, who are both private applicators, are the only persons that make pesticide applications at the Orchard. Mr. Anderson explained that he was aware of the WPS, but that they haven't done anything to get up to speed on complying with the rule. He stated that he does not have the WPS poster up anywhere and does not post his applications although he does keep a record of his pesticide applications. Mr. Anderson stated one of the pesticides they routinely apply is Imidan 70 W (EPA Reg. #10163-169).

Disposition: Robin Anderson was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding agricultural use requirements. A civil penalty in the amount of \$250.00 was assessed for this violation.

PS19-0622 On September 13, 2019, I, agent Kevin Gibson of the Office of Indiana State Chemist (OISC), conducted a routine **Worker Protection Standard (WPS)** inspection at Howard Orchard in Crawfordsville, Indiana.

Disposition: Craig Howard was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding agricultural use requirements; specifically the use of personal protective equipment. A civil penalty in the amount of \$250.00 was assessed for this violation.

PS19-0625 On September 13, 2019, I, Agent Kevin Gibson of the Office of Indiana State Chemist (OISC), conducted a **Worker Protection Standard (WPS)** inspection at Farlow's Orchard in Russiaville, Indiana.

Disposition: Robert Taylor was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the agricultural use requirements. A civil penalty in the amount of \$250.00 was assessed for this violation.

PS19-0631 On September 19, 2019, I performed a routine Worker Protection Standard (WPS) inspection at Tuttle Orchards. I interviewed Tom Roney the owner who is also a licensed

private applicator. Tuttle Orchards was in compliance with many portions of the WPS requirements. However, they were using at least one product that had a respirator requirement (Imidan 70 W, EPA Reg. #10163- 169) and had not performed any of the respirator requirements such as a medical evaluation or fit test. In addition they had no record of training their workers, had incomplete pesticide application records and did not post the records at the central location.

Disposition: Tom Roney was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the agricultural use requirements. A civil penalty in the amount of \$250.00 was assessed for this violation.

PS19-0632 On September 23, 2019, I, Agent Kevin Gibson of the Office of Indiana State Chemist (OISC), conducted a **Worker Protection Standard (WPS)** inspection at Radke's Orchard in Michigan City, Indiana.

Disposition: Dennis Radke was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the agricultural use requirements. A civil penalty in the amount of \$250.00 was assessed for this violation.

PS20-0013 On October 14, 2019, at approximately 11:30 AM, I was in the area of W. Tipton St., Seymour, Indiana, performing my routine duties as a Pesticide Investigator for OISC. While in the area, I observed a white truck with the name "SmallTown Lawn Care, LLC" affixed to the truck's front doors parked in a parking lot near a restaurant off W. Tipton St. I observed the truck to have bags of granular fertilizer, pesticide containers, a liquid storage tank, and an "Exmark" motorized sprayer/spreader loaded on its bed. Using my mobile desk computer (MDC), I was unable to locate the above business name in the OISC database for a licensed pesticide business.

Disposition: SmallTown Lawn Care, LLC, and Cory Robinson were cited for forty-three (43) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for-hire without having an Indiana pesticide business license. A civil penalty in the amount of \$10,750.00 (43 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$2,688.00. Consideration was given to the fact Mr. Robinson cooperated during the investigation; corrective action was taken; there was no potential for damage since Mr. Robinson was a certified applicator; a good-faith effort to comply and no restricted use pesticides were involved.

CASE SUMMARY

Case #2018/0674

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, IN 47907
765-494-1492

Respondent: Meijer
Mike Soliday
17000 Mercantile Blvd.
Noblesville, IN 46060
Freshline Manager

Registrant: ConSeal International, Inc.
90 Kerry Place, Suite 2
Norwood, MA 02062

Distributor: EcoClear Products, Inc.
4975 City Hall Blvd.
North Port, FL 34290

Submitter: Killoren Regulatory Consulting
Attn: Jean Killoren
316 Highland Avenue
Hartford, WI 53027

Pre Investigation

1. I was informed, per Ed White, Assistant Pesticide Administrator, that in October of 2013, the Office of the Indiana State Chemist (OISC) received the initial application to register Rat X by ConSeal International. OISC refused to register the product on the basis that it did not qualify for the FIFRA 25(b) exemption because corn gluten meal was not a credible pesticide active ingredient in a rodenticide product and because corncobs, the actual ingredient responsible for any killing of rodents, was misrepresented as an inert/other ingredient in the product.
2. On July 12, 2016, OISC received a new pesticide product application for Rat X and Mouse X for ConSeal International, Inc. submitted by Killoren Regulatory Consulting. Both products were produced with the intention to qualify as 25(b) minimum risk pesticides. Labels indicated the products were manufactured by ConSeal International, Inc. and distributed by EcoClear Products, Inc.
3. On October 11, 2016, Mr. White sent an email to EPA regarding concerns against the registration of Rat X and Mouse X. Within his concerns, Mr. White wrote, "*We again believe that CONSEAL INTERNATIONAL's RATX and MOUSEX products do not qualify for a FIFRA 25(b) exemption. Corn gluten meal is a recognized nutritive ingredient in animal feeds and, we believe, is not a credible pesticide active ingredient in a rodenticide product. The mechanism by which corn gluten meal would prove lethal to rodents is unclear to me.*"

4. On July 7, 2017, Joe Becovitz, Pesticide Investigator, obtained samples of Mouse X from Meijer (Indianapolis, IN). Mr. Becovitz also obtained samples of Rat X from Home Depot (Indianapolis, IN) on the same day.
5. On July 21, 2017, OISC received a new pesticide product application for Rat X and Mouse X with the company responsible indicating EcoClear Products, Inc. submitted by Killoren Regulatory Consulting.
6. On October 19, 2017, OISC lab analysis reported that both products were found adulterated. Reports attached as Appendix A (Mouse X) and Appendix B (Rat X).
7. On June 15, 2018, OISC Pesticide Registration Section sent a certified letter to Killoren Regulatory Consulting in reference to the registration of the pending Eco Clear Products, Inc. and ConSeal International, Inc. applications that we received. Both applications were denied.
8. On June 15, 2018, Ed White, Pesticide Administrator Assistant determined the product to be adulterated. Ed White stated, via email, *“the product label of RAT X Ready to use bait trays identifies the active ingredients as 55% corn gluten meal. Corn gluten meal is 60% protein according to the feed industry reference FEEDSTUFFS NUTRITION HANDBOOK (October 2, 2017). Therefore, the protein content of Rat X Ready to use bait trays is calculated to be $(55\%) \times (0.6) = 33\%$ protein. However, analysis of the product sample collected at Connolly’s Hardware (Ft. Wayne, IN) found only 6.7% protein. The product fails to meet its label guarantee of 55% corn gluten meal and is adulterated.”*



Sarah K. Caffery
Pesticide Product Registration Specialist

Investigation

9. On June 20, 2018, I performed a routine marketplace inspection at Meijer in Noblesville, Indiana. I spoke with the Freshline Manager Mike Soliday and informed him of the process of the marketplace inspection.
10. Upon completion of the inspection, I located four (4) unregistered pesticide products that were being offered for sale in the Meijer store. I spoke with Sarah Caffery, Pesticide Registration, and she confirmed that the pesticide products were unregistered. The products are as follows:
 - a. MouseX, a 25(b) product.
 - i. Arrived: 9-8-17
 - b. RatX, a 25(b) product.
 - i. Arrived: 8-30-17
 - c. MouseX Ready-to-Use, a 25(b) product.
 - i. Arrived: 5-11-18
 - d. RatX Ready-to-Use 2-Pack, a 25(b) product.
 - i. Arrived: 1-10-18
11. I spoke with Mr. Soliday and informed him of the unregistered pesticide products I had located. I informed Mr. Soliday that I would be issuing an Action Order instructing them to remove the remaining 24 packages of the MouseX, 14 packages of the RatX, 12 packages of MouseX Ready-to-Use, and 6 packages of RatX Ready-to-Use 2-Pack from the shelves and either send them back to the distributor or


to dispose of them properly since OISC has already issued previous Action Orders (Case 2018/0145) for these products and have rejected registrations. I asked Mr. Soliday if he was able to provide me with any information for when the last shipment came to the store. Mr. Soliday was able to have another employee provide me with that information that I have listed above.

12. No evidentiary samples were taken in this case, only documentary photos.



13. On September 4, 2019, I was informed by Meijer that the product had been disposed of and was no longer for sale.

14. All supporting documents and photos have been electronically uploaded into the OISC case management system.


Garret A. Creason
Investigator

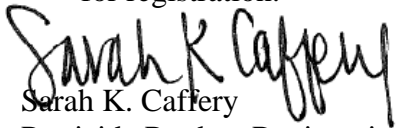
Date: October 2, 2019

Post Investigation

15. On July 6, 2018, OISC received a certified mail in response to Pesticide Registration's from Ms. Killoren. The letter addresses the concerns/terms of the rejection letter from OISC.

16. January 17, 2019, I set up a call with OISC, Killoren, EcoClear and ConSeal representatives to discuss label issues and registration of the products. Ms. Killoren called and cancelled the call because EcoClear and ConSeal were working on a new formula and were not interested in pursuing registration of the old formula.

17. Additional label review was not completed based on the fact that the products would not be submitted for registration.



Sarah K. Caffery
Pesticide Product Registration Specialist

Date: October 15, 2019

Disposition:

- A. On October 14, 2019, a label review was requested from the Pesticide Product Registration Specialist.
- B. EcoClear Products, Inc. was cited for six (6) counts (2 counts for Mouse X, 2017 & 2018); (2 counts for Rat X, 2017 & 2018); (one count for Mouse X Ready-To-Use, 2018) and (one count for Rat X Ready-To-Use, 2018) of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing an unregistered pesticide product into Indiana. A civil penalty in the amount of \$1,500.00 (6 counts x \$250.00 per count) was assessed.
- C. EcoClear Products, Inc. was cited for six (6) counts of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that is adulterated. A civil penalty in the amount of \$1,500.00 was assessed for this violation.
- D. EcoClear Products, Inc. was cited for six (6) counts of violation of section 57(9) of the Indiana Pesticide Registration Law for distributing a pesticide product that violates the Federal Insecticide, Fungicide, Rodenticide Act (U.S.C. 136 et seq.) or regulations adopted under the Act. A civil penalty in the amount of \$1,500.00 was assessed for this violation.
- E. Meijer was warned for violation of six (6) counts of section 57(1) of the Indiana Pesticide Registration Law for offering for sale pesticide products that were not registered in Indiana.



George N. Saxton
Compliance Officer

Draft Date: October 18, 2019
Case Closed: November 25, 2019

Appendix A – Mouse X lab report (10/19/17)



Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment - Feed, Fertilizer, Pesticide and Seed

Robert D. Waltz, Ph.D.
State Chemist &
Seed Commissioner

Purdue University - 175 South University Street
West Lafayette, IN 47907-2063
Telephone (765) 494-1492 - Facsimile (765) 494-4331
www.oisc.purdue.edu

PESTICIDE FORMULATION REPORT

INVESTIGATOR JOE BECOVITZ	DATE SAMPLED 7/5/2017	COUNTY	INDIANA REG. NO. UNREG	SAMPLE NO. 2017 - 112016
CASE NO. 20170964	CONTAINER/SAMPLE SIZE 8 oz. / 8 oz.	NO. SAMPLED	TYPE	REPORT DATE 10/19/2017
PRODUCT NAME MOUSE X				
LOT NUMBER		EPA REG. NO. NONE	EPA EST. NO. NONE	
MANUFACTURER OR REGISTRANT CONSEAL INTERNATIONAL 90 KERRY PLACE - SUITE 2 NORWOOD MA 02062		DISTRIBUTOR ECOCLEAR PRODUCTS INC 4975 CITY HALL BLVD NORTH PORT FL 34290		
DEALER		SAMPLED IN POSSESSION OF MEIJER #154 8375 EAST 96TH STREET INDIANAPOLIS IN 46256		
SHIPMENT DATA				
DATE	QUANTITY	INVOICE NO.	NO. ON HAND	
ACTIVE INGREDIENT		%GUARANTEE	%FOUND	
CORN GLUTEN MEAL		55		
SODIUM CHLORIDE		2		
PROTEIN		33	7.75 *	
REMARKS *ADULTERATED - THIS PRODUCT FAILS TO MEET ITS COMPONENT GUARANTEE(S). WE CALL THE REGISTRANT'S ATTENTION TO THE REPORTED VIOLATION.				

Appendix B – Rat X lab results (10/19/17)



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Robert D. Waltz, Ph.D.
State Chemist &
Seed Commissioner

PESTICIDE FORMULATION REPORT

INVESTIGATOR JOE BECOVITZ		DATE SAMPLED 7/5/2017	COUNTY	INDIANA REG. NO. UNREG	SAMPLE NO. 2017 - 112014
CASE NO. 20170962	CONTAINER/SAMPLE SIZE 1 Lb. / 1 Lb.	NO. SAMPLED	TYPE		REPORT DATE 10/19/2017
PRODUCT NAME RAT X					
LOT NUMBER			EPA REG. NO. NONE	EPA EST. NO. NONE	
MANUFACTURER OR REGISTRANT CONSEAL INTERNATIONAL 90 KERRY PLACE - SUITE 2 NORWOOD MA 02062			DISTRIBUTOR		
DEALER			SAMPLED IN POSSESSION OF HOME DEPOT 9320 CORPORATION DRIVE INDIANAPOLIS IN 46256		
SHIPMENT DATA					
DATE	QUANTITY	INVOICE NO.	NO. ON HAND		
ACTIVE INGREDIENT			%GUARANTEE	%FOUND	
CORN GLUTEN MEAL SODIUM CHLORIDE PROTEIN			55 2.0 33	7.91 *	
REMARKS *ADULTERATED - THIS PRODUCT FAILS TO MEET ITS COMPONENT GUARANTEE(S). WE CALL THE REGISTRANT'S ATTENTION TO THE REPORTED VIOLATION.					

CASE SUMMARY

Case #2018/0907

Complainant: Milo Richey
1650 S. Rabb School Road
Covington, IN 47932

Respondent: Allen Lape
Lape Farms
5501 W. US Hwy 136
Covington, IN 47932

Private Applicator

1. On August 8, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans and trees.
2. On August 16, 2018, I met with Milo Richey at his property that he believed was affected by dicamba drift. The injury to Mr. Richey's non-DT soybeans (Roundup soybeans) was consistent across the entire 3/4-acre field. There appeared to be a few signs of injury to the trees and grapevines in between Mr. Richey's bean field and Mr. Lape's DT soybean field. The injury that caused Mr. Richey's complaint can be seen in Figures 1-3.



Figure 1



Figure 2



Figure 3

3. I collected three vegetation samples (Tree Line Vegetation, Affected Roundup Beans 0' In, and Affected Roundup Beans 60' In), a soil sample, and a control sample (Tree Vegetation) from the affected property. I collected a vegetation sample (Target Field Weeds) and a soil sample from the target field. These samples were submitted to the OISC residue lab for analysis. I collected multiple vegetation samples (Grape, Apple, and Roundup Soybean) for analysis by the Plant and Pest Diagnostic Lab at Purdue (PPDL). The location of these samples can be seen in Figure 4.

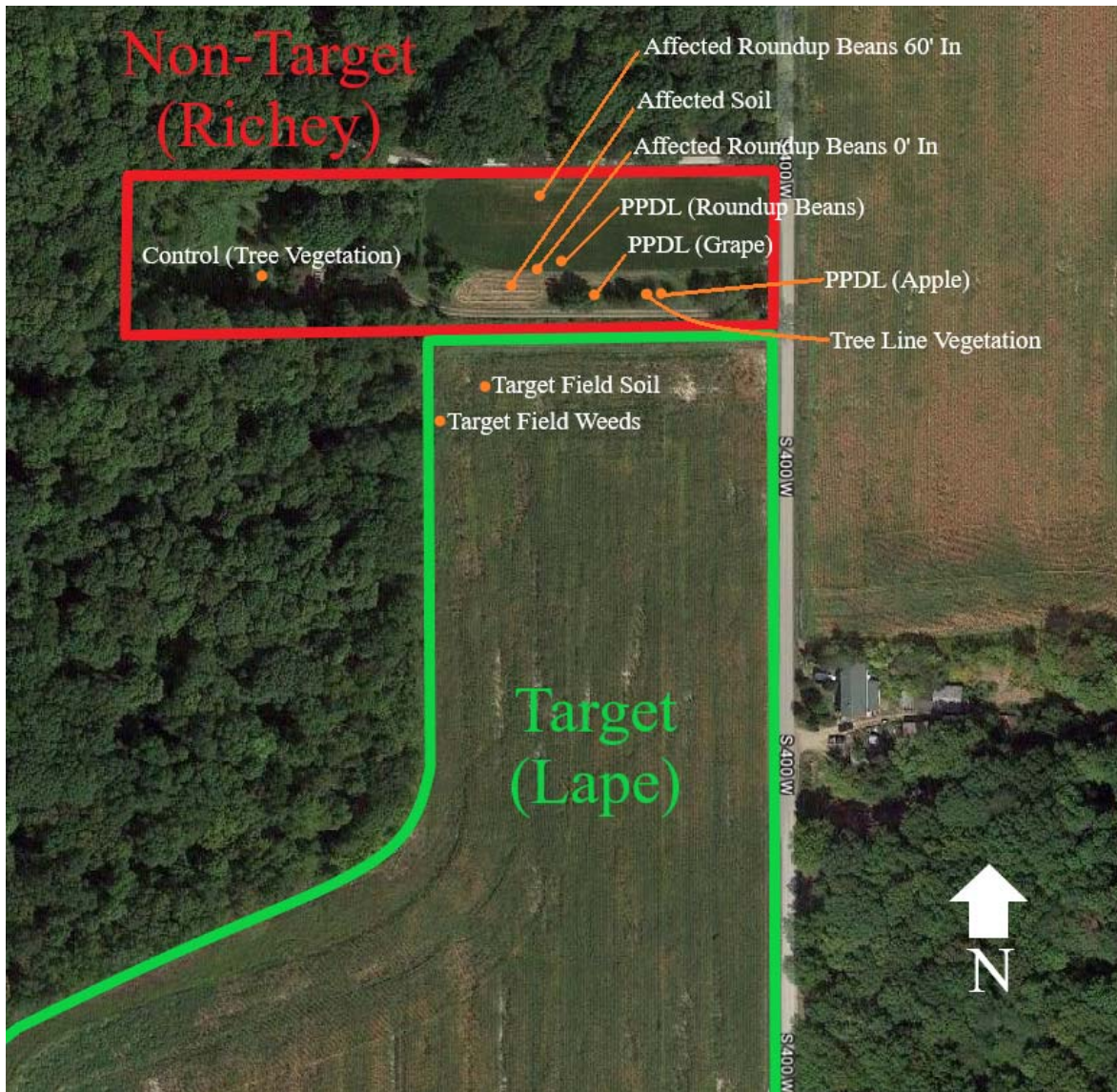



Figure 4

4. On September 19, 2018, I received a Pesticide Investigation Inquiry (PII) from Mr. Lape. It stated that he made his application on June 15, 2018 from 1:30 to 2:30. The application consisted of:
 - A. Engenia (EPA Reg. #7969-345, active ingredient dicamba)
 - B. Buccaneer Plus (EPA Reg. #55467-9, active ingredient glyphosate)

The wind data that was reported was 5 MPH from the south at the start of the application and 5 MPH from the south at the end of the application. This means that the wind was blowing towards Mr. Richey’s property. Mr. Lape did not check the registrant’s website for approved tank mix partners before making his application.


5. The report from PPDL stated, “Soybeans: Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba. Grape: Injury on the grape in consistent herbicide damage from a growth regulator. Apple: Very little leaf distortion. Several fungal leaf spots were present, including cedar-apple rust, black rot and others.

6. The results from the OISC residue lab are as follows:

Case #	2018/0907		Investigator	A. Kreider			
Sample #	Sample Description	Matrix	Amount of Analyte (ppb)				
			Dicamba	DCSA	5-OH Dicamba	Glyphosate	AMPA
2018-54-0198	Tree Line Veg	Vegetation	51.7	BQL	BDL	BDL	BDL
2018-54-0199	Affected Round-up Beans 0' In	Vegetation	1.00	BQL	BDL	43.8	BDL
2018-54-0200	Affected Round-up Beans 60' In	Vegetation	0.283	BDL	BDL	15.1	BDL
2018-54-0201	Affected Soil	Soil	Did not test	Did not test	Did not test	Did not test	Did not test
2018-54-0202	Target Field Weeds	Vegetation	*1210	4.18	BDL	1820	BDL
2018-54-0203	Target Field Soil	Soil	Did not test	Did not test	Did not test	Did not test	Did not test
2018-54-0204	Control (Tree Veg.)	Vegetation	1.05	BQL	BDL	BDL	BDL
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC							
* Minimum concentration reported due to amount exceeding calibration curve range							
LOQ (ppb)	Vegetation		0.2	0.2	2	5	125
Signature						Date	02/13/19

7. The Engenia label states, “**DO NOT** apply when wind is blowing in the direction of neighboring sensitive crops.” The Engenia label states, “**DO NOT** tank mix any product with **Engenia** unless: 1. You check the list of EPA approved products for use with **Engenia** at www.engeniatankmix.com no more than 7 days before applying **Engenia**.”

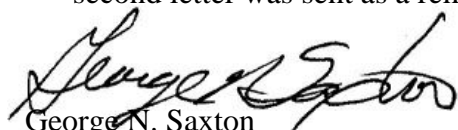
8. The PPDL report supports the decision that the injury to Mr. Richey’s property is from the application made by Mr. Lape. Mr. Lape did violate the Engenia label by making his application when winds were blowing towards Mr. Richey’s property and by not checking the registrant’s website for approved tank mix partners.


 Aaron P. Kreider
 Investigator

Date: June 12, 2018

Disposition: Allen Lape was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved and this was Allen Lape’s second violation of similar nature. See case number 2017/1090.

As of September 12, 2019, Allen Lape had not paid the \$100.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty was still owed to OISC.


 George N. Saxton
 Compliance Officer

Draft Date: September 12, 2019
 Case Closed: October 18, 2019

CASE SUMMARY

Case #PS19-0046

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
765-494-1492

Respondent: Premier Ag
Burke Admire, Operations Manager
750 Hamilton Avenue
Franklin, IN 46131

NEW ADDRESS:
811 W. 2nd Street
P. O. Box 304
Seymour, IN 47274

1. On November 5, 2018, I visited Premier Ag in Franklin, Indiana along with OISC Agents Kreider, Davis, and Becovitz. Agent Kreider was investigating a complaint, reference case PS19-0026, and requested that I assist with a pesticide container containment inspection.
2. At the facility, we met with Operations Manager, Burke Admire. We presented Mr. Admire with OISC identification and Agent Kreider issued a Notice of Inspection. Mr. Admire was informed of the complaint and what all was going to be inspected.
3. During the container containment portion of the inspection, Mr. Admire took us through the facility to allow us to look at the bulk pesticides. It was noticed in one of the storage areas of the facility that 14, 275-gallon mini-bulk pesticide containers were being stored out of containment. I asked Mr. Admire if the facility had any kind of secondary containment and he stated it did not. Mr. Admire stated that the mini-bulk containers were relatively new but he thought some of them had been in this location for more than 30 days. I informed Mr. Admire that the mini-bulk containers need to be stored in a secondary containment area if at this location for more than 30 days. Mr. Admire stated that Premier Ag is getting ready to move facilities so he could move them there or into their other secondary containment area by the end of the day.
4. I asked Mr. Admire if he could provide documentation of when the pesticide mini-bulk containers arrived at this location. Mr. Admire was able to provide documentation for all the mini-bulks. Of the 14 mini-bulks, only seven had been at the facility for more than 30 days. Those seven mini-bulk out of containment were:
 - a. Atrazine 4L, EPA Reg. #1381-158, RESTRICTED USE PESTICIDE
 - i. 2 mini-bulks
 - b. Presidual Herbicide, EPA Reg. #100-1162-1381,
 - i. 4 mini-bulks
 - c. Shredder E-99, EPA Reg. #1381-195
 - i. 1 mini-bulk

5. I issued Premier Ag an Action Order instructing them to “Move mini-bulk pesticide containers into secondary containment. Notify me when complete.”
6. On November 5, 2018, I received an email from Mr. Admire stating that the mini-bulks had been moved into their secondary containment area. Mr. Admire also provided photos of the mini-bulks in the contained area.
7. After reviewing the invoices for the pesticide mini-bulks that were on hand at Premier Ag, I was able to determine how many were out of containment and for how long. The results are as follows:
 - a. Atrazine 4L, EPA Reg. #1381-158, RESTRICTED USE PESTICIDE
 - i. 2 mini-bulks, out of containment 27 days
 - b. Presidual Herbicide, EPA Reg. #100-1162-1381,
 - i. 4 mini-bulks, out of containment 24 days
 - c. Shredder E-99, EPA Reg. #1381-195
 - i. 1 mini-bulk, out of containment 24 days.
8. All supporting documents including invoices and photos will be attached to this case. All days calculated for mini-bulks being out of containment are with consideration to the 30-day containment rule.



Fig. 1) Mini-bulks being stored out of containment.

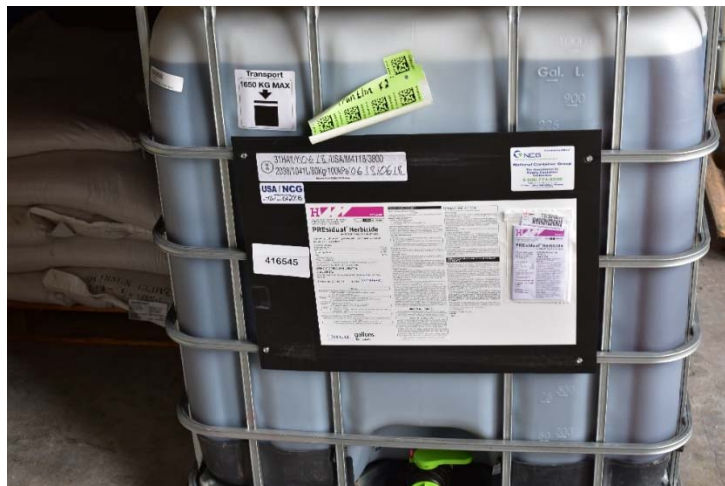


Fig. 2) Photo of Presidual Herbicide out of containment.



Fig. 3) Atrazine 4L Herbicide out of containment.



Fig. 4) Shredder E-99 out of containment.



Fig. 5) Mini-bulks have been moved.



Fig. 6) Mini-bulks moved into a contained area.

Garret A. Creason
Investigator

Date: November 16, 2018

Disposition: Premier Ag was cited for twenty-seven (27) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 5-4-1(a), for storing a bulk storage container(s) outside of secondary containment. A civil penalty in the amount of \$6,750.00 (27 counts x \$250.00 per count) was assessed for this violation. By rule, this violation may not be mitigated.

Per email notification from Agent, Aaron P. Kreider, on June 14, 2019, the Premier Ag location in Franklin, Indiana moved to Seymour, Indiana.

George N. Saxton
Compliance Officer

Draft Date: September 13, 2019
Case Closed: October 18, 2019

CASE SUMMARY

Case #PS19-0075

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, IN 47907
765-494-1492

Respondent: Gold Leaf Hydroponics LLC
Kyle Billman
5081 S. Production Drive, Suite B
Bloomington, IN 47403
Owner

Registrant: Maril Products, Inc.
15421 Red Hill Avenue, Suite D
Tustin, CA 92780

Distributor: Bloomington Wholesale Garden Supply LLC (BWGS LLC)
1410 Hancel Parkway
Mooresville, IN 46158

1. On January 2, 2019, I performed a routine marketplace inspection at Gold Leaf Hydroponics LLC located at 5081 S. Production Drive, Suite B in Bloomington, Indiana. I spoke with the Owner Kyle Billman and informed him of the process of the marketplace inspection.
2. Upon completion of the inspection, I located one (1) unregistered pesticide product, in two sizes, that was being offered for sale in the Gold Leaf Hydroponics store. I spoke with Ed White, Assistant Pesticide Administrator, and he confirmed that the pesticide product was unregistered. The products are as follows:
 - a. Physan 20, EPA Reg. #55364-5
 - i. Lot Number: PG6222013
 - ii. Units in Stock: 2
3. I spoke with Mr. Billman and informed him of the unregistered products I had located. I informed Mr. Billman that I would be issuing an Action Order instructing them to remove any remaining packages of the unregistered pesticide product from the shelves and place them in storage and that they are not to be sold or removed from the store unless contacted in writing by OISC. I also informed him that I would be retaining an evidentiary sample of the product for my case. I asked Mr. Billman if he was able to provide me with any information for when the last shipment came to the store. Mr. Billman was able to provide me with an invoice for the Physan 20 pesticide product. The product was distributed to Gold Leaf Hydroponics by BWGS LLC on August 23, 2018.
4. I placed the evidentiary samples into a clear evidence bag and sealed for transportation to the OISC formulation lab.

5. On January 4, 2019, I delivered the evidentiary sample to the Formulation Lab.

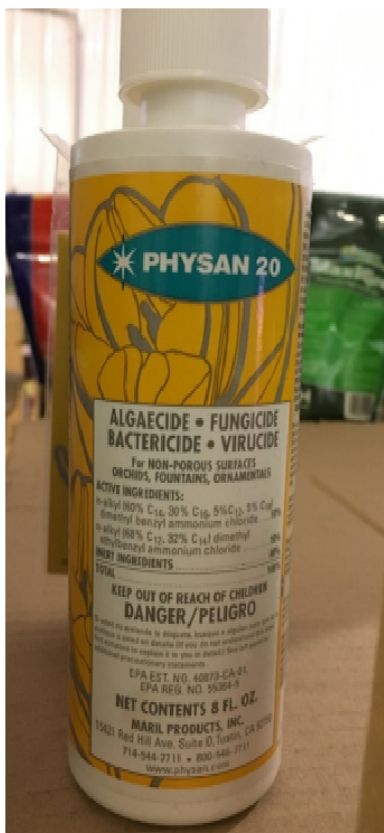


Fig 1. Sample photos of the unregistered pesticide product being offered for sale at Gold Leaf Hydroponics

6. On July 9, 2019, I was notified by the OISC Formulation Lab of the lab result for the pesticide product Physan 20. The product was tested and met the label claim for active ingredient(s). The lab result is as follows:

Office of Indiana State Chemist
Pesticide Formulation Laboratory – Lab Report

OCM Collection #	65223	Case #	PS19-0075	Investigator	G. Creason
Sample #	Product Description				Sample Size
19-3-0012 1	Physan 20 Algaecide * Fungicide * Bactericide * Virucide				1 x 8 oz
ACTIVE INGREDIENT				% GUARANTEE	% FOUND
DBAC (5% C12; 60% C14; 30% C16; 5% C18)				10	N/A
DEAC (68% C12; 32% C14)				10	N/A
Tested as Quaternary Nitrogen Equivalent				0.742	0.721
Remarks:					
Signature				Date	07/09/2019

7. All supporting documents have been electronically attached to this case in the OISC case management system.



Garret A. Creason
Investigator

Date: August 21, 2019

Disposition:

- A. Gold Leaf Hydroponics LLC was warned for two (2) violations (2018 & 2019) of section 57(1) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that was not registered in the state of Indiana.

- B. BWGS LLC was warned for two (2) violations (2018 & 2019) of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered for sale in the state of Indiana.

- C. Maril Products, Inc. was cited for two (2) violations of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered for sale in the state of Indiana. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed.



George N. Saxton
Compliance Officer

Draft Date: August 21, 2019
Case Closed: October 28, 2019

CASE SUMMARY

Case #PS19-0077

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
765-494-1492

Respondent: Amazon.com
410 Terry Avenue North
Seattle, WA 98109

Distributor: Amazon Fulfillment
172 Trade Street
Lexington, KY 40511

Registrant: Southern Agricultural Insecticides, Inc.
PO Box 218
Palmetto, FL 34220

1. On December 4, 2018, I performed a routine virtual marketplace inspection on Amazon.com. The purpose for this inspection was to purchase and obtain a biological pesticide sample for the OISC Microbiology Lab product integrity sampling initiative.
2. I was able to order the following product:
 - a. Garden Friendly Fungicide, EPA Reg. #70051-107-829
3. I obtained screenshots of each of the pages through the online purchasing process.
4. The pesticide product arrived on 12/6/18 and was delivered via USPS. It was sent from Amazon Fulfillment in Lexington, KY. I photographed the package prior to opening and then photographed the pesticide product that was delivered. I then checked for product registration on the National Pesticide Information Retrieval System. I was unable to locate registration information for Indiana for this pesticide product. I then confirmed with Sarah Caffery, OISC pesticide registration, and she confirmed that the product was not registered in the state of Indiana.
5. I affixed a Formulation Collection sample number to the pesticide product, placed it in a clear evidence bag and sealed it for transportation to the OISC Formulation Lab.
6. On 12/7/18 the pesticide product was delivered to the OISC Formulation lab.

7. On December 12, 2018, I made contact with Morgan Maddox, Amazon Legal Compliance Specialist, and informed her of the unregistered pesticide product. Mrs. Maddox asked if I would be available to talk with her along with her colleagues, Ryan Durrie and Laurie Sakulich, in a conference call to explain the registration issues with all of them.
8. On December 14, 2018, Mrs. Maddox and her colleagues, Mr. Durrie and Mrs. Sakulich, and I were all able to speak on a conference call. I was able to identify myself and explain the scope of OISC. I then explained that I had recently ordered the unregistered pesticide product and was able to have it shipped into the state of Indiana. I informed them that I would be issuing an Action Order instructing them to not sell the unregistered pesticide product into Indiana until notified by OISC. They stated that Amazon takes these issues quite seriously and they are working to get systems in place to prevent this from happening in the future. They stated that they would also look into see if there are any third parties involved in the sale of this pesticide product.
9. On December 14, 2018, I issued an Action Order to Amazon and sent it via email.
10. On December 18, 2018, I received the lab results from OISC Microbiology Lab. The sample is reflected under sample number 19-3-0007 5(see Fig 2). It was reported that the product met the label claim for active ingredients.
11. On December 20, 2018, I received the signed Action Order back from Amazon signed by Mr. Durrie. I was also informed that no other parties were involved in the sale of this pesticide product.

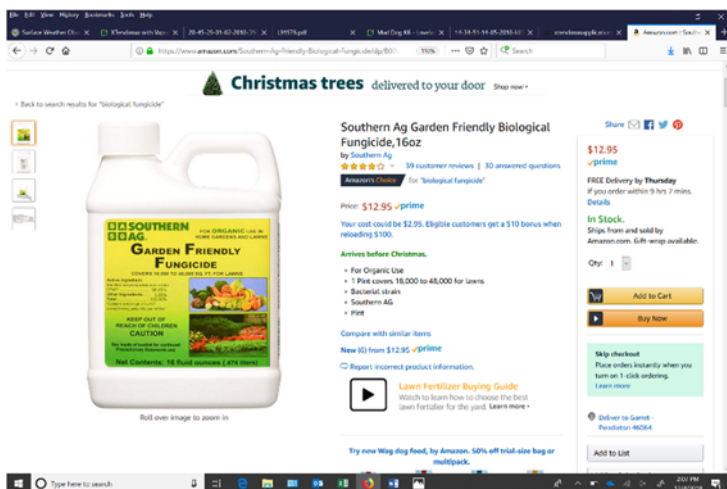


Fig. 1

RESULTS

Sample ID/label guarantee	Date Set up	Date Read	Media	Replicate	dilution	Colonies on Plate			Ave	CFU/g	CFU/mg	Billion CFU/g
19-3-0004-7 6,000,000 spores/mg=6 Billion CFU/g	12/11/2018	12/12/2018	AC	3	100000000	164	154	152	156.67	15666666667	15,666,666	15.7
	12/12/2018	12/13/2018	AC	3	100000000	165	146	156	155.67	15566666667	15,566,667	15.6
	12/12/2018	12/14/2018	AC	3	100000000	166	169	151	162.00	16200000000	16,200,000	16.2
Average										15811111111	7178244444444	15.8
19-3-0005-2 35,000 Diamondback Moth Uint/mg	12/11/2018	12/12/2018	AC	3	1000000000	95	93	121	103.00	103000000000	4676200000000	103.0
	12/12/2018	12/13/2018	AC	3	1000000000	95	110	109	104.67	104666666667	4751866666667	104.7
	12/13/2018	12/14/2018	AC	3	1000000000	86	105	89	93.33	93333333333	4237333333333	93.3
Average										1003333333333	4555133333333	100.3
19-3-0006-8 32,000 CLU/mg Cabbage Looper Units/mg	12/11/2018	12/12/2018	AC	3	1000000000	108	81	111	100.00	100000000000	4540000000000	100.0
	12/12/2018	12/13/2018	AC	3	1000000000	74	89	87	83.33	83333333333	3783333333333	83.3
	12/13/2018	12/14/2018	AC	3	1000000000	85	93	89	89.00	89000000000	4040600000000	89.0
Average										90777777778	4121311111111	90.8
Sample ID/label guarantee	Date Set up	Date Read	Media	Replicate	dilution	Colonies on Plate			Ave	CFU/ml		Billion CFU/ml
19-3-0007-5 10 ¹⁰ CFU/ml=10 Billion CFU/ml	12/11/2018	12/12/2018	AC	3	100000000	134	146	131	137.00	13700000000		13.7
	12/13/2018	12/13/2018	AC	3	100000000	130	139	121	130.00	13000000000		13.0
	12/17/2018	12/18/2018	AC	3	100000000	150	136	141	142.33	14233333333		
Average										13644444444		13.6

Fig. 2



Garret A. Creason
Investigator

Date: January 7, 2019

Disposition: Southern Agricultural Insecticides Inc. was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in the state of Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation. However, the civil penalty was held in abeyance and not assessed provided Southern Agricultural Insecticides, Inc. properly registers the pesticide product within thirty (30) days from receipt of this notice.

Amazon was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing an unregistered pesticide product. A civil penalty in the amount of \$250.00 was assessed for this violation.

As of September 12, 2019, Amazon had not paid the \$250.00 civil penalty. A second letter was sent as a reminder the civil penalty was still owed to OISC.

As of October 28, 2019, Amazon had not paid the \$250.00 civil penalty. The case was forwarded to collections.



George N. Saxton
Compliance Officer

Draft Date: September 12, 2019
Case Closed: October 28, 2019

CASE SUMMARY

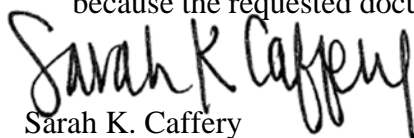
Case #PS19-0090

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, IN 47907
765-494-1492

Respondent: Bloomington Wholesale Garden Supply LLC (BWGS LLC)
Tony Bayt Business Affairs and Compliance
1410 Hancel Parkway
Mooresville, IN 46158

**Registrant/
Distributor:** Central Coast Garden Products, Inc.
7619 Fair Oaks Boulevard
Carmichael, CA 95608

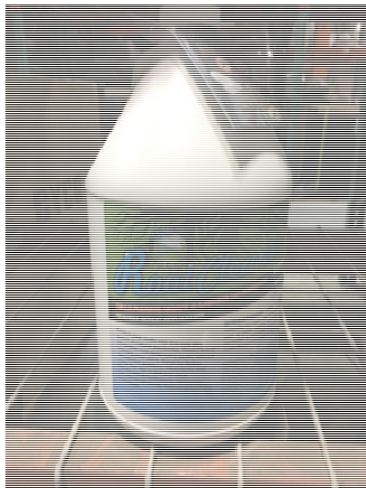
1. On February 19, 2015, the Office of Indiana State Chemist (OISC) received a pesticide product registration for Green Cleaner Concentrate (25b). On July 21, 2015, OISC received a pesticide product registration for Root Cleaner Concentrate (25b). The applications were incomplete and via email we requested the following:
 - a. Root Cleaner – full efficacy data
 - b. Green Cleaner – full efficacy data and statement of formula
2. On November 12, 2015, OISC denied the registrations for the Root Cleaner and Green Cleaner products because the requested documents had not been received.
3. On September 20, 2016, OISC received a pesticide product registration for Root Cleaner and Green Cleaner. The application required the following:
 - a. No efficacy was received for Root Cleaner or Green Cleaner
 - b. On the statement of formula, sodium citrate and citric acid were identified with incorrect CAS numbers.
 - c. Products include sodium lauryl sulfate, natural claims must be removed from labeling.
4. On October 31, 2016, OISC sent a registration denial letter to Central Coast Garden Products, Inc. because the requested documents/revisions had not been received.



Sarah K. Caffery
Pesticide Product Registration Specialist

5. On January 24, 2019, I, Agent Garret Creason, performed a routine marketplace inspection at BWGS LLC. I spoke with the Tony Bayt, Business Affairs and Compliance with BWGS, and informed him of the process of the marketplace inspection.

6. Upon completion of the inspection, I located two (2) unregistered pesticide products that were being offered for sale and distributed in the BWGS facility. Ed White, Assistant Pesticide Administrator, confirmed that the pesticide products were unregistered. The products were as follows:
 - a. Root Cleaner, a 25(b)¹ product, 1 unit.
 - b. Green Cleaner, a 25(b) Product, 1 unit.
7. I spoke with Mr. Bayt and informed him of the unregistered products I had located. I informed Mr. Bayt that I would be issuing an Action Order instructing them to no longer distribute or sell the unregistered pesticide products until contacted in writing by OISC. I also informed him that I would be retaining evidentiary samples of the products for my case. I asked Mr. Bayt if he was able to provide me with any information for when BWGS received the pesticide products. Mr. Bayt was able to email me all the information later that day. On the document Mr. Bayt provided me, it stated that the Root Cleaner arrived on 09/26/2018 and the Green Cleaner arrived on 10/01/2018.
8. I placed the evidentiary samples into a clear evidence bag and sealed for transportation to the OISC formulation lab.
9. On January 28, 2019, I delivered the evidentiary sample to the Formulation Lab.
10. All supporting documents and photos have been electronically attached to the OISC case management system.



Garret A. Creason

Garret A. Creason
Investigator

Date: February 25, 2019

Disposition:

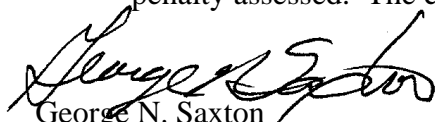
- A. On March 5, 2019, the information was forwarded to the Pesticide Product Registration Specialist for a label review.
 1. The label review was completed on March 15, 2019, by Sarah Caffery, Pesticide Product Registration Specialist. The label revealed:
 - a. **Root Cleaner Concentrated**
 - i. Per the label review, this product does not meet all of the conditions as outlined by EPA, and therefore is non-compliant.

¹ Minimum Risk Pesticide

1. The product includes Sodium Lauryl Sulfate, Isopropyl Alcohol, Sodium Citrate and Citric Acid
 - a. Each ingredient listed above is not a natural product but rather must be produced via synthetic chemistry.
 - b. Therefore, NATURAL claims are false and misleading. This is a violation of EPA's Condition 6
2. Sodium Lauryl Sulfate is not approved for use on food/herb/vegetable gardens where the produce will be sold. Language will need to be added to include this information.
 - a. As is, without appropriate language, the label is in violation of EPA Condition 6

b. Green Cleaner

- i. Per the label review, this product does not meet all of the conditions as outlined by EPA, and therefore is non-compliant.
 1. Sodium Lauryl Sulfate is not approved for use on food/herb/vegetable gardens where the produce will be sold. Language will need to be added to include this information.
 - a. As is, without appropriate language, the label is in violation of EPA Condition 6
 2. Additional label concerns may be presented upon review of efficacy data and the statement of formula.
- B. Bloomington Wholesale Garden Supply LLC (BWGS LLC) was warned for four (4) counts (2 products for 2018 & 2019) of violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale pesticide products that were not registered in the state of Indiana.
- C. Central Coast Garden Products was cited for four (4) counts (2 products for 2018 & 2019) of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in the state of Indiana. A civil penalty in the amount of \$1,000.00 (4 counts x \$250.00 per count) was assessed.
- D. Central Coast Garden Products was cited for four (4) counts (2 products for 2018 & 2019) of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide that was misbranded. A civil penalty in the amount of \$1,000.00 (4 counts x \$250.00 per count) was assessed.
- E. As of October 17, 2019, Central Coast Garden Products had not paid the \$2,000.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty was still owed to OISC.
- F. As of December 11, 2019, Central Coast Garden Products had not paid the \$2,000.00 civil penalty assessed. The case was forwarded to the Indiana Attorney General for collection.


George N. Saxton
Compliance Officer

Draft Date: October 17, 2019
Case Closed: December 11, 2019

CASE SUMMARY

Case #PS19-0103

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, IN 47907
765-494-1492

Respondent: Memmers Hardware
Jodie Memmer
990 N. US Highway 41
Princeton, IN 47670
Owner

Registrant: Chemsico
P.O. Box 142642
St. Louis, MO 63114

1. On February 27, 2019, I performed routine marketplace inspection at Memmers Hardware located at 990 N. US Highway 41 in Princeton, Indiana. I spoke with the Owner, Jodie Memmer, and informed her of the process of the marketplace inspection. I issued a Notice of Inspection and informed Mrs. Memmer that I would follow up with him one the inspection was completed.
2. Upon completion of the inspection, I located three (3) unregistered pesticide products that were being offered for sale in the Memmers Hardware store. I confirmed through Sarah Caffery, Pesticide Product Registration Specialist that the pesticide products were unregistered. The products are as follows:
 - a. Green Thumb Ready to Use Lawn Weed Killer Concentrate, EPA Reg. #478-121-9688
 - i. Lot Number: U04257E 21-0705
 - ii. 2 units in stock
 - b. Green Thumb Spot Weed Killer Ready-to-Use, EPA Reg. #9688-109
 - i. Lot Number: U03188D 21-0704
 - ii. 6 units in stock
 - c. CO-Pack; Green Thumb Spot Weed Killer Ready-to-Use, EPA Reg. #9688-109 and Green Thumb Ready-to-Use Grass and Weed Killer, EPA Reg. #9688-126
 - i. No lot number on CO-Pack
 - ii. 3 units in stock
3. Products (a) & (b) listed above went through two-year registration discontinuance in **2009**, with the last year of the discontinuance registration in **2010**. The CO-Pack listed above (product c) was never registered in the state of Indiana.

4. I spoke with Mrs. Memmer and informed her of the unregistered pesticide products I had located. I informed her that I would be issuing an Action Order instructing them to remove any remaining units of the unregistered pesticide products from the shelves and place them in storage and that they are not to be sold or removed from the store unless contacted in writing by OISC. I also informed her that I would be retaining an evidentiary sample of the products for my case. I asked Mrs. Memmer if she was able to provide me with any information for when the last shipment came to the store for any of the products. Mrs. Memmer stated that she did not have any of that information.
5. I placed the evidentiary samples into a clear evidence bag and sealed for transportation to the OISC formulation lab.
6. On March 1, 2019, I delivered the evidentiary samples to the Formulation Lab.



Figure 1



Figure 2



Fig. 3

- Fig. 1) Photo of Green Thumb Ready to Use Lawn Week Killer Concentrate
 - Fig. 2) Photo of Green Thumb Spot Weed Killer
- Fig. 3) Photo of Green Thumb ready-to-use Grass and Weed Killer; Green Thumb Spot Weed Killer CO-Pack.

7. All supporting documents have been electronically attached to this case in the OISC case management system.



Garret A. Creason
Investigator

Date: September 3, 2019

Disposition:

- A.** Memmers Hardware was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that was not registered in the state of Indiana. The Action Order was modified to allow for the legal disposal of pesticide products (a) & (b) listed above in paragraph #2.
- B.** Chemsico was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered for sale in the state of Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: September 19, 2019
Case Closed: October 28, 2019

CASE SUMMARY

Case #PS19-0109

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, IN 47907
765-494-1492

Respondent: Home Depot
Jenny Hauck Store Manager
1714 E. Tipton Street
Seymour, IN 47274

Registrant: The Companion Group
1250 Ninth Street
Berkeley, CA 94710

1. On March 4, 2019, I performed a routine marketplace inspection at Home Depot located at 1714 East Tipton Street, Seymour, Indiana. I spoke with the Store Manager, Jenny Hauck, and informed her of the process of the marketplace inspection.
2. Upon completion of the inspection, I located one (1) unregistered pesticide product that was being offered for sale in the Home Depot store. I confirmed through the National Pesticide Information Retrieval System(NPIRS) the pesticide product was unregistered. The product is as follows:
 - a. Patio Companion Citronella Tea Light, 25(b)¹ product.
3. While reviewing the label, I observed that there were two different versions of the label. I took photographs of both labels.
4. I spoke with Mrs. Hauck and informed her of the unregistered pesticide product I had located. I informed Mrs. Hauck that I would be issuing an Action Order instructing them to remove the 21 remaining packages of the unregistered pesticide product from the shelves and place them in storage and that they are not to be sold or removed from the store unless contacted in writing by OISC. I also informed her that I would be retaining an evidentiary sample of the product for my case. I asked Mrs. Hauck if she was able to provide me with any information for when the last shipment came to the store. Mrs. Hauck was able to provide me with an item overview for the Patio Companion Citronella Tea Lights pesticide product. The item overview listed that the product was last received on January 12, 2018. Mrs. Hauck stated that this would be the oldest receiving record they have on file.

¹ Minimum Risk Pesticide

5. I placed the evidentiary sample into a clear evidence bag and sealed for transportation to the OISC formulation lab.
6. On March 5, 2019 I delivered the evidentiary sample to the Formulation Lab.



Fig 1. Sample photos of the unregistered pesticide product being offered for sale at Home Depot

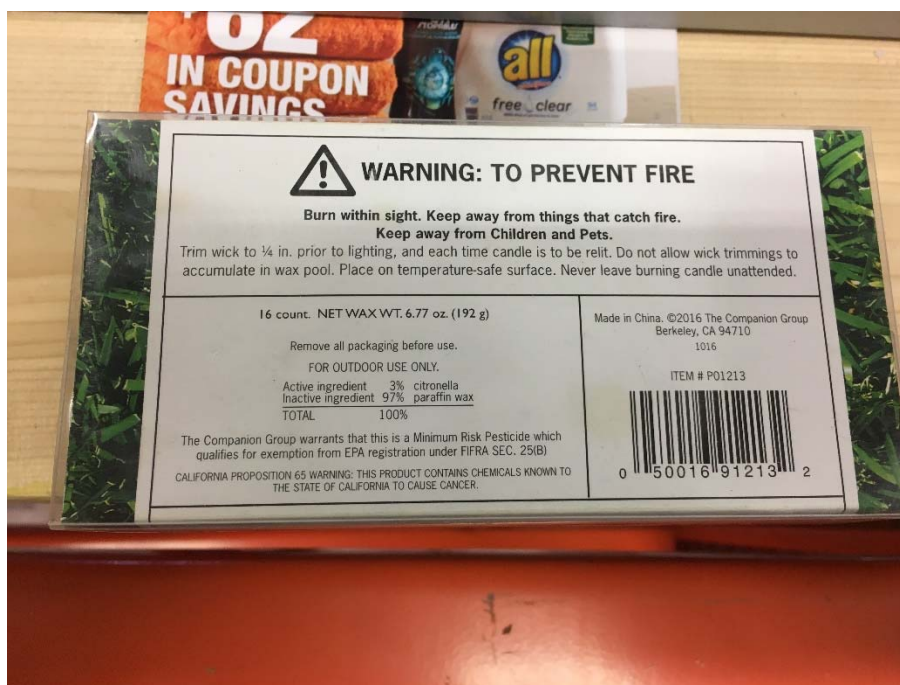


Fig. 2. Sample photo of Gnatnix.

7. All supporting documents and photos have been electronically attached to the OISC case management system.

Garret A. Creason
 Garret A. Creason
 Investigator

Date: April 24, 2019

8. On April 24, 2019, I completed the label review for the pesticide product found in distribution.
 - a. Per the label review, this product does not meet all of the conditions as outlined by EPA, and therefore is non-compliant.

- i. Violation of Condition 5
 1. Label does not include the full contact information for the company responsible. Per the condition, this must include street address, city, state, zip code and telephone number.
 - ii. Violation of Condition 6
 1. The statement “to repel insects” is too broad and therefore is false and misleading.
- b. Registrant is encouraged to review the 25(b) Label Guidance document for other labeling recommendations. This document can be found at the www.AAPCO.org under the FIFRA 25(b) tile.

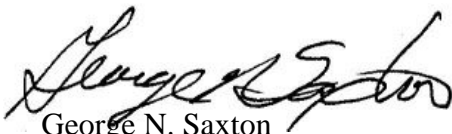
9. Additional label concerns may be presented upon review of efficacy data and the statement of formula.



Sarah K. Caffery
Pesticide Product Registration Specialist

Disposition:

- A. On April 24, 2019, a label review was requested from the Pesticide Product Registration Specialist.
- B. Based on the initial inspection and subsequent label review, The Companion Group was cited for two (2) counts (2018 and 2019) of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing an unregistered pesticide product. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed. However, the civil penalty was held in abeyance and not assessed provided The Companion Group properly registers this pesticide product within thirty (30) days from receipt of this notice.
- C. The Companion Group was cited for two (2) counts (2018 & 2019) of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that is misbranded. A civil penalty in the amount of \$500.00 was assessed for this violation.
- D. Home Depot was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that was not registered for sale in Indiana.
- E. On September 4, 2019, Poni Avalos from The Companion Group called requesting an extension for registration due to the delay in obtaining efficacy date. She was given until October 4, 2019 to get their product registered.
- F. As of October 15, 2019, the pesticide product was still not registered. The original civil penalty in the amount of \$500.00 for violation of section 57(1) of the Indiana Pesticide Registration Law was re-assessed.



George N. Saxton
Compliance Officer

Draft Date: October 15, 2019
Case Closed: December 9, 2019

CASE SUMMARY


Case #PS19-0118

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907
765-494-1492

Respondent: Nutrien Ag Solutions
1281 S. Maple Street
Orleans, Indiana 47542

1. On March 25, 2019, I conducted a Restricted Use Pesticide (RUP) Dealer inspection of Nutrien Ag Solutions formerly known as Crop Production Services located in Orleans, Indiana. I met with Administrative Coordinator Peggy Tapscott and advised Ms. Tapscott I was a Pesticide Investigator with OISC and of the inspection I would be conducting an inspection consisting of checking RUP sales records for the past two years and RUP application records for the location.
2. Ms. Tapscott provided me with Nutrien Ag Solutions RUP sales record for 2017 and 2018 and the records contained the required information for a RUP sales record. A later check of the 2017 and 2018 RUP sales records through the OISC licensing database confirmed all sales were made to valid certified applicators. The branch manager of Nutrien Ag Solutions Dave Bledsoe provided me with two RUP application records from 2018. Both RUP application records contained the required information for RUP application records.
3. I requested to see Nutrien Ag Solutions RUP Dealer license. Neither Mr. Bledsoe nor Ms. Tapscott could locate the RUP Dealer license. I checked the OISC licensing database for Nutrien Ag Solutions located in Orleans, Indiana. The only license for Nutrien Ag Solutions Orleans branch was a Pesticide Business license. I then searched Nutrien Ag Solutions former name Crop Production Services which returned an RUP Dealer license for the location. The RUP Dealer license for Crop Production Services expired on December 31, 2012. I contacted the OISC Licensing Division who confirmed Nutrien Ag Solutions Orleans branch did not have an RUP Dealer license and Crop Production Services RUP Dealer license had expired on December 31, 2012.
4. I advised the branch manager Mr. Bledsoe I would be issuing Nutrien Ag Solutions Orleans branch an Action Order to “Stop offering restricted use pesticides (RUP) for sale until your business location is registered by OISC as a Restricted Use Pesticide Dealer”. I explained to Mr. Bledsoe on how to come into compliance.
5. Nutrien Ag Solutions provided me with RUP sales records for 2013, 2014, 2015, 2016, 2017, and 2018 (RUP Sales Records are included in this case file). According to the RUP sales records, Nutrien Ag Solutions made a total of 276 sales of Restricted Use Pesticides between 2013 and 2018 without having a RUP Dealer license.

6. The evidence of the OISC Licensing Database confirming Nutrien Ag Solutions Orleans branch has not had an RUP Dealers license since 2012 and Nutrien Ag Solutions RUP sales records for 2013 through 2018, indicate Nutrien Ag Solutions sold RUP's without an RUP Dealer license 276 times.
7. On March 25, 2018, following my inspection I was contacted by OISC Licensing Division and advised a Nutrien Ag Solutions employee had been into OISC to obtain an RUP Dealer license.


Nathan J. Davis
Investigator

Date: March 29, 2019

Disposition:

- A. Nutrien Ag Solutions of Orleans was cited for one hundred eighty (180) counts¹ of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-3-3, for distributing restricted use pesticides without having a dealer registration. A civil penalty in the amount of \$45,000.00 (180 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$9,000.00. Consideration was given to the fact Nutrien cooperated during the investigation; corrective action was taken; there was no previous history of similar nature and a good faith effort to comply.
- B. As of October 24, 2019, Nutrien Ag Solutions of Orleans had not paid the \$9,000.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty was still owed to OISC.
- C. On November 1, 2019, Brooke Long of Nutrien Ag Solutions called requesting more time to pay the civil penalty. A ten (10) day extension was granted. The civil penalty will now be due November 11, 2019.
- D. The civil penalty was received on November 4, 2019.


George N. Saxton
Compliance Officer

Draft Date: November 1, 2019
Case Closed: December 9, 2019

¹ According to 357 IAC 1-6-2(c), no penalty will be imposed for more than one hundred eighty (180) incidents.

CASE SUMMARY

Case #PS19-0124

Complainant: Bob Andrews
Indiana Professional Lawn & Landscape Association
PO Box 481
Carmel, Indiana 46082

Respondent: Jared Wright
Green Kings
2431 Jody Rae Street
Niles, Michigan 49120

1. On April 4, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report he had information that Jared Wright is applying pesticides for hire in Indiana without an Indiana pesticide business license. OISC database indicates Jared Wright is not licensed in Indiana.
2. On April 9, 2019, I met with Roger Fairchild who is the manager of TruGreen of South Bend Indiana. Mr. Fairchild told me he had conversations with the complainant Bob Andrews about this case because the respondent, Jared Wright, worked for Mr. Fairchild. Mr. Fairchild said he heard Jared Wright was starting his own lawn care business. Mr. Fairchild told me he did not believe Mr. Wright had a valid license to do so.
3. I contacted and met with Jared Wright. Mr. Wright admitted he did not have a valid business license at the time of our meeting. However, Mr. Wright explained he had mailed in his pesticide business license application on April 2, 2019. I contacted Jill Davis with the OISC licensing section. Ms. Davis confirmed she had received the proper licensing application paperwork with the required fee and proof of insurance. As of this date (April 9, 2019) Green Kings is a valid pesticide business in Indiana.
4. In further discussion, Mr. Wright admitted he had made the following two (2) fertilizer applications for-hire prior to receiving his license;
 - April 3, 2019 Pro-Ap Fertilizer 15-0-3 1024 Wheat Stone Dr.
Mishawaka 46544
 - April 4, 2019 Pro-Ap Fertilizer 15-0-3 1110 Barrington Pl.
Mishawaka 46545

5. After reviewing all available information, Jared Wright is in violation of making two for-hire fertilizer applications without being properly licensed. According to OISC licensing section, Mr. Wright and his business is properly licensed at the time of this report.



Kevin W. Gibson
Investigator

Date: April 12, 2019

Disposition: Jared Wright was cited for two (2) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying fertilizers for-hire without having an Indiana pesticide business license. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$375.00. Consideration was given to the fact Mr. Wright cooperated during the investigation.



George N. Saxton
Compliance Officer

Draft Date: October 3, 2019
Case Closed: November 8, 2019

CASE SUMMARY

Case #PS19-0151

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
765-494-1492

Respondent: TruGreen
Clint Gilmore
Chris May
Joshua Neth
609 Commerce Pkwy W. Drive
Greenwood, IN 46143

Licensed Business
Certified Supervisor
Registered Technician
Non-certified Applicator


1. On April 23, 2019, Agent Bill Reid and I observed Joshua Neth making a for-hire pesticide application to a yard on the south side of Indianapolis, Indiana. See Figure 1. Agent Reid and I observed Mr. Neth struggling with the application equipment while a second individual sat in the application vehicle.



Figure 1-Mr. Neth making an application


2. After observing the application, Agent Reid and I performed a “Use” inspection with Mr. Neth and his partner, Chris May. We ascertained during our conversation with Mr. Neth that he was not credential and was training with Chris May, a registered Technician. Mr. May stated he knew Mr. Neth was not supposed to be making the application.
3. Agent Reid contacted Clint Gilmore, Mr. May’s certified Supervisor. Mr. Gilmore stated Mr. Neth was only to flag yards and use the computer. Mr. Gilmore stated he provided the specific instructions to both Mr. Neth and Mr. May.

4. On April 24, 2019, I spoke with Mike McClain, Branch Manager for TruGreen. Mr. McClain stated Joshua Neth resigned on 4/24/19. Mr. McClain stated RT's and non-RT's are told regularly what they can and cannot do.


Paul J. Kelley
Investigator

Date: May 8, 2019

Disposition: Clint Gilmore was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual. A civil penalty in the amount of \$125.00 was assessed to TruGreen for this violation.


George N. Saxton
Compliance Officer

Draft Date: September 20, 2019
Case Closed: October 28, 2019

CASE SUMMARY

Case #PS19-0152

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
765-494-1492

Respondent: Flynn Mowing & Landscaping
David Flynn
Dustin Wethington
5535 W. Division Road
Morgantown, IN 46160

Un-licensed Business
Registered Technician
Non-credentialed

1. On April 23, 2019, I observed David Flynn making a for-hire pesticide application in Indianapolis riding a tractor with a sprayer attached. Mr. Flynn was wearing a short sleeved shirt. See Figure 1. In addition, I observed Dustin Wethington, of Flynn Mowing & Landscaping, making a for-hire application with a backpack sprayer and short sleeves on the same property. See Figure 2. Both individuals were not licensed.



Figure 1-Mr. Flynn, short sleeves




Figure 2-Mr. Wethington, short sleeves

2. Mr. Flynn stated he had just taken the Core exam and was waiting to get his Category 3B, but had not done so. Mr. Flynn stated he had completed two (2) jobs and would provide the invoices.
3. Mr. Flynn was issued an Action Order to cease making for-hire pesticide applications without a license from OISC.
4. On April 23, 2019, Mr. Flynn provided invoices for the two (2) jobs he completed without a license. Copies of the invoices are contained in OISC electronic data system. The invoices for the applications are as follows:

4-22-19 Emmanuel Church
4-23-19 Burton Crossing HOA

5. Though Mr. Flynn and Mr. Wethington were wearing short-sleeved shirts, I was unable to get label language for personal protective equipment (PPE) because no product label was on hand. Mr. Flynn did not know which specific product he was using.


Paul J. Kelley
Investigator

Date: May 8, 2019

Disposition: David Flynn and Flynn Mowing & Landscaping were cited for two (2) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for-hire without having an Indiana pesticide business license. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed for these violations. However, the civil penalty was reduced to \$375.00. Consideration was given to the fact Mr. Flynn cooperated during the investigation.


George N. Saxton
Compliance Officer

Draft Date: September 20, 2019
Case Closed: November 8, 2019

CASE SUMMARY

Case #PS19-0155

Complainant: Gail Bisbey
503 West CR 150 South
Rockport, Indiana 47635

Respondent: Donald Head Private Applicator
570 West CR 100 South
Rockport, Indiana 47635

1. On April 24, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that on April 23, 2019, the neighboring farmer made a pesticide application to his field while the wind was blowing towards the complainant. Complainant states she had to shut her windows because the smell was so bad. She stated she suspects the herbicide was 'dicamba' based of literature she has read.
2. On May 6, 2019, Agent Mitch Trimble and I met with the complainant at her residence. The complainant walked me around the north side of her property and pointed out her concerns on boxwood bushes, dogwood trees and other trees.
3. During my on-site investigation I did the following:
 - a. Looked for, and found one potential source of herbicide application in the area. The target field for this particular case is located to the northwest of complainant's property (See Fig. 5).
 - b. Observed and photographed yellow and brown spots (leaf necrotic spots) on boxwood bushes and dogwood trees. (See. Fig 1 and 2). Injury symptoms were concentrated on the north side of the complainant's property. These symptoms are commonly associated with exposure to a protoporphyrinogen oxidase (PPO) inhibiting herbicide.
 - c. Collected samples of injured boxwood bushes and dogwood tree leaves from the complainant's property for assessment by the Purdue Plant & Pest Diagnostic Laboratory (PPDDL)
 - d. Collected composite soil and vegetation samples from the target field. Collected composite soil and vegetation samples from the complainant's property (See Fig. 5). The residue samples were submitted to the OISC Residue Laboratory for analysis.

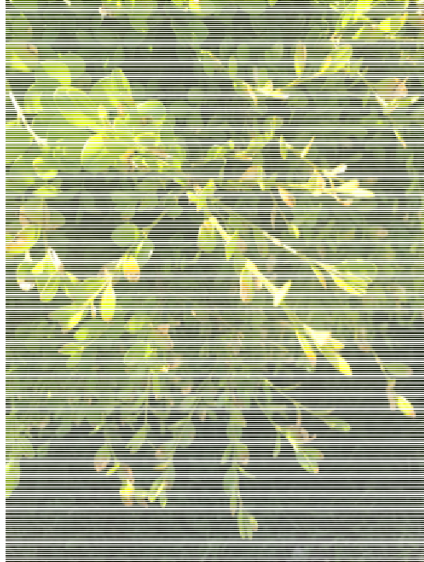


Fig. 1

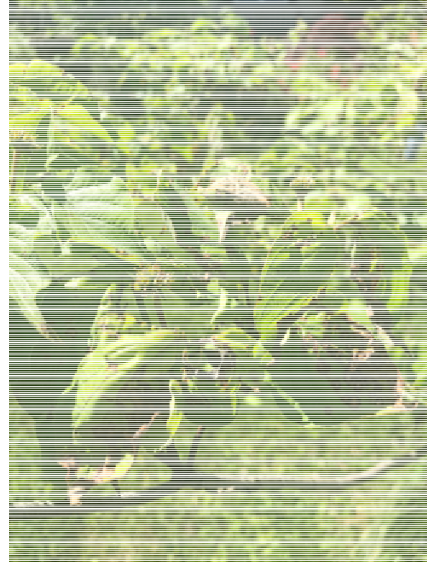


Fig. 2



Fig. 3



Fig. 4

- Fig. 1 is a boxwood bush located in the northwest corner of the complainant's property showing yellow and brown spots on leaves.
- Fig. 2 is dogwood tree located on the north side of the complainant's property showing brown spots on the leaves.
- Fig. 3 is looking southeast at the complainant's property.
- Fig. 4 is looking northwest from the complainant's property towards the target field.

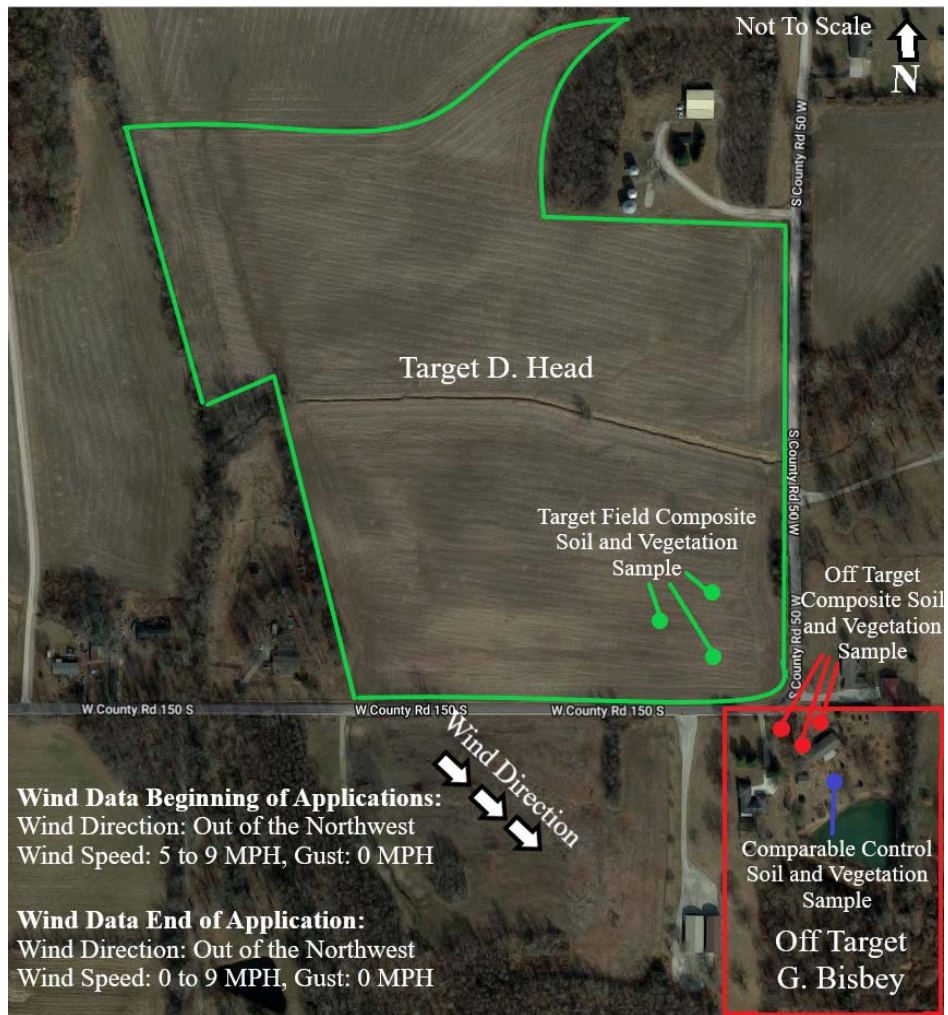


Fig. 5

- Fig. 5 is an aerial diagram including wind data, property lines, and where soil and vegetation samples were taken from.
4. On May 6, 2019, I contacted private applicator Donald Head. I advised Mr. Head I was a Pesticide Investigator for OISC and of the complaint I was investigating. Mr. Head confirmed he made a pesticide application to the field to the northwest of the complainant's property. I advised Mr. Head I would be sending him via email a Pesticide Investigation Inquiry to complete and return to me.
 5. On May 23, 2019 I received a completed Pesticide Investigation Inquiry from Mr. Head for the application which indicated the following:
 - a. Private Applicator: Donald Head
 - b. Application Date and Time: April 23, 2019, 1:15pm to 1:53pm
 - c. Pesticide Applied:
 Verdict, EPA Reg. #7969-279, Active = saflufenacil, dimethenamide, 8oz/acre
 Buccaneer 5, EPA Reg. #55467-15, Active = glyphosate, 48oz/acre
 Clarifier, EPA Reg. #42750-209-1381, Active = dicamba, 4.5oz/acre
 - d. Adjuvants: Sekure-Shot

- e. Target Field Location and Size: Corner 50w and 150s Ohio Twp, 32 Acres
- f. Pre- or Post- Emergent Application: Pre
- g. Wind Direction at Boom Height: Start- WSW, End- WSW
- h. Wind Speed at Boom Height: Start- 7mph, End- 7mph
- i. Nozzle and Pressure: Teejet 11004
- j. Boom Height: 25 inches

6. Weather history data was obtained at www.wunderground.com from the three closest official weather station to the application site. The locations and weather data for April 23, 2019 follow:

- Owensboro-Daviess County Regional Airport (KOWB) located in Owensboro, Kentucky 10 miles to the south of the application site:

Date	Time	Temperature	Wind Direction	Wind Speed	Wind Gust
4/23/2019	12:56 PM	73 F	NW	5 MPH	0 MPH
4/23/2019	1:56 PM	72 F	CALM	0 MPH	0 MPH


- Huntingburg Regional Airport (KHNB) located in Holland, Indiana 27 miles to the north of the application site:

Date	Time	Temperature	Wind Direction	Wind Speed	Wind Gust
4/23/2019	12:55 PM	70 F	NW	9 MPH	0 MPH
4/23/2019	1:55 PM	67 F	NNW	9 MPH	0 MPH

- Evansville Regional Airport (KEVV) located in Evansville, Indiana 28 miles to the west of the application site:

Date	Time	Temperature	Wind Direction	Wind Speed	Wind Gust
4/23/2019	12:54 PM	75 F	NNW	7 MPH	0 MPH
4/23/2019	1:55 PM	72 F	N	7 MPH	0 MPH

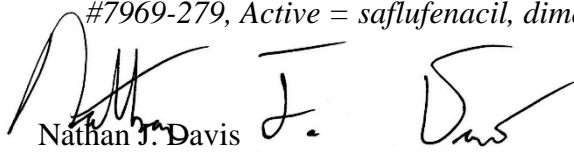
7. The triangulated wind data from the Owensboro-Daviess County Regional Airport (KOWB), Huntingburg Regional Airport (KHNB), and Evansville Regional Airport (KEVV) indicate the wind speed during the application was between 0 mph and 9 mph with no gusts out of the north and west.
8. The PPPDL report stated: *The mixed plant material showed injury symptoms (leaf necrotic spots) that are characteristic of PPO-inhibiting herbicides such as saflufenacil. The spotting found on the Japanese magnolia leaves is due in part to a fungal leaf spot (Phoma sp.) in addition to the injury symptoms mentioned above.*
9. The OISC Residue Laboratory analyzed the soil and vegetation samples collected for the active ingredients saflufenacil and dimethenamid and reported the following:

OCM Collection #	88229	Case #	PS19-0155	Investigator	N. Davis	
Sample #	Sample Description	Matrix	Amount of Analyte (ppb)			
			Saflufenacil	Dimethenamid		
19-4-0713-1	Soil, composite, target field	Soil	Did not test	Did not test		
19-4-0714-9	Vegetation, composite, target field (weeds)	Veg	11.3	7.00		
19-4-0715-4	Soil, composite, off target composite soil, affected site, front yard	Soil	Did not test	Did not test		
19-4-0716-5	Vegetation, composite, off target composite (trees), affected site, front yard	Veg	6.90	BQL		
19-4-0717-7	Soil, control, comparable control behind house, back yard	Soil	Did not test	Did not test		
19-4-0718-3	Vegetation, control, comparable control behind house, back yard	Veg	BDL	BDL		
<small>PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC</small>						
	LOQ (ppb)	Soil	Did not test	Did not test		
	LOQ (ppb)	Veg	0.3	0.7		
Signature				Date	07/11/2019	

10. The OISC Residue Laboratory analysis detected saflufenacil in the off-target composite vegetation samples. Dimethenamid was detected, but was below quantification limits in the off target composite vegetation samples. The tank mix for this application included both the active ingredients saflufenacil and dimethenamid.

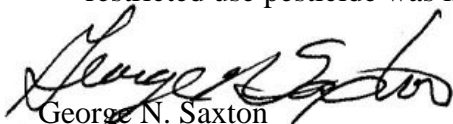
11. According to the triangulated wind data the wind was out of the north and west blowing towards the complainant's property. The label for *Verdict*, EPA Reg. #7969-279, Active = saflufenacil, dimethenamide states: **“The following measures must be followed to reduce the potential of spray drift to nontarget areas from ground applications: Apply this product only when the potential for drift to adjacent nontarget areas is minimal (e.g. when the wind is 10 MPH or less and is blowing away from sensitive areas).”**

12. Based on the evidence collected in this investigation of the PPPDL samples results, residue samples results, and triangulated wind data, it has been determined Donald Head failed to comply with the drift management restrictions on the label for the herbicide *Verdict*, EPA Reg. #7969-279, Active = saflufenacil, dimethenamide.


 Nathan J. Davis
 Investigator

Date: July 22, 2019

Disposition: Donald Head was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved.


 George N. Saxton
 Compliance Officer

Draft Date: October 30, 2019
 Case Closed: December 12, 2019

CASE SUMMARY

Case #PS19-0158

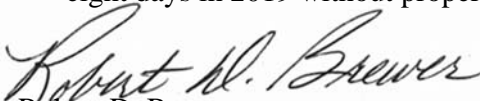
Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, Indiana 47907-2063
765-494-1492

Respondent: Jack Husband
Daniel Dittrick
Husband Exterminators
1839 W. Jefferson Street
Plymouth, Indiana 46563

Owner/Certified Applicator
Employee

1. On April 29, 2019, OISC Agent Mitch Trimble and I went to Husband Exterminators to conduct a routine business inspection. Upon arrival, we spoke with the receptionist, Ms. Dawn Tapia. Upon identifying ourselves, she stated her boss told her if OISC ever came to the business and he was not there, she was not to talk with us or give us anything. I asked her the boss's name and she stated Mr. Jack Husband. I asked her if she could get me his contact number. She did so. I attempted to call Mr. Husband and was unable to make contact, thus I left a voicemail requesting he call me on my cell phone to set up the inspection. I asked Ms. Tapia if Husband Exterminators did any termite pre-construction treatments. She stated they do not. She stated they do service contract jobs, general pest, and termite control. I advised her I needed to speak with Mr. Husband and to have him call when he returned. I did not receive a return call from Mr. Husband on April 29.
2. On April 30, 2019, we returned to Husband Exterminators. As we pulled up, we noticed a red pickup truck parked in front of the business. We observed Ms. Tapia inside as well as an older gentleman with white hair, standing at the front counter. The male subject saw us exiting our vehicle and walked to the back room of the business out of sight. We entered the business and spoke with Ms. Tapia. I asked her who the gentleman was that walked away when he saw us. She stated it was an employee. I asked her who the employee was and she stated Dan Dittrick. I asked what Mr. Dittrick does for the business and she stated he makes pesticide applications for them. She stated he does service contract pesticide applications. I then noticed Mr. Dittrick walked around the outside of the building and got into the red pickup truck and left.
3. We then checked the OISC database and learned Mr. Dittrick was not a licensed applicator through OISC. I then contacted the OISC licensing division and found, Mr. Dittrick had failed the Core exam, thus was never licensed in any capacity to make pesticide applications on his own. While standing there, the telephone rang and Ms. Tapia answered it. I could hear a male subject's voice on the line state, "*Are they still there*". I asked her who it was and she stated it was Mr. Dittrick. I asked if I could speak with him and she handed me the telephone. I identified myself to Mr. Dittrick and asked him if he had made any pesticide applications this year for Husband Exterminators. He stated he had made some pesticide applications during the spring of 2019. I advised him I needed him to come back to the business, as I needed to issue him a document. He did return to the business. I asked him again, if he had made any pesticide applications on his own for Husband Exterminators. He stated he had in March and April of 2019. I asked him how long he had been employed with Husband and he stated since last summer of 2018. I then advised him, he had failed the Core exam and he was not authorized to make pesticide applications on his own for-hire in the State of Indiana. He stated he was not aware of that. I then issued him an ACTION ORDER, ordering him to cease any and all pesticide applications until obtaining proper licensing through the Office of Indiana State Chemist. Mr. Dittrick signed the ACTION ORDER and I provided him with a copy.

4. I then asked Ms. Tapia to contact Mr. Husband and advise him I needed him to come to the business location immediately. She did make contact with Mr. Husband. I asked Mr. Husband on the telephone, if Mr. Dittrick had made any pesticide applications for Husband Exterminators this year. He stated Mr. Dittrick had made pesticide applications under his supervision. I asked him if he was on site, when Mr. Dittrick made the applications. He stated he was not; rather he supervised him as a registered technician by telephone contact. I then advised Mr. Husband, Mr. Dittrick had failed his Core exam, thus he was not a registered technician or certified to make pesticide applications in Indiana. I advised Mr. Husband, I needed him to come to the business so we could get the matter taken care of. He stated he would be on his way.
5. I then asked Ms. Tapia if she had any records of the pesticide applications made by Mr. Dittrick. She provided me with nine invoice records showing the pesticide applications Mr. Dittrick had made on eight different days. The records started on March 7, 2019 and went through April 17, 2019. The records are in this case file. The following is a list of the applications by date and location.
 - March 7, 2019 @ Family Medicine
 - March 8, 2019 @ Ron White
 - March 20, 2019 @ Roger Hagen
 - April 9, 2019 @ VFW
 - April 10, 2019 @ Mini Mart
 - April 15, 2019 @ City Building
 - April 16, 2019 @ County Roads
 - April 17, 2019 @ Lear
6. Mr. Husband arrived and advised Mr. Dittrick, he was not to be there working that day and told him to leave. I showed Mr. Husband the ACTION ORDER and confirmed the records I had received. He stated he was not aware Mr. Dittrick had not passed the Core exam. He stated he thought Mr. Dittrick was a registered technician. I advised him once a test is taken and passed, they would still have to fill out the appropriate license application and send it and the fee to OISC, before the person would be licensed. I advised Mr. Husband to not let Mr. Dittrick make any further pesticide applications, until he is properly license.
7. I then advised Mr. Husband, we would like to conduct a routine facility inspection of his business. He was very cooperative and took us to the warehouse portion of the business. We conducted the inspection, including review of termite treatment records. Everything was in order as far as the inspection and records.
8. Husband Exterminators was in violation of an unlicensed applicator making pesticide applications for-hire on eight days in 2019 without proper supervision.


Robert D. Brewer
Investigator

Date: June 6, 2019

Disposition:

- A. Jack Husband and Husband Exterminators were cited for eight (8) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to properly supervise a non-certified individual. A civil penalty in the amount of \$1,000.00 (8 counts x \$125.00 per count) was assessed.
- B. As of November 26, 2019, Husband Exterminators had not paid the \$1,000.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC.


George N. Saxton
Compliance Officer

Draft Date: November 26, 2019
Case Closed: December 12, 2019

CASE SUMMARY

Case #PS19-0159

Complainant: LaDonna Lachance
2375 Shafer Lane
Kewanna, IN 46939

Respondent: Doug Luhnnow
9659 W 50 S
Kewanna, IN 46939

Private Applicator

1. On May 1, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that Doug Luhnnow had cut limbs off of her trees and then applied an unknown pesticide to them without her permission.
2. On May 7, 2019, I met with LaDonna Lachance at her residence. I asked her to show me to the area of her property where her trees had been trimmed and a suspected herbicide was applied to the cut trees by Doug Luhnnow. The affected area was on the west side of the Lachance property. She showed me pictures of what the trees looked like right after the suspected herbicide had been applied to them. In the pictures I could see a blue stain on the cut portion of the trees that appeared to be Tordon. She informed me that she had Mr. Luhnnow remove the portion of the trees that had the suspected herbicide applied to them before it could be absorbed into the trees. I found a few remaining tree stumps that appeared to have been sprayed with the suspected herbicide. The area of Mrs. Lachance's property where the trees were trimmed can be seen in Figure 1. The tree stumps with the suspected herbicide can be seen in Figures 2 and 3.



3. I collected two swab samples from the stumps that had been sprayed with a suspected herbicide. I collected a control swab from a nearby dead tree. I also received a sample from Mrs. Lachance that was the portion of the trees that had been spray and that Mr. Luhnnow cut off. These samples were submitted to the OISC residue lab for analysis. The location of these samples can be seen in Figure 4.

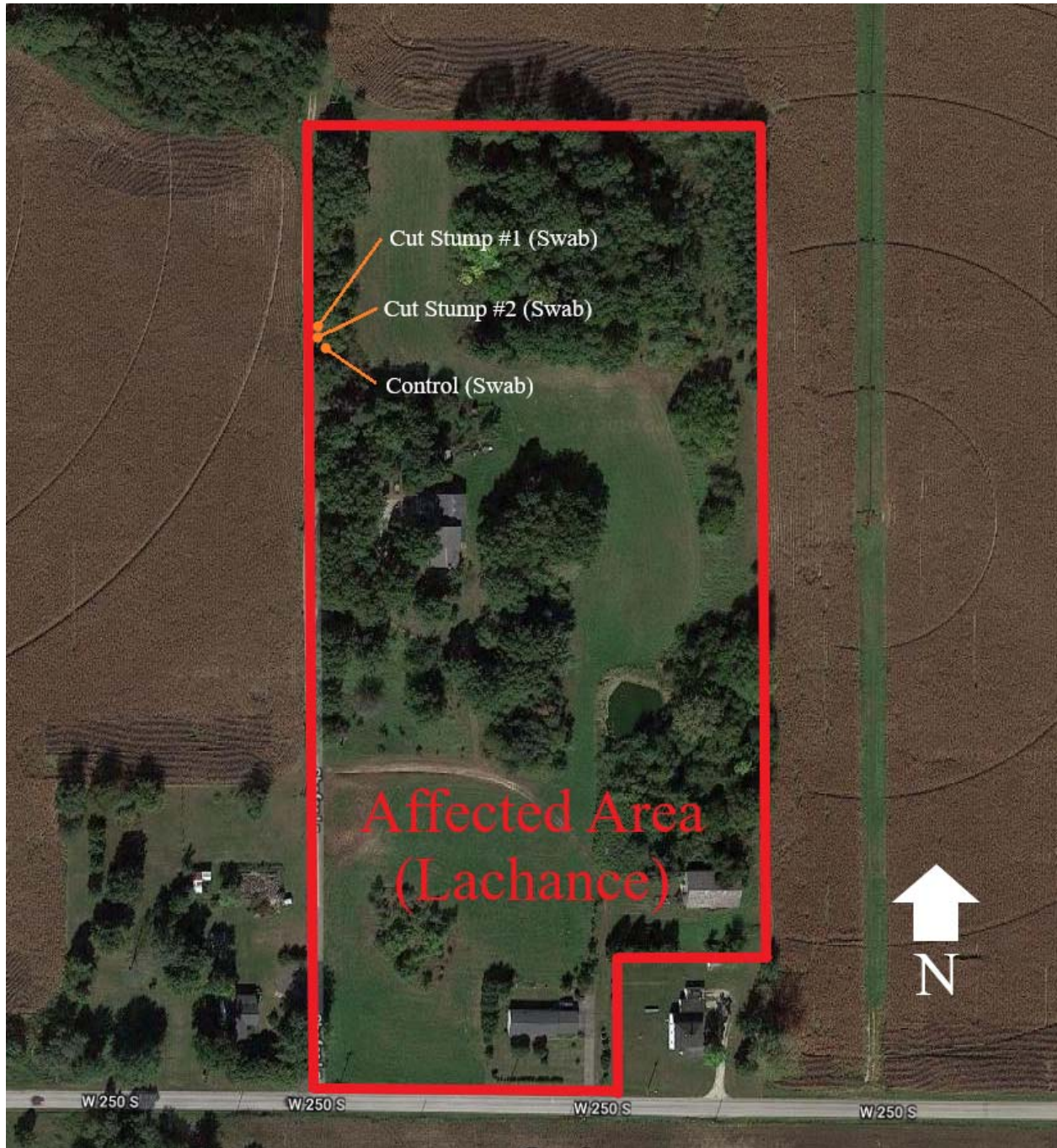


Figure 4

4. On May 7, 2019, I contacted Mr. Luhnow. He stated that he was given permission from the township to trim the trees to clear the right of way to get back to the cemetery to the northwest of the Lachance property. Mr. Luhnow also uses this lane to access the well for his irrigation system. The cemetery in relation to Mrs. Lachance's property can be seen in Figure 5. A ground view of property line between the Lachance property and the cemetery right of way can be seen in Figure 6 (The tree line on the left side of the photo is the affected area).

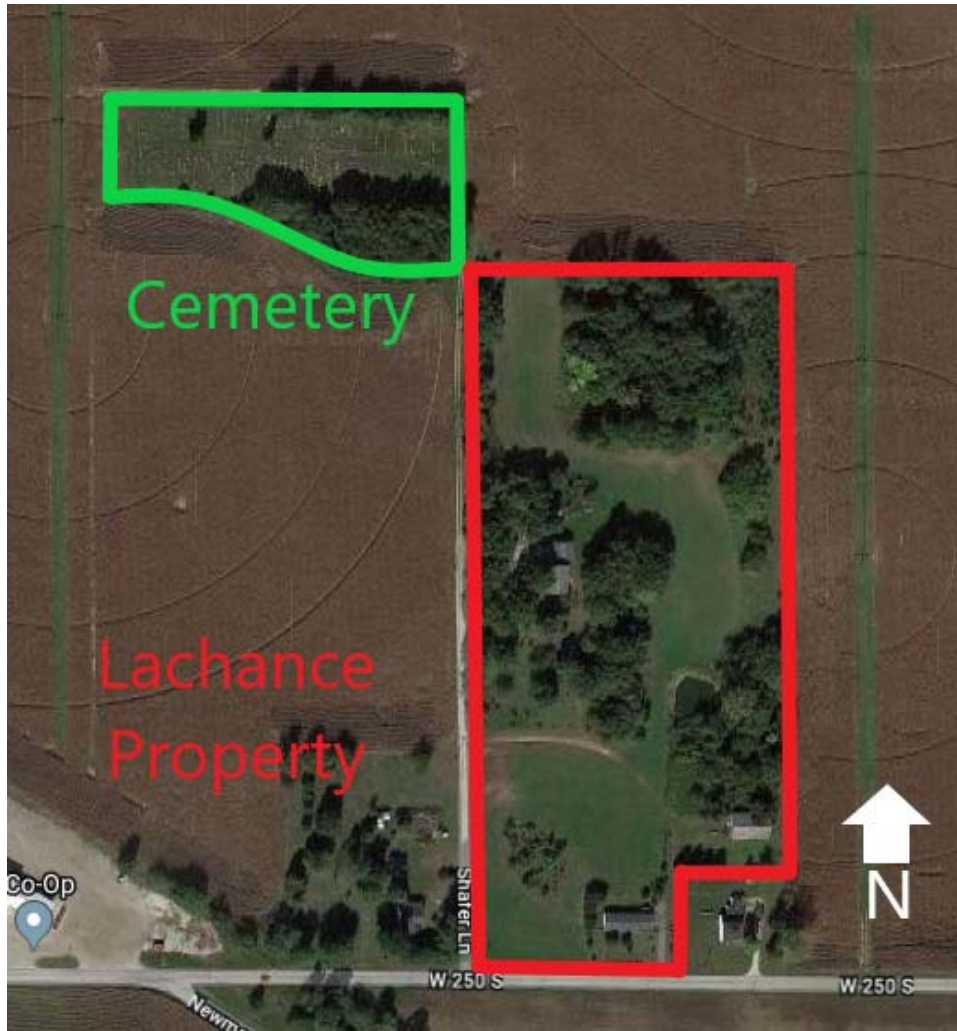


Figure 5




Figure 6

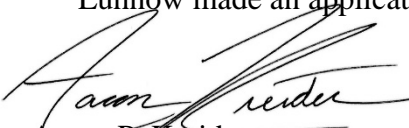
5. On May 15, 2019, I received a Pesticide Investigation Inquiry (PII) from Mr. Luhnnow. It stated that Mr. Luhnnow made the application on April 22, 2019 from 10:00 AM to 11:00 AM. The application consisted of:

A. Tordon RTU (EPA Reg. #62719-31, active ingredients picloram and 2,4-D)

6. The results from the OISC residue lab are as follows:

OCM Collection #	88787	Case #	PS19-0159	Investigator	A. Kreider	
Sample #	Sample Description			Matrix	Amount of Analyte (ppb or ng/swab)	
					2,4-D	Picloram
19-4-1414-6	Swab (Acetone), grab/spot, cut stump #1, affected site			Swab	*134000	*36800
19-4-1415-1	Swab (Acetone), grab/spot, cut stump #2, affected site			Swab	*185000	*59200
19-4-1416-7	Swab (Acetone), control, affected site			Swab	109	20.9
19-4-1417-9	Swab (Acetone), trip blank, affected site			Swab	BDL	BDL
19-4-1418-0	Vegetation, complainant collected, use as secondary sample, affected site			Veg	N/A	N/A
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC * *Result reported as Minimum Detected due to concentration exceeded calibration curve range. N/A = Not Analyzed						
LOQ (ng/swab)				Swab	10	10
LOQ (ppb)				Veg	N/A	N/A
Signature				Date	05/14/2019	

7. The results from the OISC residue lab confirm that the active ingredients from Mr. Luhnnow's application were found on the Lachance property. Figure 6 clearly shows that the trees Mr. Luhnnow made his application to are on the property of Mrs. Lachance. This means that Mr. Luhnnow made an application to Mrs. Lachance's property without her permission.


 Aaron P. Kreider
 Investigator

Date: July 18, 2019

Disposition: Doug Luhnnow was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless manner by applying pesticides to someone's property without their permission. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved.


 George N. Saxton
 Compliance Officer

Draft Date: September 26, 2019
 Case Closed: November 8, 2019

CASE SUMMARY

Case #PS19-0165

Complainant: Office of Indiana State Chemist (OISC)
 175 South University Street
 West Lafayette, IN 47907-2063
 765-494-1492

Respondent: Coby Mansell
 Estate Landscape Management (ELM)
 P.O. Box 20552
 Indianapolis, Indiana 46220
 Unlicensed
 Unlicensed Business

1. On May 2, 2019, the Office of Indiana State Chemist (OISC), through internet sources, discovered ELM is professing to be in the business of fertilizing and applying pesticides for hire but is not licensed. See Figures 1 and 2.



info@e-l-m.net
 317.598.8840
 PO Box 20552
 Indianapolis, IN 46220

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Does your home or business have "curb appeal?" Does your lawn have a professional look? Do you have a new idea for your landscape that you would like to become a reality? ELM's experts provide a wide range of customized services at affordable prices.

ELM Services

- Mowing
- Fertilization of Lawn Areas
- Mulching Trees and Planting Beds
- Pruning of Trees and Shrubs
- Leaf Removal
- Flowers
- Watering
- Grub Worm Control
- Monthly Maintenance Program
- Fertilization of Trees and Shrubs
- Planting of Trees, Shrubs, and Plants
- Snow Removal
- Plant and Tree Removal
- Holiday Lights
- Complete Landscape Renovation

ELM is led by Coby Mansell. He is a specialist educated in landscaping, fertilization, and turf management. Coby started his own landscaping business when he noticed the need for professional, custom landscaping in homes and businesses. Contact ELM to find out about our service offerings and craftsmanship.

Estate Landscape Management, INC is fully insured.

Figure 1-Website advertisement

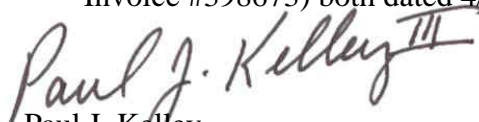
We do the outside.

[Print a PDF of the services and descriptions here](#)




Figure 2-Website advertisement

2. On May 6, 2019, I spoke with Coby Mansell. Mr. Mansell stated he applied fertilizer two (2) times this season. Mr. Mansell stated he has subcontracted previous work. Mr. Mansell stated he would supply copies of the two (2) fertilizer jobs for 2019.
3. On May 6, 2019, I issued Mr. Mansell an Action Order to cease advertising that he was in the for-hire pesticide and fertilizer application business without a licenses from OISC, and cease making for-hire fertilizer applications without a license from OISC. Mr. Mansell returned the signed Action Order on May 7, 2019.
4. On May 6, 2019, Mr. Mansell sent an email stating he had signed up to take the category 3B exam. In addition, Mr. Mansell provided a copy of two (2) invoices (Invoice #398675 & Invoice #398673) both dated 4/9/19 for "Lawn Care Application".


Paul J. Kelley
Investigator

Date: May 9, 2019

Disposition: Coby Mansell and Estate Landscape Management (ELM) were cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides/fertilizers for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation.


George N. Saxton
Compliance Officer

Draft Date: September 20, 2019
Case Closed: October 31, 2019

CASE SUMMARY

Case #PS19-0179

Complainant: Brandon & Laura Ruth
2751 W. SR 234
Cayuga, IN 47928


Respondent: Keith Dalenberg
7892 N 1750 E
Georgetown, IL 61846

1. On May 14, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural drift to ornamentals on his property. Mr. Ruth believes the injury was caused by an application of 2,4-D and glyphosate made by Keith Dalenberg on May 1, 2019.
2. On May 17, 2019, I went to the complainant's home to conduct an on-site physical investigation of the alleged off-target pesticide movement incident reported to OISC.
3. During my on-site investigation I did the following:
 - a) Looked for and did not discover other pesticide applications made in the area.
 - b) Observed and photographed what I believed to be symptoms from exposure to some sort of growth regulator throughout the complainant's property (figures 1, 2 and 3) located to the north of the target field. The target field to the south of the complainant's property was separated by approximately seventy (70) feet. (figure 4)
 - c) Collected vegetation samples from impacted areas of the complainant's property for visual analysis by the Purdue Plant and Pest Diagnostic Lab (PPDDL).
 - d) Collected vegetation samples for chemical analysis by the OISC Pesticide Residue Laboratory.
4. I made a diagram/map of the investigation site, depicting locations of relevant fields, sample collection, roads structures and other landmarks. (figure 5)
5. On May 18, 2019, I collected written records from the applicator Mr. Dalenberg. The written records and statements addressed the below items as follows:
 - a) Application date & time: May 1, 2019 from 1:00pm to 2:00pm;
 - b) Target field: field to the south of complainant's property;
 - c) Pesticides: RoundUp Powermax (glyphosate) EPA Reg. #524-549 and 2,4-DLV6 (2,4-D) EPA Reg. #1381-250
 - d) Nozzles: Turbo TeeJet 110040
 - e) Boom height: 26 inches
 - f) Ground speed: 10 mph
 - g) Winds: 5 mph from the south;
 - h) Applicator: Keith Dalenberg;

6. I searched wind data from www.weatherunderground.com for zip code 47928 in Cayuga, IN for the reported date and time of the application. The results of that search indicated that wind speed and direction during the application were as follows:

12:53 PM	66 ° F	63 ° F	90 %	WSW	8 mph	0 mph
1:53 PM	65 ° F	63 ° F	93 %	SW	6 mph	0 mph

7. The wind would have been blowing toward the complainant’s property.
8. The report from the PPPDL states, “*the plants (tulip poplar and ginkgo) in sample 19-00407 show symptoms that are characteristic of exposure to auxin herbicides such as 2,4-D.*”
9. The results from the OISC Residue Laboratory are as follows.

OCM Collection #	90913	Case #	PS19-0179	Investigator	K. Neal		
Sample #	Sample Description		Matrix	Amount of Analyte (ppb)			
				2,4-D	Glyphosate	AMPA	
19-4-2105-3	Vegetation, composite, tulip poplar, front yard		Veg	642	85.5	BDL	
<small>PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC</small>							
LOQ (ppb)			Veg	2	25	125	
Signature				Date	06/25/2019		

10. The label for 2,4-DLV6 states, “*Do not apply at wind speeds greater than 15 mph. Only apply this product if the wind direction favors on target deposition and there are not sensitive areas (including but not limited to residential areas, bodies of water, known habitat for non-target species, non-target crops) within 250 feet downwind.*”



Figure One



Figure Two



Figure Three



Figure Four

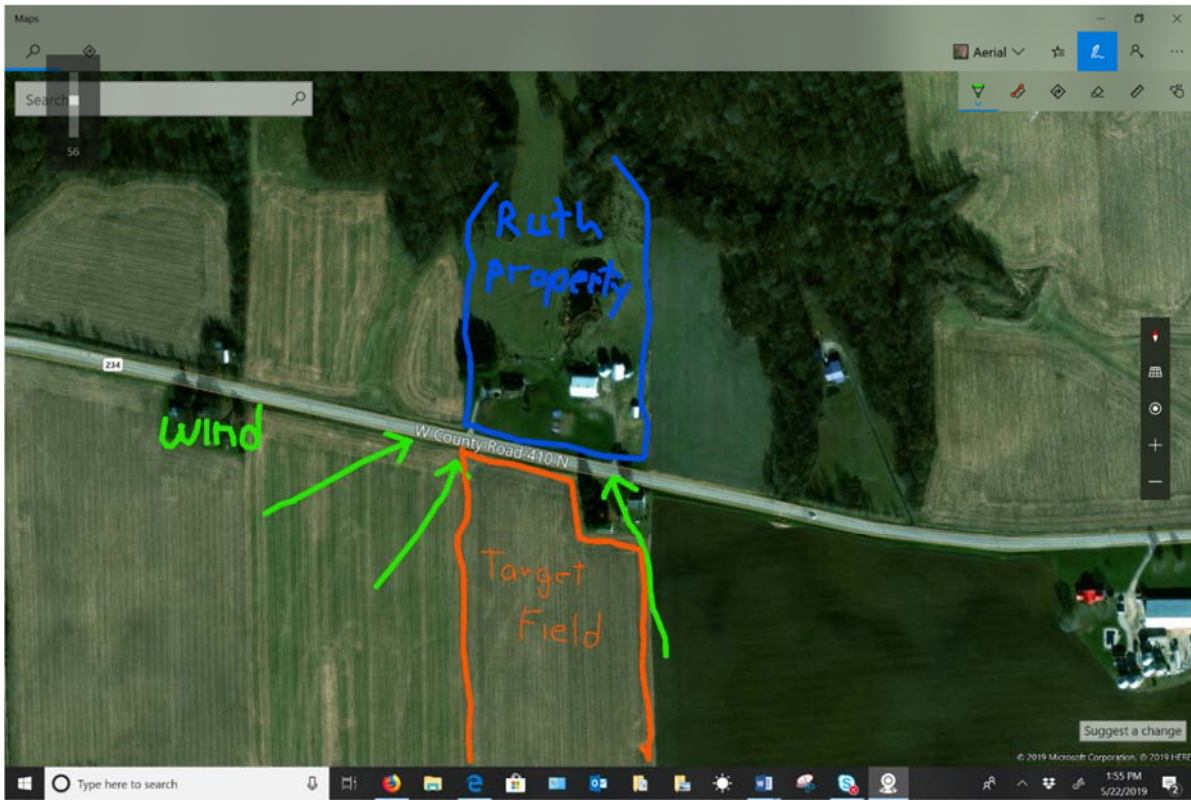


Figure Five

Kevin W. Neal
Kevin W. Neal
Investigator

Date: May 22, 2019

Disposition: Keith Dalenberg was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. Consideration was given to the fact this was Keith Dalenberg's first violation of similar nature and no restricted use pesticides were involved.

George N. Saxton
George N. Saxton
Compliance Officer

Draft Date: September 20, 2019
Case Closed: November 8, 2019

CASE SUMMARY

Case #PS19-0182

Complainant: Steve Fischer
2487 S. Sunrise Drive
New Palestine, IN 46143

Respondent: Earl's Lawn Service
Earl Kiesler
4139 S. Woodtrail Lane
New Palestine, IN 46143

Licensed Business
Certified Applicator

1. On May 16, 2019, the complainant contacted the Office of Indiana State Chemist (OISC) to report drift to his beech trees. The complainant stated he believed the drift came from a lawn care application made by Earl's Lawn Service.
2. On May 17, 2019, I spoke with Steve Fischer who has had the OISC investigate herbicide exposure complaints at his property in the past, including one in 2017 (Case#2017/0834). Mr. Fischer reported that Earl's Lawn Service treats the lawns of both next-door neighbors. His lawn was reportedly treated once in 2019 but no broadleaf weed control was applied.
3. On May 21, 2019, I met Mr. Fischer at his home. He described how repeated herbicide exposure from the farm field to the east and from lawn applications to neighboring properties caused the health of his trees to decline over time. We looked at the trees on his property including a tri-color beech with distorted leaves in front of the house. Mr. Fischer believed Earl Kiesler sprayed the lawn to the north on a warm Friday and the herbicide adversely affected the tree. Symptoms were not widespread across the property; a mature tulip poplar in the front yard lacked the symptoms observed on the tri-color beech. We discussed possible routes of exposure including direct particle drift and volatilization. I explained that I would follow up with Mr. Kiesler regarding his applications. I photographed the site and collected plant samples from several trees on the Fischer property for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue. Foliage from the tri-color beech was collected for analysis by the OISC Residue Lab. A comparative control sample was collected from a beech tree in a wooded area one mile southwest of the Fischer property. *NOTE: The control sample was inadvertently entered as being collected from the "front yard" and is described as such in the lab report.*



Fig.1 Front of Fischer property



Fig.2 Tri-color beech and poplar




Fig.3 Leaves on tri-color beech

4. On May 21, 2019, I contacted Mr. Kiesler and informed him of the complaint. He stated he applied fertilizer with pre-emergent to the lawn to the north (Layman) on April 12 and then went back on a different


date to spray broadleaf weed control. Mr. Kiesler did not know the date of the weed control application and stated he spoke with the homeowner the day he sprayed so he did not leave documentation which would list a date. He noted that he only sprays when winds are blowing away from the Fischer property because of the history at the site. Mr. Kiesler cited that many of the lawns in the neighborhood are treated by lawn care companies. He stated he did not treat the lawn south of the Fischer property (Conover) this year. I requested application information from Mr. Kiesler via email on May 28, 2019.

5. On May 22, 2019, I spoke with Mr. Conover who reported that Mr. Kiesler did treat his lawn once this year when he was not home. He indicated he had not planned to have his lawn treated this year and he canceled the service after the unexpected application in Early-May.
6. To rule out possible herbicide exposure from the farm field east of the Fischer property, I contacted Michael Borgmann who reported he sprayed the west side of the field near the neighborhood when he had a wind was blowing away from the residences. He applied no growth regulator herbicides which cause cupping and puckering of leaves on exposed plants.
7. I then spoke with Ms. Layman who was able to find her invoice for the first application Mr. Kiesler made to her lawn. It was dated April 11, 2019, and listed products applied as fertilizer, pre-emergent and broadleaf weed control. She confirmed that Mr. Kiesler returned on a different day to apply the broadleaf weed control and that she was not provided documentation for that application. Mr. Conover later called me to report that he found the invoice for the application Mr. Kiesler made to his lawn and it was dated May 3, 2019.
8. The PPDL report stated, *“The mixed plant material (tri-color beech, tulip poplar, and American beech) in sample 19-00430 did not show any herbicide injury symptoms.”* It further indicated, *“The American beech has damage from eriophyid mites. The raised white pustules on the surface of the leaf are caused by the eriophyid rust mite Acalitis fagerinia. This disorder is known as yellow beech erinium. It is not known to significantly harm tree health.”* Finally, it stated, *“The tricolor beech leaves are normally cupped because the variegated areas grow at a different rate than those with chlorophyll. The whole leaf has a purple color that masks the green/white variegation. I saw no evidence of significant disease on these samples.”*
9. The OISC Residue Lab analyzed the vegetation samples for three active ingredients commonly formulated in broadleaf weed control products and reported the following:

OCM Collection #	92297	Case #	PS19-0182	Investigator	A. Roth		
Sample #	Sample Description	Matrix	Amount of Analyte (ppb)				
			2,4-D	Dicamba	MCPP		
19-4-4213-0	Vegetation, control veg, front yard	Veg	20.7	0.376	BQL		
19-4-4214-8	Vegetation, tri-color beech, front yard	Veg	5.43	1.20	BQL		
<small>PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC</small>							
LOQ (ppb)		Veg	2	0.2	0.2		
Signature				Date	06/25/2019		

The active ingredients 2,4-D, dicamba and MCPP were detected in both vegetation samples. The 2,4-D level detected in the off-site comparative control sample was nearly four times the amount detected in the tri-color beech foliage from the Fischer property. Based on the levels detected in the two samples, which were collected from different sites, the OISC Lab Director characterized the concentrations as environmental background levels.

10. I continued to request application information from Mr. Kiesler over the course of the summer. On September 25, 2019, having not received any application information from Mr. Kiesler, I emailed him a Pesticide Investigation Inquiry (PII), formally requesting application information, with specific instructions to complete one form for each of the neighboring properties where he made applications. On October 9, 2019, the OISC received one PII from Mr. Kiesler. It listed a single application date (April 11, 2019) for the two properties and stated "3 Way - weed control" was applied. Mr. Kiesler failed to comply with the instructions and provide the requested information as the PII was incomplete and lacked specific information pertinent to the investigation.


Andrew R. Roth
Investigator

Date: October 17, 2019

Disposition:

- A. Earl's Lawn Service and Earl Kiesler were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to follow an Order of the state chemist or Board. A civil penalty in the amount of \$250.00 was assessed for this violation. In addition, the business license of Earl's Lawn Service and the applicator license of Earl Kiesler were suspended until such time as complete pesticide application records are received.
- B. On November 18, 2019, Earl's Lawn Service sent in the proper information. As a result, the license suspension was lifted. The civil penalty in the amount of \$250.00 was still assessed.
- C. Earl's Lawn Service and Earl Kiesler were warned for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-5-3, for failure to provide written customer notification containing all required notification elements. The civil penalty was still assessed.


George N. Saxton
Compliance Officer

Draft Date: December 3, 2019
Case Closed: January 10, 2020

CASE SUMMARY

Case #PS19-0191

Complainant: Gary LeLoup
Lorie LeLoup
13846 North County Road 200 West
Carbon, Indiana 47837

Respondent: Joshua Butt Private Applicator
4313 W. Lower Bloomington Road
Cory, Indiana 47846

1. On May 20, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report 'this past Friday', a local farmer made a pesticide application to a farm field and now the complainant's flowers have spots.
2. On May 21, 2019, I met with the complainant at her residence. The complainant walked me around the west side of her property and pointed out her concerns of spotting on an assortment of trees and ornamentals.
3. During my on-site investigation I did the following:
 - a. Looked for, and found two potential sources of herbicide application in the area. The two target fields for this particular case are located to the west and east of complainant's property. (See Fig. 5). Both target field applications were made by the same applicator, on the same day, and contained the same tank mix.
 - b. Observed and photographed yellow and brown spots (leaf necrotic spots) on an assortment of trees and ornamentals. (See Fig. 1, 2, and 3). These symptoms are commonly associated with exposure to a protoporphyrinogen oxidase (PPO) inhibiting herbicide. Observed and photographed one tree with cupped and curled leaves. These symptoms are commonly associated with exposure to a growth regulator type herbicide (See Fig. 4). Injury symptoms were concentrated on the west side of the complainant's property.
 - c. Collected samples of an assortment of injured trees and ornamentals from the complainant's property for assessment by the Purdue Plant & Pest Diagnostic Laboratory (PPDDL)
 - d. Collected composite soil and vegetation samples from the target field. Collected composite soil and vegetation samples from the complainant's property (See Fig. 5). The residue samples were submitted to the OISC Residue Laboratory for analysis.



Fig. 1



Fig. 2



Fig. 3



Fig. 4

- Fig. 1 is yellow and brown spotting on a bush on the west side of the complainant's property.
- Fig. 2 is yellow and brown spotting on a tree on the west side of the complainant's property.
- Fig. 3 is yellow spotting on an ornamental on the west side of the complainant's property.
- Fig. 4 is cupped and curled brown leaves on a tree on the west side of the complainant's property.



Fig. 5

- Fig. 5 is an aerial diagram including wind data, property lines, and where soil and vegetation samples were taken from.
4. On May 21, 2019, I contacted private applicator Joshua Butt. I advised Mr. Butt I was a Pesticide Investigator for OISC and of the complaint I was investigating. Mr. Butt confirmed he made pesticide application to two fields one to the east and one to the west of the complainant's property. Mr. Butt advised both applications were made on the same day and contained the same tank mix. I advised Mr. Butt I would be sending him via email a Pesticide Investigation Inquiry to complete and return to me.
 5. On May 21, 2019, I received a completed Pesticide Investigation Inquiry from Mr. Butt for the application which indicated the following:
 - a. Private Applicator: Joshua Butt
 - b. Application Date and Time: May 17, 2019, 2:58pm to 4:30pm
 - c. Pesticide Applied:
 - Verdict, EPA Reg.# 7969-279, Active = saflufenacil, dimethenamide, 6oz/acre
 - Abundit Edge, EPA Reg.# 524-549-352, Active = glyphosate, 24oz/acre
 - Rifle-D, EPA Reg.# 34704-869, Active = dicamba, 2,4-D, 32oz/acre
 - d. Adjuvants: MSO, AMS
 - e. Target Field Location and Size: Akers Jenkins, 44.08 Acres
 - f. Pre- or Post- Emergent Application: Pre

- g. Wind Direction at Boom Height: Start- SSW, End- SSW
- h. Wind Speed at Boom Height: Start- 5mph, End- 5mph
- i. Nozzle and Pressure: Teejet Induction Flat Fan 03 Blue, 35psi
- j. Boom Height: 12 inches

6. Weather history data was obtained at www.wunderground.com from the three closest official weather station to the application site. The locations and weather data for May 17, 2019 follow:


- Terre Haute Regional Airport (KHUF) located in Terre Haute, Indiana 12 miles to the southwest of the application site:

Date	Time	Temperature	Wind Direction	Wind Speed	Wind Gust
5/17/2019	2:53 PM	81 F	SSW	5 MPH	0 MPH
5/17/2019	3:53 PM	82 F	SSW	5 MPH	0 MPH
5/17/2019	4:53 PM	77 F	S	5 MPH	0 MPH

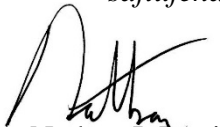
7. The wind data from the Terre Haute Regional Airport (KHUF) indicate the wind speed during the application was 5 mph with no gusts out of the south and west.

8. The PPPDL report stated: *The plants in sample 19-454 show injury symptoms (leaf necrotic spots) that are characteristic of exposure to PPO-inhibiting herbicides such as saflufenacil. A couple of plants in the sample also show epinasty, which is characteristic symptom of exposure to synthetic auxin herbicides such as 2,4-D and dicamba. The ash tree had some minor anthracnose leaf spot. Spotting on the other plants does not appear to be disease related.*

9. The OISC Residue Laboratory analyzed the soil and vegetation samples collected for the active ingredients saflufenacil and dimethenamid and reported the following:

OCM Collection #	92308	Case #	PS19-0191	Investigator	N. Davis	
Sample #	Sample Description			Matrix	Amount of Analyte (ppb)	
					Saflufenacil	Dimethenamid
19-4-0719-6	Soil, composite, east target field			Soil	Did not test	Did not test
19-4-0720-3	Vegetation, composite, east target field			Veg	574*	723*
19-4-0721-9	Soil, composite, west target field			Soil	Did not test	Did not test
19-4-0722-6	Vegetation, composite, west target field			Veg	395*	576*
19-4-0723-5	Soil, composite, off target composite soil, affected site			Soil	Did not test	Did not test
19-4-0724-2	Vegetation, composite, off target composite veg, affected site			Veg	10.4	1.01
19-4-0725-7	Soil, control, comparable control soil, affected site			Soil	Did not test	Did not test
19-4-0726-1	Vegetation, control, comparable control veg, affected site			Veg	0.808	BDL
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC *Minimum concentration reported due to amount exceeding calibration curve range						
LOQ (ppb)				Soil	Did not test	Did not test
LOQ (ppb)				Veg	0.3	0.7
Signature				Date	07/11/2019	

10. The OISC Residue Laboratory analysis detected saflufenacil and dimethenamid in the off target composite vegetation samples. The tank mix for this application included both the active ingredients saflufenacil and dimethenamid.
11. According to the application records and wind data, the wind was out of the south and west and during the application to the west target field the wind was blowing towards the complainant's property. The label for *Verdict*, EPA Reg. #7969-279, Active = saflufenacil, dimethenamide states: **"The following measures must be followed to reduce the potential of spray drift to nontarget areas from ground applications: Apply this product only when the potential for drift to adjacent nontarget areas is minimal (e.g. when the wind is 10 MPH or less and is blowing away from sensitive areas).** Further, according to the Google Maps measuring tool the complainant's property is 78 feet from the east property line of the west target field. The label for *Rifle-D*, EPA Reg. #34704-869, Active = dicamba, 2,4-D states: **Only apply this product if the wind direction favors on-target deposition and there are not sensitive areas (including, but not limited to residential areas, bodies of water, known habitat for non-target species, non-target crops) within 250 feet downwind.**
12. Based on the evidence collected in this investigation of the PPPDL samples results, residue samples results, application records, and wind data, it has been determined Joshua Butt failed to comply with the drift management restrictions on the label for the herbicides *Verdict*, EPA Reg. #7969-279, Active = saflufenacil, dimethenamide and *Rifle-D*, EPA Reg. #34704-869, Active = dicamba, 2,4-D.


Nathan J. Davis
Investigator

Date: July 23, 2019

Disposition: Joshua Butt was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact this was his second violation of similar nature (see case 2017/0820) and a restricted use pesticide was involved.


George N. Saxton
Compliance Officer

Draft Date: October 22, 2019
Case Closed: December 9, 2019

CASE SUMMARY

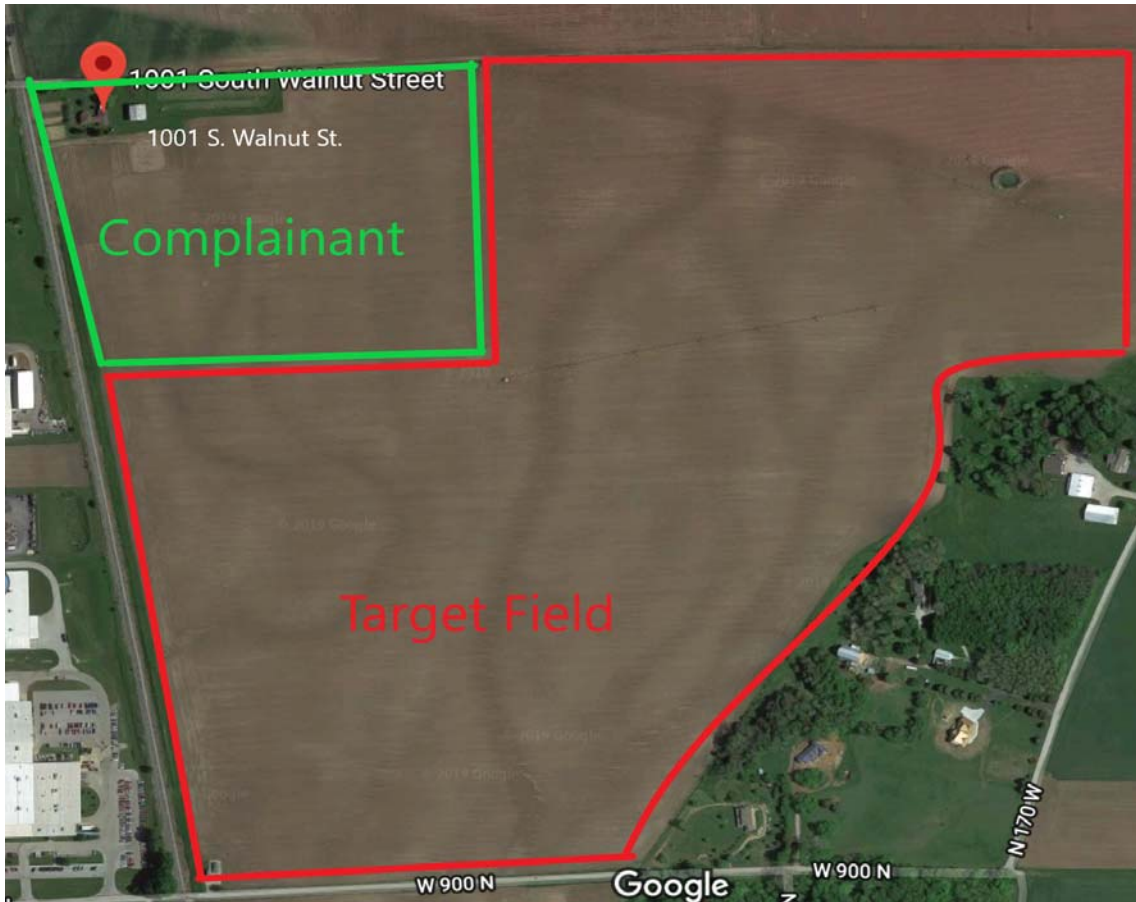
Case #PS19-0208

Complainant: Justin Williams
1001 South Walnut Street
Edinburgh, Indiana 46124

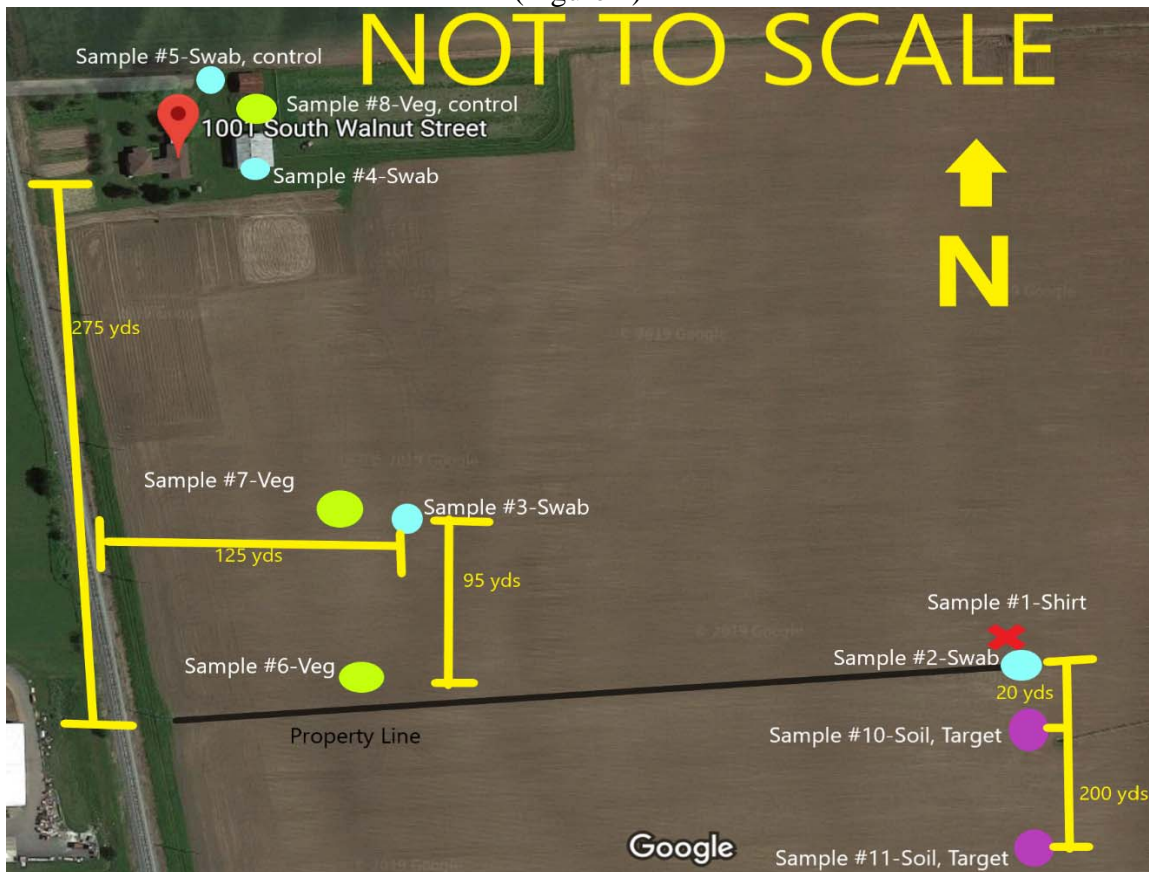
Respondent: Richard Tucker
James Willard
Columbus Silgas
1864 West 550 North
Columbus, Indiana 47203

Certified Applicator
Registered Technician
Licensed Business

1. On May 28, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that today, Columbus Silgas was making a pesticide application to a neighboring farm field and he was drifted upon.
2. On May 30th, I met with Justin Williams. Mr. Williams reported that on May 28th, 2019, he was planting cantaloupe plants in his non-certified organic field when he observed a spraying apparatus applying a liquid treatment to the farm field adjacent to his south and east property lines. Mr. Williams stated he observed the winds to be strong out of the south and immediately began recording the application with his cell phone. While recording with his cell phone, Mr. Williams advised he began walking to the southeast corner of his property. Located at the southeast corner of the property is a concrete pillar, which he stood behind to record the application. Mr. Williams stated he continued to record and attempted to "flag down" the applicator. While behind the concrete pillar, Williams reported he was exposed to the spray drift coming from the apparatus.
3. Mr. Williams stated he immediately had a "weird" taste in his mouth for a few hours after the exposure. Mr. Williams advised he removed the t-shirt he had been wearing during the exposure and placed it into a re-sealable plastic bag in effort to preserve it. Mr. Williams then contacted Columbus Silgas who he believed was responsible for the application, and spoke with Richard Tucker. Mr. Williams stated that Mr. Tucker advised him he had instructed the applicator to leave a 500' buffer around the perimeter of the treated field. Mr. Williams stated he was also advised they had quit the application before they were finished, so that they could return and finish the perimeter when the winds had calmed. Mr. Williams stated he did observe the application resume and finish later that evening. Mr. Williams informed me there was no buffer on the second application and observed the applicator raise the equipment's right boom as it traveled westbound to avoid an "irrigation stop" located very close to the property line.
4. The t-shirt Mr. Williams advised he was wearing during the exposure was collected and submitted to the lab for analysis. Several plant tissue and swab samples were collected from the scene and were also submitted to the lab for analysis. See figure 1 & 2



(Figure 1)



(Figure 2)

5. Mr. Williams stated he kept his cell phone recordings and would provide them to me, via email. On June 5, 2019, I received an email from Mr. Williams including the recorded videos. I was unable to view all the videos due to a warning of a possible computer virus. I was only able to view two of the five recordings, which showed the application to the adjacent field as Williams advised. See figures 3, 4, & 5, with are still shots taken from the obtained video.



(Figure 3)



(Figure 4)



(Figure 5)

6. On May 29, 2019, I contacted Columbus Silgas Manager/Applicator, Richard Tucker. Mr. Tucker advised me he was aware of the complaint against Columbus Silgas as he had already been contacted by the complainant, Justin Williams. Mr. Tucker informed me the property they are treating is owned by David Feisbeck and Columbus Silgas is contracted by him to do the applications. Mr. Tucker advised the field in question, 900 N. 170 W., Edinburgh, Indiana is planted with green beans and they have only a limited time to treat them. Mr. Tucker stated he knew it was "too windy" but they had to get the field treated in time. Mr. Tucker stated he directed the registered technician, James Willard, to leave a 500' buffer around the border of the field. Mr. Tucker advised once Mr. Willard had completed the field's initial application, minus the described buffer, he had returned at approximately 8:00 PM to "clean up" the buffer area. Mr. Tucker stated the wind was slightly blowing at the time of the second application.
7. Mr. Tucker was sent and returned a Pesticide Investigation Inquiry (PII). The PII listed the first application lasted from 1:00-3:00 PM with a 16 MPH wind from the southwest. The second application lasted from 8:15-9:45 PM with a 7 MPH wind from the south. The field was treated with Broadloom (EPA Reg. #70506-306, active ingredient of Bentazon), Ringside (EPA Reg. #100-993, active ingredient of Fomesafen), Volunteer (EPA Reg. #42750-72-55467, active ingredient of Clethodim), and Fanfare (EPA Reg. #66222-261, active ingredient of Bifenthrin). See excerpt of PII below, figure 6.

1. Certified applicator/supervisor name Richard S. Tucker
2. Applicator/supervisor pesticide license # F 16342
3. Noncertified applicator or registered technician name (if applicable) James Alan Willard
4. Registered technician license # (if applicable) Rt 205386
5. Company name (if applicable) Columbus Silgas Inc.
6. Pesticide business license # (if applicable) 16864
7. Applicator or business address 1864 W. 550 N.
8. City/State/Zip Columbus, In 47203
9. Best phone for contact with applicator 812-372-4469
10. Applicator email rtucker813@gmail.com
11. Application date 5-28-2019 start time 1:00 pm *Finished (9:45)* end time 3:00 pm *Finished (8:15)*
12. Target crop or site treated Greenbeans
13. Crop height/growth stage at time of application (if crop) 28 days old
14. Target field/area location (include map if helpful) 900 North 170 West Edinburg, In
15. Acreage or size of area treated 129.5 ac
16. Pre- or post-emergent application (if crop) post
17. Date crop planted (if crop) May 1, 2019
18. Air temperature at boom height at start time 82 end time 83
19. Wind blowing from which direction at start time S W end time SW
20. Wind speed at boom height at start time 16 end time 16

(Figure 6)

8. The pesticides' label instructions on drift and wind speed are listed below:

Broadloom; EPA Reg. #70506-306:

"Do not apply when conditions favor drift from target area or when wind speed is greater than 10 mph. Apply only when the wind speed is 2 to 10 mph at the application site."

Fanfare; EPA Reg. #66222-261:

"Only apply this product if the wind direction favors on-target deposition. Do not apply when the wind velocity exceeds 15 mph."


Ringside; EPA Reg. #100-993:

"Do not apply when wind velocity exceeds 15 mph."

Volunteer; EPA Reg. #42750-72-55467:

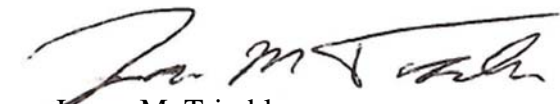
"Do not spray if wind speed is 10 MPH or greater."

9. On June 16, 2019, I received the lab results from the submitted samples. The results show Mr. Williams' shirt, sample 19-4-6477-7, had been exposed to both Bifenthrin and Fomesafen. Fomesafen was also found in the samples 19-4-6483-4 and 19-4-6484-7. The results are shown below, see figure 7.

OCM Collection #	94429	Case #	PS19-0208	Investigator	J. Trimble	
Sample #	Sample Description	Matrix	Amount of Analyte (ppb, ng/swab, or ng/clothing)			
			Bifenthrin	Fomesafen		
19-4-6477-7	Clothing, shirt, affected site, south east	Cloth	8200	119		
19-4-6478-3	Swab (acetone), concrete pillar w/ algae, affected site, south east	Swab	BDL	BQL		
19-4-6479-6	Swab (acetone), pvc pipe, affected site, gradient 2, south	Swab	BDL	BDL		
19-4-6480-6	Swab (acetone), wall, affected site, gradient 3, south	Swab	BDL	BDL		
19-4-6481-0	Swab (acetone), control, window, affected site	Swab	BDL	BDL		
19-4-6482-3	Swab (acetone), trip blank, affected site	Swab	BDL	BDL		
19-4-6483-4	Vegetation, unknown veg-weeds, affected site, gradient 1, south	Veg	BQL	2.17		
19-4-6484-7	Vegetation, veg-young corn, affected site, gradient 2, south	Veg	BQL	0.388		
19-4-6485-2	Vegetation, unknown veg-weeds, affected site	Veg	BQL	BDL		
19-4-6486-8	Soil, 60', target site, gradient 1, north	Soil	63.3	121		
19-4-6487-5	Soil, 600', target site, gradient 2	Soil	3.89	40.2		
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC						
	LOQ (ng/swab)	Swab	5	0.2		
	LOQ (ng/clothing)	Clothing	160	26		
	LOQ (ppb)	Veg	7	0.07		
	LOQ (ppb)	Soil	2	0.1		
Signature				Date	06/19/2019	

(Figure 7)

10. After reviewing the evidence and pesticide labels, Columbus Silgas was found to be in violation of all four pesticide labels that include; Broadloom (EPA Reg. #70506-306, active ingredient of Bentazon), Ringside (EPA Reg. #100-993, active ingredient of Fomesafen), Volunteer (EPA Reg. #42750-72-55467, active ingredient of Clethodim), and Fanfare (EPA Reg. #66222-261, active ingredient of Bifenthrin). Registered Technician, Mr. Willard, was directed to treat the field listed, against their labels, by his supervisor and Certified Applicator, Richard Tucker.


 James M. Trimble
 Investigator

Date: July 5, 2019

Disposition: Richard Tucker, James Willard, and Columbus Silgas were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm. Consideration was also given to the fact this was Mr. Tucker's second violation of similar nature. See case number 2017/0843.


 George N. Saxton
 Compliance Officer

Draft Date: September 26, 2019
 Case Closed: October 31, 2019

CASE SUMMARY

Case #PS19-0219

Complainant: Dale Smith
280 W 300 S
Washington, IN 47501

Respondent: Curtis Kixmiller Certified Applicator
Ceres Solutions Licensed Business
409 N. Country Market Lane
Vincennes, IN 47951-9550

1. On June 3, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural drift to his person and his property. Mr. Smith stated the field to the south of his property was sprayed by Ceres Solutions when the wind was blowing toward his property. Mr. Smith stated he was outside at the time of the application and could feel the mist hit his arm.
2. On June 10, 2019, I went to Ceres Solutions in Vincennes, Indiana and spoke to branch manager Kim Wampler. I advised Mr. Wampler I was a Pesticide Investigator for OISC and of the complaint I was investigating. Mr. Wampler confirmed Ceres Solutions made a pesticide application to the field to the south of the complainant's property. I advised Mr. Wampler I would be sending him via email a Pesticide Investigation Inquiry to complete and return to me.
3. On June 11, 2019, I met with the complainant at his residence. The complainant stated he was standing in his driveway on June 3, 2019 and observed Ceres Solutions making a pesticide application to the field south of his property. The complainant stated the wind was blowing towards his property and when he was standing in his driveway, he could feel a mist hit his arms. The complainant had the shirt he was wearing at the time of exposure in a brown paper bag and he gave me possession of the shirt and I placed it into a Mylar bag.
4. During my on-site investigation I did the following:
 - a. Looked for, and found one potential source of herbicide application in the area. The target field for this particular case is located to the south of the complainant's property across a county road (See Fig. 5).
 - b. Observed and photographed yellow and brown spots on an assortment of trees and ornamentals. (See Fig 1 and 2). Injury symptoms were concentrated on the south side of the complainant's property.
 - c. Collected samples of injured trees and ornamentals from the complainant's property for assessment by the Purdue Plant & Pest Diagnostic Laboratory (PPDDL)
 - d. Collected composite soil samples from the target field. Collected composite soil and vegetation samples from the complainant's property including where complainant was standing when exposure occurred and shirt worn by complainant during exposure (See Fig. 5). The residue samples were submitted to the OISC Residue Laboratory for analysis.



Fig. 1



Fig. 2



Fig. 3

- Fig. 1 is a daylily on the north side of the complainant’s property with yellow and brown spotting on the leaves.
- Fig. 2 is an onion in the complainant’s garden with yellow spotting on its leaves.
- Fig. 3 is the location the complainant was standing during the exposure facing south towards the target field.



Fig. 5

- Fig. 5 is an aerial diagram including wind data, property lines, and where soil and vegetation samples were taken from, along with the location the complainant was standing during exposure.

5. On June 14, 2019, I received a completed Pesticide Investigation Inquiry from Mr. Wampler for the application which indicated the following:
 - a. Certified Applicator: Curtis Kixmiller
 - b. Application Date and Time: June 3, 2019, 9:30am to 9:45pm
 - c. Pesticide Applied:
 - Armerzon Pro, EPA Reg. #7969-372, Active = dimethenamide, topramezone, 20oz/acre
 - Atrazine 4L, EPA Reg. #34704-69, Active = atrazine, 1.5qt/acre
 - Instinct II, EPA Reg. #62719-657, Active = nitrapyrin, 18.5oz/acre
 - d. Adjuvants: None
 - e. Target Field Location and Size: Willards, 290 Acres
 - f. Pre- or Post- Emergent Application: Field planted in corn that was not up yet.
 - g. Wind Blowing from Which Direction: Start- E, End- SSE
 - h. Wind Speed at Boom Height: Start- 4mph, End- 11mph
 - i. Nozzle and Pressure: PMQHF20, 30psi
 - j. Boom Height: 30 inches

6. On July 26, 2019, I contacted certified applicator Curtis Kixmiller in regards to the application time frame documented on the pesticide investigation inquiry for this specific target field. Mr. Kixmiller advised the application record was for the entire Willard Farm in the area for the day. Mr. Kixmiller advised he started the application to the target field around 12:55pm after he went and filled up his tender truck. Mr. Kixmiller advised he finished the application to the target field between 4pm and 5pm. The time frame Mr. Kixmiller advised is the time frame used for the wind data collection.

7. Weather history data was obtained at www.wunderground.com from the closest official weather station to the application site. The location and weather data for June 3, 2019 follow:
 - Lawrenceville-Vincennes International Airport (KLWV) located in Lawrenceville, Illinois 25 miles to the northwest of the application site:


Date	Time	Temperature	Wind Direction	Wind Speed	Wind Gust
6/3/2019	12:53 PM	78 F	ENE	3 MPH	0 MPH
6/3/2019	1:53 PM	79 F	SE	5 MPH	0 MPH
6/3/2019	2:53 PM	78 F	SSW	9 MPH	0 MPH
6/3/2019	3:53 PM	78 F	VAR	3 MPH	0 MPH
6/3/2019	4:53 PM	77 F	SSE	3 MPH	0 MPH
6/3/2019	5:53 PM	77 F	SE	7 MPH	0 MPH

8. The wind data from the Lawrenceville-Vincennes International Airport (KLWV) indicate the wind speed during the application was between 3 and 9 mph with no gusts varying out of the north, south and east.

9. The PPPDL report stated: *The apple and willow plants in sample 19-00627 do not show any symptoms of herbicide exposure. The necrotic spots seem to be disease related. The white necrotic spots on the maple, iris, daylily, onion, and Forsythia samples resemble exposure to paraquat (group 22) or potentially PPO-inhibitors (group 15). It is important to emphasize that these symptoms are NOT characteristic of herbicides atrazine, dimethenamid, or topramezone. It is also possible that other herbicides were sprayed in the area or that fungicide/insecticide treatments may have been sprayed with a contaminated tank.*

Apple: The sample had yellow/orange spots on the leaves caused by cedar-apple rust disease. No evidence of herbicide injury. Willow: The dark irregularly shaped spots are typical of several fungal leaf spots found on willow during wet summers. No clear evidence of herbicide injury. Maple: Some of the spotting appears to be due to chemical injury/contact burn. Spots typical of *Phyllosticta* leaf spot were also present. The marginal scorch/necrosis can be due to multiple causes in Japanese maple, most often related to stress problems when grown in too much sun. Honeysuckle vine: Disease could not be ruled out as the cause of leaf spotting. Larger sample would be needed to be sure. Iris, Daylily, Onion, Forsythia: The white spots present on these plants appear to be caused by a contact burn. The iris also had a few fungal leaf spots but most of the marginal spotting was not related to disease.

10. The OISC Residue Laboratory analyzed the soil and vegetation samples collected for the active ingredients atrazine and dimethenamid and reported the following:

OCM Collection #	97314	Case #	PS19-0219	Investigator	N. Davis	
Sample #	Sample Description		Matrix	Amount of Analyte (ppb or ng/clothing)		
				Atrazine	Dimethenamid	
19-4-0742 4	Soil composite S target composite soil target site		Soil	15.6	65.9	
19-4-0743 0	Article shirt worn during exposure affected site		Clothing	43500	107000*	
19-4-0744 8	Soil composite off target composite soil affected site		Soil	BQL	1.17	
19-4-0745 3	Vegetation composite off target composite veg affected site		Vegetation	288	9.86	
19-4-0746 9	Soil control comparable control soil affected site		Soil	BQL	BDL	
19-4-0747 6	Vegetation control comparable control veg affected site		Vegetation	138	1.57	
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC *Minimum concentration reported due to amount exceeding calibration curve range						
LOQ (ng/clothing)			Clothing	400	80	
LOQ (ppb)			Veg	0.7	0.7	
LOQ (ppb)			Soil	2	0.3	
Signature				Date	07/12/2019	

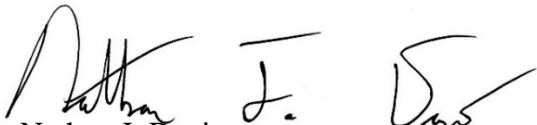
11. The OISC Residue Laboratory analysis detected atrazine in the off target composite vegetation samples and the shirt worn during the exposure. Atrazine was also detected in the off target composite soil samples, but was below quantification limits. Dimethenamid was detected in the off target composite soil and vegetation samples and the shirt worn during exposure. The tank mix for this application included both the active ingredients atrazine and dimethenamid.

12. According to the application records and wind data, the wind during the application varied out of the southeast, southwest, and northeast and at times was blowing towards the complainant’s property. The label for *Atrazine 4L, EPA Reg. #34704-69, Active Ingredient = atrazine* states: **“The pesticide must only be applied when the potential for drift to adjacent sensitive areas (e.g. residential areas, bodies of water, known habitat for threatened or endangered species, non-target crops) is minimal (e.g. when wind is blowing away from sensitive areas)”**.

13. According to the OISC Residue Laboratory analysis the active ingredients atrazine and dimethenamid were both detected on the shirt worn by the complainant during the exposure. The label for *Armerzon Pro*,

EPA Reg. #7969-372, Active Ingredient = dimethenamide, topramezone states: **“Do not apply this product in a way that will contact workers or other persons, either directly or through drift”**. Further, the label for Atrazine 4L, EPA Reg. #34704-69, Active Ingredient = atrazine states: **“Do not apply this product in a way that will contact workers or other persons, either directly or through drift”**.

14. Based on the evidence collected in this investigation of the OISC Residue Laboratory samples results, application records, and wind data, it has been determined Curtis Kixmiller failed to comply with the drift management restrictions on the label for the herbicide *Armerzon Pro*, EPA Reg. #7969-372, Active Ingredient = dimethenamide, topramezone and *Atrazine 4L*, EPA Reg. #34704-69, Active Ingredient = atrazine.



Nathan J. Davis
Investigator

Date: July 29, 2019

Disposition: Ceres Solutions and Curtis Kixmiller were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to people. Ceres Solutions was assessed a civil penalty in the amount of \$250.00 for this violation. Consideration was given to the fact this was Mr. Kixmiller’s first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved and there was potential for human harm.



George N. Saxton
Compliance Officer

Draft Date: October 30, 2019
Case Closed: December 9, 2019

CASE SUMMARY

Case #PS19-0224

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, IN 47907
765-494-1492

Respondent: Target
Lauren Hopkins
3630 E. South Street
Lafayette, IN 47905

Registrant: Aunt Fannie, Inc.
724 NE 28th Avenue
Portland, OR 97232

1. On January 10, 2019, Office of Indiana State Chemist (OISC) received an application for a new pesticide registration from Aunt Fannie Inc. for the 25(b), minimum risk pesticide product, Aunt Fannie's Mosquito Wipes.
2. On March 26, 2019, I completed the review of the application and informed Kim Davis at Aunt Fannie's submitting company, RegWest Company LLC, that the efficacy provided for the mosquito wipes was insufficient. Within the review, we provided Aunt Fannie's with the opportunity to provide adequate data.
3. On March 29, 2019, Ms. Davis confirmed that the registration for Aunt Fannie's Mosquito Wipes would be denied. Aunt Fannie's confirmed that they will work on generating appropriate data and submit a new registration.



Sarah K. Caffery
Pesticide Product Registration Specialist

4. On June 6, 2019, OISC Agent Sarah Caffery and I performed a routine marketplace inspection at Target located at 3630 E. South Street, Lafayette, Indiana. I spoke with a customer service representative and informed her of the process of the marketplace inspection. She explained that Bob Metz would be the employee in charge that I would need to speak with. She radioed for Mr. Metz explaining the scope of the inspection and he responded saying that we could go ahead and do the inspection and he would meet with us when we were finished. I then issued a Notice of Inspection.

5. Upon completion of the inspection, I located one (1) unregistered pesticide product that was being offered for sale in the Target store. I confirmed through the National Pesticide Information Retrieval System (NPIRS) the pesticide product was unregistered. The product is as follows:
 - a. Aunt Fannie's Mosquito Wipes, 25(b)¹ product.
 - i. 4 units in stock
 - ii. Inventoried April 7, 2019
6. Upon completion of the inspection I spoke with Lauren Hopkins, who was filling in for Mr. Metz, and informed her of the unregistered pesticide product I had located. I informed her that I would be issuing an Action Order instructing them to remove the remaining products of the unregistered pesticide products from the shelves and place them in storage and that they are not to be sold or removed from the store unless contacted in writing by OISC. I also informed her that I would be retaining an evidentiary sample of the product for my case. I asked Mrs. Hopkins if she was able to provide me with any information for when the last shipment came to the store. Mrs. Hopkins was able to provide me with an item inventory for the pesticide product. Mrs. Hopkins stated that this would be the oldest receiving record they have on file.
7. I placed the evidentiary sample into a clear evidence bag and sealed for transportation to the OISC formulation lab.
8. On June 7, 2019 I delivered the evidentiary sample to the Formulation Lab.



Fig. 1

- Fig. 1) Photo showing Aunt Fannie's Mosquito Wipes

¹ Minimum Risk Pesticide

9. All supporting documents and photos have been electronically attached to the OISC case management system.



Garret A. Creason
Investigator

Date: June 10, 2019

Disposition:

- A. On June 12, 2019, a label review was requested from the Pesticide Product Registration Specialist.
- B. Target was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that was not registered for sale in Indiana.
- C. Aunt Fannie, Inc. was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered for distribution in Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: August 5, 2019
Case Closed: September 17, 2019

CASE SUMMARY

Case #PS19-0226

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, IN 47907
765-494-1492

Respondent: Target
Lauren Hopkins
3630 E. South Street
Lafayette, IN 47905

Registrant: PIC Corporation
1101-1107 West Elizabeth Avenue
Linden, NJ 07036

Submitter: EnviroReg
Attn: Janine Gydu
P.O. Box 4
Chittenden, VT 05737

1. On June 6, 2019, OISC Agent Sarah Caffery and I performed a routine marketplace inspection at Target located at 3630 E. South Street, Lafayette, Indiana. I spoke with a customer service representative and informed her of the process of the marketplace inspection. She explained that Bob Metz would be the employee in charge that I would need to speak with. She radioed for Mr. Metz explaining the scope of the inspection and he responded saying that we could go ahead and do the inspection and he would meet with us when we were finished. I then issued a Notice of Inspection.
2. Upon completion of the inspection I located one (1) unregistered pesticide device that was being offered for sale in the Target store. I confirmed through the National Pesticide Information Retrieval System(NPIRS) the pesticide device was unregistered. The product is as follows:
 - a. PIC Insect Zapper, pesticide device
 - i. 3 units in stock
 - ii. Inventoried April 7, 2019
3. Upon completion of the inspection, I spoke with Lauren Hopkins, who was filling in for Mr. Metz, and informed her of the unregistered pesticide device I had located. I informed her that I would be issuing an Action Order instructing them to remove the remaining products of the unregistered pesticide device from the shelves and place them in storage and that they are not to be sold or removed from the store unless contacted in writing by OISC. I also informed her that I would be retaining an evidentiary sample of the product for my case. I asked Mrs. Hopkins if she was able to provide me with any information for when the last shipment came to the store. Mrs. Hopkins was able to provide me with an item inventory for the pesticide device. Mrs. Hopkins stated that this would be the oldest receiving record they have on file.

- I placed the evidentiary sample into a clear evidence bag and sealed for transportation to the OISC formulation lab.
- On June 7, 2019 I delivered the evidentiary sample to the Formulation Lab.



Fig. 1

- Fig. 1) Photo showing PIC Insect Zapper.

- All supporting documents and photos have been electronically attached to the OISC case management system.

Garret A. Creason
Investigator

Date: June 10, 2019

Disposition: PIC Corporation was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in the state of Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation.

Target was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that was not registered in the state of Indiana.

As of September 17, 2019, PIC Corporation had not paid the \$250.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty was still owed to OISC.

On September 17, 2019, Sarah K. Caffery, OISC Pesticide Product Registration Specialist, notified us there was a submitter for PIC Corporation. The submitter's information was added to the case summary and a copy of the "draft" case summary and the correspondence previously sent to PIC Corporation was sent to the submitter, EnviroReg / Attn: Janine Gyodus.

George N. Saxton
Compliance Officer

Draft Date: September 18, 2019
Case Closed: October 28, 2019

CASE SUMMARY

Case #PS19-0232

Complainant: Mark Lenkensdofer
7312 E. CR250 South
Union City, IN 47390

Respondent: Harvest Land Co-op
Kevin Beckstedt Certified Applicator
Ted Hunt Not Licensed
9368 McGreevey Road
Versailles, OH 45380

1. On June 10, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report this past Saturday (June 8, 2018) Harvest Land Co-op made a pesticide application to a neighboring field and the complainant stated the pesticide drifted all over his house and vegetation.
2. On June 11, 2019, I spoke with Mark Lenkensdofer who reported he has had drift issues in the past from applications made to the fields adjacent to his property. A Harvest Land applicator reportedly sprayed the large field across the road to the south and then sprayed the field east of his property while winds were 20 mph out of the south.
3. On June 12, 2019, I met with Mr. Lenkensdofer at his home on the north side of CR250 South in Randolph County. We looked at trees and plants on the property which were beginning to exhibit possible herbicide exposure symptoms. Leaves, especially new growth, on oak and apple trees on the east side of the property were distorted and cupped. Grape and ornamental trees exhibited cupped leaves and some leaves on a maple appeared chlorotic. There appeared to be no pattern of symptoms across the property and symptoms were light, likely due to the application being made only a few days prior. I photographed the site and collected various plant samples for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue. I also collected weeds from the east target field and foliage from an apple tree and an ornamental tree near the garden for analysis by the OISC Residue Lab.



Fig.1 Aerial photo



Fig.2 East property line



Fig.3 Apple leaves




Fig.4 Ornamental leaves

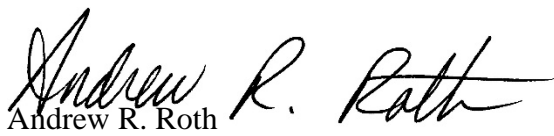
4. I contacted manager, Kevin Beckstedt, at Harvest Land Co-op and informed him of the complaint. He confirmed that his applicator sprayed three fields near the Lenkensdofer property, including those to the south and to the east, from 105pm-1030pm on June 8, 2019. Mr. Beckstedt provided application information which indicated Ted Hunt sprayed the fields with a tank mix containing:
 - a. Corvus (EPA Reg. #264-1066), active ingredients isoxaflutole and thien carbazono;
 - b. Atrazine 90DF (EPA Reg. #9779-253); and
 - c. Instinct II (EPA Reg. #62719-657), active ingredient nitrapyrin.

Winds were reported as blowing from the east, toward the Lenkensdofer property, at 15mph during the application.

5. Official recorded wind data at the airports in Dayton OH and Fort Wayne, IN confirmed winds were from the east and southeast, blowing from 10-20mph, during the listed application time window.
6. The PPDL report stated, *“All plants in sample 19-00656 show one or more symptoms (epinasty, stem twisting, leaf distortion, or malformation of meristems) that are characteristic of exposure to synthetic auxin herbicides such as 2,4-D and dicamba.”* (It should be noted that no 2,4-D or dicamba were reported as being applied to the adjacent fields.) The report further stated, *“The physical samples submitted have varying degrees of what look like chemical injury and few indications of disease. The maple tree has interveinal chlorosis consistent with nutrient deficiency, silver flecking consistent with mite feeding damage, and some leaf petiole twisting. The oak tree has leaf cupping of new foliage, possible symptoms of tatters, slight leaf twisting, and a few symptoms of a possible contact burn --- all non-disease related. The vine (grape or other) has evidence of growth regulator damage. The apple has some abiotic burning symptoms, but there are a lot of necrotic spots that look like frog-eye leaf spot. This pathogen is very seldom found growing from the spots it produces, so it is not easily confirmed and does not absolve a possible burn, especially since the spots are almost exact circles in shape. The last plant, herbaceous, opposite branching and leaf orientation, has leaf cupping and a large quantity of pin-prick spotting. These spots have an odd dark purple raised border on either side of the leaf with the center being sunken and bleached out in color. I suspect this is due to some kind of injury. There are a handful of other leaf spots that are much larger, comparatively, and look like they could be caused by a fungus.”*
7. The OISC Residue Lab analyzed the samples for three active ingredients reportedly applied to the target field and reported the following:

OCM Collection #	97575	Case #	PS19-0232	Investigator	A. Roth		
Sample #	Sample Description	Matrix	Amount of Analyte (ppb)				
			Thiencarbazonemethyl	Isoxaflutole	Atrazine		
19-4-4221-8	Vegetation, composite, vine – 100ft, affected site	Veg	BDL	BDL	251		
19-4-4222-5	Vegetation, composite, apple – 20ft, affected site	Veg	BQL	BDL	556		
19-4-4223-9	Vegetation, composite, target weeds, target site	Veg	1410*	827†	2140*		
<small>PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC</small> <small>*Minimum concentration reported due to amount exceeding calibration curve range</small> <small>†Reported as estimated value due to low recovery</small>							
LOQ (ppb)		Veg	0.3	0.3	0.7		
Signature				Date	07/15/2019		

8. All three analytes were detected in the weeds collected from the target field. Atrazine and thiencarbazonemethyl (reported as Below Quantification Limits) were detected in the apple foliage.
9. The Corvus label reads, in part, **“Only apply this product when the potential for drift to adjacent non-target areas is minimal (e.g., when the wind is 10 MPH or less and is blowing away from sensitive areas).”**
10. During this investigation, it was determined that Ted Hunt did not have a valid Indiana pesticide applicator license at the time of the application. Both Corvus and Atrazine 90DF are Restricted-Use Pesticides and require a license or, in Indiana, the on-site supervision of a certified supervisor. I brought this to the attention of Mr. Beckstedt, who reported that Mr. Hunt held an Ohio license. I informed him that Mr. Hunt needed an Indiana license and that he could apply for a reciprocal license through the OISC. Mr. Beckstedt indicated June 8, 2019, was the only day Mr. Hunt made pesticide applications in Indiana and that he was unaware of the supervision requirements for applying RUPs in Indiana. He also indicated there are several applicators at the branch with Indiana licenses who normally spray their Indiana acres. The labels for Corvus and Atrazine 90DF read, **“For retail sale to and use only by certified applicators or persons under their direct supervision and only for those uses covered by the Certified Applicator’s certification.”**


Andrew R. Roth
Investigator

Date: October 23, 2019

Disposition: Harvest Land Co-op and Kevin Beckstedt were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual. A civil penalty in the amount of \$125.00

was assessed for this violation. Consideration was given to the fact that a restricted use pesticide was involved.

Harvest Land Co-op, Kevin Beckstedt and Ted Hunt were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to non-target vegetation. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact that a restricted use pesticide was involved.

Harvest Land Co-op, Kevin Beckstedt and Ted Hunt were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allowed it to drift off-target in sufficient quantity to cause harm to a non-target site.



George N. Saxton
Compliance Officer

Draft Date: November 1, 2019
Case Closed: December 9, 2019

CASE SUMMARY

Case #PS19-0250

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, IN 47907
765-494-1492

Respondent: Wal-Mart
Danielle Morris
400 W. Northfield Drive
Brownsburg, IN 46112

Registrant: Healthpro Brands, Inc.
165 W. Crescentville Road
Cincinnati, OH 45246

Submitter: Killoren Regulatory Consulting
Attn: Jean Killoren
316 Highland Avenue
Hartford, Wisconsin 53027-1318

1. On April 5, 2016, the Office of Indiana State Chemist (OISC) received an application to register FIT ORGANIC MOSQUITO REPELLENT by HealthPro Brands. Healthpro Brands was contacted on June 16, 2016 requesting the following:
 - a. Efficacy data
 - b. Revised labels, removing USDA Organic and other organic claims. These claims are not acceptable for pesticide repellent products.
2. On August 16, 2016, OISC received efficacy data. It was not reviewed because HealthPro Brands did not revise their labels. Therefore, the application was denied.



Sarah K. Caffery
Pesticide Product Registration Specialist

Date: June 27, 2019

3. On June 17, 2019, I performed routine marketplace inspection at Wal-Mart located at 400 W Northfield Dr. Brownsburg, Indiana. I spoke with the OPG/ASM, Danielle Morris, and informed her of the process of the marketplace inspection. I issued a Notice of Inspection and informed Mrs. Morris that I would follow up with her once the inspection was completed.
4. Upon completion of the inspection I located one (1) unregistered pesticide product that was being offered for sale in the Lowes store. I confirmed through Sarah Caffery that the pesticide product was unregistered. The product is as follows:
 - a. Fit Organic Mosquito Repellent, a 25(b)¹ product
 - i. Lot Number: 18207
 - ii. 9 units in stock

¹ Minimum Risk Pesticide

5. I spoke with Mrs. Morris and informed her of the unregistered pesticide product I had located. I informed her that I would be issuing an Action Order instructing them to remove the remaining units of the unregistered pesticide products from the shelves and place them in storage and that they are not to be sold or removed from the store unless contacted in writing by OISC. I also informed her that I would be retaining an evidentiary sample of the product for my case. I asked Mrs. Morris if she was able to provide me with any information for when the last shipment came to the store. Mrs. Morris stated that she had no way of looking that up but if she or anyone else was able to locate anything they would let me know.
6. I placed the evidentiary sample into a clear evidence bag and sealed for transportation to the OISC formulation lab.
7. On June 19, 2019, I delivered the evidentiary samples to the Formulation Lab.



Fig. 1

- Fig. 1) Photo of Fit Organic Mosquito Repellent.

8. All supporting documents have been electronically attached to this case in the OISC case management system.


Garret A. Creason
Investigator

Date: June 20, 2019

Disposition:

- A. On June 27, 2019, a label review was requested by the Pesticide Product Registration Specialist.
- B. Wal-Mart was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that was not registered in Indiana.
- C. Healthpro Brands, Inc. was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered for sale in Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation.
- D. Healthpro Brands, Inc. was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that was misbranded. A civil penalty in the amount of \$250.00 was assessed for this violation.


George N. Saxton
Compliance Officer

Draft Date: September 12, 2019
Case Closed: October 15, 2019

CASE SUMMARY

Case #PS19-0253

Complainant: Jeffrey L. Davis
105 Grand Station Circle, Apt. 2
Westfield, IN 46074

Respondent: Mosquito Joe of North Indianapolis
Bradlee R. Miller Certified Applicator
5330 West 79th Street
Indianapolis, Indiana 46268

1. On June 20, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) via email to report that Mosquito Joe's no longer has a category 8 person in supervision and therefore cannot perform community-wide mosquito pesticide applications.
2. On June 20, 2019, I called Mr. Davis to discuss the complaint on his former employer Mosquito Joe of North Indianapolis. He explained to me the possibility of his former company conducting Community-Wide Mosquito Control without being licensed. He was concerned about his license being used without his permission and the other applicator (Mr. Bradlee Miller) was not able to supervise due to recent heart attack and health issues.
3. On June 26, 2019, I visited Mosquito Joe of North Indianapolis along with Agent Jay Kelley. Upon further investigation of the employee list, two of the applicators were not fully licensed to make applications. Jonah Dunnuck and Isaiah Dunnuck were on the company's employee list and out in the field working. The Office of Indiana State Chemist does not have these two employees listed as certified. Jonah Dunnuck has taken the test and passed with no money or paper work submitted. Isaiah isn't in the system and has not taken test or no records found. I informed Bradlee Miller and his wife Lorraine that they cannot be conducting any applications until certified through our office.
4. In regards to the original complaint of company conducting community-wide applications under a former employee license no violations were found. Mrs. Miller acknowledged previous conversation with Jeff Davis (former employee and complainant) and stated that she didn't use his license to perform any community wide applications. Mr. and Mrs. Miller stated that they don't conduct, nor have they ever conducted community-wide applications.
5. On August 9, 2019, Lorraine Miller sent an email documenting the days Jonah and Isaiah Dunnuck were applying chemicals.

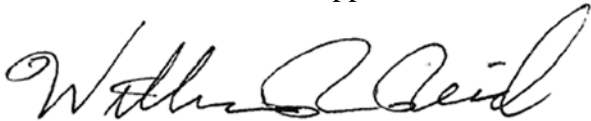
According to Lorraine Miller's email:

Jonah passed the core on 5/20/19 license issued on 7/2/19

Jonah started on 5/28/19 observed in the field only he did not apply chemical.
Jonah worked in the field on the days below and began using chemical.
5/29, 5/30, 5/31 (W-F)
6/3, 6/4, 6/5, 6/6, 6/7 (M-F)
6/10, 6//11, 6/12, 6/13, 6/14 (M-F)
6/17, 6/18, 6/19, 6/20, 6/21 (M-F)
6/24 Monday
6/25 Day of inspection and we pulled Jonah and Isaiah out of the field.


Isaiah started on 6/4/19 observed in the field only he did not apply chemical.
Isaiah worked in the field on the days below and began using chemical.
6/5, 6/6, 6/7 (W-F)
6/10, 6//11, 6/12, 6/13, 6/14 (M-F)
6/17, 6/18, 6/19, 6/20, 6/21 (M-F)
6/24 Monday
6/25 Day of inspection and we pulled Jonah and Isaiah out of the field.
Isaiah passed the core on 7/9/19 license issued on 7/16/19

Jonah Dunnuck applied chemicals for 20 days while not being licensed properly.
Isaiah Dunnuck applied chemicals for 15 days while not being licensed properly.


William R. Reid
Investigator

Date: August 15, 2019

Disposition: Mosquito Joe of North Indianapolis and Bradlee R. Miller were cited for twenty (20) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to properly supervise a non-licensed employee. A civil penalty in the amount of \$2,500.00 (20 counts x \$125.00 per count) was assessed to Mosquito Joe of North Indianapolis. However, the civil penalty was reduced to \$625.00. Consideration was given to the fact they cooperated during the investigation; corrective action was taken; there was no previous history of similar nature and no restricted use pesticides were involved.


George N. Saxton
Compliance Officer

Draft Date: November 1, 2019
Case Closed: December 9, 2019

CASE SUMMARY

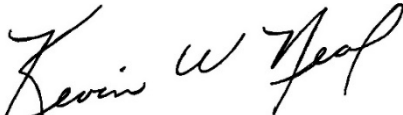
Case #PS19-0304

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
765-494-1492

Respondent: Jeremy Swaim
Swaim Ag Services
1203 N. Lincoln Road
Rockville, IN 47872

1. On July 22, 2019, I met with Mr. Swaim at the above named facility as a follow up to a non-renewal of Category 4 certification by Mr. Swaim.
2. During my visit Mr. Swaim advised he had just not gotten around to taking the required exams in order to renew his certification.
3. Mr. Swaim then provided me with records of pesticide applications he has made since January 1, 2019, which would have required he have a valid Category 4 certification.
4. The following are dates which correspond to the pesticide applications made by Mr. Swaim.

May 21, 2019; May 27, 2019; May 28, 2019; May 29, 2019; May 30, 2019; May 31, 2019; June 1, 2019; June 2, 2019; June 3, 2019; June 4, 2019
5. On ten (10) separate dates Mr. Swaim made applications for seed treatment with Acceleron NemaStrike (EPA Reg #524-624) active ingredient tioxazafen.
6. An Action Order was issued to Mr. Swaim.


Kevin W. Neal
Investigator

Date: July 22, 2019

Disposition: Jeremy Swaim and Swaim Ag Services were cited for ten (10) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having a valid Indiana pesticide business license. A civil penalty in the amount of \$2,500.00 (10 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$1,000.00. Consideration was given to the fact Jeremy Swaim cooperated during the investigation; there was no previous history of similar nature; no potential for harm and no restricted use pesticides were involved.


George N. Saxton
Compliance Officer

Draft Date: October 22, 2019
Case Closed: November 25, 2019

CASE SUMMARY

Case #PS19-0316

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
765-494-1492

Respondent: TruGreen LP-GWD
Clint Gilmore
Bradley Yost
609 Commerce Parkway West Drive
Greenwood, IN 46143

Licensed Business
Certified Applicator
Non-licensed RT

1. On June 2, 2019, at approximately 12:45 PM, I was in the area of 2925 Country Club Rd., Martinsville, Indiana, performing my regular duties as a Pesticide Investigator for OISC. On the above date, I was observing for lawn care applicators in the area to perform routine use inspections. While in the area, I observed a TruGreen lawn care vehicle parked on the road, in front of the above address. I observed a male, later identified as Bradley Yost, using a push-type spreader to apply the lawn with fertilizer.
2. I initiated contact with Mr. Yost and identified myself as an agent with OISC. I asked Mr. Yost for his pesticide applicator license and other documents relating to a routine inspection. Mr. Yost was unable to locate his license on his person or in the vehicle. Mr. Yost stated his license may be at the TruGreen office in Greenwood, Indiana. Mr. Yost informed me he was a registered Technician (RT) and had passed the CORE exam in November or December of 2018. Mr. Yost informed me his supervisor's name was, Clint Gilmore, and Mr. Gilmore's contact information. Mr. Yost was able to make contact, via phone, with Mr. Gilmore right away.
3. Using my mobile data computer (MDC), I searched the OISC database, INPlants, in an effort to locate a license for Mr. Yost. I was unsuccessful locating a license for Mr. Yost. I then contacted OISC, via phone and was advised Mr. Yost had passed the CORE exam in December 2018 and was eligible to be a licensed RT but had never been credentialed. Mr. Gilmore was found to be a for-hire certified applicator.
4. I advised Mr. Yost he was not a licensed RT and TruGreen had failed to complete the application with OISC. Mr. Yost stated he was not aware he was not licensed, trusting TruGreen had completed the paperwork. I then contacted Mr. Gilmore and advised him of the situation. Mr. Gilmore stated TruGreen sends OISC the applications for all of their employees near the end of every year to make sure they are re-licensed. Mr. Gilmore stated he believed Mr. Yost's license was completed with the rest of them. Mr. Gilmore advised me he would try to locate the forms and call me back. I received a call from Mr. Gilmore shortly thereafter, stating he wasn't able to locate a record of Mr. Yost's license. Mr. Gilmore stated they may have accidentally missed Mr. Yost's license application because he had passed the CORE exam after TruGreen had sent in their yearly applications. Mr. Gilmore was informed Mr. Yost was restricted from making applications until he was licensed.

5. I then arrived at TruGreen; 609 Commerce Parkway West, Greenwood, Indiana, where I met with General Manager, Mike McLain, Mr. Gilmore, and Mr. Yost. Mr. Yost was given an Action Order, ordering him to “stop pesticide or fertilizer applications for-hire until he obtains a Registered Technician (RT) credential from OISC”. Mr. McLain advised the licensing issue Mr. Yost had made an application for-hire without a license.
6. Mr. McLain sent me an email of a Microsoft Excel spreadsheet listing everyday Mr. Yost had made an application. It was found Mr. Yost had made for-hire applications without a license as a representative of TruGreen for 82 days, beginning on March 1, 2019 and ending on July 2, 2019. The below snippets of the Excel spreadsheet provided by Mr. McLain show Mr. Yost’s days of applications by listing the monetary value of each day.

March-16 days of applications:

1-Mar	11-Mar	12-Mar	13-Mar	15-Mar	16-Mar	18-Mar	19-Mar	20-Mar	21-Mar	22-Mar	25-Mar	26-Mar	27-Mar	28-Mar	29-Mar
1659.79	1364.86	1235.07	1551.19	1531.94	1588.18	1468.44	1463.5	1459.25	1349.15	1243.69	1472.81	1617	1497.07	1626.57	1564.3

April-23 days of applications:

1-Apr	2-Apr	3-Apr	4-Apr	5-Apr	8-Apr	9-Apr	10-Apr	11-Apr	12-Apr	13-Apr	15-Apr	16-Apr	17-Apr	18-Apr	19-Apr	22-Apr	23-Apr	24-Apr	25-Apr	26-Apr	27-Apr	29-Apr	30-Apr	
816.1	795.62	791.59	733.18	768.43	1400.66	1453.87	1323.77	1444.79	1165.34	1248.65	1638.94	983.87	1390.16	573.37	1433.05	1030.79	1510.4	1708.17	1188.2	875.28			1017.92	1276.87

May-20 days of applications:

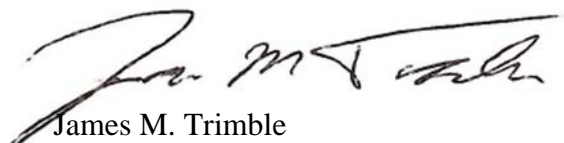
1-May	2-May	3-May	6-May	7-May	8-May	9-May	10-May	13-May	14-May	15-May	16-May	17-May	20-May	21-May	22-May	23-May	24-May	28-May	29-May	30-May	31-May
1368.55	1216.89		855.03	1173.88	1111.55	859.39	866.71	2159.59	1552.49	1178.17	1382.76		2500.51	2424.29	2266.13	2188.65	2202.54	1661.68	2060.99	3007.42	2201.42

June-21 days of applications:

3-Jun	4-Jun	5-Jun	6-Jun	7-Jun	10-Jun	11-Jun	12-Jun	13-Jun	14-Jun	15-Jun	17-Jun	18-Jun	19-Jun	20-Jun	21-Jun	22-Jun	24-Jun	25-Jun	26-Jun	27-Jun	28-Jun	29-Jun	
2567.43	1807.1	1550.8	2307.4	1822.06	1608.18	1693.01		1525.61	2155.8	740.55	2422.16	1728.85	1768.25	1619.59	1813.17	789.57	1737.04	1278.02	2244.74	1015.21	1478.2		

July-2 days of applications:

1-Jul	2-Jul
1285.77	764.78


 James M. Trimble
 Investigator

Date: July 15, 2019

Disposition: Clint Gilmore and TruGreen were cited for eighty-two (82) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual. A civil penalty in the amount of \$10,250.00 (82 x \$125.00 per count) was assessed. However, the civil penalty was reduced to \$1,025.00. Consideration was given to the fact TruGreen cooperated during the investigation; corrective action was taken; this was Clint Gilmore’s first violation of similar nature; there was no potential for harm and a good-faith effort to comply.


 George N. Saxton
 Compliance Officer

Draft Date: September 26, 2019
 Case Closed: November 8, 2019


CASE SUMMARY

Case #PS19-0322

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
765-494-1492

Respondent:	GKM Property Service, Inc.	Licensed Business
	Brody Kalbaugh	Certified Supervisor
	Andrew Wilson	Non-certified Applicator
	12788 East 191st Street Noblesville IN 46060	

1. On July 8, 2019, the Compliance Officer of the Office of Indiana State Chemist (OISC) received information GKM Property Services had an unlicensed applicator making for-hire pesticide applications at the Devinshire Luxury Apartments in Bargersville, Indiana.
2. On July 8, 2019, I observed Andrew Wilson, unlicensed applicator for GKM Property Services making a for-hire pesticide application with a backpack sprayer to a planting bed at the Devinshire Luxury Apartments in Bargersville, Indiana. GKM Property Services is a licensed business with OISC, however; no certified applicator was on site at the time of the application. Mr. Wilson stated the Devinshire Apartments was the only account requiring a pesticide application on his route. Mr. Wilson stated normally one of the credentialed applicators was assigned to the route.



Paul J. Kelley
Investigator

Date: July 8, 2019

Disposition: Brody Kalbaugh was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual. A civil penalty in the amount of \$125.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: September 26, 2019
Case Closed: December 13, 2019

CASE SUMMARY

Case #PS19-0338

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, IN 47907
765-494-1492

Respondent: Ace Hardware
Brian Sullivan Store Manager
2350 E. State Road 44
Shelbyville, IN 46176

Registrant: Nebo
5650 Alliance Gateway Freeway
Fort Worth, TX 76177

1. On July 11, 2019, I performed routine marketplace inspection at Ace Hardware located at 2350 E SR 44 Shelbyville, Indiana. I spoke with the Store Manager Brian Sullivan, and informed him of the process of the marketplace inspection. I issued a Notice of Inspection and informed Mr. Sullivan that I would follow up with him once the inspection was completed.
2. Upon completion of the inspection, I located one (1) unregistered pesticide product that was being offered for sale in the Ace Hardware store. I confirmed through the National Pesticide Information Retrieval System(NPIRS) the pesticide product was unregistered in the State of Indiana. The product is as follows:
 - a. ZBug Mosquito Zapping LED Lantern; Pesticide Device
 - i. EPA Est. Number 93078-CHN-1
 - ii. 18 units in stock
3. I spoke with Mr. Sullivan and informed him of the unregistered pesticide product I had located. I informed him that I would be issuing an Action Order instructing them to remove the remaining units of the unregistered pesticide products from the shelves and place them in storage and that they are not to be sold or removed from the store unless contacted in writing by OISC. I also informed him that I would be retaining an evidentiary sample of the product for my case. I asked Mr. Sullivan if he was able to provide me with any information for when the last shipment came to the store. Mr. Sullivan stated that he would not have access to that information.
4. I placed the evidentiary sample into a clear evidence bag and sealed for transportation to the OISC formulation lab.
5. On July 12, 2019, I delivered the evidentiary samples to the Formulation Lab.



Fig. 1

- Fig. 1) Photo of ZBug Mosquito Zapping LED Lantern

6. All supporting documents have been electronically attached to this case in the OISC case management system.

Garret A. Creason
Investigator

Date: July 17, 2019

7. On August 12, 2019, OISC received the application packet for this product. However, OISC did not receive the efficacy data or the schematic for the device. The company was notified on August 22nd for the additional requirements.

8. On August 23, 2019, I completed the label review for the product(s) found in distribution, ZBug Mosquito Zapping LED Lantern. All requirements for a device are included within the label. Claims cannot be reviewed without the efficacy documents for the registration. Therefore, a full review can only be completed once the full registration packet is received in our office.

Sarah K. Caffery
Pesticide Product Registration Specialist

Date: August 23, 2019

Disposition:

A. On July 17, 2019, a label review was requested from the Pesticide Product Registration Specialist.

- B. Ace Hardware was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that was not registered in Indiana.
- C. Nebo was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation.
- D. As of November 26, 2019, Nebo had not paid the \$250.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC.



George N. Saxton
Compliance Officer

Draft Date: November 26, 2019
Case Closed: January 10, 2020

CASE SUMMARY

Case #PS19-0378

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, IN 47907
765-494-1492

Respondent: Tractor Supply Co.
Rich White Store Manager
330 Ireland Road
Mishawaka, IN 46544

Registrant: Bonide Products, Inc.
6301 Sutliff Road
Oriskany, NY 13424

1. On July 22, 2019, I performed a routine marketplace inspection at Tractor Supply Co. located at 330 Ireland Rd. Mishawaka, Indiana. I spoke with the Store Manager Rich White, and informed him of the process of the marketplace inspection. I issued a Notice of Inspection and informed Mr. White that I would follow up with him once the inspection was completed.
2. Upon completion of the inspection, I located one (1) unregistered pesticide product that was being offered for sale in the store. I confirmed through the National Pesticide Information Retrieval System(NPIRS) the pesticide product was unregistered in the State of Indiana. The product is as follows:
 - a. No Escape Mouse Magic, 25(b)¹ product.
 - i. 12 units in stock
3. I spoke with Mr. White and informed him of the unregistered pesticide product I had located. I informed him that I would be issuing an Action Order instructing them to remove the remaining units of the unregistered pesticide products from the shelves and place them in storage and that they are not to be sold or removed from the store unless contacted in writing by OISC. I also informed him that I would be retaining an evidentiary sample of the product for my case. I asked Mr. White if he was able to provide me with any information for when the last shipment came to the store. Mr. White stated that he would not have access to that information.
4. I placed the evidentiary sample into a clear evidence bag and sealed for transportation to the OISC formulation lab.

¹ Minimum Risk Pesticide

5. On July 24, 2019, I delivered the evidentiary samples to the Formulation Lab.



Fig. 1

- Fig. 1) Photo of No Escape Mouse Magic.

6. All supporting documents have been electronically attached to this case in the OISC case management system.

Garret A. Creason
Investigator

Date: August 27, 2019

7. On August 22, 2019, I completed the label review for No Escape Mouse Magic by Bonide Products, Inc. We did not indicate any labeling concerns connected with Indiana Law or the 6 conditions outlined by EPA. Other labeling concerns include:

- a. Safe for use around children and pets is an unqualified safety claim and must include “when used as directed”
- b. Signal word and “Keep Out of Reach of Children” should be printed on the front of the label

Please note that the review was completed on the product/label that was found in distribution. Additional concerns may become apparent with review of application documents and websites.

Sarah K. Caffery
Pesticide Product Registration Specialist

Date: August 22, 2019

Disposition:

- A. On September 4, 2019, a label review was requested from the Pesticide Product Registration Specialist.
- B. Tractor Supply Co. was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale an unregistered pesticide product into Indiana.
- C. Bonide Products Inc. was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing into Indiana an unregistered pesticide product. A civil penalty in the amount of \$250.00 was assessed for this violation.
- D. On October 4, 2019, a letter was sent to Tractor Supply modifying the Action Order allowing for the return or proper disposal of the pesticide product.



George N. Saxton
Compliance Officer

Draft Date: October 28, 2019
Case Closed: December 9, 2019

CASE SUMMARY

Case #PS19-0380

Complainant: Karla Frownfelter
Complaint & Correspondence Coordinator
Indiana Department of Environmental Management
100 N. Senate Avenue, IGCN, Suite 1313
Indianapolis, IN 46204

Respondent: Ceres Solutions Pesticide Business
Phil Pirtle Risk Coordinator
Robert Surber, Jr. Commercial Applicator
3997 E. Ladoga Road
Crawfordsville, IN 47933

1. On July 23, 2019, the complainant, via Brian Smith, contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that Ceres Solutions in New Ross had rinsed out container(s) onto the ground and dumped around 1000 gallons of rinsate. Phil Pirtle, Risk Coordinator for Ceres Solutions, allegedly admitted to the dumping.
2. On July 23rd, 2019, I contacted Mr. Smith, via phone, who advised the complaint was reported anonymously to the Indiana Department of Environmental Management (IDEM). The report IDEM received from the anonymous complainant stated the witnessing of a “truck with a tanker spraying materials believed to be backwash runoff from a chemical dike onto the ground in a parking lot”. The complainant “observed five separate loads sprayed out of the back of the tanker over the course of a day”.
3. On July 25th, 2019, I met with Phil Pirtle, Ceres Solutions Senior Risk Manager, at 3997 E. Ladoga Rd., Crawfordsville. Mr. Pirtle advised he was made aware of the complaint that Ceres Solutions had “dumped” pesticide rinsate at their facility 4973 S. 950 E. New Ross, IN 47968 by IDEM, via Brian Smith. Mr. Pirtle stated the New Ross facility is no longer in operation for Ceres Solutions but is leased out to a business for parking their trucks and storage. Mr. Pirtle advised nothing had been dumped at the New Ross facility but had treated the unwanted vegetation on the property with a solution of water and the rinsate generated from cleaning out empty disposable containers of pesticide and adjuvants for proper disposal. Mr. Pirtle showed me two large bags containing approximately 105 empty and mixed labeled containers. I was provided with a list of the empty container’s brand names and their coordinating EPA regulation numbers. The list included:
 - a. Section Three (EPA Reg. #66330-414-1381, active ingredient of clethodim);
 - b. Delta Gold (EPA Reg. #264-1011-1381, active ingredient of (1R,3R)-3(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylic acid (S)- alpha-cyano-3-phenoxybenzyl ester);
 - c. Delaro 325 SC (EPA Reg. #264-1055, active ingredients of prothioconazole & triflozstrobin)

- d. Roundup Powermax (EPA Reg. #524-549, active ingredient of glyphosate);
- e. Liberty 280 SL (EPA Reg. #264-829, active ingredient of glufosinate)
- f. Armezon (EPA Reg. #7969-262, active ingredient of topramezone);
- g. Engenia (EPA Reg. #7969-345, active ingredient of dicamba);
- h. MasterLock (adjuvant); and
- i. Superb HC (adjuvant).

Section 3	66330-414-1381
Superb HC	Oil Concentrate
Delta Gold	264-1011-1381
Master lock	MUO
Delan 325sc	264-1055
Roundup Powermax	524-549
Liberty	264-829
Armezon	7969-262
Engenia	7969-345

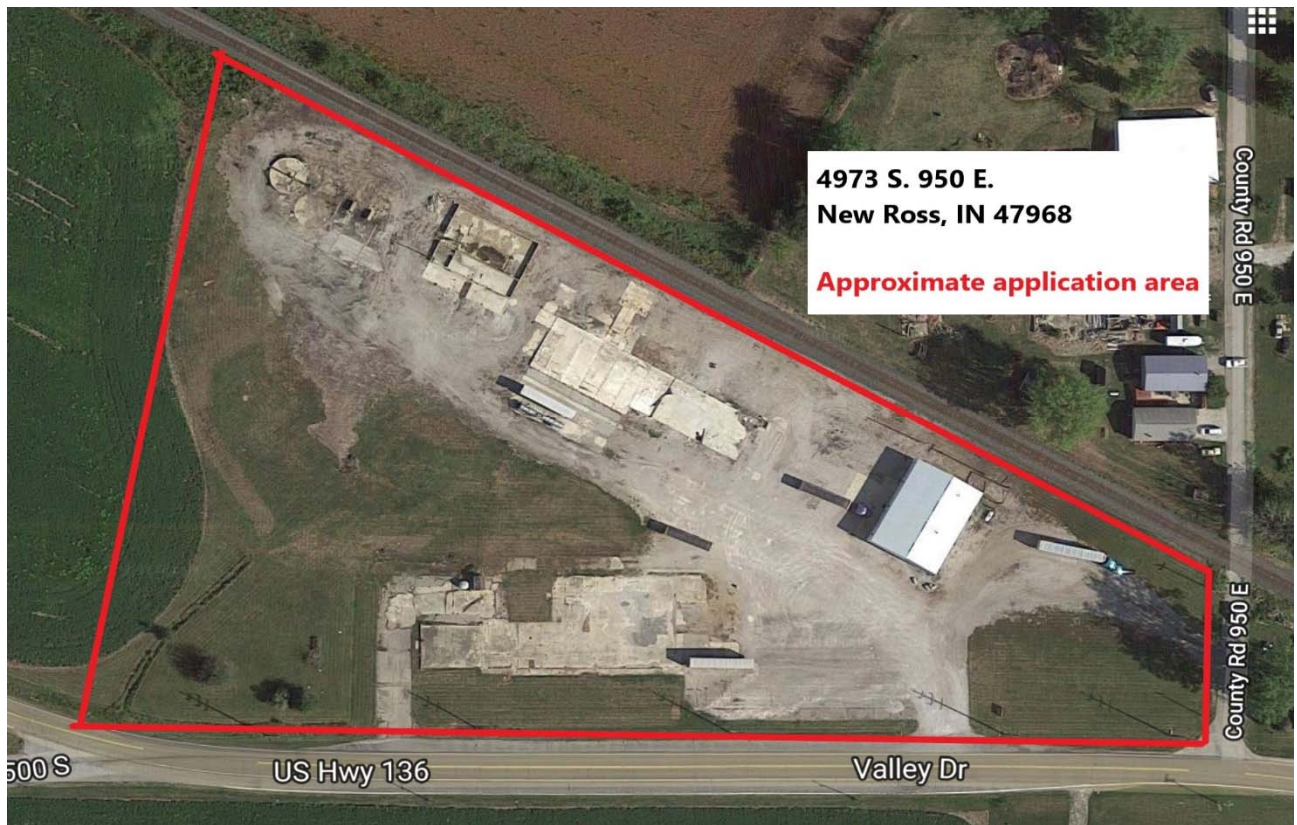
(List provided by Ceres Solutions)



(Approximately 105 empty containers)

4. Mr. Pirtle stated commercial applicator, Robert Surber, was instructed to apply the rinsate solution to the New Ross location's large gravel areas and around the sole building for the purpose of pre-emergent and post-emergent weed control. Mr. Pirtle believed the application occurred on July 16th or 17th and had used approximately 900 gallons of rinsate. The solution consisted of rinsate from the approximate 105 mixed pesticide containers. Mr. Pirtle advised the application equipment used consisted of a transportable 1000 gallon tank, a hose, and a large handheld sprayer. Mr. Pirtle explained the multiple trips observed by the complainant was caused by malfunctions to the spraying equipment, making Mr. Surber drive back in forth from the Crawfordsville location to the New Ross location in effort to fix the issue.

5. After a thorough inspection of the New Ross location, I did not observe evidence that a mass disposal of pesticides had occurred. I observed dead vegetation throughout the property consistent to a hand sprayed application of a herbicide. I did not observe signs of runoff on adjacent properties. I located a few open drains on the property but they did not show signs of dead vegetation in or around them with no signs of residue that can be left from a large quantity of pesticides. Mr. Pirtle was unsure of where the drains led to but believed they had been dismantled during the removal of the site's other buildings. A few ditches on the property checked clear as well, with no signs of puddling or runoff. I did not observe a fresh water source or waterway on or near the property.





6. On August 2, 2019, I spoke with Mr. Surber, via phone. Mr. Surber's statement corresponded with Mr. Pirtle's.
7. After reviewing all of the listed pesticide's and adjuvant's labels, I found the application made to the New Ross location as against the restrictions specified in the products:

- a. Delta Gold, Delaro 325 SC;
- b. Liberty 280 SL, and
- c. Armezon. I would consider the location to be “farmstead” and the use of Section Three, Roundup Powermax, Engenia, Superb HC, and MasterLock to be within their labels and to be lawful.

Delta Gold:

DELTA GOLD®

For Insect Control on Bulb Vegetables, Cucurbit Vegetables, Fruiting Vegetables, Root Vegetables (except Sugarbeets), Tuberos and Corm Vegetables, Pome Fruits, Tree Nuts, Canola and Rapeseed, Cotton, Field Corn, Popcorn, Sweet Corn, Soybeans, Sorghum and Sunflowers.

Delaro 325 SC:

Delaro™ 325 SC Fungicide:

- is a broad spectrum fungicide for the control of certain diseases of Chickpea, Corn, Dry Peas, Lentils, Soybean, and Sugar beets;

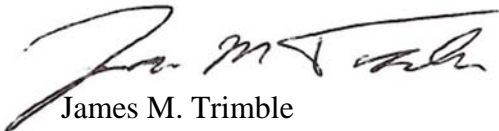
Liberty 280 SL:

LIBERTY 280 SL HERBICIDE is registered for use:

- as a **burndown treatment prior to planting or prior to emergence** of canola, corn, sweet corn, cotton, soybean, and sugar beet.
- **post emergence weed control herbicide** to be applied on **LibertyLink (LL)** crops including LL canola, LL soybeans, LL corn, LL sweet corn, and LL cotton
- **post emergence weed control herbicide** to be applied on cotton with a hooded sprayer only

Armezon:

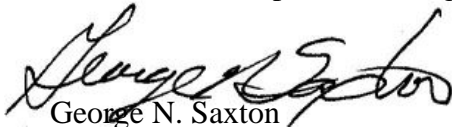
Armezon™ herbicide is a suspension concentrate (SC) herbicide providing systemic postemergence control or growth suppression of emerged broadleaf and grass weeds in field corn (grown for grain, silage, or seed), popcorn (grown for ear, kernel or seed), and sweet corn (grown for ear, kernel or seed). This product may be used on conventional and herbicide-resistant/tolerant corn hybrids. BASF has not tested all inbred lines for tolerance to **Armezon**. Before using **Armezon**, refer to seed company recommendations for use on inbred lines of field corn, popcorn, and sweet corn.



James M. Trimble
Investigator

Date: August 9, 2019

Disposition: Ceres Solutions and Robert Surber, Jr. were cited for four (4) counts of violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions by applying to a non-labeled target site. A civil penalty in the amount of \$1,000.00 (4 counts x \$250.00 per count) was assessed to Ceres Solutions. However, the civil penalty was reduced to \$500.00. Consideration was given to the fact Robert Surber, Jr. and Ceres Solutions cooperated during the investigation and corrective action was immediately taken.



George N. Saxton
Compliance Officer

Draft Date: November 1, 2019
Case Closed: December 9, 2019

CASE SUMMARY

Case #PS19-0382

Complainant: Barbara Romans
1718 North Brooksburg Manville Road
Madison, Indiana 47250

Respondent: RJE Fertilizer
Mark Hartman
Neal Riehle
PO Box 611
Versailles, Indiana 47042-0611

Licensed Business
Certified Supervisor
Registered Technician

1. On July 24, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that a neighboring farm field was sprayed and now she has pesticide exposure symptoms to her trees.
2. On July 25, 2019, I spoke with Barbara Romans. Mrs. Romans stated a co-op made a pesticide application to an adjacent field about three (3) weeks ago. Mrs. Romans stated she now has at least 14 trees with pesticide symptoms. Mrs. Romans stated a representative of the co-op came out to see the symptoms and told her they (co-op) would take care of the issue.
3. On July 31, 2019, I received a Pesticide Investigation Inquiry (PII) form from Neal Riehle of RJE Fertilizer. Mr. Riehle documented he made an application on July 5, 2019, using Interline (EPA Reg. #70506-310, active ingredient glufosinate) and Clethodim 2E (EPA Reg. #85678-23, active ingredient clethodim).
4. On July 31, 2019, I went to the residence of Barbara Romans. I observed dead, brown areas on leaves facing the adjacent field. Several trees were almost completely devoid leaves. See figure 1-2.



Figure 1-Leaves with dead brown areas



Figure 2-Tree with dropped leaves

5. I collected a vegetation sample to be visually analyzed by Purdue's Plant and Pest Diagnostic Lab (PPDL). In addition, I collected investigative samples to be analyzed by OISC's Residue Lab. See site diagram.



Site Diagram

6. On August 1, 2019, I received the following report from PPDL;

Final Report

August 1, 2019

Tree leaves are showing symptoms of glufosinate exposure.

Bill Johnson
Department of Botany and Plant Pathology
wgj@purdue.edu
765 494-4656
Purdue Weed Science <https://ag.purdue.edu/btny/weedscience>
Weed Control Guide for Ohio and Indiana <http://www.btny.purdue.edu/Pubs/WS/WS-16/>

No significant disease symptoms.

Tom Creswell


7. On October 24, 2019, OISC's Residue lab reported the following:

OCM Collection #	107400	Investigator	KELLEYJ
Collection Date	07/31/2019		

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
19-4-3568 0	Soil; Composite; SSTF-soil sample from target field; Target	Soil	Glufosinate	BDL ppb	30 ppb
			MPP	116 ppb	150 ppb
19-4-3569 8	Vegetation; Composite; VTF-vegetation from target field; Tar	Vegetation	Glufosinate	10300 ppb	6 ppb
			MPP	4080 ppb	60 ppb
19-4-3570 1	Vegetation; Composite; V1-vegetation 32yds from target field	Vegetation	Glufosinate	121 ppb	6 ppb
			MPP	BDL ppb	60 ppb
19-4-3571 7	Vegetation; Composite; V2-vegetation 76yds from target field	Vegetation	Glufosinate	BDL ppb	6 ppb
			MPP	BDL ppb	60 ppb
19-4-3572 9	Vegetation; Composite; V3-vegetation 110yds from target field	Vegetation	Glufosinate	BDL ppb	6 ppb
			MPP	BDL ppb	60 ppb

8. OISC's Residue Lab's report indicates glufosinate (active ingredient in Interline) was detected in the vegetation sample in Mrs. Roman's front yard.
9. Weather data from Weather Underground indicated the wind was blowing toward Mrs. Roman's property.


Indianapolis Airport – WSW, SSW at 8-22mph, gust 30mph
 Cincinnati Airport – SSW at 5-12 mph, gust 18mph
 Louisville Airport – S, SW at 8-10mph


 Paul J. Kelley
 Investigator

Date: November 4, 2019

Disposition: RJE Fertilizer, Mark Hartman and Neal Riehle were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for

applying pesticides in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a non-target site. A civil penalty in the amount of \$250.00 was assessed to RJE Fertilizer. Consideration was given to the fact no restricted use pesticides were involved. Consideration was also given to the fact this was their second violation of similar nature. See case number 2018/0795.



George N. Saxton
Compliance Officer

Draft Date: November 14, 2019
Case Closed: December 20, 2019

CASE SUMMARY

Case #PS19-0385

Complainant: Deana Robins
Terry Robins
2480 Hoot Road
Freedom, Indiana 47431

Respondent: White River Cooperative
Robert Garner
6161 N. 200 W.
Worthington, Indiana 47471

Pesticide Business
Certified Applicator

1. On July 24, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that right after a neighboring farm field was sprayed, all of her fish died. She suspects pesticide poisoning.
2. On July 29, 2019, I met with Deana Robins' husband, Terry Robins at their residence. Mr. Robins reported he began observing multiple fish dying in his approximately one-acre pond on Monday July 22, 2019. Mr. Robins stated he believed an application of pesticides to the cornfield surrounding his property may be responsible for the death of the pond's many fish. Mr. Robins stated he observed the possible application to the cornfield around the first of June.
3. The weather was very hot and humid on the week of July 15, 2019 with strong storms and heavy rain on July 21, 2019. Mr. Robins stated he first observed the dying fish after the heavy rains on July 21. Mr. Robins advised his son had retrieved approximately 150 dead fish from the pond. Mr. Robins stated they immediately placed two of the fish in their freezer and burned the rest in effort to keep them away from their cats. The time delay between the time of death of the fish and time of their retrieval was not known.
4. I observed the pond to be murky with a large amount of algae on its top. I observed one large dead Carp still floating in the pond. Due to the water's murky state, I was unable to observe if any fish still populated the pond. I did observe other aquatic life, such as amphibians, around the pond's edge. I observed the pond to be fed by an approximately 8" underground pipe connected to a smaller body of water. See Photos A & B:

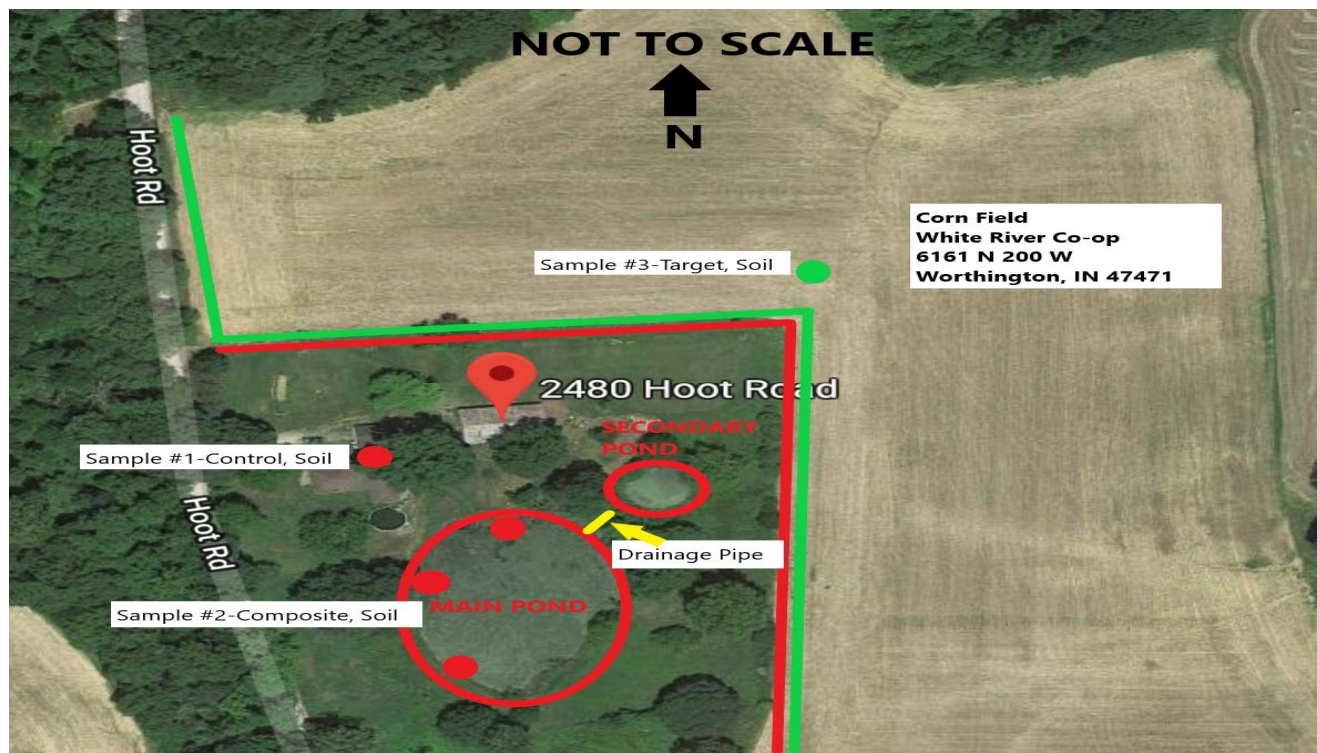


(Photo A)



(Photo B)

5. A composite soil sample was taken from the pond's bank, just above the water's surface. A control soil sample was taken from Mr. Robins' property, on the south side of their garage. A composite soil sample was also taken from the cornfield in question. Lastly, the two fish Mr. Robins had kept in the freezer, a bass and a bluegill, were collected. All samples were taken to the OISC residue lab for analysis. See Map C:



(Map C)

6. I found that John Strouse owns and farms the cornfield in question, located at approximately 2300 Hoot Rd. I met and spoke with Mr. Strouse nearby on Splinter Ridge Rd., where he informed me White River Co-Op, in Worthington, makes the applications to his fields. I then arrived at White River Co-Op, 6161 200 W. Worthington, IN 47471, where I met with William Spelts. Mr. Spelts was advised of the incident and described the field in question. Mr. Spelts confirmed White River Co-Op treats the field and their employee, Certified Applicator Robert Garner, had treated the cornfield.
7. Mr. Spelts was emailed a Pesticide Investigation Inquiry (PII) with instructions to complete and return to me. I received the PII on July 30, 2019. The incomplete PII was missing multiple items, including application time, wind direction, wind speed, and setbacks. Given the information I was provided, the PII listed the application to the corn field on June 14, 2019, using the pesticides of:
- Roundup Powermax (EPA Reg. #524-549, active ingredient of Glyphosate);
 - Capreno (EPA Reg. #264-1063, active ingredients of Thiencarbazono & Tembotrione);
 - DiFlexx (EPA Reg. #264-1173, active ingredient of Dicamba)
 - Infantry 4L (EPA Reg. #100-497-534, active ingredient of Atrazine); and
 - Delaro 325 SC (EPA Reg. #264-1055, active ingredients of Prothioconazole & Trifloxystrobin).
8. The above pesticide labels read:
- Infantry 4L:
 - "This product may not be applied aerially or by ground within 66 feet, of the points where field surface water runoff enters perennial or intermittent streams and rivers or within 200 ft. around*

natural or impounded lakes and reservoirs.” Lakes are defined as “*any impounded body of water, natural or artificially made.*”

b. Capreno:

- i. “*Only apply this product when the potential for drift to adjacent non-target areas is minimal (e.g., when the wind is 10 MPH or less is blowing away from the sensitive areas).*” Sensitive areas are defined as “*sensitive freshwater habitats (such as lakes, rivers, sloughs, ponds, creeks, marshes, streams, reservoirs and wetlands)*”

9. On October 7, 2019, I received the lab results from the soil samples collected. The detects found in sample “19-4-6532 1” was found to have Atrazine and Trifloxystrobin acid levels toxic to marine invertebrates. See results in Diagram D:

19-4-6532 1 Soil; Composite;
soil/muck, just above
water level; Affected

Soil

Desthio Prothioconazole	0.508 ppb	0.3 ppb
Prothioconazole	BDL ppb	0.7 ppb
Trifloxystrobin	BDL ppb	0.1 ppb
Trifloxystrobin acid	0.845 ppb	0.7 ppb
Atrazine	10.8 ppb	0.3 ppb

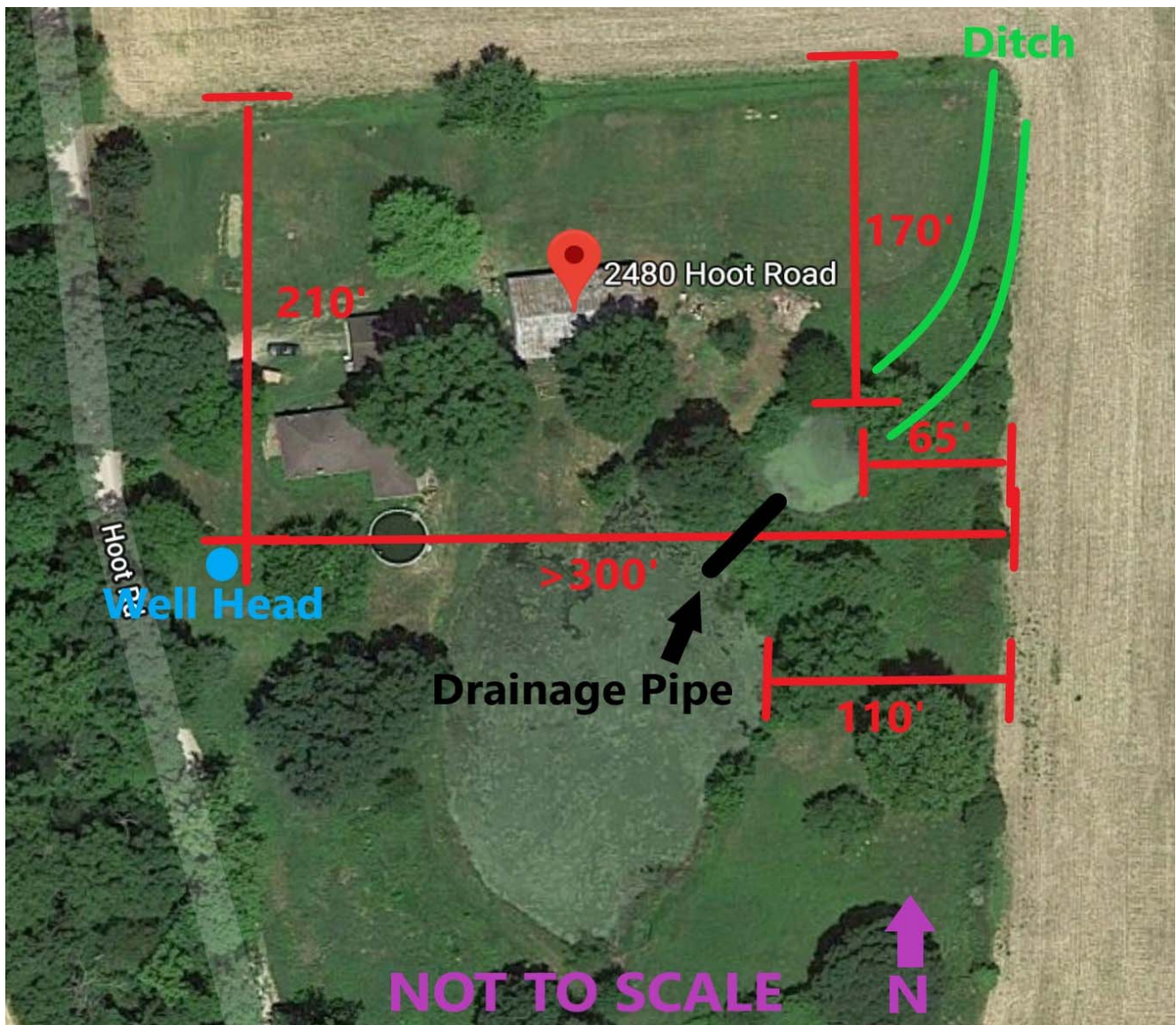
19-4-6533 2 Soil; Composite; corn field;
Target Site;

Soil

Desthio Prothioconazole	8.46 ppb	0.3 ppb
Prothioconazole	BDL ppb	0.7 ppb
Trifloxystrobin	0.853 ppb	0.1 ppb
Trifloxystrobin acid	34.7 ppb	0.7 ppb
Atrazine	8.52 ppb	0.3 ppb

(Diagram D)

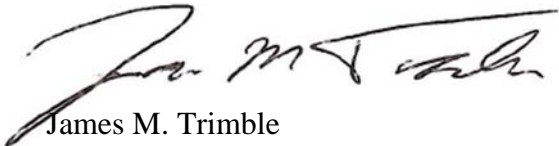
10. On October 22, 2019, I returned to the Robins residence and measured the distances between the bodies of water and the corn field and the property’s well and the corn field. I found that the two bodies of water were within 200’ of the corn field’s south and west edges, making the Atrazine setback a requirement. The well was found to be outside of the 50’ minimum distance. See Map E:



(Map E)

11. On October 23, 2019, I met with Mr. Spelts and Mr. Garner at the above White River Co-Op location to discuss the missing information on the PII and if the label restrictions on the above products were followed. Mr. Spelts and Mr. Garner were informed of the importance of fully completing the PII and anything missing would be left up to my interpretation. Mr. Garner was given a second chance to fully complete the PII. The second PII was emailed to me on October 30, 2019 and found to be completed in full.
12. During our discussion, Mr. Garner was asked if the Atrazine setback requirement was followed as it is listed on the Infantry 4L label. Mr. Garner admitted he did not read the Infantry 4L label and therefore did not follow the directed requirements. Mr. Garner stated he was not aware of the required setbacks for bodies of water or wells when applying Atrazine. Mr. Garner advised he was unaware there was a body of water adjacent to the corn field he was treating but he did not check for a well or body of water before starting the application.
13. It was found Mr. Garner's application to the above location on June 14, 2019 was found to have applied a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause

harm to a non-target site. The application was found to be applied in wind in excess of 10 MPH with the wind blowing towards the non-target, sensitive area. Mr. Garner was found to be in violation of the Atrazine setback requirements for failing to stay a minimum of 200' from the bodies of water on Mr. Robins' property.



James M. Trimble
Investigator

Date: October 31, 2019

Disposition: White River Cooperative and Robert Garner were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed to White River Cooperative for this violation. Consideration was given to the fact this was Mr. Garner's first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

White River Cooperative and Robert Garner were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allows it to drift off target in sufficient quantity as to cause harm to a non-target site. Consideration was given to the fact this was Mr. Garner's first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.



George N. Saxton
Compliance Officer

Draft Date: November 14, 2019
Case Closed: December 18, 2019

CASE SUMMARY

Case #PS19-0419

Complainant: Jerry Robbins
3367 West Mount Tabor Road
Salem, Indiana 47167

Respondent: Premier Ag Co-op, Inc.
Terry Walther
6648 West State Road 56
Salem, Indiana 47167

Licensed Business
Certified Applicator

1. On July 31, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that Premier Ag applied dicamba to a neighboring farm field that drifted on to his tobacco crop.
2. On August 2, 2019, I spoke with Jerry Robbins. Mr. Robbins stated Premier Ag made a pesticide application to an adjacent field and now he has symptoms on his tobacco. Mr. Robbins stated representatives from Premier Ag came out to his farm. Mr. Robbins stated Premier Ag retrieved samples to be analyzed by a private lab.
3. On August 7, 2019, I received an email from Tom Wenning of Premier Ag. Mr. Wenning's email consisted of a lab report for analysis performed by a private lab and application record for application made by Terry Walther on July 3, 2019, using Engenia (EPA Reg. #7969-345, active ingredient dicamba) and Roundup Powermax (EPA Reg. #524-549, active ingredient glyphosate). The spray record indicated the wind was out of the southwest at 4.5 mph blowing toward Mr. Robbins' tobacco fields. Furthermore, the private lab hired by Premier Ag indicated no detections of phenoxy herbicide including dicamba at a detection limit of part per million (PPM).
4. On August 7, 2019, I met with Jerry Robbins. Mr. Robbins stated after an application by Premier Ag to a soybean field south of his property, he now has six (6) tobacco fields with symptoms of pesticide exposure. See figures 1-6. Mr. Robbins' tobacco fields are scattered across his 47-acre farm. Each field is between 1/2 acre and 1.5 acre. See Site Diagram



Figure 1-Field #1/cupped leaves



Figure 2-Field #2/cupped leaves



Figure 3-Field #3/cupped leaves



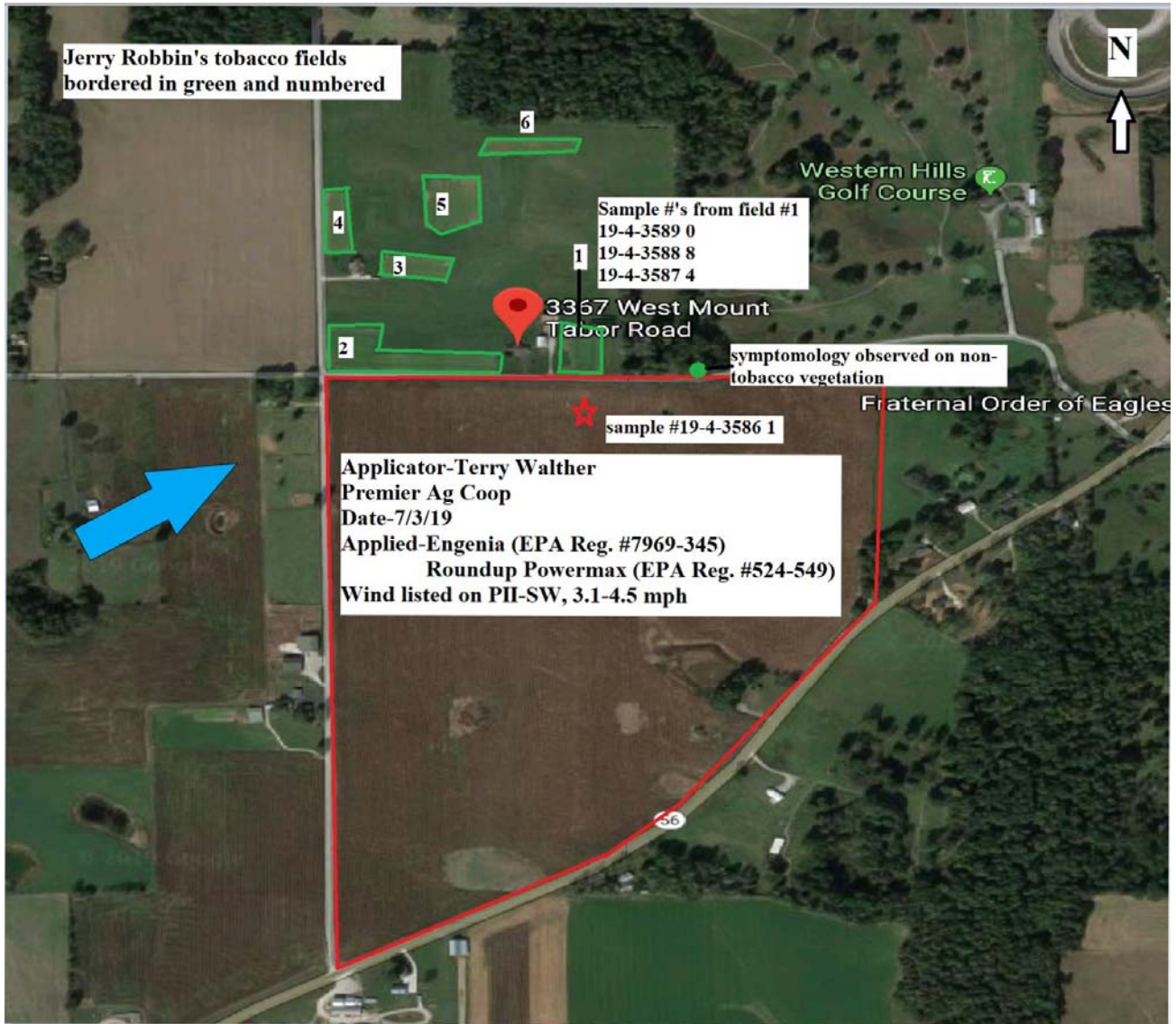
Figure 4-Field 4/cupped leaves



Figure 5-Field #5/cupped leaves



Figure 6-Field #6/cupped leaves



Site Diagram

5. On August 7, 2019, I observed the following:

- A. Evidence of pesticide symptoms on vegetation next to road east of Mr. Robbins but adjacent to the soybean field. See figure 7.
- B. Tobacco plants displayed cupped leaves on new growth
- C. Some tobacco plants seemed to stop growing at the cupped new growth.
- D. Other tobacco plants with cupped leaves flowered.

- E. Cupping symptoms of new growth across entire tobacco plot.
- F. All plots had similar symptoms, including furthest plot 405 yards from target soybean field.



Figure 7-Cupped leaves east of tobacco field

- 6. On August 7, 2019, I collected a tobacco sample to be visually analyzed by Purdue's Plant and Pest Diagnostic Lab (PPDL). Furthermore, I collected investigative samples from tobacco field #1 to be analyzed by OISC's Residue Lab.
- 7. On August 8, 2019, I received a final report from PPDL indicating symptomology was indicative of a growth regulator herbicide product. Dicamba is in the growth regulator herbicide family.

Final Report

8-9-19

The plants look like they were exposed to a growth regulator herbicide.

Bill Johnson

Department of Botany and Plant Pathology

wgj@purdue.edu

765 494-4656

Purdue Weed Science <https://ag.purdue.edu/btny/weedscience>

Weed Control Guide for Ohio and Indiana <http://www.btny.purdue.edu/Pubs/WS/WS-16/>

8-9-19

Each set of plants were treated as sub-samples of the same sample since they all had the same symptoms: curled leaf tips and margins, giving a "hooded" appearance.

No significant disease was observed nor is suspected to be causing the aforementioned symptoms.

John Bonkowski, Tom Creswell

CC Bill Johnson, Marcelo Zimmer

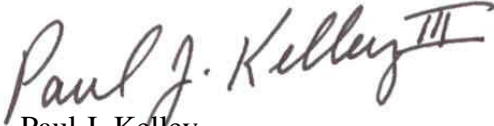
- 8. On October 28, 2019, OISC's Residue Lab reported the following results:

OCM Collection #	109663	Investigator	KELLEYJ
Collection Date	08/07/2019		

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
19-4-3585 7	Soil; Composite; SSTF-soil sample from target field; Target	Soil	No Analysis Performed	Done	
19-4-3586 1	Vegetation; Composite; VTF-vegetation from target field; Tar	Vegetation	5OH-Dicamba	3.31 ppb	2 ppb
			DCSA	15.4 ppb	0.2 ppb
			Dicamba	2740 ppb * Minimum Detected	0.2 ppb
			AMPA	BDL ppb	125 ppb
			Glyphosate	1550 ppb	10 ppb
19-4-3587 4	Vegetation; Composite; V1- vegetation 10yds from target field	Vegetation	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BDL ppb	0.2 ppb
			Dicamba	12.5 ppb	0.2 ppb
			AMPA	BDL ppb	125 ppb
			Glyphosate	BDL ppb	10 ppb
19-4-3588 8	Vegetation; Composite; V2-vegetation 45yds from target field	Vegetation	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BDL ppb	0.2 ppb
			Dicamba	11.4 ppb	0.2 ppb
			AMPA	BDL ppb	125 ppb
			Glyphosate	BDL ppb	10 ppb
19-4-3589 0	Vegetation; Composite; V3-vegetation 80yds from target field	Vegetation	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BDL ppb	0.2 ppb
			Dicamba	19.7 ppb	0.2 ppb
			AMPA	BDL ppb	125 ppb
			Glyphosate	BDL ppb	10 ppb

The Lab results indicate dicamba was detected in the Tobacco samples collected from Field #1.

9. Label language for Engenia states in part, “*DO NOT allow herbicide solution to drip, physically drift, or splash onto desirable vegetation because severe injury or destruction to desirable broadleaf plants could result*” and “*DO NOT apply when wind is blowing in the direction of neighboring sensitive crops or residential areas.*”

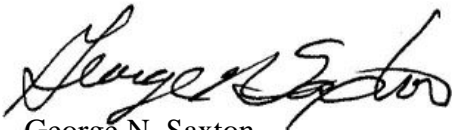


Paul J. Kelley
Investigator

Date: November 7, 2019

Disposition: Premier Ag Co-op, Inc. and Terry Walther were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed to Premier Ag Co-op, Inc. for this violation. Consideration was given to the fact this was Mr. Walther’s first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

Premier Ag Co-op, Inc. and Terry Walther were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a non-target site.



George N. Saxton
Compliance Officer

Draft Date: November 14, 2019
Case Closed: December 18, 2019

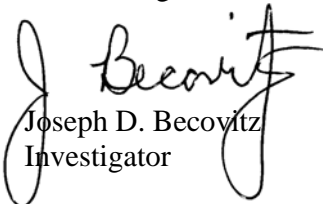
CASE SUMMARY

Case #PS19-0609

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
765-494-1492

Respondent: George Adrian Owner
Adrian Orchards
508 W. Epler Avenue
Indianapolis, IN 46217

1. On September 10, 2019, I performed a routine Worker Protection Standard (WPS) inspection at Adrian Orchards. I interviewed George Adrian the owner who is also a licensed private applicator. Mr. Adrian stated he is the only person that makes pesticide applications at the Orchard. Mr. Adrian explained that he was aware of the WPS and used to have his workers WPS trained, but has not done WPS training in a number of years. He also stated that he does not have the WPS poster up anywhere and does not post his applications. He stated he does keep a daily log of everything done at the orchard including what pesticides were applied, how many apples were picked etc... Mr. Adrian produced the log and showed me the last pesticide application entry, which included pesticide products such as Imidan 70 W (EPA Reg. #10163-169).
2. I told Mr. Adrian that he was out of compliance and would need to watch for two items from OISC. The first would be an email from me with a link to the Pesticide Educational Resources Collaborative (PERC) website. I explained there were many WPS resources available on this website including WPS worker training videos. The second item he could expect was certified mail from our office that would likely include an enforcement letter. Mr. Adrian stated he understood.
3. Later the same day, I sent Mr. Adrian an email that contained the PERC website link and a two-page summary of the WPS.
4. The Imidan 70 W label states, "Ag Use Requirements: Use this product only in accordance with its labeling and with the Worker Protection Standards 40 CFR Part 170."


Joseph D. Becovitz
Investigator

Date: September 18, 2019

Disposition: George Adrian was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding agricultural use requirements. A civil penalty in the amount of \$250.00 was assessed for this violation.


George N. Saxton
Compliance Officer

Draft Date: November 5, 2019
Case Closed: December 12, 2019

CASE SUMMARY

Case #PS19-0622


Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
765-494-1492

Respondent: Howard Orchard LLC
Craig Howard
743 Seale Lane
Crawfordsville, Indiana 47933

Private Applicator

1. On September 13, 2019, I, agent Kevin Gibson of the Office of Indiana State Chemist (OISC), conducted a routine **Worker Protection Standard (WPS)** inspection at Howard Orchard in Crawfordsville, Indiana.
2. I met with the owner/certified applicator Craig Howard. Mr. Howard told me he makes all pesticide applications for his orchard. He is a family operated orchard. He hires no outside workers to help at the orchard.
3. Mr. Howard gave me a copy of his pesticide applications for the orchard in 2019. According to the records, Mr. Howard applied **Helmquat 3SL** (EPA #74530-48, active ingredient: paraquat dichloride) several times during 2019, the last being August 20. I checked the label for **Helmquat 3SL**. The label includes a section entitled “**Agricultural Use Requirements**” which reads, “*Use this product only in accordance with its labeling and with the Worker Protection Standard (WPS), 40 CFR part 170. This standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on this label about personal protective equipment (PPE), notifications to workers, and restricted-entry interval. The requirements in this box only apply to uses of this product that are covered by the Worker Protection Standard.*”
4. The **Personal Protective Equipment (PPE)** for this product includes the use of a “*NIOSH-approved particulate respirator with any N<R< or P filter, NIOSH approval number prefix TC-84A, or NIOSH-approved purifying respirator with an HE filter with a NIOSH approval number prefix TC21C*”.
5. Mr. Howard told me he had never obtained a respirator medical evaluation and he had never obtained a respirator fit test as outlined in the “**WPS Requirements for the Use of Respirators**”.
6. I gave Mr. Howard information regarding the above **WPS** requirements.

7. Based on information gathered during the **WPS** inspection, Mr. Craig Howard is in violation for failure to obtain a respirator medical evaluation and for failure to obtain a respirator fit test pesticide applications requiring a respirator.


Kevin W. Gibson
OISC Investigator

Date: September 16, 2019

Disposition: Craig Howard was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding agricultural use requirements; specifically the use of personal protective equipment. A civil penalty in the amount of \$250.00 was assessed for this violation.


George N. Saxton
Compliance Officer

Draft Date: November 5, 2019
Case Closed: December 9, 2019

CASE SUMMARY

Case #PS19-0625

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, Indiana 47907-2063
765-494-1492

Respondent: Farlow Orchards
Robert Taylor
6850 West 250 South
Russiaville, Indiana 46979

Certified Applicator/Owner

1. On September 13, 2019, I, Agent Kevin Gibson of the Office of Indiana State Chemist (OISC), conducted a **Worker Protection Standard (WPS)** inspection at Farlow's Orchard in Russiaville, Indiana.
2. I met with owner/certified applicator Robert Taylor. Mr. Taylor told me he makes all pesticide applications for the orchard. He gave me a copy of his pesticide application records for the beginning of the 2019 season. According to the records one of the products he applied was **Imidan 70-W** (EPA #10163-169; active ingredient: phosmet) to his orchard during 2019.
3. The **Imidan 70-W** label reads, "*Use this product only in accordance with its labeling and with the Worker Protection Standard (WPS), 40 CFR part 170. This standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on this label about personal protective equipment (PPE), notifications to workers, and restricted-entry interval. The requirements in this box only apply to uses of this product that are covered by the Worker Protection Standard*"
4. The Imidan 70-W label also requires the use of a *respirator with an organic-vapor cartridge with a prefilter approved for pesticides (MSHA/NIOSH approval number prefix TC-23C), or a canister approved for pesticides (MSHA/NIOSH approval number prefix TC-14G) or a NIOSH-approved respirator with an organic vapor (OV) cartridge or canister with any N,R,) or He prefilter.*
5. For the use of respirators, WPS requires the following:
 - Respirator medical evaluation conducted and a copy of the medical recommendation maintained
 - Respirator fit test conducted annually and records maintained of results
 - Respirator training conducted annually and records maintained

- Respirator seal check conducted prior to using the respirator
 - Respirator cleaned and maintained according to the manufacturer's recommendations
 - Respirator canisters, cartridges or filters meet change-out schedule
6. Mr. Taylor admitted to me he had never had a medical evaluation for the use of a respirator. He also admitted he had never had a respirator fit test. He explained he was not aware of the WPS law and requirements for the use of a respirator.
7. Based on the information gathered during this WPS inspection, Mr. Taylor is in violation for the failure to obtain a medical evaluation and failure to obtain a respirator fit test prior to the use of a respirator for the pesticide Imidan 70-W.



Kevin W. Gibson
OISC Investigator

Date: September 16, 2019

Disposition: Robert Taylor was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the agricultural use requirements. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: November 5, 2019
Case Closed: December 9, 2019

CASE SUMMARY

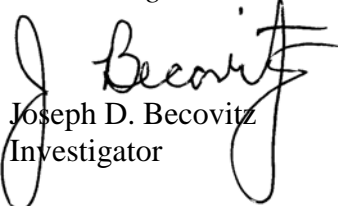
Case #PS19-0631

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
765-494-1492

Respondent: Tuttle Orchards
Tom Roney
5717 N 300 W
Greenfield, IN 46140


Private Applicator/Owner

1. On September 19, 2019, I performed a routine Worker Protection Standard (WPS) inspection at Tuttle Orchards. I interviewed Tom Roney the owner who is also a licensed private applicator. Tuttle Orchards was in compliance with many portions of the WPS requirements. However, they were using at least one product that had a respirator requirement (Imidan 70 W, EPA Reg. #10163-169) and had not performed any of the respirator requirements such as a medical evaluation or fit test. In addition they had no record of training their workers, had incomplete pesticide application records and did not post the records at the central location.
2. I explained these deficiencies to Mr. Roney and had him sign the bottom of my inspection form where I had itemized the deficiencies. I told Mr. Roney to watch for two items from OISC. The first would be an email from me with a link to the Pesticide Educational Resources Collaborative (PERC) website. I explained there were many WPS resources available on this website including WPS worker training videos. The second item he could expect was certified mail from our office that would likely include an enforcement letter. Mr. Roney stated he understood.
3. On September 20, 2019, I sent Mr. Roney an email that contained the PERC website link and a two page summary of the WPS.
4. The Imidan 70 W label states, "*Ag Use Requirements: Use this product only in accordance with its labeling and with the Worker Protection Standards 40 CFR Part 170.*"


Joseph D. Becovitz
Investigator

Date: September 20, 2019

Disposition: Tom Roney was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the agricultural use requirements. A civil penalty in the amount of \$250.00 was assessed for this violation.


George N. Saxton
Compliance Officer

Draft Date: November 5, 2019
Case Closed: December 9, 2019

CASE SUMMARY

Case #PS19-0632

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
765-494-1492

Respondent: Dennis Radke **Private Applicator/Owner**
Radke's Orchard
8825 West 200 North
Michigan City, Indiana 46930

1. On September 23, 2019, I, Agent Kevin Gibson of the Office of Indiana State Chemist (OISC), conducted a **Worker Protection Standard (WPS)** inspection at Radke's Orchard in Michigan City, Indiana.
2. I met with owner/certified applicator Dennis Radke. Mr. Radke told me he makes all pesticide applications for the orchard. He gave me a copy of his pesticide application records for the beginning of the 2019 season. According to the records, one of the products he applied was **Imidan 70-W** (EPA #10163-169; active ingredient: phosmet) to his orchard during 2019.
3. The **Imidan 70-W** label reads, "*Use this product only in accordance with its labeling and with the Worker Protection Standard (WPS), 40 CFR part 170. This standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on this label about personal protective equipment (PPE), notifications to workers, and restricted-entry interval. The requirements in this box only apply to uses of this product that are covered by the Worker Protection Standard*"
4. The Imidan 70-W label also requires the use of a *respirator with an organic-vapor cartridge with a prefilter approved for pesticides (MSHA/NIOSH approval number prefix TC-23C), or a canister approved for pesticides (MSHA/NIOSH approval number prefix TC-14G) or a NIOSH-approved respirator with an organic vapor (OV) cartridge or canister with any N,R,) or He prefilter.*
5. For the use of respirators, WPS requires the following:
 - Respirator medical evaluation conducted and a copy of the medical recommendation maintained
 - Respirator fit test conducted annually and records maintained of results
 - Respirator training conducted annually and records maintained

- Respirator seal check conducted prior to using the respirator
 - Respirator cleaned and maintained according to the manufacturer's recommendations
 - Respirator canisters, cartridges or filters meet change-out schedule
6. Mr. Radke admitted to me he had never had a medical evaluation for the use of a respirator. He also admitted he had never had a respirator fit test. He explained he was not aware of the WPS law and requirements for the use of a respirator.
7. Based on the information gathered during this WPS inspection, Mr. Radke is in violation for the failure to obtain a medical evaluation and failure to obtain a respirator fit test prior to the use of a respirator for the pesticide Imidan 70-W.



Kevin W. Gibson
OISC Investigator

Date: September 16, 2019

Disposition: Dennis Radke was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the agricultural use requirements. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: November 6, 2019
Case Closed: December 12, 2019

CASE SUMMARY

Case #PS20-0013

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
765-494-1492

Respondent: SmallTown Lawn Care, LLC
Cory Robinson
1330 S. Country Road 350 E.
Brownstown, IN 47220

Non-licensed Business
Certified Applicator

1. On October 14, 2019, at approximately 11:30 AM, I was in the area of W. Tipton St., Seymour, Indiana, performing my routine duties as a Pesticide Investigator for OISC. While in the area, I observed a white truck with the name "SmallTown Lawn Care, LLC" affixed to the truck's front doors parked in a parking lot near a restaurant off W. Tipton St. I observed the truck to have bags of granular fertilizer, pesticide containers, a liquid storage tank, and an "Exmark" motorized sprayer/spreader loaded on its bed. Using my mobile desk computer (MDC), I was unable to locate the above business name in the OISC database for a licensed pesticide business. (See photos A & B)



(Photo A)



(Photo B)

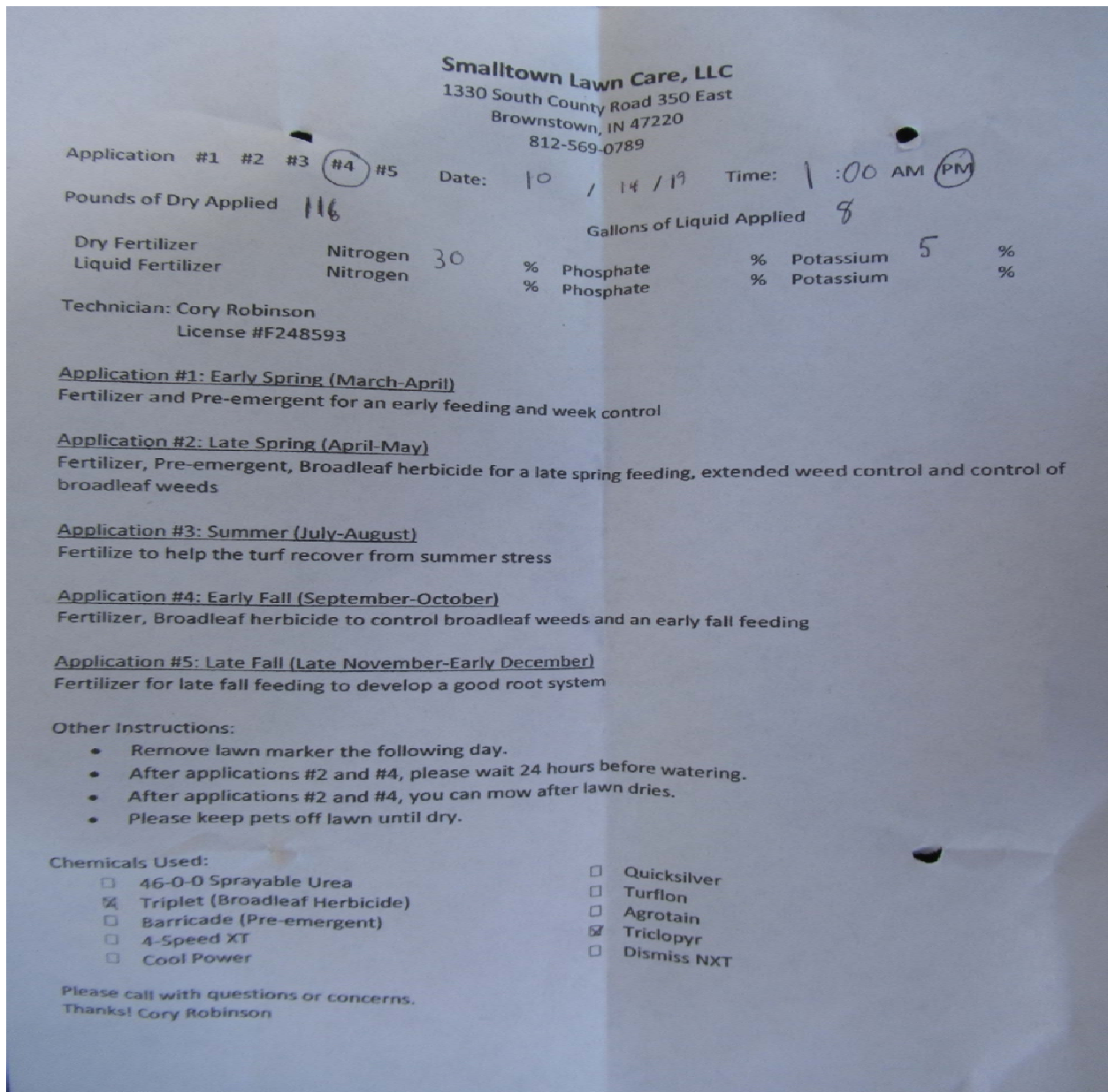
2. I followed the above vehicle to a residence located at 8850 N. County Rd. 700 E., Seymour, Indiana. I observed a male, later identified as Cory Robinson, remove the motorized spreader, fill its hopper with granular fertilizer, and begin treating the above residence's lawn. Once the application was finished and Mr. Robinson had left the residence, I inspected the lawn and confirmed a treatment had been completed by observing granular fertilizer in the lawn. I also observed a lawn marker at the end of the residence's driveway stating "LAWN CARE APPLICATION KEEP OFF THE GRASS SmallTown Lawn Care, LLC 812-569-0789". Attached to the lawn maker was a customer notification form advising an application of dry fertilizer (30-0-5) and the liquid herbicides of Triplet (EPA Reg. #228-312, active ingredients of 2,4-D, Dicamba, and Mecoprop) and Triclopyr (EPA Reg. #81927-11, active ingredient of triclopyr) was applied to the lawn on 10-14-2019 at 1:00 PM by Cory Robinson F248593. (See photos C, D, & E)



(Photo C)



(Photo D)

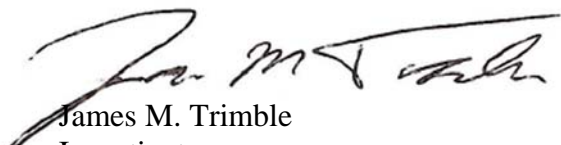


(Photo E)

- I then contacted Mr. Robinson, via phone, and asked him several questions as a potential customer. Mr. Robinson advertised to me he does fertilizer and pesticide applications to lawns for-hire. Mr. Robinson stated he is operating under the “SmallTown Lawn Care” name but also works for “Wehmiller”. After speaking with Mr. Robinson, I found he had an active 3b for-hire license, credentialed with Wehmiller Lawn Care Inc. Mr. Robinson advised me his business was licensed and insured.
- I called Mr. Robinson again and identified myself as an agent for OISC and asked him to meet with me. Mr. Robinson agreed to meet me at a gas station in Seymour. I met with Mr. Robinson at the gas station, where I explained to him that his business “SmallTown Lawn Care, LLC”, had to have a business license through OISC before making or advertising pesticide applications. Mr. Robinson stated he believed he was legally making applications since he was a certified applicator and didn’t know his business had to have a separate

business license since he still worked for “Wehmiller Lawn Care”. Mr. Robinson stated “Wehmiller Lawn Care” was owned by his uncle and that he was purchasing the lawn care division from Mr. Wehmiller. Mr. Robinson advised this was his first year making applications under the “SmallTown Lawn Care, LLC” name and began making applications for-hire around March of 2019.

5. Mr. Robinson was given and signed an “Action Order”, advising him to stop all advertising and pesticide/fertilizer applications until credentialed through OISC. Mr. Robinson was informed on how to get his business credentialed with OISC. Mr. Robinson was advised to send me his application records for the year when operating under “SmallTown Lawn Care, LLC” business.
6. Mr. Robinson sent me all the requested records, via email, on the next day, October 15, 2019. Using the records provided by Mr. Robinson, I found that he had performed 300 applications on a total of forty-three (43) days while operating under the non-licensed pesticide business of “SmallTown Lawn Care, LLC”.



James M. Trimble
Investigator

Date: October 25, 2019

Disposition: SmallTown Lawn Care, LLC, and Cory Robinson were cited for forty-three (43) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for-hire without having an Indiana pesticide business license. A civil penalty in the amount of \$10,750.00 (43 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$2,688.00. Consideration was given to the fact Mr. Robinson cooperated during the investigation; corrective action was taken; there was no potential for damage since Mr. Robinson was a certified applicator; a good-faith effort to comply and no restricted use pesticides were involved.



George N. Saxton
Compliance Officer

Draft Date: November 12, 2019
Case Closed: December 20, 2019