

A Summary of Cases

7/26/2016

- 2015/0295 **DISPOSITION:** Warner's Greenhouse was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the Worker Protection Standard. A civil penalty in the amount of \$250.00 was assessed for this violation.
- 2015/0445 **DISPOSITION:**
- A. Legacy Hills Golf Club and Pete Magnuson were cited for three (3) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticides for hire without having the proper pesticide certification. A civil penalty in the amount of \$750.00 (3 counts x \$250.00 per count) was assessed. However, the \$750.00 civil penalty was held in abeyance until April 15, 2015, and will not be levied provided Mr. Magnuson becomes properly certified. Consideration was given to the fact Mr. Magnuson cooperated during the investigation. Compliance assistance was rendered for the record keeping violations.
 - B. As of August 19, 2015, Mr. Magnuson had not become properly certified. The full amount of the \$750.00 civil penalty was assessed.
 - C. As of February 24, 2016, Legacy Hills Golf Club had not paid the civil penalty. The case was forwarded to collections.
 - D. Payment of the \$750.00 civil penalty was received from Legacy Hills Golf Club on March 8, 2016. The collection process was suspended.
- 2015/0896 **DISPOSITION:**
- A. Mike Young was 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 \$100.00 was assessed for this violation. Consideration was given to the fact this was his second violation of similar nature. See case number 2013/1031.
 - B. OISC received a letter dated March 1, 2016, from Mr. Kevin Stoy requesting a further review of this investigation. He stated it was his belief the off-target pesticide drift occurred in 2014 and these pesticide exposure symptoms are from 2014 and not 2015.
 - C. Another review was performed and a letter sent to Mr. Stoy dated March 28, 2016, advising him that as a result of the review, the preponderance of the evidence still indicated an off-target pesticide drift in 2015
- 2015/0995 **DISPOSITION:** Hoosier Property Maintenance and Snow Removal was cited for five (5) counts of 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 \$1,250.00 (5 counts x \$250.00 per count) was assessed.

2015/0997

DISPOSITION:

A. Jeremy Wheeler was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to comply with a lawful Order of the state chemist by violating the Stop Action Order. A civil penalty in the amount of \$250.00 was assessed for this violation.

B. Jeremy Wheeler was cited for sixteen (16) 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 \$4,000.00 (16 counts x \$250.00 per count) was assessed.

C. On November 30, 2015, David Scott, Pesticide Administrator, spoke with Mr. Wheeler by phone. Mr. Wheeler requested more time to pay the civil penalty. Mr. Scott agreed to give Mr. Wheeler until February 15, 2016, to pay the civil penalty.

D. Mr. Wheeler also requested of Mr. Scott that his business address of record be changed to 1871 Dixy Highway, Mitchell, Indiana 47446.

E. Since the 2015 licensing year had almost concluded, OISC determined that the \$90.00 licensing fee from Jeremy Wheeler would be applied as the licensing fees for Mr. Wheeler and Anytime Termite & Pest Control for the 2016 licensing year.

F. The continued validity of the 2016 pesticide applicator and business licenses issued to Jeremy Wheeler and Anytime Termite & Pest Control will be contingent upon payment of the \$4,250.00 civil penalty to OISC on or before the agreed upon date of February 15, 2016.

G. On January 26, 2016, a certified letter was sent to Mr. Wheeler advising him OISC had been notified that his insurance had been cancelled and as a result, his business license was no longer valid.

H. As of March 28, 2016, the civil penalty had not been paid. Jeremy Wheeler was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to follow a lawful order of the state chemist. As a result, his certification was revoked and the case was forwarded to the Indiana Attorney General for collection of the \$4,250.00 civil penalty.

2015/1059

DISPOSITION:

A. Valley View Golf Course was cited for eleven (11) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticides to a golf course without having a certified applicator. A civil penalty in the amount of \$2,750.00 (11 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$1,375.00. Consideration was given to the fact Valley View Golf Course cooperated during the investigation; there was no previous history of similar nature and no restricted use pesticides were involved.

B. On January 4, 2016, OISC received a letter from Valley View Golf Course requesting a formal hearing. David Scott, Secretary to the Indiana Pesticide Review Board, was notified of this request.

C. On January 25, 2016, an informal conference was held at Valley View Golf Course.

D. On March 10, 2016, Jeff Sanders received his certification to apply pesticides at a golf course. As a result of corrective action being taken, the civil penalty was further reduced to \$412.50.

2015/1119 **DISPOSITION:** Rozzi's Greenhouse was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the Worker Protection Standard. A civil penalty in the amount of \$250.00 was assessed for this violation.

2015/1140 **DISPOSITION:** Timothy Perry was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding re-occupancy of an area before cleanup. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm.

2015/1154 **DISPOSITION:** Justin Ford 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.

2015/1173 **DISPOSITION:** Keep It Cut Lawn Care was cited for three (3) 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 \$750.00 (3 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$412.50. Consideration was given to the fact Keep It Cut Lawn Care cooperated during the investigation and there was no previous history of similar nature.

2015/1181 **DISPOSITION:** Dale Burkey was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to person(s). A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm.

2015/1251 **DISPOSITION:** Mink Lake Golf Course & Park was cited for thirteen (13) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticides to a golf course without having a certified applicator. A civil penalty in the amount of \$3,250.00 (13 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$2,437.50. Consideration was given to the fact Mr. Sella cooperated during the investigation. Consideration was also

given to the fact this was Mink Lake Golf Course & Park's second violation. See case number 2010/1185. As of March 31, 2016, Mink Lake Golf Course & Park had not paid the civil penalty. The case was forwarded to the Office of Indiana Attorney General for collection of the unmitigated civil penalty amount of \$3,250.00.

2015/1314 **DISPOSITION:**

A. Rockney Lee Alting was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding use of personal protective equipment. A civil penalty in the amount of \$50.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm.

B. As of March 8, 2016, the civil penalty had not been paid. Rockney Lee Alting was also cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to follow a lawful order of the state chemist or the board. His license was suspended until such time as the civil penalty was paid.

C. Payment of the \$50.00 civil penalty was received on March 29, 2016. The license for Rockney Lee Alting was reinstated.

2015/1338 **DISPOSITION:** Rural King was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the secure placement of a rodenticide. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm. As of March 9, 2016, Rural King had not paid the civil penalty. The case was forwarded to collections. Payment of the \$250.00 civil penalty was received from Rural King on March 22, 2016. The collection process was suspended.

2015/1406 **DISPOSITION:** True Value was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing an adulterated pesticide. A civil penalty in the amount of \$250.00 was assessed for this violation.

2016/0252 **DISPOSITION:** Rural King was cited for violation of section 57(4) of the Indiana Pesticide Registration Law for offering for sale a pesticide a product that did not have a label with the required information. A civil penalty in the amount of \$250.00 was assessed. As of March 9, 2016, Rural King had not paid the civil penalty. The case was forwarded to collections. Payment of the \$250.00 civil penalty was received from Rural King on March 22, 2016. The collection process was suspended.

2016/0261 **DISPOSITION:** Robin Kaiser 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.

2016/0547 **DISPOSITION:**

A. Zai Feng Yang was cited for eight (8) counts of violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and negligent manner by issuing Chinese pesticides to tenants with no regard for their use or personal protective equipment. A civil penalty in the amount of \$6,750.00 [\$250.00 for the first count; \$500.00 for the second count and \$1,000.00 for each of the remaining six (6) counts] was assessed.

B. Zai Feng Yang was cited for sixteen (16) counts of violation of section 65(16) of the Indiana Pesticide Use and Application Law for knowingly using a pesticide that was not registered in Indiana under I.C. 15-16-4. A civil penalty in the amount of \$14,750.00 [\$250.00 for the first count; \$500.00 for the second count; and \$1,000.00 for each of the remaining fourteen (14) counts] was assessed.

C. The total amount of civil penalty assessed in this investigation is \$21,500.00. However, the civil penalty was reduced to \$16,125.00. Consideration was given to the fact Mr. Zai Feng Yang cooperated during the investigation.

D. In addition, the case was forwarded to USEPA for federal review.

E. On April 26, 2016, OISC received a letter dated April 22, 2016, from Bradley J. Adamsky, attorney for Yang's Dream Living LLC. An informal conference was set for May 17, 2016, to be held at 820 Jefferson Avenue, LaPorte, Indiana, at 9:00am Central Time.

F. On May 17, 2016, I met with Mr. Bradley Adamsky and his client, Zai Feng Yang, also known as Kevin Yang. Mr. Adamsky gave me copies of reports he had received from Crisis Cleaning.

G. Mr. Yang insisted he did not give Chinese Cockroachkiller Bait to the residence in apartments 111 and 400. He did admit to giving the bait to the tenant in apartments 9, 211, 312 and 207 and twice gave the bait to the tenant at 606 Tipton Street.

H. Mr. Yang asked why he was being charged with sixteen (16) counts of spraying apartments with dichlorvos. He said he only sprayed four (4) apartments; those being apartments 301, 303, 207 and 211. I asked him how the dichlorvos got into the other apartments. He said he didn't know.

I. I questioned Mr. Yang about the small reddish brown bottle that was present in the photo taken by Ms. Nocek that was missing in the photo taken by Agent Baker a couple minutes later. He insisted he did not know what happened to the bottle and that it was cough syrup he purchased in Chicago at a Chinese pharmacy.

J. I questioned Mr. Yang about the purchase of the 8ml bottle that was mixed into the sprayer that ultimately revealed dichlorvos. He stated he bought the bottle in Fuzhou, China and brought it back to the United States. He said he bought it from a vendor in

China and the bottle had no writing on it. He stated he was told by the Chinese vendor the bottle contained a strong pesticide and to mix it with two gallons of water.

K. As a result of the informal conference, Zai Feng Yang was cited for six (6) counts of violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and negligent manner by issuing Chinese pesticides to tenants with no regard for their use or personal protective equipment. A civil penalty in the amount of \$4,750.00 [\$250.00 for the first count; \$500.00 for the second count and \$1,000.00 for each of the remaining four (4) counts] was assessed.

L. Zai Feng Yang was cited for sixteen (16) counts of violation of section 65(16) of the Indiana Pesticide Use and Application Law for knowingly using a pesticide that was not registered in Indiana under I.C. 15-16-4. A civil penalty in the amount of \$14,750.00 [\$250.00 for the first count; \$500.00 for the second count; and \$1,000.00 for each of the remaining fourteen (14) counts] was assessed. Although Mr. Yang denied making the pesticide applications in more than four (4) apartments, since dichlorvos was found in ten (10) other apartments and tenants stated personnel from Yang's Dream Living applied pesticides in their apartments, the preponderance of the evidence suggests Yang's Dream Living is responsible for those applications as well.

M. The total amount of civil penalty assessed in this investigation is \$19,500.00. However, the civil penalty was reduced to \$14,625.00. Consideration was given to the fact Mr. Yang cooperated during the investigation.

- 2016/0553 **DISPOSITION:** Robert Gilkison was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application rates. A civil penalty in the amount of \$250.00 was assessed for this violation.
- 2016/0568 **DISPOSITION:** Bonide Products, Inc. was cited for two (2) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a non-registered pesticide. A civil penalty in the amount of \$500.00 (two counts x \$250.00 per count) was assessed.
- 2016/0586 **DISPOSITION:** Jeff Martin was cited for twenty-six (26) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-4, for failure to keep and maintain all required records of a pesticide applied on a golf course. A civil penalty in the amount of \$6,500.00 (26 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$650.00. Consideration was given to the fact Mr. Martin cooperated during the investigation; corrective action was taken; there was no previous history of similar nature; no potential for damage and no restricted use pesticides were involved.
- 2016/0587 **DISPOSITION:** Bug Bam Products, LLC was cited for two (2) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing unregistered pesticide products into Indiana. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed.

Bug Bam Products, LLC was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for distributing a federally unregistered pesticide product in that making a false and misleading claim on a 25b exempt pesticide product requires that product to have full section 3 registration with USEPA. A civil penalty in the amount of \$250.00 was assessed for this violation. The total amount of civil penalty assessed in this investigation was \$750.00. However, the civil penalty was reduced to \$262.50. Consideration was given to the fact Bug Bam Products, LLC cooperated with the investigation; corrective action was immediately taken and there was no previous history of similar nature.

2016/0603 **DISPOSITION:** Mark E. Cavin was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-6, for failure to provide a fact sheet to a registered technician. A civil penalty in the amount of \$25.00 was assessed for this violation.

2016/0609 **DISPOSITION:** Benjamin Jones 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.

CASE SUMMARY

Case #2015/0295

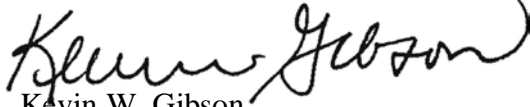
Complainant: Office of Indiana State Chemist
175 S. University Street
West Lafayette, Indiana 47907
765-494-1585

Respondent: Warner's Greenhouse
Bill Rozzi
625 S. 17th Street
Logansport, Indiana 46947
574-727-5450

Licensed Pesticide Applicator

1. On June 30, 2015, I, Agent Kevin Gibson of the Office of Indiana State Chemist (OISC), conducted a **Worker Protection Standard (WPS)** inspection at Warner's Greenhouse in Logansport, Indiana.
2. I met with and issued a **Notice of Inspection (NOI)** to owner/pesticide applicator Bill Rozzi. Mr. Rozzi told me he employed four permanent workers and four seasonal workers. He is the only pesticide applicator. He handles all pesticides and makes all pesticide applications at the location. He said the last pesticide application he made was **Banrot** (EPA# **58185-10**; active ingredient; **etridiazole and thiophanate-methyl**) on May 22, 2015.
3. The Banrot label states in part, *"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), notification 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. Mr. Rozzi told me he had never conducted any **Pesticide Safety Training** for the employees. He also told me he had never used **Central Posting** for safety posters or emergency medical facility information. I checked his pesticide application records. The records did not contain the required information (location, date, time, active ingredient, EPA# and REI).
5. Mr. Rozzi told me he (as the licensed applicator) verbally notified the employees prior to making any pesticide applications. Access to application areas was always restricted as he made them after the business was closed for the day and the employees left the premises.
6. I checked and found the **Personal Protective Equipment (PPE)** for the most restrictive pesticide label to be in good working order. He told me he cleaned the **PPE** after each pesticide application.

7. Mr. Rozzi told me he did not have the required soap, water and paper towels for workers should there be a pesticide exposure incident. If any exposures were to occur, then they would be reported to him. If any medical assistance was required, then he would call an ambulance for treatment.
8. In summary, Mr. Rozzi did not provide **Pesticide Safety Training** or **Central Posting** for the employees as required by the **Worker Protection Standards**.



Kevin W. Gibson
Investigator

Date: February 8, 2016

DISPOSITION: Warner's Greenhouse was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the Worker Protection Standard. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: May 5, 2016
Final Date: June 29, 2016

CASE SUMMARY

Case #2015/0445

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, Indiana 47907
(765) 495-1585

Respondent: Legacy Hills Golf Club
Pete Magnuson
299 W. Johnson Road
LaPorte, Indiana 46350
(219) 324-4777
Superintendent

Involved others: Arnold J. Sundling
Harrell's LLC
3851 Perry Blvd
Whitestown, IN. 46075
(800) 966-1987
Certified Applicator

1. On Monday January 5, 2015, I, Agent Brian Baker of OISC, conducted an inspection of the pesticide use program at the Legacy Hills Golf Club. The following areas were covered in the inspection:
 - Certification and Licensing
 - Supervision
 - Records Keeping
 - Storage
 - Disposal
2. I met with Pete Magnuson, the golf course Superintendent. I identified myself verbally and with OISC credentials. I stated my purpose and issued a Notice of Inspection. Mr. Magnuson told me he hires out all his turf work to Harrell's LLC except for the greens. Mr. Magnuson told me he made three pesticide spray applications to his greens in 2014 and only after that discovered he had the wrong license with OISC. Mr. Magnuson told me he had a "3A" license with OISC. When I checked Mr. Magnuson's license status I discovered he took and passed his 3A test but failed to file his paperwork and pay his licensing fee.
 - **Mr. Magnuson is "unlicensed" at this time.**
3. I checked all the records Mr. Magnuson had on hand. There was only one year's record on hand. Mr. Magnuson told me he took over the applications and records keeping just last year and added the person before him was not keeping the proper record. The records provided by the vendor were complete. The records which Mr. Magnuson kept on the three pesticide spray applications he made were complete except for:

- **The name or address of the golf course**
- **Manufacturer name of the pesticides applied**
- **OISC license number of the person responsible for the applications.**

I told Mr. Magnuson not to make any more pesticide applications until he is properly licensed. I showed Mr. Magnuson how to use the National Pesticide Information Retrieval System (N.P.I.R.S) on the OISC website so he could correct his record deficiencies.

4. I discussed supervision with Mr. Magnuson. I inspected Mr. Magnuson's pesticide storage. The storage met the OISC standards. I covered disposal and found Mr. Magnuson was following all container and rinsate disposal procedures required by OISC.
5. Mr. Magnuson provided the application records for the three unlicensed pesticide spray applications he made in 2014. The records are attached to the case file. The following is a synopsis of those pesticide applications:

- **April 18, 2014 6am.**

All Greens treated with Proxy EPA Reg# 432-1230, active ingredient= ethephon, Primo Max EPA Reg# 100-937, active ingredient= trinexapac-ethyl 11.3%, Instrata EPA Reg# 100-1231, active ingredient=fludioxonil 1.2%, chlorothalonil 29.9%, propiconazole 4.7%.

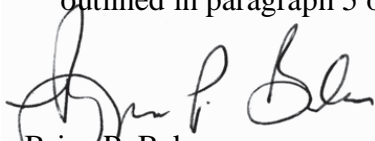
- **November 13, 2014 10 am.**

All Greens treated with Daconil Acrion, EPA Reg# 100-1364, active ingredient=acibenzolar-s-methyl .11%, chlorothalonil 53.94%, Headway EPA Reg# 100-1216, active ingredient=propiconazole 9.54%, azoxystrobin 5.73% Cavalier EPA Reg# 1001-69, active ingredient=thiophanate-methyl 41.25% Concert EPA Reg# 100-1192, active ingredient=chlorothalonil 38.5%, propiconazole 2.9%

- **November 17, 2014, 10am.**

All Greens treated with Instrata EPA Reg# 100-1231. active ingredient=fludioxonil 1.2%, chlorothalonil 29.9%, propiconazole 4.7%.

6. On January 5th, 2015, I conducted an inspection of the pesticides spray application records and found the three deficiencies outlined in paragraph 3 of this report. Between the dates April 18, 2014 and November 17, 2014, Mr. Pete Magnuson made three unlicensed pesticides spray applications to the golf course turf at Legacy Hills Golf Club. The details of those pesticide spray applications are outlined in paragraph 5 of this report.



Brian P. Baker
Pesticide Investigator

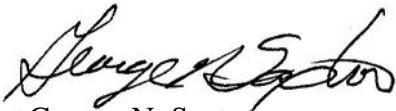
Date: January 7, 2015

Disposition:

- A. Legacy Hills Golf Club and Pete Magnuson were cited for three (3) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticides for hire without having the proper pesticide certification. A civil penalty in the amount of \$750.00 (3 counts x \$250.00 per count) was assessed. However, the

\$750.00 civil penalty was held in abeyance until April 15, 2015, and will not be levied provided Mr. Magnuson becomes properly certified. Consideration was given to the fact Mr. Magnuson cooperated during the investigation. Compliance assistance was rendered for the record keeping violations.

- B. As of August 19, 2015, Mr. Magnuson had not become properly certified. The full amount of the \$750.00 civil penalty was assessed.
- C. As of February 24, 2016, Legacy Hills Golf Club had not paid the civil penalty. The case was forwarded to collections.
- D. Payment of the \$750.00 civil penalty was received from Legacy Hills Golf Club on March 8, 2016. The collection process was suspended.



George N. Saxton
Compliance Officer

Draft Date: August 19, 2015
Final Date: March 30, 2016

CASE SUMMARY

Case #2015/0896

Complainant: Mike Sickels
Gene Sickels
134 East Adams Road
Bronson, Michigan 49028
517-617-1775

Respondent: Mike Young
Stoy Farms
6517 S. 400 W.
Ashley, Indiana 46705
260-475-5963

Private Applicator

1. On, May 11, 2015, the Office of Indiana State Chemist (OISC) received information from John Smith of the Michigan Department of Agriculture. According to Mr. Smith, he received a complaint from Mr. Sickels. He told Mr. Smith Stoy Farms sprayed their cornfield (Indiana side of the Indiana/Michigan border. When it was sprayed, it allegedly drifted onto the complainant's alfalfa field turning the foliage yellow. Mr. Smith advised Mr. Sickels to contact OISC for further follow up.
2. On May 12, 2015, I met with and issued a Notice of Inspection (**NOI**) to the complainant's father/land owner, Gene Sickels. Mr. Sickels told me Stoy Farms applied a pesticide to the cornfield in question on Thursday May 7, 2015, finishing by 1:00pm. He told me he feared the Stoy Farm spray application drifted onto his field. Mr. Sickels said he checked his field on Sunday May 10th. He said it seemed to be more yellow on that day as compared to the date of my visit. He said he was certain of the dates because he immediately printed off weather information from his computer for that particular day (May 7th).
3. I checked the complainant's field. I could see a distinct "yellowing" of the vegetation near the Stoy Farm field. (See photos below):



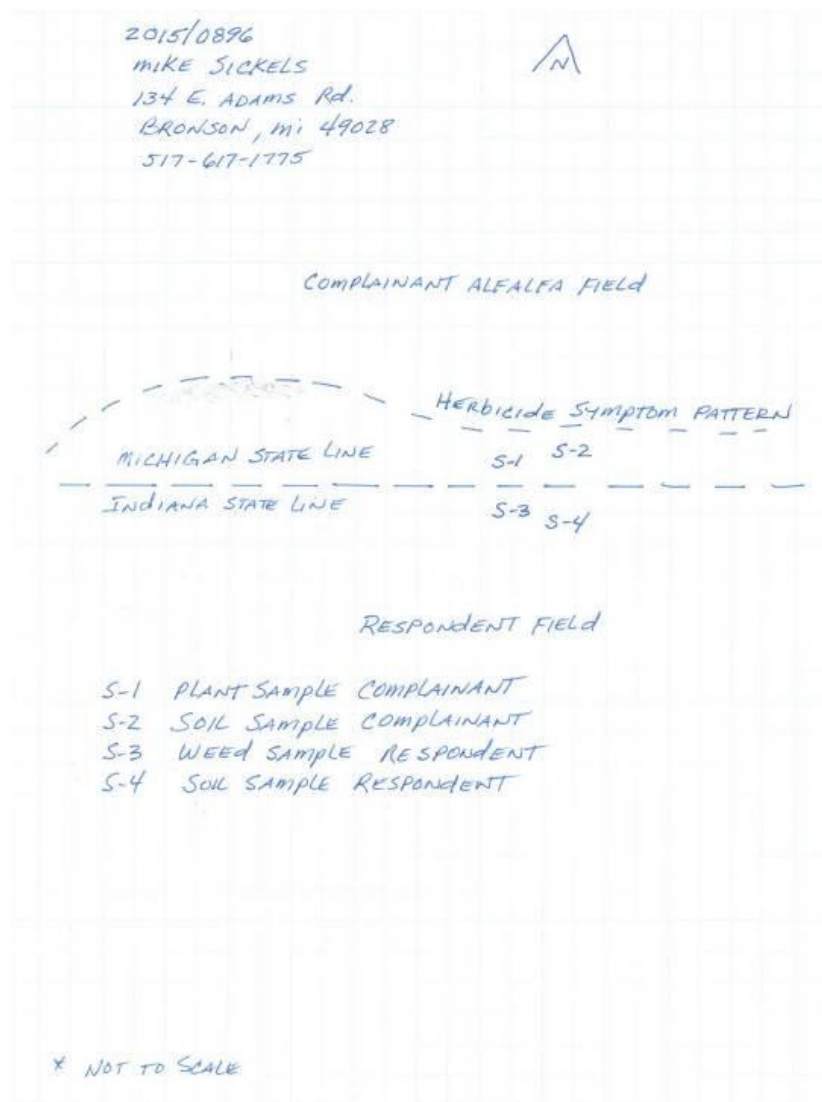
Indiana/Michigan Border looking west



Indiana/Michigan border looking west

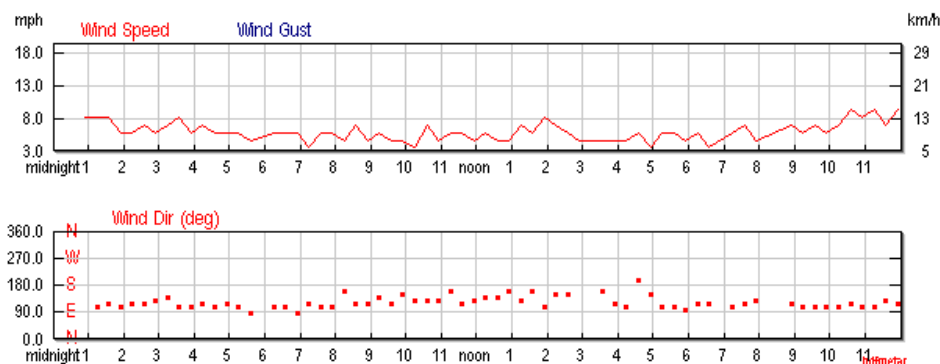
4. I obtained vegetation samples from the complainant's alfalfa field for submission to Purdue Plant and Pest Diagnostic Lab (**PPDL**) for analysis. The following samples were placed in Mylar bags for submission to the **OISC** Residue Lab (see diagram below):

- S-1 plant sample complainant field
- S-2 soil sample complainant field
- S-3 weed sample respondent field
- S-4 soil sample respondent field

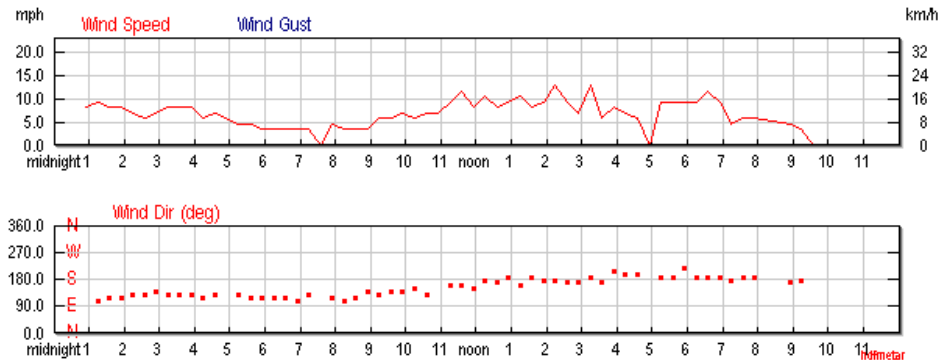


5. On May 12, 2015, I met with Mr. Kevin Stoy of Stoy Farms. I told him of the complaint. He supplied me with the pesticide application records for the field in question. The applicator was Michael Young. He was not available at the time of my visit. According to the pesticide application records, Mr. Young applied a tank mix of **Cinch ATZ** (EPA #352-624; active ingredient: atrazine, s-metolachlor) and **Abundit Extra Herbicide** (EPA# 71368-20; active ingredient: glyphosate) on May 6 through May 8, 2015. He recorded the wind at 4-7 miles per hour out of the south to southeast on May 6th and May 7th. He recorded the wind at 3-7 miles per hour out of the southwest on May 8th.

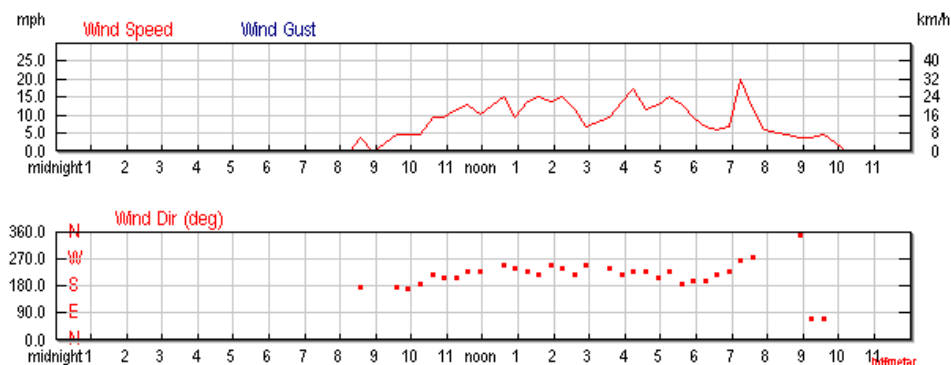
6. I received the following information from Purdue **PPDL**: *“The discoloration and light chlorosis/bleaching at the growing points could be indicative of exposure to glyphosate, although these symptoms could be indicative of a number of stress-related factors as well. Patterns in the field would be best indicator of possible drift occurring.”*
7. I obtained the following weather information from www.wunderground.com for May 6, 2015. The wind was approximately 3-8 miles an hour out of the southeast blowing in a northwesterly direction toward the complainant’s field as reported at Pleasant Lake, Indiana weather station. (see graphs below):



8. I obtained the following weather information from www.wunderground.com for May 7, 2015. The wind was approximately 5-10 miles per hour out of the east and southeast in a westerly and northwesterly direction toward the complainant’s field as reported by Pleasant Lake, Indiana weather station (see graphs below)



9. I obtained the following weather information from www.wunderground.com for May 8, 2015. The wind was approximately 0-10 miles per hour out of the south to southwest in a north to northeasterly direction toward the complainant’s field as reported by Pleasant Lake, Indiana weather station (see graphs below)



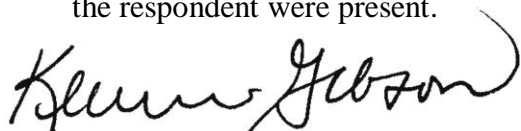
10. I received the following analysis results from the **OISC** Residue Lab:

Sample Number	Sample Description	Test	Result
20150586/S-1	Plant sample	Atrazine	297.0 PPB
	Complainant field	Metolachlor	3.6 PPB
		Glyphosate	422.0 PPB
		Ampa	BDL
20150587/S-2	Soil sample	Atrazine	15.6 PPB
	Complainant field	Metolachlor	10.1 PPB
		Glyphosate	38.7 PPB
		Ampa	214.0 PPB
20150588/S-3	Weed sample	Atrazine	8900.0 PPB
	Respondent field	Metolachlor	941.0 PPB
		Glyphosate	5220.0 PPB
		Ampa	785.0 PPB
20150589/S-4	Soil sample	Atrazine	114.0 PPB
	Respondent field	Metolachlor	684.0 PPB
		Glyphosate	589.0 PPB
		Ampa	946.0 PPB

PPB= Parts Per Billion

BDL= Below Detectable Limits

11. The label for **Cinch ATZ** reads in part, *“To avoid spray drift, do not apply under windy conditions”*.
12. The label for Abundit Extra Herbicide states in part, *“Avoid drift . . . Do not allow the herbicide solution to mist, drip, drift or splash onto desirable vegetation . . .”*
13. In summary, the complainant’s alfalfa field exhibited signs of herbicide exposure along the edge of his and the respondent’s property line. These exposure symptoms appeared only near the property line and not any other places in the complainant’s field as was suggested as possible stress factors. The wind direction as reported by a nearby weather station at time of application favored wind drift onto the complainant’s field. The analysis of the field samples from the complainant’s field indicated the active ingredients from the pesticides applied by the respondent were present.



Kevin W. Gibson
Investigator

Date: February 12, 2016

DISPOSITION:

- A. Mike Young was 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 \$100.00 was assessed for this violation. Consideration was given to the fact this was his second violation of similar nature. See case number 2013/1031.
- B. OISC received a letter dated March 1, 2016, from Mr. Kevin Stoy requesting a further review of this investigation. He stated it was his belief the off-target pesticide drift occurred in 2014 and these pesticide exposure symptoms are from 2014 and not 2015.

C. Another review was performed and a letter sent to Mr. Stoy dated March 28, 2016, advising him that as a result of the review, the preponderance of the evidence still indicated an off-target pesticide drift in 2015


George N. Saxton
Compliance Officer

Draft Date: March 28, 2016

Final Date: June 7, 2016

cc: SmithJ11@michigan.gov

CASE SUMMARY

Case #2015/0995

Complainant: Office of Indiana State Chemist
175 S. University Street
West Lafayette, Indiana 47907
765-494-1585

Respondent: Eric Carnes
Hoosier Property Maintenance
and Snow Removal
1916 S. Packerton Road
Warsaw, Indiana 46580
574-268-8552

**Unlicensed Applicator
Unlicensed Business**

Gary Parker
525 Crest Lane
Warsaw, Indiana 46580
574-549-3740

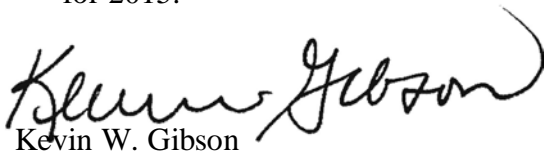
Former Licensed Employee

1. On May 6, 2015, Gary Parker contacted the Office of Indiana State Chemist (OISC) Licensing Section. He told them he left Hoosier Property Maintenance and Snow Removal in the fall of 2014. At the time he was the only licensed pesticide applicator with the company. He stated he saw Mr. Carnes make a pesticide application after he (Parker) left the company. He didn't think the company had another licensed pesticide applicator. Jill Davis of the Licensing Section indicated the business licensed was renewed in April 2015.
2. I made contact Mr. Parker. He explained he had a working agreement with Mr. Carnes in 2014. In the fall of 2014 he asked Mr. Carnes if he wanted the same working agreement for 2015. He said Mr. Carnes told him he or one of his workers planned to take the classes to obtain the pesticide applicator license. Therefore, Mr. Parker would not be needed. In the first few months of 2015, Mr. Parker stated he found out his name was still attached to the business. He didn't give Mr. Carnes permission to do so and he never received his pesticide application license for 2015. He then told me he did some landscaping work for Mr. Carnes for approximately two weeks in June and July 2015. He said he did not make any pesticide applications during that period.
3. On July 9, 2015, I met with and issued a **Notice of Inspection (NOI)** to Eric Carnes. I explained the allegations from Mr. Parker. Mr. Carnes seemed somewhat perplexed. He told me he had employed Mr. Parker through July 2015. He said he had proof of payment. He told me he would send the information once he returned to his office. I requested information concerning any pesticide applications made for 2015 since Mr. Parker claimed he was not employed during 2015. Mr. Carnes said he would comply.
4. I issued an "**Action Order**" to Mr. Carnes. The "**Action Order**" stated "*under I.C. 15-15-5-65 (6), you are ordered not to make pesticide application until properly licensed with the Office of Indiana State Chemist*".

5. I received the following pesticide application information for 2015 from Mr. Carnes. According to the pesticide application information, the following applications were made during 2015:

<u>Date</u>	<u>Customer</u>	<u>City</u>	<u>Product</u>	<u>EPA#</u>
4/19/15	Lee Heyde	Warsaw, Indiana	Fertilizer 13-0-0	
4/25/15	Da-Lite	Warsaw, Indiana	Fertilizer 13-0-0	
5/15/15	Dustin Manns	Warsaw, Indiana	Lesco Three-way	10404-43
5/18/15	Da-Lite	Warsaw, Indiana	Lesco Three-way	10404-43
5/21/15	Tobacco Shop	Warsaw, Indiana	Lesco Three-way	10404-43

6. According to the OISC database, Gary Parker contacted OISC on May 6, 2015, and stated he left Hoosier Property Maintenance and Snow Removal in the fall of 2014. Not having a certified applicator invalidated the pesticide business license of Hoosier Property Maintenance and Snow Removal.
7. According to payment information I received from Hoosier Property Maintenance and Snow Removal for Gary Parker in 2015, Mr. Parker was paid by check on 6/24/15, 7/1/15, 7/8/15 and 7/23/15.
8. In summary, Mr. Carnes claimed Mr. Parker was employed by Hoosier Property Maintenance and Snow Removal through July 2015. However, the payment information he supplied showed only payments for one week in June 2015 and four weeks in July 2015. All fertilizer and pesticide applications were made prior to that payment period. Mr. Parker claimed he never received his pesticide applicator's license for 2015 and was unaware his name was still attached to the business. Mr. Carnes had a Registered Technician license only for 2015.



Kevin W. Gibson
Investigator

Date: January 29, 2016

DISPOSITION: Hoosier Property Maintenance and Snow Removal was cited for five (5) counts of 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 \$1,250.00 (5 counts x \$250.00 per count) was assessed.



George N. Saxton
Compliance Officer

Draft Date: February 23, 2016
Final Date: July 14, 2016

CASE SUMMARY

Case #2015/0997

Complainant: Office of Indiana State Chemist
175 S. University Street
Lafayette, Indiana 47907
800-893-6637

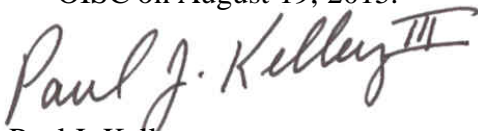
Respondent: Jeremy Wheeler
Anytime Termite & Pest Control
1871 Dixie Highway
Mitchell, Indiana 47446
812-583-7298

Unlicensed Business

1. On December 31, 2014, Anytime Termite & Pest Control failed to renew the applicator and business license for Jeremy Wheeler and Anytime T&PC.
2. On March 11, 2015, a certified letter regarding the failure to renew licenses was received and signed by Jane Earl (Mr. Wheeler's mother). On April 20, 2015, and May 5, 2015, the Office of Indiana State Chemist (OISC) attempted to contact Mr. Wheeler via telephone to no avail. Telephone messages were left on both days.
3. On July 10, 2015, OISC's licensing turned Mr. Wheeler and Anytime T&PC over to OISC's Compliance for investigation.
4. On July 15, 2015, I met with Mr. Wheeler at Arby's located at 3159 IN-37 in Mitchell, Indiana. Mr. Wheeler stated he was unaware his license had not been renewed. Mr. Wheeler stated the address where correspondence was being sent was his mother's residence. Mr. Wheeler stated he was estranged from his mother due to a personal issue and had not received any mail. Mr. Wheeler stated he had performed for hire pesticide work in 2015.
5. Mr. Wheeler was issued a Stop Action Order to cease advertising and applying pesticide for hire without a license. Furthermore, Mr. Wheeler was instructed to submit all invoices for pesticide work performed in 2015.
6. On August 5, 2015, I spoke with Mr. Wheeler regarding his failure to submit invoices. Mr. Wheeler assured me the invoices were in the mail.
7. On August 19, 2015, OISC received a license application and \$90.00 licensing fee for a pesticide business license for Anytime Termite & Pest Control and an applicator license for Jeremy Wheeler.
8. On August 27, 2015, OISC sent certified mail to Anytime Termite & Pest Control notifying them of the need to submit an additional \$90.00 to cover the cost of the late license renewal fee for 2015.

9. On September 3, 2015, I called Mr. Wheeler and left a message regarding not having copies of his invoices for pesticide work performed in 2015. I followed up with a text message to Mr. Wheeler's cell phones requesting invoices. Mr. Wheeler responded to my text claiming he would comply.
10. On September 14, 2015, I sent Mr. Wheeler a text message asking for him to notify me when he mailed the invoices.
11. On September 21, 2015, I sent Mr. Wheeler a text message regarding not receiving his invoices. I gave Mr. Wheeler until September 25, 2015, to comply. Mr. Wheeler responded that he would get the invoices to me.
12. On September 24, 2015, OISC sent certified mail to Anytime Termite & Pest Control notifying them that the \$90.00 checked submitted for licensing fees could not be cashed due to insufficient funds. This mail was returned to OISC on October 20, 2015, marked "unclaimed unable to forward".
13. On September 29, 2015, OISC received correspondence from Anytime Termite & Pest Control containing copies of sixteen (16) invoices for pest control performed in 2015. The following are the dates of pest control services performed by Anytime Termite & Pest Control;

2/19/15	2/27/15	3/10/15	3/13/15	3/19/15
3/20/15	3/29/15	4/20/15	4/22/15	4/23/15
4/25/15	5/2/15	5/12/15	6/8/15	6/15/15
8/4/15				
14. The pesticide application made by Mr. Wheeler of Anytime Termite & Pest Control on August 4, 2015, violated the Stop Action Order issued July 15, 2015.
15. On October 9, 2015, Jeremy Wheeler paid Purdue University \$115.00 to cover the cost of the licensing fee and insufficient funds handling fee for the license application submitted to OISC on August 19, 2015.



Paul J. Kelley
Investigator

Date: September 28, 2015

Disposition:

- A. Jeremy Wheeler was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to comply with a lawful Order of the state chemist by violating the Stop Action Order. A civil penalty in the amount of \$250.00 was assessed for this violation.
- B. Jeremy Wheeler was cited for sixteen (16) 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 \$4,000.00 (16 counts x \$250.00 per count) was assessed.

- C. On November 30, 2015, David Scott, Pesticide Administrator, spoke with Mr. Wheeler by phone. Mr. Wheeler requested more time to pay the civil penalty. Mr. Scott agreed to give Mr. Wheeler until February 15, 2016, to pay the civil penalty.
- D. Mr. Wheeler also requested of Mr. Scott that his business address of record be changed to 1871 Dixy Highway, Mitchell, Indiana 47446.
- E. Since the 2015 licensing year had almost concluded, OISC determined that the \$90.00 licensing fee from Jeremy Wheeler would be applied as the licensing fees for Mr. Wheeler and Anytime Termite & Pest Control for the 2016 licensing year.
- F. The continued validity of the 2016 pesticide applicator and business licenses issued to Jeremy Wheeler and Anytime Termite & Pest Control will be contingent upon payment of the \$4,250.00 civil penalty to OISC on or before the agreed upon date of February 15, 2016.
- G. On January 26, 2016, a certified letter was sent to Mr. Wheeler advising him OISC had been notified that his insurance had been cancelled and as a result, his business license was no longer valid.
- H. As of March 28, 2016, the civil penalty had not been paid. Jeremy Wheeler was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to follow a lawful order of the state chemist. As a result, his certification was revoked and the case was forwarded to the Indiana Attorney General for collection of the \$4,250.00 civil penalty.


George N. Saxton
Compliance Officer

Draft Date: March 28, 2016
Final Date: June 7, 2016

CASE SUMMARY

Case #2015/1059

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, Indiana 47907
800-893-6637

Respondent: Larry Sanders
Valley View Golf Course
6950 West 850 North
Middletown, Indiana 47356
765-354-4653

Unlicensed Applicator

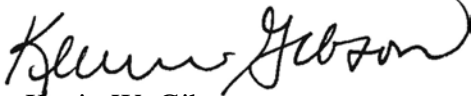
1. On June 18, 2015, I met with issued a Notice of Inspection (NOI) to Jeff Sanders of the maintenance crew during a golf course inspection at Valley View Golf Course. During the inspection Mr. Sanders told me Larry Sanders had been making all of the pesticide applications to the golf course. He told me Larry Sanders was not a licensed applicator. However, he had not made any applications since December 2014. He said he (Jeff Sanders) was in the process of obtaining his pesticide application license. He had passed his Core examination but had not taken his category 3B examination.
2. Mr. Sanders gave me copies of pesticide application for the last two years. According to the records, Larry Sanders made the following applications for the Valley View Golf Course:

<u>Date</u>	<u>Product</u>	<u>EPA#</u>
5/8/14	Manicure 6FL	60063-7-10404
5/21/14	Proxy	432-1230
6/26/14	Spectator Ultra 13	100-741-10404
6/5/14	Manicure 6FL	60063-7-10404
7/7/14	Quinclorac	228-592
7/17/14	Manicure 6FL	60063-7-10404
7/30/14	Manicure 6FL	60063-7-10404
8/14/14	Manicure 6FL	60063-7-10404
8/28/14	Secure	71512-20-100
9/8/14	Manicure 6FL	60063-7-10404
9/30/14	Manicure 6FL	60063-7-10404

3. I made contact with Jill Davis of the OISC Licensing Section. Ms. Davis confirmed Valley View Golf Course did not have a licensed pesticide applicator. She also confirmed Jeff Sanders had passed the core examination for obtaining his pesticide license. However, he had

not passed the category 3B examination as required for obtaining his pesticide license for the golf course.

4. I met with Larry Sanders. I issued him a "Stop Action Order" which stated "Under I.C. 15-16-5-65(6), you are ordered to cease all pesticide applications until properly licensed by the Office of Indiana State Chemist.
5. In summary, Larry Sanders is in violation for making pesticide applications without a license on eleven (11) different dates.

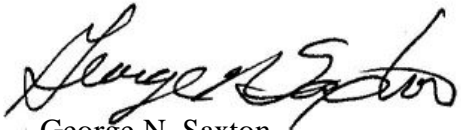


Kevin W. Gibson
Pesticide Investigator

Date: December 7, 2015

DISPOSITION:

- A. Valley View Golf Course was cited for eleven (11) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticides to a golf course without having a certified applicator. A civil penalty in the amount of \$2,750.00 (11 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$1,375.00. Consideration was given to the fact Valley View Golf Course cooperated during the investigation; there was no previous history of similar nature and no restricted use pesticides were involved.
- B. On January 4, 2016, OISC received a letter from Valley View Golf Course requesting a formal hearing. David Scott, Secretary to the Indiana Pesticide Review Board, was notified of this request.
- C. On January 25, 2016, an informal conference was held at Valley View Golf Course.
- D. On March 10, 2016, Jeff Sanders received his certification to apply pesticides at a golf course. As a result of corrective action being taken, the civil penalty was further reduced to \$412.50.



George N. Saxton
Compliance Officer

Draft Date: March 14, 2016
Final Date: April 4, 2016

CASE SUMMARY

Case #2015/1119

Complainant: Office of Indiana State Chemist
175 S. University Street
West Lafayette, Indiana 47907
765-494-1585

Respondent: Rozzi's Greenhouse
Bill Rozzi
2398 Burlington Avenue
Logansport, Indiana 46947
574-727-1750

Licensed Pesticide Applicator

1. On June 30, 2015, I, Agent Kevin Gibson of the Office of Indiana State Chemist (OISC), conducted a **Worker Protection Standard (WPS)** inspection at Rozzi's Greenhouse in Logansport, Indiana.
2. I met with and issued a **Notice of Inspection (NOI)** to owner/pesticide applicator Bill Rozzi. He stated he is the only pesticide applicator. He handled all pesticides and made all pesticide applications at the location. He said the last pesticide application he made was **Banrot** (EPA# **58185-10**; active ingredient; **etridiazole and thiophanate-methyl**) on May 22, 2015.
3. The Banrot label states *"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), notification 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. Mr. Rozzi told me he had never conducted any **Pesticide Safety Training** for his employees. He also told me he had never used **Central Posting** for safety posters or emergency medical facility information. I checked his pesticide application records. The records did not contain the required information (location, date, time, active ingredient, EPA# and REI).
5. Mr. Rozzi told me he (as the licensed applicator) verbally notified his employees prior to making any pesticide applications. Access to application areas was always restricted as he made them after the business was closed for the day and the employees left the premises.
6. I checked and found the **Personal Protective Equipment (PPE)** for the most restrictive pesticide label to be in good working order. He told me he cleaned the **PPE** after each pesticide application.

7. Mr. Rozzi told me he did not have the required soap, water and paper towels for workers should there be a pesticide exposure incident. If any exposures were to occur, then they would be reported to him. If any medical assistance was required, then he would call an ambulance for treatment.
8. In summary, Mr. Rozzi did not provide **Pesticide Safety Training** or **Central Posting** for his employees as required by the **Worker Protection Standards**.



Kevin W. Gibson
Investigator

Date: February 4, 2016

DISPOSITION: Rozzi's Greenhouse was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the Worker Protection Standard. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: February 23, 2016
Final Date: March 30, 2016

CASE SUMMARY

Case #2015/1140

Complainant: Meagan Holland
6870 S. 200 E.
Markleville, Indiana 46056
765-810-3271

Respondent: Timothy Perry
Picket Fence Property Company
501 W. 10th Street
Anderson, Indiana 46016
202-243-6222

Licensed Applicator
Licensed Business

Application Location: Work One
Indiana Department of Work
Force Development
Greg Richmond
222 E. 10th Street, Suite B
Anderson, Indiana 46016
765-642-4981

Supervisor

1. On July 18, 2015, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) and stated a pesticide application had taken place at her place of employment. She stated she was pregnant and did not believe the application was performed correctly since she has a white film all over her desk.
2. On July 21, 2015, I met with the complainant's supervisor, Greg Richmond. Mr. Richmond told me Vincent Smith, Deputy Director, ordered a pesticide application due to a recent bedbug and flea outbreak. Timothy Perry of Picket Fences Property Company was hired to make the application.
3. I met with and issued a Notice of Inspection (NOI) to the complainant, Meagan Holland. She told me she came to work on July 15th and noticed a "white film" on the office equipment in her cubicle while she was eating her breakfast. She said she eventually spoke to her supervisor who told her a pesticide application was made for bed bugs. She said he further told her the "white film" was from the "hard" water used in the chemical mix. She said her biggest concern was her pregnancy and toxicity from the chemical.
4. I checked the complainant's office cubicle. I did find what appeared to be a "white film" substance on the top of her desk and cabinet fronts. (See photos below):

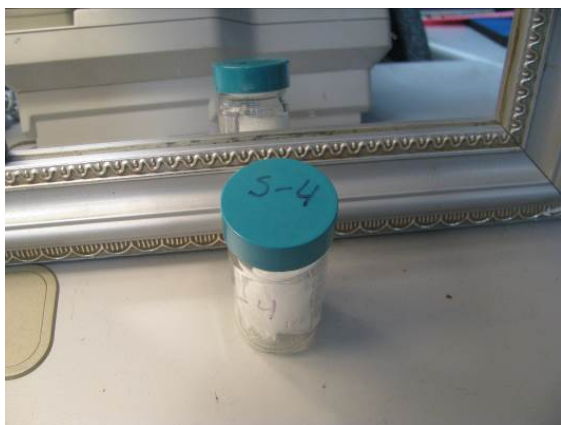


Desk Drawer Front

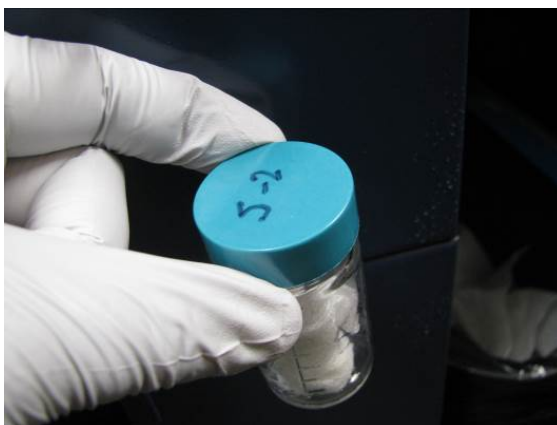


File Cabinet Front

5. I obtained the following swab samples from the desk drawers, desk top and cabinet drawers in the complainant's office cubicle for submission to the OISC Residue Lab for analysis (See photos below):



Desk Top



File Cabinet Front

- S-1 Swab Blank
- S-2 Swab of File Cabinet Drawer
- S-3 Swab Top of File Cabinet
- S-4 Swab of Mirror on Desk
- S-5 Swab of File Cabinet Drawer

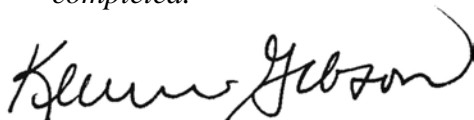
6. On July 22, 2015, I met with the pesticide applicator, Tim Perry. Mr. Perry told me he applied a tank mix of **Transport GHP Insecticide** (EPA #8033-96-279; active ingredient: acetamiprid, bifenthrin) and **NyGuard IGR Concentrate** (EPA #1021-1603; active ingredient: pyriproxyfen), using a one gallon tank with a fine mist setting. He said he did spray the file cabinets. The water for the tank mix came from the building. He told me he sprayed all cubicles because there was a complaint of bed bugs and fleas.

7. I received confirmation of the pesticide application from the OISC Residue Lab:

Sample Number	Sample Description	Test	Result
20150926/S-1	Blank Swab	Bifenthrin	BDL
		Pyriproxyfen	BDL
20150927/S-2	Swab- File Cabinet Drawer	Bifenthrin	22900.0 NG/S
		Pyriproxyfen	2330.0 NG/S
20150928/S-3	Swab- Top File Cabinet	Bifenthrin	1130.0 NG/S
		Pyriproxyfen	BDL
20150929/S-4	Swab- Mirror on Desk	Bifenthrin	12200.0 NG/S
		Pyriproxyfen	153.0 NG/S
20150930/S-5	Swab- File Cabinet Drawer	Bifenthrin	43800.0 NG/S
		Pyriproxyfen	5780.0 NG/S

NG/S= Nanograms Per Swab BDL= Below Detectable Limits

8. I checked the label for **Transport GHP Insecticide**. The **Transport GHP Insecticide** was labeled for indoor use for fleas. The label states *“Do not allow people or pets to contact contaminated areas or to reoccupy contaminated areas of the structure until the cleanup is completed.”*



Kevin W. Gibson
Investigator

Date: February 17, 2016

DISPOSITION: Timothy Perry was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding re-occupancy of an area before cleanup. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm.



George N. Saxton
Compliance Officer

Draft Date: March 7, 2016
Final Date: March 30, 2016

CASE SUMMARY

Case #2015/1154

Complainant: Office of the Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, IN 47907
800-893-6637

Respondent: ProCut Lawn & Landscape
Justin Ford
6268 W. Stoner Drive
Greenfield, IN 46140
317-894-1577

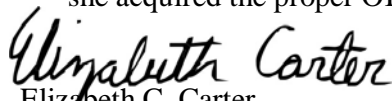
Certified Applicator

1. On July 22, 2015, I observed a female worker wearing a back sprayer applying what appeared to be a herbicide to the entrance of a neighborhood common area at the corner of 62nd Street and Georgetown Road in Indianapolis, Indiana.



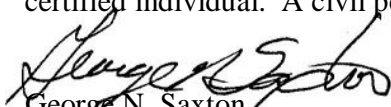
Fig 1: applicator

2. I then initiated a routine use inspection and learned the following.
 - The applicator in the photo was Cheryl Jones. She worked for Pro Cut Lawn and Landscape, a licensed business with the OISC.
 - Mrs. Jones did not have a pesticide applicator's license.
 - She was applying Roundup Quik Pro (EPA Registration Number 524-535) to the landscape bed.
3. I spoke with her supervisor, Mr. Justin Ford, on the phone and explained the situation to him. I also discussed with him the licensing process. He indicated that Mrs. Ford would acquire a license soon.
4. I then issued Mrs. Jones an *Action Order* stating she could not apply any pesticides for hire until she acquired the proper OISC license.


Elizabeth C. Carter
Investigator

Date: July 22, 2015

DISPOSITION: Justin Ford 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: February 22, 2016
Final Date: March 30, 2016

CASE SUMMARY

Case #2015/1173

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, IN 47907
800-893-6637

Respondent: Keep It Cut Lawn Care Not Licensed
3506 Metro Park Drive North
Fort Wayne, IN 46818
260-490-6807

Applicator: Kerry Rentschler Not Licensed
7040 S. CR800E – 92
Fort Wayne, IN 46814
260-445-7257

1. The Office of Indiana State Chemist received anonymous information indicating Keep It Cut Lawn Care may have used an unlicensed employee to make for-hire pesticide applications. OISC records indicated certified applicator Dan Rittner was associated with the business.
2. On July 29, 2015, I went to Keep It Cut and spoke with newly-hired manager, Todd Hepler and office manager Misty Mueller. The owner of Keep It Cut, and Abracadabra Cleaning, Nedal Anabtawi, was not there. According to Ms. Mueller, the company's only certified applicator, Dan Rittner, left the company on May 12, 2015. Kerry Rentschler, whose resume indicated he had a current turf applicator license from the OISC, was then hired and made herbicide applications for a short period in late June. Mr. Rentschler was reportedly let go when he was not able to produce a valid applicator license. I informed Ms. Mueller that without a certified applicator, the pesticide business license was invalid and I needed copies of all records for Mr. Rentschler's pesticide applications. She stated she would compile the paperwork she had been given, but indicated few were turned in and many were incomplete.
3. I contacted Mr. Rentschler via email and later spoke with him about his employment at the company. He indicated he was licensed with Shades of Green, a company he ran until 2011. He stated he answered a Keep It Cut ad for an applicator and started in late June, 2015. Mr. Rentschler indicated he told the owner he needed to get his license reactivated, but he was sent out to spray anyway. He reportedly worked for two weeks, making herbicide-only applications with Lesco Three-Way, and was let go as soon as the applications were caught up. Mr. Rentschler stated he knew he needed a license and, while he was not proud of spraying without a license, he felt if he didn't do the work, it would have been done by someone who was inexperienced. He indicated he sent a list of the properties he sprayed to the OISC but the list was not received.

4. On August 13, 2015, I went to Keep It Cut and Ms. Mueller provided what few application records she was able to find. She indicated Mr. Rentschler worked by himself during his short employment and was not good about turning in paperwork, citing that she was not sure how to bill customers whose properties apparently received weed control but not fertilizer. The company was using TruGreen for further applications until it could get properly licensed. Mr. Anabtawi was not there, but Ms. Mueller provided a written statement he had allegedly prepared. In it, he indicated Mr. Rentschler told him he had an applicator license but he was "waiting on the paperwork". When he could not produce paperwork or a license, he was terminated.
5. According to the limited application records obtained from Keep It Cut, Mr. Rentschler applied herbicide to customer properties on June 25, 26 and 29 in 2015. As of February 2016, the company was not licensed but Mr. Anabtawi was in the process of taking the Category 3b (turf) exam to become certified so he could obtain a pesticide business license.


Andrew R. Roth
Investigator

Date: February 25, 2016

DISPOSITION: Keep It Cut Lawn Care was cited for three (3) 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 \$750.00 (3 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$412.50. Consideration was given to the fact Keep It Cut Lawn Care cooperated during the investigation and there was no previous history of similar nature.


George N. Saxton
Compliance Officer

Draft Date: March 7, 2016

Final Date: April 4, 2016

CASE SUMMARY

Case #2015/1181

Complainant: Andrea Alter-Dunn
10391 S 700 W
Fairmount, IN 46928
765-206-0136

Respondent Dale Burkey
Woodley Aerial Spray, Inc.
10629 2550 North Avenue
Walnut, IL 61376
815-379-9300

Certified Applicator

1. On July 30, 2015, I received a call from Mrs. Andrea Alter-Dunn. She stated she had received my name from a Paul VanOver of the Federal Aviation Administration (FAA) in Plainfield, IN. She stated on July 29, 2015, at approximately 1:30 pm, while she was inside of her residence, she heard an airplane which sounded extremely close. She stated she went outside and observed a "crop duster" airplane pass over her residence several times from east to west. She stated she felt the airplane was flying dangerously low over her residence. She stated she took video footage and photographs of the plane from her yard. She further stated she was standing in her back yard, approximately 50 yards west of the cornfield in which the plane was making a spray application. She stated when the plane flew over her; she could feel the spray from the aerial application hit her. She stated she further saw it on the leather case of her cell phone she was using to take the photographs. She stated she then contacted the FAA and was advised to call me regarding the alleged pesticide drift.
2. I advised Mrs. Alter-Dunn to collect any clothing she was wearing at the time she was allegedly sprayed, which had not been laundered, along with her cell phone case, and place them in separate bags. I then made an appointment to meet with Mrs. Alter-Dunn at her residence. I further advised her I would be investigating the alleged pesticide drift and any pesticide use violation. I advised her any questions she had regarding the altitude of the plane would be the jurisdiction of the FAA. She advised me the corn field which was being sprayed was farmed by Richey Farms.
3. On August 3, 2015, I met with Mrs. Alter-Dunn at her residence. She provided me with the articles of clothing along with her cell phone case. I placed the clothing into a Mylar bag and labeled it. I then collected a swab sample from her cell phone case. I obtained a written statement from Mrs. Alter-Dunn, which is in this case file. I also asked her where exactly she was standing when she was allegedly sprayed. She showed me the location in the back yard, which was close to a light pole. I asked Mrs. Alter-Dunn if she had applied any pesticides to her property. She stated the week of July 27, 2015; they had applied Ultra Kill Weed and Grass Killer EPA Reg. #67760-49-9688 with the active ingredient glyphosate.

4. I then took photographs of the area and collected soil and vegetation samples from the target corn field as well as soil and vegetation samples from Mrs. Alter-Dunn's property. I collected vegetation samples from the ground around the area Mrs. Alter-Dunn stated she was standing. I also collected swab samples from the light pole near the location she was standing as well as swab samples from the east and west ends of her garage and the NE corner of her house. All of the samples were labeled and submitted to the Office of Indiana State Chemist (OISC) residue lab. I completed a diagram indicating the location of the sample collections. The diagram is in this case file. The following photographs indicate the location of the Alter-Dunn property in relationship to the target corn field. Photograph #1 is the view from the west and photograph #2 is the view from the east.



photograph #1



photograph #2

5. I contacted Mr. Matt VanOsdell of Co Alliance-Herbst. He stated they provided Quilt Xcel fungicide for the aerial pesticide application made to the target corn field. He stated Woodley Aerial Spray, Inc. out of Illinois was the aerial applicator company used for that application.
6. I then contacted Woodley Aerial Spray, Inc and learned Mr. Dale Burkey was the aerial applicator who made the pesticide application on July 29, 2015. I checked the OISC database and found Woodley Aerial Spray, Inc is a licensed pesticide business in the State of Indiana. I also found Mr. Dale Burkey is a licensed category 11 aerial applicator in the State of Indiana. I sent a Pesticide Investigation Inquiry (PII) to Mr. Burkey via certified mail. He received the PII and completed it and returned it to me. The PII confirmed Mr. Burkey had made an aerial pesticide application to the target corn field on July 29, 2015. The PII further confirmed he had applied Quilt Xcel fungicide EPA Reg. #100-1324 with the active ingredients azoxystrobin and propiconazole. The PII is in this case file.
7. I researched the label for Quilt Xcel fungicide and it states on page 4 under directions for use, *do not apply this product in a way that will contact workers or other persons, either directly or through drift.*
8. I researched the Weather Underground website for the weather conditions at the nearest weather reporting station to Mrs. Alter-Dunn's property on July 29, 2015. The website indicated the temperature on the date of the aerial pesticide application was 84.2 degree F. The winds were NW at 9.2 mph. A copy of the weather report is in this case file.

9. On August 24, 2015, I received a report from the OISC residue lab. The following table indicates the results of the report. NG/S = nanograms /swab PPB = parts per billion

sample analyzed	active ingredient (s)	amount detected
complainant's clothing	azoxystrobin / propiconazole	876000.0 NG/S / 732000.0 NG/S
vegetation complainant's property	azoxystrobin / propiconazole	2460.0 PPB / 1300.0 PPB
swab light pole complt's property	azoxystrobin / propiconazole	2160.0 NG/S / 2990.0 NG/S
swab complt's cell phone case	azoxystrobin / propiconazole	792.0 NG/S / 504.0 NG/S
swab west end of complt's garage	azoxystrobin / propiconazole	624.0 NG/S / 52.0 NG/S
swab east end of complt's garage	azoxystrobin / propiconazole	46.8 NG/S / 119.0 NG/S
swab NE corner of house	azoxystrobin / propiconazole	116.0 NG/S / 54.2 NG/S

10. The active ingredients azoxystrobin and propiconazole both found in Quilt Xcel fungicide where detected by the OISC residue lab in all samples collected and analyzed from the complainant's property and from the clothing she was wearing. These active ingredients were not in the product applied to the property by the complainant. The results of the residue lab indicates the active ingredients found in Quit Xcel fungicide from the aerial pesticide application did contact the complainant either directly or through drift, which is a violation of the pesticide label.



Robert D. Brewer
Investigator

Date: December 14, 2015

DISPOSITION: Dale Burkey was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to person(s). A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm.



George N. Saxton
Compliance Officer

Draft Date: December 22, 2015

Final Date: June 7, 2016

CASE SUMMARY

Case #2015/1251

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, Indiana 47907
(765) 494-1585

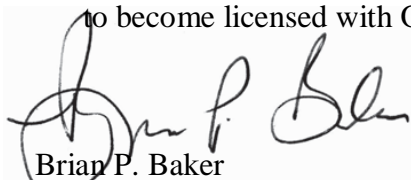
Respondent:	Donald P. Sella Mink Lake Golf Course & Park 636 N. Calumet Ave. Valparaiso, Indiana 46383 (219) 462-2585	Owner
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1. On September 1, 2015, I, Agent Brian Baker of OISC conducted an inspection of Mink Lake Golf Course and Park. The inspection covered the following areas:
 - Certification and Licensing
 - Records Keeping
 - Storage and Disposal of pesticide products
2. I met with the respondent at the Mink Lake facility. I identified myself verbally and with OISC credentials and issued a notice of inspection and explained the scope of OISC inspection. I asked the respondent if he made pesticide applications on his golf course and he said that he did apply fungicides and insecticides to the golf course turf. I asked the respondent if he was licensed with OISC and he said he was not. The respondent told me he had an OISC license back in the 80's. I provided a copy of the law which outlines the requirements for golf courses to the respondent and issued a Stop Action Order as well.
3. I checked the golf course pesticide application records next. The respondent did not have completed records as required but we were able to collect the following information pertaining to the past two years pesticide applications made at Mink Lake Golf Course. The pesticide products used in this case were:
 - Mainsail, EPA Reg. #72112-5, active ingredient=chlorothalonil 82.5%
 - Insecticide, (no record kept) the respondent remembered applying some type of insecticide on a couple of occasions.

Date/Time	Target Pest	Area treated	Pesticide applied	Amount used
May 7, 2014	Dollar spot	All greens	*Fungicide	5# per 45 gallons
June 16, 2014	Dollar Spot	All greens	*Fungicide	“
June 29, 2014	Dollar Spot	All greens	*Fungicide	“
July 8, 2014	Dollar Spot	All Greens	*Fungicide	“
July 18, 2014	Dollar Spot	All Greens	*Fungicide	“
August 13, 2014	Dollar Spot	All Greens	*Fungicide	“
August 20, 2014	Dollar Spot	All greens	*Fungicide	“
May 21, 2015	Dollar Spot	All greens	*Fungicide	“
June 9, 2015	Dollar Spot	All Greens	*Fungicide	“
June 24, 2015	Dollar Spot	All Greens	*Fungicide	“
July 15, 2015	Dollar Spot	All Greens	*Fungicide	“
July 28, 2015	Dollar Spot	All Greens	*Fungicide	“
August 25, 2015	Dollar Spot	All Greens	*Fungicide	“

*Fungicide=Mainsail, EPA Reg# 72112-5, active ingredient=chlorothalonil 82.5%

4. I returned to the Mink Lake Golf Course on Friday Sept. 4, 2015, and checked the completed records for the pesticide applications listed on the chart in paragraph 3. Mr. Sella had completed records for the applications made and will now pursue proper licensing with OISC. Mr. Sella will not make pesticide applications until he is properly licensed through OISC. I provided an information package to Mr. Sella complete with website links for “How to become licensed with OISC”.

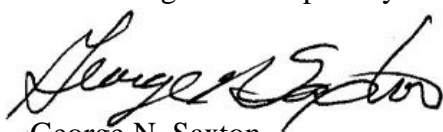


Brian P. Baker
Investigator

Date: September 14, 2015

DISPOSITION: Mink Lake Golf Course & Park was cited for thirteen (13) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticides to a golf course without having a certified applicator. A civil penalty in the amount of \$3,250.00 (13 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$2,437.50. Consideration was given to the fact Mr. Sella cooperated during the investigation. Consideration was also given to the fact this was Mink Lake Golf Course & Park’s second violation. See case number 2010/1185.

As of March 31, 2016, Mink Lake Golf Course & Park had not paid the civil penalty. The case was forwarded to the Office of Indiana Attorney General for collection of the unmitigated civil penalty amount of \$3,250.00.



George N. Saxton
Compliance Officer

Draft Date: September 25, 2015
Final Date: March 31, 2016

CASE SUMMARY

Case #2015/1314

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, IN 47907
800-893-6637

Respondent: Rockney Lee Alting
Altimate Lawnscape
1675 N 1275 W
Battleground, IN 47920
765-564-9103

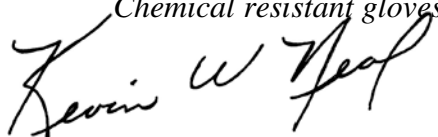
Certified Applicator

1. On September 16, 2015, I observed Mr. Alting in the 3900 block of Rushgrove Drive, Lafayette, Indiana, making an application of what was later determined to be Amine 400 2,4-D Weed Killer (EPA Reg. #2217-2) active ingredient 2,4-D. Mr. Alting was not wearing eye protection nor did he have long sleeves. See Figure One



Figure One

2. The label for Amine 400 2,4-D Weed Killer states, *"All mixers, loaders, applicators and other handlers must wear: Long sleeve shirt and long pants, Shoes plus socks, and Chemical resistant gloves, protective eyewear..."*

A handwritten signature in black ink that reads 'Kevin W. Neal'.

Kevin W. Neal
Investigator

Date: September 17, 2015


DISPOSITION:

- A. Rockney Lee Alting was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding use of personal

protective equipment. A civil penalty in the amount of \$50.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm.

B. As of March 8, 2016, the civil penalty had not been paid. Rockney Lee Alting was also cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to follow a lawful order of the state chemist or the board. His license was suspended until such time as the civil penalty was paid.

C. Payment of the \$50.00 civil penalty was received on March 29, 2016. The license for Rockney Lee Alting was reinstated.


George N. Saxton
Compliance Officer

Draft Date: March 8, 2016
Final Date: March 31, 2016

CASE SUMMARY

Case 2015/1338

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, Indiana 47907
(765) 494-1585

Respondent: Rural King
2401 E. Wabash Street
Frankfort, Indiana
(765) 659-9321

1. On September 29, 2015, I Agent Brian Baker of OISC conducted a Market Place Inspection of the Rural King store listed as the respondent in this case.
2. I met with the store assistant Manager Brandon Jewell. I identified myself verbally and with OISC credentials. I explained the scope of a Market Place Inspection and issued a Notice of Inspection. I was pointed to the areas of the store where pesticide products were stored and displayed for sale. I checked all the pesticide products displayed for sale in the store and found all to be properly registered, properly labeled and free of leaks.
3. I purchased a 40 oz. bottle of **Bayer Advanced Complete Brand Insect for Soil and Turf** (concentrate) EPA Reg. #72155-29, active ingredient=beta cyfluthrin .36%, imidacloprid .72%. The purchased pesticide was tagged and turned into the OISC Formulation Laboratory for analysis. The store manager Brandon Jewell signed the Pesticide Sample Collection Report acknowledging the purchase.
4. I checked the seed and feed storage/display areas and observed several tamper resistant bait stations for rodenticide. While checking the bait stations, I located one which had been wedged between two wooden pallets (figs. 1-3). It appeared the force applied in the placement of the pallet resulted in forcing the lid of the bait station open, exposing the rodenticide. The pesticide product placed in the bait stations by store Management personnel is:
 - **Motomco Tomcat All-Weather Bait Chunx**, EPA Reg. #12455-80-3240, active ingredient=diphacinone .005%



Fig. 1

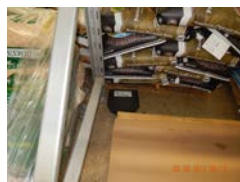


Fig. 2



Fig. 3

- Figures 1-3 are a feed storage and display area in the Rural King listed as the respondent in this case.
5. I showed Mr. Jewell the broken bait station with the exposed rodenticide. The bait station was collected up and properly disposed of. I told Mr. Jewell the easily accessible rodenticide was a violation of the label directions for the pesticide product listed in paragraph 4 of this report. I

pointed out the label for Tomcat All Weather Bait Chunx was very specific about keeping the rodenticide out of the reach of children and pets. NOTE: *The Rural King Stores allow customers to bring their pets into the store while shopping.*

6. The label for Tomcat All Weather Bait Chunx reads in part:

KEEP OUT OF THE REACH OF CHILDREN
CAUTION

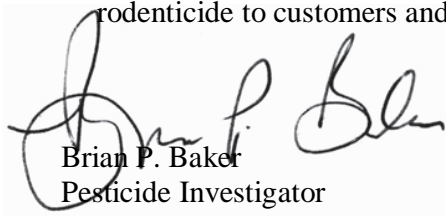
IMPORTANT: "Do not expose children, pets, or other nontarget animals to rodenticides. To help prevent accidents":

2. "Apply bait in locations out of the reach of children, pets, domestic animals and nontarget wildlife, or in tamper resistant bait stations. These stations must be resistant to destruction by dogs and by children under six years of age, and must be used in a manner that prevents such children from reaching into bait compartments and obtaining bait".

PRECAUTIONARY STATEMENTS
HAZARDS TO HUMANS AND DOMESTIC ANIMALS
CAUTION

"Keep away from humans, domestic animals and pets. If swallowed, this material may reduce the clotting ability of the blood and cause bleeding".

7. In this case, Management employees of the Rural King store listed as the respondent in this case, made a pesticide application using the pesticide product (rodenticide) listed in paragraph 4 of this report. The rodenticide was placed in a tamper resistant bait station and it appeared an employee placing a wooden pallet of feed product in place with a pallet jack or forklift, wedged the bait station between two wooden pallets which caused the plastic lid to break open and expose the rodenticide to customers and their pets. The store management corrected the violation on the spot.



Brian P. Baker
Pesticide Investigator

Date: September 30, 2015

DISPOSITION: Rural King was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the secure placement of a rodenticide. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm.

As of March 9, 2016, Rural King had not paid the civil penalty. The case was forwarded to collections.

Payment of the \$250.00 civil penalty was received from Rural King on March 22, 2016. The collection process was suspended.



George N. Saxton
Compliance Officer

Draft Date: October 9, 2015
Final Date: March 30, 2016

CASE SUMMARY

Case #2015/1406

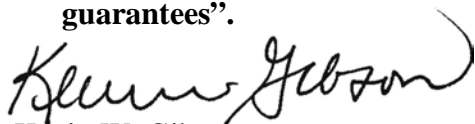
Complainant: Office of Indiana State Chemist
175 S. University Street
Lafayette, Indiana 47907
800-893-6637

Manufacturer: True Value
2740 N. Clybourn Avenue
Chicago, Illinois 60614

True Value Company
8600 West Bryn Mawr Avenue
Chicago, Illinois 60631
773-695-5654

Dealer: Akard True Value Hardware
26 Boone Village Shopping Center
Zionsville, Indiana 46077

1. On September 28, 2015, I, agent Kevin Gibson of the **Indiana State Chemist Office (OISC)**, conducted a marketplace inspection at Akard True Value Hardware store in Zionsville, Indiana. I met with and issued a **Notice of Inspection (NOI)** to the store manager, Toni Peart.
2. I sampled two (2) pesticide products. I assigned sample # **2015-0801** to **Wasp and Hornet Insecticide (EPA #10807-196-4170 active ingredient: permethrin, tetramethrin, peperonyl butoxide)** and sample # **2015-0803** to **Green Thumb Ready-To-Use Garden and Home Insect Control (EPA #4-406-85925; active ingredient: permethrin), Lot #1404223676 and EPA Establishment #4-NY-1** for submission to the **OISC Formulations Lab** for analysis. Both products were registered in Indiana.
3. I received the following information from the **OISC Formulations Lab: Green Thumb Ready-To-Use Garden and Home Insect Control** analysis indicated "**permethrin 0.02% guarantee; 0.0045% found**" "**adulterated- this product fails to meet its component guarantees**".



Kevin W. Gibson
Investigator

Date: February 22, 2016

DISPOSITION: True Value was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing an adulterated pesticide. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: March 2, 2016
Final Date: July 15, 2016



Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

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

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

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

PESTICIDE FORMULATION REPORT

INVESTIGATOR KEVIN GIBSON	DATE SAMPLED 9/28/2015	COUNTY	INDIANA REG. NO. 2013074994	SAMPLE NO. 2015 - 0803
CASE NO. 20151406	CONTAINER/SAMPLE SIZE 32 OZ / 32 OZ	NO. SAMPLED 1	TYPE	REPORT DATE 02/12/2016
PRODUCT NAME GREEN THUMB READY-TO-USE GARDEN & HOME INSECT CONTROL				
LOT NUMBER 1404223676		EPA REG. NO. 4 - 406 - 85925		EPA EST. NO. 4-NY-1
MANUFACTURER OR REGISTRANT TRUE VALUE 2740 N. CLYBOURN AVE. CHICAGO IL 60614		DISTRIBUTOR		
DEALER AKARD TRUE VALUE HARDWARE 25 BOONE VILLAGE SHOPPING CENTER ZIONSVILLE IN 46077		SAMPLED IN POSSESSION OF		
SHIPMENT DATA				
DATE	QUANTITY	INVOICE NO.	NO. ON HAND	
ACTIVE INGREDIENT			%GUARANTEE	%FOUND
PERMETHRIN			0.02	0.0045 *
REMARKS *ADULTERATED - THIS PRODUCT FAILS TO MEET ITS COMPONENT GUARANTEE(S). WE CALL THE REGISTRANT'S ATTENTION TO THE REPORTED VIOLATION. WE REQUEST THE REGISTRANT TO ADVISE THIS OFFICE IN WRITING OF COURSE OF CORRECTIVE ACTION BY 03/04/2016. WE REQUEST THE DEALER TO REMOVE THE MATERIAL FROM SALE PENDING CORRECTIVE ACTION BY THE REGISTRANT. THIS LABORATORY WILL RETAIN A SUBSAMPLE FOR 30 DAYS.				

CASE SUMMARY

Case #2016/0252

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, Indiana 47907
(765) 494-1585

Respondent: Rural King
1807 N. Broadway Avenue
Greensburg, Indiana
(812) 663-8200

1. On October 9, 2015, I, Agent Brian Baker of OISC, conducted a Market Place Inspection at the Rural King Store listed as the respondent in this case.
2. I met with store manager Debbie Clemons. I identified myself to her verbally and with OISC credentials. I stated the purpose of my visit and issued a Notice of Inspection. I told Mrs. Clemons I would be checking pesticide products offered for sale in the store and I would also be checking the store's pesticide program, specifically the use of rodenticides. Mrs. Clemons told me the staff at the store placed the rodenticide in bait stations both inside and outside the business.
3. I started the Market Place Inspection by checking the pesticide storage and display area in the farming section. I located five containers, four without the label booklet and one with no label at all (figs 1-3) that had a sales sticker below indicating it was 2,4-D ester gallon LV4. I removed the items from the display shelf and they were taken into a storage area. The container with no labeling was cross-checked by lot# and a new label was placed on it. The booklets for the other four will have to be sent for.



Fig. 1



Fig. 2



Fig. 3

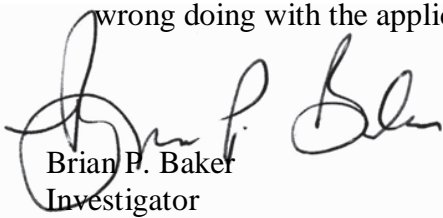


Fig. 4

- Figure 1 is the pesticide product container with no labeling.
 - Figure 2 is three pesticide product containers with back labels and no label booklets.
 - Figure 3 is a pesticide product container without the label booklet.
 - Figure 4 is a bird feeder used for dispensing rodenticides.
4. The store Managers and personnel worked quickly to correct the display of improperly labeled pesticide. I checked the rodenticide bait stations in the feed and seed areas and found

all to be in good working order. While checking the perimeter of the storage area, I located two metal bird feeders pushed under shelving units. I had Store Manager Jay Kell look at the bird feeders and he was puzzled as to why they were under the shelves. I told Mr. Kell we have found them to contain liquid rodenticides in the past and I was certain if I collected and tested it that would be the case. Mr. Kell did not dispute what I told him but told me he had inherited things like this when he and other new management personnel took over at the Greensburg location. Mr. Kell told me he was unaware of the presence of the bird feeders and added he would get someone in the proper personal protective equipment (PPE) and get the bird feeders collected and disposed of properly.

5. In this case there are five pesticide product containers which were improperly labeled and offered for sale and two metal bird feeders used to dispense rodenticides. It should be noted the store Management and Staff worked quickly to correct what was wrong. Since the Management personnel were in charge of their own rodenticide bait program and all of the bait stations were serviceable and secure, it is possible they were unaware of some previous wrong doing with the applications of rodenticides in bird feeders.



Brian P. Baker
Investigator

Date: October 12, 2015

Disposition: Rural King was cited for violation of section 57(4) of the Indiana Pesticide Registration Law for offering for sale a pesticide a product that did not have a label with the required information. A civil penalty in the amount of \$250.00 was assessed.

As of March 9, 2016, Rural King had not paid the civil penalty. The case was forwarded to collections.

Payment of the \$250.00 civil penalty was received from Rural King on March 22, 2016. The collection process was suspended.



George N. Saxton
Compliance Officer

Draft Date: October 27, 2015

Final Date: March 30, 2016

CASE SUMMARY

Case #2016/0261

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, IN 47907-2063
765-494-1585

Respondent: Robins Nest, Inc.
714 E. Main Street
Boonville, IN 47601
812-897-4591
Robin Kaiser (Private Applicator)

1. On March 24, 2016, I conducted a routine Worker Protection Standards (WPS) inspection of the Robins Nest greenhouse. During my inspection, it was discovered WPS safety and training requirements were not being performed for workers.
2. I conducted the inspection with owner and Private Applicator, Robin Kaiser. Mrs. Kaiser indicated she makes all pesticide applications within the greenhouses and no other employees are involved with any part of the applications. Mrs. Kaiser stated she last made a pesticide application within the greenhouses on Saturday, March 19, 2016, during the evening hours after the greenhouse business was closed and all employees had left. Mrs. Kaiser indicated the business was closed on Sundays. Mrs. Kaiser informed me she had verbally notified her employees she would be making the application and posted warning signs at the locked entry doors to the greenhouses. Mrs. Kaiser was able to show me the application record for the March 19, 2016, application and it contained all of the required information. I inspected the products used by Mrs. Kaiser in the greenhouses and determined the longest restricted entry interval (REI) time to a treated area to be 12 hours. It was determined no workers would have been in the greenhouses during the REI. The product being used by Mrs. Kaiser that contained the Agricultural Use language on the product label was Talstar (EPA Reg. # 279-3155; active ingredient: bifenthrin).
3. During my interview, Mrs. Kaiser informed me she used to show the WPS video about six (6) years ago, but stopped because no workers ever made pesticide application or were in the greenhouse during the REI times after applications. Mrs. Kaiser stated she had four (4) seasonal employees, but no pesticide safety training had been done with any of the employees and she did not have a U.S. Environmental Protection Agency (EPA) approved Worker Protection Standards (WPS) video to conduct such training with anymore. In addition, Mrs. Kaiser informed me she did not have any safety poster or emergency medical facility information posted anywhere for the workers at the greenhouses.

4. Mrs. Kaiser ordered the WPS video and safety poster online while I was at the business and was instructed to show the WPS video to all workers at the business and keep records of their training. Mrs. Hasting was also instructed to display the poster and emergency information in a central location that could be viewed by all workers at the greenhouses.



Scott M. Farris
Investigator

Date: March 24, 2016

DISPOSITION: Robin Kaiser 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: April 6, 2016

Final Date: May 4, 2016

CASE SUMMARY

Case #2016/0547

Complainant: Patty Nocek, Environmental Health/Food Specialist
La Porte County Health Department
809 State Street, Suite 401 A
La Porte, Indiana 46350
(219) 326-6808

Respondent: Zai Feng “Kevin” Yang Property Owner
Yangs Dream Living LLC.
1002 Wright Avenue
La Porte, Indiana 46350
(347) 379-2717

Involved others: Frederick and Margaret Loomis
701 Maple Street, Apt. 211
La Porte, Indiana 46350
(219) 851-1996

1. On Wednesday February 17, 2016, the complainant, Environmental Health/Food Specialist Patty Nocek, contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report a human health concern of pesticide applications of an unknown, possibly unregistered, Chinese pesticide product being made at a rental property owned by the respondent in this case.
2. When I, Agent Brian P. Baker of OISC, made phone contact with Patty Nocek, she told me she had taken a complaint from Margaret and Frederick Loomis. The Loomis’s allegedly told Ms. Nocek their landlord, Kevin Yang, was not helping them with pest infestations in their apartment. The Loomis’s told Ms. Nocek they were either given a Chinese pesticide product to apply themselves or Mr. Yang would come into their apartment and make a pesticide spray application with an unknown pesticide which he sprayed so liberally they reportedly had to clean up the puddles of liquid he left. I asked Ms. Nocek to set up an interview with the Loomis’s at her office. The meeting was set for Thursday February 18, 2016, @ 10:00 am. Ms. Nocek told me the Loomis’s turned over a package of the Chinese pesticide labeled only as “Cockroachkiller Bait” which landlord Kevin Yang and his personnel gave them when they complained of roaches in their apartment. (see fig. 1&2)



Fig. 1



Fig. 2

3. On Thursday, February 18, 2016, I met with Frederick and Margaret Loomis in the conference room of the La Porte County Health Department. Mr. and Mrs. Loomis detailed how they began renting from Mr. Kevin Yang in November of 2014, but moved into their Maple Ave. apartment in July of 2015. Mr. and Mrs. Loomis had obtained the Chinese pesticide product in fig. 1 & 2 of this report when they first rented from Kevin and had an infestation of cockroaches so when they saw roaches and fleas in their apartment at 701 Maple Street, apartment #222, they went to the maintenance personnel and were given more of the unknown pesticide product and told to spread the granular product into cracks and under appliances. Mr. and Mrs. Loomis noticed bedbugs in October of 2015 and were told by the maintenance personnel and the Assistant Manager, they would have to contact Kevin directly. The Loomis's contacted Kevin Yang and he allegedly told them he would make a pesticide spray application and they would have to stay out of the apartment for 2-4 hours. I asked the Loomis's if they knew what pesticide product Kevin Yang applied and they said they did not. Mr. Loomis was able to tell me Mr. Yang used a small clear plastic garden-type pump sprayer which contained a clear liquid. I showed Mrs. Loomis the photos in fig. 1&2 of this report and asked if she recognized them. Mrs. Loomis told me it was the package of unknown Chinese pesticide which she turned over to Ms. Patty Nocek. I asked Mrs. Loomis how she came to possess the unknown Chinese pesticide product. Mrs. Loomis told me the head of maintenance "Keith" gave her the product and further indicated it was stored in the bottom drawer of a desk in the Maintenance room. Mrs. Loomis provided a statement which I recorded on a digital recorder. The recording was forwarded to be transcribed and placed in the case file.
4. I arranged to meet Mr. and Mrs. Loomis at their apartment. Mrs. Loomis indicated she had done quite a bit of cleaning and mopping since Mr. Kevin Yang made a pesticide spray application, however, there were a few hard to reach places where there was still residue from that pesticide spray application. I met Mr. and Mrs. Loomis at 701 Maple Ave. Apt. 211 in La Porte, Indiana. Mrs. Loomis had moved some furniture away from one wall where she had not mopped. I asked Mrs. Loomis what pesticide products she or her husband had used in an attempt to kill the pests in their apartment. Mrs. Loomis told me the only general use pesticide she purchased and used was Hot Shot aerosol foggers. Mrs. Loomis told me she purchased the foggers at the Dollar General Store at 609 Lincolnway.
5. I took a template swab with acetone along the baseboard. The swab was tagged with residue sample# 2016323512. The swab sample was secured and ultimately transported to the OISC residue laboratory for analysis. Mrs. Loomis indicated the Managers Office and Maintenance storage were in the basement of her building at 701 Maple Ave. The Manager was not due in until noon.
6. I then went to the Dollar General Store at 609 Lincolnway and located the pesticide product Mrs. Loomis used in her apartment. The product is: *Hot Shot Bedbug & Flea Fogger, EPA Reg# 1021-1674-8845, active ingredients= pyrethrins .05%, Alpha benzeneacetate .10%, 1-methyl-2-ethoxyl pyridine .10%, n-octyl bicycloheptene .16%, piperonyl butoxide .10%*
7. I then went back to the basement of the apartment building and made contact with the night manager for Yangs Dream Living LLC, Robert Giesbrecht. I identified myself verbally and with OISC credentials and told Mr. Giesbrecht the purpose of my visit. I issued Mr. Giesbrecht a Notice of Inspection and then asked to see all the pesticide products used or issued to tenants. Mr. Giesbrecht showed me a general use lawn and garden pesticide product. I asked about the Chinese pesticides stored in a bottom desk drawer. Mr.

Giesbrecht walked to a small wooden desk in the room and pulled open the bottom left drawer (as you faced the desk). The drawer was full of packages with Chinese characters on them and some printed English. I photographed the contents of the drawer and then put on gloves and laid the products out on the floor (fig. 3-5). As I arranged the items I was taking out of the desk drawer, the owner of Yangs Dream Living LLC., Mr. Kevin Yang, came into the room and introduced himself. I identified myself verbally and with OISC credentials and told Kevin the purpose of my visit. I asked Mr. Yang if he knew about the Chinese pesticide products I had taken from the desk drawer. Mr. Yang said the products were his. I asked Mr. Yang where he purchased the products and he told me he purchased them in China and brought them back to the United States in his luggage. I asked if he had any other pesticide products stored anywhere and he said he did not. I asked Mr. Yang which product he used when he made pesticide spray applications for bedbugs. Mr. Yang said he did not know but thought it might be the product seen in the center of fig. 4 marked “L-Orthrine”. There was a plastic 2 gallon garden-type sprayer with a clear liquid in it. I asked Mr. Yang if that container was the one he made his bedbug pesticide spray applications with. Mr. Yang said that it was. I asked him if he could tell me which product he had mixed with the water and he said he was not sure. I issued Mr. Kevin Yang a “Stop Action Order” to stop all pesticide applications, regardless of method, using unregistered pesticide products. I set up an interview time for Mr. Yang. The interview was set for Friday February 19, 2016, at 1:00pm in the conference room of the La Porte County Health Department.



Fig. 3



Fig. 4



Fig. 5

- Figure 3 is a desk in the Maintenance office at 701 Maple Ave. La Porte, IN.
- Figure 4 is a photo of the contents of the open desk drawer seen in Fig. 3
- Figure 5 is a photo of the items collected at 701 Maple Ave La Porte IN.

- The following is a list of the items inventoried, tagged and transported to the OISC Formulation Laboratory for analysis. The list contains the unknown Chinese pesticide products with some limited words in the English language. There is one box collected from Ms. Patty Nocek of the La Porte County Health Department and the remaining products were collected from Mr. Kevin Yang, the owner of Yangs Dream Living LLC.

Cockroachkiller Bait	1 box	Tag# 2016323518	Collected from Patty Nocek of the La Porte Co. Health Dept.
Cockroachkiller Bait	11 Boxes	Tag#2016323513	Collected from Mr. Kevin Yang
BASF-Siege	1 box	Tag#2016323515	Collected from Mr. Kevin Yang
K-Orthrine	1 Pkg	Tag#2016323516	Collected from Mr. Kevin Yang
Bait Insecticide	5 Boxes	Tag#2016323517	Collected from Mr. Kevin Yang
2 Gallon Plastic Garden type sprayer	Approx. 1/3 full of an unknown pesticide use dilution	Tag#2016323514	Collected from Mr. Kevin Yang

9. On Friday February 19, 2016, I met with Mr. Kevin Yang at the La Porte County Health Department. The original meeting time had been extended to 2pm at the request of Mr. Yang. Mr. Yang identified himself as Zai Feng Yang, aka Kevin Yang, the owner of Yang Dream Living LLC. Mr. Yang was advised of the complaint lodged against him concerning the use and the issuing of unregistered Chinese pesticide products.
10. I started by having Mr. Yang identify a photograph of the unregistered pesticide products which his night manager had turned over to me the day before. I went over the products I seized and named them on the OISC sample collection form. Mr. Yang verified what I photographed as a true and accurate representation of his Chinese pesticide products.
11. I asked Mr. Yang where he got the Chinese pesticide products. Mr. Yang said he purchased the products in China and brought them into the United States via his airline luggage. Mr. Yang told me he purchased pesticide products in China sometime in September of 2015 and again in January of 2016. I asked Mr. Yang if he knew any of the active ingredients in the pesticides and he said he did not. Mr. Yang told me he did not have any more Chinese pesticide products. When I asked if what I had was everything he had purchased, Mr. Yang indicated there was a small plastic container which was about 8 ml's. Mr. Yang did not know what was in the container but he was told it would kill all kinds of bugs. Mr. Yang did as he was told and mixed all of it with two gallons of water and applied it by spraying the corners and walls. Mr. Yang told me I had the mixed use dilution of that small container in the garden-type sprayer I collected with the Chinese pesticide products. I asked how many times he applied the use dilution with the unknown pesticide and he said he only used it twice. Mr. Yang told me he used it in apartments 301 and 207 at 701 Maple Ave.
12. I asked Mr. Yang if any of the Chinese pesticide products were registered for use in the United States and he said they were not. I asked Mr. Yang about handing out the pesticide product marked as "Cockroachkiller Bait" to his tenants. Mr. Yang said he and his staff had done that on a very limited basis because most of the time tenants did not want to allow them into their apartments. I asked what directions for use he gave to the tenants he issued them the cockroachkiller bait. Mr. Yang told me he would tell the tenants to put the granular product under the kitchen cabinets and in corners. Mr. Yang said it usually only took two of the small containers to treat one apartment. I asked Mr. Yang if his instructions for use mirrored the printed instructions packaged with the product and he said it did. I asked Mr. Yang if he kept any pesticide application records and he said he did not. Kevin's statement was recorded on a digital recorder. The recording was forwarded to be transcribed.
13. On Tuesday, February 23, 2016, I met with Ms. Nocek of the La Porte County Health Department. Ms. Nocek contacted me by text earlier in the day and asked about the bottle of "cough syrup" that was in the desk drawer with the pesticides in fig. 3. I told Ms. Nocek I did not know what she was referring to. Ms. Nocek asked me to look at the photograph which she took of the drawer when we were first taken into the maintenance office/storage room (fig. 6). I checked the photograph and compared it to the one I took in fig. 3 and fig. 7 of this report and the two photographs of the same open desk drawer are different. The most striking difference was the fact there was a small brown bottle with a white lid in the drawer when Ms. Nocek snapped her photograph and that same bottle is missing less than five minutes later when I took my photograph in fig. 3 and then laid the contents of that drawer out on the floor for the photograph in fig. 4 & 5. In that five minutes or less I excused myself to go to my car outside and gather all the necessary supplies and equipment

to process, collect and photograph the items in that drawer. The first thing I did when I went back into the building was take photographs in fig. 3-5. Ms. Nocek told me she remembered speaking to Mr. Yang about the now missing brown bottle with a white lid and Kevin told her it was just “cough syrup”. The photograph was examined by OISC personnel that are fluent in Chinese. The green box to the right of the brown bottle which has Chinese characters in black over a tan background indicates the contents are “cough syrup”. It is unknown if the bottle actually contained cough syrup.



Fig. 6



Fig. 7

- Figure 6 is the photo taken by Patty Nocek.
 - Figure 7 is the photo taken by Brian Baker approximately 5 minutes after Fig. 6.
14. I went back to 701 Maple Ave. with Ms. Nocek. We made contact with the Night Manager, Robert Giesbrecht. I showed Mr. Giesbrecht the photo in fig. 6 and asked if he knew where the brown bottle was kept. Mr. Giesbrecht told me he had no idea what it was or where it might be. Mr. Giesbrecht opened the Maintenance office/store room. I checked all the desk drawers and the entire room and did not find the brown bottle seen in fig. 6. Mr. Giesbrecht called Mr. Kevin Yang and asked him to come to the office.
 15. Mr. Yang met with Patty Nocek and me. We showed Mr. Yang the photo in fig. 6 and asked him what the small brown bottle was and where it was. Mr. Yang said it was cough syrup and said it had been thrown away. I asked what trash receptacle it was placed in and he said the outside dumpster. Mr. Giesbrecht said that dumpster was emptied on Monday. When I asked Mr. Yang if he had any more of the cough syrup he said that he did not. I told Mr. Yang the bottle looked a great deal like a product Mr. Chen Zong had been distributing last year. I asked Mr. Yang if he had purchased pesticide products from Chen Zong and he said he had never purchased any pesticide products here in the United States. Mr. Yang said he only had the Chinese pesticide products I collected from him.
 16. I told Mr. Yang I needed the name of the pesticide company he used in 2014. Mr. Yang told me it was Anderson Pest Solutions in Chicago, IL. I asked Mr. Yang if he could give me all the records or receipts they provided. Mr. Yang turned over a three ring binder of the records and receipts. I told Mr. Yang I had swabbed the two apartments namely 207 and 301. I asked Mr. Yang if he made any other pesticide spray applications with the use dilution that was in the garden sprayer I collected from him. Mr. Yang said the only other possibility was apartment 303. I made contact with the resident and took a template swab from the baseboard just inside the door. The template swab taken in apartment 207 was taken from the baseboard in the front hall closet. The template swab taken in apartment 301 was taken from the baseboard near the kitchen. The template swabs were bagged, tagged and transported to the OISC Residue Laboratory for analysis. As I was leaving the building

at 701 Maple Ave, the tenant in apartment 207 asked me to come back into his apartment because he had something to turn over to me. Mr. Curtis Heaphy handed me a small ampoule with a tan colored granular looking substance in it. I took the ampoule in a gloved hand and then bagged and tagged the same. Mr. Heaphy told me he was given the ampoule and told it was a pesticide to kill cockroaches which he got from the Management at Yangs Dream Living LLC. Mr. Heaphy would not sign the collection report or give a digitally recorded statement. Mr. Heaphy told me he was very sick with cancer and he did not want to get involved. The bagged and tagged ampoule of suspected pesticide product was transported to the OISC Formulation Laboratory for analysis.

17. I examined the records which the Anderson Pest Solutions Company provided to Yangs Dream Living LLC. The records are for calendar years 2012 and 2013. Mr. Yang indicated he began doing his own pest control in 2014. The chart which follows is a synopsis of the pesticide application records provided to Yangs Dream Living LLC by Anderson Pest Solutions Company.

Date/Time	Invoice Order #	Number of Apts. Treated. *	Pesticide product applied. **
11/11/13 12:28PM	2719563	13	MAXFORCE FC SEL
10/14/13 1:24PM	2684538	14	MAXFORCE FC SEL
09/09/13 12:58PM	2659338	13	MAXFORCE FC SEL
08/22/13 12:36PM	2640215	1	ALPINE FLEA
08/13/13 12:27PM	2617692	8	MAXFORCE FC SEL
07/27/13 08:58AM	2634268	0 INSPECTION ONLY	NONE
07/26/13 12:09PM	2618706	0 INSPECTION ONLY	NONE
07/08/13 12:56PM	2601054	1	TEMPRID SC
07/08/13 12:33PM	2601055	1	TEMPRID SC
07/08/13 1:09PM	2584480	22	MAXFORCE FC SEL
06/10/13 2:13PM	2547763	8	MAXFORCE FC SEL
04/22/13 12:29PM	2499532	5	MAXFORCE FC SEL
03/11/13 12:41PM	2450634	1	MAXFORCE FC SEL
02/11/13 11:00AM	2414765	1	ADVION RCH GEL
01/14/13 11:23PM	2385644	3	ADVION RCH GEL
12/10/12 11:38AM	2363549	1	ADVION RCH GEL
11/19/12 8:11AM	2337297	0 INSPECTION ONLY	NONE
11/05/12 11:32AM	2336326	1	ADVION RCH GEL
11/05/12 11:41AM	2336863	7	ADVION RCH GEL

*Number of apts. Treated-See invoice for address.

**Pesticide products applied-The bullet points which follow list the name brand, EPA Reg# and the active ingredients of the pesticide products. The labels for each of the pesticide products used are attached to the OISC case file.

- Maxforce FC Select, EPA Reg# 432-1259, active ingredient=fipronil .0100%
- Alpine Flea, EPA Reg#499-540, active ingredients=dinotefuran, pyriproxyfen, prallethrin. .4000%
- Temprid SC, EPA Reg#432-1483, active ingredient=imidacloprid, cyfluthrin, .0750%
- Advion Roach Gel, EPA Reg#352-652, active ingredient=indoxacarb .0600%

18. On Monday, February 29, 2016, I returned to the La Porte County Health Department and met with Kevin Yang. I asked Mr. Yang for the list of tenants which had been given Chinese pesticide products to use in their apartments. Mr. Yang told me the only apartments given the “cockroachkiller” bait were numbers 9, 211 and 312 at 701 Maple

Ave. I told Mr. Yang I would be speaking to all of his tenants and added I would be asking them if they were given Chinese pesticide products by him or his staff. Mr. Yang said the only ones given the “cockroachkiller” bait was the apartments he told me about at 701 Maple Ave. Mr. Yang told me the tenant in apartment 312 moved and did not leave a forwarding address.

19. I went to 701 Maple Ave accompanied by Ms. Patty Nocek. We checked the locations given by Kevin Yang. The personnel in apartment 211 had already acknowledged they were given the Chinese pesticide products and had in fact turned it over to us. The tenant in apt number 9 told me he had been given the “cockroachkiller” bait once in March of 2015 and a second time in June or July of 2015, the tenant turned over one ampoule of the suspected “cockroachkiller” bait. The ampule was labeled #2016323524, transported and turned into the OISC Formulation Laboratory for analysis. In total, we were able to make contact with 12 other tenants at 701 Maple Ave. The tenants in apartments 111 told me they were given the Chinese “cockroachkiller” bait once in the Oct. /Nov. time frame of 2015. The tenant in apartment 400 told me she had been given only one ampoule of the Chinese “cockroachkiller” bait in the Jan. /Feb. time frame of 2016.

20. On March 1, 2016, I received the final results for the items turned into the OISC Formulation Laboratory for analysis. The chart which follows documents the final results.

SAMPLE#	SAMPLE DESCRIPTION	ACTIVE INGREDIENT(S) CLAIMED	ANALYSIS RESULT(S)
2016 32 3513	Fuzhou Termite Co. Chinese Cockroach Killer Bait	Deltamethrin	Fipronil Fipronil-Sulfide ¹
2016 32 3514	2 Gal. Plastic Sprayer w/use dilution	Unknown	Dichlorvos
2016 32 3515	Chinese BASF Siege insecticide. One box with 4 syringe injectors	Hydramethylnon	Hydramethylnon
2016 32 3516	Chinese Bayer brand. 1 pkg. of K-Orthrine	Deltamethrin	Deltamethrin
2016 32 3517	Fuzhou Termite Co. Chinese bait insecticide	Deltamethrin	Fipronil Fipronil-sulfide
2016 32 3518	Fuzhou Termite Co. Chinese cockroach killer bait	Deltamethrin	Fipronil Fipronil-sulfide
2016 32 3523	Smaller plastic vial of unknown insecticide, looks similar to Fuzhou Termite Co. cockroach killer bait	Unknown	Fipronil Fipronil-sulfide Fipronil-sulfone
2016 32 3524	Smaller plastic vial of unknown insecticide, looks similar to Fuzhou Termite Co. cockroach killer bait	Unknown	Fipronil Fipronil-sulfide Fipronil-sulfone

21. On March 1, 2016, I received the final results on the four swabs taken at 701 Maple Ave. The chart that follows documents the final results.

SAMPLE #	SAMPLE	ACTIVE	ANALYSIS
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¹ Fipronil-sulfide & Fipronil-sulfone are metabolites of Fipronil

	DESCRIPTION	INGREDIENT(S)	RESULT(S)
2016 32 3511	Trip blank swab	Dichlorvos	BDL
2016 32 3512	Template swab of the baseboard in # 211	Dichlorvos	409 ng/swab
2016 32 3519	Trip blank swab	Dichlorvos	BDL
2016 32 3520	Template swab of closet baseboard #207	Dichlorvos	13000 ng/swab
2016 32 3521	Template swab of the baseboard near the kitchen #301	Dichlorvos	11300 ng/swab
2016 32 3522	Template swab of the baseboard near front door #303	Dichlorvos	1080 ng/swab

*ng/s = nanograms/swab. Limits of quantitation = 10 ng/swab

22. The information contained on the chart in paragraph 19 was e-mailed to Patty Nocek at the La Porte County Health Department.
23. On Wednesday March 9, 2016, the following OISC personnel went to La Porte, Indiana and engaged in an initiative to obtain swab samples from all properties owned by Kevin Yang and Yangs Dream Living LLC.

Brian Baker, Bob Brewer, Doug Felix & Dr. George Saxton

- 701 Maple Ave. Case# 2016/0547

Andy Roth

- 1002 Wright Ave. Case# 2016/0570
- 1004 Lincoln Way Case# 2016/0571
- 3454 S. SR 104 Case# 2016/0572

Kevin Gibson & Ben Slentz

- 333 Park St. Case# 2016/0576
- 311 Jefferson Ave. Case# 2016/0577
- 606 Tipton St. Case# 2016/0578

Jay Kelley & Trish Waller

- 505 Maple Ave. Case# 2016/0573
- 705 Maple Ave. Case# 2016/0574
- 1108 Clay St. Case# 2016/0575

24. In case 2016/0578, the resident at 606-1 Tipton Street, Chasity Holcomb, turned over two injector/syringes to Agent Kevin Gibson. The injector/syringes were unused and full. Ms. Holcomb told Agent Gibson she received the injector/syringes from Kevin Yang and she was told they contained a Chinese pesticide product. The injector/syringes were collected, tagged and transported to the OISC Formulation Laboratory for analysis.
25. On Monday March 14, 2016, I received an e-mail from OISC Laboratory Director Ping Wan informing me the Chinese writing on the injector/syringes Agent Gibson collected from Ms. Holcomb claimed the product was 1% sulfluramid. However, the contamination screen detected "mirex". Assistant Pesticide Administrator Ed White researched mirex and

found all uses for the compound had been cancelled by US. EPA in 1978. The research information is attached to the case file.

26. I returned to 606 Tipton Street, apartment #1, on Wednesday March 16, 2016, and made contact with Ms. Chasity Holcomb. I identified myself verbally and with OISC credentials and told Ms. Holcomb I would be conducting the follow up on her case. I asked Ms. Holcomb where she obtained the two injector/syringes which she turned over to Agent Gibson on March 9, 2016. Ms. Holcomb told me she received the injector/syringes from her landlord, Mr. Kevin Yang. I asked Ms. Holcomb when she received the injector/syringes; how many she received and how many she used. Ms. Holcomb told me she could not be exact but it was sometime in the November-December time frame of 2015. Ms. Holcomb said she had a great deal of cleaning and painting to do when she moved into the apartment and added there was an infestation of cockroaches. Ms. Holcomb said she told Mr. Yang about it and he delivered two different Chinese pesticides to her. Ms. Holcomb said Mr. Kevin Yang gave her five of the injector/syringes and about five ampoules of a granular saw dust looking substance. I asked Ms. Holcomb if she was given any instructions for the use of the pesticide products Mr. Yang gave her. Ms. Holcomb told me the only instructions she was given were verbal instructions from Mr. Yang. Ms. Holcomb was told to spread the granular behind appliances and to use the injector/syringe solution on baseboards, cabinets and doors. I asked Ms. Holcomb if she was given any instructions for the use of personal protective equipment (PPE) and cleanup. Ms. Holcomb told me she was not given any directions in regard to PPE or cleanup. Ms. Holcomb did tell me Mr. Yang told her to keep her pets away from the gel bait in the injector/syringes because it could be fatal if they consumed it. Ms. Holcomb's statement was recorded on a digital recorder.
27. When I left the residence at 606-1 Tipton, I called Mr. Kevin Yang and asked him to meet with me at his office located at 701 Maple Ave. Mr. Yang met with me a short time later. I showed Mr. Yang a photograph of the two injector/syringes with the Chinese writing on them. I asked Mr. Yang where he got the product. Mr. Yang told me he purchased it in China but could not be any more specific than that. I asked him if he mixed anything into the injector/syringes and he said he did not. I told Mr. Yang the active ingredient listed on the label of the product was not the ingredient found in the container. I asked Mr. Yang if he remembered giving the injector/syringe with pesticide to Chasity Holcomb at 606-1 Tipton St. and he said he did. I asked if he gave her instructions for the use of the product and he said he told her to put it under the sink, under cabinets and on baseboards. I asked Mr. Yang if the product had any use directions with it. Mr. Yang told me it had some directions written in Chinese. I asked Mr. Yang if they differed in any way with the instructions he gave to Ms. Holcomb for the use of the product. Mr. Yang said no. I asked if there were any directions on the use of PPE and he said he could not remember any. Mr. Yang said he gave Ms. Holcomb the Chinese pesticide sometime in November of 2015. I asked Mr. Yang how he got the Chinese pesticide into the United States. Mr. Yang told me he brought it back in his carry-on luggage. I asked what airport he brought it into and he told me Chicago O'Hare. I asked Mr. Yang if he declared the pesticide to Customs personnel and he said he did not. Mr. Yang's statement to me was recorded on a digital recorder. I asked Mr. Yang if he had any more of the Chinese pesticide in the injector/syringes and he told me he did not have any.
28. On Thursday, March 17, 2016, I returned to 606-1 Tipton Street in La Porte, Indiana and made contact with Chasity Holcomb. I told Ms. Holcomb I needed to collect swab samples

in a place where she knew she used the pesticide in the injector/syringes. Ms. Holcomb told me she had painted over all of the places she used it. Ms. Holcomb showed me one area on the inside panel of her bathroom door where the paint had cracked. I took a template swab and a free swab of that area and submitted the same to the OISC residue Laboratory for analysis.

29. On Monday, March 21, 2016, I received the final results for the swab samples taken on March 9, 2016. The chart which follows reflects those results.

Sample Number	Case Number	Sample Description	Investigator	Dichlorvos Found (ng/swab)
2016-323525	2016/0547	Trip Blank Swab	B. Baker	BDL
2016-323526	2016/0547	Template Swab Baseboard #11	B. Baker	3.75
2016-323527	2016/0547	Free Swab Baseboard #11	B. Baker	4.52
2016-323528	2016/0547	Template Swab Baseboard #312	B. Baker	27.9
2016-323529	2016/0547	Free Swab Baseboard #312	B. Baker	37.3
2016-323530	2016/0547	Template Swab Baseboard #311	B. Baker	92.9
2016-323531	2016/0547	Free Swab Baseboard #311	B. Baker	116
2016-323532	2016/0547	Template Swab Baseboard #310	B. Baker	88.6
2016-323533	2016/0547	Free Swab Baseboard #310	B. Baker	90.5
2016-323534	2016/0547	Template Swab Baseboard #309	B. Baker	63.0
2016-323535	2016/0547	Free Swab Baseboard #309	B. Baker	121
2016-323536	2016/0547	Template Swab Baseboard #305	B. Baker	BDL
2016-323537	2016/0547	Free Swab Baseboard #305	B. Baker	BDL
2016-323538	2016/0547	Template Swab Baseboard #307	B. Baker	13.5
2016-323539	2016/0547	Free Swab Baseboard #307	B. Baker	26.2
2016-323540	2016/0547	Template Swab Baseboard #204	B. Baker	20.5
2016-323541	2016/0547	Free Swab Baseboard #204	B. Baker	46.8
2016-323542	2016/0547	Template Swab Baseboard #208	B. Baker	693
2016-323543	2016/0547	Free Swab Baseboard #208	B. Baker	341
2016-323544	2016/0547	Template Swab Baseboard #212	B. Baker	BDL
2016-323545	2016/0547	Free Swab Baseboard #212	B. Baker	8.24
2016-323546	2016/0547	Template Swab Baseboard #110	B. Baker	BDL
2016-323547	2016/0547	Free Swab Baseboard #110	B. Baker	BDL
2016-323548	2016/0547	Template Swab Baseboard #105	B. Baker	BDL
2016-323549	2016/0547	Free Swab Of Baseboard #105	B. Baker	9.5
2016-323550	2016/0547	Template Swab Baseboard #108	B. Baker	BDL
2016-323551	2016/0547	Free Swab Baseboard #108	B. Baker	BDL
2016-323552	2016/0547	Template Swab Baseboard #107	B. Baker	BDL
2016-323553	2016/0547	Free Swab Baseboard #107	B. Baker	BDL
2016-323554	2016/0547	Template Swab Baseboard #111	B. Baker	BDL
2016-323555	2016/0547	Free Swab Baseboard #111	B. Baker	BDL

2016-323556	2016/0547	Template Swab Baseboard #1	B. Baker	33.5
2016-323557	2016/0547	Free Swab Baseboard #1	B. Baker	78.2
2016-323558	2016/0547	Template Swab Baseboard #12	B. Baker	BDL
2016-323559	2016/0547	Free Swab Baseboard #12	B. Baker	BDL
2016-323560	2016/0547	Template Swab Baseboard #2	B. Baker	147
2016-323561	2016/0547	Free Swab Baseboard #2	B. Baker	235
2016-323562	2016/0547	Template Swab Baseboard #3	B. Baker	BDL
2016-323563	2016/0547	Free Swab Baseboard #3	B. Baker	BDL
2016-323564	2016/0547	Template Swab Baseboard #9	B. Baker	BDL
2016-323565	2016/0547	Free Swab Baseboard #9	B. Baker	BDL
2016-323566	2016/0547	Template Swab Baseboard #109	B. Baker	BDL
2016-323567	2016/0547	Free Swab Baseboard #109	B. Baker	BDL
2016-323568	2016/0547	Template Swab Baseboard #10	B. Baker	BDL
2016-323569	2016/0547	Free Swab Baseboard #10	B. Baker	BDL
2016-474007	2016/0570	Trip Blank	A. Roth	BDL
2016-474008	2016/0570	1002 Wright - Template Swab Door	A. Roth	BDL
2016-474009	2016/0570	1002 Wright - Free Swab Trash Can	A. Roth	BDL
2016-474010	2016/0571	Trip Blank	A. Roth	BDL
2016-474011	2016/0571	1004 Lincoln Way - Template Swab baseboard	A. Roth	52.3
2016-474012	2016/0571	1004 Lincoln Way - Free Swab Entrance	A. Roth	276
2016-474013	2016/0572	Trip Blank	A. Roth	BDL
2016-474014	2016/0572	SR104 - Template Swab Back Door	A. Roth	BDL
2016-474015	2016/0572	SR104 - Free Swab Kitchen	A. Roth	BDL
2016-501516	2016/0575	Trip Blank Swab	J. Kelley	BDL
2016-501517	2016/0575	Apt. A Free Swab	J. Kelley	BDL
2016-501518	2016/0575	Apt. A Template Swab	J. Kelley	BDL
2016-501519	2016/0575	Upstairs Hall Free Swab	J. Kelley	BDL
2016-501520	2016/0575	Up Stairs Hall Template Swab	J. Kelley	BDL
2016-501521	2016/0574	Trip Blank Swab	J. Kelley	BDL
2016-501522	2016/0574	Outside Apt #1 Free Swab	J. Kelley	2913
2016-501523	2016/0574	Outside Apt #1 Template Swab	J. Kelley	5166
2016-501525	2016/0574	Upstairs Front Apt #2 Free Swab	J. Kelley	16.6
2016-501526	2016/0574	Upstairs Front Apt #2 Template Swab	J. Kelley	29.5
2016-501527	2016/0574	Back lower Apt #3 Free Swab	J. Kelley	BDL
2016-501528	2016/0574	Back lower Apt #3 Template Swab	J. Kelley	BDL
2016-501529	2016/0573	Trip Blank Swab	J. Kelley	BDL
2016-501530	2016/0573	Apt 1 Free Swab	J. Kelley	BDL
2016-501531	2016/0573	Apt 1 Template Swab	J. Kelley	BDL
2016-501532	2016/0573	Outside hallway Apt 2 Free Swab	J. Kelley	BDL
2016-501533	2016/0573	Outside hallway Apt 2 Template Swab	J. Kelley	BDL

2016-501534	2016/0573	Apt. 3 Free Swab	J. Kelley	BDL
2016-501535	2016/0573	Apt. 3 Template Swab	J. Kelley	BDL
2016-501536	2016/0573	Unknown Saw Dust Material	J. Kelley	BDL
2016-501538	2016/0573	Upstairs Rear Apt 4 Free Swab	J. Kelley	BDL
2016-501539	2016/0573	Upstairs Rear Apt 4 Template Swab	J. Kelley	BDL
2016-561006	2016/0576	Blank Swab	K. Gibson	BDL
2016-561007	2016/0576	Template Swab APT 5	K. Gibson	BDL
2016-561008	2016/0576	Free Swab APT 5	K. Gibson	BDL
2016-561009	2016/0576	Template Swab APT 2	K. Gibson	BDL
2016-561010	2016/0576	Free Swab APT 2	K. Gibson	BDL
2016-561011	2016/0578	Blank Swab	K. Gibson	BDL
2016-561012	2016/0578	Template Swab	K. Gibson	40.7
2016-561013	2016/0578	Free Swab	K. Gibson	62.2
2016-561014	2016/0577	Blank Swab	K. Gibson	BDL
2016-561015	2016/0577	Template Swab Apt 2	K. Gibson	BDL
2016-561016	2016/0577	Free Swab Apt 2	K. Gibson	BDL
Swab LOQ	2 ng/swab			

30. On Tuesday March 29, 2016, I received the final results from the swabs taken at 606-1 Tipton Street on March 17, 2016. The two swabs taken tested positive for “mirex”. The chart which follows reflects the final results.

SAMPLE #	SAMPLE DESCRIPTION	MATRIX	MIREX
2016 32 3570	Trip blank swab	Swab	BDL
2016 32 3571	Template swab inside bathroom door 606-1 Tipton	Swab	Mirex confirmed
2016 32 3572	Free swab inside bathroom door 606-1 Tipton	Swab	Mirex confirmed

BDL=Below detection limits.

31. I contacted Ms. Patty Nocek of the La Porte County Health Department and let her know the OISC Residue Laboratory detected mirex at 606 Tipton Street, apartment #1. I sent a copy of all of the OISC Residue Laboratory results to the La Porte County Health Department.

32. In this case, Zai Feng Yang, aka Kevin Yang, the owner of Yangs Dream Living LLC, made twelve (12) documentable pesticide spray applications at 701 Maple Ave in La Porte Indiana; two applications at 705 Maple; one application at 1004 Lincoln Way; and one application at 606 Tipton Street. The pesticide spray applications were made with Chinese pesticide product(s) which contained the active ingredient “dichlorvos”. The active ingredient “dichlorvos” is not registered in the United States for any interior pesticide spray applications.

33. The Chinese pesticide products in this case were purchased by Mr. Yang in China and brought to the United States in his luggage. It should be noted there were no pesticide

products confiscated which tested positive for the active ingredient “dichlorvos”, only the use dilution in his garden-type sprayer. Mr. Yang admitted he purchased a small container, approximately 8 ml’s of an unknown Chinese pesticide product and placed it in that same garden type sprayer. Mr Yang admitted making pesticide spray applications with that same use dilution. It should also be noted that two of the Chinese pesticide products were labeled as having the active pesticide ingredient “deltamethrin” when they actually contained the active pesticide ingredient “fipronil”. Mr. Yang told me he only issued the Chinese Cockroachkiller Bait to the three residents in apartments 9, 211 and 312. In a door-to-door check of all of the apartments at 701 Maple Ave., I also found he had issued the Chinese Cockroachkiller Bait to the residents in apartments 207, 111 and 400 as well as two Chinese pesticides issued at 606 Tipton Street.

Brian P. Baker
Pesticide Investigator

Date: April 6, 2016

DISPOSITION:

- A. Zai Feng Yang was cited for eight (8) counts of violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and negligent manner by issuing Chinese pesticides to tenants with no regard for their use or personal protective equipment. A civil penalty in the amount of \$6,750.00 [\$250.00 for the first count; \$500.00 for the second count and \$1,000.00 for each of the remaining six (6) counts] was assessed.
- B. Zai Feng Yang was cited for sixteen (16) counts of violation of section 65(16) of the Indiana Pesticide Use and Application Law for knowingly using a pesticide that was not registered in Indiana under I.C. 15-16-4. A civil penalty in the amount of \$14,750.00 [\$250.00 for the first count; \$500.00 for the second count; and \$1,000.00 for each of the remaining fourteen (14) counts] was assessed.
- C. The total amount of civil penalty assessed in this investigation is \$21,500.00. However, the civil penalty was reduced to \$16,125.00. Consideration was given to the fact Mr. Zai Feng Yang cooperated during the investigation.
- D. In addition, the case was forwarded to USEPA for federal review.
- E. On April 26, 2016, OISC received a letter dated April 22, 2016, from Bradley J. Adamsky, attorney for Yang’s Dream Living LLC. An informal conference was set for May 17, 2016, to be held at 820 Jefferson Avenue, LaPorte, Indiana, at 9:00am Central Time.
- F. On May 17, 2016, I met with Mr. Bradley Adamsky and his client, Zai Feng Yang, also known as Kevin Yang. Mr. Adamsky gave me copies of reports he had received from Crisis Cleaning.
- G. Mr. Yang insisted he did not give Chinese Cockroachkiller Bait to the residence in apartments 111 and 400. He did admit to giving the bait to the tenant in apartments 9, 211, 312 and 207 and twice gave the bait to the tenant at 606 Tipton Street.

- H.** Mr. Yang asked why he was being charged with sixteen (16) counts of spraying apartments with dichlorvos. He said he only sprayed four (4) apartments; those being apartments 301, 303, 207 and 211. I asked him how the dichlorvos got into the other apartments. He said he didn't know.
- I.** I questioned Mr. Yang about the small reddish brown bottle that was present in the photo taken by Ms. Nocek that was missing in the photo taken by Agent Baker a couple minutes later. He insisted he did not know what happened to the bottle and that it was cough syrup he purchased in Chicago at a Chinese pharmacy.
- J.** I questioned Mr. Yang about the purchase of the 8ml bottle that was mixed into the sprayer that ultimately revealed dichlorvos. He stated he bought the bottle in Fuzhou, China and brought it back to the United States. He said he bought it from a vendor in China and the bottle had no writing on it. He stated he was told by the Chinese vendor the bottle contained a strong pesticide and to mix it with two gallons of water.
- K.** As a result of the informal conference, Zai Feng Yang was cited for six (6) counts of violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and negligent manner by issuing Chinese pesticides to tenants with no regard for their use or personal protective equipment. A civil penalty in the amount of \$4,750.00 [\$250.00 for the first count; \$500.00 for the second count and \$1,000.00 for each of the remaining four (4) counts] was assessed.
- L.** Zai Feng Yang was cited for sixteen (16) counts of violation of section 65(16) of the Indiana Pesticide Use and Application Law for knowingly using a pesticide that was not registered in Indiana under I.C. 15-16-4. A civil penalty in the amount of \$14,750.00 [\$250.00 for the first count; \$500.00 for the second count; and \$1,000.00 for each of the remaining fourteen (14) counts] was assessed. Although Mr. Yang denied making the pesticide applications in more than four (4) apartments, since dichlorvos was found in ten (10) other apartments and tenants stated personnel from Yang's Dream Living applied pesticides in their apartments, the preponderance of the evidence suggests Yang's Dream Living is responsible for those applications as well.
- M.** The total amount of civil penalty assessed in this investigation is \$19,500.00. However, the civil penalty was reduced to \$14,625.00. Consideration was given to the fact Mr. Yang cooperated during the investigation.


George N. Saxton
Compliance Officer

Draft Date: May 18, 2016
Final Date: June 7, 2016

CASE SUMMARY

Case #2016/0553

Complainant: Office of Indiana State Chemist
175 S. University Street
West Lafayette, Indiana 47907
765-494-1585

Respondent: American Pest Professionals
Robert Gilkison
2130 N. Martin Luther King Road
Muncie, Indiana 47303
765-288-7779

Licensed Business
Licensed Applicator

1. On March 3, 2016, I performed a routine pre-construction termite treatment inspection at the 1500 N. Petty Road in Muncie, Indiana. I met with and issued a Notice of Inspection (NOI) to Desiree Garrett of American Pest Professionals. She supplied me with the pesticide application records for the pre-construction treatment. According to the application records, licensed applicator Robert Gilkison made the following pesticide application on August 28, 2015:
 - 67.2 gallons **Talstar Termiticide/Insecticide** (EPA #279-3206; **active ingredient:** bifenthrin) at a rate of .06% solution as a horizontal barrier to 672 square feet
 - 54.4 gallons **Talstar Termiticide/Insecticide** (EPA #279-3206; **active ingredient:** bifenthrin) at a rate of .06% solution to 136 linear feet of exterior perimeter walls with a depth-to-footer of two feet.
 - 32 gallons **Talstar Termiticide/Insecticide** (EPA #279-3206; **active ingredient:** bifenthrin) at a rate of .06% solution to 80 linear feet of interior perimeter walls with a depth-to-footer of one foot.
 - Total gallons of **Talstar Termiticide/Insecticide** used: 160 gallons
2. Using the information provided in the records, I made the following calculations for the pre-construction treatment:
 - 67.2 gallons **Talstar Termiticide/Insecticide** (EPA #279-3206; **active ingredient:** bifenthrin) at a rate of .06% solution as a horizontal barrier to 672 square feet
 - 108.8 gallons **Talstar Termiticide/Insecticide** (EPA #279-3206; **active ingredient:** bifenthrin) at a rate of .06% solution to 136 linear feet of exterior perimeter walls with a depth-to-footer of two feet.
 - 32 gallons **Talstar Termiticide/Insecticide** (EPA #279-3206; **active ingredient:** bifenthrin) at a rate of .06% solution to 80 linear feet of interior perimeter walls with a depth-to-footer of one foot.
 - Total gallons of **Talstar Termiticide/Insecticide** needed: 208 gallons

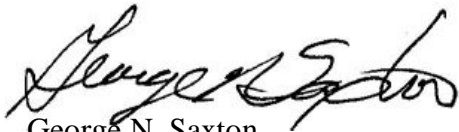
3. I learned pesticide applicator Robert Gilkison was not available for an interview until March 18th. I met with American Pest Professional manager Josh Todd. I explained to Mr. Todd the difference in my calculations for termiticide needed for the pre-construction termiticide treatment versus the total amount of termiticide applied by Mr. Gilkison. I told him it appeared Mr. Gilkison failed to use the two foot depth-to-footer in his calculation of chemical needed for the vertical exterior application. Mr. Todd agreed with my assessment.
4. I checked the label for **Talstar Termiticide/Insecticide**. The label reads in part, *"For a .06% rate, apply 4 gallons of dilution per foot of depth or 4 fluid ounces of **Talstar Termiticide/Insecticide** per 10 linear per foot of depth from grade to top of footing in sufficient water to ensure complete coverage.*
5. In summary, based on the above information, Mr. Gilkison applied 76.9% of the required termiticide.



Kevin W. Gibson
Pesticide Investigator

Date: March 4, 2016

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



George N. Saxton
Compliance Officer

Draft Date: March 8, 2016
Final Date: April 4, 2016

Cc: Rhett Scott
1500 N. Petty Road
Muncie, Indiana 47304

CASE SUMMARY

Case #2016/0568

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, Indiana 47907
765-494-1585

Respondents: Bonide Products, Inc. Product Manufacturer
6301 Sutliff Road
Oriskany, New York 13424

Home Depot Marketplace
1624 East 165th Street
Hammond, Indiana 46320
219-844-5134

1. On March 1, 2016, I conducted a marketplace inspection at Home Depot. I met with and issued a Notice of Inspection (NOI) to the store manager, Beth Roy. As a result of a product check in the OISC product database, I discovered two products which were not listed:
 - **Shotgun Repels-All Animal Repellent Granules (3 lbs.) by Bonide Products Inc. No EPA registration number.**
 - **Shotgun Repels-All Animal Repellent Ready-To-Spray (32 oz.) by Bonide Products Inc. No EPA registration number.**
2. According to the product labels, each product was defined as a Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) 25 (b) exempt pesticide product. I made contact with Ed White of OISC Product Registration Section. According to Mr. White, neither product was registered in the state of Indiana for 2015 and 2016.
3. Ms. Roy informed me copies of the invoices for the store deliveries of the products were not available. She did tell me according to their inventory database, two (2) containers of **Repels-All Animal Repellent Granules** and twelve (12) containers of **Repels-All Animal Repellent Ready-To-Spray** were received by the store on February 9, 2016. She said the store had no record of receiving the products prior to or since that date.
4. I informed Ms. Roy of my investigation findings. I issued a **Stop Sale Use or Removal Order** to Ms. Roy for the **Repels-All Animal Repellent Granules** and for the **Repels-All Animal Repellent Ready-To-Spray**. I explained all inventory would need to be removed from the store shelves. I issued sample number **2016561004** to one sample container of

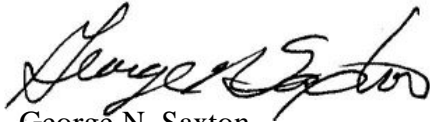
Repels-All Animal Repellent Granules and sample number **2016561005** to one sample container of **Repels-All Animal Repellent Ready-To-Spray** for submission to the OISC Formulations Lab.



Kevin W. Gibson
Pesticide Investigator

Date: March 2, 2016

DISPOSITION: Bonide Products, Inc. was cited for two (2) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a non-registered pesticide. A civil penalty in the amount of \$500.00 (two counts x \$250.00 per count) was assessed.



George N. Saxton
Compliance Officer

Draft Date: March 7, 2016

Final Date: April 8, 2016

CASE SUMMARY

Case #2016/0586

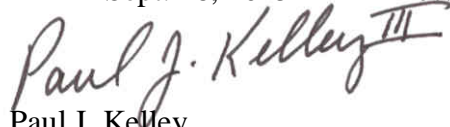
Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
800-893-6637

Respondent: Jeff Martin
Forrest Hills Country Club
2169 S. 23rd Street
Richmond, IN 47574
765-962-2711

Certified Applicator

1. On March 4, 2016, I performed an inspection at the Forrest Hills Country Club with Jeff Martin. Mr. Martin provided me with his pesticide application records for 2014 and 2015. Mr. Martin stated his records were not complete. Mr. Martin stated he had been "lazy" with his records.
2. Mr. Martin's pesticide application records contained approximately half the required record keeping elements. The records were missing time, target pest, EPA registration # of product, and manufacturer of product.
3. Mr. Martin provide incomplete records on the following days;

July 13, 2014	Sept. 15, 2014	Nov. 15, 2014	April 6, 2015
April 27, 2015	May 4, 2015	May 18, 2015	May 25, 2015
June 8, 2015	June 10, 2015	June 22, 2015	June 29, 2015
July 6, 2015	July 14, 2015	July 20, 2015	July 27, 2015
Aug. 3, 2015	Aug. 10, 2015	Aug. 11, 2015	Aug. 24, 2015
Aug. 31, 2015	Sept. 14, 2015	Sept. 21, 2015	Sept. 22, 2015
Sept. 28, 2015	Dec. 1, 2015		



Paul J. Kelley
Investigator

Date: March 14, 2016

DISPOSITION: Jeff Martin was cited for twenty-six (26) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-4, for failure to keep and maintain all required records of a pesticide applied on a golf course. A civil penalty in the amount of \$6,500.00 (26 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$650.00. Consideration was given to the fact Mr. Martin cooperated during the investigation; corrective action was taken; there was no previous history of similar nature; no potential for damage and no restricted use pesticides were involved.



George N. Saxton
Compliance Officer

Draft Date: March 18, 2016
Final Date: April 8, 2016

CASE SUMMARY

Case #2016/0587

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
800-893-6637

Respondent: Joseph Symond
Bug Bam Products, LLC
The Natural Repellent Co.
P.O. Box 841
Hermosa Beach, CA 90254
888-899-3308
Owner

Retailer REI
Thomas Shaw
8490 Castleton Corner Dr.
Indianapolis, IN 46250
317-585-1938
Retail Sales Manager

1. On March 2, 2016, Denny Dravis contacted the Office of Indiana State Chemist (OISC) inquiring about the possible consequences of his dog chewing up a Bug Bam product dog tag. Mr. Dravis stated he purchased the Bug Bam product from REI in Indianapolis, IN.
2. Upon examination of the OISC pesticide product registration database, it was determined that no Bug Bam products were registered with OISC for sale or distribution in Indiana.
3. On March 8, 2016, I met with Thomas Shaw, Retail Sales Manager for REI, located in Indianapolis, IN. REI in Indianapolis had for sale Bug Bam Mosquito Band and Bug Bam Mosquito Grid products that make pesticidal claims on the label/packaging. See figures 2-3.



Figure 2-Bands



Figure 3-Grid

4. Mr. Shaw stated the Bug Bam products came from REI's distribution facility in Washington State. Mr. Shaw provided me with a REI instore printout indicating that the Indianapolis, Indiana store received the Bug Bam products from the distribution facility between the dates of February 23, 2016 and March 4, 2016.
5. I collected one sample of Bug Bam Mosquito Band and one sample of Bug Bam Mosquito Grid as evidence of offer to sale or distribute in Indiana and issued a Stop Sale Use or Removal Order for the Bug Bam Mosquito Grid and Mosquito Bands to Mr. Shaw and REI Indianapolis for the remaining product containers in the store.
6. On or about March 8, 2016, Mr. Symond telephoned Sarah Caffery at OISC to inquire about the most expeditious method of registering for sale and distribution in Indiana the two Bug Bam products that had been placed under the Stop Sale Use or Removal Order.
7. On March 10, 2016, OISC received product registration applications and fees from Bug Bam Products LLC for the two referenced products.
8. On March 25, 2016 OISC mailed a Stop Sale Use or Removal Order to Bug Bam Products, LLC for offering to sale or distribute these two unregistered products in Indiana. The Order noted that further investigation by OISC determined that labeling for these products contained false or misleading statements, "100% NATURAL INGREDIENTS" or "contains all natural ingredients," but the inert ingredient section of the label states, "Latex (synthetic) 84.95%". Synthetic latex, as a product ingredient, is clearly not all or 100% natural.
9. On April 14, 2016, Mr. Symond submitted revised labels for the referenced product registration applications. The revised labels for the products have replaced the previous language of "100% natural ingredients" and "all natural ingredients" with new language stating, "contains all natural active ingredients."
10. On April 22, 2016 Dave Scott of OISC reviewed the label referenced web site www.bugbam.com to determine if the labeling claims and language on the web site had been modified to be consistent with the revised labeling. Mr. Scott telephoned Mr. Symond to notify him of several necessary web site revisions which Mr. Symond corrected in real time during the telephone conversation. Mr. Scott agreed to alert Mr. Symond if any other labeling inconsistencies were subsequently detected.



Paul J. Kelley
Investigator

Date: April 22, 2016

DISPOSITION: Bug Bam Products, LLC was cited for two (2) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing unregistered pesticide products into Indiana. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed.

Bug Bam Products, LLC was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for distributing a federally unregistered pesticide product in that making a

false and misleading claim on a 25b exempt pesticide product requires that product to have full section 3 registration with USEPA. A civil penalty in the amount of \$250.00 was assessed for this violation.

The total amount of civil penalty assessed in this investigation was \$750.00. However, the civil penalty was reduced to \$262.50. Consideration was given to the fact Bug Bam Products, LLC cooperated with the investigation; corrective action was immediately taken and there was no previous history of similar nature.

A handwritten signature in black ink, appearing to read "George N. Saxton", written in a cursive style.

George N. Saxton
Compliance Officer

Draft Date: May 10, 2016
Final Date: July 22, 2016

CASE SUMMARY

Case #2016/0603

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
800-893-6637

Respondent: Mark E. Cavin
David W. Henning
Total Lawn Care
1421 E. Riverside Drive
Indianapolis, Indiana 46202
317-638-1862

**Certified Applicator
Registered Technician**

1. On March 16, 2016, I observed a person sitting in a lawn pesticide delivery-type truck with company logo of "Total Lawn Care," in front of a home in Brownsburg, Indiana. It appeared as if the person in the truck had just completed a lawn pesticide application and was getting ready to leave. I identified myself and presented my OISC credentials to the person in the vehicle and asked him if he had just made a pesticide application at that address. He stated he had just arrived and was getting ready to make the pesticide application.
2. I then issued a Notice of Inspection (NOI) to the person who identified himself as David W. Henning. Mr. Henning handed me his registered technician credential. I learned he was using a granular pesticide called "TSC GrowStar Turf Fertilizer + 0.37% Prodiamine 11-0-3", EPA Reg. #60063-40-82757. The label for the pesticide was on the bag. According to the National Pesticide Information Retrieval System (NPIRS) Field Inspection tool, this pesticide product was registered for distribution and use in Indiana for 2016.
3. Mr. Henning was wearing long pants, long shirt and had sun glasses. I asked Mr. Henning about personal protective equipment (PPE) and he showed me the chemical resistant gloves he uses in addition to the items he was wearing. All of these items satisfied the PPE requirements of the label of the product he was using. I asked him about his Site Assessment Fact Sheet and he replied, "*What is that?*" I then asked who his certified supervisor was, and he gave me the name of Terry Jungels. I asked him if he could get in touch with Mr. Jungels, and he said he could and dialed Mr. Jungels' phone number. I then spoke with Mr. Jungels who told me he was also a registered technician.
4. I explained to Mr. Henning about needing to have a certified supervisor he could contact in case he had a question or an emergency. He said his usual certified supervisor was Mark Cavin but Mr. Cavin was on vacation in Florida. I asked Mr. Henning what he would do if he had an emergency. He then dialed Mr. Cavin who answered the phone. I spoke to Mr. Cavin who indicated that even though he was on vacation, he kept his cell phone with him

just for this reason. I explained the supervision requirements including the Site Assessment Fact Sheet to Mr. Cavin.

5. I then asked Mr. Henning again what he would do if he had an emergency since his certified supervisor was in Florida on vacation. He said there were other certified applicators who worked for Total Lawn Care. He then contacted Thomas Jungels, a 3b (Turf Management) certified applicator, by phone.
6. On March 17, 2016, I contacted certified applicator, Henry Stout, of Total Lawn Care, who also confirmed the pesticide product Mr. Henning was using. He stated he was aware of my contact with Mr. Henning the day before. I explained the need for a Site Assessment Fact Sheet. He said he would take care of making sure all of the registered technicians had them when they went into the field. I then sent him a link to our website so he could download a fact sheet:

http://oisc.purdue.edu/pesticide/pdf/site_assessment_fact_sheet_cat3b.pdf



George N. Saxton
Compliance Officer

Date: March 17, 2016

DISPOSITION: Mark E. Cavin was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-6, for failure to provide a fact sheet to a registered technician. A civil penalty in the amount of \$25.00 was assessed for this violation.



David E. Scott
Pesticide Administrator

Draft Date: April 7, 2016
Final Date: April 29, 2016

CASE SUMMARY

Case #2016/0609

Complainant: Office of Indiana State Chemist
175 S. University Street
Lafayette, Indiana 47907
800-893-6637

Respondent: Jones Greenhouse
Benjamin Jones
645 N. 650 E.
Lebanon, Indiana 46052
317-769-3254

Applicator

1. On, March 21, 2016, I, Agent Kevin Gibson of the Office of Indiana State Chemist (OISC), conducted a **Worker Protection Standard (WPS)** inspection at Jones Greenhouse in Lebanon, Indiana.
2. I met with an issued a **Notice of Inspection (NOI)** to the owner/applicator Benjamin Jones. He told me he was the only pesticide applicator until his son Lewis Jones obtains his pesticide applicator's license. He handled all pesticide applications for the greenhouse. He told me the last pesticide application he made was **Mainspring** (EPA #100-1552; active ingredient: **cyantranilprole**) on Sunday March 20, 2016.
3. The Mainspring label states: *"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), notification 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. Mr. Jones told me he never conducted any **Pesticide Safety Training** for his employees. He also told me he never used **Central Posting** for safety posters or emergency medical facility information. I checked his pesticide application records. I found he had all the required information (location, date, time, EPA#, active ingredient and Re-Entry Interval (REI)).
5. He said he verbally notified his employees prior to making any pesticide application. Access to application areas was always restricted as he made them after the business was closed for the day and the employees left the premises.
6. I checked and found his **Personal Protective Equipment (PPE)** for the most restrictive pesticide label to be in good working order. He told me he cleaned his **PPE** after each pesticide application.

7. Mr. Jones reported he had the required soap, water and paper towels for workers as required for a pesticide exposure incident.
8. In summary, Mr. Jones did not provide **Pesticide Safety Training** or **Central Posting** for his employees as required by the **Worker Protection Standards**.



Kevin W. Gibson
Investigator

Date: March 21, 2016

DISPOSITION: Benjamin Jones 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: April 6, 2016
Final Date: April 29, 2016