

A Summary of Cases

May 26, 2017

- 2017/0842 **Disposition:** Clint Perry was cited for twenty-five (25) 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 \$6,250.00 (25 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$1,875.00. Consideration was given to the fact Mr. Perry cooperated during the investigation; corrective action was taken; there was no previous history of similar nature and no restricted use pesticides were involved. As of July 8, 2014, Mr. Perry had not paid the civil penalty. The case was forwarded to the Office of Indiana Attorney General (IAG) for collection. The civil penalty of \$1,875.00 was collected through the IAG. On November 15, 2016, the final civil penalty payment was received by OISC.
- 2015/0994 **DISPOSITION:** Scott Bennett was cited for two (2) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for professing to be in the business of making diagnostic inspections to determine infestations of wood destroying pests for hire on the property of another without having an Indiana pesticide business license. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed for this violation. As of March 21, 2017, Scott Bennett had not paid the civil penalty. The case was forwarded to collections.
- 2015/1007 **DISPOSITION:** Dr. Earth Co. was cited for three (3) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide that was not registered in the state of Indiana. A civil penalty in the amount of \$750.00 (3 counts x \$250.00 per count) was assessed.
- I Must Garden LLC was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in the state of Indiana. A civil penalty in the amount of \$250.00 was assessed.
- I Must Garden LLC was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that made a false or misleading statement.
- I Must Garden LLC was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for distributing a pesticide product that was in violation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). A civil penalty in the amount of \$250.00 was assessed for this violation.
- Saint Gabriel's Organics was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in the state of Indiana. A civil penalty in the amount of \$250.00 was assessed.

Voluntary Purchasing Group was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in the state of Indiana. A civil penalty in the amount of \$250.00 was assessed. As of March 21, 2017, Saint Gabriel's Organics had not paid their civil penalty. The case was forwarded to collections.

2015/1182 **DISPOSITION:** Mark S. Prewitt was cited for 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 \$250.00 was assessed for this violation. As of March 21, 2017, Mark S. Prewitt had not paid the civil penalty. The case was forwarded to collections.

2015/1276 **DISPOSITION:** Donald Plohg and South Gleason Golf Course were cited for 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 \$250.00 was assessed for this violation.

Donald Plohg and South Gleason Golf Course were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-4, for failure to maintain all required records of pesticides applied to a golf course. A civil penalty in the amount of \$250.00 was assessed for this violation. In addition, the license issued to Donald Plohg will be suspended until he complies with the records request. As of March 21, 2017, Donald Plohg had not paid the civil penalty. The case was forwarded to collections. No licenses will be issued until the civil penalty has been paid.

2015/1311 **DISPOSITION:**
A. On September 24, 2015, this case was taken to the Allen County Prosecutor for criminal review:
I.C. 15-16-5-65(9);
“(9) Engaged in or professed to be engaged in the business of:
 (A) using a pesticide or any other product regulated under this chapter or by rules adopted under this chapter; or
 (B) making a diagnostic inspection to determine infestations of a wood destroying pest; for hire on the property of another”
I.C. 15-16-5-70;
 “(a) A person who recklessly, knowingly, or intentionally:
 (1) violates this chapter, except as provided in subsection (b); or
 (2) impedes or prevents the state chemist or the state chemist's agent from performing a duty of the state chemist; commits a Class C misdemeanor.
 (b) A person who recklessly, knowingly, or intentionally violates section 65(9) of this chapter after the state chemist has issued written notification to that person regarding a previous violation of section 65(9) of this chapter commits a Class A misdemeanor.”

B. On June 28, 2016, Edgar L. Heinkel IV was cited for 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 \$1,000.00 was assessed for this violation. Consideration was given to the fact this was his third violation of similar nature. See case numbers 2013/0381 and 2014/1247.

C. As of March 23, 2017, Edgar L. Heinkel IV had not paid the civil penalty. The case was forwarded to the Office of Indiana Attorney General for collection of the civil penalty.

2016/0266 **DISPOSITION:** Perennials Plus was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding agricultural use requirements. A civil penalty in the amount of \$250.00 was assessed for this violation.

2016/0432 **Disposition:** Mike Jacques and Eric Doyle were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding inside vertical applications. A civil penalty in the amount of \$250.00 was assessed to Mike Jacques as the certified supervisor responsible for the application.

2016/0591 **DISPOSITION:**
A. On May 4, 2016, Rural King, Store 14 was cited for one hundred eighty (180) counts¹ of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 5-4-1(a), for storing bulk pesticides outside of secondary containment. A civil penalty in the amount of \$45,000.00 (180 counts x \$250.00 per count) was assessed.²

B. On June 21, 2016, OISC received two facsimiles from Mike Hurley, Rural King Manager of the Evansville Rural King. One of the facsimiles was a letter dated May 20, 2016, requesting a hearing for the violation and assessed civil penalty. The second facsimile was a cover letter indicating a request for a hearing was made by Mr. Hurley on May 20, 2016, that he believed OISC had not received.

C. On June 21, 2016, I contacted Mr. Hurley about his request for a formal hearing. He indicated at that time he did not want to dispute the charges but did not feel he should be held accountable because he did not know about the rule requiring bulk pesticides to be in secondary containment. He stated he also thought the amount of civil penalty was excessive. He stated he just wanted to go before the Indiana Pesticide Review Board (IPRB) about the rule.

D. I told Mr. Hurley the IPRB considered the violation of the secondary containment rule to be serious in that I was not allowed to mitigate this particular penalty. I also advised him I would contact the Secretary for the IPRB and let him know about his request of an audience before the Board.

E. On January 13, 2017, a three-person Administrative Law Judge (ALJ) panel from the Indiana Pesticide Review Board met to hear the appeal by Rural King in this case. After deliberation, the ALJ panel decided to recommend to the full IPRB that the \$45,000.00

civil penalty be reduced to \$15,000.00, payable to OISC within thirty (30) days of notification.

F. On March 2, 2017, the ALJ presented its recommendation to the full IPRB. The IPRB voted to accept the recommendation of the ALJ.

G. On March 3, 2017, OISC issued a modified civil penalty letter to Rural King to implement the order of the IPRB.

2016/0625

Disposition:

A. Thomas Irvin Borchers was cited for twelve (12) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for professing to be in the business of applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$3,000.00 (12 counts x \$250.00 per count) was assessed.

B. Thomas Irvin Borchers was cited for violation of section 65(18) of the Indiana Pesticide Use and Application Law for intentionally altering a duly issued license, permit, registration, or certification. Thomas Irvin Borchers' pesticide certification was revoked.

C. OISC received a letter from Tom Borchers dated March 24, 2017. In the letter Mr. Borchers asked that the fine be reduced or he be allowed to make payments.

D. On April 6, 2017, Mr. Borchers contacted OISC and stated he was not able to pay the civil penalty. He requested that he be allowed to pay \$100.00 per month; first payment due June 1, 2017 and subsequent payments due the first of each consecutive month until the civil penalty was paid in full. He stated that sometime this year he should be able to pay the entire balance.

2016/0681

Disposition: Martinsville Ace Hardware was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for recommending a pesticide be used contrary to label directions. A civil penalty in the amount of \$250.00 was assessed for this violation.

2016/0716

Disposition: Scott Tolley was cited for three (3) 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 \$750.00 (3 counts x \$250.00 per count) was assessed.

2016/0791

Disposition: Darrin Kleiman 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. Consideration was given to the fact this was his first violation of similar nature.

2016/0800

DISPOSITION: Scotty Weis was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allowed it to drift from the target site in sufficient quantity to cause harm to a non-target site. 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 2013/0985.

- 2016/0831 **Disposition:** Walker Landscape and Travis Walker are cited for 19 counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law, for professing to be in the business of applying pesticides/fertilizers for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$4,750.00 (\$250.00 X 19 per count) was assessed. However, the civil penalty was reduced to \$3,562.50. Consideration was given to the fact Mr. Walker cooperated during the investigation.
- 2016/0881 **DISPOSITION:** Benjamin G. Howard Jr. was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed.
- 2016/0927 **Disposition:** Weed Man and Michael Pape were cited for seven (7) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified employee. A civil penalty in the amount of \$875.00 (7 counts X \$125.00) was assessed for this violation. However, the civil penalty was reduced to \$306.25 due to the fact Weed Man cooperated with the investigation; took corrective action; and had no previous history.
- 2016/1063 **Disposition:** Townsend Aviation and Robert Phillips were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to a non-target site. A civil penalty in the amount of \$250.00 was assessed for this violation.
- 2016/1090 **Disposition:** Colby Smith was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label language regarding drift to non-target areas. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact there was damage to the environment and a potential for human harm.
- 2016/1091 **Disposition:** Northwest Allen County Schools and Timothy Berdelman were cited 25 counts for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-16-4, for applying pesticides to a school without having a certified applicator. A civil penalty in the amount of \$6,250.00 was assessed to Northwest Allen County Schools and Timothy Berdelman. However, the civil penalty was reduced to \$2,187.50 due to the fact Mr. Berdelman cooperated with the investigation; took corrective action; and had no previous history
- 2016/1104 **DISPOSITION:**
A. John David Nesbitt and Will Dean Clark were cited for six (6) counts of violation of section 65(2) of the Indiana Pesticide Use and Application Law (IC 15-16-5) for failure to follow label directions regarding disposal for each of the pesticide products referenced in items #18 and 36 of this summary. 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 four (4) remaining counts) was assessed.

- B.** John David Nesbitt and Will Dean Clark were cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law (IC 15-16-5) for operating in a careless and negligent manner. The applicator certifications of both John David Nesbitt and Will Dean Clark were revoked, effective November 11, 2016.
- C.** Crop Production Services (CPS) at West Lebanon, Indiana was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law (IC 15-16-5) for operating in a careless and negligent manner. The business license of Crop Production Services was suspended for six (6) months from resulting enforcement effective date for this investigation.
- D.** Billy Pirkle, Senior Director of Environmental Health and Safety for CPS submitted a letter to OISC dated October 31, 2016, outlining the corrective measures taken by CPS to address these violations. Corrective actions included training CPS staff on proper pesticide disposal and rinsing practices in accordance with the CPS *Standards for Handling Dry and Liquid Fertilizers and Pesticides* (created 10-8-16 and effective 12-1-16), employment termination of Will Dean Clark and employment reassignment of John David Nesbitt, a commitment to work with IDNR to perform environmental restoration efforts to the impacted water body, and a commitment to cease all pesticide sales and applications immediately from the West Lebanon location until the business license is restored. CPS requested that the six-month pesticide business license suspension be reduced.
- E.** On November 12, 2016, I spoke with John David Nesbitt on the phone. He requested an extension on the due date for the civil penalty. An extension until November 30, 2016 for payment of the civil penalty was granted.
- E.** On November 18, 2016, John David Nesbitt and Will Dean Clark appeared in person at OISC and each paid a civil penalty of \$2,375.00, totaling \$4,750.00. David Scott of OISC advised them in consideration of the revocation action that they would be eligible to pursue pesticide applicator certification again in five years.
- G.** On November 18, 2016, David Scott of OISC spoke with Billy Pirkle of CPS to confirm that no decision regarding the six-month business license decision would be made until OISC received generic procedural input at the November 30, 2016, Indiana Pesticide Review Board meeting. Specifics of this case would not be discussed with the Board at that meeting.
- H.** OISC received a letter from Kyle Springs dated January 26, 2016¹ indicating the steps CPS would take to ensure these violations would not be repeated. As a result, the six (6) month suspension of the CPS pesticide business license was rescinded.

- 2016/1120 **Disposition:** Jeffrey L Martin and Patrick Bruner were cited for violation of section 65(2) and 65(5) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application sites and operating in a careless and negligent manner respectively. 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.
- 2016/1122 **Disposition:** Lawn Barbers, Chris Lawton, Jim Green, and Kenny Hilton cited for 8 counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law, for professing to be in the business of applying pesticides/fertilizers for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$2,000.00 (\$250.00 X 8 per count) was assessed. However, the civil penalty was reduced to \$1,500.00. Consideration was given to the fact Ms. Fahler cooperated during the investigation.
- 2016/1130 **Disposition:** Brian Bell was cited for twenty-one (21) 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 \$5,250.00 (21 x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$1,250.00. Consideration was given to the fact Mr. Bell cooperated during the investigation; this was his first violation of similar nature and no restricted use pesticides were involved.
- 2016/1160 **Disposition:** Tyre Fuqua and Bug Ninja Pest Control were cited for 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 \$250.00 was assessed for this violation.
- 2016/1191 **Disposition:**
- A. No violation of the Indiana Pesticide Use and Application Law was documented against Jeffersonville Street Department.
 - B. Delta Foremost Chemical Corp. was cited for five (5) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in the state of Indiana. A civil penalty in the amount of \$1,250.00 (5 counts x \$250.00 per count) was assessed.
 - C. On April 12, 2017, I spoke on the phone to Edward Young who identified himself as the attorney for Delta Foremost Chemical Corporation. Mr. Young then sent an email capturing our conversation. I responded the same day in an email advising him Delta Foremost would need to register their pesticide product for 2017, including late filing fee, and the civil penalty would be reduced to \$960.00.
 - D. On April 21, 2017, Mr. Young spoke with David Scott, Pesticide Administrator. Mr. Scott reiterated that Delta Foremost Chemical Corporation would have to pay the 2017 registration fee plus late filing fee and the \$960.00 civil penalty. Mr. Young was advised he had until May 3, 2017, to file an appeal for a formal hearing.

- 2017/0034 **Disposition:** PJ Walstra and William R. Duttlinger were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding Worker Protection Standard. A civil penalty in the amount of \$250.00 was assessed to PJ Walstra for this violation. PJ Walstra and William R. Duttlinger were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label-directed application rates. A civil penalty in the amount of \$250.00 was assessed to PJ Walstra for this violation PJ Walstra and William R. Duttlinger were cited for violation of section 65(8) for making a false or fraudulent record, invoice or report. A civil penalty in the amount of \$250.00 was assessed to PJ Walstra for this violation. The total amount of civil penalty assessed to PJ Walstra for this investigation is \$750.00.
- 2017/0091 **Disposition:** Ed Hill 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 properly supervise a non-licensed employee. A civil penalty in the amount of \$6,625.00 (\$125.00 X 53 per count) was assessed. However, the civil penalty was reduced to \$2,650.00. Consideration was given to the fact Mr. Hill cooperated during the investigation; did not have a history of a similar offense; no potential for damage and no restricted use pesticides were used.
- 2017/0147 **Disposition:** Matt's Lawncare and Landscaping and Jim Colias were cited for nineteen (19) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specially 355 IAC 4- 2-3, for failure to properly supervise a non-certified employee. A civil penalty in the amount of \$2,375.00 was assessed to Matt's Lawncare and Landscaping. However, the civil penalty was reduced to \$712.50. Consideration was given to the fact Mr. Colias cooperated during the investigation; did not have a history of a similar offense; no potential for damage; made good faith effort to comply by self-reporting; and no restricted use pesticides were used.
- 2017/0216 **Disposition:** Scott McCord was cited for fourteen (14) 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 \$3,500.00 (14 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$1,400.00. Consideration was given to the fact Mr. McCord cooperated during the investigation; there was no previous history of similar nature; and no restricted use pesticides were involved.

CASE SUMMARY

Case #2012/0842

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

Applicator: Perry Pest Control (unlicensed business)
5866 Jessica Lane
Newburgh, IN 47630
812-893-0593 (cell)
812-853-3392 (home)
Clint Perry (unlicensed applicator)

1. On April 12, 2012, OISC received anonymous information alleging that Clint Perry was operating an unlicensed pest control business. This information indicated that Clint Perry had pest control accounts with Gasthof Amish Village in Montgomery, Indiana, Lee's Famous Recipe in Evansville, Indiana and the Burger King Restaurant in Newburgh, Indiana. A search of the OISC database indicated that Clint Perry was licensed under the business of Perry Termite and Pest Control in Rockport, Indiana during the year of 2011. Clint Perry was not licensed under any business for the year of 2012.
2. On April 19, 2012, I met with Rob Lamberson, General Manager for Gasthof Amish Village. Mr. Lamberson stated that Clint Perry had been doing the restaurant's pest control for years. Mr. Lamberson provided me with invoices for the pest control services provided by Mr. Perry. These invoices indicated that on April 12, 2011, a letter was received by the Gasthof business informing them that Perry Pest Control now had a new address of 5866 Jessica Lane in Newburgh, Indiana (Clint Perry's home address). These invoices also indicated that pest control services were provided on the following dates and billed to the unlicensed business address:
 - 7/20/11 7/21/11 8/12/11 9/1/11 9/15/11 10/25/11
 - 11/15/11 11/25/11 12/27/11 2/1/12 3/7/12 3/30/12
3. On April 25, 2012, I went to the Burger King Restaurant in Newburgh, Indiana, and spoke with District Manager, Sara Barton. Ms. Barton informed me that Clint Perry was still doing their pest control services and provided me with invoices for the services provided by Mr. Perry for the year 2012. The invoices indicated that Clint Perry of Perry Pest Control at 5866 Jessica Lane in Newburgh, Indiana, had provided pest control services for the Burger King on the following dates:
 - 1/25/12 and 3/5/12
4. On April 25, 2012, I went to the Lee's Famous Recipe Restaurant in Evansville, Indiana. I was put in contact with the owner, Bill Watson. Mr. Watson stated that Clint Perry had been doing there pest control for years and agreed to send me invoices for the services

provided. These invoices were received on June 26, 2012 and showed that Clint Perry had billed for services from three (3) different companies, between 2010 and 2012. These companies were Bio-Tech Pest Eradication Services in Owensboro, Kentucky (unlicensed business, see case #2005/0562), Perry Termite and Pest Control in Rockport, Indiana (licensed business through 2011) and Perry Pest Control in Newburgh, Indiana (unlicensed business). Invoices indicated services from Bio-Tech were performed on the following dates:

- 12/22/10 1/25/11 2/22/11 5/1/11

Invoices indicated services from Perry Pest Control were performed on the following dates:

- 9/24/11 (invoice indicated new billing address, Clint Perry's home)
- 10/27/11 11/22/11 1/27/12 3/6/12 3/26/12 4/20/12

5. I contacted Mr. Perry and spoke to him about the unlicensed applications. Mr. Perry stated that he was licensed under his father's company (Perry Termite and Pest Control in Rockport, Indiana) last year and thought his father had renewed his license for 2012, before he passed away in 2011. I informed Mr. Perry that the invoices I collected showed applications made under Bio-Tech Pest (Owensboro, Kentucky) and Perry Pest Control (Newburgh, Indiana). Neither of these businesses is licensed in the state of Indiana and the license he had with his father's business did not cover applications he would have made and billed from these companies. Mr. Perry also informed me that he has turned over all of his Indiana accounts to Action Pest Control and was no longer making any type of pesticide applications for hire in Indiana.



Scott M. Farris
Pesticide Investigator

Date: July 31, 2012

Disposition: Clint Perry was cited for twenty-five (25) 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 \$6,250.00 (25 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$1,875.00. Consideration was given to the fact Mr. Perry cooperated during the investigation; corrective action was taken; there was no previous history of similar nature and no restricted use pesticides were involved.

As of July 8, 2014, Mr. Perry had not paid the civil penalty. The case was forwarded to the Office of Indiana Attorney General (IAG) for collection.

The civil penalty of \$1,875.00 was collected through the IAG. On November 15, 2016, the final civil penalty payment was received by OISC.



George N. Saxton
Compliance Officer

Draft Date: May 3, 2013
Final Date: March 21, 2017

cc: Jefferson A. Lindsey, Lindsey Law Office
Attorney for Clint Perry

CASE SUMMARY

Case #2015/0994

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

Applicator: Scott Bennett
Win Home Inspection
3903 Portage Road, Suite C-136
South Bend, Indiana 46628
574-993-1710

1. On July 10, 2015, I received a complaint from OISC Licensing Section. According to the Licensing Section, Scott Bennett of Win Home Inspection, failed to renew his pesticide business and applicator licenses.
2. I attempted to make contact with Mr. Bennett through his business telephone with no answer. On July 9, 2015, I drove to South Bend, Indiana in an attempt to make personal contact with Mr. Bennett. I checked the address listed with the Licensing Section and found it to be a UPS store. Having no further information, I continued to attempt contact through the listed business telephone number. I left messages on:
 - a. July 9, 2015
 - b. July 22, 2015
 - c. August 3, 2015
 - d. August 10, 2015
 - e. August 12, 2015
 - f. January 28, 2016, and;
 - g. February 5, 2016.

To this date (February 5, 2016), I have not received a return telephone call. Each time I called, I received a voice message indicating it was "Win Home Inspection".

3. On February 9, 2016, the voice message still indicated the business was still operating as Win Home Inspection.
4. The website for this business location:

<http://winhomeinspectionsouthbend.com/our-services/real-estate-professionals/specialized-inspections/>

also listed Wood Destroying Organism/insect (Pest") inspections.


Kevin W. Gibson
Investigator

Date: February 5, 2016

DISPOSITION: Scott Bennett was cited for two (2) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for professing to be in the business of making diagnostic inspections to determine infestations of wood destroying pests for hire on the property of another without having an Indiana pesticide business license. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed for this violation.

As of March 21, 2017, Scott Bennett had not paid the civil penalty. The case was forwarded to collections.

A handwritten signature in black ink, appearing to read "George N. Saxton", is written over the printed name.

George N. Saxton
Compliance Officer

Draft Date: February 12, 2016

Final Date: March 21, 2017

CASE SUMMARY

Case #2015/1007

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

Dealer: Salsbery Brothers Landscaping, Inc.
4317 East 146th Street
Carmel, IN 46033
317-843-0100

Registrant: Dr. Earth Company
P.O. Box 460
Winters, CA 95694

I Must Garden LLC
1289 N. Fordham Boulevard
Chapel Hill, NC 27514
877-446-2929

Saint Gabriel's Organics
14044 Litchfield Drive
Orange, VA 22960
(540) 672-0866

Voluntary Purchasing Group
230 FM 87
Bonham, TX 75418

1. On June 3, 2015, I performed a routine marketplace inspection at Salsbery Bros. Landscaping Inc. in Carmel, Indiana. I spoke with the manager, Holly Lindzy.
2. Upon reviewing the pesticides available for sale at Salsbery Brothers, I found the following six pesticides which appeared to be state unregistered:
 - a. Dr. Earth Final Stop Snail and Slug Killer Spray;
 - b. Dr. Earth Final Stop Vegetable Garden Insect Killer;
 - c. Dr. Earth Final Stop Rose and Flower Insect Killer;
 - d. I Must Garden Deer Repellent;
 - e. Saint Gabriel Organic Bug Shooter; and
 - f. Natural Guard Organic Animal Repellent.

3. I sampled each of these six pesticides and attached the following sample collection numbers to the packages. (None of these pesticides had EPA Registration Number listed, as they all claimed to be 25b pesticides exempt from full section 3 federal registration with US EPA.)

<u>Product name</u>	<u>Sample Number</u>	<u>Manufacturer</u>
Dr. Earth Final Stop Snail and Slug Killer Spray	2015-0913	Dr Earth Co
Dr. Earth Final Stop Vegetable Garden Insect Killer	2015-0914	Dr Earth Co
Dr. Earth Final Stop Rose and Flower Insect Killer	2015-0915	Dr Earth Co
I Must Garden Deer Repellent	2015-0916	I Must Garden LLC
Saint Gabriel Organic Bug Shooter	2015-0917	Saint Gabriel's Organics
Natural Guard Organic Animal Repellent	2015-0918	Voluntary Purchasing Group

Fig 1: Pesticide sample information

4. Upon examining the I Must Garden Deer Repellent (Sample # 2015-0916), I observed the following label claim, "All natural." However in the ingredient list, it contained "sodium laurel sulfate." Since sodium laurel sulfate is not a compound found in nature, the product/label contained a false and misleading statement.



Fig 2: All Natural



Fig 3: Sodium Laurel Sulfate

5. I then reviewed my findings with Mrs. Lindzy. I asked her for copies of shipping records regarding the pesticides. Mrs. Lindzy stated she did not have that information and asked if another employee could contact me later in the week with the requested information.
6. On June 5, 2015, I submitted the six pesticides samples to the OISC Formulation Lab.



Fig 4: Sample 0913



Fig 5: Sample 0914



Fig 6: Sample 0915



Fig 7: Sample 0916



Fig 8: Sample 0917



Fig 9: Sample 0918

7. On June 19, 2015, I received an email from Gary Stevens, an employee at Salsbery Brothers, regarding when they received the above mentioned pesticides. It stated the following:

“The Dr. Earth products were received January of 2014, I Must Garden Repellent in February of 2010, St. Gabriel Bug Shooter in February of 2012, and Natural Guard Repellent in January of 2014.”

Elizabeth Carter

Elizabeth C. Carter
Pesticide Investigator

Date: August 4, 2015

DISPOSITION: Dr. Earth Co. was cited for three (3) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide that was not registered in the state of Indiana. A civil penalty in the amount of \$750.00 (3 counts x \$250.00 per count) was assessed.

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

I Must Garden LLC was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that made a false or misleading statement.

I Must Garden LLC was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for distributing a pesticide product that was in violation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). A civil penalty in the amount of \$250.00 was assessed for this violation.

Saint Gabriel’s Organics was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in the state of Indiana. A civil penalty in the amount of \$250.00 was assessed.

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

As of March 21, 2017, Saint Gabriel's Organics had not paid their civil penalty. The case was forwarded to collections.



George N. Saxton
Compliance Officer

Draft Date: February 8, 2016
Final Date: March 21, 2017

CASE SUMMARY

Case #2015/1182

Complainant: Jason Cooper
3618 North Rangeline Road
Huntington, IN 46750
260-416-4721

Respondent: Mark S. Prewitt
Yard Circus
1005 E. Coliseum Boulevard
Fort Wayne, IN 46805
260-403-0122

Other Addresses:
3619 N. Clinton Street
Fort Wayne, IN 46805-1858

7012 Melody Lane
Fort Wayne, IN 46804

1. On July 31, 2015, the complainant spoke with the Certification and Licensing Manager of Indiana State Chemist (OISC) regarding an unlicensed company. He stated that in late April he contacted the respondent via a "Craig's List" advertisement. The complainant stated that the respondent has made a herbicide application to his property, without a contract and will not tell him what was applied. The complainant is concerned the company is not licensed as well as what chemical was applied to his property.
2. On August 3, 2015, I spoke with Jason Cooper who reported he had met with Mark Prewitt in the spring to discuss having some mowing and clean-up work done at his home. Mr. Cooper indicated Mr. Prewitt placed ads on the internet which listed landscape services, mowing and weed control. Mr. Cooper indicated his wife had cancer in the past and he informed Mr. Prewitt he wanted a biological weed control used on the underbrush on his mostly-wooded property. Mr. Prewitt indicated he could use a vinegar and salt solution. Mr. Prewitt reportedly showed up one day with another man and began mowing the steep hill between the woods and the road at the front of the property. Mr. Cooper did not know the two men were there until they asked him for a chain because they had gotten the mower stuck on the hill. He said the two men left, but he later saw them in the woods with a backpack sprayer. By the time he got outside to talk to them, they had left again. Mr. Cooper indicated there was no contract or service agreement for the work and he did not think Mr. Prewitt was licensed to make for-hire pesticide applications. Mr. Cooper stated he and Mr. Prewitt were corresponding recently via text message and Mr. Prewitt had asked to be paid for services rendered.
3. On August 4, 2015, I met with Mr. Cooper at his home where he shared the text messages he had received from Mr. Prewitt. He then showed me random spots of dead vegetation in the woods in front of the house. Mr. Cooper stated Mr. Prewitt would not tell him exactly what was applied, but text messages indicated he used "\$300 worth of weed control" and it was a "salt-based agricultural solution". I walked the woods and photographed the browned leaves on sapling and other vegetation. I collected foliage from several of the plants which exhibited dry, brown leaves and submitted the sample to the OISC Residue Lab for analysis.



Fig.1 Dead vegetation along drive



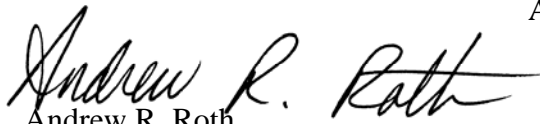
Fig.2 Dead vegetation in woods



Fig.3 Affected vegetation in woods

4. On August 4, 2015, I spoke with Mr. Prewitt on the phone. He confirmed he met with Mr. Cooper and later took a helper named "Chris", an acquaintance who frequented his music store, to the Cooper property. Mr. Prewitt stated he just recently started landscaping and mowing for extra income and that he took "Chris" because he owned the mower and needed to earn some money. A solution of vinegar, soap and salt, a mixture he learned about from the internet, was reportedly applied to vegetation along the driveway from a borrowed backpack sprayer. He stated he felt "set up" by Mr. Cooper and he did not think he would be paid for all the work he wanted done. I informed Mr. Prewitt that advertising for weed control services as well as actually making for-hire pesticide applications both require certification and a pesticide business license. A Pesticide Investigation Inquiry (PII) was sent to Mr. Prewitt at his business, GIG Music, on Coliseum Boulevard in Fort Wayne, IN. I verified Mr. Prewitt's internet ads listed "Weed Control" under services provided.
5. I later called and left voice messages for Mr. Prewitt, but my calls were not returned. I went to GIG Music and found Mr. Prewitt who again denied using a pesticide, maintaining that "Chris" applied the vinegar solution to control brush at the Cooper property. When asked about the texts he sent Mr. Cooper, Mr. Prewitt stated he was just trying to get paid. He also indicated he meant mechanical control when he listed "Weed Control" in his internet ads. I informed him that a PII had been sent and that he was to complete the form and submit it with any other information he felt was pertinent to the investigation. The PII was unclaimed and later returned to the OISC. There has been no other contact with Mr. Prewitt.
6. Base on the symptoms, the OISC Residue Lab analyzed sample for glyphosate, the active ingredient in many non-selective herbicides including Roundup, and reported the following:

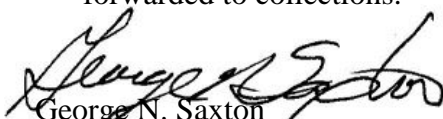
Sample#1182-1 Dead vegetation	Glyphosate	297,000.0 parts per billion
	AMPA (breakdown product)	906.0 parts per billion


 Andrew R. Roth
 Investigator

Date: February 23, 2016

DISPOSITION: Mark S. Prewitt was cited for 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 \$250.00 was assessed for this violation.

As of March 21, 2017, Mark S. Prewitt had not paid the civil penalty. The case was forwarded to collections.


 George N. Saxton
 Compliance Officer

Draft Date: March 2, 2016
 Final Date: March 21, 2017

CASE SUMMARY

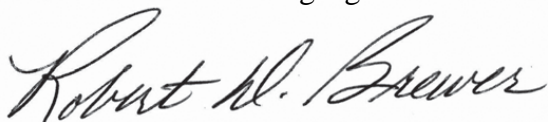
Case #2015/1276

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

Respondent: Donald Plohg
South Gleason Golf Course
3400 Jefferson Street
Gary, IN 46408
219-980-1089

Grounds Keeper

1. On September 10, 2015, I met with Mr. Donald Plohg, grounds keeper for the South Gleason Golf Course, to conduct a routine golf course inspection. During the inspection, I asked Mr. Plohg who made the pesticide applications to the golf course. He stated he did. I asked him if he was a certified applicator and he stated he was but had not received his card. I asked him if he sent in the application to OISC and he stated he thought the office administration would have. I asked Mr. Plohg for the pesticide application records regarding the pesticide applications he had made. He stated he did not have full records of the pesticide applications, but did have the applications documented on a calendar. I gave Mr. Plohg my business card with my email address and advised him to put the pesticide applications on individual records and email them to me by the first of the next week. I also provided Mr. Plohg with a sample sheet for pesticide application records. As of the time of this case summary, I had not received the records from Mr. Plohg.
2. I then contacted Ms. Jill Davis of the OISC licensing division. I asked her if Mr. Plohg was licensed as a certified applicator in category 3b (Turf Management). She advised me he had taken the examination and passed it, but OISC had never received the application so he was not licensed. I advised Mr. Plohg he would need to send in the application to OISC before he would be licensed and attached to South Gleason Golf Course as a certified applicator. He stated he would get with the administration office and be sure to get the application sent in immediately.
3. I then issued Mr. Plohg a STOP ACTION ORDER, ordering him to cease any and all pesticide applications until obtaining proper licensing through the Office of Indiana State Chemist. Mr. Plohg signed the order and stated he understood.



Robert D. Brewer
Investigator


Date: September 17, 2015

DISPOSITION: Donald Plohg and South Gleason Golf Course were cited for 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 \$250.00 was assessed for this violation.

Donald Plohg and South Gleason Golf Course were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-4, for failure to maintain all required records of pesticides applied to a golf course. A civil penalty in the amount of \$250.00 was assessed for this violation.

In addition, the license issued to Donald Plohg will be suspended until he complies with the records request.

As of March 21, 2017, Donald Plohg had not paid the civil penalty. The case was forwarded to collections. No licenses will be issued until the civil penalty has been paid.



George N. Saxton
Compliance Officer

Draft Date: October 6, 2015
Final Date: March 21, 2017

CASE SUMMARY

Case #2015/1311

Complainant: Mike & Jan Campbell
1235 Vance Avenue, Lot 10
Ft. Wayne, Indiana 46805
260-445-0744

Respondent: Edgar L. Heinkel IV
4940 S. Harrison Street
Ft. Wayne, Indiana 46807
260-416-8243

Certified/ Not Licensed
NEW (7/4/16): 1144 Wabash Avenue
Fort Wayne, IN 46803-1322

1. On, September 14, 2015, the complainant contacted the Compliance Officer of the Indiana State Chemist (OISC) to report a problem with a local pest control company. She stated Mr. Heinkel contracted to perform pest control for her and has not lived up to his agreement about returning for service. A check of the OISC database revealed Mr. Heinkel had been cited twice in the past for operating without a license and is currently unlicensed and under Stop Action Order. See case numbers 2013/0381 and 2014/1247.
2. On Tuesday September 15, 2015, I, Agent Brian Baker of OISC, made contact with the complainant at her residence. I identified myself verbally and with OISC credentials. I issued the complainant a Notice of Inspection and took her verbal statement regarding the report she filed in paragraph 1 of this report.
3. The complainant told me she had a bedbug infestation that was so bad she could not sleep in her own bed without being bitten repeatedly. On the recommendation of a friend, she called American Pest Hunters on June 20, 2015 and spoke to owner Edgar L. Heinkel IV about her pest problem. Mr. Heinkel quoted the complainant a price of \$300.00 which included follow up visits at no additional cost. The complainant told Mr. Heinkel on the phone that she would call him back if she wanted him to perform the service. The complainant told me she left her home to go shopping after speaking to Mr. Heinkel and while shopping he called her back and said he was at her home and ready to get started. The complainant went home, met with Mr. Heinkel and asked why he came to her home after she clearly told him she would call him if she wanted his services. Mr. Heinkel told the complainant he just paid his bills and had no money for groceries. The complainant had compassion on Mr. Heinkel, signed the Pest Control Service Agreement and paid him the \$300.00 fee. Mr. Heinkel told the complainant she had to leave the premises for 4 hours while he performed the pesticide spray application service. The complainant told me she had an uneasy feeling about Mr. Heinkel because of manner in which he conducted this transaction and because of the vehicle he drove. The complainant described the vehicle as a beat up truck with no business sign or logo on it.
4. The business service agreement and receipt for the transaction in paragraph 3 are attached to this case file. The agreement was a pest control service for bed bugs. The agreement calls for

3 applications over a 3 month period with a guarantee for 6 months. The treatment areas are listed as bathrooms, bedrooms, and living room. The liquid products were sprayed and the dust was applied to crack and crevice. The invoice lists the following pesticide products:

- **Tempo** 1% Dust, EPA Reg. #432-1373, active ingredient=cyfluthrin 1.0%
- **Gentrol IGR**, EPA Reg. #2724-351, active ingredient=2,4-Dodecadienoic acid, 3,7,11-trimethyl-,ethyl ester, (S-(E,E))- (128966)
- **Kicker**, EPA Reg. #432-1145, active ingredient=piperonyl butoxide (67501) 60.0% pyrethrins (69001) 6.0%

5. I took the following photos of the complainant's residence.



Fig. 1

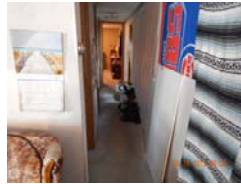


Fig. 2



Fig. 3



Fig. 4

- Figure 1 is the exterior of the complainant's house trailer. Note the tent.
 - Figure 2 is a view of the hall leading from the living room to the other rooms in the house trailer. Note the bagged up clothing.
 - Figure 3 is the main bedroom. The lower right area of the mattress and foundation is where the swabs were taken in this case.
 - Figure 4 is the living room. Note the covered couch
6. The complainant told me when it came time for a follow up visit and second application, she called the respondent and the phone was disconnected. The complainant told me the bed bugs were so bad in her home she and her husband had to sleep in the tent seen in fig.1. The complainant stripped the bedding off her bed and as she washes linens and clothing, she bags them and keeps the bags in the hall as seen in fig. 2. When the complainant and her husband come into the house they only sit on the covered couch and beverage cooler seen in fig. 4. The complainant called the Better Business Bureau and filed a complaint against Mr. Heinkel. The complainant called two other well established and reputable pest control companies and ended up choosing one to complete a bed bug service. The personnel with the pest control company urged the complainant to call OISC and file a complaint.
7. I collected two acetone swabs on the lower right corner of the complainant's mattress and mattress foundation (fig.3). The swabs were tagged and taken to the OISC Residue Laboratory for analysis. I asked the complainant if she had used any pesticide products in her home. The complainant told me she had used some bed bug foggers she purchased at the Lowes store located at 1929 Coliseum Blvd N. Ft. Wayne, Indiana. The complainant met me at that store and showed me which product she used. The product is:
- **Hot Shot Bed Bug & Flea Fogger**, EPA Reg. #1021-1674-8845, active ingredients = pyrethrins .10%, cyano chloroalpha .10%, piperonyl butoxide .10%, n-octyl bicycloheptene dicarboximide .16%, 2-(1-methyl-2(4-phenoxyphenoxy) ethoxy] pyridine .10%
8. I attempted telephone contact with the respondent and found the number had been changed or disconnected. I went to the residence located at 4940 S. Harrison Street and attempted

contact by knocking at the front door. I did not get an answer at the door. I left a business card with my contact information and a note, taped to the front door. I noticed two vehicles (fig.5&8) parked at the curb next to the residence. I photographed the two. I noticed two peculiar items in the open bed of the pick-up truck. There were two hand held pump sprayers (fig.6) and at least one pesticide product container. The pesticide container is **Talstar** (fig.7).



Fig. 5



Fig. 6



Fig. 7



Fig. 8

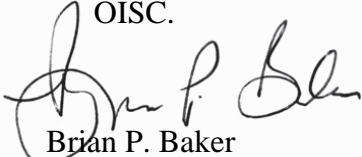
- Figure 5 is the residence at 4940 S. Harrison Street Ft. Wayne, Indiana.
- Figure 6 is a photo of the contents of the open bed of the Ford Ranger pick-up seen in figs. 5 and 7.
- Figure 7 is the photo of a pesticide product in the open bed of the Ford Ranger in figs 5, 6 & 8.
- Figure 8 is a frontal view photograph of the Ford Ranger pick-up parked at the curb next to the residence in fig. 5.

9. On Wednesday September 16, 2015 at 7:15 am, I returned to 4940 S. Harrison Street in Ft. Wayne Indiana. The Harrison Street address is the address listed as the business residence for American Pest Hunters owned and operated by Edgar L. Heinkel IV. I attempted contact by knocking at the front door and after several minutes of knocking I was met by a w/f. I identified myself verbally and with OISC credentials and asked if I could speak to Edgar Heinkel. The female verbally identified herself as Tamara Heinkel, the estranged wife of Edgar Heinkel. Mrs. Heinkel told me Edgar did not live with her any longer. I stated the purpose of my visit and she told me it was because of his pesticide business that the two of them argued continually and decided to pursue a divorce. I asked for contact information on Mr. Heinkel and Mrs. Heinkel told me she did not have a phone number or address but added he might be staying with his grandmother downtown Ft. Wayne. I asked what Mr. Heinkel was driving and she shrugged her shoulders and said he usually drove the small Ford pick-up parked at the curb next their home but added it was broken down and she just didn't know what he was driving. I asked for the address of his grandmother and she said she did not know it. I asked if she could get the address for me and she told me she would drive downtown in the next half hour or so and get the address for me. I made certain Mrs. Heinkel had my contact information and told her I would be standing by in the general area of her home waiting for a call back with that information. Within a few minutes of departing, I received a call from a male who identified himself as Edgar Heinkel IV. I told Mr. Heinkel I needed to meet with him to go over a complaint on a pesticide spray application he made on June 20, 2015. Mr. Heinkel denied having made any pesticide applications of any kind since he spoke to OISC Agent Kevin Gibson on September 12, 2014. I asked to meet with him to go over the complaint and he told me he would meet with me on Saturday September 19, 2015. Mr. Heinkel told me he was working his new job with Snyder Vending and he did not have time during the work week to meet. Mr. Heinkel agreed to the weekend meeting at the Burger King restaurant near the intersection of Pettit and Lafayette Streets. I recorded the incoming phone number as (260) 416-8243 and verified that with Mr. Heinkel. I asked Mr. Heinkel where he was staying and he paused and told me his wife had lied to me and he was in fact living at the 4940 S. Harrison Street address.

10. After speaking to Mr. Heinkel by phone, I called the complainant and arranged to meet with her at her home. I met with the complainant and her husband at their residence. I let them know Mr. Heinkel denied making the pesticide application. I reminded the complainant what she said about Mr. Heinkel's truck in paragraph 3 of this report. Mr. Mike Campbell spoke up and said he remembered it was a smaller junky Ford pick-up and he described the color as maroon-ish. I showed Mr. Campbell the photograph I had of what I believed was Mr. Heinkel's truck (fig 8) and he said he was sure it was the same truck Mr. Heinkel drove to their home back on June 20, 2015, when they paid him \$300.00 for the pesticide application agreement. I asked for a physical description of the man who identified himself to them as Edgar Heinkel IV. The Campbell's described the man as a w/m in his late 30's or early 40's, 5'10-5'11, 150-180lbs, dark dirty blonde/brownish un-kept hair.
11. On Saturday September 19, 2015, I met with Mr. Edgar L. Heinkel IV at the aforementioned Burger King Store. Mr. Heinkel verbally identified himself to me. I identified myself verbally and with OISC credentials. I provided my business card to Mr. Heinkel as well. I went over the complaint in this case with Mr. Heinkel. I showed Mr. Heinkel copies of the invoice and Pest control service agreement. Mr. Heinkel said that he did in fact make the unlicensed pesticide spray application at the complainant's home on June 20, 2015. I asked Mr. Heinkel if he remembered being issued a "Stop Action Order" by Agent Kevin Gibson of OISC on September 12 of 2014. Mr. Heinkel said that he did remember signing the order and was aware he was violating it when he made the pesticide spray application in this case. Mr. Heinkel told me he did the application as a favor to a good customer that asked him to do it. I asked who that customer was and he said that he could not remember it. I asked if he had it in his records and he told me he had discarded all his pesticide business records because he was out of the business for good. I asked Mr. Heinkel if he remembered the Campbell residence and he told me it was a "trailer in a small trailer park". I asked Mr. Heinkel what his Pest Control Agreement called for and he told me it was three applications over three months with a six month guarantee. I asked Mr. Heinkel if he fulfilled the terms of the contract and he said that he did not. Mr. Heinkel told me he could not get hold of the Campbell's after the first application. Mr. Heinkel told me he made several calls to the Campbell's but was unable to make contact. Mr. Heinkel told me he wanted totally out of the pest control business so he changed his phone number.
12. I asked Mr. Heinkel for a digitally recorded statement and added that I wanted him to take the pesticide products he had stored in the open bed of his pick-up truck and secure them properly. Mr. Heinkel agreed to meet me at his residence to provide a digitally recorded statement and correctly store his pesticide products away. A few minutes later I met Mr. Heinkel at his residence and he did take all the pesticide products out of the bed of his truck and place them in a secured utility storage box on the truck. Mr. Heinkel provided a digitally recorded statement. The digitally recorded statement was forwarded to be transcribed. In his statement Mr. Heinkel provides the following information;
- His identity
 - The fact he is certified with OISC but "unlicensed".
 - Verifies the contract and service agreement in this case as his own. He explains the terms and the fact he did not fulfill the contract.
 - Verifies the address of the complainant.
 - The name brand of the pesticides used in this case.
 - The manner of mixture and application of the pesticide products in this case.

- The fact he made an “unlicensed pesticide application” while under “Stop Action Order” by the OISC.
- The fact he accepted money for the unlawful pesticide application.
- The fact he understood the transaction was both wrong and unlawful.

13. On June 20, 2015, Edgar L. Heinkel IV made a pesticide spray and dust application using the pesticide products outlined in paragraph 4 of this report. The pesticide product application was made at the Mike and Jan Campbell residence located at 1235 Vance Ave. Lot 10 in Fort Wayne, Indiana 46805. Mr. Heinkel was not properly licensed through OISC and was under a Stop Action Order at the time he made the pesticide application in this case. This pesticide application is in violation of I.C. 15-16-5-70(b) and is Mr. Heinkel’s third offense with OISC.



Brian P. Baker
Investigator

Date: September 21, 2015

DISPOSITION:

A. On September 24, 2015, this case was taken to the Allen County Prosecutor for criminal review:

I.C. 15-16-5-65(9);

“(9) Engaged in or professed to be engaged in the business of:

(A) using a pesticide or any other product regulated under this chapter or by rules adopted under this chapter; or

(B) making a diagnostic inspection to determine infestations of a wood destroying pest; for hire on the property of another”

I.C. 15-16-5-70;

“(a) A person who recklessly, knowingly, or intentionally:

(1) violates this chapter, except as provided in subsection (b); or

(2) impedes or prevents the state chemist or the state chemist's agent from performing a duty of the state chemist; commits a Class C misdemeanor.

(b) A person who recklessly, knowingly, or intentionally violates section 65(9) of this chapter after the state chemist has issued written notification to that person regarding a previous violation of section 65(9) of this chapter commits a Class A misdemeanor.”

B. On June 28, 2016, Edgar L. Heinkel IV was cited for 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 \$1,000.00 was assessed for this violation. Consideration was given to the fact this was his third violation of similar nature. See case numbers 2013/0381 and 2014/1247.

C. As of March 23, 2017, Edgar L. Heinkel IV had not paid the civil penalty. The case was forwarded to the Office of Indiana Attorney General for collection of the civil penalty.



George N. Saxton
Compliance Officer

Draft Date: August 29, 2016

Final Date: March 23, 2017

CASE SUMMARY

Case #2016/0266

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

Respondent: Perennials Plus
John Platte
4510 W. 166th Street
Westfield, IN 46074
317-867-5504
Owner

1. On June 28, 2016, I performed a routine Worker Protection Standards (WPS) inspection at Perennials Plus in Westfield, Indiana. I spoke with owner, John Platte. Mr. Platte stated there was no central posting area for pesticide information exchange. However, in the break room next to the time clock was a list of emergency contact information and a poster in Spanish from USEPA discussing heat related issues. See figures 1-2. Mr. Platte stated no formal WPS training had occurred this year for workers. Mr. Platte stated several years prior a service came to the greenhouse and trained all the workers regarding WPS.



Figure 1-emergency info.



Figure 2-Poster discussing heat issues

2. On June 28, 2016, I spoke with Herbert Benton, private applicator, as the handler. Mr. Benton stated he was the only applicator and handler of pesticides at Perennials Plus. Mr. Benton stated he communicates applications verbally to the workers. Workers who are no-English speaking receive the information regarding pesticide application from Guillermo Mariano. Mr. Mariano speaks both English and Spanish. Mr. Bento stated he relays the pesticide application information to Mr. Mariano, who passes on to the non-English speaking employees. Mr. Benton stated most applications are performed after worker hours or on Sunday when the greenhouse is closed. Mr. Benton stated signage is posted at entrances to the greenhouse or rows. See figure 3. Furthermore, application records and copies of labels are kept on a computer outside break room with access granted to all.



Figure 3-signage

3. I spoke with Guillermo Mariano, worker. Mr. Mariano stated he is given information regarding applications by the credentialed applicators and passes the information along to non-English speaking employees. Mr. Mariano stated he had not received formal WPS training.
4. The label language for Imidacloprid 2F Turf & Ornamental Insecticide (EPA Reg. # 66222-203, active ingredient imidacloprid) applied on May 31, 2016, states in part, *“Use this product only in accordance with its labeling and with the Worker Protection Standard, 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) and restricted-entry interval. The requirements in this box only apply to uses of this product that are covered by the Worker Protection Standard.”*

Paul J. Kelley
Investigator

Date: June 28, 2016

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

George N. Saxton
Compliance Officer

Draft Date: July 5, 2016
Final Date: March 9, 2017

CASE SUMMARY

Case #2016/0432

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

Respondent: Orkin Exterminating LLC
Mike Jacques
Eric Doyle
851 S. Marietta Street
South Bend, Indiana 46601
574-289-0488

Certified Business
Certified Applicator
Registered Technician

3727 N. Frontage Road
Michigan City, Indiana 46360

Treatment Site

1. On December 3, 2015, I performed a routine pre-construction termite treatment (pre-treatment) inspection at 3727 N. Frontage Road in Michigan City, Indiana. According to the records, a pesticide application of 670 gallons of **Termidor SC Termiticide/Insecticide** (EPA #7969-210; active ingredient: **fipronil**) was made at a rate of 0.06 % dilution.
2. I spoke with and issued a **Notice of Inspection (NOI)** to Eric Doyle of Orkin. He told me he applied a total of 670 gallons of **Termidor SC** for horizontal (670 gallons for 6700 square feet) pre-treatment. He told me he failed to make an inside vertical pesticide application as required by the **Termidor SC** label. He said he could have had a miscommunication with his supervisor Mike Jacques when he did the application.
3. Mr. Doyle supplied me with the records for the treatment which included the diagram and measurements. Using the linear feet and square feet measurements at one foot depth-to-footer, the amount of chemical needed for a by-the-label treatment of **Termidor SC** at 0.06% dilution rate would be:

6700 square feet x 1.0 gallon per 10 square feet	= 670 gallons
343 inside linear feet x four gallons per 10 linear feet	= <u>137.2 gallons</u>
Total amount of chemical needed	= 807.2 gallons

4. I spoke to pesticide applicator Eric Doyle. I read the portion of the Termidor SC label which stated an inside vertical application is required for termite pre-construction treatment. Mr. Doyle admitted he did not make an inside vertical pesticide application.

5. The **Termidor SC** label states in part, “*Apply Termidor SC termiticide/insecticide at a rate of...4 gallons finished dilution per 10 linear feet per foot of depth along the inside and outside perimeter of foundation walls*”
6. Mr. Doyle was in violation of the **Termidor SC** label when he did not make an inside vertical treatment. He used a total of 670 gallons of 0.06% dilution or 83% of the total chemical needed to make a by-the-label treatment of **Termidor SC**.



Kevin W. Gibson
Pesticide Investigator

Date: November 14, 2016

Disposition: Mike Jacques and Eric Doyle were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding inside vertical applications. A civil penalty in the amount of \$250.00 was assessed to Mike Jacques as the certified supervisor responsible for the application.



George N. Saxton
Compliance Officer

Draft Date: January 18, 2017
Final Date: March 9, 2017

CASE SUMMARY

Case #2016/0591

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

Respondent: Mike Hurley Manager
John Plymire Assistant Manager
Rural King, Store 14
2300 E. Morgan Avenue
Evansville, IN 47711
(812) 473-5750

1. On March 11, 2016, I visited the Rural King retail store, located on Morgan Avenue in Evansville, Indiana. I found the store had a shuttle container (265 gallons) of Gly Star Plus (glyphosate) manufactured by Albaugh, LLC, Ankeny, Iowa, Establishment Number 42750-MO-001, and EPA Product Number 42750-61, not in secondary containment (figures 1, 2, 3). Listed in store inventory as Glyphosate 41 plus Shuttle 265 with SKU 62580296 (See attachment). After speaking to Mike Hurley, Manager and also John Plymire, Assistant Manager, and checking the documentation, it was determined the shuttle was delivered to this location on February 27, 2015. Mr. Hurley stated he was aware chemical shuttles required secondary containment and also that once received, a shuttle could only be out of containment 30 days. He also stated that this location, at one time, did have a secondary containment for shuttles, but it had been sent to another location because it took up too much space. There was an empty shuttle on display in the store; the full shuttle was located outside on the east side of the building in a secured area. A Stop Action Order was issued requiring the store to return the Gly Star Plus (Glyphosate 41+ Shuttle 265) shuttle to the warehouse for containment.



Figure 1



Figure 2



Figure 3


Rae Jean Schnur

Jean Schnur
Inspector

Date: March 11, 2016

DISPOSITION:

- A.** On May 4, 2016, Rural King, Store 14 was cited for one hundred eighty (180) counts¹ of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 5-4-1(a), for storing bulk pesticides outside of secondary containment. A civil penalty in the amount of \$45,000.00 (180 counts x \$250.00 per count) was assessed.²
- B.** On June 21, 2016, OISC received two facsimiles from Mike Hurley, Rural King Manager of the Evansville Rural King. One of the facsimiles was a letter dated May 20, 2016, requesting a hearing for the violation and assessed civil penalty. The second facsimile was a cover letter indicating a request for a hearing was made by Mr. Hurley on May 20, 2016, that he believed OISC had not received.
- C.** On June 21, 2016, I contacted Mr. Hurley about his request for a formal hearing. He indicated at that time he did not want to dispute the charges but did not feel he should be held accountable because he did not know about the rule requiring bulk pesticides to be in secondary containment. He stated he also thought the amount of civil penalty was excessive. He stated he just wanted to go before the Indiana Pesticide Review Board (IPRB) about the rule.
- D.** I told Mr. Hurley the IPRB considered the violation of the secondary containment rule to be serious in that I was not allowed to mitigate this particular penalty. I also advised him I would contact the Secretary for the IPRB and let him know about his request of an audience before the Board.
- E.** On January 13, 2017, a three-person Administrative Law Judge (ALJ) panel from the Indiana Pesticide Review Board met to hear the appeal by Rural King in this case. After deliberation, the ALJ panel decided to recommend to the full IPRB that the \$45,000.00 civil penalty be reduced to \$15,000.00, payable to OISC within thirty (30) days of notification.
- F.** On March 2, 2017, the ALJ presented its recommendation to the full IPRB. The IPRB voted to accept the recommendation of the ALJ.
- G.** On March 3, 2017, OISC issued a modified civil penalty letter to Rural King to implement the order of the IPRB.



George N. Saxton
Compliance Officer

Draft Date: March 3, 2017
Final Date: April 6, 2017

¹ By rule, civil penalties may not be imposed for more than one hundred eighty (180) days 357 IAC 1-6-2(b)

² By rule, penalties for this violation may not be mitigated 357 IAC 1-6-2(a)

CASE SUMMARY

Case #2016/0625

Complainant: Linda Freeman
Vanderburgh County Surveyor's Office
1 NW ML King Jr. Blvd
Room 325
Evansville, Indiana 47708
812-435-5211

Respondent:	Shideler Spray Service	Expired business
	Thomas Irvin Borchers	License expired 2015
	Kevin Ryan Jefferis	License expired 2015
	John Richard Hawk	License expired 2012
	13505 N. State Road 3	
	PO Box 494	
	Eaton, Indiana 47338	
	765-744-4452	


1. On, March 25, 2016, Leo Reed, Certification and Licensing Manager for the Office of Indiana State Chemist (OISC), contacted George Saxton, the Compliance Officer for OISC, to report a potential for unlicensed pesticide applications as well as potential fraud in making a bid for those pesticide applications.
2. According to Mr. Reed, the complainant, Linda Freeman of the Vanderburgh County Surveyor's Office, asked him to verify the licensing status of the respondents, Hawk, Jefferis and Borchers, after they had submitted copies of their pesticide applicator licenses to her. Mr. Reed stated the OISC database indicated John Richard Hawk's license expired in 2012; and Thomas Irvin Borchers' and Kevin Ryan Jefferis' licenses both expired in 2015. Mr. Reed further stated the copies of the three licenses he had received from Ms. Freeman for these three individuals indicated an expiration date of 12/31/2016. In addition, the copy of Mr. Borchers' license indicated he was certified in Category 1 (agriculture), when in fact, his Category 1 certification expired in 2012. Upon further examination, Mr. Reed stated the 2016 license dates on the copies had a different font than what was printed at OISC, suggesting the expiration dates had been altered.
3. On March 29, 2016, Bob Brewer, Investigator for OISC, and I went to the above-referenced business location and found no one there and the doors locked. We then spoke with Mary Borchers, Tom Borchers' mother, who lives at the house on the property. Mrs. Borchers reported the company had downsized to just two applicators and they no longer made agricultural applications. She provided a phone number for her son.
4. I then called Mr. Borchers and informed him of the licensing issue. He agreed to meet with us at his home. Upon arrival, I completed a Notice of Inspection and asked about the bidding

process for the ditches in Vanderburgh County. Mr. Borchers indicated there was a considerable amount of paperwork required for each ditch bid and, as the bidding deadline approached, he realized he had not renewed the pesticide business license nor the applicator licenses for himself and Mr. Jefferis; Mr. Hawk no longer worked for the company. Mr. Borchers admitted he signed and submitted the bid packet prior to becoming licensed for 2016. The bid packet included the photocopy referenced by Mr. Reed on which the licenses associated with Shideler Spray Service had been altered to depict expiration dates of "12/31/2016". We discussed the licensing procedure and I informed him that he cannot make for-hire pesticide applications, nor can he bid, advertise or otherwise proclaim to be in the business, without active licenses. I issued Mr. Borchers a Stop Action Order, which instructed him not to make applications, or bid jobs until his licenses were active. He indicated he recently sent the renewal and the fees to the OISC. Mr. Borchers later provided a typed statement indicating he "*included a false license*" in submitting the bid packet.

5. According to the information provided by Ms. Freeman, Mr. Borchers' bid to make twenty-two (22) pesticide applications (including sterilization, foliar spray and dormant spray) as follows:

Aiken	4 applications 4 different bids or one bid to make 4 applications?
Eastside Urban-S ½	3 applications
Harper	2 applications
Kolb	2 applications
Barnett	1 application
Cypress Dale Maddox	1 application
Eagle Slough	2 applications
Edmond	1 application
Keil	2 applications
Sonntag Stevens	2 applications
Henry	1 application
Eastside Urban-N ½	1 application

6. The business license and applicator licenses for Mr. Borchers and Mr. Jefferis were subsequently issued with enforcement for the violations pending.


Andrew R. Roth
Investigator

Date: June 27, 2016

Disposition:

- A. Thomas Irvin Borchers was cited for twelve (12) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for professing to be in the business of applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$3,000.00 (12 counts x \$250.00 per count) was assessed.
- B. Thomas Irvin Borchers was cited for violation of section 65(18) of the Indiana Pesticide Use and Application Law for intentionally altering a duly issued license, permit, registration, or certification. Thomas Irvin Borchers' pesticide certification was revoked.

C. OISC received a letter from Tom Borchers dated March 24, 2017. In the letter Mr. Borchers asked that the fine be reduced or he be allowed to make payments.

D. On April 6, 2017, Mr. Borchers contacted OISC and stated he was not able to pay the civil penalty. He requested that he be allowed to pay \$100.00 per month; first payment due June 1, 2017 and subsequent payments due the first of each consecutive month until the civil penalty was paid in full. He stated that sometime this year he should be able to pay the entire balance.



George N. Saxton
Compliance Officer

Draft Date: February 28, 2017

Final Date: April 7, 2017

CASE SUMMARY

Case #2016/0681

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

Respondent: Martinsville Ace Hardware
Stan Mattila
2064 Burton Lane
Martinsville, IN 46151
765-342-6567

Owner

1. On April 1, 2016, the Office of Indiana State Chemist (OISC) received information Martinsville Ace Hardware made available a flier with a recipe to mix a registered pesticide product, Roach Prufe (EPA Reg. #9608-2, active ingredient boric acid) with another product Red Devil Lye (active ingredient sodium hydroxide) to produce another pesticide product to kill moles called “Haz-mat mole Killer”.
2. On May 20, 2016, I went to Martinsville Ace Hardware and met with Donna Reese, Cashier. Ms. Reese stated the owner, Stan Mattila, was not available because he was on vacation. I asked Ms. Reese if the store had a recipe for a product called “Haz-mat Mole Killer”. Ms. Reese stated the store did have a recipe for “Haz-mat Mole Killer”. Another store employee walked over to the aisle where pesticides were stored and returned with a piece of paper with the recipe for “Haz-mat mole Killer”. The paper with recipe for “Haz-mat Mole Killer” was similar to the recipe received by OISC on April 1, 2016. The store employee showed me where it was located in the pesticide aisle and how the recipe was affixed to the shelving. See figures 1&2.



Figure 1-Haz-mat Mole Killer recipe

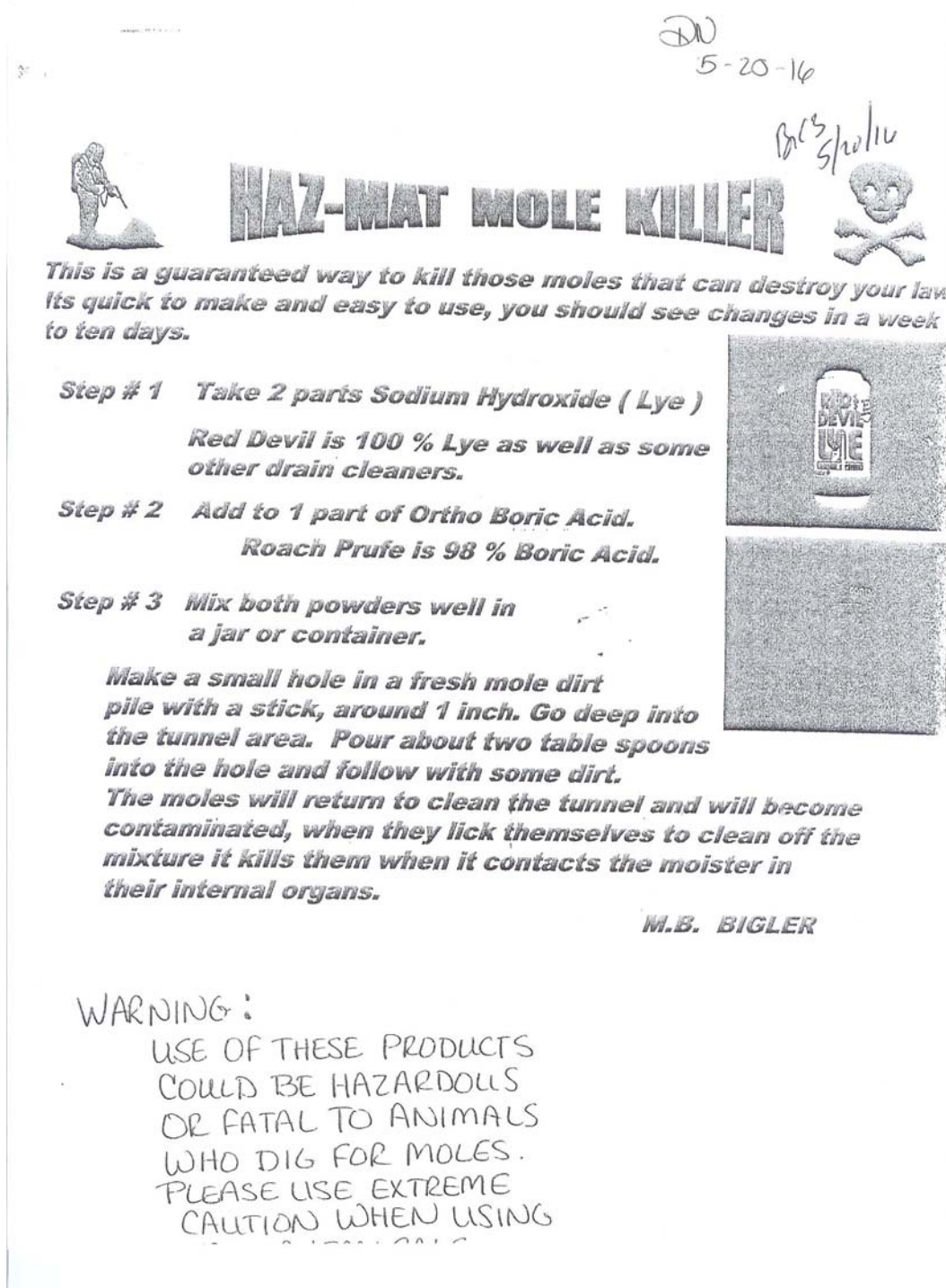


Figure #2

3. Ms. Reese stated the recipe had been affixed to the aisle for at least a year. Ms. Reese stated she believed the recipe was taken from the internet but did not know who put the recipe on the shelving.

4. On May 20, 2016, I did not find the specific products listed on the recipe, however, the other employee directed me to similar products with the same active ingredients. See figures 3-4.

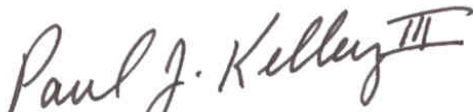


Figure 3-another Boric acid product




Figure 4-another 100% lye product

5. I issued a Stop Action order to Martinsville Ace Hardware to stop advertising and/or posting recipes for Haz-mat Mole Killer as product is not a registered product.


Paul J. Kelley
Investigator

Date: May 23, 2016

Disposition: Martinsville Ace Hardware was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for recommending a pesticide be used contrary to label directions. A civil penalty in the amount of \$250.00 was assessed for this violation.


George N. Saxton
Compliance Officer

Draft Date: February 24, 2017

Final Date: April 6, 2017

CASE SUMMARY

Case #2016/0716

Complainant: Ronald Sheets
102 N. Madison Street
Hebron, Indiana 46341
219-798-9730

Respondent: Scott Tolley
Diversified Maintenance
114 Fairlane Drive
Hebron, IN 46341
219-405-2053

1. On, April 18, 2016, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report his lawn received a fall pesticide/fertilizer application in 2015 and now his grass appears to be dead. He stated Mr. Tolley refused to tell him what was applied to his yard. The OISC database does not show Scott Tolley or Diversified Maintenance as being licensed unless they are licensed under a different name.
2. On April 19, 2016, I made contact with Mr. Tolley at the 114 Fairlane Dr address in Hebron, IN. The following information was provided to me by Mr. Tolley indicating pesticide/fertilizer applications made for hire by Mr. Tolley to the property of Mr. Sheets.

April 4, 2015	Apply spring fertilizer with crabgrass control
September 21, 2015	Apply weed and feed to yard
Unknown date	Apply Chaser Turf Herbicide (EPA Reg #34704-928)

3. Mr. Tolley was issued an Action Order “to cease any and all fertilizer and pesticide applications until such time proper license and certification is obtained.”

Kevin W Neal

Kevin W. Neal
Investigator

April 27, 2016

Disposition: Scott Tolley was cited for three (3) 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 \$750.00 (3 counts x \$250.00 per count) was assessed.

George E. Brown

George N. Saxton
Compliance Officer

Draft Date: January 9, 2017
Final Date: February 23, 2017

CASE SUMMARY

Case #2016/0791

Complainant: Harold Baker
8437 W 1200 N
New Palestine, IN 46163
317-650-0525

Respondent: Darrin Kleiman Private Applicator
3902 West CR200S
New Palestine, IN 46163
317-861-8028

1. On April 29, 2016, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report pesticide drift to his grapes by a neighboring farmer.
2. On May 2, 2016, I spoke with Harold Baker who reported he noticed symptoms on grape leaves a few days after an application was made to the field south his property. The three-year-old vines were expected to produce their first harvest this year. Mr. Baker indicated he had spoken to the farmer about applications near the grapes in 2015 and he was surprised to see this one was made while winds were from the south around 11:30am on April 24.
3. On May 5, 2016, I met with Mr. Baker at his home on the south side of CR 1200 N in northern Shelby County. We inspected the grape vines in the plot between the garage and the target field which bordered the Baker property on the south and east sides. There were no biological barriers between the field and the grapes. The vines were well maintained and Mr. Baker reported he sprayed vegetation under the vines with Roundup (glyphosate). There were several varieties of grapes making up the roughly 1,000-plant plot and most had some degree of leaf cupping. I photographed the site and collected plant samples which were submitted to the Plant & Pest Diagnostic Lab (PPDL) at Purdue for assessment. I also collected a swab sample from an end post near the field, another from an end post near the garage, a composite sample of grape leaves and a control sample from an off-site maple. Those samples were submitted to the OISC Residue Lab for analysis.



Fig.1 Target field and grape plot



Fig.2 Edge of field and grapes



Fig.3 Cupped grape leaves

4. I spoke with Darrin Kleiman who confirmed he farms the field south of the Baker property. According to Mr. Kleiman, he sprayed the field with a tank mix containing **Alecto 41-S** (EPA Reg.

#83772-8-90436), active ingredient glyphosate, **Sharpen** (EPA Reg. #7969-278), active ingredient saflufenacil, **Metribuzin 75** (EPA Reg. #34704-876) and **Matador** (EPA Reg. #34704-1054), active ingredients metolachlor, metribuzin and imazethapyr. The application was listed as being made late morning-early afternoon on April 24, 2016, while winds were out of the south-southwest at 7mph. Mr. Kleiman reported he left an area untreated along the north side of the field near the grape plot to avoid drift.

5. A check of recorded wind data at an automated station, approximately five miles southeast of the Baker property, indicated winds were out of the south (blowing toward the grape plot) at 8.9mph at 11:30am and out of the southeast at 13.4 at 11:45am on April 24, 2016.
6. The PPDL report for the plant samples submitted indicated, *"The cupping of the grape leaves can be a potential indicator of herbicide exposure to grape, specifically glyphosate. Although there was not the necrotic spotting that would be expected from drift exposure to sharpen that was also in the tank."*
7. Because Mr. Baker reportedly applied a glyphosate product under the grape vines, the OISC Residue Lab analyzed the samples submitted for metribuzin, saflufenacil and metolachlor.

Sample #	Sample Description	Sample Matrix	Amount Found		
			Metribuzin	Saflufenacil	Metolachlor
2016-47-4032	Trip Blank	Swab	BDL	BDL	BDL
2016-47-4033	Post near garage	Swab	BDL	BDL	BDL
2016-47-4034	Post near field	Swab	BDL	BDL	BDL
2016-47-4035	Control veg-maple	Veg	BDL	BDL	BDL
2016-47-4036	Grape Vines	Veg	48.8 ppb	0.536 ppb	8.71 ppb
	LOQ	Swab	1 ng/swab	0.2 ng/swab	2 ng/swab
	LOQ	Vegetation	3 ppb	0.3 ppb	0.7 ppb

PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC

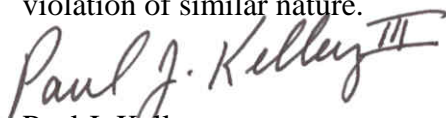
8. The Sharpen label reads, *"Apply this product only when the potential for drift to adjacent nontarget areas is minimal (e.g., when the wind is 10 MPH or less and is blowing away from sensitive areas)."* The Matador and Metribuzin labels both read, *"Do not allow sprays to drift onto adjacent desirable plants."*



Andrew R. Roth
Investigator

Date: December 7, 2016

Disposition: Darrin Kleiman 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. Consideration was given to the fact this was his first violation of similar nature.



Paul J. Kelley
Case Review Officer

Draft Date: February 17, 2017
Final Date: March 24, 2017

CASE SUMMARY

Case #2016/0800

Complainant: Vickey Ashton
3450 Rosbottom Lane Southeast
Corydon, Indiana 47112
812-968-3652
812-738-9860 cell

Respondent: Scotty Weis
3635 McPhillips Road SE
Elizabeth, IN 47117
812-968-3834

1. On, May 2, 2016, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural drift to her property. She stated the local farmer made a pesticide application to his field April 26th and now the leaves on her trees are crinkled. She stated this is not the first time this has happened.
2. On May 4, 2016, I spoke with Scott Weis by telephone regarding his pesticide application to the field in question on April 26, 2016. Mr. Weis informed me he applied Roundup PowerMax (EPA Reg. #524-549; active ingredient: glyphosate), Loveland 2,4-D LV6 (EPA Reg. #34704-125; active ingredient: 2,4-D), and Simazine 90DF (EPA Reg. #19713-252; active ingredient: simazine). Mr. Weis was informed he would receive a Pesticide Investigation Inquiry (PII) form to complete and return. The PII was received back on May 18, 2016, and indicated the time of pesticide application made by Mr. Weis was between 12:30pm and 1:10pm on April 26, 2016.
3. On May 5, 2016, I met with John Ashton (husband of Vickey Ashton) at their residence in Corydon, Indiana. Mr. Ashton stated shortly after the pesticide application to the farm field south of their property, leaves on the trees and bushes around the home began to curl up. Mr. Ashton indicated this had happened from a pesticide drift from the same field a few years ago and believed drift had occurred again. Mr. Ashton also informed me he had not applied any pesticides himself to the property.
4. I inspected the various trees and ornamentals located around the Ashton property. I observed a pattern consistent with exposure to a growth regulator pesticide such as 2,4-D to most of the trees and bushes inspected. Photograph #1 and #2 below show the twisted and distorted leaves/stems consistent with exposure to 2,4-D.




Photograph 1

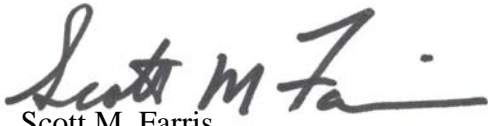


Photograph 2

5. I collected both swab and vegetation environmental samples from trees/bushes located around the home. The distances ranged from 30 to 90 feet north of the farm field in question. In addition, a swab and vegetation sample was collected from the farm field.
6. On May 6, 2016, a collected vegetation sample was turned into the Purdue Plant & Pest Diagnostic Lab for examination. The results were reported back on May 6, 2016, and stated the following: *"The leaf curling, distortion and petiole epinasty observed on the sample are indicators of exposure to a growth regulator herbicide such as 2,4-D. There was an overall lack of visual symptoms indicating glyphosate or simazine exposure, although these symptoms tend to be very vague and poor indicators."* – Tom Creswell
7. On May 6, 2016, collected swab and vegetation samples were turned into the State Chemist Residue Lab for analysis. The following lab report was submitted back on May 24, 2016:

Case # 2016/0800			Investigator: Scott Farris
Sample #	Sample Description	Sample Matrix	Amount Found
			Simazine
2016 51 0038	SWAB TRIP BLANK	Swab	BDL
2016 51 0039	VEGETATION SWAB FROM TREE 90FT FROM FIELD	Swab	7.6 (ng/swab)
2016 51 0040	VEGETATION FROM TREE 90FT FROM FIELD	Vegetation	51.9 (ppb)
2016 51 0041	VEGETATION SWAB FROM TREE 60FT FROM FIELD	Swab	541.4 (ng/swab)
2016 51 0042	VEGETATION FROM TREE 60FT FROM FIELD	Vegetation	316.9 (ppb)
2016 51 0043	VEGETATION SWAB FROM PLANT 50FT FROM FIELD	Swab	33.0 (ng/swab)
2016 51 0044	VEGETATION FROM PLANT 50FT FROM FIELD	Vegetation	173.4 (ppb)
2016 51 0045	VEGETATION SWAB FROM TREE 30FT FROM FIELD	Swab	474.6 (ng/swab)
2016 51 0046	VEGETATION FROM TREE 30FT FROM FIELD	Vegetation	850.3 (ppb)
2016 51 0047	VEGETATION SWAB FROM TARGET FIELD 30FT INSIDE FIELD	Swab	3322.6 (ng/swab)
2016 51 0048	VEGETATION FROM TARGET FIELD 30FT INSIDE FIELD	Vegetation	27347.8 (ppb)
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC			
LOQ	Swab	1 ng/swab	
LOQ	Vegetation	3 ppb	
Signature		Date	5/24/16

8. A check of the weather conditions at the time of the application made by Mr. Weis according to information obtained through Wunderground.com, the winds were between 5.8 MPH and 15 Mph from a south/southwest direction (blowing toward the Ashton property).



Scott M. Farris
Investigator

Date: June 2, 2016

DISPOSITION: Scotty Weis was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allowed it to drift from the target site in sufficient quantity to cause harm to a non-target site. 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 2013/0985.



George N. Saxton
Compliance Officer

Draft Date: July 6, 2016
Final Date: March 9, 2017

CASE SUMMARY

Case #2016/0831

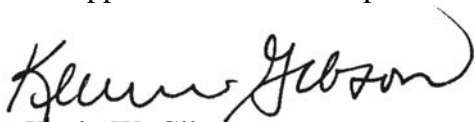
Complainant: Bethany Ault
2841 Beachwalk Lane
Kokomo, Indiana 46902
706-766-5780

Respondent:	Travis Walker Walker Landscape 6474 W. 320 S. Russiaville, Indiana 46979 765-434-1241	Unlicensed Applicator Unlicensed Business
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1. On May 18, 2016, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Travis Walker made a pesticide application to her lawn without her permission. It was later discovered that Travis Walker is not licensed to apply pesticides for hire.
2. On May 19, 2016, I met with and issued a Notice of Inspection (NOI) to the complainant Bethany Ault. She told me she had contact with the respondent about the spray application made to her lawn. He admitted to her he sprayed her lawn but he refused to give the product information. She also told me the respondent did not leave a "lawn application" flag. She was concerned the chemical which was applied may have been harmful to her children who play in the yard from time to time.
3. Ms. Ault resides in the Webster Park residential community. Ms. Ault told me the homeowners' association manager is Gina Jinks of Community Association Services of Indiana located at 11711 N. College in Carmel, Indiana. I spoke to Ms. Jinks. She told me Travis Walker's lawn care company has provided lawn care services to the Webster Park homeowners' association since 2013. She said the services included weed control. She agreed to e-mail me the lawn care services invoices.
4. On May 20, 2016, I met with Mr. Walker. Mr. Walker admitted he used a pesticide product at the Webster Park residential community. He told me he made pesticide applications using **Bayer Advanced Concentrate Lawn, Weed and Crabgrass Killer (EPA #72155-86; active ingredient: dicamba, 2, 4-D, Quinclorac)**. He did not have the application records. I issued Mr. Walker a "**Stop Action Order**" which stated *Under I.C. 15-16-5-65(6), you are ordered to cease all pesticide and fertilizer applications until properly licensed through the Office of Indiana State Chemist.*
5. On June 8, 2016, I received Walker Landscape invoices via an e-mail from Ms. Jinks. According to the invoices, Mr. Walker made "chemical/fertilization" applications in the Webster Park residential community on the following dates:

Invoice	Date of Invoice	Month of application			
2579	5/10/13	March	April		
2586	6/14/13	May			
2586	8/29/13	August			
2605	11/13/14	October			
2665	7/23/14	March	April	May	June
2670	9/9/14	August			
2714	5/19/15	March	April		
2715	6/15/15	May			
2723	7/9/15	Retreat weeds			
2734	8/31/15	August			
2750	10/5/15	Spray roundup			
2753	12/5/15	October			
2793	5/2/16	March	April		

6. After reviewing all available information, Mr. Walker was in violation for making pesticide applications without a pesticide applicator's license on nine (9) counts.



Kevin W. Gibson
Investigator

Date: November 30, 2016

Disposition: Walker Landscape and Travis Walker are cited for 19 counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law, for professing to be in the business of applying pesticides/fertilizers for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$4,750.00 (\$250.00 X 19 per count) was assessed. However, the civil penalty was reduced to \$3,562.50. Consideration was given to the fact Mr. Walker cooperated during the investigation.



Paul J. Kelley
Case Review Officer

Draft Date: January 31, 2017
Final Date: March 9, 2017

CC: Gina Jinks
11711 N. College
Carmel, IN 46032
317-875-5600

CASE SUMMARY

Case #2016/0881

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

Respondent: Benjamin G. Howard, Jr.
Outside Art Lawn & Landscaping
2118 Laverne Avenue
Ft. Wayne, Indiana 46805
260-387-3055

1. On, June 6, 2016, the Certification and Licensing section notified the Compliance Officer of the Office of Indiana State Chemist (OISC) that Outside Art Lawn & Landscaping failed to renew their pesticide license for 2016 and have refused to respond to communicate.
2. On June 7, 2016, I made contact with Mr. Howard at his residence of 2118 Laverne Ave in Ft. Wayne, Indiana. Mr. Howard immediately stated he knew why I was there and handed me a money order receipt made out to OISC in the amount of \$180.00. He stated he had mailed the money order out to OISC on June 5, 2016. He stated he had received the communications from Mr. Leo Reed of OISC, but he had not responded as he was attempting to put together the funds to pay his certified applicator and business license renewal fees along with the late fees. He stated once he obtained the funds, he purchased the money order and mailed it.
3. I then asked Mr. Howard if he had made any pesticide or fertilizer applications in 2016. He stated he had made two pesticide applications of Roundup. He stated he did not have records of the applications, but he made one in April at the Bob Fisher residence and one in May at the Connie Claxton residence. I advised him he could not make any pesticide or fertilizer applications until he received his new and current license from OISC. He stated he had told his clients, he could not make any more applications until the licensing issue was corrected. I then issued a STOP ACTION ORDER to Mr. Howard, stating to cease any and all pesticide and fertilizer applications until obtaining proper licensing through the Office of Indiana State Chemist.
4. On June 13, 2016, I made contact with Ms. Jill Davis of the OISC licensing section. Ms. Davis advised me she had received the money order from Mr. Howard on June 9, 2016.



Robert D. Brewer
Investigator

Date: June 13, 2016

DISPOSITION: Benjamin G. Howard Jr. was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed.

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

George N. Saxton
Compliance Officer

Draft Date: July 5, 2016
Final Date: April 3, 2017

CASE SUMMARY

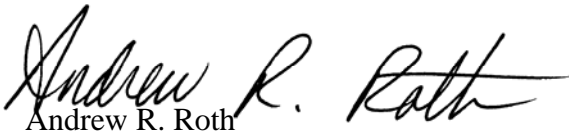
Case #2016/0927

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

Respondent:	Michael Pape	Certified Applicator
	Nick Nunez	Not Licensed
	Weed Man	Licensed Business
	5122 W. 79 th Street	
	Indianapolis, IN 46268	

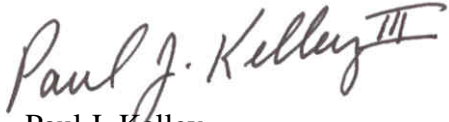
317-362-0226

1. On June 21, 2016, I observed a Weed Man applicator make a fertilizer and weed control application to a residential lawn in Hamilton County. I introduced myself to Nick Nunez and initiated a pesticide use and licensing inspection.
2. I asked Mr. Nunez if he had a pesticide applicator license. He reported that he came from the Illinois branch and that he passed the Core exam, but he had not yet received his license. I instructed Mr. Nunez to cease making applications until his licensing status could be determined. A check of the OISC database indicated Mr. Nunez passed the Core exam on June 6, 2016, however the license application and fee had not been received.
3. I then spoke with Weed Man co-owner, Andy Behrens, on the phone. During our discussion, it was determined that no one at the Champaign, Illinois branch or the Indianapolis branch, where Michael Pape was the certified supervisor, had submitted the license application and to the OISC. I informed Mr. Behrens that, without having been issued a license, Mr. Nunez was required to have a certified applicator on-site while making for-hire pesticide applications. We discussed the licensing procedures and the options for getting the application and fee to the OISC. He indicated he would have Mr. Nunez drive to the OISC that afternoon to submit what was necessary to ensure he was properly licensed for future applications.
4. According to Weed Man records, Mr. Nunez trained in the field with Mr. Pape for three days (June 8, 9, and 10) prior to being on his own, making for-hire applications on June 13, 14, 15, 16, 17, 20 and 21, with no on-site supervision. Mr. Nunez delivered the license application and fee to the OISC on June 21, 2016, and was subsequently issued an applicator license.


Andrew R. Roth
Investigator

Date: December 5, 2016

Disposition: Weed Man and Michael Pape were cited for seven (7) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified employee. A civil penalty in the amount of \$875.00 (7 counts X \$125.00) was assessed for this violation. However, the civil penalty was reduced to \$306.25 due to the fact Weed Man cooperated with the investigation; took corrective action; and had no previous history.



Paul J. Kelley
Case Review Officer

Draft Date: February 17, 2017
Final Date: March 23, 2017

CASE SUMMARY

Case #2016/1063

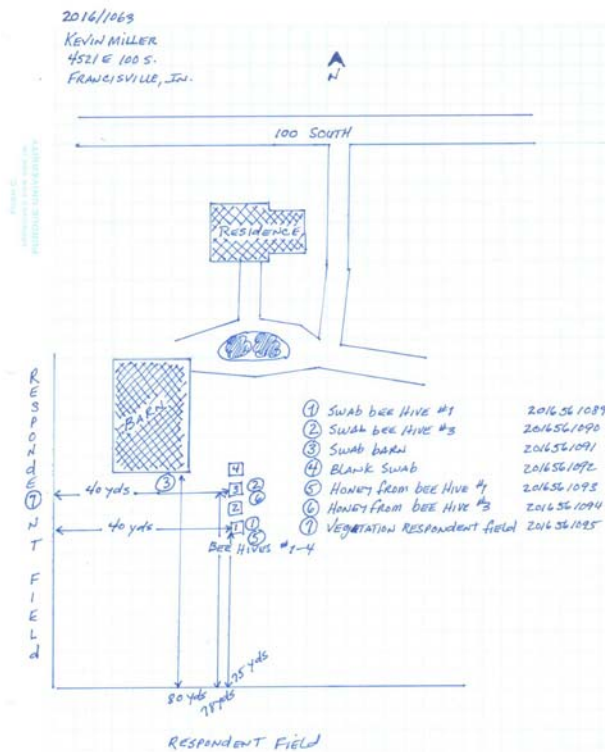
Complainant: Kevin Miller
4521 E. 100 S.
Francisville, Indiana 47946
219-863-2526

Respondent: Robert Phillips
Townsend Aviation
2222 South Airport Road
Monticello, Indiana 47960
574-583-9900

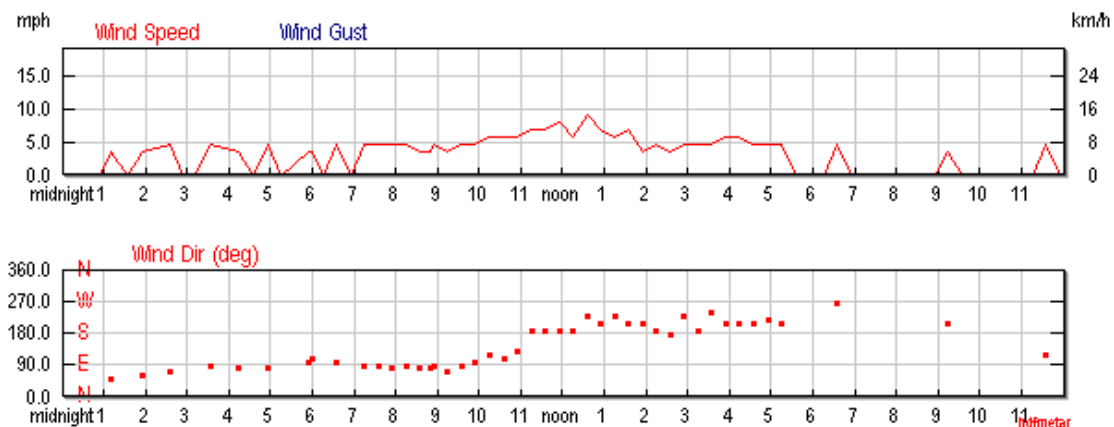
Licensed Applicator
Licensed Business

1. On July 22, 2016, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report pesticide drift from an aerial pesticide application he believed killed his bees.
2. On July 28, 2016, I met with and issued a Notice of Inspection (NOI) to the complainant, Kevin Miller. He told me on July 20, 2016, while he was away from home, his wife called him. She told him an aerial applicator made a spray application to the cornfield next to their home. He then told me later he made contact with John Townsend of Townsend Aviation to find out what was sprayed. He said Mr. Townsend told him an insecticide had been sprayed. When the complainant told Mr. Townsend he believed the spray application drifted on his beehives, Mr. Townsend told him to contact OISC.
3. With the help of the complainant, I checked his four beehives. I observed several dead bees but they appeared too decomposed to collect as evidence. He told me several of the bees were washed away by the rain prior to my arrival.
4. With the help of the complainant again, I collected the following samples for submission to the OISC Residue Lab for analysis (see diagram below):

2016561089	swab bee hive #1	2016561090	swab bee hive #3
2016561091	swab barn	2016561092	blank swab
2016561093	honey from beehive #1	2016561094	honey from beehive #3
2016561095	vegetation from respondent field		



5. I made contact with John Townsend of Townsend Aviation. Mr. Townsend confirmed his company made a pesticide application to the cornfield next to the complainant's property. He said the application was **Lambda-Cy (EPA #87290-24; active ingredient: lambda cyhalothrin)** and **Quilt Xcel (EPA #100-1324; active ingredient: azoxystrobin and propiconazole)**. He told me the pilot did not receive the proper mapping which showed the bee hives location. He was very apologetic for the actions of the pilot.
6. I checked www.wunderground.com for historical weather information for Monticello, Indiana area for July 20, 2016. According to Weather Underground, the wind was blowing at 5 miles per hour in a northeasterly direction toward the complainant's beehive. (see graph below):



7. I received the following analysis results from the OISC Residue lab:

Case #	2016-1063			Investigator	K. Gibson
Sample #	Sample Description	Amount of Analyte			
		Matrix	Lambda-Cyhalothrin	Azoxystrobin	Propiconazole
2016-561089	Swab bee hive #1	Swab	BDL	6.0 ng/swab	24.4 ng/swab
2016-561090	Swab bee hive #2	Swab	BDL	22.6 ng/swab	23.9 ng/swab
2016-561091	Swab barn	Swab	BDL	BDL	BDL
2016-561092	Swab blank	Swab	BDL	BDL	BDL
2016-561093	Honey from beehive#1	Other	BDL	BDL	BDL
2016-561094	Honey from beehive#2	Other	BDL	BDL	BDL
2016-561095	Vegetation from respondent field	Veg	BDL	45.3 ng/g*	57.2 ng/g*
*Minimum detection due to low recovery.					
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC					
LOQ	Honey		170 ppb	3 ppb	0.6 ppb
LOQ	Vegetation		170 ppb	3 ppb	0.6 ppb
LOQ	Swab		500 ng/swab	0.2 ng/swab	1 ng/swab

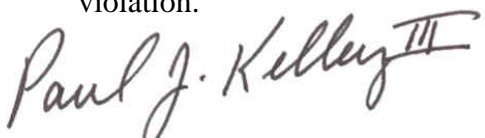
8. Label language for Quik Xcel states in part, *“DO NOT spray when conditions favor drift beyond area intended for application”*.



Kevin W. Gibson
Investigator

Date: November 21, 2016

Disposition: Townsend Aviation and Robert Phillips were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to a non-target site. A civil penalty in the amount of \$250.00 was assessed for this violation.



Paul J. Kelley
Case Review Officer

Draft Date: January 30, 2017
Final Date: March 9, 2017

CASE SUMMARY

Case #2016/1090

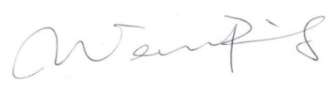
Complainant: Stephen Obermeier
3415 W CR 50 N
Rockport, Indiana 47635
812-649-4474

Respondent: Colby Smith
Dungan Aerial Services
P.O. Box 778
Connersville, IN 47331
765-827-1355

Certified Applicator
Licensed Business

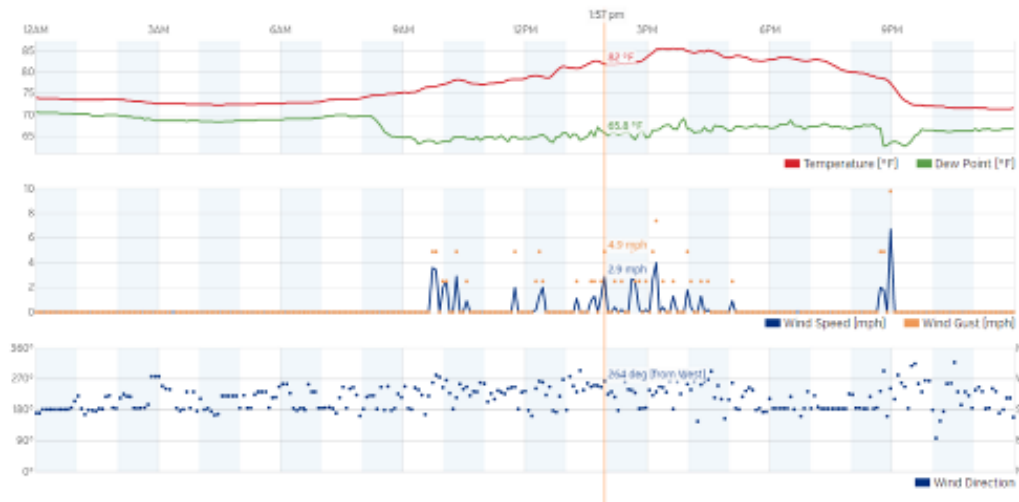
1. On July 28, 2016, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report aerial agricultural pesticide drift to his property.
2. On August 1, 2016, I spoke with Andy Like of Daylight Farm Supply, Inc. in Evansville, Indiana. Mr. Like stated Dungan Aerial Services LLC was hired to perform the aerial application on Steve Lindauer's cornfield west of Mr. Obermeier's property. Mr. Like provided me with a work order (work order 777488) for the aerial application. The work order lists the start date as July 27, 2016 and end date of July 29, 2016. The order lists Hero Insecticide (EPA Reg. # 279-3315, active ingredients zeta-cypermethrin and bifenthrin), Trivapro A (EPA Reg. # 100-1471, active ingredient benzovindiflupyr), and Trivapro B (EPA Reg. #100-1324, active ingredients azoxystrobin and propiconazole). Wind was listed out of the west, southwest at 3 mph.
3. On August 2, 2016, I met with Stephen Obermeier at his residence in Rockport, Indiana. Mr. Obermeier stated he noticed the aerial applications to the cornfield west of his property about midday July 28, 2016. Mr. Obermeier stated after about an hour the plane was done. Mr. Obermeier stated he went out to his yard noticing a diminished number of butterflies and several dead butterflies throughout his property. Mr. Obermeier stated he has created habitats on his property for butterflies.
4. On August 2, 2016, I collected swab and vegetation samples at various distances from the target cornfield through Mr. Obermeier's property. Samples were taken to OISC's Residue Lab for analysis.

5. On August 2, 2016, I received an application record from Dungan Aerial Services showing Colby Smith as the aerial applicator.
6. On September 16 ,2016, OISC's Residue lab reported the following;

Case #	2016-1090		Investigator	J.Kelley
Sample #	Sample Description	Amount of Analyte		
		Matrix	Azoxystrobin	Propiconazole
2016-501661	Trip blank swab	Swab	BDL	BDL
2016-501662	Swab from vegetation in target field	Swab	93.3 ng/swab	13.5 ng/swab
2016-501663	Swab from vegetation 125 yds from target field	Swab	200 ng/swab	22.8 ng/swab
2016-501664	Swab from vegetation 142 yds from target field	Swab	28.8 ng/swab	2.7 ng/swab
2016-501665	Swab from vegetation 183 yds from target field	Swab	19.6 ng/swab	1.7 ng/swab
2016-501666	Swab from vegetation 226 yds from target field	Swab	40.1 ng/swab	7.9 ng/swab
2016-501667	Vegetation from target field	Vegetation	25.6 ng/g*	5.5 ng/g*
2016-501668	Vegetation 125 yds from target field	Vegetation	219 ng/g*	110 ng/g*
2016-501669	Vegetation 142 yds from target field	Vegetation	58.0 ng/g*	46.7 ng/g*
2016-501670	Vegetation 183 yds from target field	Vegetation	21.7 ng/g*	32.4 ng/g*
2016-501671	Vegetation 226 yds from target field	Vegetation	38.1 ng/g*	31.4 ng/g*
*Minimum detection due to low recovery.				
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC				
LOQ	Vegetation		3 ppb	0.6 ppb
LOQ	Swab		0.2 ng/swab	1 ng/swab
Signature			Date	9/16/2016

7. Wind data from Weather Underground, www.wunderground.com, from the Richland City, Indiana weather station indicated the wind was out of the west, southwest at 0-4 mph with gust to 5mph blowing toward Mr. Obermeier's property. See figure 1.

Weather History Graph
July 28, 2016



8. Label language for Trivapro B states in part, “*DO NOT spray when conditions favor drift beyond area intended for application.*”

Paul J. Kelley III

Paul J. Kelley
Investigator

Date: November 8, 2016

Disposition: Colby Smith was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label language regarding drift to non-target areas. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact there was damage to the environment and a potential for human harm.

George N. Saxton

George N. Saxton
Compliance Officer

Draft Date: January 24, 2017

Final Date: March 9, 2017

CASE SUMMARY

Case #2016/1091

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

Respondent: Northwest Allen County Schools
Timothy Berdelman
13119 Coldwater Road
Fort Wayne, IN 46845
260-637-6101

1. In July 2016, the Compliance Officer of the Office of Indiana State Chemist (OISC) was notified by the Certification and Licensing section that the certification of Timothy Berdelman had expired and no other certified applicator had taken his place, thereby leaving the school without a certified applicator. A final notice was sent on May 21, 2016.
2. On July 29, 2016, I called the school and left a message for Mr. Berdelman. I also sent an email to the address in the OISC database. On August 2, 2016, I spoke with Mr. Berdelman and informed him that the OISC received his license renewal application for 2016, but a license could not be issued because his certification expired December 31, 2015. Mr. Berdelman reported that he was aware he needed to re-examine to become eligible for a license, but he was waiting on a purchase order from the school corporation before scheduling the Core and category 3b (turf) exams. I explained that any pesticide applications made to school properties since his license expired were done without proper supervision and I would need to document the applications. Mr. Berdelman indicated he would forward the records.
3. Mr. Berdelman compiled the records for applications made to school properties in 2016 and forwarded copies to me. He indicated he was scheduled to take both exams on September 7, 2016. According to the application records, Northwest Allen County Schools employees applied herbicides to eight (8) school properties on the following dates in 2016:

March 29

April 8, 12, 18 and 19

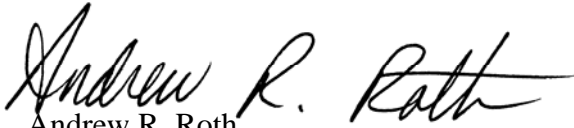
May 6, 10, 11 and 24

June 3, 10, 13, 17, 20, 22 and 29

July 7, 12, 15, 22, 25 and 29

August 1, 4 and 8

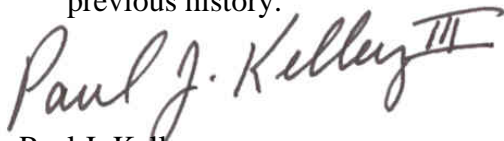
4. Mr. Berdelman passed both exams and was subsequently issued an applicator license.



Andrew R. Roth
Investigator

Date: December 6, 2016

Disposition: Northwest Allen County Schools and Timothy Berdelman were cited 25 counts for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-16-4, for applying pesticides to a school without having a certified applicator. A civil penalty in the amount of \$6,250.00 was assessed to Northwest Allen County Schools and Timothy Berdelman. However, the civil penalty was reduced to \$2,187.50 due to the fact Mr. Berdelman cooperated with the investigation; took corrective action; and had no previous history.



Paul J. Kelley
Case Review Officer

Draft Date: February 23, 2017

Final Date: April 3, 2017

CASE SUMMARY

Case #2016/1104

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

Respondent: John David Nesbitt
Will Dean Clark
Ryan Johnson
Crop Production Services (CPS)
301 N. High Street
West Lebanon, IN 47991
7865-893-4700

Certified Applicator
Certified Applicator
Certified Applicator
Licensed Business

1. On or about August 17, 2015, Mr. Gerald Williams of West Lebanon, Indiana called the Indiana Department of Natural Resources (IDNR) to report what he thought may be a suspicious fish kill in Rock Creek in Warren county Indiana.
2. Officer Jacob Chambers of the IDNR met with Mr. Williams and was escorted to the site where the dead fish were first noticed. He and Mr. Williams walked up stream on Johnson Branch to a point where no dead fish could be found. Officer Chambers reported that it was too dark to have counted the fish that evening. The Indiana Department of Environmental Management (IDEM) was notified of the incident and arrangements were made to return the following morning for follow-up in daylight.
3. On August 18, 2015, Officer Chambers returned to the scene and walked the creek again and was able to count a total of 1,821 dead aquatic lives. Officer Chambers reported that IDEM was able to narrow down the possible source of the kill to the CPS plant in West Lebanon. Nitrates in the creek were at high levels during the time of the visit by IDNR and IDEM. The cause of the fish kill was attributed to this. However, Officer Chambers reported he was advised by IDEM they would get back to him after completing their report and they would go back to CPS and interview CPS together again about finding a solution to the drain-off. The breakdown of the fish is in the following chart.

Species	1"	2"	3"	4"	5"	6"	7"	8"	9"	10"	11"	12"
Catfish			7	5	2	4						
Frogs		2										
Crayfish			1									
Bluegill		12	24	18								
Suckers		7	15	29	100	75	80	27	30		1	2
Goby			18	5								
Bass		7	20	35								
Darters		10	5									
Shiners		7	3	5								
TOTAL	0	45	93	97	102	79	80	27	30	0	1	2

4. On July 28, 2016, I, along with an Agent from US EPA, took a sworn statement from Mr. Aaron Altman. Mr. Altman is a former employee, registered technician, of CPS. In his statement Mr. Altman advised the fish kill which had occurred in August of 2015 was actually caused by an intentional release of pesticides onto the property of CPS which ran off the property and into the creek. Note the following photos which will be referred to by Mr. Altman in his statement. It should also be noted Mr. Altman took the photos and provided them to OISC.



Photo #1



Photo #2



Photo #3



Photo #4



Photo #5



Photo #6



Photo #7



Photo #8



Photo #9



Photo #10



Photo #11



Photo #12



Photo #13



Photo #14



Photo #15



Photo #16



Photo #17



Photo #18



Photo #19



Photo #20



Photo #21



Photo #22



Photo #23



Photo #24

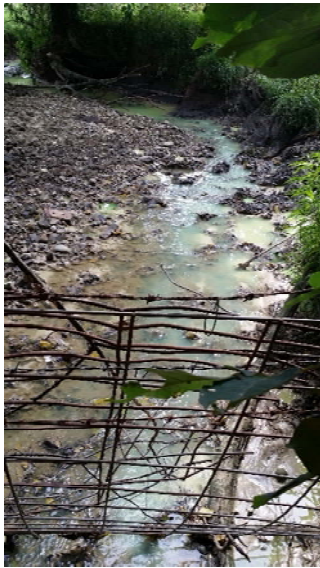


Photo #25



Photo #26



Photo #27



Photo #28



Photo #29



Photo #30



Photo #31



Photo #32



Photo #33



Photo #34



Photo #35



Photo #36

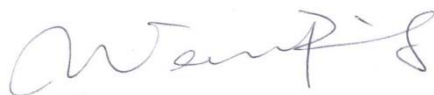


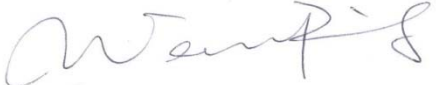
Photo #37

5. In his statement Mr. Altman advised that on August 14, 2015, Mr. Johnson was instructed to pick up a “tender truck” from an airport in Danville, IL that had been supplying an aerial applicator. Upon his return to the CPS plant in West Lebanon, Mr. Johnson was instructed by Mr. Clark to wash out the truck. Mr. Johnson put water in the truck and took it to an area on the property where Mr. Altman said they routinely would empty trucks and sprayers onto the ground without any containment. Mr. Altman described the area as *“on the north end, at the northeast end of the property.”*

6. Photo #1 through photo #28 depict the scene shortly after Mr. Johnson had concluded the emptying of the tender truck. The photos depict the runoff of the product from the release site all the way down to the creek and following the creek to an adjacent property in Rock Creek. Mr. Altman stated Mr. Johnson called Mr. Clark on the radio to come and look at what was happening from the release. Mr. Altman accompanied Mr. Clark to the release site where Mr. Clark told Mr. Johnson to continue cleaning out the product.
7. Photos #29 and 30 depict the creek on the following Monday August 17, 2015, and chemical residue can be seen on the embankment of the creek.
8. Photos #31, 32 and 33 depict two instances in what Mr. Altman believed to be 2012 where he was told to clean out his spray equipment by Mr. Nesbitt. Both instances took place on the same spot at the northeast end of the property. Mr. Altman said in his six and a half years of employment at CPS, he was ordered to do this three hundred to four hundred times in the same spot.
9. Photos #34, 35, 36 and 37 depict a wooded area where Mr. Altman said, *"There is literally nothing growing. Everything is dead. And this is because of dumping for years upon years."*
10. Mr. Altman then went on to talk about the fish kill and when IDEM and IDNR were at the property. Mr. Altman stated when IDEM showed up they asked CPS personnel, specifically Dave Nesbitt and Will Clark, if they had any idea what may have caused the fish kill and were told no. He said that IDEM starting testing the creek and at that time Mr. Clark came up to him and said, *"let's go see what he is doing, we don't want him to see parts of the, where we dump at."*
11. On August 2, 2016, I met with Mr. Don Weston at his home in Williamsport, Indiana. Mr. Weston had recently retired from CPS two weeks prior to our meeting and had worked there for thirty years as an applicator.
12. Mr. Weston advised he did recall the fish kill in August of 2015 but that he was on vacation at the time of the incident. He was made aware of it upon his return to work by Mr. Clark. Mr. Weston corroborated Mr. Altman's statement by saying that a "tender truck" came back from the Danville airport with some excess product. He believed the driver may have been *"Ryan Johnson"* who was instructed to pull the truck down to the back part of the property and drain the excess product on the ground.
13. When asked if dumping excess product on the property was a normal practice Mr. Weston advised they had been doing it for 30 years.
14. When shown a copy of Photo #1 he recognized the image as the area that was redone as a result of the 2015 incident. The area described by Mr. Altman as the spot where they would always release onto the ground.
15. When shown a copy of photo #16 Mr. Weston recognized the image as the spot where runoff from CPS property would enter Rock Creek.
16. On August 30, 2016, I, along with OISC Investigators Brian Baker, Joe Becovitz, Scott Farris, Kevin Gibson and Melissa Rosch, made an onsite visit to the CPS in West Lebanon, IN. We were accompanied by IDNR Lt. Dan Dulin and Sgt. Todd Pekny.

17. Agents Baker, Farris and Gibson collected soil samples for analysis by the OISC residue lab from the area described as the release site as well as from areas leading to Rock Creek and from the creek area itself. Results of those analyses are as follows:

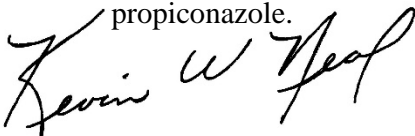
Case # 2016/1104			Investigator: K. Neal		
Sample #	Sample Description	Sample Matrix	Amount Found (ppb)		
			Azoxystrobin	Pyraclostrobin	Propiconazole
2016-323706	Soil sample from creek bed at property line fence	Soil	39.7	12.9	116
2016-323707	Soil sample from creek bed at 2 creek intersection	Soil	89.5	17.3	443*
2016-323708	Soil sample from creek bed at base of concrete pile	Soil	4.51	2.36	9.35
2016-510151	Soil sample 65 yards from suspected dump area	Soil	35.9	8.01	23.7
2016-510152	Soil sample 55 yards from suspected dump area	Soil	58.9	77.0	40.6
2016-510153	Soil sample 46 yards from suspected dump area	Soil	61.8	11.1	57.2
2016-510154	Soil sample 34 yards from suspected dump area	Soil	123	27.4	119
2016-561062	Soil from dump site	Soil	124	39.3	115
2016-561063	Soil 24 yards from dump site	Soil	60.7	17.9	22.6
2016-561064	Soil 36 yards from dump site	Soil	51.0	26.3	39.7
2016-561065	Soil 50 yards from dump site	Soil	35.5	8.70	58.5
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC					
LOQ	Soil	Azoxystrobin and Pyraclostrobin LOQ =0.07 ppb Propiconazole LOQ =0.3 ppb			
Signature			Date	9/26/16	

Case # 2016/1104			Investigator: K. Neal			
Sample #	Sample Description	Sample Matrix	Amount Found (ppb)			
			Acetochlor	Atrazine	Imazapyr	Cyfluthrin
2016-323706	Soil sample from creek bed at property line fence	Soil	74.0	3.3	BDL	366
2016-323707	Soil sample from creek bed at 2 creek intersection	Soil	132	6.1	BDL	BDL
2016-323708	Soil sample from creek bed at base of concrete pile	Soil	33.1	1.1	BDL	BDL
2016-510151	Soil sample 65 yards from suspected dump area	Soil	39.6	1.9	BDL	BDL
2016-510152	Soil sample 55 yards from suspected dump area	Soil	71.0	7.5	BDL	BDL
2016-510153	Soil sample 46 yards from suspected dump area	Soil	30.7	5.8	BDL	BDL
2016-510154	Soil sample 34 yards from suspected dump area	Soil	55.0	11.1	BDL	BDL
2016-561062	Soil from dump site	Soil	79.1	13.3	BDL	BDL
2016-561063	Soil 24 yards from dump site	Soil	54.6	6.4	BDL	BDL
2016-561064	Soil 36 yards from dump site	Soil	51.6	9.5	BDL	BDL
2016-561065	Soil 50 yards from dump site	Soil	24.2	3.2	BDL	BDL
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC						
LOQ	Soil	Atrazine, Acetochlor and Imazapyr LOQ =0.07 ppb Cyfluthrin LOQ =333 ppb				
Signature			Date	9/26/16		

18. Agent Becovitz was able to collect records for the “tender truck” brought back from Danville on August 14, 2015. The records indicate the products in the truck sent to Danville, IL for aerial application were Priaxor Xemium Brand Fungicide (EPA Reg. #7969-311) active ingredients fluxapyroxad and pyraclostrobin. Also Tombstone Helios Insecticide (EPA Reg. #34704-978) active ingredient cyfluthrin.
19. While at CPS, I took sworn statements from Mr. Nesbitt, Mr. Clark and Mr. Johnson.
20. In his statement Mr. Clark advised he is the Operations Manager and certified applicator. As Operations Manager he supervises the outside people such as maintenance and spray applicators.
21. With regard to the fish kill in August of 2015 Mr. Clark stated he does not remember being at the actual release site on the day of the release. He does recall telling Mr. Johnson to clean out the tank and directed him to the northeast part of the property where Mr. Clark said is the spot where they clean out tanks and sprayers.

22. Mr. Clark also advised that when the IDEM and IDNR personnel were on site investigating the fish kill, there was no mention to them of this release on August 14, 2015. His comment was they didn't ask specifically about a release of chemical that could have caused the fish kill so he did not tell them.
23. When asked about the frequency of cleaning tanks out on the ground Mr. Clark said it was, *"More during the season. Like I said it could've, you know, you might not clean anything for a week. You might clean...Every day. Just really depends on what we were spraying."*
24. Mr. Clark then told me that in the 15 years he has been employed at this facility, it had been a common practice to empty tanks and spray equipment onto the ground at the same spot on the property. He then went on to say that it does not occur anymore but when pressed for clarification, he admitted that it has occurred on approximately 50 occasions since the August 14, 2015, incident.
25. In his statement Mr. Nesbitt advised he is the branch manager and crop consultant for the CPS in West Lebanon, IN. He has been employed there for twenty years but only the last six as a part of CPS. Prior to that it was a United Agri Products (UAP) branch. Mr. Nesbitt is also a certified applicator.
26. Mr. Nesbitt stated he did not know anything about the release on August 14, 2015, by stating when asked if he knew anything about it, *"I do not."* He then went on to say that if he was at the plant that day he did not know anything about it but he was told later. Then after stating he did not know how the product got on the ground came around to that yes it was released. When asked if in his twenty years at this facility was it a common practice he replied, *"Not that I'm aware of."* When shown a copy of photo #1 and asked if this was something that happens on a regular basis his response was, *"On a regular basis, no. That I'm aware, that I'm aware of."*
27. When asked if he told the IDEM or IDNR personnel about the release on August 14, 2015, he responded, *"I don't believe I told them about it. I don't believe I did."*
28. When asked if he knew the extent to which the intentional release of product from trucks and sprayers onto the ground without any containment was happening he agreed there was some of it going on but he did not know to what extent. He then advised to his knowledge prior to August 14, 2015, it may have happened ten times a year.
29. Mr. Johnson in his statement advised he has been employed at the CPS for seven years previously as a registered technician but that now he is a certified applicator. On August 14, 2015, Mr. Johnson was a registered technician.
30. Mr. Johnson stated he had brought back a "tender truck" from the airport in Danville, IL and was instructed to clean out the truck by who he recalled to be Mr. Clark. He said he took the truck to the northeast part of the property where it was very common to empty tanks and sprayers. Once he saw how much product was coming out of this particular tank he called Mr. Clark who did come down to the scene and told Mr. Johnson to continue emptying the tank.
31. On the day the IDEM and IDNR personnel were at the CPS plant Mr. Johnson said he was not there at the time they were and had no contact with them.
32. Over the seven years Mr. Johnson has been employed at CPS he estimated close to five or six hundred times tanks and or sprayers had been emptied in the same northeast part of the CPS property.

33. When asked if there was anything he would like to add to his statement Mr. Johnson said, *"I would like to say that I am not proud of, of this. I, you know, I brought it to my manager's attention. And uh, was lead to believe that this wasn't going to be anything that would be consequential to the environment. And sure enough, uh, that was a false statement. And I, I had no intentions of hurting anyone or anything. And I'm very sorry that this happened."*
34. The label for Priaxor states, *"This pesticide is toxic to fish and aquatic invertebrates. Drift and runoff may be hazardous to aquatic organisms in water adjacent to treated areas."* And **"DO NOT contaminate water when disposing of equipment washwaters or rinsate."**
35. While the active ingredient in Priaxor was found in the samples taken from the site so were numerous active ingredients from many other pesticide products in use by CPS which would indicate a history of the type of activity that has been documented as occurring on August 14, 2015. *"This pesticide is toxic to fish and aquatic invertebrates. Drift and runoff may be hazardous to aquatic organisms in water adjacent to treated areas."* And **"DO NOT contaminate water when disposing of equipment washwaters or rinsate."** appears on the labels for products containing these active ingredients, atrazine, acetochlor, azoxystrobin and propiconazole.
36. Those products specifically in use or having been used by CPS are: Bicep II Magnum (EPA Reg. #100-817) active ingredient atrazine, SureStart II (EPA Reg. #62719-679) active ingredients acetochlor, flumetsulam, and clopyralid, Quadris (EPA Reg. #100-1098) active ingredient azoxystrobin, and QuiltXcel (EPA Reg. #100-1324) active ingredients azoxystrobin and propiconazole.



Kevin W. Neal
Investigator

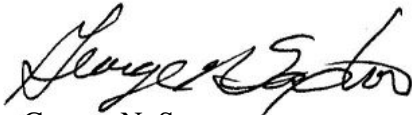
Date: October 4, 2016

DISPOSITION:

- A. John David Nesbitt and Will Dean Clark were cited for six (6) counts of violation of section 65(2) of the Indiana Pesticide Use and Application Law (IC 15-16-5) for failure to follow label directions regarding disposal for each of the pesticide products referenced in items #18 and 36 of this summary. 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 four (4) remaining counts) was assessed.
- B. John David Nesbitt and Will Dean Clark were cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law (IC 15-16-5) for operating in a careless and negligent manner. The applicator certifications of both John David Nesbitt and Will Dean Clark were revoked, effective November 11, 2016.
- C. Crop Production Services (CPS) at West Lebanon, Indiana was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law (IC 15-16-5) for operating in a careless and negligent manner. The business license of Crop Production Services was suspended for six (6) months from resulting enforcement effective date for this investigation.
- D. Billy Pirkle, Senior Director of Environmental Health and Safety for CPS submitted a letter to OISC dated October 31, 2016, outlining the corrective measures taken by CPS to address these violations. Corrective actions included training CPS staff on proper pesticide disposal and rinsing practices in accordance with the CPS *Standards for Handling Dry and Liquid Fertilizers and Pesticides* (created 10-8-16 and effective 12-1-16), employment termination of Will Dean Clark and employment

reassignment of John David Nesbitt, a commitment to work with IDNR to perform environmental restoration efforts to the impacted water body, and a commitment to cease all pesticide sales and applications immediately from the West Lebanon location until the business license is restored. CPS requested that the six-month pesticide business license suspension be reduced.

- E. On November 12, 2016, I spoke with John David Nesbitt on the phone. He requested an extension on the due date for the civil penalty. An extension until November 30, 2016 for payment of the civil penalty was granted.
- F. On November 18, 2016, John David Nesbitt and Will Dean Clark appeared in person at OISC and each paid a civil penalty of \$2,375.00, totaling \$4,750.00. David Scott of OISC advised them in consideration of the revocation action that they would be eligible to pursue pesticide applicator certification again in five years.
- G. On November 18, 2016, David Scott of OISC spoke with Billy Pirkle of CPS to confirm that no decision regarding the six-month business license decision would be made until OISC received generic procedural input at the November 30, 2016, Indiana Pesticide Review Board meeting. Specifics of this case would not be discussed with the Board at that meeting.
- H. OISC received a letter from Kyle Springs dated January 26, 2016¹ indicating the steps CPS would take to ensure these violations would not be repeated. As a result, the six (6) month suspension of the CPS pesticide business license was rescinded.



George N. Saxton
Compliance Officer

Final Date: March 8, 2017

Cc: David Nesbitt
20629 E. 800 N. Road
Georgetown, IL 61846

Will Clark
2755 N. 225
Attica, IN 47918

Merriam.Leonard@epa.gov

¹ This is a typographical error. The date should be January 26, 2017

CASE SUMMARY

Case #2016/1120

Complainant: Annamarie Swain
1343 N. Edmondson, Apt. 308B
Indianapolis, Indiana 46219
317-356-2970

Respondent:	APM Advanced Pest Management	Licensed Business
	1167 N. Michigan Road	
	P.O. Box 1155	
	Shelbyville, Indiana 46176	
	Jeffrey L Martin	Registered Technician
	Patrick Bruner	Certified Applicator
	317-402-5291	

1. On, August 10, 2016, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report an adverse human health complaint from a suspected pesticide application. She stated someone treated her apartment for the control of bedbugs. She stated the applicator mixed the pesticide in her sink and spilled some of it on his shirt and on the floor. She alleges she became ill as a result and went to the doctor for treatment. She was advised if we take the rug, she will not get it back. Unknown who the applicator was at this time.
2. On August 10, 2016, I met with Annamarie Swain at her apartment in Crestwood Village Apartments. Mrs. Swain stated on July 22, 2016, a person from a company hired by Crestwood came to her apartment to spray for the control of bedbugs. Mrs. Swain informed me the applicator started to make a pesticide application of a liquid to areas of the apartment, but ran out. Mrs. Swain alleged the applicator then opened up a new container of some pesticide on her kitchen counter, which she stated spilled on the applicator and her kitchen rug. Mrs. Swain informed me she was very close (within 2 feet) of where the open pesticide container in the kitchen was and began to cough and have breathing problems. The applicator then mixed the pesticide into his pump sprayer that was sitting in her kitchen sink. Mrs. Swain indicated the applicator proceeded to spray the dilution on the entire area of her living room couch, living room chair and her bed mattress. Mrs. Swain stated she went to her doctor and was given a steroid for throat swelling/irritation. Mrs. Swain did admit she smoked cigarettes and the doctor did not tell her the throat swelling/irritation was from exposure to a pesticide.
3. I collected swab samples from the top of couch cushion (flat surface), top of chair cushion (flat surface), inside kitchen sink basin and bed mattress (edge). In addition, I collected the kitchen rug from Mrs. Swain which had been place into a garbage bag. Photograph #1 below is the living room couch and Photograph #2 below is the living room chair where swab samples were collected.




Photograph #1



Photograph #2

4. On August 10, 2016, I spoke with Patrick Bruner, Owner and Certified Applicator for APM Advanced Pest Management. Mr. Bruner indicated he had been contacted by the Director of Crestwood Apartments and was aware of Mrs. Swain's complaint. Mr. Bruner stated he had spoken to the applicator, Jeffrey Martin, and Mr. Martin had informed him that he had refilled his sprayer in Mrs. Swain's sink, but no pesticide concentrate had been spilled on him, in the sink or on Mrs. Swain's rug. Mr. Bruner informed me Mr. Martin applied Temprid SC (EPA Reg. #432-1483; active ingredients: imidacloprid & cyfluthrin). Mr. Bruner also emailed me a service ticket for the application to Mrs. Swain's apartment.
5. On August 11, 2016, the swab samples and rug were turned into the State Chemist Residue Lab for analysis. The results were reported back on October 3, 2016, and indicated the following:

Case #	2016-1120		Investigator	S. Farris
Sample #	Sample Description	Amount of Analyte		
		Matrix	Cyfluthrin	Imidacloprid
2016-510144	TRIP BLANK SWAB	Swab	BDL	BDL
2016-510145	CONTROL SWAB FROM BATHROOM WALL	Swab	BDL	BDL
2016-510146	SWAB FROM COUCH CUSHION	Swab	7000 ng/swab	6030 ng/swab
2016-510147	SWAB FROM CHAIR CUSHION	Swab	2600 ng/swab	5520 ng/swab
2016-510148	SWAB FROM KITCHEN SINK	Swab	BDL	2.7 ng/swab
2016-510149	SWAB FROM BED MATTRESS	Swab	11200 ng/swab	17100 ng/swab
2016-510150	KITCHEN RUG	Rug	Detected, however not quantifiable due to the heavy background interference in rug	13200 ng/rug
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC				
LOQ	Swabs	1000 ng/swab		2 ng/swab
Signature			Date	10/3/2016

6. The Temprid SC label stated the following: *“When bed bugs are found in upholstered furniture, apply only to the infested tufts, seams, folds, and edges, but do not apply to flat surfaces where prolonged human contact will occur.”*



Scott M. Farris
Investigator

Date: October 8, 2016

Disposition: Jeffrey L Martin and Patrick Bruner were cited for violation of section 65(2) and 65(5) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application sites and operating in a careless and negligent manner respectively. 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.



Paul J. Kelley
Case Review Officer

Draft Date: December 2, 2016

Final Date: February 23, 2017

CASE SUMMARY

Case #2016/1122

Complainant: Mary Vance
Mvance1946@aol.com

Respondent:	Lawn Barbers Tami Fahler Chris Lawton Jim Green Kenny Hilton 16700 Barton Street Granger, Indiana 46530 574-386-9601	Unlicensed Business Owner Unlicensed Applicator Unlicensed Applicator Unlicensed Applicator
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HOA: Villas at George Town North
00000 Wembley Drive
South Bend, Indiana 46637

HOA President: Donna Rowe
18513 Garwood Court
South Bend, Indiana 46637
574-340-3538

1. On August 10, 2016, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report what she believed was improper lawn care service by a company known to her as Lawn Barbers, in that they did not post the lawns they treated and no application information was left behind. It also appears Lawn Barbers may not be licensed to apply pesticides for hire in the state of Indiana.
2. According to the e-mail sent to the compliance officer, *"The current lawn maintenance company hired by my homeowners association exhibits practices that I question. My biggest concern is the application of fertilizers and weed control products. I have two small dogs, their safety and wellbeing is important to me. The only way I can tell when fertilizer or weed control products have been applied is by the strong chemical smell as they apply when I am at work and their applications are liquid, not pellets/granules. The lawns are never posted with the small notification signs, we never receive notice that applications are going to be done, we never receive instructions afterwards regarding watering, etc. These are practices that were always done prior to this company's presence. Lawnbarbers took over our lawn maintenance shortly after the seating of our current board. I can find very little regarding this "professional lawn maintenance business". Our HOA newsletter refers to the company as Lawnbarbers with a phone number 574-386-4444. I also feel my HOA Board of Director's is somewhat responsible as this, along with many other lawn issues, were brought to their attention a year ago and they have not taken any action"*

3. I made contact with Home Owners Association President Donna Rowe. She confirmed Lawn Barbers had been making lawn care fertilizer and weed control applications to the common areas of the residential community.
4. On August 15, 2016, I met with and issued a Notice of Inspection (NOI) to Tami Fahler. She told me her company was making pesticide and fertilizer applications to the Villas at George Town North in South Bend, Indiana. She said her employees Chris Lawton, Jim Green and Kenny Hilton had made the applications at her direction. She took full responsibility for the actions. She agreed to send me the application records via e-mail. I gave her information for obtaining the proper pesticide applicator license. I then issued a **"Stop Action Order"** which stated, *"subject to I.C. 15-16-5-65(6), you are hereby ordered to cease all pesticide applications until properly licensed through the Office of Indiana State Chemist"*.
5. I received pesticide and fertilizer application records from Ms. Fahler via e-mail. Lawn Barbers made applications of Three-way Selective Herbicide (EPA #10404-43), XLR 8 Herbicide (EPA #7969-272), Dimension Fertilizer Plus Herbicide (EPA #10404-85) to the Villas at George Town in South Bend on the following dates:
 - April 18, 2016
 - April 19, 2016
 - May 23, 2016
 - May 26, 2016
 - May 28, 2016
 - May 29, 2016
 - August 8, 2016
 - August 10, 2016
6. After reviewing all available information, Ms. Fahler and Lawn Barbers was in violation of making pesticide/fertilizer applications without a pesticide applicator's license on eight (8) different dates.



Kevin W. Gibson
Investigator

Date: November 30, 2016

Disposition: Lawn Barbers, Chris Lawton, Jim Green, and Kenny Hilton cited for 8 counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law, for professing to be in the business of applying pesticides/fertilizers for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$2,000.00 (\$250.00 X 8 per count) was assessed. However, the civil penalty was reduced to \$1,500.00. Consideration was given to the fact Ms. Fahler cooperated during the investigation.



Paul J. Kelley
Case Review Officer

Draft Date: January 30, 2017
Final Date: March 9, 2017

CASE SUMMARY

Case #2016/1130

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

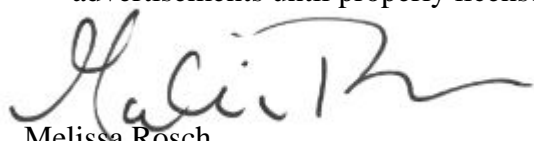
Respondent: Brian Bell
B & B Lawn Care
3440 E. 640 S.
Markleville, IN 46056
317-513-8879

Unlicensed
Unlicensed

1. On August 15, 2016, the OISC was contacted by an individual requesting information about B & B Lawn Care. In the course of the conversation, it was discovered that B & B Lawn Care did not appear to have a pesticide business license.
2. On September 6, 2016, I met with the owner of B & B Lawn Care, Brian Bell. Mr. Bell admitted that he had been operating B & B Lawn Care and applying pesticides for hire without the proper state license from OISC.
2. Mr. Bell stated one of the pesticides he routinely applied as a part of his lawn care business was **Weed Killer Glystar Plus (EPA Reg. #42750-61, active ingredient of glyphosate)**. I examined Mr. Bell's application records and found he made pesticide applications on the following dates:

April 10, 2016	April 18, 2016	April 20, 2016	May 3, 2016	May 6, 2016
May 23, 2016	May 24, 2016	May 31, 2016	June 20, 2016	June 23, 2016
June 28, 2016	July 12, 2016	July 18, 2016	July 20, 2016	July 25, 2016
July 26, 2016	Aug. 3, 2016	Aug. 17, 2016	Aug. 19, 2016	Aug. 29, 2016
Aug. 30, 2016				

3. I then issued Mr. Bell a Stop Action Order to "Cease all pesticide applications and advertisements until properly licensed by the OISC."



Melissa Rosch
Investigator

Date: November 4, 2016

Disposition: Brian Bell was cited for twenty-one (21) 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 \$5,250.00 (21 x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$1,250.00. Consideration was given to the fact Mr. Bell cooperated during the investigation; this was his first violation of similar nature and no restricted use pesticides were involved.

A handwritten signature in black ink, appearing to read "George N. Saxton". The signature is fluid and cursive, with the first name "George" being more prominent.

George N. Saxton
Compliance Officer

Draft Date: January 18, 2017
Final Date: February 23, 2017

CASE SUMMARY

Case #2016/1160

Complainant: Marian Tolbert
2857 S. Capitol Avenue
Indianapolis, IN 46225
317-832-0813

Respondents: Bed Bug Exterminator-Indianapolis
19 N. Pennsylvania Street
Indianapolis, IN 46204
317-316-3510
superiorpestkillers.com

Tyre Fuqua
Bug Ninja Pest Control
tyfuqua1@gmail.com
317-292-1838

Not Licensed
Not Licensed

1. On August 26, 2016, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report a possible unlicensed pesticide application. She stated a person treated her home but would not tell her what pesticide he applied. There were no company markings on his vehicle and he did not have paperwork or a receipt for the application. She contacted the Better Business Bureau to file a complaint and was later referred to the OISC by another pest control company. Bed Bug Exterminator was not listed in the OISC database as having been issued a pesticide business license.
2. On August 29, 2016, I spoke with Marian Tolbert who reported she found what she thought was a legitimate pest control company on the internet. After calling the number, she found on the Bed Bug Exterminator-Indianapolis website (superiorpestkillers.com), a man came out to treat her home in a personal car with no decals or markings. He reportedly treated the house, emptying a backpack sprayer on the baseboards and floors near the walls, but could not answer any questions regarding the product or the rate used. He reportedly told her the product was mixed at the shop, that it was “organic” and that it would last for 90 days. Ms. Tolbert stated she insisted the man hand-write a receipt after he indicated he had run out of invoices. She indicated she paid over \$300 for the application by signing the applicator’s phone. Ms. Tolbert called the number from the website again after the man left and was told a receipt and product information would be emailed to her, but she never received it.
3. I went to the website, which noted that one of their “trusted partners” would be utilized to treat a bedbug infestation if one was discovered. I called the number listed on the website, the same one listed above which Ms. Tolbert called, and left a message. A man identifying himself as “Darryl Brown” called me back from a different number (317-446-6740) and I informed him of the complaint. He indicated Bed Bug Exterminator-Indianapolis is not a

pest control business, but a marketing company which runs an “internet hub” where the calls/leads are sold to pest control contractors. I explained that he facilitated what appeared to be an unlicensed application at the home of Ms. Tolbert. He indicated he felt it was the consumer’s responsibility to determine the licensing status of the contractor. All correspondence with prospective applicators was reportedly done via email; I was provided with an email address for Bugging Out Pest Control, the company thought to have made the application for Ms. Tolbert. I sent an email to the address but it came back undeliverable. I called both numbers I had for the entity and left messages requesting a return call. I got no response to those messages.

4. On August 31, 2016, I met with Ms. Tolbert at her home. She indicated she had a bad feeling about the applicator and wished she had stopped the application. Ms. Tolbert reported that she had not sprayed any pesticides in her home, but she had applied diatomaceous earth, which she heard might help control bedbugs. She stated she consulted ARAB Pest Control, a licensed business, after the application and Syed Shah came out to inspect the house. Mr. Shah then referred her to the OISC for follow-up. Ms. Tolbert showed me where the applicator sprayed inside the house. I collected swab samples from the basement floor, the floor at the top of the basement stairs and the floor in her son’s bedroom closet. The swabs were submitted to the OISC Residue Lab for analysis. Ms. Tolbert stated that, while the applicator did not have any answers for her questions about the product he applied, he did talk about other things. She cited their conversation about graphic design. In addition to leaving the hand-written receipt for the application, he also left a business card for a start-up graphics business (Titanium Designs) where he also worked.

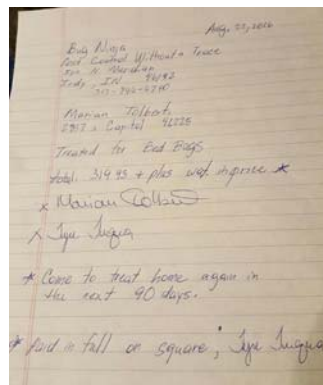


Fig.1 Hand-written receipt



Fig.2 Business card

5. The hand-written receipt left with Ms. Tolbert was signed by Tyre Fuqua. It listed Bug Ninja Pest Control at 500 N. Meridian Street in Indianapolis as the company responsible for the bedbug application made at the home on August 22, 2016, and read, “Paid in full on square”. I went to the office building at 500 N. Meridian Street and spoke with property manager, Rachel Fields, regarding Bug Ninja. She reported there were no pest control businesses in the building. She also looked into tenant information for the building and there was nothing to indicate Mr. Fuqua worked in the building. I went to 500 N. Meridian Street in Greenwood, IN, because the hand-written receipt actually listed a Greenwood zip code for the Meridian Street address. I spoke to the owner of the construction company at that address, but he had no knowledge regarding Bug Ninja or Mr. Fuqua.

6. I also went to the address listed for Bed Bug Exterminator-Indianapolis on the website (19 N. Pennsylvania Street in Indianapolis) and found a locked door between two storefronts. The door appeared to be the point of access for residential units above the stores. I left a note and a business card but received no response. I later sent a letter and Pesticide Investigation Inquiry to the Pennsylvania Street address explaining that I was investigating a complaint. That correspondence generated a call from Tarek Mercho, an attorney who owns and lives in the building on Pennsylvania. He indicated the correspondence took him by surprise and he had no knowledge that a pest control or marketing company was using his address.
7. The Titanium Designs business card listed an email address (tyfuqua1@gmail.com) and a phone number (317-292-1838) for Mr. Fuqua. I sent emails to the address, left voice messages, and sent text messages to the number. I never received a response.
8. Further internet research yielded several websites and what appeared to be local phone numbers for Bug Ninja. When called, those numbers had been changed to non-working numbers or were otherwise disconnected. Similarly, the numerous inquiries I sent through the comment portals of the various websites produced no responses. I found two possible residential addresses for Mr. Fuqua, but he was not at either address nor was the car Ms. Tolbert described he was driving at the time of the application.
9. Ms. Tolbert indicated she called one of the numbers she had for Mr. Fuqua to inquire about when he might come back out for a follow-up treatment as the receipt indicated he would return in 90 days. She reported that he answered the phone but immediately hung up upon learning who she was. There has since been no contact with Mr. Fuqua.
10. The OISC Residue Lab ran a general pesticide screen on the swab samples collected from the Tolbert house. Cyfluthrin and imidacloprid, active ingredients commonly found in bedbug control products, were detected in the swabs as follows:

Sample #	Sample Description	Amount of Analyte		
		Matrix	Cyfluthrin	Imidacloprid
2016-474070	Trip blank	Swab	BDL	BDL
2016-474071	Swab- basement floor	Swab	27400 ng/swab	18400 ng/swab
2016-474072	Swab- basement top step	Swab	667600 ng/swab	403000 ng/swab
2016-474073	Swab- bedroom closet floor	Swab	365000 ng/swab	252000 ng/swab
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC				
LOQ	Swab		250 ng/swab	1 ng/swab

11. After sending another inquiry through the comment portal on the Bed Bug Exterminator Indianapolis website, I got a call from Hassan Ajmal, who indicated this was the first inquiry he received from me via the website. Calling from the east coast, he reported he was a web designer and he had set up the Bed Bug Exterminator-Indianapolis website, a general pest control marketing site to which he added a local phone number. I informed him of the investigation and explained that it originated from the website. We discussed the licensing requirements for pest control applicators and businesses in Indiana. He indicated he would contact "Timothy" for whom he set up the website and have him contact me. He later

reported that the phone number he had for "Timothy" was no longer working. The website was subsequently disabled. It was later activated utilizing the phone number of a licensed Indianapolis pest control company. I confirmed the phone number was associated with a licensed business.

12. While Mr. Fuqua was not located, based on the evidence collected during the investigation, it was determined he was responsible for making a for-hire pesticide application without a license. This case will be forwarded to the Better Business Bureau of Indianapolis and the Office of the Attorney General.



Andrew R. Roth
Investigator

Date: March 6, 2017

Disposition: Tyre Fuqua and Bug Ninja Pest Control were cited for 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 \$250.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: March 6, 2017

Final Date: April 25, 2017

CC: Better Business Bureau
151 N. Delaware, Suite #2020
Indianapolis, IN 46204

Office of the Attorney General
302 W. Washington Street
Indianapolis, IN 46204

CASE SUMMARY

Case #2016/1191

Complainant: Shirley Turner
107 E. Chestnut Street
Jeffersonville, Indiana 47130
502-338-5914

Respondent: Jeremy Neff
2003 Renfro Way
Jeffersonville, IN 47130
502-407-9809

Delta Foremost Chemical Corp.
3915 Air Park Street
Memphis, TN 38130
901-363-4340

1. On September 14, 2016, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report a pesticide application by the city to her sidewalk area that has allegedly sickened both her and her dog. She does not believe the pesticide was applied “*according to EPA guidelines.*”
2. On September 16, 2016, I contacted Shirley Turner. Ms. Turner stated the city of Jeffersonville, Indiana, made a pesticide application to weeds on the sidewalk in front of her property. See figure 1-2. Ms. Turner’s property is located on the northeast corner of Chestnut Street and Penn Street in Jeffersonville, Indiana. See figure 3. Ms. Turner stated after the application she could not breathe, speak, or exit her residence due to the petroleum smell. Ms. Turner stated her dog had a seizure around the time of the application. However, Ms. Turner stated her dog has had seizures in the past.



Figure 1-Sidewalk on Chestnut St.

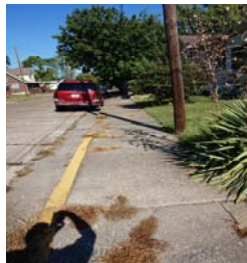


Figure 2-Penn St.



Figure 3-Turner Residence

3. On September 16, 2016, I spoke with Jeremy Neff from Jeffersonville Street Department. Mr. Neff confirmed the application to the sidewalk located on Chestnut St. and Penn St. Mr. Neff stated the application was made to prepare the area for the construction of new sidewalks and disability ramps on the corner of Chestnut Street and Penn Street. Mr. Neff stated the product used for the pesticide application was Weed Zapper. Mr. Neff stated the product is a petroleum-based herbicide.

4. On September 19, 2016, Agent Melissa Rosch and I went to Ms. Turner's residence to investigate Ms. Turner's complaint. I observed dead vegetation in the cracks of the sidewalk. I could smell a slight petroleum smell. The sidewalks where the application was made is in the easement maintained by the City of Jeffersonville.
5. On September 19, 2016, Agent Rosch and I met with Jeremy Neff. Mr. Neff stated he used the herbicide Weed Zapper (EPA Reg. #1203-68, active ingredient bromacil). Mr. Neff stated the Jeffersonville Street Department has been using the pesticide, Weed Zapper, for many years. Mr. Neff stated the pesticide, Weed Zapper, was purchased from Delta Foremost Chemical Corp. located at 3915 Air Park Street in Memphis, Tennessee (38130).
6. A review of OISC's product database indicated Weed Zapper (EPA Reg. #1203-68) from Delta Foremost Chemical Corp. located at 3915 Air Park Street in Memphis, Tennessee (38130), has never been registered in Indiana.
7. On December 22, 2016, I received the purchasing information from the Jeffersonville Street Department for Weed Zapper.

Date	Invoice #	Description
5/2/16	992572	Weed Killer
9/6/16	998428	Weed Killer
10/3/16	999680	Weed Zapper
5/4/15	975757	Weed Zapper
7/8/15	979299	Weed Zapper
8/17/15	980969	Weed Zapper
7/7/14	962261	Weed Zapper
5/21/13	130364	Weed Zapper
8/6/13	133898	Weed Zapper
8/7/12	118241	Weed Zapper
12/18/12	123825	Weed Killer

8. This investigation did not find evidence the Jeffersonville Street Department misapplied Weed Zapper to the sidewalk (City of Jeffersonville easement) on Chestnut Street and Penn Street. However, Delta Foremost Chemical Corp. supplied an unregistered pesticide to the Jeffersonville Street Department.

Paul J. Kelley III

Paul J. Kelley
Investigator


Date: January 11, 2017

Disposition:

- A. No violation of the Indiana Pesticide Use and Application Law was documented against Jeffersonville Street Department.
- B. Delta Foremost Chemical Corp. was cited for five (5) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in the state of Indiana. A civil penalty in the amount of \$1,250.00 (5 counts x \$250.00 per count) was assessed.
- C. On April 12, 2017, I spoke on the phone to Edward Young who identified himself as the attorney for Delta Foremost Chemical Corporation. Mr. Young then sent an email

capturing our conversation. I responded the same day in an email advising him Delta Foremost would need to register their pesticide product for 2017, including late filing fee, and the civil penalty would be reduced to \$960.00.

- D. On April 21, 2017, Mr. Young spoke with David Scott, Pesticide Administrator. Mr. Scott reiterated that Delta Foremost Chemical Corporation would have to pay the 2017 registration fee plus late filing fee and the \$960.00 civil penalty. Mr. Young was advised he had until May 3, 2017, to file an appeal for a formal hearing.


George N. Saxton
Compliance Officer

Draft Date: April 24, 2017
Final Date: May 9, 2017

CASE SUMMARY

Case #2017/0034

Complainant: Jerry Edwards
404 Cedar Street NW
Demotte, IN 46310
219-741-7831

Respondent:	PJ Walstra	Licensed business
	William R. Duttlinger	Certified Applicator
	John Walstra	
	Darrin Hannon	Branch Manager
	832 E 15th Street	
	Demotte, IN 46310	
	219-987-3300	

1. On October 20, 2016, Jerry Edwards spoke with Joe Becovitz, Pesticide Program Specialist for the Office of Indiana State Chemist (OISC), regarding a possible pesticide misapplication. Mr. Edwards stated PJ Walstra, which is now Helena Chemical, applied Atrazine and Impact to one of his fields on June 12, 2016. Mr. Edwards stated the application exceeded the maximum allowable label rates and burned his crop. He stated he has repeatedly tried to get either Jim or John Walstra to address his complaint, but they have ignored him.
2. On October 24, 2016, I met with Mr. Edwards who alleged the label language for the products applied to his sweet corn by PJ Walstra had exceeded the maximum allowable label rates.
3. Mr. Edwards provided photos he took of the alleged damage to his corn. See Figures One, Two and Three. Photos were provided to Purdue Plant Pest and Diagnostic Lab (PPDL) for symptom analysis.



Figure One



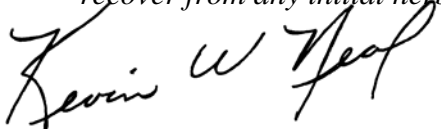
Figure Two



Figure Three

4. It should be noted at the time of this application the business making the application was PJ Walstra and the applicator was Mr. Duttlinger whose certification has been transferred to Helena.
5. According to a signed Pesticide Investigation Inquiry (PII), a pesticide application was made on June 13, 2016, by Mr. Duttlinger to what Duttlinger reported to be 7.9 acres of sweetcorn farmed by Mr. Edwards. The application consisted of Impact Herbicide (EPA Reg. #5481-524) active ingredient topramezone, Option Corn Herbicide (EPA Reg. #264-685) active ingredient foramsulfuron and Cornbelt Atrazine 4L (EPA Reg. #11773-1) active ingredient atrazine.
6. The rate of application as reported by Mr. Duttlinger for the Impact was 0.75oz per acre; for Option was 0.58oz per acre and for the Atrazine 4L was 2qt per acre.
7. The label for Cornbelt Atrazine 4L states, *“On highly erodible soils (as defined by the Natural Resources Conservation Services) if conservation tillage is practiced, leaving at least 30% of the soil covered with plant residues at planting, apply a maximum of 4pts./A of Cornbelt Atrazine 4L (2.0 lbs. a.i./A) as a broadcast spray. If the soil coverage with plant residue is less than 30% at planting, a maximum of 3.2pts./A of Cornbelt Atrazine 4L (1.6 lbs. a.i./A) may be applied.”* And *“FOR POSTEMERGE APPLICATION If no atrazine was applied prior to corn emergence, apply a maximum of 4 pts./A of Cornbelt Atrazine 4L (2.0 lbs. a.i./A) broadcast. If a postemergence treatment is required following an earlier atrazine application, the total atrazine applied may not exceed 2.5 lbs. active ingredient (5 pts. of Cornbelt Atrazine 4L) per acre per calendar year.”*
8. The invoice also indicated Mr. Edwards was charged for six (6) gallons of Cornbelt Atrazine 4L with forty-eight (48) pints in 6 gallons. If this were applied to Mr. Edwards field, it would have been at a rate of 6.4pts./acre; well above the label rate.
9. In speaking directly with Mr. Duttlinger, he advised when asked about what happened to the extra product specifically the Cornbelt Atrazine and Impact, that it was applied to the field. Mr. Duttlinger admitted the entire six gallons of atrazine were applied to the field as were the entire nine ounces of Impact. This would indicate the PII was not correct when signed by Mr. Duttlinger.
10. The labels for all three products applied to Mr. Edwards’s field contain the following language: *“Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR Part 170.”* According to Mr. Hannon, no notice was provided to Mr. Edwards as required by WPS. Walstra’s do not have a record of any notice being provided to Mr. Edwards. Mr. Edwards stated he did not receive one.
11. The report from PPDL after observing photos provided by Mr. Edwards and having been advised of the products and rates of each states, *“Although the atrazine rate was off label, the injury is not consistent with what we would expect from atrazine. The injury appears to be a contact burn which could have occurred due to a nitrogen source carrier or a high rate of nitrogen based adjuvant.”*

12. The label for Option also states, *"Sulfonylurea herbicides have been associated with temporary yellowing or stunting. Corn quickly outgrows these effects and develops normally. Option Corn Herbicide contains a safener which enhances the ability of corn to recover from any initial herbicide effects."*



Kevin W. Neal
Investigator

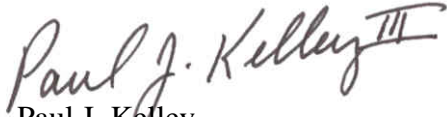
Date: November 28, 2016

Disposition: PJ Walstra and William R. Duttlinger were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding Worker Protection Standard. A civil penalty in the amount of \$250.00 was assessed to PJ Walstra for this violation.

PJ Walstra and William R. Duttlinger were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label-directed application rates. A civil penalty in the amount of \$250.00 was assessed to PJ Walstra for this violation

PJ Walstra and William R. Duttlinger were cited for violation of section 65(8) for making a false or fraudulent record, invoice or report. A civil penalty in the amount of \$250.00 was assessed to PJ Walstra for this violation.

The total amount of civil penalty assessed to PJ Walstra for this investigation is \$750.00.



Paul J. Kelley
Case Review Officer

Draft Date: January 25, 2017
Final Date: March 9, 2017

CASE SUMMARY

Case #2017/0091

Complainant: Tony Kightly
P.O. Box 4087
Evansville, IN 47724
812-297-3128

Respondent: Ed's Total Lawn Care (Licensed Business)
13621 Prairie Drive
Evansville, IN 47725
Edward Hill (Certified Applicator)
Tim Stone (Unlicensed Applicator)
812-867-1852

1. On October 29, 2016, the Office of Indiana State Chemist received information from the complainant, Tony Kightly, alleging Ed's Total Lawn Care had made a pesticide &/or fertilization application to the lawn of one of his current customers and had failed to provide that customer with the required notification information regarding the application. In addition, he indicated he had spoken with the property owners (Greg and Wendy Helm) and that Ed's Total Lawn Care had not been hired to perform any treatments to their lawn. Mr. Kightly also provided photographs of the invoice his customer had received after the lawn treatment by Ed's.
2. I was able to contact and speak with Wendy Helm. Mrs. Helm informed me her husband had asked Ed Hill to give them an estimate for lawn care services, but had not asked him to make any pesticide or fertilizer applications to their lawn. Mrs. Helm stated they received a bill (invoice) for services from Ed's Total Lawn and agreed to pay for the fertilizer application they received.
3. On November 11, 2016, I met with Ed Hill, Certified Applicator and Owner of Ed's Total Lawn Care. Mr. Hill informed me he had been approached by Mr. Helm about services and had misunderstood that Mr. Helm was only wanting an estimate. Mr. Hill stated they only applied fertilizer to the Helm's lawn. I informed Mr. Hill the copy of the Helm's invoice I received was missing the following required customer notification information:
 - Total Nitrogen %
 - Phosphate %
 - Potash %
4. I then questioned Mr. Hill about the technician named "Tim" listed as the applicator on the Helm's invoice. Mr. Hill informed me Tim Stone was his employee and was being used to make fertilizer only applications to lawns. I informed Mr. Hill that Mr. Stone did not have any type of applicator license. Mr. Hill stated that Mr. Stone had been making fertilizer applications by himself since July of 2016 and was aware Mr. Stone did not have a license. I

informed Mr. Hill that all employees that make both pesticide and fertilizer applications for his business are required to have at minimum a Registered Technician (RT) license. Mr. Hill indicated he was unaware Mr. Stone needed an applicator license to make "fertilizer only" applications without him (Mr. Hill) being on-site. I collected from Mr. Hill application records for the work performed by Mr. Stone while unsupervised. From the information collected in the invoices, Mr. Stone performed fertilizer applications on the following dates while unsupervised:

- 7/5/16 7/6/16 7/7/16 7/11/16 7/13/16 7/15/16 7/18/16 7/19/16 7/20/16
- 7/21/16 7/25/16 7/26/16 7/27/16 7/28/16 7/29/16 8/1/16 8/3/16 8/4/16
- 8/5/16 8/8/16 8/9/16 8/11/16 8/12/16 8/18/16 8/19/16 8/22/16 8/23/16
- 8/24/16 8/26/16 8/29/16 9/6/16 9/7/16 9/8/16 9/12/16 9/13/16 9/16/16
- 9/19/16 9/20/16 10/10/16 10/11/16 10/12/16 10/13/16 10/14/16 10/21/16
- 10/24/16 10/26/16 10/27/16 10/28/16 10/31/16 11/1/16 11/2/16 11/3/16
- 11/4/16

5. Mr. Hill was issued an Action Order directing that no further pesticide or fertilizer application could be made by any employee until required licensing was obtained.



Scott M. Farris
Investigator

Date: November 15, 2016

Disposition: Ed Hill 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 properly supervise a non-licensed employee. A civil penalty in the amount of \$6,625.00 (\$125.00 X 53 per count) was assessed. However, the civil penalty was reduced to \$2,650.00. Consideration was given to the fact Mr. Hill cooperated during the investigation; did not have a history of a similar offense; no potential for damage and no restricted use pesticides were used.



George N. Saxton
Compliance Officer

Draft Date: January 26, 2017

Final Date: March 22, 2017

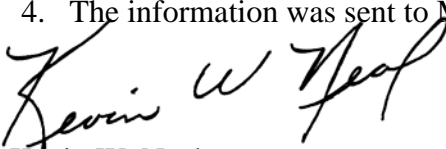
CASE SUMMARY

Case #2017/0147

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

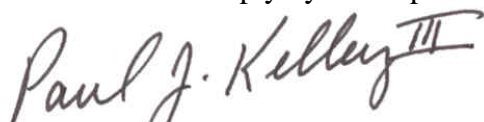
Respondent:	Joseph Biel	Non-Certified
	Jim Colias	Certified Applicator
	Matt's Lawncare and Landscaping (Matt's)	Licensed Business
	2215 Ridgewood Street	
	Highland, IN 46322	
	219-808-1577	

1. On November 8, 2016, George Saxton, Compliance Officer for OISC, sent information to me regarding pesticide applications made by Mr. Biel for Matt's that were done without being properly supervised. Mr. Saxton had spoken with Mr. Colias on October 7, 2016, as the unlicensed applications had come to his attention.
2. On October 8, 2016, Mr. Colias forwarded to Mr. Saxton documentation of the pesticide applications made by Mr. Biel. There were a total of nineteen (19) unsupervised applications made by Mr. Biel on the following dates. Mr. Colias informed Mr. Saxton that Mr. Biel had either applied fertilizer or pesticides on these dates.
3. August 17, 18, 19, 23, 26, 29, 30, 31, 2016, and September 1, 2, 6, 12, 13, 14, 19, 20, 22, 23, 27, 2016.
4. The information was sent to Mr. Saxton in an e-mail which had been forwarded to me.


Kevin W. Neal
Investigator

Date: November 21, 2016

Disposition: Matt's Lawncare and Landscaping and Jim Colias were cited for nineteen (19) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specially 355 IAC 4-2-3, for failure to properly supervise a non-certified employee. A civil penalty in the amount of \$2,375.00 was assessed to Matt's Lawncare and Landscaping. However, the civil penalty was reduced to \$712.50. Consideration was given to the fact Mr. Colias cooperated during the investigation; did not have a history of a similar offense; no potential for damage; made good faith effort to comply by self-reporting; and no restricted use pesticides were used.


Paul J. Kelley
Case Review Officer

Draft Date: January 26, 2017
Final Date: March 9, 2017

CASE SUMMARY

Case #2017/0216

Complainant: Shannon Murray-Gentry
4618 Inspiration Street
Evansville, Indiana 47714
812-457-2603

Respondent: McCord's Lawn Care (Unlicensed Business)
6387 Chaney Road
Spottsville, Kentucky 42458
Scott McCord (Unlicensed Applicator)
270-827-1199

1. On, January 4, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report a possible unlicensed applicator. She stated she became the new president of their Homeowners Association (HOA) and during an audit, discovered Scott McCord was mowing and applying Roundup. She checked with OISC and found that McCord's name was not in the database as being licensed. She said he sprayed in 2013 and 2014. She also believes he has other customers in the Evansville area.
2. I contacted Ms. Murray-Gentry and discussed her complaint. Ms. Murray-Gentry forwarded me the billing invoices from McCord's Lawn Care for the years 2013 and 2014. I reviewed these invoices and noted "Roundup Applications" had been performed and billed to the New Haven Homeowners Association on the fourteen (14) following dates:
 - May 1, 2013 June 1, 2013 July 1, 2013 August 1, 2013 September 1, 2013
 - October 1, 2013 April 21, 2014 May 12, 2014 June 2, 2014 July 1, 2014
 - August 1, 2014 September 2, 2014 October 6, 2014 November 3, 2014
3. On January 9, 2017, I met with Scott McCord, Owner of McCord's Lawn Care. Mr. McCord admitted he had made the "Roundup" applications at the request of the New Haven Homeowners Association while performing other lawn care maintenance work. Mr. McCord stated he was unaware he needed a license to apply "Roundup". I explained to Mr. McCord the need for a license and recommended he obtain a license through his home state of Kentucky and then apply for reciprocity with Indiana, since his business is based in Kentucky. Mr. McCord further stated he had not made any other pesticide application in Indiana, but was interested in becoming licensed in both Kentucky and Indiana. I issued Mr. McCord an Action Order to stop any further pesticide applications in Indiana until he obtains the required licensing.



Scott M. Farris
Investigator

Date: January 11, 2017

Disposition: Scott McCord was cited for fourteen (14) 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 \$3,500.00 (14 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$1,400.00. Consideration was given to the fact Mr. McCord cooperated during the investigation; there was no previous history of similar nature; and no restricted use pesticides were involved.



George N. Saxton
Compliance Officer

Draft Date: February 24, 2017
Final Date: April 6, 2017