

## A Summary of Cases

February 28, 2018

- 2017/0585      On April 10, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report a neighboring farmer was making a pesticide application to a field and she believed the pesticide was drifting into her home. She said this is not the first time she has called OISC about pesticide drift.
- Disposition:** Mark Kyle Dailey was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding off-target drift. A civil penalty in the amount of \$100.00 was assessed for this violation. In addition, Mr. Dailey's Private Applicator certification was suspended for a period of thirty (30) days. Consideration was given to the fact this was his second violation of similar nature. See case number 2016/0722.
- 2017/0682      On April 24, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to his property.
- Disposition:** Roger Pelsy was warned 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. Consideration was given to the fact this was his first violation of similar nature. Scott Wuethrich was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to non-target vegetation. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact this was his first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was used.
- 2017/0736      On May 5, 2017, an anonymous complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report pesticide applications by Bed Bug Destroyers, an unlicensed company. Anonymous stated the owner of Bed Bug Destroyers allegedly made the statement this morning on a radio program that he uses the pesticide Cimexa dust, active ingredient of amorphous silica gel (EPA Reg. #73079-12).
- Disposition:** Bed Bug Destroyers was cited for one hundred forty-three (143) counts of applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$35,750.00 (143 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$3,575.00. Consideration was given to the fact Bed Bug Destroyers cooperated during the investigation; corrective action was taken; this was their first violation of similar nature; and no restricted use pesticides were involved.
- 2017/0795      On May 24, 2017, David Maue spoke with Joe Becovitz, Pesticide Program Specialist for the Office of Indiana State Chemist (OISC) regarding a possible pesticide drift. Mr. Maue stated the trees and shrubs on his property are injured as a result of the drift.

**Disposition:** Kevin Morton was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding checking the registrant's website before application. Kevin Morton was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding allowing drift/contact with desirable plants. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact in a dicamba outreach memo dated February 21, 2017, the Indiana Pesticide Review Board urged OISC to apply the most stringent penalties available for these types of violations.

2017/0811 On May 31, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to her and her property by a neighboring farmer.

**Disposition:** Jarret Hornback was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label language regarding drift. Co-Alliance was assessed a civil penalty in the amount of \$250.00. Consideration was given to the fact this was Jarret Hornback's first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

2017/0814 On June 1, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to her property.

**Disposition:** A. Wayne Carpenter and Mote Farm Service were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was Mr. Carpenter's second violation of similar nature. See case number 2014/0992.

B. On January 29, 2018, Derrick Mote called to contest the enforcement action taken in this investigation.

C. On February 5, 2018, I spoke with Derrick Mote by phone. He stated he still disagreed with our findings but would no longer contest the proposed enforcement.

2017/0817 On, June 5, 2017, the Certification and Licensing Manager of the Office of Indiana State Chemist (OISC) advised the Compliance Officer that Standish Farm Supply's only certified applicator did not renew his certification. There may also be issues with the mix/load pad at that location as well.

**Disposition:** Standish Farm Supply was cited for seven (7) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having a valid Indiana pesticide business license. A civil penalty in the amount of \$1,750.00 (7 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$612.50. Consideration was given to the fact Standish Farm Supply

cooperated during the investigation; corrective action was taken and this was their first offense of similar nature.

2017/0832 On June 8, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) and stated his neighboring farmer drifted agricultural pesticide dicamba herbicide onto his non-dicamba tolerant (DT) beans.

**Disposition:** Timothy D Chamberlain was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding checking Field Watch or other sensitive crop registry. Timothy D Chamberlain was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application in wind between 10 & 15 mph when the wind is blowing toward non-target vegetation. A civil penalty in the amount of \$100.00 was assessed for this violation.

2017/0843 On June 9, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to his trees. He stated this is the second year in a row this has happened.

**Disposition:** Cory Mahaffey, Richard Tucker and Columbus Silgas, Inc. were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$250.00 was assessed to Columbus Silgas, Inc. for this violation. Consideration was given to the fact a restricted use pesticide was involved.

2017/0845 On June 12, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report a neighboring farmer applied dicamba herbicide that adversely affected his Liberty Link soybeans.

**Disposition:** Jeffrey E. Smith was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the checking of the registrant's website and sensitive crop registry before application. Jeffrey E. Smith was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for applying when rain is in the forecast, wind is between 10 and 15 mph and blowing toward neighboring sensitive crops. A civil penalty in the amount of \$100.00 was assessed for this violation.

2017/0897 On June 19, 2017, I met with Mr. Crowe at his residence in regards to a pesticide drift complaint. Mr. Crowe, his son Dan Crowe and I went to a location on CR 700 N regarding the complaint. While at that location, the Crowes advised me of another field with pesticide drift symptoms.

**Disposition:** John Harrison was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to non-target vegetation. A civil penalty in the amount of \$100.00 was assessed for this

violation. Consideration was given to the fact this was his first violation of similar nature. However, consideration was also given to the fact atrazine is a restricted use pesticide.

2017/0914 On June 22, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift of what he believed to be dicamba herbicide to his non-dicamba tolerant (DT) soybeans.

**Disposition:** Cory Fordice and Co-Alliance were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding protection of sensitive areas; specifically, for applying when wind is blowing towards susceptible non-target crops. A civil penalty in the amount of \$250.00 was assessed for this violation.

2017/0934 On June 27, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba pesticide drift to his beans. He did not know the name of the applicator at the time of this report.

**Disposition:** Ronald D Hudson was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding consulting sensitive crop registry and manufacturer's website before application as well as applying when wind is blowing towards susceptible crops and applying when winds were calm. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact in a dicamba outreach memo dated February 21, 2017, the Indiana Pesticide Review Board urged OISC to apply the most stringent penalties available for these types of violations.

2017/0963 On July 5, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.

**Disposition:** Cory Fordice was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for applying the product when the wind was blowing toward an adjacent commercially grown dicamba sensitive crop. A civil penalty in the amount of \$250.00 was assessed for this violation.

**2017/0965** On June 27, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba suspected pesticide drift to his beans. He did not know the name of the applicator at the time of this report.

**Disposition:** Kevin V. Kramer was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the checking of a sensitive crop registry and manufacturer's website. Kevin V. Kramer was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact this was his first

violation of similar nature. Consideration was also given to the fact that in a dicamba outreach memo dated February 21, 2017, the Indiana Pesticide Review Board urged OISC to apply the most stringent penalties available for these types of violations.

2017/0991 On July 6, 2017, the complainant contacted Investigator Kevin W. Neal of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift of what he believed to be dicamba herbicide to his non-dicamba tolerant (DT) soybeans.

**Disposition:** James Tanner and Ceres Solutions were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application when wind was blowing toward adjacent commercially grown dicamba sensitive crops. A civil penalty in the amount of \$250.00 was assessed for this violation.

2017/0994 On June 29, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.

**Disposition:** Jamie Lane was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding failure to consult a sensitive crop registry and failure to check registrant's website before application. Jamie Lane was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application in "calm" winds below three miles per hour. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact this was his first violation of similar nature. Consideration was also given to the fact that in a dicamba outreach memo dated February 21, 2017, the Indiana Pesticide Review Board urged OISC to apply the most stringent penalties available for these types of violations.

2017/0996 On June 29, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.

**Disposition:** Jeffrey B. Blann was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding checking sensitive crop registry before application. Jeffrey B. Blann was cited for violation of section 65(2) of the Indiana Pesticide Use and Application for failure to follow label directions regarding the application of this product when the wind is blowing toward adjacent commercially grown dicamba sensitive crops. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact in a dicamba outreach memo dated February 21, 2017, the Indiana Pesticide Review Board urged OISC to apply the most stringent penalties available for these types of violations.

2017/1006 On July 13, 2017, Joe Becovitz, Pesticide Program Specialist for the Office of Indiana State Chemist (OISC) received a complaint regarding pesticide drift from an aerial

application. Mitch Guess, coordinator for Par Electrical Contractors, stated several of his workers who were erecting an electric tower in a farm field were sprayed by an aerial application. Mr. Guess stated the tail number on the plane that made the application was M3669A.

**Disposition:** William Whitfield 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 people. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was his first violation of similar nature. Consideration was also given to the fact there was potential for human harm. Benoit Aerial Spraying was cited for fifty-seven (57) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-2, for having a non-certified pilot make pesticide applications aerially. A civil penalty in the amount of \$14,250.00 (57 counts x \$250.00 per count) was assessed for this violation. However, the civil penalty was reduced to \$10,687.50. Consideration was given to the fact Benoit Aerial Spraying cooperated during the investigation. Consideration was also given to the fact that using a non-certified pilot was a premeditated, intentional act that resulted in the drifting onto eight individuals. In addition, due to the seriousness of this violation, the business license of Benoit Aerial Spraying was suspended for a period of thirty (30) days.

2017/1040 On July 17, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to him, his family, and their food and drink, as they were barbequing outside. The complainant stated a helicopter flew over and 'drenched' them. Detective Sergeant Aaron Harbstreit of the Davis County Sheriff's Department had also called in this complaint on behalf of Mr. Colbert. Mr. Colbert was advised that OISC would like contaminated clothing if they still had some that had not been laundered, with the understanding they would not get the clothing back.

**Disposition:** Jim Robinson 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 people. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was his first violation of similar nature. Consideration was also given to the fact there was potential for human harm.

2017/1054 On July 19, 2017, the complainant contacted Investigator Kevin Neal of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.

**Disposition:** Gary Neese was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the checking of registrant's and sensitive areas websites. Gary Neese was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact in a dicamba outreach memo dated

February 21, 2017, the Indiana Pesticide Review Board urged OISC to apply the most stringent penalties available for these types of violations.

**2017/1059** On June 21, 2017, I observed Mr. Spurlock making what appeared to me some sort of pesticide application at Johnson Realty 1215 Potter Drive in West Lafayette, Indiana.

**Disposition:** Stephen Spurlock was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having a valid Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation.

**2017/1077** On July 24, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report aerial agricultural pesticide drift to his vehicle and property.

**Disposition:** Jeff Dungan was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow pesticide label directions regarding allowing the pesticide to contact people. A civil penalty in the amount of \$1,000.00 was assessed for this violation. Mr. Dungan's pesticide applicator certification was also suspended for a period of thirty (30) days. Consideration was given to the fact this was not his first violation of similar nature (see case number 2014/1210) and there was potential for human harm.

**2017/1078** On July 24, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report aerial agricultural pesticide drift to his wife and his vehicle. He was asked about contaminated clothing we could have with the understanding he would not get it back.

**Disposition:** Alfred Bell 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 people. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was his first violation of similar nature. Consideration was also given to the fact there was a potential for human harm.

**2017/1103** On July 31, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report aerial agricultural pesticide drift to his property, pool and to his wife. He stated he had photos of the drift.

**Disposition:** Edward L Huddleston was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was his first violation of similar nature. Consideration was also given to the fact there was potential for human harm.

2017/1152 On September 6, 2017, I performed a routine school inspection with John Ferguson, Maintenance Director for the Lawrenceburg Community School Corporation. Mr. Ferguson stated Tony Montgomery of Pest Prevention Services, Inc. performed general pest control services for the buildings. Mr. Ferguson was able to provide records of applications performed by Pest Prevention Services, Inc. I found the records to be mostly in order. Compliance Assistance was rendered for minor paperwork omissions after speaking with Mr. Montgomery. Further discussion with Mr. Ferguson revealed the two companies hired to maintain turf areas and sports fields were not licensed with OISC.

**Disposition:** Lawrenceburg Community School Corporation was warned for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-16-8, for failure to offer a pesticide notification registry. B&B Scapes and Bryant Dold were cited for two (2) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$375.00. Consideration was given to the fact B&B cooperated during the investigation. B&B Scapes and Bryant Dold were cited for two (2) counts of 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. Team All Sports and Sean Rogers were cited for eleven (11) 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 \$2,750.00 (11 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$2,062.50. Consideration was given to the fact Team All Sports cooperated during the investigation. Team All Sports and Sean Rogers were cited for eleven (11) counts of 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.

2017/1155 On September 6, 2017, I performed a marketplace inspection at Get Stockpiled located at 982 S. Marr Rd. Columbus, Indiana. I spoke with the manager Branden Labiak and informed him of the process of the marketplace inspection. OISC was notified by a customer of Get Stockpiled that a pesticide product called Cedarcide was located and he did not believe it was registered. Sarah Caffery, OISC Registration Section, notified me that Cedarcide was not a registered pesticide product in Indiana. I informed Mr. Labiak of this information and that I was looking for Cedarcide. He informed me that it was still for sale in the store and is the only pesticide product in the store.

**Disposition:** After a label review by the Registration Section, it was discovered that:

Label Review: - Label is missing the following sections:

- Directions for Use Section

- Including how to use with children
- Areas of the body to avoid (on people or animals)
- Statement similar to “prolonged or frequently repeated skin contact may cause allergic reactions in some individuals” should be included



- Storage and Disposal
- Keep Out of Reach of Children and Signal Word
- First Aid Statement
- Label does not include the company name
  - “cedarcide.com/co” is listed above the 800 number
  - Cedarcide.com is missing from the address block
- Ingredient Statement
  - Inert Ingredient heading must be the same font/boldness as the Active Ingredient heading
  - Label does not include “TOTAL INGREDIENTS....100%”
- Upon review of the USDA BioPreferred site,  
<https://www.biopreferred.gov/BioPreferred/faces/catalog/Catalog.xhtml> on 10/5/17 at 8:57am, Cedarcide Original is not listed
  - Therefore, the product is considered false and misleading

Cedarcide was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product in 2017 that was not registered in the state of Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation. Cedarcide was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that was misbranded. A civil penalty in the amount of \$250.00 was assessed for this violation.

2017/1213 On August 16, 2017, I conducted an inspection at Hillcrest Golf & Country Club. I encountered Omar Diaz on the course making an application to the golf course. Mr. Diaz stated the superintendent, Mark Powers, was his supervisor and he was licensed. I attempted to locate Mr. Powers at the course; however, he was not on-site. A check of OISC’s database indicated Mark Powers has a license for a for-hire business (Turf Care Solutions LLC) but does not have a license for Hillcrest Golf & Country Club. Furthermore, Mr. Diaz is an employee of Hillcrest Golf & Country Club not Turf Care Solutions LLC. Mr. Diaz stated he believed he was covered by Mr. Power’s license and was doing his normal duties.

**DISPOSITION:**

A. Hillcrest Golf & Country Club was cited for twenty-eight (28) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticides to a golf course without having a certified applicator. A civil penalty in the amount of \$7,000.00 (28 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$4,200.00. Consideration was given to the fact corrective action was taken (Mr. Powers became licensed with the golf course on August 23, 2017); there was a good-faith effort to comply and no restricted use pesticides were involved.

B. On January 3, 2018, Jan Santerre, General Manager, called and explained that she has had a turnover in personnel and is making an effort to come into compliance. As a result of our discussion, it was determined the civil penalty would be further reduced further to \$2,450.00. Consideration was also given to the fact Hillcrest Golf & Country Club was

trying to cooperate and come into compliance.

**2017/1218** On August 21, 2017, I performed a routine marketplace inspection at Raft to Rafters located at 5780 25th Street, Columbus, Indiana 47203. I spoke with the president of the company Matthew Miller and informed him of the process of the marketplace inspection.

**Disposition:** Essentials was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that was misbranded. A civil penalty in the amount of \$250.00 was assessed for this violation.

**2017/1223** On August 23, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report aerial agricultural pesticide drift to him and his livestock.

**Disposition:** Jack Olds 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 people. A civil penalty in the amount of \$500.00 was assessed. In addition, his applicator certification was suspended for a period of thirty (30) days. Consideration was given to the fact this was his second violation of similar nature and there was potential for human harm. See case number 2015/0881.

**2017/1276** On September 25, 2017, an anonymous complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report S&J Lawncare making for-hire pesticide applications to lawns and parking lots without having an Indiana pesticide business license. Anonymous stated S&J Lawncare was applying pesticides at:

- i. "Power Train" on US 40;
- ii. Camp World on NW 5<sup>th</sup> St.;
- iii. Gateway Mall;
- iv. Old "Ravenna" Mall;
- v. Petro Truck Stop on US 40.

**Disposition:** Lanny Farmer was cited for three (3) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$750.00 (3 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$562.50. Consideration was given to the fact Mr. Farmer cooperated during the investigation.

## CASE SUMMARY

Case #2017/0585

**Complainant:** Suzanne Luckett  
5282 N. Graham  
Madison, Indiana 47250  
812-493-9812

**Respondent:** Mark Kyle Dailey  
6437 N. 933 W.  
Deputy, Indiana 47230  
812-873-7692

Private Applicator

1. On April 10, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report a neighboring farmer was making a pesticide application to a field and she believed the pesticide was drifting into her home. She said this is not the first time she has called OISC about pesticide drift.
2. On April 11, 2017, I met with Mrs. Luckett at her residence in Madison, Indiana. Mrs. Luckett stated she was preparing to leave her residence for work, as she opened the door to leave she was, *"hit with what smelled like weed killer total undiluted in the jug when you first open it."*
3. On April 11, 2017, I made the following observations"
  - A. Target field is located south and east of Mrs. Luckett's property. See Figure 1.
  - B. Tulip and peony stems were twisted similar to symptoms of exposure to a growth regulator pesticide. See Figures 2-3.
  - C. Other vegetation on property showed leaf distortion and some yellowing. See Figure 4.



Figure 1-House with field to right and top



Figure 2- Twisted tulip stems



Figure 3-Twisted peony stems



Figure 4-Yellowing leaves

4. I collected swab and vegetation samples from complainant's property and target field. Samples were taken to OISC's residue lab for analysis.
5. On April 11, 2017, I spoke with Mr. Dailey. Mr. Dailey stated he applied Makaze (EPA Reg. #34704-890, active ingredient glyphosate) and Salvo (EPA Reg. #34704-609, active ingredient 2, 4-D). Mr. Dailey stated he made the application on April 10, 2017, between 9:00am and 9:40am.
6. On April 16, 2017, Mr. Dailey provided a copy of a Pesticide Investigation Inquiry Report (PII).
7. Wind data from Weather Underground, [www.wunderground.com](http://www.wunderground.com), indicates the wind from downtown Madison, Indiana was out of the east, southeast between 4.8mph – 6.7mph with gusts to 13.6mph. See Figure 5. However, triangulating the Luckett property using a larger area, the wind was registered out of the southwest 7 - 10mph with gusts to 13 mph. See Figures 6-8. Both data sets indicate the wind was blowing toward Mrs. Luckett's property.

April 10, 2017

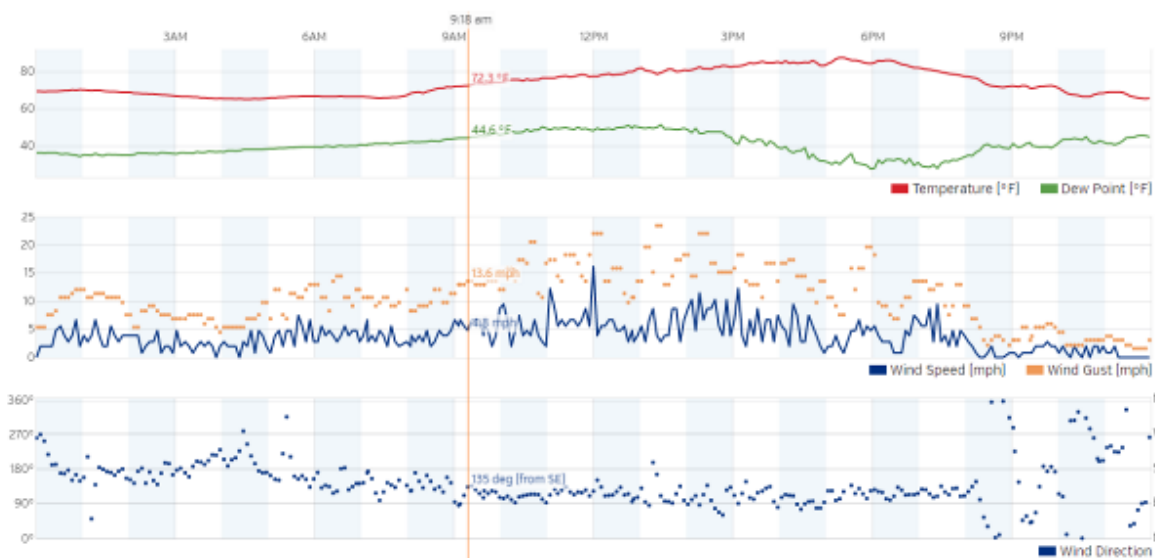


Figure 5- Weather History for Madison, IN [KINMADIS4]

April 10, 2017

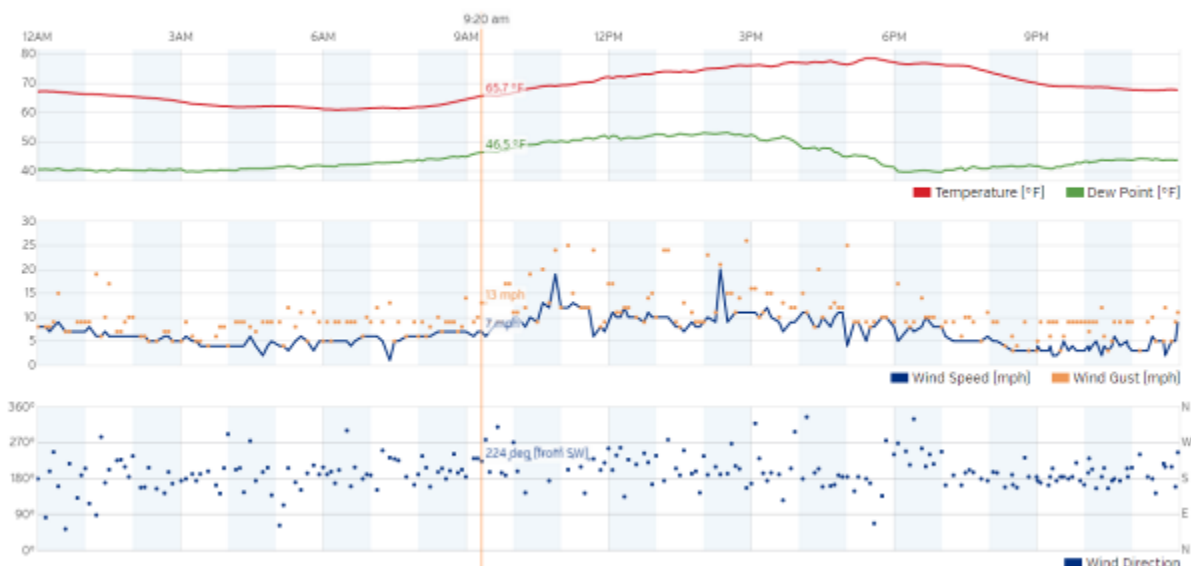


Figure 6- Weather History for Versailles, IN [KINVERSA3]

April 10, 2017

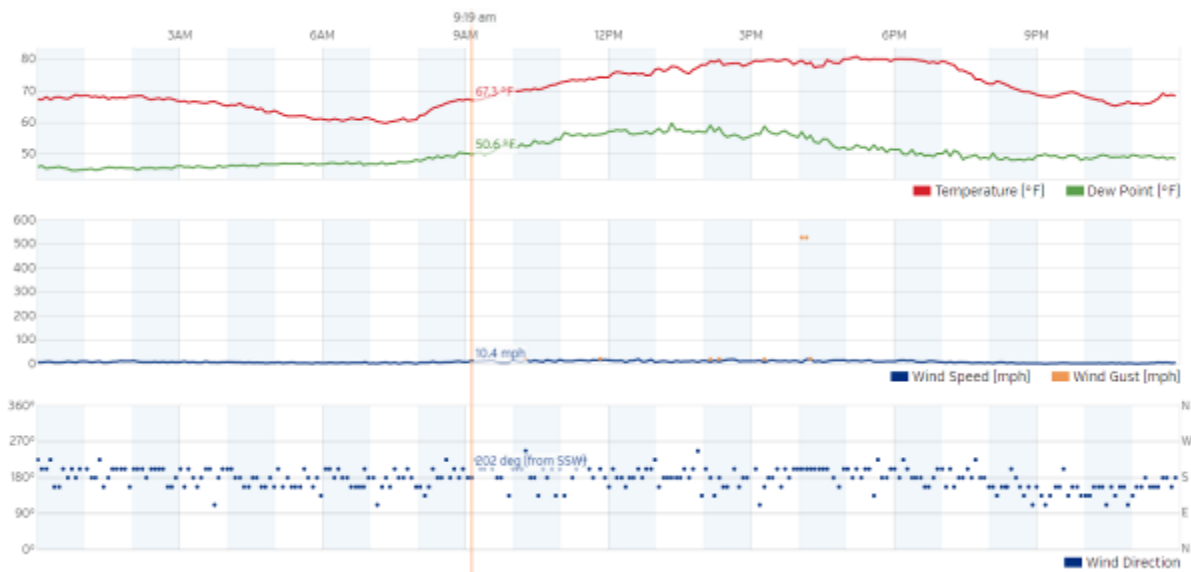


Figure 7- Weather History for North Vernon, IN [KINNORTH18]

Weather History Graph  
April 10, 2017

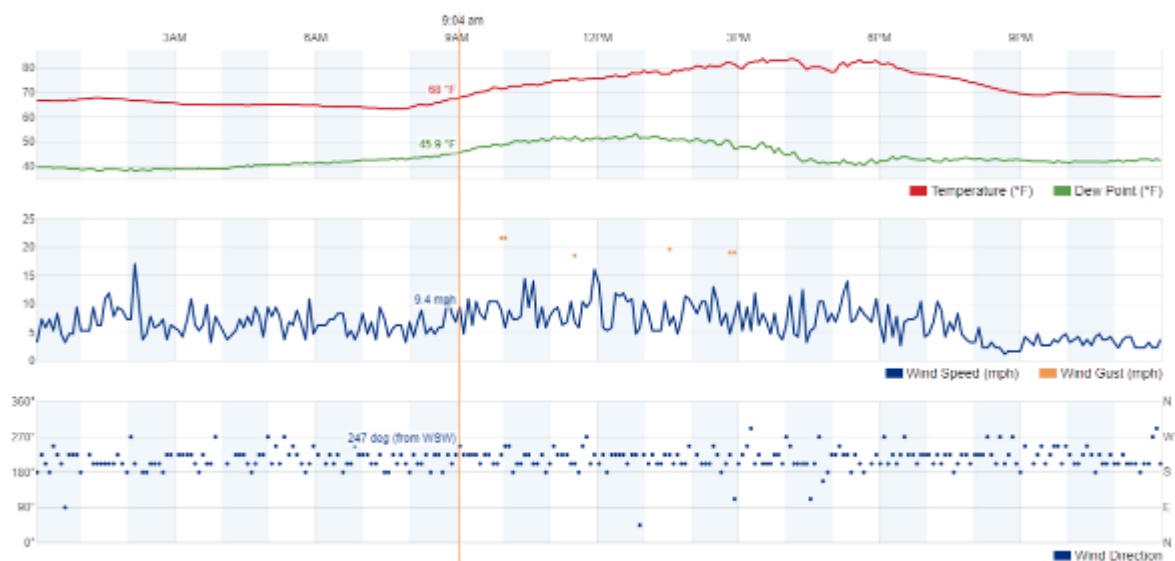


Figure 8-Weather History for Bedford, KY [KKYBEDFO5]

8. On July 18, 2017, OISC's Residue Lab reported sample findings. Swab sample findings showed decreasing levels of 2, 4-D from target field to vegetation on Mrs. Luckett's property. Furthermore, glyphosate was detected on Mrs. Luckett's property. See findings.


Case # 2017/0585			Investigator: J. Kelley		
Sample #	Sample Description	Sample Matrix	Amount Found (ng/swab)		
			2,4-D	Glyphosate	AMPA
2017-501511	Trip blank swab charged with acetone	Swab	BDL	NA	NA
2017-501512	Trip blank swab charged with water	Swab	NA	BDL	BDL

2017-501513	Swab from vegetation 55 yds away from target field charged with water	Swab	NA	BDL	BDL
2017-501514	Swab from vegetation 55 yds away from target field charged with acetone	Swab	12.8	NA	NA
2017-501515	Swab from vegetation 33 yds away from target field charged with water	Swab	NA	BDL	BDL
2017-501516	Swab from vegetation 33 yds away from target field charged with acetone	Swab	30.6	NA	NA
2017-501517	Swab from vegetation 16 yds away from target field charged with water	Swab	NA	14.1	BDL
2017-501518	Swab from vegetation 16 yds away from target field charged with acetone	Swab	171	NA	NA
2017-501519	Swab from vegetation from target field charged with water	Swab	NA	2576	BDL
2017-501520	Swab from vegetation from target field charged with acetone	Swab	2106 *	NA	NA
2017-501521	Vegetation 55 yds from target field	Vegetation	NA	NA	NA
2017-501522	Vegetation 33 yds from target field	Vegetation	NA	NA	NA
2017-501523	Vegetation 16 yds from target field	Vegetation	NA	NA	NA
2017-501524	Vegetation from target field	Vegetation	NA	NA	NA
2017-501525	Swab from window from north side of house charged with water	Swab	NA	BDL	BDL
2017-501526	Swab from window from north side of house charged with acetone	Swab	260	NA	NA
2017-501527	Swab from window from west side of house charged with water	Swab	NA	218	BDL
2017-501528	Swab from window from west side of house charged with acetone	Swab	909	NA	NA
2017-501529	Swab from window from east side of house charged with water	Swab	NA	BDL	BDL
2017-501530	Swab from window from east side of house charged with acetone	Swab	471	NA	NA
2017-501531	Swab from window from south side of house charged with water	Swab	NA	BDL	BDL
2017-501532	Swab from window from south side of house charged with acetone	Swab	207	NA	NA
2017-501533	Swab of vegetation 410 yds south of target field upwind charged with water	Swab	NA	BDL	BDL
2017-501534	Swab of vegetation 410 yds south of target field upwind charged with acetone	Swab	BDL	NA	NA
2017-501535	Vegetation 410 yds south of target field upwind	Vegetation	NA	NA	NA

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

\*minimum amount reported due to concentration exceeded calibration curve range.

NA=not analyzed

LOQ	swab	2,4-D=1 ng/swab; Glyphosate=10 ng/swab; AMPA=100 ng/swab			
<b>Signature</b>			<b>Date</b>	7/18/17	

9. Label language for Salvo states in part, *“Do not apply at wind speeds greater than 15 mph. Only apply this product if the wind direction favors on-target deposition and there are not sensitive areas (including but not limited to, residential areas, bodies of water, known habitat for nontarget species, nontarget crops) within 250 feet downwind.”*
10. Label language for Makaze states in part, *“Do not allow the herbicide solution to mist, drip, drift, or splash onto desirable vegetation.”*



Paul J. Kelley  
Investigator

Date: October 3, 2017

**Disposition:** Mark Kyle Dailey was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding off-target drift. A civil penalty in the amount of \$100.00 was assessed for this violation. In addition, Mr. Dailey's Private Applicator certification was suspended for a period of thirty (30) days. Consideration was given to the fact this was his second violation of similar nature. See case number 2016/0722.



George N. Saxton  
Compliance Officer

Draft Date: October 5, 2017  
Final Date: November 15, 2017



## CASE SUMMARY

Case #2017/0682

**Complainant:** Brad Odom  
5477 S 1600 W  
Francesville, Indiana 47946  
(765) 412-7069

**Respondent:** Roger Pelsy  
5555 S 1600 W  
Francesville, Indiana 47946  
(219) 954-0007

Property Owner

Scott Wuethrich  
9157 S CR 1400 W  
Francesville, Indiana 47946  
(219) 204-0243

Certified Applicator

Seth Hooker  
(317) 292-0666

Wuethrich Employee  
Unlicensed

1. On April 24, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to his property.
2. On April 29, 2017, Agent Joe Becovitz and I met with the complainant at his residence. I explained to Mr. Odom the role of the OISC in drift investigations as he showed us the affected areas, which included numerous ornamental flowers and trees.
3. The complainant's back yard area is adjacent to agricultural fields to the west, south, and one across the street to the southeast. The complainant noticed that some of the trees on his property had leaves that were curling and what appeared to be burn damage to vegetation in his garden. Vegetation and soil samples were collected and taken to the OISC Residue laboratory for analysis.



Figure 1



Figure 2



- Figure 1 – curling and bleached asparagus in complainants garden
- Figure 2- brown spots on leaves

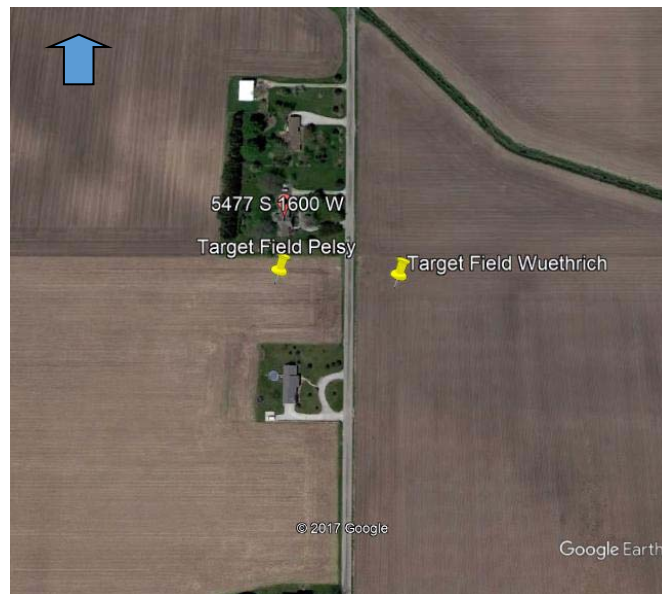


Figure 3 (Blue arrow indicates North direction)

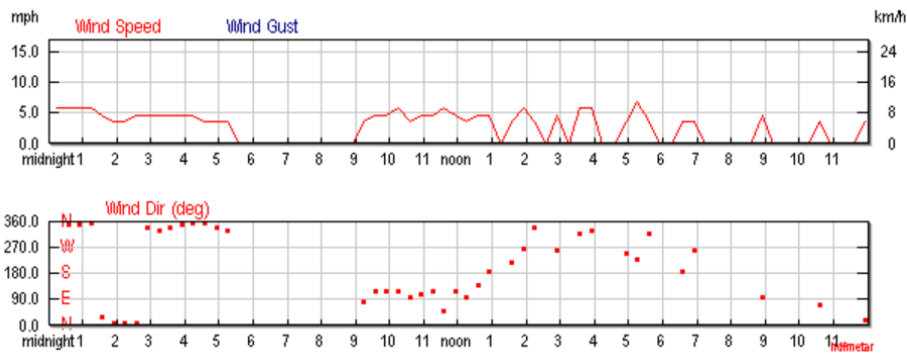
- Figure 3-Map of complainant's residence, Target Field Pelsy to the south and Target Field Wuethrich to the southeast.

- I was able to make contact with Scott Wuethrich and Roger Pelsy. Mr. Pelsy stated that he sprayed his field (as indicated on the map above) On April 17, 2017 at approximately 8:00 am with:
  - **Cornbelt Salvan** – EPA Reg. #11773-16  
Actives: 2-4 Dichlorophenoxyacetic Acid 81.8%
  - **Roundup Powermax-** EPA Reg. #524-549 Actives: Glycine, N-(phosphonomethyl)-potassium salt (103613) 48.7%
  - **Authority XL-** EPA Reg. #279-3413 Actives: Sulfentrazone 62.22%, Chlorimuron Ethyl 7.78%

Mr. Wuethrich stated that Seth Hooker sprayed his field on April 18, 2017 around 10:00am EST with:

- **Medal II ATZ Herbicide**, EPA Reg. #100-817 Actives: Atrazine 33%, S-Metolachlor 26.1%
- **Verdict**, EPA Reg. #7969-279 Actives: Saflufenacil 6.24%, Dimethenamide-P 55.04%
- **Tomahawk**, EPA Reg. #33270-18 Actives: Glyphosate-isopropylammonium 41%

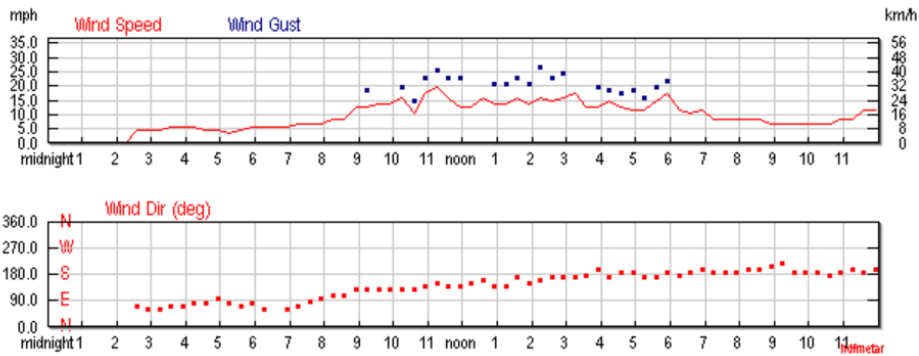
- I checked the weather history for April 17 and April 18, 2017 on the weather underground website for Francesville, Indiana:
  - On April 17, 2017 when Mr. Pelsy from the south of the complainant's residence was making an application.



7:35 AM	51.8 °F	42.8 °F	71%	30.18 in	10.0 mi	Calm	Calm	-	N/A	Clear
7:55 AM	55.4 °F	37.4 °F	51%	30.19 in	10.0 mi	Calm	Calm	-	N/A	Clear
8:15 AM	57.2 °F	41.0 °F	55%	30.19 in	10.0 mi	Calm	Calm	-	N/A	Clear
8:35 AM	59.0 °F	33.8 °F	39%	30.19 in	10.0 mi	Calm	Calm	-	N/A	Clear
8:55 AM	59.0 °F	35.6 °F	42%	30.19 in	10.0 mi	Calm	Calm	-	N/A	Clear
9:15 AM	60.8 °F	35.6 °F	39%	30.19 in	10.0 mi	East	3.5 mph	-	N/A	Clear
9:35 AM	60.8 °F	32.0 °F	34%	30.18 in	10.0 mi	ESE	4.6 mph	-	N/A	Clear
9:55 AM	62.6 °F	33.8 °F	34%	30.18 in	10.0 mi	ESE	4.6 mph	-	N/A	Clear

-The weather indicates little to no wind for the time of the Pelsy application, but note at around 9:00am the wind speed does pick up from the ESE at around 3.5mph.


- On April 18, 2017 when Mr. Hooker from the south east was making an application at approximately 10:00am:



9:55 AM	64.4 °F	-	41.0 °F	42%	30.18 in	10.0 mi	SE	13.8 mph	19.6 mph	N/A	Clear
10:15 AM	66.2 °F	-	39.2 °F	37%	30.18 in	10.0 mi	SE	16.1 mph	19.6 mph	N/A	Clear
10:35 AM	66.2 °F	-	39.2 °F	37%	30.17 in	10.0 mi	SE	10.4 mph	15.0 mph	N/A	Clear
10:55 AM	68.0 °F	-	35.6 °F	30%	30.17 in	10.0 mi	SE	17.3 mph	23.0 mph	N/A	Clear
11:15 AM	69.8 °F	-	35.6 °F	28%	30.17 in	10.0 mi	SSE	19.6 mph	25.3 mph	N/A	Clear
11:35 AM	71.6 °F	-	33.8 °F	25%	30.17 in	10.0 mi	SE	16.1 mph	23.0 mph	N/A	Clear
11:55 AM	71.6 °F	-	32.0 °F	23%	30.17 in	10.0 mi	SE	12.7 mph	23.0 mph	N/A	Clear
12:15 PM	73.4 °F	-	32.0 °F	22%	30.16 in	10.0 mi	SSE	12.7 mph	-	N/A	Clear
12:35 PM	73.4 °F	-	32.0 °F	22%	30.15 in	10.0 mi	SSE	16.1 mph	21.9 mph	N/A	Clear
12:55 PM	73.4 °F	-	32.0 °F	22%	30.13 in	10.0 mi	SE	13.8 mph	20.7 mph	N/A	Clear

-Please note the wind speeds varying from 10.4mph to 19.6mph gusting up to 25.3mph coming from the SE, SSE blowing directly at the complainant's residence.

6. On June 9, 2017, I received the results from the OISC Residue Laboratory. Please note on the sample sheet "Scott" refers to Mr. Wuethrich. The chart below shows the sample results:

Case #	2017-0682					Investigator	Melissa Rosch	
Sample #	Sample Description	Amount of Analyte (ppb)						
		Matrix	Saflufenacil	Chlorimuron Ethyl	Atrazine	Metolachlor	Sulfentrazone	Dimethenamid
2017-355269	Least impacted veg	Veg	2.69	0.417	641	12.0	12.1	BDL
2017-355270	Middle impact veg-Pelsy	Veg	3.01	BQL	427	24.1	5.39	0.665
2017-355271	Most impacted veg-Pelsy	Veg	2.52	BQL	73.1	5.35	17.5	BDL
2017-355272	Middle impacted veg-Scott	Veg	10.0	BQL	167	27.7	0.589	0.645
2017-355273	Most impacted veg-Scott	Veg	11.9	1.05	4080	107	24.9	3.51
2017-355274	Target field veg-Pelsy	Veg	0.696	122	59.0	12.9	4910	0.468
2017-355275	Target field soil-Pelsy	Soil	NA	NA	NA	NA	NA	NA
2017-355276	Target field veg-Scott	Veg	94.5	0.665	17900*	7340*	10.6	120
2017-355277	Target field soil-Scott	Soil	NA	NA	NA	NA	NA	NA
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								
*amount exceeded standard curve range- minimum concentration reported. NA= not analyzed.								
LOQ	Veg (ppb)	0.3	0.3	3	0.07	0.3	0.07	
Signature						Date	6/9/17	

Samples were taken from the following areas on the map:



The following locations correspond with the lab report findings above. Sample label names refer to only suspected levels:

- A: Least Impacted Veg
- B: Middle Impact Veg-Pelsy
- C: Most Impacted Veg-Pelsy
- D: Middle Impact Veg-Scott
- E: Most Impacted Veg-Scott

7. In this case, Mr. Pelsy and Mr. Hooker made pesticide spray applications to their agricultural fields on April 17 and April 18, 2017 respectively. The pesticide products used are listed in paragraph 4 of this report. It appears there was a drift of the pesticide products used by both respondent's in this case based on the following points:

- The winds on the dates in question were blowing towards the complainant's property.
- The active ingredients in both respondent's tank mixes match the active ingredients found in the complainant's affected vegetation.

8. The Wuethrich/Hooker label violations are as follows:

1. The label for **Tomahawk**, EPA # 33270-18 Actives: Glyphosate-isopropylammonium 41% reads on page 4:
  - *"Do not allow the herbicide solution to mist, drip, drift, or splash onto desirable vegetation since minute quantities of this product can cause severe damage or destruction to crop and non-crop plants or other areas on which treatment was not intended."*

9. The Pelsy label violation is the following:

1. **Cornbelt Salvan** -EPA# 11773-16Actives: 2-4 Dichlorophenoxyacetic Acid 81.8% reads on page 10:
  - *"Do not apply under circumstances where spray drift may occur to food, forage, or other plantings that might be damaged or drops thereof rendered unfit for sale, use, or consumption. Susceptible crops include, but are not limited to cotton, okra, flowers,*

*grapes, (in growing stage), fruit trees (foliage), soybeans (vegetative state), ornamentals, sunflowers, tomatoes, beans, and other vegetables, or tobacco. Small amounts of spray drift that might not be visible may injure susceptible broadleaf plants."*

10. In addition, on the evening of April 28, 2017, prior to our arrival, the complainant stated he received a threatening text message from the respondent's employee Seth Hooker. One sentence states, *"Pick another person to be mad at, bro, I'll show you what dead yard looks like if you wanna f\*\*k with me and cost me my living"*. The complainant said that he did not want to file a police report at this time, but if something else happened then he would.

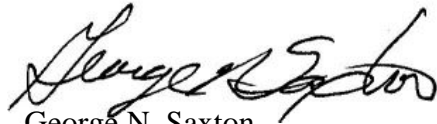


Melissa D. Rosch  
Investigator

Date: October 17, 2017

**Disposition:** Roger Pelsy was warned 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. Consideration was given to the fact this was his first violation of similar nature.

Scott Wuethrich was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to non-target vegetation. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact this was his first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was used.



George N. Saxton  
Compliance Officer

Draft Date: December 19, 2017  
Final Date: February 7, 2018

## CASE SUMMARY

Case #2017/0736

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

**Respondent:** Larry Dauscher  
David Moellering  
Bed Bug Destroyers  
446 Augusta Way  
Fort Wayne, IN 46825  
260-445-7815

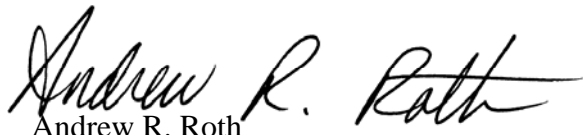
Not Licensed  
Not Licensed

1. On May 5, 2017, an anonymous complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report pesticide applications by Bed Bug Destroyers, an unlicensed company. Anonymous stated the owner of Bed Bug Destroyers allegedly made the statement this morning on a radio program that he uses the pesticide Cimexa dust, active ingredient of amorphous silica gel (EPA Reg. #73079-12).
2. On May 15, 2017, David Moellering returned a call and I informed him of the complaint. He indicated he ran Bed Bug Destroyers for the owner and he did the radio spot. He explained the company uses heat treatment and, for the last two years, Cimexa dust to control bedbugs. I informed him that the for-hire use of a pesticide requires a certified applicator and a pesticide business license. Mr. Moellering stated Cimexa dust is not a chemical, but a silica gel, and he did not believe a license was needed. I explained that the product would have an EPA Registration Number if the label makes pesticidal claims and if he is using a pesticide in a for-hire service, licensing was required. I told him to check the label to make sure we were talking about the same product and that we needed to meet.
3. On May 16, 2017, I spoke with Mr. Moellering and informed him that I had researched the product and Cimexa dust is a pesticide. He indicated I needed to talk to company owner, Larry Dauscher, and he would have him call me.
4. On May 17, 2017, I again spoke with Mr. Moellering and told him I had not heard from Mr. Dauscher. He indicated Mr. Dauscher called me but got no answer. Mr. Moellering indicated he sent money to the OISC for the license and he would take the exams needed and move forward. He then stated that no one from US EPA could tell him the difference between a pesticide and an insecticide. I explained the terms. Mr. Moellering then stated no one had been able to tell him what the chemical or pesticide was in Cimexa dust. I explained that manufacturers are required to list the active ingredient(s) and guaranteed analysis on the pesticide label and that the active ingredient is what controls the pest. I asked to meet Mr. Moellering and/or Mr. Dauscher somewhere as the company did not have a true business location. We agreed to meet the next day and I was given Mr. Dauscher's phone number. Later in the day, Mr. Moellering sent me a text message indicating they could not meet.

5. On May 18, 2017, I tried Mr. Dauscher's phone number several times and each time got a busy signal. I sent a text message to him, then sent emails explaining the complaint to both men but got no responses. A few days later, I spoke with Mr. Moellering who stated he had not checked emails and Mr. Dauscher would be back in town on May 24.
6. On May 25, 2017, I finally spoke with Mr. Dauscher who was open to meeting me, so I met with him later that day at his home. Mr. Dauscher had copies of the company's bedbug heat/dust application records for me when I arrived. I issued a Stop Action Order instructing the company to cease making for-hire pesticide (Cimexa dust) applications until properly licensed. Mr. Dauscher signed the order and provided a written statement in response to the complaint. He indicated he and Gerrett Stier started the company in 2014 and that Mr. Stier obtained Cat. 7a certification at the onset. Mr. Stier and the company were licensed with OISC at startup for 2014. After a year in business, Mr. Dauscher indicated he spoke to someone at the OISC about renewing the licenses and came away with the impression that licenses were not needed because heat and organic materials (diatomaceous earth) were being used to control bedbugs. Further, since no other pest control services were being offered, the licenses were not renewed for 2015. About that time, the company began using Cimexa traps and Cimexa dust with the heat. Mr. Dauscher was cooperative and stated he wanted to get into compliance; he had scheduled Mr. Moellering to take the Core and Cat. 7a exams. In his garage, we verified Cimexa Insecticidal Dust was the pesticide used with heat to control bedbugs. Records indicated Cimexa dust applications were made on the following dates:

	2015	2016	2017
Jan	22	22	
Feb	11,13	3,8,17,22	4,6,13,23,24,31
Mar	10,16,17,24	21,22,24,30	7,9,13,16,20,21,22,27,28,29
Apr	2,6,10,14,15	5,12,21,25,26	5,12,20,21,25,26,27
May		16,18	3,9,11,12,16,17,18
Jun	23	2,7,8,14,15,16,21,22,29,30	
Jul	14,30	5	
Aug	2,11,13,26	2,5,11,16,17,23,24,25,26,30	
Sep	16,17,18,19,23,25,29	6,7,8,13,14,15,20,22,29	
Oct	1,2,5,6,8,12,13,14,15,16,26,27,28	4,5,11,13,17,18,20,25,26	
Nov	3,5,19,25	8,10,14,21,22	
Dec	17,18,28	8,13,14,15,19,28,29	

7. Mr. Moellering passed the Core exam but not the Cat. 7a exam. I spoke with Mr. Dauscher and informed him of his options; either wait until Mr. Moellering passed the Cat. 7a exam or license Mr. Stier, whose certification was still valid. He opted to license Mr. Stier and obtain a pesticide business license, then add Mr. Moellering once he passed the Cat. 7a exam. I was in the area the day I spoke to him, so I picked up the check for the licensing fees and took them to the OISC the next day. A pesticide business license was subsequently issued to Bed Bug Destroyers. Mr. Moellering passed the Cat. 7a exam on June 23, 2017.
8. On September 8, 2017, Mr. Moellering contacted the Certification & Licensing section of the OISC to report that he was no longer with Bed Bug Destroyers. The business license was still active based on the valid certification of Mr. Stier.

  
 Andrew R. Roth  
 Investigator

Date: September 19, 2017

**Disposition:** Bed Bug Destroyers was cited for one hundred forty-three (143) counts of applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$35,750.00 (143 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$3,575.00. Consideration was given to the fact Bed Bug Destroyers cooperated during the investigation; corrective action was taken; this was their first violation of similar nature; and no restricted use pesticides were involved.

  
George N. Saxton  
Compliance Officer

Draft Date: November 28, 2017  
Final Date: January 25, 2018



## CASE SUMMARY

Case #2017/0795

**Complainant:** David Maue  
4722 Elizaville Road  
Lebanon, IN 46052  
317-941-8125

**Respondent:** Tri-K, Inc.  
Kevin Morton  
5640 N 250 E  
Lebanon, IN 46052  
765-516-2297

Private Applicator

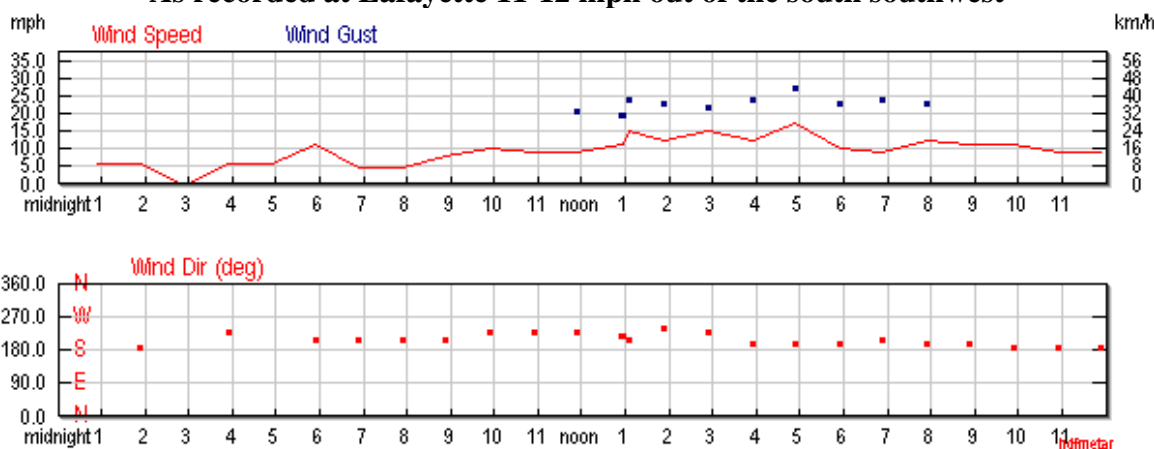
1. On May 24, 2017, David Maue spoke with Joe Becovitz, Pesticide Program Specialist for the Office of Indiana State Chemist (OISC) regarding a possible pesticide drift. Mr. Maue stated the trees and shrubs on his property are injured as a result of the drift.
2. On May 26, 2017, I went to the complainant's home to conduct an on-site physical investigation of the alleged off-target pesticide movement incident reported to OISC.
3. During my on-site investigation I did the following:
  - a) Looked for and did not observe another potential pesticide application made in the area.
  - b) Observed and photographed what I believed to be symptoms from exposure to some sort of growth regulator (figure 1) throughout the complainant's property (figures 2 and 3) located to the east of the target field. A fence separated the target field and the complainant's property. (figures 4 and 5)
  - c) Collected vegetation samples from impacted areas of the complainant's property for visual analysis by the Purdue Plant and Pest Diagnostic Lab (PPDDL).
  - d) Collected swab and vegetation samples for chemical analysis by the OISC Pesticide Residue Laboratory from the following areas:
    - i) Impacted vegetation from complainant's property
    - ii) Vegetation from target field
    - iii) West-facing windows of complainant's residence
    - iv) East-facing windows of complainant's residence
  - e) Made a diagram/map of the investigation site, depicting locations of relevant fields and roads (figure 6).
4. On May 26, 2017, I collected written records from the applicator company Tri-K Inc. The written records and statements addressed the below items as follows:
  - a) Application date & time: May 16, 2017; from 8:15pm-9:30pm
  - b) Target field: field to the west of complainant's property;
  - c) Pesticides: Xtendimax (dicamba) EPA Reg. #524-617 & Roundup PowerMax (glyphosate) EPA Reg. #524-549; Authority XL (sulfentrazone and chlorimuron-ethyl) EPA Reg. #279-3413

- d) Application rate: 22 oz. per acre Xtendimax; 22 oz. per acre Roundup; 4 oz. per acre Authority XL
- e) Adjuvants: Capsule;
- f) Nozzles: PSULDQ 2004
- g) Boom height: 25 inches
- h) Ground speed: 8-10 mph
- i) Winds: 8-13 mph out of the south;
- j) Applicator: Kevin Morton;
- k) Certified supervisor: not applicable;
- l) Left a 110' untreated buffer next to non-target site: no
- m) Checked registrant's web site before application: no
- n) Checked Field Watch before application: yes
- o) Surveyed application site before application: yes

5. I searched wind data from [www.weatherunderground.com](http://www.weatherunderground.com) for zip code 46052 in Lebanon, Indiana for the reported date and time of the application. The results of that search indicated that wind speed and direction during the application were as follows:

**May 16, 2017**

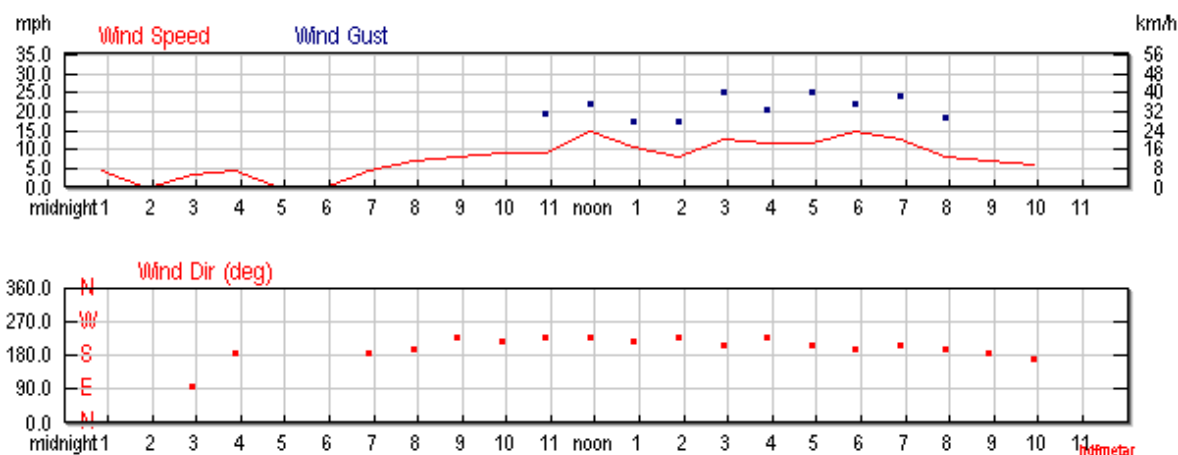
**As recorded at Lafayette 11-12 mph out of the south southwest**



Lafayette Wind Data 34 Miles Northwest

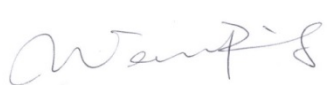
**May 16, 2017**

**As recorded at Eagle Creek 7-8 mph out of the south southwest**



Eagle Creek Wind Data 19 Miles Southeast

6. The report from the PPPDL states, “Some of the necrotic tissue could be indicative of exposure to a PPO-inhibitor like sulfentrazone. Curled leaves and twisted petioles are typical of symptoms following exposure to a growth regulator herbicide.” “Minor presence of fungal leaf spots-- Hawthorn Rust (orange spots on Hawthorn leaves) Symptoms of anthracnose on maple (light brown leaf blight); also 'tatters' symptoms suggestive of wind/late freeze injury.”
7. The report from the OISC Pesticide Residue Laboratory states:

Case #	2017/0795	Investigator				K. Neal			
Sample #	Sample Description	Amount of Analyte (ng/swab or ppb)							
		Matrix	Dicamba	5-OH Dicamba	DCSA	Sulfentrazone	Chlorimuron-ethyl	Glyphosate	AMPA
2017-220549	Trip blank swab (Acetone)	Swab	BDL	NA	NA	BDL	BDL	NA	NA
2017-220550	Swab West window house (Acetone)	Swab	BDL	NA	NA	1.6	BDL	NA	NA
2017-220551	Swab Maple tree east of Gazebo (Acetone)	Swab	BDL	NA	NA	BDL	BDL	NA	NA
2017-220552	Swab -Tulip tree inside fence line(Acetone)	Swab	BDL	NA	NA	BDL	BDL	NA	NA
2017-220553	Swab - maple tree inside fence line(Acetone)	Swab	BDL	NA	NA	9.0	1.2	NA	NA
2017-220554	Swab Veg from target field(Acetone)	Swab	93.8	NA	NA	112	22.2	NA	NA
2017-220555	Trip blank swab (water)	Swab	NA	NA	NA	NA	NA	NA	NA
2017-220556	Swab west window house(water)	Swab	NA	NA	NA	NA	NA	BDL	BDL
2017-220557	Swab -Maple tree East of Gazebo(water)	Swab	NA	NA	NA	NA	NA	BDL	BDL
2017-220558	Swab Tulip tree inside fence line(water)	Swab	NA	NA	NA	NA	NA	BDL	BDL
2017-220559	Swab- Maple tree inside fence line(water)	Swab	NA	NA	NA	NA	NA	BDL	BDL
2017-220560	Swab Veg from target field (water)	Swab	NA	NA	NA	NA	NA	31.5	BDL
2017-220561	Vegetation Maple east of Gazebo	Veg	BDL	BDL	BDL	NA	NA	114	BDL
2017-220562	Vegetation - tulip tree inside fence line	Veg	11.2	BDL	BQL	NA	NA	136	BDL
2017-220563	Vegetation - Maple tree inside fence line	Veg	17.7	BDL	BDL	NA	NA	47.9	BDL
2017-220564	Vegetation Sample target field	Veg	7876*	BDL	17.0	NA	NA	7900	322
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC									
*minimum concentration reported due to amount exceeding calibration curve range.									
LOQ	Vegetation (PPB)	2	2	0.2	NA	NA	5	50	
LOQ	Swab (ng/swab)	20	NA	NA	0.2	0.2	10	100	
Signature					Date		8/20/2017		

8. The label for Xtendimax states, *“Do not allow contact with foliage, green stems, exposed non-woody roots of crops, and desirable plants including beans, cotton, flowers, fruit trees, grapes, ornamentals, peas, potato, soybean, sunflower, tobacco, tomato and other broadleaf plants because severe injury or destruction may result, including plants in a greenhouse.”*
9. The label for RoundUp PowerMax states, *“Do not allow the herbicide solution to mist, drip, drift, or splash onto desirable vegetation, as minute quantities of this product can cause severe damage or destruction to the crop, plants or other areas on which application was not intended.”*
10. The Authority XL label states, *“Prevent drift of spray to desirable plants.”*
11. The PPPDL report and the OISC residue lab results suggest that dicamba and glyphosate from the application to the target field moved off-target to the complainant’s property.



Figure One



Figure Two



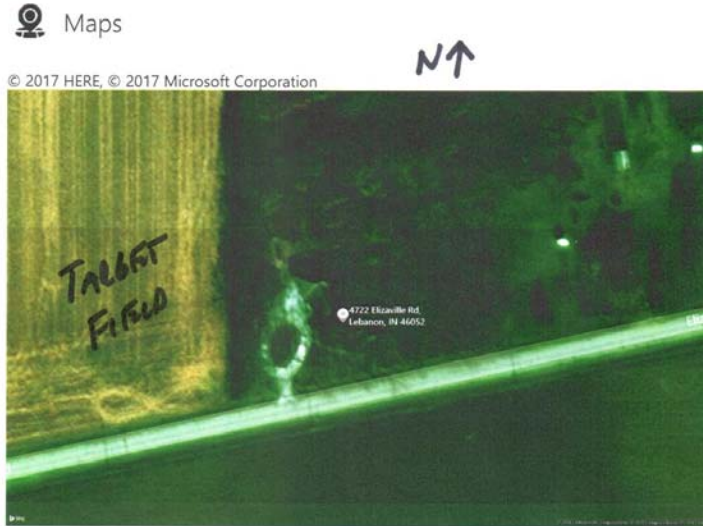
Figure Three



Figure Four



Figure Five



2017/0795

Figure Six

Kevin W. Neal  
Investigator

Date: October 3, 2017

**Disposition:** Kevin Morton was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding checking the registrant's website before application.

Kevin Morton was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding allowing drift/contact with desirable plants. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact in a dicamba outreach memo dated February 21, 2017, the Indiana Pesticide Review Board urged OISC to apply the most stringent penalties available for these types of violations.

George N. Saxton  
Compliance Officer

Draft Date: December 14, 2017  
Final Date: January 25, 2018



## CASE SUMMARY

Case #2017/0811

**Complainant:** Dayna Scruggs  
1229 E. Creekside Court  
Brookston, Indiana 47923  
765-563-6217 home  
765-414-3595 cell  
765-414-2963 cell

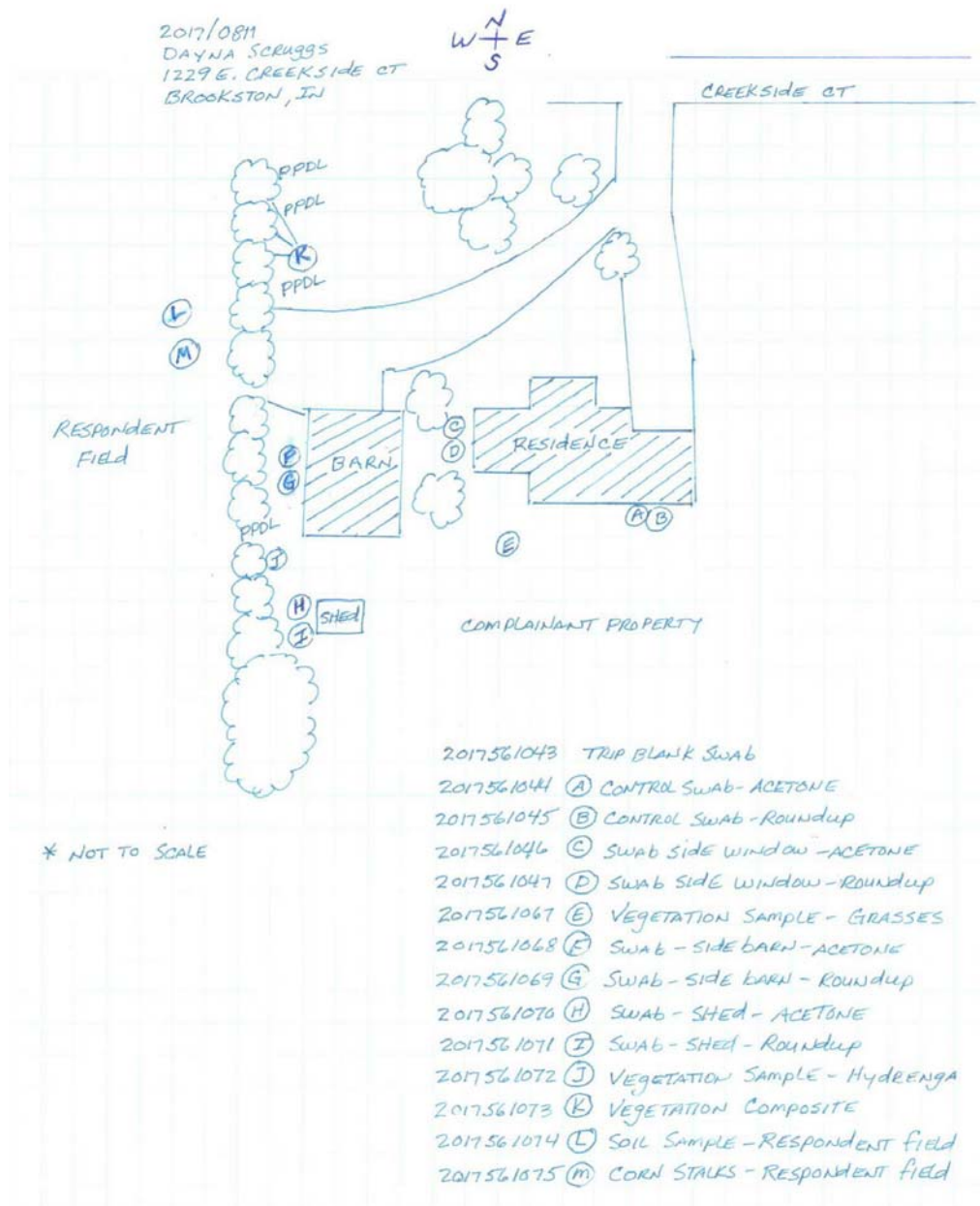
**Respondent:** Jarret Hornback  
Co-Alliance  
319 N. US 421  
Reynolds, Indiana 47980  
219-984-5950

Licensed Applicator

1. On May 31, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to her and her property by a neighboring farmer.
2. On June 6, 2017, I met with and issued a Notice of Inspection (NOI) to the complainant Dayna Scruggs. She told me the neighboring farmer drifts pesticide onto her property every year. She believed they made a recent pesticide application, which drifted onto her property killing her trees.
3. I checked the property for vegetation exposure symptoms. I found leaf cupping and curling on some tree leaves. I also found some vegetation with what appeared to be injury due to environmental factors. (See photos)

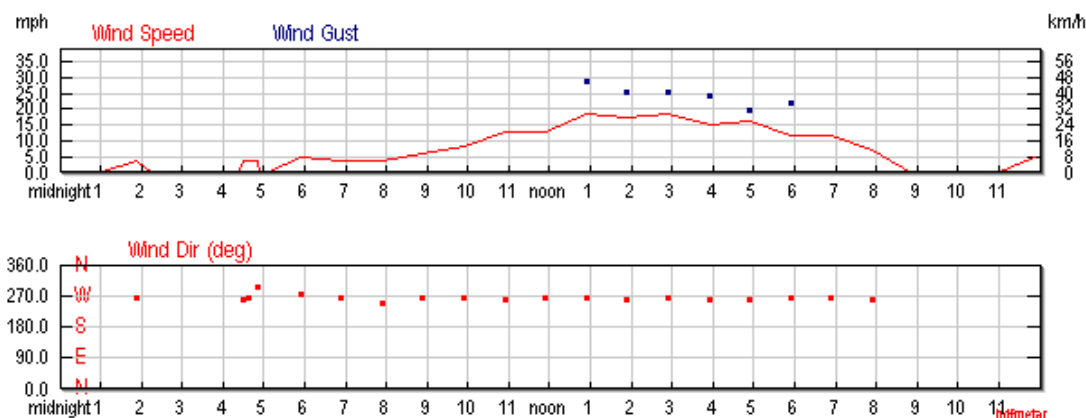


4. I obtained environmental samples for submission to the Plant and Pest Diagnostic Lab (PPDL) located at Purdue University. I also obtained and placed environmental samples in Mylar bags for submission to the OISC Residue Lab for analysis. (See diagram)




5. I learned the pesticide application was made by Jarret Hornback of the Co-Alliance located in Reynolds, Indiana. I spoke to the applicator. Mr. Hornback confirmed he made the pesticide application. He remembered leaving a 120-foot "buffer zone" next to the complainant's property. I obtained the application records from Co-Alliance. According to the applications records, Hornback made an application of **Halex GT** (EPA #100-1282; active ingredients: metolachlor, glyphosate) and **Atrazine 4L** (EPA #1381-158; active ingredient: atrazine) on May 30, 2017. He recorded the wind at 11-14 mph from the west in an easterly direction.
6. I received the following information from PPDL: "Leaf puckering and chlorosis on newer leaves could be indicative of injury from glyphosate. No injury symptoms from atrazine or metolachlor were observed" and "Apple scab confirmed on crabapple. There also appears to be some initial symptoms of pear leaf blister mite".

7. I obtained weather data for the Brookston, Indiana area from [www.wunderground.com](http://www.wunderground.com). According to the weather for May 30, 2017, the wind was 11-15 mph from the west in an easterly direction toward the complainant's property. (See table)



8. I received the following information from the OISC Residue Lab:

Case # 2017/0811			Investigator: K. Gibson		
Sample #	Sample Description	Sample Matrix	Amount Found (ng/swab)		
			Metolachlor	Atrazine	Glyphosate
2017-561043	Trip blank swab	Swab	BDL	BDL	BDL
2017-561044	Control swab - acetone	Swab	37.4	69.9	NA
2017-561045	Control swab - roundup	Swab	NA	NA	39.7
2017-561046	Swab - side window	Swab	BDL	1.93	NA
2017-561047	Swab - roundup - side window	Swab	NA	NA	BDL
2017-561067	Veg sample - grasses	Vegetation	NA	NA	NA
2017-561068	Swab - side barn	Swab	197	246	NA
2017-561069	Swab - roundup - side barn	Swab	NA	NA	89.7
2017-561070	Swab - shed	Swab	10.5	25.6	NA
2017-561071	Swab - roundup - shed	Swab	NA	NA	18.2
2017-561072	Veg sample - hydrangea	Vegetation	NA	NA	NA
2017-561073	Veg sample - composite	Vegetation	NA	NA	NA
2017-561074	Soil respondent field	Soil	NA	NA	NA
2017-561075	Corn stalks respondent field	Vegetation	NA	NA	NA
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	Atrazine LOQ =1 ng/swab, Metolachlor and Glyphosate LOQ =10 ng/swab			
Signature			Date	6/29/17	



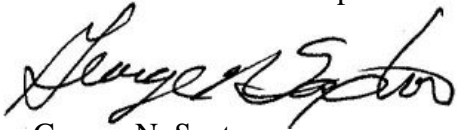
9. The label for Halex GT reads in part, *“Avoid drift onto adjacent crops. Severe damage or destruction may be caused by contact of Halex GT Herbicide to any vegetation (including leaves, green stems, exposed non-woody roots, or fruit) of crops, trees, and other desirable plants to which treatment is not intended”*
10. The label for Atrazine 4L states, *“Do not apply when weather conditions favor drift from treated areas.”*
11. After reviewing all available information, applicator Jarret Hornback was in violation of the labels for Atrazine 4L and Halex GT for allowing it to drift onto the complainant’s property.



Kevin W. Gibson  
Investigator

Date: November 3, 2017

**Disposition:** Jarret Hornback was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label language regarding drift. Co-Alliance was assessed a civil penalty in the amount of \$250.00. Consideration was given to the fact this was Jarret Hornback’s first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.



George N. Saxton  
Compliance Officer

Draft Date: January 23, 2018  
Final Date: February 22, 2018

# CASE SUMMARY

Case #2017/0814

**Complainant:** Sharon Keen  
1570 E. Washington Street  
Winchester, IN 47394  
765-546-4325

**Respondent:** Wayne Carpenter  
Mote Farm Service  
8531 E. CR100 S.  
Union City, IN 47390  
765-964-3941

Certified Applicator  
Licensed Business

1. On June 1, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to her property.
2. On June 2, 2017, I spoke with Sharon Keen who reported drift from applications made to the field behind her property was an ongoing issue. She indicated trees in the orchard east of the house and plants behind the house near the field developed symptoms recently.
3. On June 6, 2017, I met Ms. Keen and Kirby Roberts at their home on the south side of Washington Street (SR 32). They showed me a low area east of the house where surface water from the field runs through the orchard. Grass in that area was unaffected but fruit trees closest to the field had discolored and puckered leaves and distorted stems. Grapes, roses and blackberries near the unplanted garden at the back of the property, approximately 20 feet from the target field, also exhibited herbicide exposure symptoms. Spotting and curling of leaves was observed on blackberries, roses and maples while grapes exhibited curled and strapped leaves. A couple of small spruces which lined the back of the property exhibited random discoloration on new growth. I collected swab and vegetation samples from three areas on the Keen/Roberts property and from the target field to establish a gradient. The samples were submitted to the OISC Residue Lab for analysis. I also collected plant samples from several affected species across the property for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue. I photographed the site, documenting the symptoms observed.



Fig.1 Garden & field



Fig.2 Roses near garden

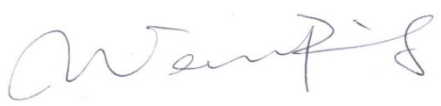


Fig.3 Grapes & garden



Fig.4 Pear tree

4. I learned that the field adjacent to the Keen/Roberts property was sprayed by Motes Farm Service for grower Jay Baldwin. I spoke to Derrick Mote and informed him of the complaint. He confirmed Wayne Carpenter sprayed the field consisting of two parcels but it was sprayed as one. I was provided copies of application records which indicated the field was sprayed from 10:31am-11:30am on April 26, 2017 with a tank mix containing Roundup PowerMax (EPA Reg. #524-549), active ingredient glyphosate, Resist (EPA Reg. #352-444-55467), active ingredients metribuzin and chlorimuron ethyl, Cornbelt 2,4-D LV4 (EPA Reg. #11773-3) and Tricor 4F (EPA Reg. #70506-68), active ingredient metribuzin. Winds were reported as blowing from the south at 10-15mph during the application. It should be noted the northwest corner of the field, not near the Keen/Roberts property, was finished the next morning due to the presence of ditching equipment in that area on April 26, 2017.
5. The PPDL report for the spruce, maple, rose, blackberry, grape, apple and pear plant samples stated, *"The strapped and curled leaves, as well as twisted petioles are indicative of damage from a growth regulator herbicide. The necrotic lesions on the leaf margins on rose are indicative of damage that can be caused by a group 5 herbicide like metribuzin. The necrotic needles on the evergreen are also indicative of injury that can be caused by exposure to glyphosate."* It further stated, *"Minor fungal leaf spotting was apparent on several of apple, pear and rose leaves."*
6. The OISC Residue Lab analyzed the swab samples and then the vegetation samples for two active ingredients reportedly applied to the field and reported the following:

Case # 2017/0814			Investigator: A. Roth	
Sample #	Sample Description	Sample Matrix	Amount Found (ppb)	
			Metribuzin	Chlorimuron-ethyl
2017-47-4042	Trip blank	Swab	BDL	BDL
2017-47-4043	Control swab- NS of house	Swab	BDL	BDL
2017-47-4044	Swab - Near orchard	Swab	BDL	BDL
2017-47-4045	Swab - near grapes	Swab	0.213	BDL
2017-47-4046	Swab - Near roses	Swab	60.7	62.9
2017-47-4047	Swab - Target field	Swab	4.19	BDL
2017-47-4048	Control Vegetation	Vegetation	3.68	BDL
2017-47-4049	Vegetation - Orchard	Vegetation	99.6	BDL
2017-47-4050	Vegetation - Grapes	Vegetation	BDL	BDL
2017-47-4051	Vegetation - Near roses	Vegetation	158	1.15
2017-47-4052	Vegetation - Corn stalks from target field	Vegetation	263	20.9
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 (ppb)	Swab		0.2	0.2
LOQ (ppb)	Vegetation		0.3	0.3
Signature		Date	11/2/17	

7. Recorded wind data from the airport at Muncie, Indiana, approximately 23 miles away, confirmed winds were from the south, blowing toward the Keen/Roberts property, at 12.7mph with gusts to 20.7mph at 10:53am on April 26, 2017.
8. The Resist label reads, in part, **“Do not apply or drain or flush equipment on or near desirable trees or other plants, on areas where their roots may extend, or in locations where the chemical may be washed or moved into contact with their roots, or injury to desirable trees and plants may occur.”** Further, it states, **“PREVENT DRIFT OF SPRAY TO DESIRABLE PLANTS.”**



Andrew R. Roth  
Investigator

Date: November 6, 2017

**Disposition:**

- A. Wayne Carpenter and Mote Farm Service were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was Mr. Carpenter's second violation of similar nature. See case number 2014/0992.
- B. On January 29, 2018, Derrick Mote called to contest the enforcement action taken in this investigation.
- C. On February 5, 2018, I spoke with Derrick Mote by phone. He stated he still disagreed with our findings but would no longer contest the proposed enforcement.



George N. Saxton  
Compliance Officer

Draft Date: February 6, 2018  
Final Date: February 22, 2018


## CASE SUMMARY

Case #2017/0817

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

**Respondent:** Standish Farm Supply (Unlicensed Business)  
1028 I Street  
Bedford, Indiana 47421  
John S. Hoffman (Unlicensed Applicator)  
812-275-3563

1. On, June 5, 2017, the Certification and Licensing Manager of the Office of Indiana State Chemist (OISC) advised the Compliance Officer that Standish Farm Supply's only certified applicator did not renew his certification. There may also be issues with the mix/load pad at that location as well.
2. On June 19, 2017, I went to Standish Farm Supply and spoke with Facility Manager, Levi Deckard. Mr. Deckard was informed we had received information from one of our OISC inspectors, who had recently been to his facility; they may have been applying pesticides for hire without a certified applicator. Mr. Deckard stated they had been unaware their only pesticide applicator, John Hoffman, had not been recertified for this year (2017) and had made some pesticide applications this year. Mr. Deckard indicated they had learned of the issue from the OISC inspector and had already reapplied for his license for 2017. I informed Mr. Deckard no further pesticide applications for hire could be performed by the facility until Mr. Hoffman received his license.
3. I also inspected the facility to determine if a required mix/load pad was present. Mr. Deckard informed me all pesticides that are applied by the facility are mixed at the location where they would be applied and no pesticides are mixed or loaded at the facility.
4. Mr. Deckard was asked to produce pesticide application records for all applications performed by Mr. Hoffman prior to June 19, 2017. An inspection of these provided records indicated Standish Farm Supply had made pesticide applications on the following dates without required licensing:
  - 4/21/17 4/24/17 4/26/17 5/10/17 5/15/17 5/31/17 6/5/17
5. A check with OISC licensing indicated a business licensed was issued to Standish Farm Supply and an applicator licensed to Mr. Hoffman on June 8, 2017.

  
Scott M. Farris  
Investigator

Date: August 31, 2017

**Disposition:** Standish Farm Supply was cited for seven (7) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having a valid Indiana pesticide business license. A civil penalty in the amount of \$1,750.00 (7 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$612.50. Consideration was given to the fact Standish Farm Supply cooperated during the investigation; corrective action was taken and this was their first offense of similar nature.

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

George N. Saxton  
Compliance Officer

Draft Date: October 6, 2017  
Final Date: November 27, 2017

## CASE SUMMARY

Case #2017/0832

**Complainant:** Travis Jochim  
4839 W 225 S  
Owensville, Indiana 47665  
812-618-6811

**Respondent:** Timothy D Chamberlain (Private Applicator)  
5884 W 250 S  
Owensville, Indiana 47665  
812-729-6028

1. On June 8, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) and stated his neighboring farmer drifted agricultural pesticide dicamba herbicide onto his non-dicamba tolerant (DT) beans.
2. On June 12, 2017, I met with Travis Jochim at the bean field where the alleged off-target pesticide movement occurred. Mr. Jochim informed me he had learned a dicamba pesticide product had been applied to the bean field directly west of his bean field on May 25, 2017, and June 1, 2017. Mr. Jochim believed no buffer had been used during these applications of the dicamba product and it had negatively impacted his Roundup Ready, non-dicamba tolerant (DT) beans. Mr. Jochim also informed me he had not used any dicamba products this year on any of his farm fields and had only made an application of Roundup on his beans post-emergent.
3. During my on-site investigation I did the following:
  - a) Looked for but did not observe, nor learn of from Mr. Jochim, any other dicamba applications made in the areas adjacent to the impacted area.
  - b) Observed and photographed what appeared to be mostly uniform exposure symptoms (figure 1 below) of a growth regulator type of herbicide such as dicamba (no notable pattern of drift). Figure 2 below shows Mr. Jochim's bean field on the left side of photograph and the suspected target field on the right side of photograph. The fields are separated by a county road (approximately 50 feet).
  - c) Collected soybean plant samples from Mr. Jochim's bean field and soil samples within the buffer zone and outside the buffer zone of the target field.



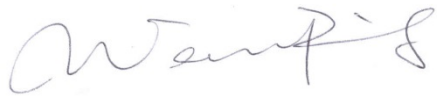
Figure 1



Figure 2

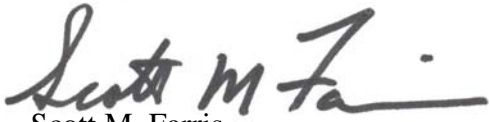
4. I contacted the farmer neighbor, Timothy Chamberlain, and spoke to him about the target soybean field in question. Mr. Chamberlain indicated the winds during his applications were blowing away from Mr. Jochim's bean field and no buffer zone had been used. Mr. Chamberlain informed me he applied Xtendimax (EPA Reg. #524-617; active ingredient: dicamba) and Roundup PowerMax (EPA Reg. #524-549; active ingredient: glyphosate) on May 25, 2017 and June 1, 2017. I informed Mr. Chamberlain he would be receiving a Pesticide Investigation Inquiry (PII) form to be completed and returned. The PII was returned on July 5, 2017, and indicated the following:
- a) Application date & time: May 25, 2017, west half of field 2:00pm to 2:30pm;
  - b) Application date & time: June 1, 2017, east half of field 8:30am to 9:00am;
  - c) Target field: soybean field located directly west of Mr. Jochim's bean field;
  - d) Application rate of Xtendimax: 22oz per acre;
  - e) Adjuvants: Winfield AG 16098
  - f) Nozzles: Tee jet TTI 110004
  - g) Winds: May 25, 2017: From west at 8 miles per hour (mph)
  - h) Winds: June 1, 2017: from east at 4 mph
  - i) Applicator: Tim Chamberlain
  - j) May 25, 2017 application: Left a 110 foot untreated buffer: yes
  - k) June 1, 2017 application: Left a 110 foot untreated buffer: no (wind was blowing away from Mr. Jochim's bean field – no buffer needed.)
  - l) Ground speed: 10 mph
  - m) Boom height: 18 inches above soybean canopy.
  - n) Checked Registrants website before application: no
  - o) Checked Field Watch before application: no
  - p) Surveyed site before application: yes
5. I searched historical wind data from [www.wunderground.com](http://www.wunderground.com) for the closest weather stations located near Owensville, Indiana, for the reported dates and times of the applications. The results were as follows on May 25, 2107:
- Evansville, Indiana Airport: winds were from the west/northwest (blowing toward Mr. Jochim's bean field) between 10.4 mph and 11.5 mph, gusting to 21.9 mph.
  - Mt. Carmel, Illinois Airport: winds were from the northwest (blowing toward Mr. Jochim's bean field) between 10.4 mph and 12.7 mph, gusting to 18.4 mph.
6. The historical wind data for the application made on June 1, 2017, reported the following data:
- Evansville, Indiana Airport: winds were from the east/northeast (blowing away from Mr. Jochim's bean field) at 3.5 mph, no gust data reported
  - Mt. Carmel, Illinois Airport: winds were from the southeast (blowing away from Mr. Jochim's bean field) at 5.8 mph, no gust data reported.
7. On June 13, 2017, the collected vegetation and soil samples were turned into the Indiana State Chemist Residue lab for analysis. The results were reported back on July 22, 2017, and indicated the following:



Case # 2017/0832			Investigator: S. Farris		
Sample #	Sample Description	Sample Matrix	Amount Found (ppb)		
			Dicamba	DCSA	5-OH Dicamba
2017-510060	Soybean leaves 210 ft from target field	Vegetation	25.0	BDL	BDL
2017-510061	Soybean leaves 120 ft from target field	Vegetation	26.2	BDL	BDL
2017-510062	Soybean leaves 60 ft from target field	Vegetation	19.0	BDL	BDL
2017-510063	Soil from target farm field 54 ft from east soybean field	Soil	993*	86.5	2.4
2017-510064	Soil from target farm field 110 ft from east soybean field	Soil	770*	170	BDL
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC  *minimum amount reported due to concentration exceeded calibration curve range.					
LOQ	Soil	2 ppb			
LOQ	Veg	2 ppb			
<b>Comments: Product used was Xtendimax; applications were made on 5/25/17 and 6/1/17.</b>					
Signature			Date	7/22/17	

8. The Xtendimax label specifically states . . . *“Do not apply this product when the wind is blowing toward non-target sensitive crops” (for wind speed 10-15 mph). “DO NOT APPLY this product when the wind is blowing toward adjacent commercially grown dicamba sensitive crops, including but not limited to, commercially grown tomatoes and other fruiting vegetables (EPA crop group 8), cucurbits (EPA crop group 9), and grapes.” “Do not allow contact of herbicide with foliage, green stems, exposed non-woody roots of crops, and desirable plants, including beans, cotton, flowers, fruit trees, grapes, ornamentals, peas, soybean, sunflower, tobacco, tomato, and other broadleaf plants because severe injury or destruction may result, including plant in a greenhouse.”*
9. The Xtendimax label also states, *“The applicator must also consult sensitive crop registries to identify any commercial specialty or certified organic crops that may be located near the application site.”*
10. The OISC lab report and wind speed and direction data (May 25, 2017) suggested dicamba from the application to the target field moved off-target to Mr. Jochim’s soybean field. However, lack of an obvious drift pattern and similar levels of dicamba found at various distances from the target field, make it difficult to determine if the dicamba moved off-target from direct particle drift or

volatility at some point after the application. The wind speed and direction data did support that the Xtendimax product was applied when the wind was blowing toward the sensitive non-DT soybean field during the May 25, 2017 application.

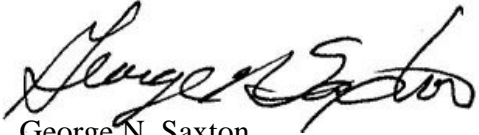


Scott M. Farris  
Investigator

Date: September 21, 2017

**Disposition:** Timothy D Chamberlain was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding checking Field Watch or other sensitive crop registry.

Timothy D Chamberlain was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application in wind between 10 & 15 mph when the wind is blowing toward non-target vegetation. A civil penalty in the amount of \$100.00 was assessed for this violation.



George N. Saxton  
Compliance Officer

Draft Date: November 28, 2017  
Final Date: January 25, 2018

## CASE SUMMARY

Case #2017/0843

**Complainant:** Matthew Froelich  
6796 S. 1200 E.  
Westport, Indiana 47283  
812-343-4080

**Respondent:** Columbus Silgas, Inc.  
Cory Mahaffey  
Richard Tucker  
1864 W. 550 N.  
Columbus, Indiana 47203  
812-372-4469

Licensed Business  
Registered Technician  
Certified Supervisor

1. On June 9, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to his trees. He stated this is the second year in a row this has happened.
2. On June 15, 2017, I met with Mr. Froelich at his residence. Mr. Froelich's residence is at the end of a dirt road situated in a dense patch of trees. On the north side of his property, a dirt road funnels to his residence surrounded by trees. North of Mr. Froelich's drive is the target field. This is the only adjacent field. Mr. Froelich stated he noticed the leaves on his ornamental tree along the drive have deformed leaves. See figure 1. Mr. Froelich stated he observed similar symptoms on leaves leading to his house directly south of the field. See figures 2-3. Mr. Froelich stated he believes the application products were funneled up his drive because of the dense trees on either side of his drive. See figure 4.



Figure 1-Ornamental next to drive



Figure 2-Tree next to house yellowing



Figure 3-Yellowing, strapped



Figure 4-Drive looking south

3. On June 15, 2017, I collected a vegetation sample to be visually analyzed by Purdue's Plant and Pest Diagnostic Lab (PPDL). In addition, I collected swab and vegetation samples to be analyzed by OISC's Residue Lab.
4. Diagram of site with key:



Key	Map	#
2017501739	Trip blank swab charged with water	
2017501740	Trip blank swab charged with acetone	
2017501741	Swab 50 yds from target field charged with water	1
2017501742	Swab 50 yds from target field charged with acetone - A1	
2017501742	Swab 50 yds from target field charged with acetone - A2	2
2017501743	Swab 33 yds from target field charged with water	
2017501744	Swab 33 yds from target field charged with acetone - A1	3
2017501744	Swab 33 yds from target field charged with acetone - A2	
2017501745	Swab 10 yds from target field charged with water	4
2017501746	Swab 10 yds from target field charged with acetone - A1	
2017501746	Swab 10 yds from target field charged with acetone - A2	5
2017501747	Swab from target field charged with water	
2017501748	Swab from target field charged with acetone - A1	6
2017501748	Swab from target field charged with acetone - A2	
2017501749	Swab away from site charged with water	7
2017501750	Swab away from site charged with acetone - A1	
2017501750	Swab away from site charged with acetone - A2	8
2017501751	Vegetation 50 yds from target field	
2017501752	Vegetation 33 yds from target field	9
2017501753	Vegetation 10 yds from target field	
2017501754	Vegetation from target field	
2017501746	Vegetation away from site	



5. On June 19, 2017, I met with Richard Tucker from Columbus Silgas. Mr. Tucker stated Cory Mahaffey made the application to the field north of Mr. Froelich's property. I left a Pesticide Investigation Inquiry (PII) form for Mr. Mahaffey to complete and return. On June 20, 2017, I received Mr. Mahaffey's PII. Mr. Mahaffey documented he applied Bicep II Magnum (EPA Reg. #100-817, active ingredients atrazine and metolachlor) and Explorer (EPA Reg. #100-1131, active ingredient mesotrione). Mr. Mahaffey documented the wind was out of the north at 10-15mph.
6. On June 16, 2017, PPDL reported the following:

**Diagnosis and Recommendations**

Host/Habitat	Mixed Plant material (unspecified)
List of Diagnosis/ID(s)	
Suspected for Herbicide injury; Exposure (Abiotic disorder)	

**Final Report**

Leaf curling, cupping, and strapping are indicative of injury from a growth regulator herbicide like 2,4-D.

Joe Ikley  
Weed Science Research Associate  
Purdue University  
e-mail - jikley@purdue.edu  
Office - (765) 494-0891

Damage to the redbud is consistent with herbicide injury. No disease was found.

Photos:


- Injury symptoms are shown on several woody species
- Small fruit trees are probably also suffering from neglect (grass competition, low nutrition)
- Grape vine has growth regulator symptoms but also shows lichens, which suggest long term decline
- Spots on hackberry leaves are due to an insect gall

Tom Creswell  
creswell@purdue.edu

7. Wind data from Weather Underground, www.wunderground.com, indicated the wind was out of the north northeast at 2-16mph recorded from the Westport, Indiana station (KINWESTP2) approximately two (2) miles away. The wind was blowing toward Mr. Froelich's property at the time of application.

8. On August 3, 2017, OISC's Residue Lab reported the following:

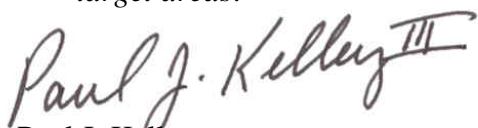
Case # 2017/0843			Investigator: J. Kelley		
Sample #	Sample Description	Sample Matrix	Amount Found (ng/swab or ppb)		
			Atrazine	Mesotrione	Metolachlor
2017-501739	Trip blank swab charged with water	Swab	NA	NA	NA
2017-501740	Trip blank swab charged with Acetone	Swab	BDL	BDL	BDL
2017-501741	Swab 50 yds from target field charged with water	Swab	NA	NA	NA
2017-501742	Swab 50 yds from target field charged with Acetone -A1 A2	Swab	6.03 ng/swab	BDL	BDL
2017-501743	Swab 33 yds from target field charged with water	Swab	NA	NA	NA
2017-501744	Swab 33 yds from target field charged with Acetone -A1 A2	Swab	12.2 ng/swab	BDL	BDL

2017-501745	Swab 10 yds from target field charged water	Swab	NA	NA	NA
2017-501746	Swab 10 yds from target field charged with Acetone -A1 A2	Swab	32.6 ng/swab	BDL	BDL
2017-501747	Swab of target field charged with water	Swab	NA	NA	NA
2017-501748	Swab of target field charged with Acetone-A1 A2	Swab	12.2 ng/swab	BDL	BDL
2017-501749	Swab away from site charged with water	Swab	NA	NA	NA
2017-501750	Swab away from site charged with Acetone-A1 A2	Swab	BDL	BDL	BDL
2017-501751	Vegetation 50 yds from target field	Vegetation	116 ppb	2.97 ppb	BQL
2017-501752	Vegetation 33 yds from target field	Vegetation	158 ppb	BDL	7.68 ppb
2017-501753	Vegetation 10 yds from target field	Vegetation	112 ppb	BDL	9.64 ppb
2017-501754	Vegetation away from site	Vegetation	25.1 ppb	BDL	BQL
2017-501755	Vegetation from target field	Vegetation	722 ppb	54.0 ppb	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	Swab	Atrazine=2 ng/swab; Mesotrione=2 ng/swab; Metolachlor=10 ng/swab			
LOQ	Veg	Atrazine=3 ppb; Mesotrione=0.7 ppb; Metolachlor=3 ppb			
Signature				Date	8/3/17

9. Lab results indicated detections of Bicept II Magnum and Explorer in samples collected from Mr. Froelich's property.

10. Label language for Bicep II Magnum states in part, "Do not apply when weather conditions favor drift from treated area."

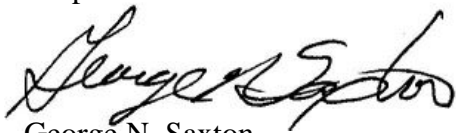
11. Label language for Explorer states in part, "Avoid drift onto adjacent crops and other non-target areas."



Paul J. Kelley  
Investigator

Date: October 25, 2017

**Disposition:** Cory Mahaffey, Richard Tucker and Columbus Silgas, Inc. were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$250.00 was assessed to Columbus Silgas, Inc. for this violation. Consideration was given to the fact a restricted use pesticide was involved.



George N. Saxton  
Compliance Officer

Draft Date: January 22, 2018  
Final Date: February 22, 2018

## CASE SUMMARY

Case #2017/0845

**Complainant:** Scott Wallis  
1204 E 500 S  
Princeton, Indiana 47670  
812-304-0488

**Respondent:** Jeffrey E. Smith (Private Applicator)  
4098 N 200 E  
Patoka, Indiana 47666  
812-779-3581

1. On June 12, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report a neighboring farmer applied dicamba herbicide that adversely affected his Liberty Link soybeans.
2. On June 14, 2017, I met with Scott Wallis and we proceeded to the soybean field where the alleged off-target pesticide movement occurred. Mr. Wallis stated he learned a dicamba pesticide product had been applied to the soybean field directly west of his bean field, by Jeff Smith. Mr. Wallis stated he had only applied Liberty (EPA Reg. #264-829; active ingredient: glufosinate) on May 23, 2017, and did not observe any issue with his soybeans at that time. Mr. Wallis indicated he first noticed injury symptoms on his soybeans on June 5, 2017. Mr. Wallis did inform me he had used the product Status (EPA Reg. #7969-242; active ingredient: dicamba and diflufenzopyr) for herbicide applications to his cornfields prior to applying the Liberty product to his bean fields. Mr. Wallis indicated he had used label required clean-out procedures on his sprayer after using the Status product.
3. During my on-site investigation I did the following:
  - a) Looked for but did not observe, nor learn of from Mr. Wallis, any other dicamba applications made in the areas adjacent to his soybean field.
  - b) Observed and photographed what appeared to be mostly uniform exposure symptoms (figure 1 below) to a growth regulator type of herbicide such as dicamba (no notable drift gradient pattern). Figure 2 below shows Mr. Wallis's bean field on the left side of photograph and the suspected target field on the right side of photograph. The fields are separated by an approximately fifteen (15) foot dirt road.
  - c) Collected soybean leave samples from Mr. Wallis's bean field and soil samples from within the buffer zone and outside the buffer zone of the target field.



Figure 1



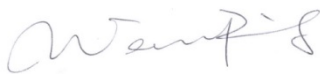
Figure 2

4. I contacted Jeff Smith and spoke to him about the target field (soybean field west of Mr. Wallis's bean field) in question. Mr. Smith indicated the winds during his applications were blowing away from Mr. Wallis's bean field and a 180-foot buffer zone had been used. Mr. Smith informed me he applied only Zidua (EPA Reg. #7969-338; active ingredient: pyroxasulfone) and Roundup Powermax (EPA Reg. #524-549; active ingredient: glyphosate) to the buffer zone area. Mr. Smith indicated he then added Engenia (EPA Reg. #7969-345; active ingredient: dicamba) to the tank mix and made an application to the remainder of the field west of Mr. Wallis's bean field. I informed Mr. Smith he would be receiving a Pesticide Investigation Inquiry (PII) form to be completed and returned. The PII was returned on July 3, 2017, and indicated the following:
  - a. Application date & time: May 19, 2017, ; between 10:00am and 12:00pm
  - b. Target field: soybean field located directly west of Mr. Wallis's bean field;
  - c. Application rate of Engenia: 12.8 oz. per acre;
  - d. Adjuvants: ClassAct Ridion Surfactant and AG16098 Control Agent
  - e. Nozzles: Tee jet TTI 04; 40 PSI
  - f. Winds: from Southeast (away from Mr. Wallis's bean field) at 6 miles per hour.
  - g. Applicator: Jeff Smith (private applicator)
  - h. Buffer Zone: yes (180 feet)
  - i. Ground speed: 9 to 10 miles per hour (mph)
  - j. Boom height: 24 inches
  - k. Checked Registrants website before application: no
  - l. Checked Field Watch before application: no
  - m. Surveyed site before application: yes
5. I searched historical wind data from [www.wunderground.com](http://www.wunderground.com) for the closest weather stations located near Patoka, Indiana, for the reported date and time of the application. The results were as follows on May 19, 2017:
  - Daviess County Airport in Washington, Indiana: winds were from the south/west/southwest (blowing toward Mr. Wallis bean field during part of application) between 8.1 and 12.7 mph, no gust information reported. Thunderstorms were also reported in the area
  - Mt. Carmel, Illinois Airport: winds were from the south/west/southwest (blowing toward Mr. Wallis's bean field during part of the application) between 11.5 and 13.8 mph, with gusts reported at 18.4mph. Thunderstorms were also reported in the area.



- Evansville, Indiana Airport: winds were from the south/southwest (blowing toward Mr. Wallis's bean field during part of application) between 15 and 17.3 mph. No gusts or other weather events reported during the time of the application.

6. On June 16, 2017, the collected vegetation and soil samples were turned into the Indiana State Chemist Residue lab for analysis. The results were reported back on August 31, 2017, and indicated the following:

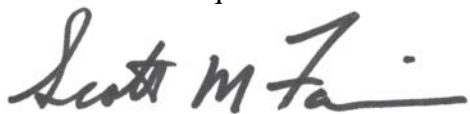
Case #	2017/0845	Investigator				S. Farris	
Sample #	Sample Description	Amount of Analyte (ppb)					
		Matrix	Dicamba	5-OH Dicamba	DCSA	Pyroxasulfone	Diflufenzopyr
2017-510071	Complainant's soybean leaves 200 feet from target field	Veg	8.6	BDL	BDL	BDL	BDL
2017-510072	Complainant's soybean leaves 110 feet from target field	Veg	7.65	BDL	BDL	BDL	BDL
2017-510073	Complainant's soybean leaves 40 feet from target field	Veg	16.4	BDL	BDL	1.79	BDL
2017-510074	soil from target farm field 50 feet west of soybean field	Soil	3.24	BDL	34.0	405	NA
2017-510075	soil from target farm field 200 feet west of soybean field	Soil	131	BDL	134	315	NA
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							
Application date=5/19/17, sampling=6/16/17							
Products involved= Engenia, Zidua and Status							
LOQ	Vegetation (ppb)	2	2	2	0.7	0.3	
LOQ (ng/g)	Soil (ppb)	2	2	2	0.3	NA	
Signature					Date		8/31/2017

7. The lab results indicated the presence of dicamba in all vegetation and soil samples submitted. The presence of the Zidua product applied by Mr. Smith was also present in the vegetation sample submitted from Mr. Wallis's bean field at a distance of 40 feet east of Mr. Smith's bean field. The lab results did not indicate the presence of the secondary active ingredient found in the product Status (no evidence of tank contamination by Mr. Wallis).

8. The Engenia Supplemental label stated the following:

- *“Do not apply Engenia if rain is expected within four (4) hours after application.”*
- *“If wind is between 10 and 15 mph, do not apply Engenia when wind is blowing toward neighboring sensitive crops.”*

9. The OISC lab report and wind speed and direction data (May 19, 2017) suggested dicamba from the application to the target field moved off-target to Mr. Wallis's soybean field. The presence of the secondary product (Zidua) applied by Mr. Smith found on Mr. Wallis's beans gives additional evidence to suggest off-target drift was involved. The wind speed and direction data did support that the Engenia product was applied when the wind was blowing toward the sensitive non-DT soybean during the May 19, 2017, application, outside of label requirements.



Scott M. Farris  
Investigator

Date: September 28, 2017

**Disposition:** Jeffrey E. Smith was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the checking of the registrant's website and sensitive crop registry before application.

Jeffrey E. Smith was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for applying when rain is in the forecast, wind is between 10 and 15 mph and blowing toward neighboring sensitive crops. A civil penalty in the amount of \$100.00 was assessed for this violation.



George N. Saxton  
Compliance Officer

Draft Date: November 30, 2017  
Final Date: January 25, 2018

## CASE SUMMARY

Case #2017/0897

**Complainant:** William Crowe  
10148 E 550 N  
Darlington, IN 47940  
765-366-4886

**Respondent:** John Harrison  
Harrison Farms  
7837 W 350 N  
Thorntown, IN 46071  
317-627-8912

Certified Applicator


1. On June 19, 2017, I met with Mr. Crowe at his residence in regards to a pesticide drift complaint. Mr. Crowe, his son Dan Crowe and I went to a location on CR 700 N regarding the complaint. While at that location, the Crows advised me of another field with pesticide drift symptoms.
2. We went to the cornfield located at the SW corner of CR 1100 W and CR 700 N. Dan Crowe advised me, he noticed some curling of their soybean plants located in the field directly east of the target cornfield. We walked along the west fencerow of his field to an opening in the trees along the fencerow. He showed me the symptoms to the soybeans in a pattern which appeared a pesticide had traveled through the opening in the fencerow from the west. Mr. Crowe stated the cornfield was farmed by Harrison Farms. He further stated he had only applied Roundup to the fencerow on their side of the fence approximately two weeks prior. I was unable to locate any other pesticide exposure symptoms which could have come from any other surrounding field.
3. I took photographs of the area and collected soil and vegetation samples from the target field and vegetation samples from the Crowe's field. I collected swab samples from the soybeans in the Crowe's field and from a fence post in the opening of the tree line. All of the samples were labeled and submitted to the Office of Indiana State Chemist (OISC) residue lab. The following photographs show the location of the fields, the opening in the tree line and the symptoms to the soybeans.



4. I made contact with Mr. Harrison. He stated he had made a pesticide application to the target cornfield on May 31, 2017. He stated he had applied Sure Start herbicide EPA Reg. #62719-570 with the active ingredients clopyralid, flumetsulam, acethochlor, Atrazine herbicide EPA Reg. #100-497-5905 with the active ingredient atrazine, Envy Six herbicide EPA Reg. #89167-47-89391 with the active ingredient

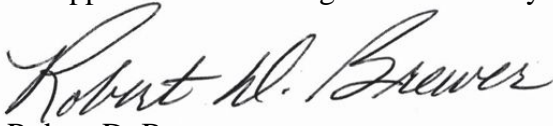
glyphosate and Reveal Insecticide EPA Reg. #89168-19-89391 with the active ingredient bifenthrin. I sent a Pesticide Investigation Inquiry (PII) to Mr. Harrison, which he received, completed and returned to OISC. The PII confirmed the information given to me by Mr. Harrison.

5. I then researched the Weather Underground website for weather conditions at the location and date and time of the pesticide application made by Mr. Harrison. The website report indicated the winds at the date and time of the application were WSW at 0 mph. A copy of the weather report is in this case file.
6. On July 17, 2017, I received a report from the OISC residue lab. The report indicated the active ingredient atrazine was detected in elevated amounts in the swab samples I collected from the fence post in the tree line separating the target field and the complainant's field and from the swabs 30 feet, 60 feet and 90 feet into the complainant's field. The following is a copy of the OISC residue lab report.

Case #	2017/0897		Investigator		B. Brewer	
Sample #	Sample Description	Amount of Analyte (ng/swab or ppb)				
		Matrix	Metolachlor	Atrazine	Acetochlor	Flumetsulam
2017-334824	Trip Blank	Swab	BDL	BDL	BDL	BDL
2017-334825	Control Swab	Swab	BDL	BDL	BDL	BDL
2017-334826	Swab fence post	Swab	22.1	159	BDL	BDL
2017-334827	Soil target field	Soil	NA	NA	NA	NA
2017-334828	Soil target field buffer zone	Soil	NA	NA	NA	NA
2017-334829	Vegetation target field	Vegetation	BDL	BQL	BDL	0.4
2017-334830	Vegetation target field buffer zone	Vegetation	BDL	BDL	BDL	BQL
2017-334831	Vegetation complainant field	Vegetation	BDL	93.2	BDL	BQL
2017-334832	Swab 30 ft in	Swab	BQL	65.8	BDL	BDL
2017-334833	Swab 60 ft in	Swab	BDL	27.3	BDL	BDL
2017-334834	Swab 90 ft in	Swab	BDL	27.3	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	Swab	10 ng/swab	2 ng/swab	10 ng/swab	0.2 ng/swab	
LOQ	Veg	7 ppb	3 ppb	33 ppb	0.3 ppb	
Signature				Date	7/17/17	

7. I researched the label for Atrazine herbicide. The label stated, *"Do not apply when weather conditions favor drift from treated areas"*.
8. I received a report from the Purdue Plant and Pest Diagnostic Lab (PPDL). The report stated, *"Strapping on leaves is indicative of a growth regulator herbicide"* and *"There was no evidence of significant disease or insect damage on the sample"*. A copy of the PPDL report is in this case file.
9. I completed a diagram of the area, showing the opening in the fencerow in relation to the symptoms located in the complainant's field. This diagram is in this case file.

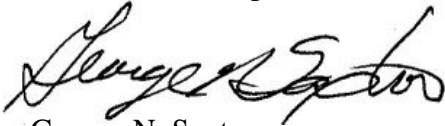
10. The results of the OISC residue lab, along with the wind direction at the time of the pesticide application and the results of the PPDL report, indicate off target pesticide drift did occur from the pesticide application to the target field made by Mr. Harrison onto the complainant's soybean field.



Robert D. Brewer  
Investigator

Date: October 3, 2017

**Disposition:** John Harrison was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to non-target vegetation. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact this was his first violation of similar nature. However, consideration was also given to the fact atrazine is a restricted use pesticide.



George N. Saxton  
Compliance Officer

Draft Date: December 14, 2017

Final Date: January 25, 2018

## CASE SUMMARY

Case #2017/0914

**Complainant:** Marvin Graham  
1748 W 1150 S  
Ladoga, Indiana 47954  
765-401-6233

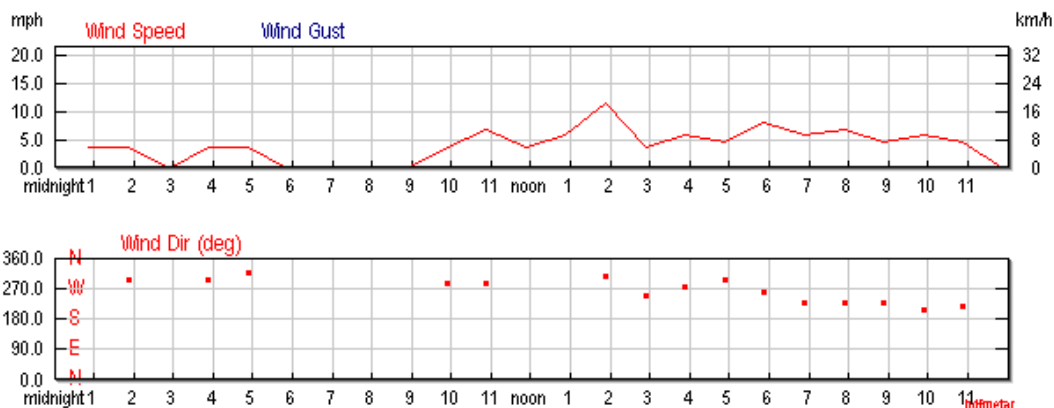
**Respondent:** Co-Alliance  
Cory Fordice  
403 E. Railroad Street  
Russellville, Indiana 46175  
765-435-2252

Licensed Business  
Certified Applicator

1. On June 22, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift of what he believed to be dicamba herbicide to his non-dicamba tolerant (DT) soybeans.
2. On June 26, 2017, I met with the complainant to conduct an on-site physical investigation of the alleged off-target pesticide movement incident reported to OISC. The complainant advised me that he believed his non-DT Liberty Link beans had been damaged by an application made by Co-Alliance to a nearby DT soybean field.
3. During my on-site investigation I did the following:
  - a) Looked for but did not observe nor learn about any other potential dicamba applications made in the areas adjacent to the impacted site(s).
  - b) Observed and photographed what I believed to be fairly uniform dicamba exposure symptoms (figure 1) throughout the complainant's non-target, non-DT soybean field (figure 2) located to the north and northeast of the target field. The target field and the complainant's non-target field were separated by a county road and vegetative roadside areas totaling 60 feet (figure 3). There was no visible evidence of classic drift damage gradient.
  - c) Collected soybean plant samples from impacted areas of the complainant's non-target soybean field for visual analysis by the Purdue Plant and Pest Diagnostic Lab (PPDDL).
  - d) Collected samples for chemical analysis by the OISC Pesticide Residue Laboratory from the following areas:
    - i) Impacted soybean plants from complainant's non-target soybean field;
    - ii) Normal looking soybean plants from the target soybean field across the road; and
    - iii) Roadside vegetation from the area in between the two soybean fields.
  - e) Made a diagram/map of the investigation site, depicting locations of relevant fields, sample collection, roads, structures, and other landmarks (figure 4).

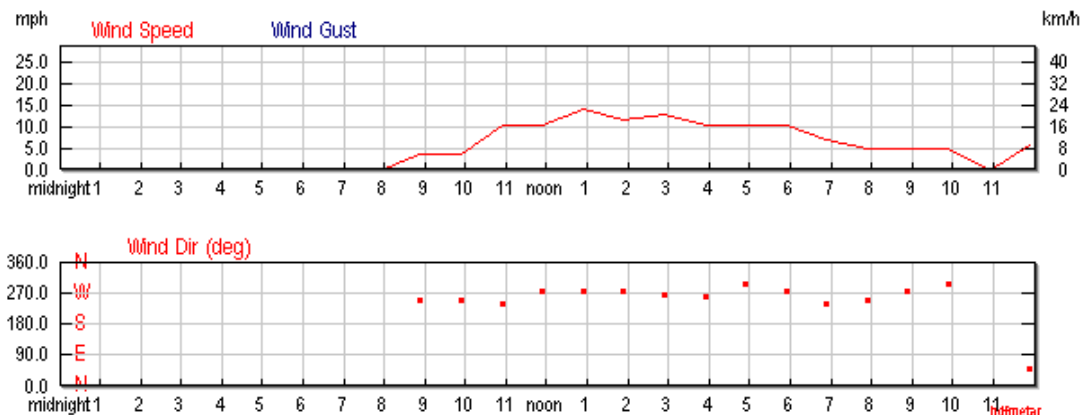
4. On June 26, 2017, I collected written records from the applicator company Co-Alliance. The written records and statements addressed the below items as follows:
  - a) Application date & time: June 1, 2017; from 6:30-8:15pm;
  - b) Target field: soybean field to the south of complainant's soybean field;
  - c) Pesticides: Xtendimax (dicamba) EPA Reg. #524-617 & Roundup Powermax (glyphosate) EPA Reg. #524-549;
  - d) Application rate: 22 oz. per acre; glyphosate rate not provided
  - e) Adjuvants: Class Act Ridion & AG16098;
  - f) Nozzles: TTI 11004;
  - g) Boom height: 24 inches;
  - h) Ground speed: 14.5 mph;
  - i) Winds: 3-5 mph from the southwest;
  - j) Applicator: Cory Fordice;
  - k) Certified supervisor: not applicable;
  - l) Checked registrant's web site before application: no;
  - m) Checked Field Watch before application: applicator did not however someone in the office does that and provides information if it is applicable;
  - n) Surveyed application site before application: yes.
5. I searched wind data from [www.weatherunderground.com](http://www.weatherunderground.com) for zip code 47954 in Ladoga, Indiana for the reported date and time of the application. The results of that search indicated that wind speeds and directions during the application were as follows:

**As recorded at Eagle Creek 6-7mph out of the southwest**



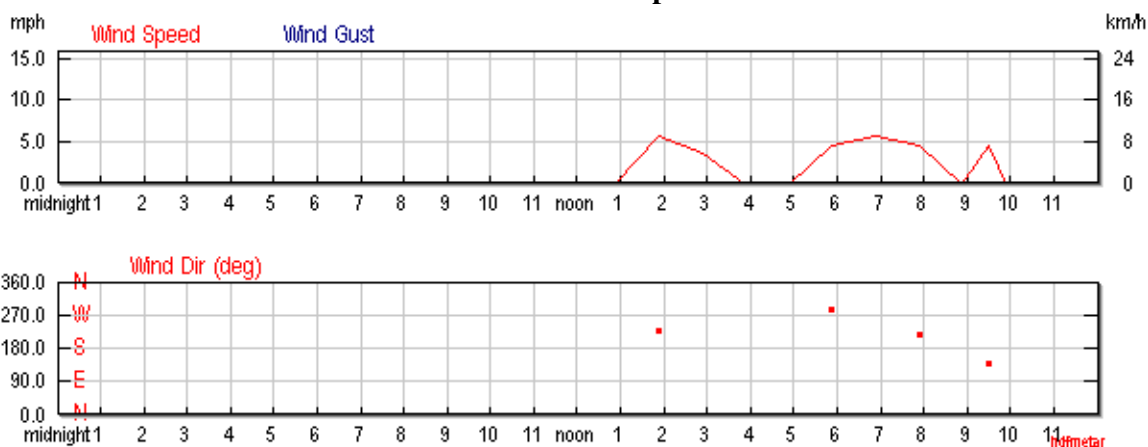
Eagle Creek Wind Data 38 Miles East

**As recorded at Lafayette 5-7mph out of the west southwest**



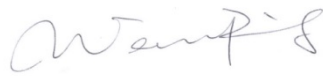
Lafayette Wind Data 40 Miles North

### As recorded at Terre Haute 3-5mph out of the southwest



Terre Haute Wind Data 58 Miles Southwest

6. The report from the PPPDL states, “Cupping of new leaves is indicative of injury from dicamba. Puckering on some of the other leaves could be indicative of injury from dicamba, or a POST application of a group 15 herbicide.”
7. The report from the OISC Pesticide Residue Laboratory states:

Case #	2017/0914	Investigator					K. Neal
Sample #	Sample Description	Amount of Analyte (ppb)					
		Matrix	Dicamba	5-OH Dicamba	DCSA	Glyphosate	AMPA
2017-220596	Soybean Veg Graham Field	Veg	1.07	BDL	BQL	BDL	BDL
2017-220597	Soybean Veg Target Field	Veg	4.93	BDL	350	2755	208
2017-220598	Veg Sample Between Target and Graham Fields	Veg	10.0	BDL	1.82	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	Vegetation		2 ppb	2 ppb	0.2 ppb	25 ppb	125 ppb
Signature				Date	8/13/2017		

8. The label for Xtendimax states, “DO NOT APPLY this product when the wind is blowing toward adjacent commercially grown dicamba sensitive crops, including but not limited to, commercially grown tomatoes and other fruiting vegetables (EPA crop group 8), cucurbits (EPA crop group 9), and grapes.”



9. The PPPDL report, the OISC Lab report, and the wind direction data suggest that dicamba from the application to the target field moved off-target to the complainant's non-target non-DT soybean field. However, the absence of any detectable glyphosate in the non-target soybeans, the 25 day period between application and sample collection, the higher water solubility of glyphosate compared to dicamba, and the significantly higher analytical limit of quantitation of glyphosate as compared to dicamba, make it difficult to determine if the dicamba moved off target from direct particle drift, application during a temperature inversion, or volatility at some point after the application. Regardless, the wind direction data supports that the Xtendimax was applied when the wind was blowing toward the adjacent sensitive non-DT soybeans.



Figure 1



Figure 2



Figure 3



## CASE SUMMARY

Case #2017/0934

**Complainant:** Jim Key  
4375 N. Old Hwy 41  
Patoka, Indiana 47666  
812-304-0457

**Respondent:** Ronald D Hudson (Private Applicator)  
1180 W 440 N  
Patoka, Indiana 47666  
812-779-2058

1. On June 27, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba pesticide drift to his beans. He did not know the name of the applicator at the time of this report.
2. On July 5, 2017, I met with Jim Key. We went to his soybean field located on the west side of Old US Hwy 41, near Patoka, Indiana. Mr. Key informed me Ron Hudson had applied a dicamba product to a soybean field located to the south of his bean field that may have impacted his Liberty, non-dicamba tolerant (DT) beans. Mr. Key indicated he first noticed symptoms to his bean on or around June 25, 2017. Mr. Key informed me he had not applied any dicamba products this year on any of his farm fields. Mr. Key stated he had made a post-emergent application of Cobra (EPA Reg. #59639-34; active ingredient: lactofen) around June 20, 2017.
3. During my on-site investigation I did the following:
  - a) Looked for but did not observe, nor learn of from Mr. Key, any other dicamba applications made in the areas adjacent to his soybean field.
  - b) Observed and photographed what appeared to be exposure symptoms (figure 1 below) to a growth regulator type of herbicide such as dicamba. These symptoms did appear to be more pronounced on the south side of his field closest to the alleged target field and decreased slightly with distance. However, symptoms were still notable throughout the field.
  - c) Collected soybean vegetation from Mr. Key's field and a soil sample from the target field to the south of Mr. Key's bean field.
4. The graph below (Illustrated #1) shows the field locations in question, wind direction and areas where samples were obtained. Wind speed information will be explained later in this report.



Illustration #1

5. Photograph #1 below shows Mr. Key's beans with exposure symptoms consistent with a growth regulator, such as dicamba.




Figure #1

6. I contacted Ron Hudson and spoke to him about the target field in question. Mr. Hudson indicated a buffer zone had been used during the initial pesticide application to the target field. Mr. Hudson stated the buffer zone was sprayed on a different date when the winds were not blowing toward Mr. Key's bean field. Mr. Hudson informed me he had applied Xtendimax (EPA Reg. #524-617; active ingredient: dicamba), Warrant (EPA Reg. #524-591; active ingredient: Acetochlor); and Roundup WeatherMax (EPA Reg. #524-537; active ingredient: glyphosate) on May 22, 2017 and to buffer zone on May 27, 2017. I informed Mr. Hudson he would be receiving a Pesticide Investigation Inquiry (PII) form to be completed and returned. The form was returned on July 21, 2017, and indicated the following:
- a) Application date & time: May 22, 2017, between 1:24pm and 2:30pm (CDT).
  - b) Application date & time (buffer zone): May 27, 2017, 8:57am
  - c) Target Field: soybean field directly south of Mr. Key's bean field
  - d) Application rate of Xtendimax: 22oz per acre

- e) Adjuvants: Reign
  - f) Nozzles: TTI 11004
  - g) Winds on May 22, 2017: from the southwest (blowing toward Mr. Key's beans) at 3 miles per hour (mph)
  - h) Winds on May 27, 2017: from the northwest (blowing away from Mr. Key's beans) at 3 mph.
  - i) Applicator: Ronald Hudson
  - j) Buffer used: yes (80 feet)
  - k) Ground speed: 7 mph
  - l) Boom Height: 20 inches
  - m) Checked Registrants website before application: no
  - n) Checked Field Watch before application: no
  - o) Surveyed site before application: yes
7. A check of the historical weather conditions during Mr. Hudson's application on May 22, 2017, were reported from the following weather stations as follows:
    - Mount Carmel, Illinois Airport: (approximately 9 miles away): Winds were reported (between 1:35pm and 2:15pm CDT) from east/southeast (blowing toward Mr. Key's bean field at least part of the application time period) between 4.6 and 8.1 mph. No gusts were reported.
    - Evansville Airport (approximately 25 miles away): Winds were reported (at 1:54pm CDT) from the east (not blowing toward Mr. Key's bean field during this reported time) at 11.5 mph. No gusts reported.
  8. A check of the historical weather conditions during Mr. Hudson's application on May 27, 2017 (buffer zone), were reported from the following weather stations as follows:
    - Mount Carmel, Illinois Airport: Winds reported as calm.
    - Evansville Airport: Winds were reported as calm.
  9. On July 6, 2017, the collected vegetation and soil samples were turned into the Indiana State Chemist Office Residue Lab for analysis. The results were reported back on October 12, 2017, and indicated the following:

Case #	2017/0934			Investigator	S. Farris	
Sample #	Sample Description	Amount of Analyte (ppb)				
		Matrix	Acetochlor	Dicamba	5-OH Dicamba	DCSA
2017-510090	Soybean vegetation 300 feet north of target field	Vegetation	BDL	BDL	BDL	BDL
2017-510091	Soybean vegetation100 feet north of target field	Vegetation	BDL	BDL	BDL	BDL
2017-510092	Soybean vegetation 50 feet north of target field	Vegetation	BDL	BDL	BDL	BDL
2017-510093	Soil from target field	Soil	735	7.72	BDL	81.4
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 (ppb)	Vegetation	3	2	2	1
LOQ (ppb)	Soil	0.3	2	2	1
<b>Signature</b>			<b>Date</b>	10/12/17	

10. The results of the lab analysis indicated no detectable dicamba or Warrant products were able to be detected in the samples submitted from Mr. Key's bean field. However, it had been forty-four (44) days from the first dicamba application to the sample collection date and thirty-nine (39) days from the second application; and dicamba has a relative short environmental life.

11. The Xtendimax Supplemental Label stated the following:

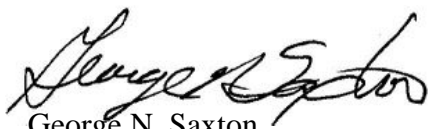
- *"Maintain a 110 foot downwind buffer (when applying 22 fluid ounces of this product per acre) ...between the last treated row and the closest downwind edge (in the direction in which the wind is blowing)."*
- *"Do not apply Xtendimax with VaporGrip Technology if wind is less than 3 mph"*
- *"The applicator must also consult manufacturer's website as well as sensitive crop registries to identify viable tank mixes as well as drift reduction agents and any commercial specialty or certified organic crops that may be located near the application site."*
- *"Do not apply this product when the wind is blowing toward adjacent commercially grown dicamba sensitive crops..."*



Scott M. Farris  
Investigator

Date: October 16, 2017

**Disposition:** Ronald D Hudson was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding consulting sensitive crop registry and manufacturer's website before application as well as applying when wind is blowing towards susceptible crops and applying when winds were calm. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact in a dicamba outreach memo dated February 21, 2017, the Indiana Pesticide Review Board urged OISC to apply the most stringent penalties available for these types of violations.



George N. Saxton  
Compliance Officer

Draft Date: December 14, 2017  
Final Date: January 25, 2018

## CASE SUMMARY

Case #2017/0963

**Complainant:** Darrell Simpson  
9934 S 200 W  
Ladoga, Indiana 47954  
765-376-8501

**Respondent:** Co-Alliance  
Cory Fordice  
403 E. Railroad Street  
Russellville, Indiana 46175  
765-435-2252

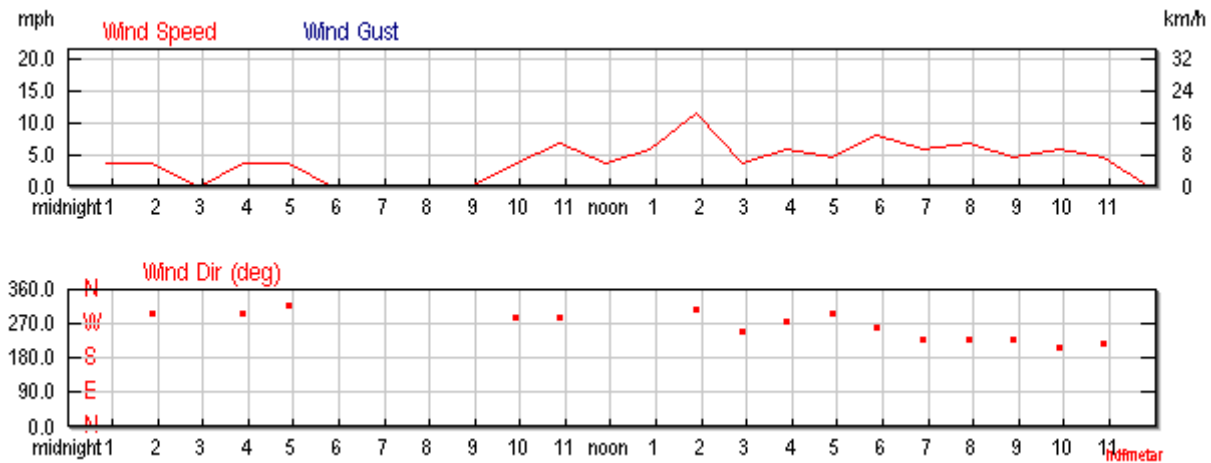
Licensed Business  
Certified Applicator

1. On July 5, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
2. On July 7, 2017, I met with the complainant to conduct an on-site physical investigation of the alleged off-target pesticide movement incident reported to OISC. The complainant advised me that he believed his non-DT Roundup Ready beans had been damaged by an application made by Co-Alliance to a nearby DT soybean field.
3. During my on-site investigation I did the following:
  - a) Looked for but did not observe nor learn about any other potential dicamba applications made by another applicator in the areas adjacent to the impacted site(s).
  - b) Observed and photographed what I believed to be fairly uniform dicamba exposure symptoms (figure 1) throughout the complainant's non-target, non-DT soybean field (figure 2) located to the east and north of the target field. The target field and the complainant's non-target field were separated by a fence to the north (figure 3) and planted adjacent to the east (figure 4).
  - c) Collected soybean plant samples from impacted areas of the complainant's non-target soybean field for visual analysis by the Purdue Plant and Pest Diagnostic Lab (PPDDL).
  - d) Collected samples for chemical analysis by the OISC Pesticide Residue Laboratory from the following areas:
    - i) Impacted soybean plants from complainant's non-target soybean field;
    - ii) Normal looking soybean plants from the target soybean field to the south and west;
  - e) Made a diagram/map of the investigation site, depicting locations of relevant fields, sample collection, roads, structures, and other landmarks (figure 5).
4. On July 7, 2017, I collected written records from the applicator company Co-Alliance. The written records and statements addressed the below items as follows:
  - a) Application date & time: June 1, 2017; from 6:30-8:15pm;
  - b) Target field: soybean field to the south and west of complainant's soybean field;
  - c) Pesticides: Xtendimax (dicamba) EPA Reg. #524-617 & Roundup Powermax (glyphosate) EPA Reg. #524-549;
  - d) Application rate: 22 oz. per acre;
  - e) Adjuvants: Class Act Ridion & AG16098;

- f) Nozzles: TTI 11004
- g) Boom height: 24 inches
- h) Ground speed: 14.5 mph
- i) Winds: 3-5 mph from the southwest;
- j) Applicator: Cory Fordice;
- k) Certified supervisor: not applicable;
- l) Left a 110' untreated buffer next to non-target site: no
- m) Checked registrant's web site before application: no
- n) Checked Field Watch before application: applicator did not however someone in the office does that and provides information if it is applicable
- o) Surveyed application site before application: yes

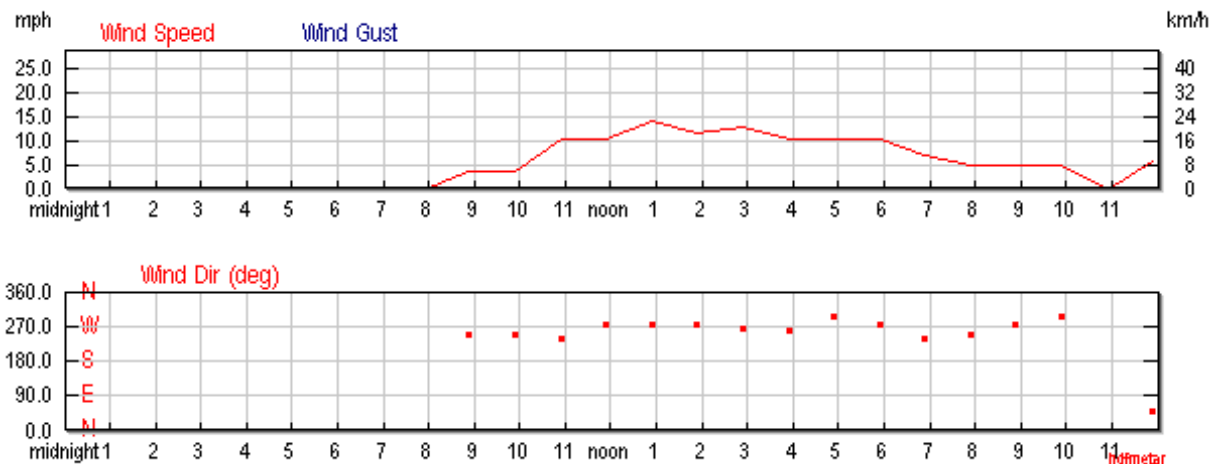
5. I searched wind data from [www.weatherunderground.com](http://www.weatherunderground.com) for zip code 47954 in Ladoga, Indiana for the reported date and time of the application. The results of that search indicated that wind speeds and directions during the application were as follows:

**As recorded at Eagle Creek 6-7mph out of the southwest**



Eagle Creek Wind Data 38 Miles East

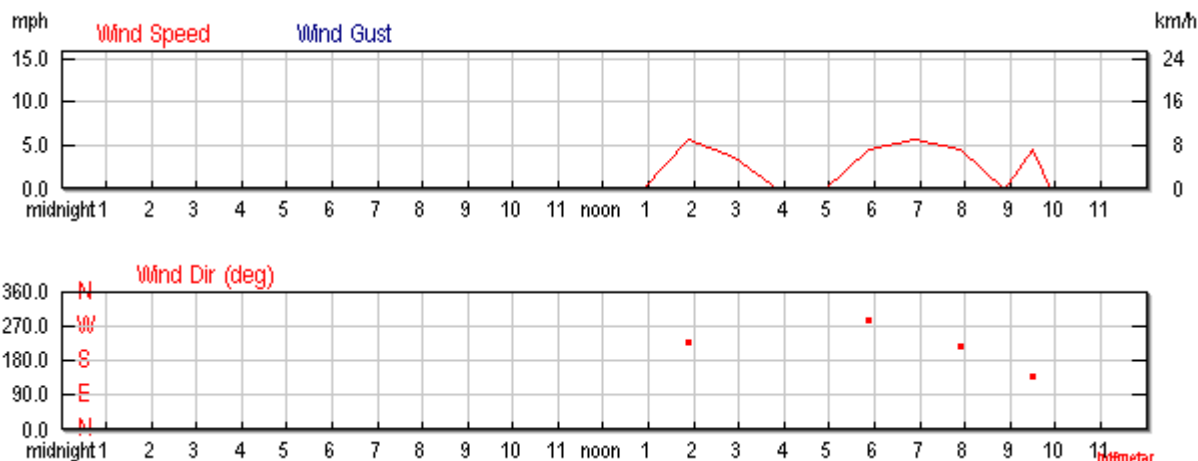
**As recorded at Lafayette 5-7mph out of the west southwest**



Lafayette Wind Data 40 Miles North




**As recorded at Terre Haute 3-5mph out of the southwest**



Terre Haute Wind Data 58 Miles Southwest

6. The report from the PPPDL states, “*Cupping and puckering of new trifoliate is indicative of injury from dicamba.*”
7. The report from the OISC Pesticide Residue Laboratory states:

Case #	2017/0963		Investigator		K. Neal		
Sample #	Sample Description	Amount of Analyte (ppb)					
		Matrix	Dicamba	5-OH Dicamba	DCSA	Glyphosate	AMPA
2017-220630	Simpson Beans 200 W West end	Veg	Detected, BQL	BDL	0.34	1250	57.7
2017-220631	Grimes Beans Near Simpson 200 W West end	Veg	BDL	BDL	9.47	135	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	Vegetation	2 ppb	2 ppb	0.2 ppb	25	50	
Signature				Date	9/11/2017		

7. The label for Xtendimax states, “*DO NOT APPLY this product when the wind is blowing toward adjacent commercially grown dicamba sensitive crops, including but not limited to, commercially grown tomatoes and other fruiting vegetables (EPA crop group 8), cucurbits (EPA crop group 9), and grapes.*”
8. The PPPDL report, the OISC Lab report, and the wind direction data suggest that dicamba from the application to the target field moved off-target to the complainant’s non-target soybean field. The detection of glyphosate in the non-target Roundup Ready soybeans, which was also applied by the complainant and the 36 day period between application and sample collection make it

difficult to determine if the dicamba moved off target from direct particle drift, application during a temperature inversion, or volatility at some point after the application. Regardless, the wind direction data supports that the Xtendimax was applied when the wind was blowing toward the sensitive non-DT soybeans.



Figure One



Figure Two



Figure Three



Figure Four

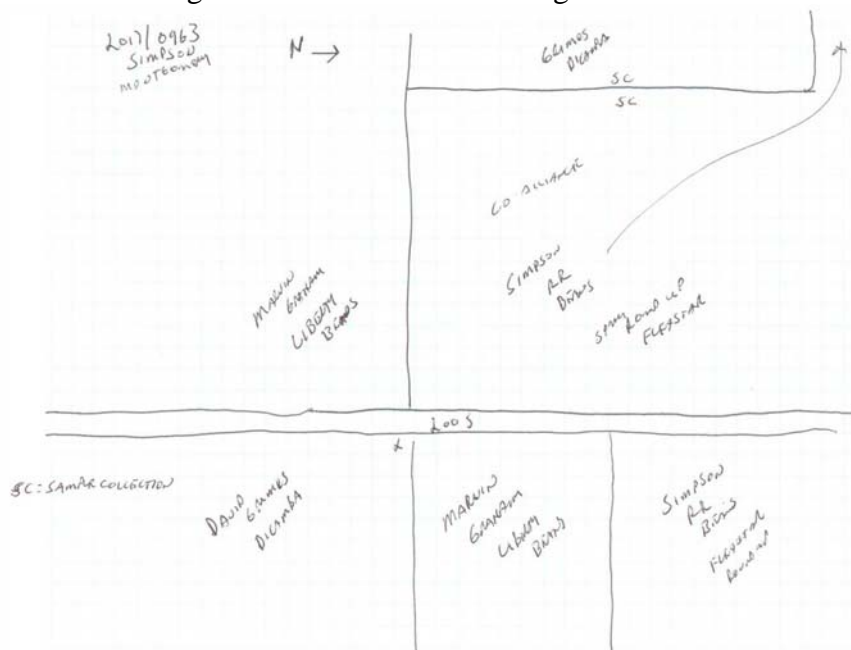


Figure Five

*Kevin W. Neal*

Kevin W. Neal  
Investigator

Date: September 26, 2017

**Disposition:** Cory Fordice was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for applying the product when the wind was blowing toward an adjacent commercially grown dicamba sensitive crop. A civil penalty in the amount of \$250.00 was assessed for this violation.

*George N. Saxton*

George N. Saxton  
Compliance Officer

Draft Date: November 28, 2017  
Final Date: February 7, 2018

## CASE SUMMARY

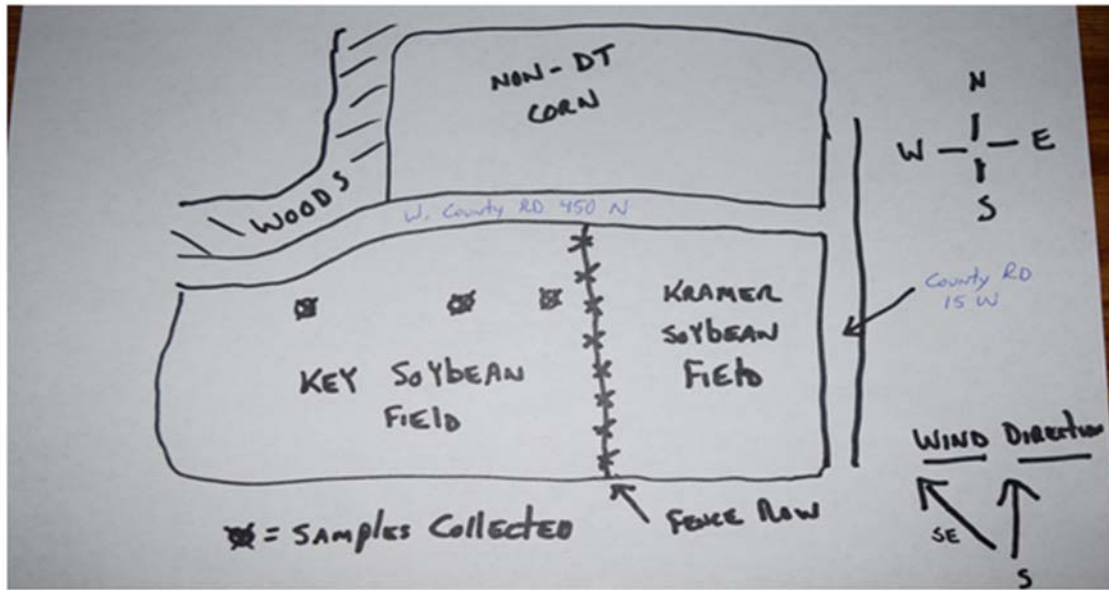
Case #2017/0965

**Complainant:** Jim Key  
4375 N. Old Hwy 41  
Patoka, Indiana 47666  
812-304-0457

**Respondent:** Kevin V Kramer  
5069 N. Trippet Road  
Patoka, Indiana 47666  
812-779-5626  
Private Applicator

1. On June 27, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba suspected pesticide drift to his beans. He did not know the name of the applicator at the time of this report.
2. On July 5, 2017, I met with Jim Key and we went to his soybean field located on the south side of West County Road 450 North, near Patoka, Indiana. Mr. Key informed me Kevin Kramer had applied a dicamba product to a soybean field located to the adjacent east of his bean field that may have affected his Liberty, non-dicamba tolerant (DT) beans. Mr. Key indicated he first noticed symptoms to his bean on or around June 25, 2017. Mr. Key informed me he had not applied any dicamba products this year on any of his farm fields. Mr. Key stated he had made a post-emergent application of Cobra (EPA Reg. #59639-34; active ingredient: lactofen) around June 20, 2017.
3. During my on-site investigation I did the following:
  - a) Looked for but did not observe, nor learn of from Mr. Key, any other dicamba applications made in the areas adjacent to his soybean field.
  - b) Observed and photographed what appeared to be exposure symptoms (figure 1 below) to a growth regulator type of herbicide such as dicamba. These symptoms did appear to be more pronounced on the east side of his field closest to the alleged target field and decreased only slightly with distance. However, these symptoms were still notable throughout the field.
  - c) Collected soybean vegetation from Mr. Key's field and a soil sample from the target field to the east of Mr. Key's bean field.
4. The graph below (Illustrated #1) shows the field locations in question, wind direction and areas where samples were obtained.

Illustration #1



5. Figure #1 below show Mr. Key's beans with exposure symptoms consistent with a growth regulator, such as dicamba.

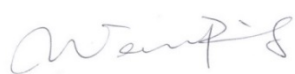


Figure 1

6. I contacted Kevin Kramer and spoke to him about the target field in question. Mr. Kramer indicated a buffer zone had not been used during the pesticide application to the target field, but the wind was not blowing toward Mr. Key's bean field at the time. Mr. Kramer informed me he had applied Engenia (EPA Reg. #7969-345; active ingredient: dicamba) and Glystar Plus (EPA Reg. # 42750-61; active ingredient: glyphosate) on June 3, 2017. I informed Mr. Kramer he would be receiving a Pesticide Investigation Inquiry (PII) form to be completed and returned. The PII form was returned on July 24, 2017, and indicated the following:
- a) Application date & time: June 3, 2017, between 1:00pm and 5:00pm (CDT).
  - b) Target Field: soybean field directly east of Mr. Key's bean field
  - c) Application rate of Engenia: 12.8oz per acre
  - d) Adjuvants: VaporGuard & Locktite
  - e) Nozzles: TTI 11004
  - f) Winds on June 3, 2017: from the south at 5 miles per hour (mph). Windometer used
  - g) Applicator: Kevin Kramer

- h) Buffer used: no
- i) Ground speed: 5mph
- j) Boom Height: 10 inches
- k) Checked Registrants website before application: no
- l) Checked Field Watch before application: no
- m) Surveyed site before application: yes

7. A check of the historical weather conditions during Mr. Kramer's application on June 3, 2017, were reported from the following weather stations as follows:
- Mount Carmel, Illinois Airport: (approximately 10 miles away): Winds were reported from the south/southeast (blowing toward Mr. Keys' bean field during parts of the application), between 3.5 and 10.4 mph. No gusts were reported during the application time frame.
  - Evansville Airport (approximately 25 miles away): Winds were reported from the south/southeast (blowing toward Mr. Key's bean field during parts of the application), between 4.6 and 10.4 mph. No gusts were reported during the application time frame.
8. On July 6, 2017, the collected vegetation and soil samples were turned into the Indiana State Chemist Office Residue Lab for analysis. The results were reported back on October 30, 2017, and indicated the following:

Case #	2017/0965		Investigator		S. Farris		
Sample #	Sample Description	Amount of Analyte (ppb)					
		Matrix	Dicamba	5-OH Dicamba	DCSA	Glyphosate	AMPA
2017-510094	Soybean vegetation 300 feet west of target field	Vegetation	BDL	BDL	BDL	68.7	BDL
2017-510095	Soybean vegetation 100 feet west of target field	Vegetation	BDL	BDL	BDL	84.4	BDL
2017-510096	Soybean vegetation 50 feet west of target field	Vegetation	BDL	BDL	BDL	154	BQL
2017-510097	Soil from target field	Soil	4.86	BDL	406*	520	1727
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC							
*minimum concentration reported due to amount exceeding calibration curve							
LOQ (ppb)	Vegetation		2	2	1	10	50
LOQ (ppb)	Soil		2	1	1	10	50
Signature				Date		10/30/2017	

9. The results of the lab analysis indicated no dicamba was able to be detected in the samples submitted. However, glyphosate levels were found in the samples submitted and indicated a pattern of decreasing levels with distance from Mr. Kramer's field (pattern of drift).

10. The Engenia labeling stated the following:

- *"Do not apply under circumstances where spray drift may occur to food, forage, or other plantings that might be damaged or the crops thereof rendered unfit for sale, use or consumption."*
- *"DO NOT allow herbicide solution to mist, drip, drift or splash onto desirable vegetation because severe injury or destruction to desirable broadleaf plants could result."*
- *"Do not tank mix any product with Engenia unless . . .you check the list of EPA approved products for use with Engenia at [www.engeniatankmix.com](http://www.engeniatankmix.com) no more than 7 days before applying Engenia . . ."* and
- *"The applicator must also consult sensitive crop registries to locate nearby sensitive areas where available."*

11. The Glystar Plus label also states, *"Do not allow the herbicide solution to mist, drip, drift, or splash onto desirable vegetation."*

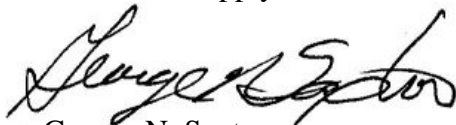


Scott M. Farris  
Investigator

Date: November 6, 2017

**Disposition:** Kevin V. Kramer was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the checking of a sensitive crop registry and manufacturer's website.

Kevin V. Kramer was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact this was his first violation of similar nature. Consideration was also given to the fact that in a dicamba outreach memo dated February 21, 2017, the Indiana Pesticide Review Board urged OISC to apply the most stringent penalties available for these types of violations.



George N. Saxton  
Compliance Officer

Draft Date: January 23, 2018  
Final Date: February 22, 2018

## CASE SUMMARY

Case #2017/0991

**Complainant:** Mike Mitchell  
11998 S. State Road 47  
Waveland, IN 47989  
765-918-4951

**Respondent:** Ceres Solutions  
James Tanner  
3997 E. Ladoga Road  
Crawfordsville, IN 47933  
765-364-1105

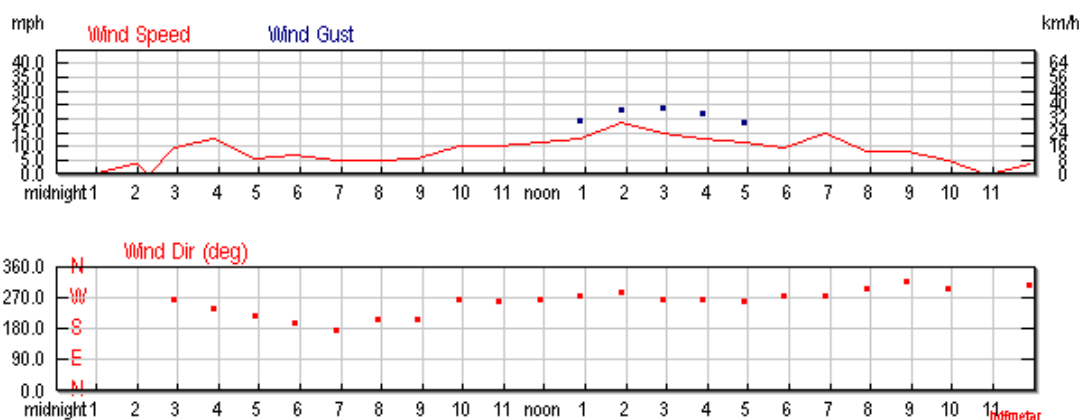
Licensed Business  
Certified Applicator

1. On July 6, 2017, the complainant contacted Investigator Kevin W. Neal of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift of what he believed to be dicamba herbicide to his non-dicamba tolerant (DT) soybeans.
2. On July 6, 2017, I met with the complainant to conduct an on-site physical investigation of the alleged off-target pesticide movement incident reported to OISC. The complainant advised me that he believed his non-DT Liberty Link beans had been damaged by an application made by Ceres Solutions to a nearby DT soybean field.
3. During my on-site investigation I did the following:
  - a) Looked for and did observe another likely potential dicamba application made in the area adjacent to the impacted site (Grimes field). See Case 2017/0990
  - b) Observed and photographed what I believed to be fairly uniform dicamba exposure symptoms (figure 1) throughout the complainant's non-target, non-DT soybean field (figure 2) located to the west of the target field. The target field and the complainant's non-target field were separated by a gravel road and roadside vegetation approximately 80 feet wide. (figure 3).
  - c) Collected soybean plant samples from impacted areas of the complainant's non-target soybean field for visual analysis by the Purdue Plant and Pest Diagnostic Lab (PPDDL).
  - d) Collected samples for chemical analysis by the OISC Pesticide Residue Laboratory from the following areas:
    - i) Impacted soybean plants from complainant's non-target soybean field;
    - ii) Normal looking soybean plants from the target soybean field.
  - e) Made a diagram/map of the investigation site, depicting locations of relevant fields, sample collection, roads, structures, and other landmarks (figure 4).
4. On July 10, 2017, I collected written records from the applicator company Ceres Solutions. The written records and statements addressed the below items as follows:
  - a) Application date & time: May 31, 2017; from 10:26am-11:33am
  - b) Target field: soybean field to the west of complainant's soybean field;
  - c) Pesticides: Xtendimax (dicamba) EPA Reg. #524-617 & Roundup Powermax (glyphosate) EPA Reg. #524-549;



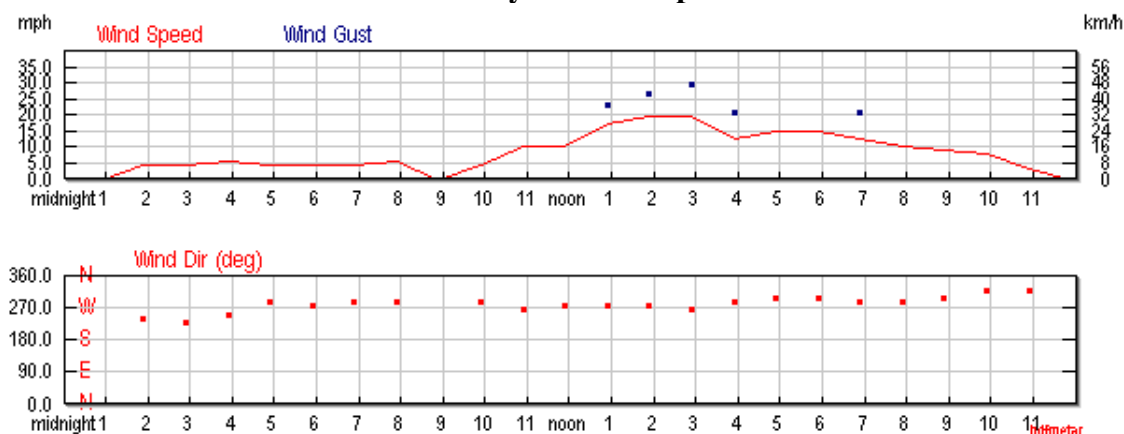
- d) Application rate: 22 oz. per acre Xtendimax; 32 oz. per acre PowerMax
  - e) Adjuvants: Class Act Ridion & AG16098;
  - f) Nozzles: TTI 11006
  - g) Boom height: 18 inches above crop
  - h) Ground speed: 12 mph
  - i) Winds: 7 mph from the east;
  - j) Applicator: James Tanner;
  - k) Certified supervisor: not applicable;
  - l) Left a 110' untreated buffer next to non-target site: only on far north end of McCutcheon beans none was left at the south end
  - m) Checked registrant's web site before application: no
  - n) Checked Field Watch before application: applicator did not however someone in the office does that and provides information if it is applicable
  - o) Surveyed application site before application: yes it was done by Chad Cass (salesman)
5. I searched wind data from [www.weatherunderground.com](http://www.weatherunderground.com) for zip code 47954 in Ladoga, IN for the reported dates and times of the applications. The results of that search indicated that wind speeds and directions during the application were as follows:

**May 31, 2017**  
**As recorded at Eagle Creek 10 mph out of the west**



Eagle Creek Wind Data 38 Miles East

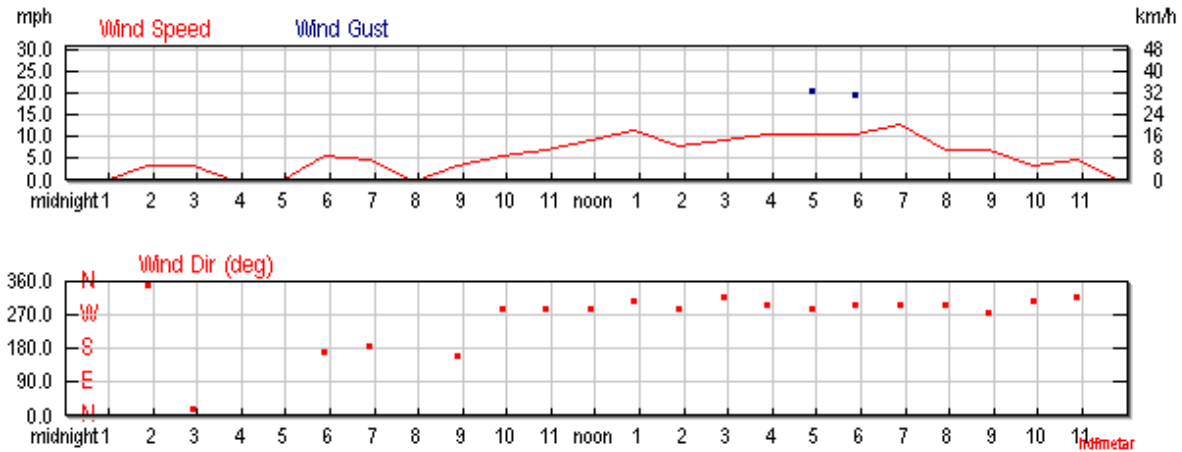
**As recorded at Lafayette 7-10 mph out of the west**



Lafayette Wind Data 40 Miles North




### As recorded at Terre Haute 6-8 mph out of the west



### Terre Haute Wind Data 58 Miles Southwest

6. The report from the PPPDL states, “Cupping and puckering of new trifoliates is indicative of injury from dicamba.”
7. The report from the OISC Pesticide Residue Laboratory states:

Case #	2017/0991			Investigator		K. Neal	
Sample #	Sample Description	Amount of Analyte (ppb)					
		Matrix	Dicamba	5-OH Dicamba	DCSA	Glyphosate	AMPA
2017-220626	Mitchell non-target Beans 1050S 310W	Veg	BDL	BDL	BDL	BDL	BDL
2017-220627	Mccutcheon target Beans 1050S 310W	Veg	BDL	BDL	12.3	145	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	Vegetation		2 ppb	2 ppb	0.2 ppb	5 ppb	25 ppb
Signature				Date	9/13/2017		

8. The label for Xtendimax states, “DO NOT APPLY this product when the wind is blowing toward adjacent commercially grown dicamba sensitive crops, including but not limited to, commercially grown tomatoes and other fruiting vegetables (EPA crop group 8), cucurbits (EPA crop group 9), and grapes.”
9. The PPPDL report and the wind direction data suggest that dicamba from the application to the target field moved off-target to the complainant’s non-target soybean field.



Figure One



Figure Two



Figure Three

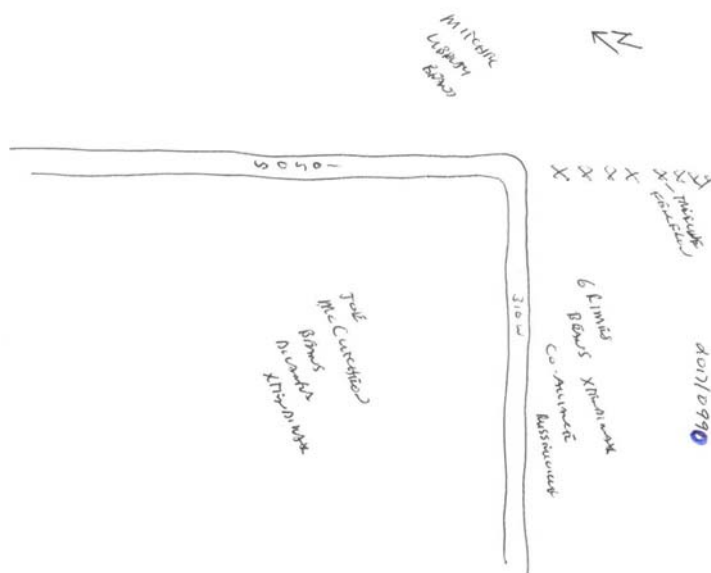


Figure 4

10. When asked about the discrepancy between his assessment that the wind was out of the 'east' and all three reporting stations indicated the wind was out of the west, Mr. Tanner stated that he meant that the wind was blowing towards the east and was out of the west, which is consistent with the three weather reporting stations. His email stating this fact is in the case file.

*Kevin W. Neal*

Kevin W. Neal  
Investigator

Date: September 26, 2017

**Disposition:** James Tanner and Ceres Solutions were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application when wind was blowing toward adjacent commercially grown dicamba sensitive crops. A civil penalty in the amount of \$250.00 was assessed for this violation.

*George N. Saxton*

George N. Saxton  
Compliance Officer

Draft Date: November 28, 2017  
Final Date: January 25, 2018

## CASE SUMMARY

Case #2017/0994

**Complainant:** Kelly Mason  
12436 N. Mason Road  
Oaktown, Indiana 47561  
812-396-8817

**Respondent:** Jamie Lane (Private Applicator)  
11162 Buckthal Road  
Bicknell, Indiana 47512  
812-890-3675

1. On June 29, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
2. On July 10, 2017, I met with Kelly Mason and we went to his soybean field located on the south side of Hancock Road, east of Westphalia, Indiana. Mr. Mason stated he believed that Jamie Lane had applied a dicamba pesticide product to a soybean field located across the road to the north of his bean field that may have impacted his Liberty, non-dicamba tolerant (DT) beans. Mr. Mason indicated he had planted the field in early May of 2017, and first noticed symptoms to his bean on or around June 2, 2017. Mr. Mason also informed me he had not applied any dicamba products this year on any of his farm fields. Mr. Mason stated he had made a post-emergent application of Liberty (EPA Reg. #264-829; active ingredient: glufosinate) and Warrant (EPA Reg. #524-591; active ingredient: acetochlor) to his bean field.
3. During my on-site investigation I did the following:
  - a) Looked for but did not observe, nor learn of from Mr. Mason, any other dicamba applications made in the areas adjacent to his soybean field.
  - b) Observed and photographed what appeared to be pesticide exposure symptoms (figure 1 below) to a growth regulator type of herbicide such as dicamba. These symptoms did appear to be more pronounced on the north side of his field closest to the alleged target field and decreased slightly with distance. However, symptoms were still notable throughout the field.
  - c) Collected soybean vegetation from Mr. Mason's field and a vegetation and soil sample from the target field to the north of Mr. Mason's bean field. The target field did not have any notable weed vegetation on the south side of the field, closest to Mr. Mason's bean field, which may suggest no buffer zone was left.
  - d) The graph below (Illustrated #1) shows the field locations in question and areas where samples were obtained.



Illustration #1

4. Photograph #1 and #2 below show Mr. Mason's beans with exposure symptoms consistent with a growth regulator, such as dicamba.



Photograph #1



Photograph #2


5. I contacted Jamie Lane and spoke to him about the target field in question. Mr. Lane indicated no buffer had been left, but stated he thought the winds were blowing away from Mr. Mason's field at the time of his application. Mr. Lane informed me he had applied Fexapan (EPA Reg. #352-913; active ingredient: dicamba), Abundit Edge (EPA Reg. #352-922; active ingredient: glyphosate) and Warrant on June 2, 2017. I informed Mr. Lane he would be receiving a Pesticide Investigation Inquiry (PII) form to be completed and returned. The form was returned on July 25, 2017, and indicated the following:
- a) Application date & time: June 2, 2017, between 10:30am and 11:30am (EST).
  - b) Target Field: soybean field directly north of Mr. Mason's bean field
  - c) Application rate of Fexapan: 22oz per acre
  - d) Adjuvants: Leeway
  - e) Nozzles: TTI 04
  - f) Winds: calm and from the Northeast between 2 to 5 miles per hour (mph)
  - g) Applicator: Jamie Lane

- h) Buffer used: no
- i) Ground speed: 7 mph
- j) Boom Height: 18 inches
- k) Checked Registrants website before application: no
- l) Checked Field Watch before application: no
- m) Surveyed site before application: yes

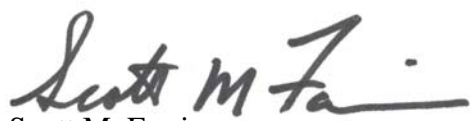
6. A check of the historical weather conditions at the date and time of Mr. Lane's application were reported from the following weather stations as follows:

- Daviess County Airport (approximately 15 miles away): Winds were reported from calm and clear at 10:35am. Winds between 10:55am and 11:35am (EST) reported winds between 3.5 and 4.6 mph from the east/southeast direction (blowing away from Mr. Mason's bean field).
- Robinson Illinois Airport (approximately 30 miles away): Winds were reported as calm and clear during the application time frame, except at 9:55am (CST) where winds were reported at 3.5 mph from the east/southeast direction (blowing away from Mr. Mason's bean field).

7. On July 12, 2017, the collected vegetation and soil samples were turned into the Indiana State Chemist Office for analysis. The results were reported back on October 9, 2017, and indicated the following:

Case #	2017/0994		Investigator		S. Farris	
Sample #	Sample Description	Amount of Analyte (ppb)				
		Matrix	Dicamba	5-OH Dicamba	DCSA	Acetochlor
2017-510106	Soybean vegetation 300 feet from target field	Vegetation	BQL	BDL	BDL	3.60
2017-510107	Soybean vegetation 150 feet from target field	Vegetation	BQL	BDL	BDL	BDL
2017-510108	Soybean vegetation 50 feet from target field	Vegetation	BQL	BDL	BDL	6.62
2017-510109	Soybean vegetation in target field 180 feet north of bean field	Vegetation	BDL	BDL	BQL	BDL
2017-510110	Soil sample from target field	Soil	10.4	BDL	216*	7.75
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC						
*minimum concentration reported due to amount exceeding calibration curve						
LOQ (ppb)	Vegetation		2	2	1	3
LOQ (ppb)	Soil		2	1	1	0.3
Signature				Date	10/09/17	

8. The results of the lab analysis indicated no dicamba product was able to be quantified in the samples submitted. However, over five weeks had elapsed between the time of the application by Mr. Lane and the collection of the above samples. It is unclear if dicamba degradation may have occurred to an amount below detection limits.
9. The Fexapan Supplemental Label stated the following: *“Do not apply Dupont Fexapan herbicide plus VaporGrip Technology if wind is less than 3 mph.”* The Fexapan label also states, *“DO NOT tank mix any product with Dupont Fexapan herbicide plus VaporGrip Technology unless . . . you check the list of tested products found not to adversely affect the offsite movement potential of Dupont Fexapan herbicide plus VaporGrip Technology at [www.fexapanapplicationrequirements.dupont.com](http://www.fexapanapplicationrequirements.dupont.com) no more than 7 days before applying Dupont Fexapan herbicide plus VaporGrip Technology . . .”* and *“The applicator must also consult sensitive crop registries to identify any specialty or certified organic crops that may be located near the application site.”*



Scott M. Farris  
Investigator

Date: October 12, 2017

**Disposition:** Jamie Lane was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding failure to consult a sensitive crop registry and failure to check registrant's website before application.

Jamie Lane was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application in “calm” winds below three miles per hour. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact this was his first violation of similar nature. Consideration was also given to the fact that in a dicamba outreach memo dated February 21, 2017, the Indiana Pesticide Review Board urged OISC to apply the most stringent penalties available for these types of violations.



George N. Saxton  
Compliance Officer

Draft Date: January 23, 2018  
Final Date: February 22, 2018



## CASE SUMMARY

Case #2017/0996

**Complainant:** Kelly Mason  
12436 N. Mason Road  
Oaktown, Indiana 47561  
812-396-8817

**Respondent:** Jeffrey B. Blann (Private Applicator)  
12570 N. Texas Gas Road  
Oaktown, Indiana 47561  
812-745-4800

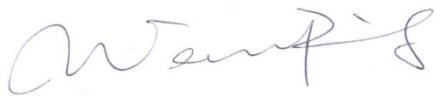
1. On June 29, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
2. On July 10, 2017, I met with Kelly Mason and we went to his soybean field located on the south side of East Airport Road, in Oaktown, Indiana. Mr. Mason stated he learned that Jeff Blann had applied a dicamba product to the Blann soybean field located across the road to the north of the Mason bean field. Mr. Mason did not believe a buffer zone had been used and it had negatively impacted his Liberty Link, non-dicamba tolerant (DT) beans. Mr. Mason indicated he had planted the field in early April 2017, and the bean plants became stunted after growing for a short time. Mr. Mason also informed me he had not applied any dicamba products this year on any of his farm fields.
3. During my on-site investigation I did the following:
  - a) Looked for but did not observe, nor learn of from Mr. Mason, any other dicamba applications made in the areas adjacent to his soybean field.
  - b) Observed and photographed what appeared to be fairly uniform exposure symptoms (figure 1 below) to a growth regulator-type of herbicide such as dicamba (no notable pattern of drift gradient).
  - c) Collected soybean vegetation from Mr. Mason's field and soil samples from the target field to the north of Mr. Mason's bean field. The target field was a strip running east and west along Airport Road with a tree line along the far north edge of field. The farthest distance of beans in the target field from Mr. Mason's bean field to the south was approximately 300 feet.



Figure 1



4. I contacted Jeff Blann and spoke to him about the target field in question. Mr. Blann indicated no buffer had been used, but stated the winds were blowing away from Mr. Mason's field at the time of his application. Mr. Blann informed me he had applied Fexapan (EPA Reg. #352-913; active ingredient: dicamba) on May 13, 2017. I informed Mr. Blann he would be receiving a Pesticide Investigation Inquiry (PII) form to be completed and returned. The form was returned on July 27, 2017, and indicated the following:
- Application date & time: May 13, 2017, between 8:00am and 8:30am.
  - Target Field: soybean field directly north of Mr. Mason's bean field
  - Application rate of Fexapan: 22oz per acre
  - Adjuvants: Vapor Guard and Locktight
  - Nozzles: Air induced Green Leaf Tips
  - Winds: from the west/northwest and 3 miles per hour (mph)
  - Certified Applicator: Jeff Blann
  - Buffer used: no
  - Ground speed: 8 – 12 mph
  - Boom Height: 24 inches
  - Checked Registrants website before application: yes
  - Checked Field Watch before application: no
  - Surveyed site before application: yes
5. I checked the historical weather conditions at the date and time of Mr. Blann's application from the following weather stations:
- Lawrenceville/Vincennes Airport: Winds were reported as WNW at 3.5 to 5.8 mph.
  - Davies County Airport, Washington, Indiana; Winds were reported as calm and clear
6. The report from the OISC Pesticide Residue Laboratory states:

Case # 2017/0996			Investigator: S. Farris		
Sample #	Sample Description	Sample Matrix	Amount Found (ppb)		
			Dicamba	DCSA	5-OH Dicamba
2017-510121	Soybean vegetation 300 feet from target field	Vegetation	BDL	BDL	BDL
2017-510122	Soybean vegetation 150 feet from target field	Vegetation	BDL	BDL	BDL
2017-510123	Soybean vegetation 50 feet from target field	Vegetation	BDL	BDL	BDL
2017-510124	Soybean vegetation in target field 80 feet north of bean field	Vegetation	BDL	BQL	BDL
2017-510125	Soil for target field	Soil	2.32	144	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  Product applied = Fexapan Application date=5/8/17 Sampling=7/10/17					
LOQ (ppb)	Soil/Vegetation		2	1	2
Signature			Date	10/09/17	

7. The results of the lab analysis indicated no dicamba product was able to be detected in the samples submitted. However, two (2) months had elapsed between the time of the application by Mr. Blann and the collection of the above samples. It is unclear if dicamba degradation may have occurred to an amount below detection limits.
8. The Fexapan label stated the following: *“Do not apply this product when the wind is blowing toward adjacent commercially grown dicamba sensitive crops . . .”* and *“Before making an application, the applicator must survey the application site for neighboring non-target susceptible crops. The applicator must also consult sensitive crop registries to identify any commercial specialty or certified organic crops that may be located near the application site.”*



Scott M. Farris  
Investigator

Date: September 28, 2017

**Disposition:** Jeffrey B. Blann was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding checking sensitive crop registry before application.

Jeffrey B. Blann was cited for violation of section 65(2) of the Indiana Pesticide Use and Application for failure to follow label directions regarding the application of this product when the wind is blowing toward adjacent commercially grown dicamba sensitive crops. A civil penalty in the amount of \$100.00 was assessed for this violation.

Consideration was given to the fact in a dicamba outreach memo dated February 21, 2017, the Indiana Pesticide Review Board urged OISC to apply the most stringent penalties available for these types of violations.



George N. Saxton  
Compliance Officer

Draft Date: December 20, 2017  
Final Date: January 25, 2018

## CASE SUMMARY

Case #2017/1006

**Complainant:** Par Electrical Contractors  
Bill Young  
14560 Lincoln Highway  
Plymouth, IN 46563  
614-813-9725

**Respondent:** William Whitfield  
David Kurtz  
Benoit Aerial Spraying  
4250 E. Exline Road  
P.O. Box 833  
Bourbonnais, IL 60914  
815-932-2341

Pilot  
Owner

1. On July 13, 2017, Joe Becovitz, Pesticide Program Specialist for the Office of Indiana State Chemist (OISC) received a complaint regarding pesticide drift from an aerial application. Mitch Guess, coordinator for Par Electrical Contractors, stated several of his workers who were erecting an electric tower in a farm field were sprayed by an aerial application. Mr. Guess stated the tail number on the plane that made the application was M3669A.
2. I made contact with Mr. Bill Young, Supervisor for Par Electric. He stated he had workers on a job constructing power lines at the NE corner of CR 700 E and CR 800 S in Starke County. He stated at approximately 10:00 am on July 13, 2017, his job site foreman contacted him advising eight of the workers had been sprayed by a crop duster aircraft. He stated he was advised the plane banked over the top of the workers and the power line tower once and then on the second pass, the workers felt a mist hit them. He stated he called the owner of the potato field located directly to the north of the work site and they advised him the potato field was being sprayed by Benoit Aerial Spraying out of Bourbonnais, Illinois. I set up an appointment to meet with Mr. Young and his employees on July 14, 2017 at the Par Electric Office in Plymouth, IN. I requested for Mr. Young to have his employees to bag up their shirts as long as they had not been laundered. He stated they had bagged the clothing up individually and they had not been laundered. I advised Mr. Young if his employees had any medical conditions from the incident, he should have them seek medical attention. He stated the employees stated they were all fine.
3. On July 14, 2017, I met with Mr. Young, Mr. Michael Parker, Safety Manager for Par Electric and the eight workers involved. The workers advised they were at the worksite and saw the airplane bank over the top of them once and on the second pass, they felt a mist from the airplane directly hit them. They stated the plane appeared to be making an aerial application to a field just north of them on the north side of a tree line. The workers stated they were in aerial boom lifts or in the cabs of the cranes. The following is a list of the employees who advised they were sprayed. Patrick Quante, Don Henski, Tyler Pouless, Taylor Davidson, Thomas Conway, Cassidy Lindsay, Chris Fisher and Dave Strong who works as a contracted Inspector for NIPSCO.

4. I collected all of the individual bags of clothing and then followed Site Foreman Thomas Conway to the work site. At the site, he showed me the boom trucks located around the tower. He stated they were in the exact location they were in the day of the aerial application. I took photographs of the area, as well as the target potato field. I then collected soil and vegetation samples from the target field and soil and vegetation and swab samples from the work site including swab samples from the electric tower and boom truck parked next to the tower. All of the samples were labeled and submitted to the OISC residue lab. The following photographs show the location of the work site and the location of the boom trucks to the tower.



view of work site and boom truck location



view of work site with tree line to the north



view of target field looking south to tree line



view of target potato field


5. On July 17, 2017, I made contact with Mr. David Kurtz, Owner of Benoit Aerial Spraying, Inc. I advised him of the complaint and that I needed the information regarding the aerial applicator flying the airplane and what product was applied. He stated he was just getting to the office and would look up the records on that aerial application. Mr. Kurtz stated he was unsure who the aerial applicator was at that time and would review the records to find out.
6. On July 17, 2017, I contacted Mr. Joe Becovitz of OISC to speak with him as he had taken the original incoming phone call regarding this complaint. While speaking with him, he was notified by Ms. Jill Davis of the OISC licensing section. She advised him she had received a Category 11 aerial applicator application and fee for a William Whitfield through Benoit Aerial Spraying, Inc. that day. Ms. Davis had overheard Mr. Becovitz speaking to me regarding Benoit Aerial Spraying, Inc. and she thought it was strange that she just received this application. I asked when the application was postmarked and she advised it was postmarked July 12, 2017. A copy of the application and the original postmarked envelope are in this case file. I spoke with Ms. Davis and she stated she had contacted Illinois and Mr. Whitfield was also not licensed in Illinois and was not eligible for reciprocity to Indiana, thus OISC would not approve an Indiana license until he was licensed in Illinois.

7. On July 17, 2017, I then contacted Mr. Kurtz again. He advised me he had the records for the aerial pesticide application at the target location on July 13, 2017. I asked if William Whitfield had made the aerial pesticide application. He stated Mr. Whitfield had made the aerial pesticide application. I then advised Mr. Kurtz that Mr. Whitfield was not licensed in the state of Indiana to make aerial pesticide applications. He stated he thought Mr. Whitfield was licensed in Illinois, thus he thought he could reciprocate to Indiana. I advised him by authority of our licensing section, Mr. Whitfield was not licensed in Illinois either. I then advised him our licensing section had received the application for Mr. Whitfield and it was postmarked on July 12, 2017, thus he knew Mr. Whitfield was not licensed in the state of Indiana. Mr. Kurtz then advised me he had been diagnosed with a medical condition, which grounded him from flying and making aerial pesticide applications himself. He stated he was in a bind with many aerial pesticide application jobs awaiting. He stated he hired Mr. Whitfield knowing he was not licensed in Indiana, but thought he could get Mr. Whitfield licensed in Illinois and reciprocate him to Indiana. Mr. Kurtz stated he quickly submitted the application to OISC, even though Mr. Whitfield had been making aerial pesticide applications in Indiana without being licensed. He stated he thought he could get the license pushed through without incident.
8. On July 24, 2017, I went to Benoit Aerial Spraying, Inc. and met with Mr. Kurtz. He stated he had contacted Illinois Department of Agriculture regarding Mr. Whitfield's application with Illinois. He stated the lady advised him the paperwork had been approved and Mr. Whitfield's license would be sent out. I issued a STOP ACTION ORDER to Mr. Whitfield ordering to cease any and all aerial pesticide applications in the state of Indiana until obtaining proper licensing through the Office of Indiana State Chemist. Mr. Kurtz provided me with all pesticide application records of any aerial pesticide application made by Mr. Whitfield in Indiana this year. Mr. Whitfield had made fifty-seven aerial pesticide applications in the state of Indiana in 2017. Copies of these pesticide applications are in this case file. The following is a list of the pesticide applications made by Mr. Whitfield.

Date of aerial pesticide application	Number of applications
June 22, 2017	11
June 29, 2017	1
June 30, 2017	10
July 6, 2017	8
July 13, 2017	9
July 19, 2017	10
July 20, 2017	4
July 21, 2017	4

9. The application report for the aerial pesticide application made to the target potato field indicated Manzate Max fungicide EPA Reg. #70506-194 with the active ingredient mancozeb was applied to the target field. I researched the label for Manzate Max fungicide and it stated, "*Do not apply this product in a way that will contact workers or other persons, either directly or through drift*". I sent a Pesticide Investigation Inquiry (PII) to Mr. Whitfield of which he received and returned to OISC. The PII confirmed the information previously given to me by Mr. Kurtz. In the PII, Mr. Whitfield stated the workers were ¼ mile up wind from the field and he turned around the tower so he would not be flying over the top of them.
10. On July 27, 2017, I received an email from Ms. Jill Davis, stating she had received updated information from Illinois and Mr. Whitfield had now taken the Illinois exams and had paid for 2017. She stated she would be sending out his Indiana aerial pesticide applicator license.

11. On August 1, 2017, I received a report from the OISC residue lab. The report indicated the active ingredient mancozeb was detected in all of the clothing samples submitted and in the swab samples collected from the tower and boom truck. The results of the OISC residue lab indicate the workers at the tower work site were sprayed directly from the aerial application. The following is a copy of the OISC residue lab report.

Case # 2017/1006			Investigator: B. Brewer
Sample #	Sample Description	Sample Matrix	Amount Found (ug/swab or ug/shirt)
			Mancozeb (measured by metallic Manganese)
2017-334931	Trip blank	Swab	BDL
2017-334932	Control swab	Swab	BDL
2017-334933	Tower swab	Swab	47
2017-334934	Boom truck swab	Swab	12
2017-334935	Soil target	Soil	NA
2017-334936	Vegetation target	Vegetation	NA
2017-334937	Soil tower site	Soil	NA
2017-334938	Vegetation tower site	Vegetation	NA
2017-334939	Shirt Taylor Davidson	Clothing	2020
2017-334940	Shirt Tyler Powless	Clothing	2370
2017-334941	Shirt Cassidy Lindsay	Clothing	3350
2017-334942	Shirt Patrick Quante	Clothing	2850
2017-334943	Shirt Chris Fisher	Clothing	22200
2017-334944	Shirt Don Henski	Clothing	2300
2017-334945	Shirt Thomas Conway	Clothing	2670
2017-334946	Shirt Dave Strong	Clothing	1210
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  NA= not analyzed due to the natural Manganese background level in plants and soil.  Please notice that the unit used in this report is ug/swab or ug/clothing: 1 ug=1000 ng.			
Manganese LOQ = 0.75 ug/swab and 25 ug/shirt			
Signature			Date
			8/1/17



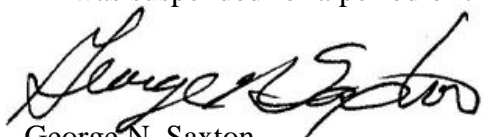
Robert D. Brewer  
Investigator

Date: September 7, 2017

**Disposition:** William Whitfield 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 people. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was his first violation of similar nature. Consideration was also given to the fact there was potential for human harm.

Benoit Aerial Spraying was cited for fifty-seven (57) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-2, for having a non-certified pilot make pesticide applications aerially. A civil penalty in the amount of \$14,250.00 (57 counts x \$250.00 per count) was assessed for this violation. However, the civil penalty was reduced to \$10,687.50. Consideration was given to the fact Benoit Aerial Spraying cooperated during the investigation. Consideration was also given to the fact that using a non-certified pilot was a premeditated, intentional act that resulted in the drifting onto eight individuals.

In addition, due to the seriousness of this violation, the business license of Benoit Aerial Spraying was suspended for a period of thirty (30) days.

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

George N. Saxton  
Compliance Officer

Draft Date: October 11, 2017  
Final Date: November 16, 2017



## CASE SUMMARY

Case #2017/1040


**Complainant:** Terry Colbert  
1080 N 150 W  
Washington, Indiana 47501  
812-254-6673

**Respondent:** Jim Robinson Certified Applicator  
Ag Max  
7000 Airport Drive  
Sellersburg, Indiana 47172  
812-246-5761

1. On July 17, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to him, his family, and their food and drink, as they were barbequing outside. The complainant stated a helicopter flew over and 'drenched' them. Detective Sergeant Aaron Harbstreit of the Davis County Sheriff's Department had also called in this complaint on behalf of Mr. Colbert. Mr. Colbert was advised that OISC would like contaminated clothing if they still had some that had not been laundered, with the understanding they would not get the clothing back.
2. On July 18, 2017, I met with Mr. Colbert at his residence. He stated on July 15, 2017, he and his wife were outside on the deck of their swimming pool in the backyard, when a helicopter flew over them quite low several times apparently spraying the corn field just north of their residence. He stated during one pass, they could smell an odor from the chemical and they felt the wet spray from the helicopter. He stated his wife Katherine's face became wet from the spray. I asked if they had any clothing of which they were wearing at the time of the alleged spraying and he advised they had washed their clothing. I collected a cloth flag and trim from the deck of the pool and placed them in a bag and labeled it.
3. I then collected soil and vegetation samples from the target cornfield and vegetation and swab samples from the Colbert's property. All of the samples were labeled and submitted to the OISC residue lab.
4. I then began speaking with residents in the area to determine who farmed the target cornfield. I made contact with Mr. Seth Armes who advised he farms the target field. He stated he did have an aerial pesticide application made to the field. He stated Helena Chemical in Montgomery provided the products. I contacted Helena Chemical and spoke with Mr. Brent Baker. He stated they did provide the product and Ag Max was the aerial applicator that made the pesticide application. Mr. Baker stated Headline AMP fungicide EPA Reg. #7969-291 with the active ingredient pyraclostobin and metconazole along with Fastac EC Insecticide EPA Reg. #7969-298 with the active ingredient alpha-cypermethrin were the products applied to the target field aurally. I spoke with Detective Sergeant Harbstreit and advised him of my findings. I advised him I would email him a copy of my final report.
5. I then made contact with Mr. Jim Robinson of Ag Max. Mr. Robinson stated he was making aerial pesticide applications by helicopter in the Washington area. I advised him of the complaint and he

stated he had made an aerial pesticide application to the target cornfield on July 15, 2017. He stated he was aware there had been some conflict between the complainant and the past farmers of the target field. I sent a Pesticide Investigation Inquiry (PII) to Mr. Robinson of which he received, completed and returned to OISC. The PII confirmed the pesticides applied and indicated the winds were N at 5 knots. The PII is in this case file. Mr. Robinson also provided me with a copy of the application report, which is in this case file. Mr. Robinson was cooperative during the investigation.

6. I researched the Weather Underground website for the weather conditions on the date of the aerial pesticide application. The website indicated the winds were variable N to NE between 2 – 5 mph with gusts to 8 mph. The temperature was 63 – 68 degree F. A copy of the weather report is in this case file.
7. I then researched the label for Headline AMP fungicide. The label stated, *“Do not apply this product in a way that will contact workers or other persons either directly or through drift”*.
8. On August 5, 2017, I received a report from the OISC residue lab. The report indicated high amounts of the active ingredients pyraclostrobin and metconazole were detected in the swab samples I collected from the top of the pool deck and from the complainant’s house. They were also detected in high amounts in the flag and trim samples I collected from the pool area. The following is a copy of the OISC residue lab report.

Case # 2017/1040			Investigator: B. Brewer	
Sample #	Sample Description	Sample Matrix	Amount Found (ng/clothing or ng/swab)	
			Pyraclostrobin	Metconazole
2017-334947	Flag and trim from complainants property	Cloth	460000 ng/item	98900 ng/item
2017-334948	Soil target	Soil	NA	NA
2017-334949	Vegetation target	Vegetation	NA	NA
2017-334950	Vegetation complainants	Vegetation	NA	NA
2017-334951	Trip blank	Swab	BDL	BDL
2017-334952	Control swab	Swab	26.5 ng/swab	12.6 ng/swab
2017-334953	Swab pool railing	Swab	4370 ng/swab	1460 ng/swab
2017-334954	Swab table top on pool deck	Swab	4210 ng/swab	759 ng/swab
2017-334955	Swab north side of house	Swab	180 ng/swab	52.2 ng/swab
2017-334956	Swab south side of house	Swab	12.3 ng/swab	2.34 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	0.2 ng/swab		
LOQ	Clothing	16 ng/clothing		
Signature			Date	8/5/17

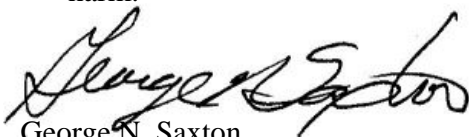
9. The results of the OISC residue lab report along with the wind direction at the time of the aerial pesticide application indicated there was off target pesticide drift onto the Colbert's property.



Robert D. Brewer  
Investigator

Date: September 7, 2017

**Disposition:** Jim Robinson 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 people. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was his first violation of similar nature. Consideration was also given to the fact there was potential for human harm.



George N. Saxton  
Compliance Officer

Draft Date: October 6, 2017  
Final Date: November 15, 2017

Cc: Detective Sergeant Aaron Harbstreit  
Davis County Sheriff's Department  
[aharbstreit@dcsheriff.com](mailto:aharbstreit@dcsheriff.com)

## CASE SUMMARY

Case #2017/1054

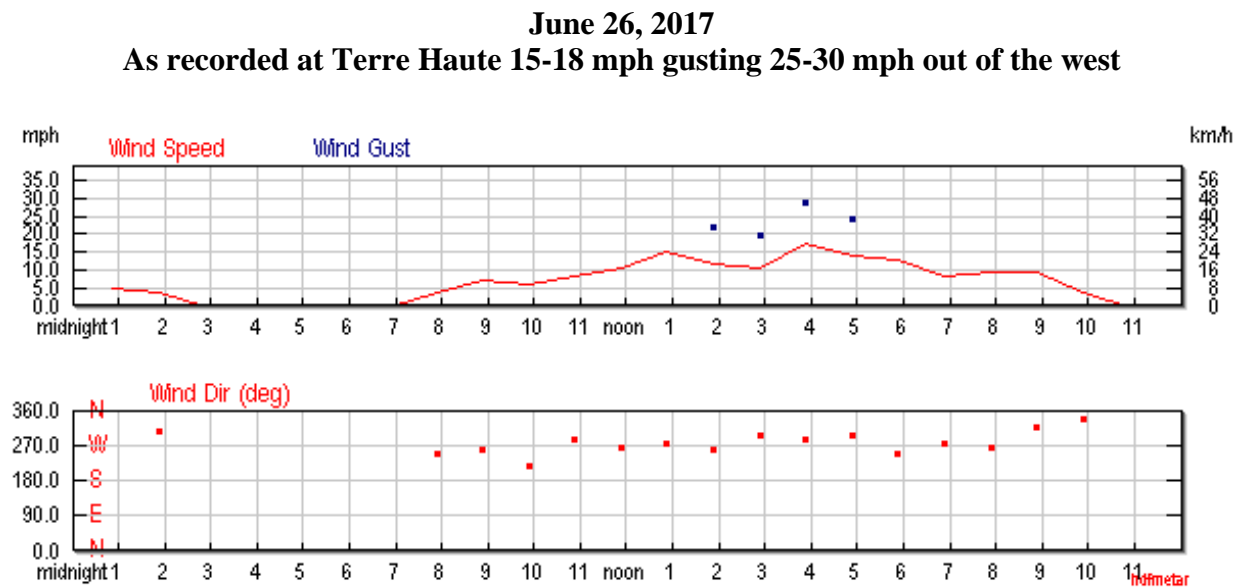
**Complainant:** Doug Trout  
6422 N 300 E  
Brazil, Indiana 47834  
812-986-2526 home  
812-605-1085 cell

**Respondent:** Neese Family Farms LLC  
Gary Neese  
5251 N. Candlestick Corner Road  
Center Point, Indiana 47840  
812-986-2301

Private Applicator

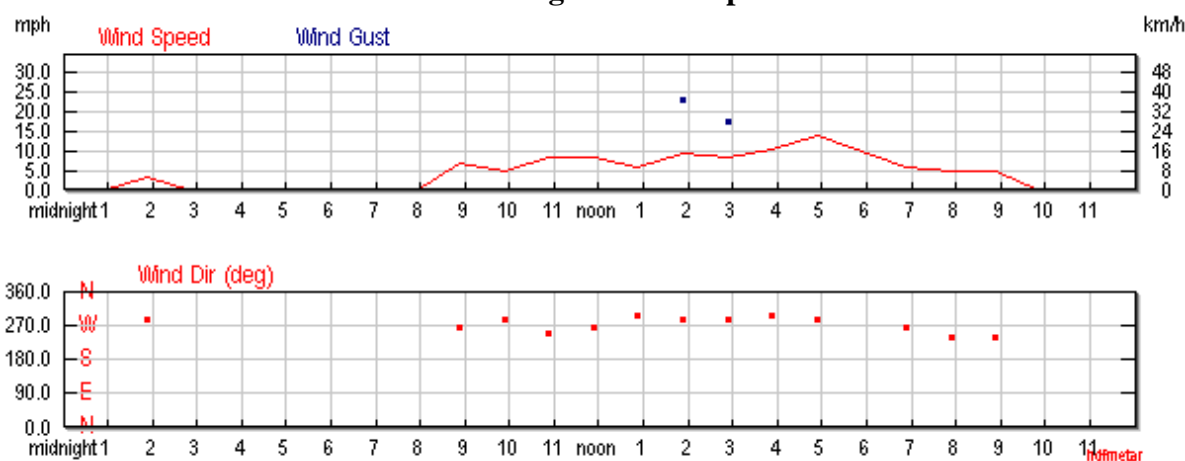
1. On July 19, 2017, the complainant contacted Investigator Kevin Neal of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
2. On July 21, 2017, I met with the complainant to conduct an on-site physical investigation of the alleged off-target pesticide movement incident reported to OISC. The complainant advised me that he believed his non-dicamba tolerant (DT) Liberty Link beans had been damaged by an application made by Mr. Neese to a nearby DT soybean field.
3. During my on-site investigation I did the following:
  - a) Looked for and did not observe another potential dicamba application made in the area adjacent to the impacted site.
  - b) Observed and photographed what I believed to be fairly uniform dicamba exposure symptoms (figure 1) throughout the complainant's non-target, non-DT soybean fields (figure 2) located to the north, west and east of the target fields. The target fields and the complainant's non-target fields were separated by a dirt lane from north to south 22 feet (figure 3) by a grass lane from east to west 18 feet (figure 4) and planted adjacent east and west. (figure 5)
  - c) Collected soybean plant samples from impacted areas of the complainant's non-target soybean fields for visual analysis by the Purdue Plant and Pest Diagnostic Lab (PPDDL).
  - d) Collected samples for chemical analysis by the OISC Pesticide Residue Laboratory from the following areas:
    - i) Impacted soybean plants from complainant's non-target soybean fields;
    - ii) Normal looking soybean plants from the target soybean fields.
  - e) Made a diagram/map of the investigation site, depicting locations of relevant fields, sample collection, roads, structures, and other landmarks (figure 6).
4. On September 30, 2017, I collected written records from the applicator Gary Neese. The written records and statements addressed the below items as follows:
  - a) Application dates & times: June 26, 2017 fields 2 and 3; from 3:30pm-5:00pm  
June 27, 2017 field 1; from 12:30pm-3:30pm

- b) Target field: soybean fields along County Road 550 N Center Point, Indiana in Eel River bottoms to the north, west and east of complainant's soybean fields;
  - c) Pesticides: Engenia (dicamba) EPA Reg. #7969-345 & Roundup PowerMax (glyphosate) EPA Reg. #524-549;
  - d) Application rate: 12.8 oz. per acre Engenia; one quart per acre PowerMax
  - e) Adjuvants: Class Act Ridion & AG16098;
  - f) Nozzles: TTI 11004
  - g) Boom height: brushing crop for 180 ft. end rows then 8-10 inches above out in fields
  - h) Ground speed: 4 mph on end rows 7-8 mph in field
  - i) Winds: June 26, 2017 5-12 out of the west;  
June 27, 2017 5-10 out of northwest
  - j) Applicator: Gary Neese;
  - k) Certified supervisor: not applicable;
  - l) Left a 110' untreated buffer next to non-target site: Had two road buffers one 60 ft. one probably 20 ft. on most of it but not all
  - m) Checked registrant's web site before application: no
  - n) Checked Field Watch before application: no
5. I searched wind data from [www.weatherunderground.com](http://www.weatherunderground.com) for zip code 47840 in Centerpoint, IN for the reported dates and times of the applications. The results of that search indicated that wind speeds and directions during the application were as follows:



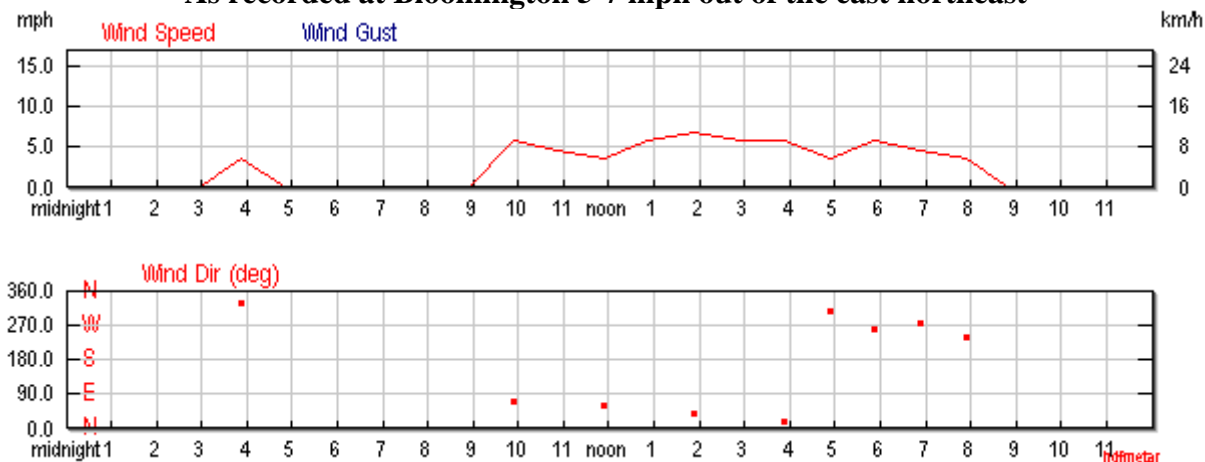
Terre Haute Wind Data 19 Miles West

**June 26, 2017**  
**As recorded at Bloomington 10-15 mph out of the west**



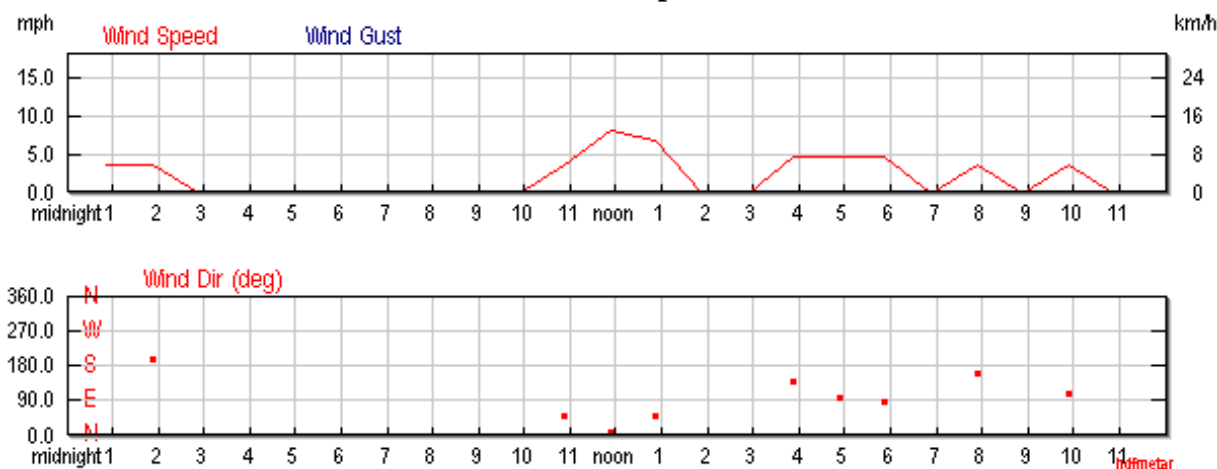
Bloomington Wind Data 33 Miles Southeast

**June 27, 2017**  
**As recorded at Bloomington 5-7 mph out of the east northeast**



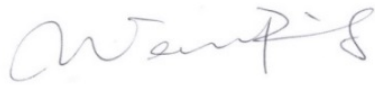
Bloomington Wind Data 33 Miles Southeast

**June 27, 2017**  
**As recorded at Terre Haute 5-7 mph out of the east northeast**



Terre Haute Wind Data 19 Miles West

6. The report from the PPPDL states, *“Cupping and puckering of new trifoliates is indicative of injury from dicamba.”*
7. The report from the OISC Pesticide Residue Laboratory states:

Case #	2017/1054			Investigator	K. Neal		
Sample #	Sample Description	Amount of Analyte (ppb)					
		Matrix	Dicamba	5-OH Dicamba	DCSA	Glyphosate	AMPA
2017-220648	Neese beans target F2	Vegetation	5.93	BDL	285	435	BDL
2017-220649	Trout beans F1	Vegetation	7.89	BDL	BQL	BDL	BDL
2017-220650	Neese beans target F1	Vegetation	22.1	BDL	*515	943	BDL
2017-220651	Neese beans target F3	Vegetation	BDL	BDL	399	589	BDL
2017-220652	Trout beans F2	Vegetation	BDL	BDL	BQL	BDL	BDL
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC							
* minimum concentration reported due to amount exceeding calibration curve.							
Application= 6/26/17 Sampling=7/21/17  Products applied=Engenia+Roundup							
LOQ (ppb)	Vegetation	1	2	1	25	25	
Signature				Date	9/22/2017		

8. The label for Engenia states,
  - *“DO NOT apply under circumstances where spray drift may occur to food, forage, or other plantings that might be damaged or the crops thereof rendered unfit for sale, use or consumption.”*
  - *“Wind speed” > 10 to 15 mph DO NOT apply Engenia when wind is blowing toward neighboring sensitive crops.”*
  - *“DO NOT tank mix any product with Engenia unless: You check the list of EPA approved products for use with Engenia at [www.engeniatankmix.com](http://www.engeniatankmix.com) no more than 7 days before applying Engenia;”*
  - *“The applicator must also consult sensitive crop registries to locate nearby sensitive areas where available.”*
9. The PPPDL report OISC residue lab report and the wind direction data suggest that dicamba from the application to the target fields moved off-target to the complainant’s non-target soybean field. The absence of any detectable glyphosate in the non-target soybeans, the 25 day period between application and sample collection, the higher water solubility of glyphosate compared to dicamba, and the significantly higher analytical limit of quantitation



of glyphosate as compared to dicamba, make it difficult to determine if the dicamba moved off target from direct particle drift, application during a temperature inversion, or volatility at some point after the application. Regardless, the wind direction data supports that the Engenia was applied when the wind was blowing toward the sensitive non-DT soybeans.



Figure One



Figure Two



Figure Three



Figure Four



Figure Five

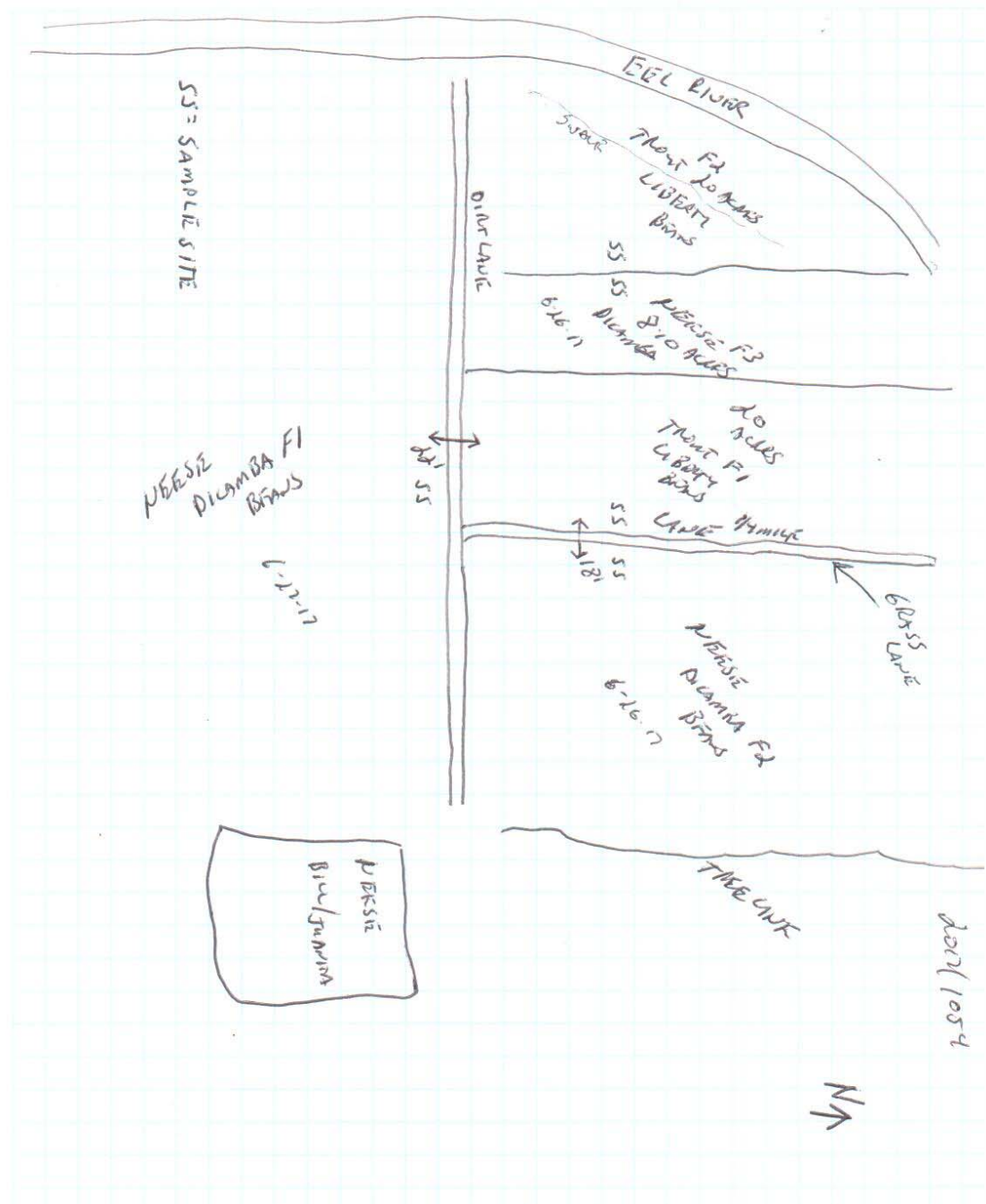


Figure Six

Kevin W. Neal  
Investigator

Date: October 6, 2017

**Disposition:** Gary Neese was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the checking of registrant's and sensitive areas websites.

Gary Neese was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$100.00 was assessed for this violation.

Consideration was given to the fact in a dicamba outreach memo dated February 21, 2017, the Indiana Pesticide Review Board urged OISC to apply the most stringent penalties available for these types of violations.

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

George N. Saxton  
Compliance Officer

Draft Date: December 20, 2017

Final Date: February 7, 2018

# CASE SUMMARY

Case #2017/1059

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

**Respondent:** Stephen Spurlock  
Spurlock Lawn Service  
1027 E 500 N  
West Lafayette, IN 47906  
765-427-7047

1. On June 21, 2017, I observed Mr. Spurlock making what appeared to me some sort of pesticide application at Johnson Realty 1215 Potter Drive in West Lafayette, Indiana.
2. I approached Mr. Spurlock and identified myself as an Investigator for OISC. I inquired as to whether he was licensed to apply pesticides and he advised that his license was in his vehicle. We went to his vehicle where he produced a Pesticide Business License issued by OISC. I asked him if he personally was credentialed. He stated that he was not but that the credentialed and certified applicator for Spurlock's Lawn Service was Cameron Campbell. I asked if we would be able to get in touch with Mr. Campbell, as he was not on site during the application being made by Mr. Spurlock. I was told that he was on vacation and that he may not answer his phone.
3. No contact was made with Mr. Campbell. I asked for Mr. Campbell's phone number so that I may contact him later and was given the number by Mr. Spurlock.
4. It was then determined that Mr. Spurlock was neither certified nor was he a registered technician.
5. Mr. Spurlock advised he was making an application of Signature Brand Fertilizer Dimension 0.1% plus fertilizer (EPA Reg. #62719-486-34704) active ingredient dithiopyr. See Figure One.

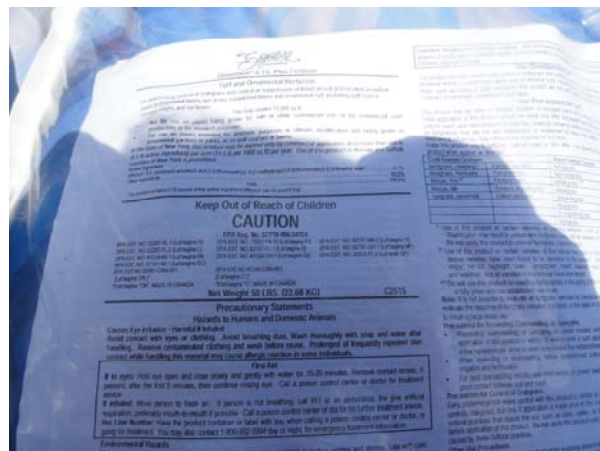
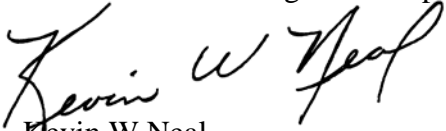


Figure One  
Page 1 of 2

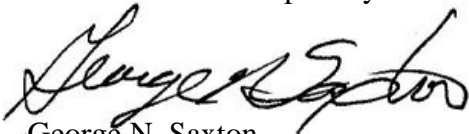
6. An Action Order was issued to Mr. Spurlock to *"cease all pesticide applications until credential and supervision requirements are met"*.
7. I then was able to contact Mr. Campbell the next day who advised that he had left Scurlock's Lawn Service sometime around the first week of March 2017, thereby invalidating the business license of Spurlock Lawn Service.
8. I contacted Mr. Spurlock requesting that he send me documentation for each and every pesticide and or fertilizer application he had made since the departure of Mr. Campbell from Spurlock's Lawn Service.
9. I had received no documentation from Mr. Spurlock and then on July 21, 2017, a letter was sent certified mail to Mr. Spurlock and Spurlock's Lawns Service requesting the documentation. The letter was signed for on July 26, 2017.
10. As of the writing of this report, the documentation still has not been received.



Kevin W Neal  
Investigator

Date: August 11, 2017

**Disposition:** Stephen Spurlock was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having a valid Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton  
Compliance Officer

Draft Date: September 28, 2017  
Final Date: November 15, 2017

## CASE SUMMARY

Case #2017/1077

**Complainant:** David Miller  
6368 W 300 N  
Rushville, Indiana 46173  
765-561-8072

**Respondent:** Jeff Dungan  
Dungan Aerial Service, Inc.  
4290 N. Co Rd. 450 W.  
Connersville, Indiana 47331  
765-969-2586

Certified Applicator

1. On July 24, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report aerial agricultural pesticide drift to his vehicle and property.
2. On July 26, 2017, I met with Mr. Miller at his residence. He stated on July 20, 2017 at approximately 5:30 pm, he was traveling northbound on CR 600 W, when an airplane making an aerial pesticide application was paralleling him as it made an application to the cornfield on the west side of the roadway. He stated as the airplane overtook him, he felt a mist on his left arm, as he had the window down and he observed spray on his windshield. Mr. Miller further stated the same airplane flew back and forth over his house as it was spraying the same field, which is located directly south of his residence. He stated he believed his property was drifted on as well. Mr. Miller then drove me to the location where he was in his truck when he felt the drift on his arm.
3. I took photographs of the area. I collected swab samples from a utility pole located along the west side of CR 600 W where Mr. Miller stated he was in his truck. I further collected swab samples from Mr. Miller's house and his wood burner located in front of his garage. I collected soil and vegetation samples from the target field and vegetation from Mr. Miller's property. All of the samples were labeled and submitted to the OISC residue lab. The following photographs show the location of the target field to the Miller residence.




4. I then contacted Heartland Co-op and learned the aerial pesticide application to the target field was made by Dungan Aerial Service, Inc. I made contact with Mr. Jeff Dungan of Dungan Aerial Service, Inc. and advised him of the complaint I had received. He stated he did make the aerial



pesticide application to the target field on July 20, 2017 between the hours of 5:19pm and 6:47 pm. He stated he applied Approach Prima fungicide EPA Reg. #352-883 with the active ingredients cyproconazole and picoxystrobin to the target field. I advised Mr. Dungan I would be sending a Pesticide Investigation Inquiry (PII) to him. Mr. Dungan received the PII, completed it and returned it to OISC. A copy of the PII is in this case file. The PII confirmed the information given to me by Mr. Dungan. The PII further indicated the winds at the time of the pesticide application were WSW at 7 knots. Mr. Dungan also supplied a copy of the Weather Underground website report from the Shelbyville, Indiana reporting station, which indicated the winds at the time of the application were WSW between 8.1 mph -10.4 mph.

5. I researched the Weather Underground website from the Rushville, Indiana reporting station for the wind and temperature conditions at the time of the applications at the same time Mr. Dungan had reported. The report indicated the winds were S at 8 mph. A copy of the weather report is in this case file.
6. On September 20, 2017, I received a report from the OISC residue lab. The report indicated both of the active ingredients found in Approach Prima fungicide were detected in the swab samples collected from the utility pole and Mr. Miller's house. The following is a copy of the OISC residue lab report.

**OFFICE OF INDIANA STATE CHEMIST**  
*Pesticide Residue Laboratory*  
*Lab Report*

Case # 2017/1077			Investigator: B. Brewer	
Sample #	Sample Description	Sample Matrix	Amount Found (ng/swab)	
			Cyproconazole	Picoxystrobin
2017-335001	Trip blank	Swab	BDL	Not tested
2017-335002	Control swab	Swab	1.49	Not tested
2017-335003	North side of house	Swab	1.18	Not tested
2017-335004	South side of house	Swab	15.0	Not tested
2017-335005	Swab wood burner	Swab	BDL	Not tested
2017-335006	Swab utility pole	Swab	26.2	Not tested
2017-335007	Soil target	Soil	Not tested	Not tested
2017-335008	Vegetation target	Vegetation	Not tested	Not tested
2017-335009	Vegetation complainant	Vegetation	Not tested	Not tested
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC				
LOQ (ng/swab)	Swab		0.2	Not tested
Signature			Date	9/20/17



7. I researched the label for Approach Prima fungicide. The label stated, *"Do not apply this product in a way that will contact workers or other persons, either directly or through drift". "Do not apply when wind speed favors drift beyond the area to be treated"*.
8. The results of the OISC residue lab along with the weather report, which indicated the winds were blowing in the direction of the Miller property and the statement from Mr. Miller showed the pesticide from the aerial pesticide application, did go off target and onto the Miller property.



Robert D. Brewer  
Investigator

Date: September 28, 2017

**Disposition:** Jeff Dungan was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow pesticide label directions regarding allowing the pesticide to contact people. A civil penalty in the amount of \$1,000.00 was assessed for this violation. Mr. Dungan's pesticide applicator certification was also suspended for a period of thirty (30) days. Consideration was given to the fact this was not his first violation of similar nature (see case number 2014/1210) and there was potential for human harm.



George N. Saxton  
Compliance Officer

Draft Date: November 30, 2017

Final Date: January 25, 2018

## CASE SUMMARY

Case #2017/1078

**Complainant:** Blaine Boyland  
118 Winding Way  
Lebanon, Indiana 46052  
765-483-0307


**Respondent:** Alfred Bell  
Chem Air LLC  
7545 Haygood Road  
Shreveport, Louisiana 71107  
318-424-8395

Certified Applicator

1. On July 24, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report aerial agricultural pesticide drift to his wife and his vehicle. He was asked about contaminated clothing we could have with the understanding he would not get it back.
2. On July 27, 2017, I met with Mr. Boyland and his wife Amy Boyland at their residence. Mrs. Boyland stated she was in her house working on the morning of July 24, 2017. She stated she heard what she thought was a helicopter flying continuously low over her house. She stated she thought it might have been a medical helicopter, as one flies over from time to time. She stated it continued so she went out into her driveway to see what was going on. She stated she saw a helicopter banking low over her and she felt a mist hit her. She stated she then realized it was spraying the cornfield directly north of her residence. She stated she went inside as the helicopter proceeded on down the cornfield. She stated she heard it return and since she felt it could be a violation, as low as the helicopter was flying, she went out to take a photograph of it. She stated as she again was standing in her drive attempting to take a photograph she felt the mist hit her again in the face and she could taste it on her lips. She stated she contacted her husband, who then contact OISC.
3. I obtained a written statement from Mrs. Boyland, which is in this case file. I asked Mr. Boyland if she had the clothing she was wearing at the time the mist hit her. She stated she did and she provided me with the shirt and shorts she was wearing, which she had placed in a bag. I asked if she had laundered the clothing and she stated she had not. I placed the clothing in a sealed bag, labeled it and submitted it to the OISC residue lab. I provided Mrs. Boyland the telephone number for the National Pesticide Information Center (NPIC) in the event she would wish to contact them regarding any human health hazards of the pesticides applied.
4. I collected soil and vegetation samples from the target field and vegetation samples from the complainant's property. I also collected swab samples from the complainant's house, a trailer and an electric box, next to where Mrs. Boyland showed me she was standing when she felt the spray mist. All of the samples were labeled and submitted to the OISC residue lab. I then took photographs of the area. Below are photographs of the area. The first showing the location where Mrs. Boyland was standing at the time she stated she was sprayed by the mist. The second photograph showing the location of the target cornfield from the Boyland residence.



5. I then contacted the farmer of the field and learned Crop Production Service (CPS) in Clarks Hill provided the pesticide applied to the target field. I contact CPS and spoke with Ms. Terri Dixon. She stated they provided the pesticide and Chem Air LLC made the aerial pesticide application to the target field. Ms. Dixon provided me with the Ag Sync application report from Chem Air LLC. The report indicated Chem Air LLC did make the aerial pesticide application on the morning of July 24, 2017 and the following pesticide products were applied:
  - Quilt Xcel fungicide EPA Reg. #100-1324 with the active ingredients propiconazole and azoxystrobin.
  - Tombstone Helios Insecticide EPA Reg. #34704-978 with the active ingredient cyfluthrin.
6. I then contacted Chem Air LLC and confirmed Mr. Alfred Bell was the certified aerial applicator that made the aerial pesticide application to the target field. I had a Pesticide Investigation Inquiry (PII) sent to Mr. Bell via certified mail. The PII was received and completed by Mr. Bart Alexander, Vice President of Chem Air LLC. The PII confirmed the information on the application report. The PII is in this case file.
7. On August 18, 2017, I received a report from the OISC residue lab. The report indicated the active ingredients propiconazole, azoxystrobin and cyfluthrin were detected in all of the swab samples collected and in the clothing collected from Mrs. Boyland at a high quantity. The following is a copy of the OISC residue lab report.

Case # 2017/1078			Investigator: B. Brewer		
Sample #	Sample Description	Sample Matrix	Amount Found (ng/swab or ng/clothing)		
			Propiconazole	Azoxystrobin	Cyfluthrin
2017-334971	Trip blank	Swab	BDL	BDL	BDL
2017-334972	Control swab	Swab	6.2	26.6	BDL
2017-334973	Swab from trailer	Swab	147	367	210
2017-334974	Swab north side of house	Swab	175	375	423
2017-334975	Swab south side of house	Swab	70.8	86.4	BQL
2017-334976	Swab electric box	Swab	339	578	2800
2017-334977	Mulch complt	Soil	Not Tested	Not Tested	Not Tested
2017-334978	Vegetation complt	Vegetation	Not Tested	Not Tested	Not Tested
2017-334979	Soil target	Soil	Not Tested	Not Tested	Not Tested
2017-334980	Vegetation target	Vegetation	Not Tested	Not Tested	Not Tested
2017-334981	Complts clothing	Clothing	30100*	59200*	150000
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC					
*minimum amount reported due to concentration exceeded calibration curve range.					
LOQ	Propiconazole = 0.2 ng/swab; 16 ng/cloth; Azoxystrobin = 0.2 ng/swab; 16 ng/cloth; Cyfluthrin = 100 ng/swab; 10000 ng/cloth				
Signature			Date	8/18/17	


8. I researched the labels for the pesticides Quilt Xcel fungicide and Tombstone Helios Insecticide. Both labels stated, *"Do not apply this product in a way that will contact workers or other persons, either directly or through drift"*.
9. The results of the OISC residue lab report indicate the active ingredients from the pesticides applied by Mr. Bell of Chem Air LLC to the target field, did spray onto Mrs. Boyland and the Boyland property.



Robert D. Brewer  
Investigator

Date: September 11, 2017

**Disposition:** Alfred Bell 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 people. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was his first violation of similar nature. Consideration was also given to the fact there was a potential for human harm.



George N. Saxton  
Compliance Officer

Draft Date: October 6, 2017  
Final Date: November 15, 2017

## CASE SUMMARY

Case #2017/1103

**Complainant:** Keith Telligman  
12564 N. BB Road  
Oaktown, Indiana 47561  
812-890-2711

**Respondent:** Edward L Huddleston  
Ed-Air, Inc.  
2253 E. Airport Road  
Oaktown, Indiana 47561  
812-745-2213

1. On July 31, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report aerial agricultural pesticide drift to his property, pool and to his wife. He stated he had photos of the drift.
2. On August 1, 2017, I met with Mr. Keith Telligman at his residence. He stated on July 30, 2017, at approximately 10:00 am, he and his wife heard an airplane making an aerial application to the soybean field directly to the east and south of their residence. He stated he was concerned as he has a turkey operation and the plane was flying over the turkey barns. He stated his wife Erica, went out to videotape the aerial application from the back deck. He stated she then moved into the back yard next to the swing set. He stated the airplane flew over the top of the playhouse, swing set and his wife while she was videotaping it from the north to the south. He stated she advised she felt a mist upon her arms. Mr. Telligman stated his wife notice a rash on her arms within a couple of hours of the application. Mr. Telligman showed me a photo of his wife's arm, which I observed had a rash on it. I advised him he should have his wife seek medical attention. I further provided him with the telephone number for the National Pesticide Information Center (NPIC).
3. I obtained written statements from both Mr. and Mrs. Telligman. In Mrs. Telligman's statement, she stated at approximately 10:00 am she and her son were sitting in the living room when a crop duster flew so close to their roof, *"it scared the tar out of them and shook parts of their house"*. She stated the aerial applications occur yearly. She stated she was standing in the children's play area filming as the airplane was approaching from the north to the south. She stated as the airplane got to her children's playhouse, the pilot opened the sprayer and sprayed her, the pool and all of the children's toys. She stated she immediately went in and took a shower and washed her clothing. She stated she called Ed Air to alert them as to what happened. She stated she was advised by the secretary, the pilots were out, but upon their return either Ed or Eddie Huddleston would call her. Mrs. Telligman stated after an hour or so each arm developed a red patch, which appeared to be a burn. She stated Eddie Huddleston called. She stated he asked her to send the video and photographs to him and she declined stating he could come to her house to see them. She stated Mr. Huddleston advised her if they needed to drain the pool, to get back with him and he would cover the


cost. She stated later that afternoon, she observed red spots on her left upper inner thigh. She stated the spots went away that evening. She stated she spoke to a nurse practitioner friend of hers who advised her to apply burn cream twice a day and to keep the marks covered. The written statements are in this case file.

4. I made contact with Ed Air, Inc. and spoke with Office Manager Paige Meredith. She advised me she was aware of the complaint. She advised me Edward L. Huddleston was the certified aerial applicator who made the aerial pesticide application. She provided me with the application record. The report indicated the following pesticide were applied during the aerial pesticide application. Priaxor Xemium fungicide EPA Reg. #7969-311 with the active ingredients pyraclostrobin and fluxypyroxad and Delta Gold insecticide EPA Reg. #264-1011-1381 with the active ingredient deltamethrin. I sent a Pesticide Investigation Inquiry (PII) to Ed-Air, Inc., which was received, completed and returned to OISC. The PII confirmed the information given to me in the application report. I spoke with Eddie Huddleston by telephone. He stated Mrs. Telligman called their office to make a complaint regarding an aerial pesticide application made to the soybean field next to her house and pool. He stated she stated the chemicals were sprayed into her pool and that she had a video of the occurrence. He stated he asked her to send the video to him; however, she declined stating she may want to save it for legal action. Mr. Huddleston advised me the Telligman's are related to the soybean field owner. He stated he was made aware there was a conflict between her family and the field owner. He stated he feels she was upset because she was not notified prior to the aerial application. He stated he advised her from that point on she would be notified by Ed-Air, Inc prior to any future aerial pesticide applications to the field around her property. Mr. Huddleston further stated he felt appropriate action was taken to avoid the house and the pool area by the certified aerial applicator. He stated several attempts were made by himself and representatives of Ed-Air, Inc to settle the situation. He stated he did not know she had contacted OISC until he received a telephone call from me. The PII is in this case file.
5. I took photographs of the area, showing the location of the swing set and pool in relationship to the target soybean field. I further collected soil and vegetation samples from the target field and vegetation samples from the area of the complainant's playhouse and vegetation samples from the location where Mrs. Telligman stated she was standing at the time she stated she was sprayed. I also collected vegetation samples from south of the turkey barns. I then collected swab samples from the swing set, the playhouse, the swimming pool and filter tank and the turkey barn. The following photographs show the location of the pool and swing set in relationship to the target field.



6. I researched the Weather Underground website for existing weather conditions at the time of the alleged aerial pesticide drift. The website indicated the winds at the time of the application were NNE between 5-8 mph and the temperature was 61-64 degree F. A copy of the weather report is in this case file.
7. On September 7, 2017, I received a report from the OISC residue lab. The report indicated elevated amounts of the active ingredient pyraclostrobin were detected in the vegetation sample I collected from the target field and the vegetation samples I collected from the complainant's property. The active ingredient was also detected in elevated levels from all of the swab samples I collected from the complainant's property. The following is a copy of the OISC residue lab report.

**OFFICE OF INDIANA STATE CHEMIST**  
*Pesticide Residue Laboratory*  
*Lab Report*

Case # 2017/1103			Investigator: B. Brewer		
Sample #	Sample Description	Sample Matrix	Amount Found (ng/swab or ppb)		
			Pyraclostrobin	Fluxapyroxad	Deltamethrin
2017-335040	Trip blank	Swab	BDL	Not tested	Not tested
2017-335041	Control swab	Swab	17.6	Not tested	Not tested
2017-335042	Swab swing set	Swab	77.5	Not tested	Not tested
2017-335043	Swab playhouse east side	Swab	536	Not tested	Not tested
2017-335044	Swab playhouse south side	Swab	465	Not tested	Not tested
2017-335045	Swab playhouse north side	Swab	503	Not tested	Not tested
2017-335046	Swab turkey barn south side	Swab	124	Not tested	Not tested
2017-335047	Swab swimming pool	Swab	471	Not tested	Not tested
2017-335048	Swab pool filter tank	Swab	401	Not tested	Not tested
2017-335049	Soil target	Soil	Not tested	Not tested	Not tested
2017-335050	Vegetation target	Vegetation	1090 *	Not tested	Not tested
2017-335051	Vegetation complainant around playhouse	Vegetation	254	Not tested	Not tested
2017-335052	Vegetation complainant (where complainant was standing)	Vegetation	764 *	Not tested	Not tested
2017-335053	Vegetation by complainant turkey barn	Vegetation	39.3	Not tested	Not tested
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC					
*minimum concentration reported due to amount exceeding calibration curve range.					
LOQ	Swab	Pyraclostrobin = 0.2 ng/swab			
LOQ	Vegetation	Pyraclostrobin = 0.7 ppb			
Signature			Date	09/07/17	



8. I researched the label for Priaxor fungicide. The label states *“Do not apply under circumstances where possible drift to unprotected persons can occur” Do not apply when wind speed favors drift beyond the area intended for treatment”*.
9. The results of the OISC residue lab report, along with the weather report indicating the winds were blowing towards the complainant’s property, indicate off target drift did occur from the aerial pesticide application.



Robert D. Brewer  
Investigator

Date: September 15, 2017

**Disposition:** Edward L Huddleston was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was his first violation of similar nature. Consideration was also given to the fact there was potential for human harm.



George N. Saxton  
Compliance Officer

Draft Date: October 12, 2017  
Final Date: November 30, 2017

## CASE SUMMARY

Case #2017/1152

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

**Respondent:** Lawrenceburg Community School Corporation  
Karl Gale Superintendent  
John Ferguson Maintenance Director  
300 Tiger Blvd  
Lawrenceburg, IN 47025  
812-537-7201

B&B Scapes Not Licensed  
Bryant Dold Not Licensed  
1096 Hollyhedge Ln  
Lawrenceburg, IN 47025  
503-833-7351

Team All Sports Not Licensed  
Sean Rogers Not Licensed  
9740 Cincinnati Dayton Rd  
W. Chester, OH 45869  
513-623-2356

Pest Prevention Svcs Inc. Licensed Business  
Tony Montgomery Licensed Applicator  
2660 E. Signer Hill Rd  
Versailles, IN 47042  
812-667-7395

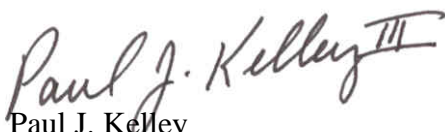
1. On September 6, 2017, I performed a routine school inspection with John Ferguson, Maintenance Director for the Lawrenceburg Community School Corporation. Mr. Ferguson stated Tony Montgomery of Pest Prevention Services, Inc. performed general pest control services for the buildings. Mr. Ferguson was able to provide records of applications performed by Pest Prevention Services, Inc. I found the records to be mostly in order. Compliance Assistance was rendered for minor paperwork omissions after speaking with Mr. Montgomery. Further discussion with Mr. Ferguson revealed the two companies hired to maintain turf areas and sports fields were not licensed with OISC.
2. B&B Scapes, owned by Bryant Dold performed two (2) applications by applying glyphosate to fencerows on April 4, 2017, and July 24, 2017. Mr. Dold and B&B Scapes were issued and Action Order to stop making for-hire pesticide applications without a license from OISC.

3. Team All Sports, owned by Sean Rogers made pesticide applications to school property on the following dates;

3/3/15	5/21/15	8/26/15	10/27/15	3/23/16	5/11/16
10/7/16	11/16/16	3/29/17	5/26/17	9/14/17	

Application records were submitted by Mr. Rogers.

4. On September 6, 2017, I met with Karl Galey, Superintendent. Mr. Galey stated the corporation does not send out correspondence annually to students and facility to have an opportunity to have their contact information placed on a pesticide registry.



Paul J. Kelley  
Investigator

Date: October 30, 2017

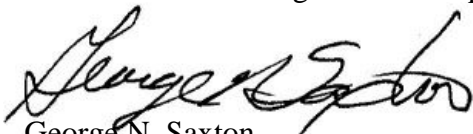
**Disposition:** Lawrenceburg Community School Corporation was warned for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-16-8, for failure to offer a pesticide notification registry.

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

B&B Scapes and Bryant Dold were cited for two (2) counts of 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.

Team All Sports and Sean Rogers were cited for eleven (11) 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 \$2,750.00 (11 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$2,062.50. Consideration was given to the fact Team All Sports cooperated during the investigation.

Team All Sports and Sean Rogers were cited for eleven (11) counts of 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.



George N. Saxton  
Compliance Officer

Draft Date: December 19, 2017  
Final Date: February 15, 2018

## CASE SUMMARY

Case #2017/1155

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

**Respondent:** Get Stockpiled  
Branden Labiak  
982 S. Marr Road  
Columbus, IN 47201  
812-378-2772  
Manager

**Registrant:** Cedarcode.com  
Matt Jones  
PO Box 324  
Lewisville, TX 75067

1. On September 6, 2017, I performed a marketplace inspection at Get Stockpiled located at 982 S. Marr Rd. Columbus, Indiana. I spoke with the manager Branden Labiak and informed him of the process of the marketplace inspection. OISC was notified by a customer of Get Stockpiled that a pesticide product called Cedarcode was located and he did not believe it was registered. Sarah Caffery, OISC Registration Section, notified me that Cedarcode was not a registered pesticide product in Indiana. I informed Mr. Labiak of this information and that I was looking for Cedarcode. He informed me that it was still for sale in the store and is the only pesticide product in the store.
2. Upon completion of the inspection, I located one (1) unregistered pesticide product, Cedarcode, offered for sale in the Get Stockpiled store. The product was as follows
  - a. Cedarcode Original (25b minimum risk pesticide)
3. I spoke with Mr. Labiak and informed him of the unregistered product I had located. I informed Mr. Labiak that I would be issuing an Action Order to the store and that I would be retaining an evidentiary sample of the product for my case. I went on to explain to Mr. Labiak that the Action Order instructs them to remove the unregistered pesticide products from the shelves and place them in storage not to be sold or removed from the store until contacted by OISC by letter. I asked Mr. Labiak when the store last received the product and he informed me that Cedarcode Original was last received in April 2017.
4. On September 8, 2017, I delivered the evidentiary sample to the Formulation Lab as a documentary sample only.

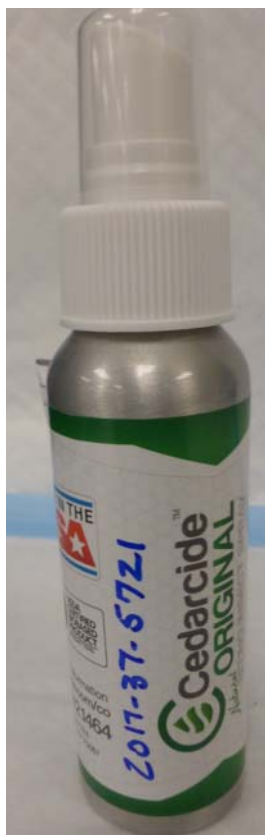


Fig. 1 Sample of Cedarcide Original

Garret A. Creason  
Investigator

Date: October 4, 2017

**Disposition:** After a label review by the Registration Section, it was discovered that:

Label Review:

- Label is missing the following sections:
  - o Directions for Use Section
    - Including how to use with children
    - Areas of the body to avoid (on people or animals)
    - Statement similar to “prolonged or frequently repeated skin contact may cause allergic reactions in some individuals” should be included
  - o Storage and Disposal
  - o Keep Out of Reach of Children and Signal Word
  - o First Aid Statement
- Label does not include the company name
  - o “cedarcide.com/co” is listed above the 800 number
  - o Cedarcide.com is missing from the address block
- Ingredient Statement
  - o Inert Ingredient heading must be the same font/boldness as the Active Ingredient heading

- Label does not include “TOTAL INGREDIENTS....100%”
- Upon review of the USDA BioPreferred site,  
<https://www.biopreferred.gov/BioPreferred/faces/catalog/Catalog.xhtml> on 10/5/17 at 8:57am,  
Cedarcide Original is not listed
  - Therefore, the product is considered false and misleading

Cedarcide was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product in 2017 that was not registered in the state of Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation.

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



George N. Saxton  
Compliance Officer

Draft Date: December 20, 2017  
Final Date: February 7, 2018

## CASE SUMMARY


Case #2017/1213

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

**Respondent:** Hillcrest Golf & Country Club  
Omar Diaz Unlicensed Applicator  
850 N. Walnut Street  
Batesville, IN 47006  
812-934-3401

1. On August 16, 2017, I conducted an inspection at Hillcrest Golf & Country Club. I encountered Omar Diaz on the course making an application to the golf course. Mr. Diaz stated the superintendent, Mark Powers, was his supervisor and he was licensed. I attempted to locate Mr. Powers at the course; however, he was not on-site. A check of OISC's database indicated Mark Powers has a license for a for-hire business (Turf Care Solutions LLC) but does not have a license for Hillcrest Golf & Country Club. Furthermore, Mr. Diaz is an employee of Hillcrest Golf & Country Club not Turf Care Solutions LLC. Mr. Diaz stated he believed he was covered by Mr. Power's license and was doing his normal duties.
2. I spoke with Mr. Powers by telephone and explained the licensing issue. I informed Mr. Powers I had photographed the golf courses spray record for 2017. I informed Mr. Powers to provide a copy of 2016's application records for Hillcrest Golf & Country Club. Mr. Powers has not provided the 2016 records as of this time.
3. Mr. Diaz was issued an Action Order to stop making pesticide applications at Hillcrest Golf & Country Club until licensed by OISC.
4. Omar Diaz made pesticide applications at Hillcrest Golf & Country Club without a license on the following dates:

3-23-17	4-3-17	4-4-17	4-13-17	4-20-17	4-26-17
5-1-17	5-3-17	5-17-17	5-27-17	5-29-17	6-5-17
6-5-17	6-16-17	6-17-17	6-26-17	6-29-17	7-3-17
7-5-17	7-10-17	7-12-17	7-13-17	7-17-17	7-19-17
7-24-17	8-2-17	8-14-17	8-15-17		

  
Paul J. Kelley  
Investigator

Date: September 29, 2017



## **DISPOSITION:**

- A. Hillcrest Golf & Country Club was cited for twenty-eight (28) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticides to a golf course without having a certified applicator. A civil penalty in the amount of \$7,000.00 (28 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$4,200.00. Consideration was given to the fact corrective action was taken (Mr. Powers became licensed with the golf course on August 23, 2017); there was a good-faith effort to comply and no restricted use pesticides were involved.
- B. On January 3, 2018, Jan Santerre, General Manager, called and explained that she has had a turnover in personnel and is making an effort to come into compliance. As a result of our discussion, it was determined the civil penalty would be further reduced further to \$2,450.00. Consideration was also given to the fact Hillcrest Golf & Country Club was trying to cooperate and come into compliance.



George N. Saxton  
Compliance Officer

Draft Date: January 22, 2018  
Final Date: February 22, 2018

## CASE SUMMARY

Case #2017/1218

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

**Respondent:** Raft to Rafters  
Matthew Miller President  
5780 25th Street  
Columbus, IN 47203  
812-372-7983

**Registrant:** Raft to Rafters  
5780 25th Street  
Columbus, IN 47203  
812-372-7983

**Registrant:** Softub, Inc.  
305 Nash Road  
New Bedford, MA 02746

**Registrant:** Essentials  
5070 Wallace Drive  
Cumming, GA 30041

1. On August 21, 2017, I performed a routine marketplace inspection at Raft to Rafters located at 5780 25th Street, Columbus, Indiana 47203. I spoke with the president of the company Matthew Miller and informed him of the process of the marketplace inspection.
2. Upon completion of the inspection, I located three (3) unregistered pesticide products that were being offered for sale in the Raft to Rafters store. I could not locate product registrations on the National Pesticide Information Retrieval System (NPIRS) for any of the pesticide products. I then contacted Ed White, Assistant Pesticide Administrator, and he was able to confirm that the pesticide products had no valid registration. The products were as follows:
  - a. Soft Care Chlorinating Granules, EPA Reg. #48520-23-62852
  - b. Raft to Rafters Concentrated Granular, EPA Reg. #7124-31-54524
    - i. 4lbs and 50lbs containers
  - c. Raft To Rafters Quick Tabs, EPA Reg. #7124-37-54524
    - i. 4lbs, 10lbs, and 25lbs containers

3. I spoke with Mr. Miller and informed him of the unregistered pesticide products I had located. Mr. Miller informed me that he purchased the business in 2012 and assumed that the Raft to Rafters brand was registered properly. He went on to inform me that Alden Leeds manufactures the Raft to Rafters Brand and thought that they took care of all the registration. I informed Mr. Miller that I would be placing the unregistered pesticide products under Stop Sale or Removal Order and that I would be retaining an evidentiary sample of the products for my case. I went on to explain to Mr. Miller that the Stop Action Order instructs them to remove the unregistered pesticide products from the shelves and place them in storage not to be sold or removed from the store until contacted by OISC by letter.
4. On August 21, 2017, I placed the unregistered pesticide product listed above under Stop Sale or Removal Order.
5. On August 25, 2017, I delivered the evidentiary samples to the Formulation Lab.
6. Ultimately, Raft to Rafters Concentrated Granular, EPA Reg. #7124-31-54524 and Raft To Rafters Quick Tabs, EPA Reg. #7124-37-54524 were registered for distribution in Indiana.
7. After further review, it was determined that Softcare Chlorinating Granulars, EPA Reg. #48520-23-62852 was misbranded in that the company number "62852" is the company number for:

Essentials  
5070 Wallace Drive  
Cumming, Georgia 30041

However, the responsible company on the label of the product is listed as:

Softub  
305 Nash Road  
New Bedford, MA 02746

for which the EPA company number is 74157.



Garret A. Creason  
Investigator

Date: September 17, 2017

**Disposition:** Essentials was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that was misbranded. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton  
Compliance Officer

Draft Date: November 21, 2017  
Final Date: January 25, 2018

## CASE SUMMARY

Case #2017/1223

**Complainant:** Robert DeBoer  
7302 S SR 62  
Lexington, Indiana 47138  
812-866-5888


**Respondent:** Jack Olds  
Over & Under Flying Service  
3930 W IMS Lane  
Madison, Indiana 47250  
812-265-4232

1. On August 23, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report aerial agricultural pesticide drift to him and his livestock.
2. On August 24, 2017, I met with Mr. DeBoer at his residence. He stated on August 23, 2017 at approximately 10:00 am he heard an airplane go over his business and he stated it sounded low as if it was in trouble. He stated he went outside and observed a "crop duster" going very low over his house, which is just north of his business. He stated he walked towards his house, as the airplane appeared to be spraying the cornfield directly north of his property. He stated he observed the airplane begin spraying early before reaching the cornfield. He stated the spray hit his calves and horse, which were in the lot between his house and the cornfield. Mr. DeBoer stated the airplane circled around and came over another pass. He stated he walked over toward his Quonset hut, where his pigs were. He stated he began waving his arms to deter the airplane from spraying his property. He stated he then felt a mist hit him and felt it got onto his Quonset hut as well. He stated he called the Madison county airport in an attempt to find out who made the application and what was applied. He stated he tasted a chemical taste and was coughing. He stated at approximately 11:00 am, a man called him stating he had made the aerial application to the cornfield. He was advised the man applied Trivapro fungicide to the field and was told he would be fine. He stated he then called OISC and bagged up his shirt, which he was wearing at the time he was sprayed. I obtained a written statement from Mr. DeBoer, which is in this case file
3. I made some contacts and learned Mr. Jack Olds of Over & Under Flying Service had made the aerial pesticide application to the target cornfield. I made contact with Mr. Olds and advised him of the complaint. He stated he had made contact with Mr. DeBoer. Mr. Olds advised me he had applied Trivapro fungicide EPA Reg. #100-1613 with the active ingredients azoxystrobin and propiconazole. Mr. Olds stated, *"he knows how it works and he will be getting a letter and a fine in the mail"*. I advised him I was conducting an investigation regarding a possible off target drift and alleged human exposure. I advised him I would be sending a Pesticide Investigation Inquiry (PII) to him of which he needed to complete and return to me. Mr. Olds received the PII, completed it, and returned it to OISC.
4. I then took photographs of the area and collected soil and vegetation samples from the target field and vegetation samples from the complainant's property including vegetation samples from the location Mr. DeBoer showed me he was standing at the time he stated he was sprayed. I collected swab samples from his house, his pole barn where his calves and horse were located, from the Quonset hut where the pigs

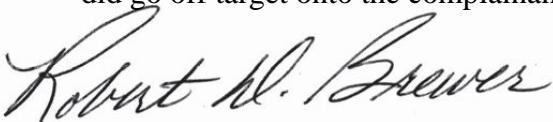
were and from a tree next to where Mr. DeBoer stated he was standing. I also collected the shirt Mr. DeBoer was wearing at the time he stated he was sprayed. All of the samples were labeled and submitted to the OISC residue lab. The following photographs show the location of the target cornfield in relationship to the DeBoer property.



5. I research the Weather Underground website for weather conditions at the date and time of the aerial pesticide application. The website indicated the winds were WNW at 0 mph. A copy of the weather report is in this case file.
6. On September 7, 2017, I received a report from the OISC residue lab. The report indicated high quantities of both active ingredients found in Trivapro fungicide were detected in all of the swab samples collected from the DeBoer property. In addition, very high quantities of the same active ingredients were detected in the shirt samples collected from Mr. DeBoer. The following is a copy of the OISC residue lab report.

Case # 2017/1223			Investigator: B. Brewer	
Sample #	Sample Description	Sample Matrix	Amount Found (ng/swab or ng/clothing)	
			Azoxystrobin	Propiconazole
2017-33-5126	Trip Blank	Swab	BDL	BDL
2017-33-5127	Control swab	Swab	1240 ng/swab	1090 ng/swab
2017-33-5128	Swab south side of house	Swab	29.6 ng/swab	14.3 ng/swab
2017-33-5129	Swab north side of house	Swab	660 ng/swab	638 ng/swab
2017-33-5130	Swab south side of pole barn	Swab	362 ng/swab	327 ng/swab
2017-33-5131	Swab of North side of pole barn	Swab	14800 ng/swab	11500 ng/swab
2017-33-5132	Swab Quanset hut	Swab	11000 ng/swab	8030 ng/swab
2017-33-5133	Swab tree next to where complt was standing	Swab	854 ng/swab	414 ng/swab
2017-33-5134	Soil target	Soil	Did not test	Did not test
2017-33-5135	Vegetation target	Vegetation	Did not test	Did not test
2017-33-5136	Complainant shirt	Clothing	148000 ng/Clothing	169000 ng/Clothing
2017-33-5137	Vegetation where complt was standing	Vegetation	Did not test	Did not test
2017-33-5138	Vegetation complt's property	Vegetation	Did not test	Did not test
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				
*results exceeded calibration curve range and reported as minimum concentration found.				
LOQ =1 ng/swab or 50 ng/clothing for both analytes				
Signature			Date	9/7/17

7. I then researched the label for Trivapro fungicide. The label stated, *“Do not apply this product in a way that will contact workers or other persons, either directly or through drift”*.
8. The OISC residue lab report indicates pesticide from the aerial pesticide application to the target field, did go off target onto the complainant's property and person.

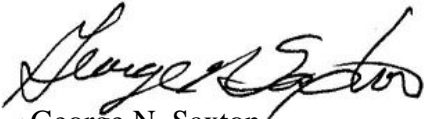


Robert D. Brewer  
Investigator

Date: September 28, 2017

**Disposition:**

- A. Jack Olds 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 people. A civil penalty in the amount of \$500.00 was assessed. In addition, his applicator certification was suspended for a period of thirty (30) days. Consideration was given to the fact this was his second violation of similar nature and there was potential for human harm. See case number 2015/0881.



George N. Saxton  
Compliance Officer

Draft Date: December 14, 2017  
Final Date: January 25, 2018

## CASE SUMMARY

**Case #2017/1276**

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

<b>Respondent:</b>	Lanny Farmer	Unlicensed
	S&J Lawncare	Unlicensed
	2966 Porterfield	
	Richmond, Indiana 47374	
	765-969-4860	

1. On September 25, 2017, an anonymous complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report S&J Lawncare making for-hire pesticide applications to lawns and parking lots without having an Indiana pesticide business license. Anonymous stated S&J Lawncare was applying pesticides at:

- i. “Power Train” on US 40;
- ii. Camp World on NW 5<sup>th</sup> St.;
- iii. Gateway Mall;
- iv. Old “Ravenna” Mall;
- v. Petro Truck Stop on US 40.

2. On September 28, 2017, I met with Lanny Farmer. Mr. Farmer admitted to making applications using Pronto (EPA Reg. #42750-61-2217, active ingredient glyphosate) on three (3) different days at the following locations:


Camping World  
2250 Williamsburg Pike  
Richmond, IN 47374

Old Revenna Mall  
No address available  
Richmond, IN 47374

Gateway Shopping Plaza  
4575 E. Main Street  
Richmond, IN 47374

3. Mr. Farmer signed an affidavit attesting to his applications.

4. Furthermore, I issued Mr. Farmer an Action Order to stop making for-hire pesticide applications without a license from OISC.

without a license from OISC.  
  
 Paul J. Kelley  
 Investigator

Date: September 28, 2017

**Disposition:** Lanny Farmer was cited for three (3) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$750.00 (3 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$562.50. Consideration was given to the fact Mr. Farmer cooperated during the investigation.

George N. Saxton  
Compliance Officer

Draft Date: December 1, 2017  
Final Date: January 25, 2018