

A Summary of Cases

January 3, 2019

2016/0566 On March 1, 2016, I conducted a routine marketplace inspection at Ace Hardware, located at 5979 Central Avenue, Portage, Indiana. I spoke to and issued a Notice of Inspection (NOI) to Manager, Steve Thorne, and explained the nature of my visit. During my inspection, I discovered three (3) pesticide products that were not registered for sale, use or distribution in the state of Indiana.

Disposition:

A. Lynwood Laboratories, Inc. was cited for five (5) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide that was not registered in Indiana. A civil penalty in the amount of \$1,250.00 (5 counts x \$250.00 per count) was assessed.

- Shoo-fly Hornet Wasp Jet-Bomb II for 2015 and 2016;
- Shoo-fly Screen & Surface Insect Spray for 2014, 2015 and 2016

B. United Pet Group, Inc. was cited for two (2) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide that was not registered in Indiana. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed.

- Natures Miracle No-Chew Bitter Taste Spray for 2015 and 2016

C. On October 20, 2017, the Registration Section of OISC notified me that Lynwood Laboratories, Inc. registered their pesticide products for past years and paid late fees. Due to their corrective action, the civil penalty assessed to them was waived.

2016/0651 On March 30, 2016, I conducted a pesticide use at golf courses inspection at the above named facility and spoke with Mr. Sella.

DISPOSITION:

A. Mink Lake Golf Course was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticides to a golf course without having a pesticide certification.

B. Mink Lake Golf Course was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-4, for failure to keep mandatory pesticide application records at a golf course.

C. Mink Lake Golf Course was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for violating two (2) Stop Action Orders.

D. Because Mink Lake Golf Course has refused to comply with the Orders of the Office of Indiana State Chemist, the Porter County Prosecutor's Office was contacted regarding the possibility of obtaining an injunction under I.C. 15-16-5-69(c) prohibiting Mink Lake Golf Course from applying pesticides to the golf course until proper certification is obtained. See OISC case investigations 2010/1185 and 2015/1251.

E. On April 29, 2016, Prosecuting Attorney 67th Judicial Circuit of Indiana, Brian Gensel, forwarded an email dated April 28, 2016, from Robert Taylor, Porter County Prosecutors

Investigator. In the correspondence, Investigator Taylor stated Don Stella is “*without money*” and “*would not be applying anymore chemicals*”. Furthermore, Investigator Taylor stated, “*No further action taken by me and Mr. Stella was cooperative and admitted he was wrong in his past practice of applying chemicals*”.

F. Mink Lake Golf Course was cited for one (1) count 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 pesticide certification. A civil penalty in the amount of \$500.00 was assessed. Mink Lake Golf Course was cited for one (1) count of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-4, for failure to keep mandatory pesticide application records at a golf course. A civil penalty in the amount of \$500.00 was assessed. And Mink Lake Golf Course was cited for two (2) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law for violating two (2) Stop Action Orders. A civil penalty in the amount of \$1,000.00 was assessed. See OISC case investigations 2010/1185 and 2015/1251. Though this was Mink Lake Golf Course and Don Stella’s third offense in six (6) years, consideration was given to the fact this is Mink Lake Golf Course second offense in a five (5) year period. Therefore, a civil penalty in the amount of \$2,000.00 was assessed.

G. As of December 2, 2016, Mink Lake Golf Course & Park had not paid the civil penalty from case 2015/1251.

H. As of September 25, 2018, Mink Lake Golf Course & Park had not paid the civil penalty on this case. The case was forwarded to the Indiana Attorney General for collection.

2016/0845

On April 8, 2016, the Certification and Licensing section contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Richard Bruce Grimes was not licensed but information was received that he was making for-hire pesticide applications. The OISC database indicated Mr. Grimes received his license on May 24, 2016. The allegation was that he was making for-hire pesticide applications before that date.

Disposition: Richard Bruce Grimes was cited for nine (9) 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 \$2,250.00 (9 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$562.50. Consideration was given to the fact Mr. Grimes cooperated during the investigation; corrective action was taken; a good faith effort and no restricted use pesticides were involved.

2016/1110

On, August 4, 2016, Agent Rosch and I, of the Office of Indiana State Chemist (OISC), observed a subject make what appeared to be a pesticide application to a lawn located at 4659 S. US 421 in Francisville, Indiana.

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

As of September 25, 2018, Gregory Mijares had not paid the civil penalty. The case was forwarded to collections.

2016/1117 On August 26, 2016, the Office of Indiana State Chemist (OISC) received a complaint regarding an unlicensed pesticide application company. Nate Richardson, president of Coeus Technologies stated a former employee, Tony Annee, was making pesticide applications for current Coeus customers.

Disposition: David Parker and Anthony Annee were 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. David Parker and Anthony Annee were cited for violation of section 65(16) of the Indiana Pesticide Use and Application Law for knowingly purchasing and/or using a pesticide that was not registered under I.C 15-16-4. A civil penalty in the amount of \$250.00 was assessed. The total amount of civil penalty assessed in this investigation is \$1,000.00.

2016/1190 On September 14, 2016, Agent Brian Baker of the Office of Indiana State Chemist conducted a Market Place Inspection of the Rural King store in Terre Haute Indiana.

Disposition: Rural King was cited for two (2) counts of violation of section 57(4) of the Indiana Pesticide Registration Law for offering for sale a pesticide a product that did not have a label with the required information. A civil penalty in the amount of \$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 there was potential for human harm, but Rural King cooperated during the investigation. As of September 25, 2018, Rural King had not paid the civil penalty. The case was forwarded to collections.

2017/0124 On, May 22, 2016, the Certification and Licensing Manager of the Office of Indiana State Chemist (OISC) sent a letter to Christopher Eisenhut advising him his certification expired December 31, 2015, invalidating his Wood Destroying Inspector license. Mr. Eisenhut did not respond.

Disposition: As of February 22, 2017, Christopher Eisenhut's Facebook page still lists him as a "termite inspector". Christopher Eisenhut was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for professing to be in the business of making diagnostic pest inspections without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation. As of September 25, 2018, Christopher Eisenhut had not paid the civil penalty. The case was forwarded to collections.

2017/0351 On February 13, 2017, Agent Brian Baker of OISC initiated a New Business Inspection for the Respondent in this case. I made contact with Josh Savage at the Emerson Access address only to find that his company, Environmental Restoration, shared the building with Full Care of Indy. Mr. Savage was able to show me the shared shop and storage area and he assisted me in getting in touch with the Management at Full Care of Indy to

complete the full inspection. I left my card with Mr. Savage and within a day, I received a call from Mr. Darren Gerlach. A meeting was set for February 22, 2017 at 10 am.

Disposition: Full Care of Indianapolis was cited for thirteen (13) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$3,250.00 (13 x \$250.00 per count) was assessed for these violations. However, the civil penalty was reduced to \$975.00. Consideration was given to the fact Full Care of Indianapolis cooperated during the investigation; corrective action was taken; there was no previous history of similar nature and no restricted use pesticides were involved. Full payment of \$975.00 was received on August 15, 2018.

2017/0425

On January 31, 2017, I conducted a school inspection at the Franklin County School Corporation in Brookville, IN. During the inspections, I learned from Mr. Dennis Brown, Director of Maintenance, that the school corporation had contracted Mr. John Wells of Fresh Start Lawn Services to make pesticide applications to the lawns on the school properties in 2016. I checked the OISC database and found John Wells was not licensed as a certified pesticide applicator in the state of Indiana. I also found Fresh Start Lawn Services was not licensed as a pesticide business in Indiana. Mr. Brown provided me with the invoice records of the pesticide applications made by Mr. Wells and Fresh Start Lawn Services in 2016. These records are in this case file.

Disposition: John Wells and Fresh Start Lawn Services were cited for seven (7) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-16-4, for applying pesticides at a school without having a pesticide certification. John Wells and Fresh Start Lawn Services were 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 an Indiana pesticide business license. Fresh Start Lawn Services was assessed a civil penalty in the amount of \$1,750.00 (7 counts x \$250.00 per count). However, the civil penalty was reduced to \$1,312.50. Consideration was given to the fact Mr. Wells cooperated during the investigation. However, consideration was also given to the fact the pesticide applications were made at a school. As of September 25, 2018, John Wells had not paid the civil penalty. The case was forwarded to the Indiana Attorney General for collection.

2017/0426

On January 31, 2017, I was conducting a school inspection at the Franklin County School Corporation in Brookville, IN. During my inspection, I learned the school corporation had hired Wells Scapes for the lawn care at all of the corporation schools in 2015. I spoke with Mr. Dennis Brown, Director of Maintenance and he advised me the school corporation had hired Mr. Brandon Wells of Wells Scape for part of 2015. I checked the OISC database and found Mr. Wells was not licensed to applied pesticides for hire in the state of Indiana. I also learned the business Wells Scapes Comprehensive Ground Services was not a licensed pesticide business in the State of Indiana. I advised Mr. Brown of this and that the school corporation could not use anyone not licensed in the state of Indiana. Mr. Brown provided me with the invoice records of the pesticide applications made by Wells Scapes in 2015. A copy of these records are in this case file.

Disposition: Brandon Wells and Wells Scapes Comprehensive Ground Services were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-16-4, for applying pesticides to a school without having a certified applicator. Brandon Wells and Wells Scapes Comprehensive Ground Services were cited for two (2) violations of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. Wells Scapes Comprehensive Ground Services was assessed a civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count). However, the civil penalty was reduced to \$375.00. Consideration was given to the fact Wells Scapes Comprehensive Ground Services cooperated during the investigation. Consideration was also given to the fact this was a pesticide application at a school. As of September 25, 2018, Brandon Wells had not paid the civil penalty. The case was forwarded to collections.

2017/0475

On March 9, 2017, an anonymous complainant contacted the Office of Indiana State Chemist (OISC) to report an unlicensed applicator from Kentucky advertising pesticide applications at the Champions Point subdivision in Henryville, Indiana. The anonymous complainant provided a photograph of a yard sign for a lawn application performed by "Chuck's Lawn Service". See figure 1. A search of OISC's database indicated "Chuck's Lawn Service" is not a licensed pesticide business in Indiana.

Disposition: Chuck's Lawn Service was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides/fertilizers for-hire without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation. However, the civil penalty was held in abeyance and will not be assessed provided Chuck's Lawn Service becomes licensed within thirty (30) days from receipt of this summary. As of July 17, 2018, Chuck's Lawn Service had not become properly licensed. The \$250.00 civil penalty was enforced.

2017/0548

On March 31, 2017, an anonymous complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Daniel Burklow was making for-hire pesticide/fertilizer lawn applications without a license. The OISC database indicated Burklow was licensed through 2015 but no longer had a valid pesticide license. Anonymous indicated Burklow used to work with Bret Wells (see case number 20170547) but now works on his own.

Disposition: Daniel J. Burklow was cited for four (4) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticide/fertilizers for-hire without having an Indiana pesticide business license. A civil penalty in the amount of \$1,000.00 (4 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$500.00. Consideration was given to the fact Mr. Burklow cooperated during the investigation; there was no previous history of similar nature and no restricted use pesticides were involved. As of January 2, 2019, Daniel J. Burklow had not paid the civil penalty. The case was forwarded to the Indiana Attorney General for collection of the unmitigated civil penalty of \$1,000.00.

2017/0705

On April 26, 2017, David Fiess, Director of Vector Control & Environmental Services with the Allen County Department of Health, contacted the Office of Indiana State Chemist (OISC) regarding a property owner who allegedly purchased a chemical in Mexico for the control of bedbugs in an apartment in Fort Wayne, Indiana. Inspector Joshua Blauvelt reportedly responded to a bedbug complaint at a house apartment at 1215 Stophlet Street and was told by the tenant that the property owner provided her with a spray bottle of an unknown chemical to spray in the apartment. Mr. Blauvelt collected the bottle of unknown chemical.

Disposition: Baltazar Diaz was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a state unregistered pesticide product. A civil penalty in the amount of \$250.00 was assessed for this violation.

Baltazar Diaz was cited for violation of section 57(4) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to that container, and to any outside container or wrapper of the retail package through which the required information on the immediate container cannot be clearly read, a label bearing:

(A) the name and address of the manufacturer, registrant, or person for whom manufactured;

(B) the name, brand, or trademark under which the pesticide product is sold; and

(C) the net weight or measure of the content, subject, however, to reasonable variations as the state chemist may permit.

A civil penalty in the amount of \$250.00 was assessed for this violation.

Baltazar Diaz was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for distributing a pesticide product that violates the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) or regulations adopted under the Act in that this pesticide product is not registered with the United States Environmental Protective Agency. A civil penalty in the amount of \$250.00 was assessed for this violation.

2017/0735

On May 5, 2017, an anonymous complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report pesticide applications by The Pest Detectives, an unlicensed company, at the home of Stephanie Hylton, 3763 E 650 N Alexandria, Indiana. The application allegedly occurred this past week. The Pest Detectives advertises on their webpage: <https://thepestdetectives.com/>

Disposition:

A. Brian Hayes and The Pest Detectives, LLC were cited for thirty-four (34) 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 \$8,500.00 (34 counts x \$250.00 per count) was assessed to The Pest Detectives. However, the civil penalty was reduced to \$1,700.00. Consideration was given to the fact Mr. Hayes cooperated during the investigation; corrective action was taken; there was no previous history of similar violation and no restricted use pesticides

were involved.

B. On June 30, 2017, Brian Hayes called regarding the payment of his civil penalty. It was determined he could make payments in \$200.00 installments beginning August 1, 2017, and the first of each subsequent month until the civil penalty is paid in full.

C. Full payment of \$1,700.00 was received on September 18, 2018.

2017/0740

On May 5, 2017, OISC received information the above CPS facility had newer seed treatment equipment, but no Category 4 (Seed Treatment) certified applicator was listed at this location. OISC records indicate Crop Production Services of Hatfield, Indiana is certified to make pesticide applications in category 1 (agriculture) and are certified in category 14 (fertilizer).

Disposition:

A. Crop Production Services was cited for three (3) counts of violation of section 65(12) of the Indiana Pesticide Use and Application Law for failure to comply with any limitation or restriction on or in a duly issued license, permit, registration or certification. A civil penalty in the amount of \$750.00 was assessed for this violation. However, the civil penalty was reduced to \$562.50. Consideration was given to the fact Crop Production Services cooperated during the investigation.

B. Ashia Lauer of Crop Production Services called and requested an extension on their time to pay the civil penalty. She was advised she had until August 15, 2017 to send in the payment.

2017/0831

On May 30, 2017, OISC received information of a bulletin board flyer posting at the IGA Store in Rockport, Indiana that stated the following: *"For Sale Weed Killer \$20 a gallon Better than any u buy in store!!"* (See photograph #1 below). This flyer contained the phone number 812-489-3725.

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

Anthony Todd Cronin was cited for violation of section 57(4) of the Indiana Pesticide Registration Law for distributing a pesticide product without the manufacturer's label and in a container other than the manufacturer's original unbroken container. A civil penalty in the amount of \$250.00 was assessed for this violation.

Anthony Todd Cronin was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for distributing a pesticide that violates the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) or regulations adopted under the Act. A civil penalty in the amount of \$250.00 was assessed for this violation.

Anthony Todd Cronin was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for producing a pesticide product without being a producing establishment. A civil penalty in the amount of \$250.00 was assessed for this violation.

Anthony Todd Cronin was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-3-2, for distributing a restricted use pesticide to a person who was not a certified user. A civil penalty in the amount of \$250.00 was assessed for this violation.

Anthony Todd Cronin was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-3-3, for distributing a restricted use pesticide without being a certified dealer. A civil penalty in the amount of \$250.00 was assessed for this violation.

Anthony Todd Cronin was cited for violation of section 65(7) of the Indiana Pesticide Use and Application Law for failure to keep and maintain mandatory restricted use pesticide sales records. A civil penalty in the amount of \$250.00 was assessed for this violation.

The total amount of civil penalty assessed for these violations is \$1,750.00.

In addition, the information was forwarded to the Kentucky Department of Agriculture for their review of the original distribution by Mr. Hall.

On August 2, 2018, Mr. Cronin called requesting a reduction on the civil penalty and that he be allowed to make payments. He stated he would call back to make the payment arrangements.

As of October 1, 2018, Mr. Cronin had not called back to arrange for any payments.

As of October 8, 2018, Mr. Cronin had not paid the civil penalty. The case was forwarded to collections.

2017/0988

On July 11, 2017, the Office of Indiana State Chemist (OISC) received a complaint regarding dicamba drift. The complainant, Gary Aldridge, stated he has several soybean fields that are devastated by dicamba injury.

Disposition: Charles Roby 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 before application.

Charles Roby 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 desirable vegetation. 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.

Full payment of \$100.00 was received on September 5, 2018.

2017/1007

On July 12, 2017, the Office of Indiana State Chemist (OISC) received a report of a possible pesticide misuse at Seven Peaks Water Park in Porter Indiana. The possible pesticide misuse allegedly resulted in several human health complaints and the Water Park being shut down by the Porter County Health Department.

Disposition: Seven Peaks Water Park was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application and maximum parts per million.

Seven Peaks Water Park was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and negligent manner for inadvertently leaving the chemical pumps on overnight.

A civil penalty in the amount of \$250.00 was assessed for the violations in this investigation. As of October 8, 2018, Seven Peaks Water Park had not paid the civil penalty. The case was forwarded to collections.

2017/1097 On July 31, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to him and his wife. He stated an aerial applicator flew over him and his wife while they were standing in their backyard and they were drifted upon. He stated they could feel the spray mist hit them. He also stated he and his wife experienced vomiting and diarrhea.

Disposition: Edward A. 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.

2017/1140 On September 15, 2017, I performed a marketplace inspection at Big R Stores located at 1401 W 26th St Marion, IN. I spoke with the manager Dean Johanning and informed him of the process of the marketplace inspection.

Disposition: On October 17, 2017, a label review was performed on the 25b pesticide products. The label review revealed the following:

Maximum Strength Green Formula ECO Bed Bug RIP (The Green Rancher Corp)

A. Unqualified Safety Terms: The following claims are currently unqualified. Claims must be qualified with the full statement "...when used as directed".

a. "Safe for Humans & Pets"

b. "Non-Toxic"

B. The following statements are false and misleading:

a. "Specifically formulated with no dangerous chemicals"

b. "Bed Bug Rest in Peace is safer around children and pets". There is no explanation as to what or why the product is safer.

C. Family pictogram must be removed.

D. Images of children are only acceptable on products specifically meant for use on children or pool products.

E. Label is missing:

a. Keep Out of Reach of Children and signal word on front label;

b. Ingredient Statement – Also mandated by USEPA;

c. Full address (including street/PO Box) – Also mandated by USEPA;

Outdoor Citronella Candle & Tealights Gerson Company/International

A. Label is missing:

a. Keep Out of Reach of Children and signal word on front label;

b. Ingredient Statement – Also mandated by USEPA;

c. Full address (including street/PO Box) – Also mandated by USEPA;

d. FIFRA 25b exempt statement.

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

The Green Rancher Corp 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.

Gerson International was cited for six (6) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing unregistered pesticide products. A

civil penalty in the amount of \$1,500.00 (6 counts x \$250.00 per count) was assessed for this violation.

Gerson International was cited for six (6) counts of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a misbranded pesticide product. A civil penalty in the amount of \$1,500.00 (6 counts x \$250.00 per count) was assessed for this violation.

Hey! Cool Pool was cited for two (2) counts (2016 & 2017) of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing an unregistered pesticide product. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed.

As of October 16, 2018, The Green Rancher Corp. had not paid their \$500.00 civil penalty. The case was forwarded to collections.

2017/1186 On August 8, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected aerial agricultural pesticide drift to the creek that runs through his property. Mr. Hardy stated, "*all of the fish are dead*". He stated helicopter(s) have been spraying upstream.

Disposition: Black Star was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label instructions regarding contamination of water by disposal. A civil penalty in the amount of \$250.00 was assessed for this violation.

2017/1207 On August 11, 2017, John Stahly contacted the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his non dicamba-tolerant (DT) soybeans (Case#2017/1200).

Disposition: Kevin Sudhoff was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for applying when the wind is blowing toward sensitive crops and when the wind is below three miles per hour. A civil penalty in the amount of \$100.00 was assessed for this violation.

2018/0001 On October 2, 2017, an anonymous complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Mr. Stevens had a 'mini-bulk' tank of pesticide rinsate that he had in his back yard on the bed of a truck from which he has been spraying his yard. Anonymous stated he was not sure Mr. Stevens was not selling some of the rinsate he got from the place where he works which is a farm supply store in Greensburg.

Disposition: Ralph Stevens was cited for violation of section 65(10) of the Indiana Pesticide Use and Application Law for using a restricted use pesticide without having an applicator who is licensed or permitted. A civil penalty in the amount of \$250.00 was assessed for this violation.

Ralph Stevens was cited for violation of section 65(5) of the Indiana Pesticide Use and

Application Law for operating in a careless or negligent manner by storing mini bulks of an unknown pesticide in a non-contained, urban area. A civil penalty in the amount of \$250.00 was assessed for this violation.

2018/0002 On October 2, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Elijah Church is advertising pest control but does not appear to be licensed. A check of the OISC database indicated Mr. Church was a Registered Technician only and did not have a pesticide business license.

Disposition: Elijah L. Church and Affordable Pest Management were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to comply with a lawful Order of the state chemist. A civil penalty in the amount of \$250.00 was assessed for this violation.

Elijah L. Church and Affordable Pest Management were cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for professing to be in the business of applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation.

As of October 8, 2018, Affordable Pest Management had not paid the civil penalty. The case was forwarded to collections.

2018/0008 On October 6, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report an unlicensed company treated for the control of termites with a pesticide and is not licensed in Indiana. The location where this alleged pesticide application took place is:

Sheila Lephart
109 W Main Street
Spring Port, Indiana 47387

Disposition: Tom Evans was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation. As of October 8, 2018, Tom Evans had not paid the civil penalty. The case was forwarded to collections.

2018/0034 On October 19, 2017, an anonymous complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report the only certified applicator for J&J Lawn Service left and went out of state and no longer works for J&J but they continue to apply pesticides for hire.

Disposition: Paul Eyer was cited for five (5) 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 \$1,250.00 (5 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$937.50. Consideration was given to the fact Mr. Eyer cooperated during the investigation.

2018/0175 On February 14, 2018, I performed a routine marketplace inspection at True Value in the Village Shopping Center in Zionsville, Indiana. I spoke with the Store Manager Joe Hollingsworth and informed him of the process of the marketplace inspection.

Disposition:

A. On February 19, 2018, this information was forwarded to the Registration Section for label review.

B. On March 16, 2018, the results of the label review were finalized. The label review revealed that:

a. Mint oil was listed as an active ingredient but is not approved by EPA 40 CFR 152.25(f)(1).

b. Hydrogenated vegetable oil is not approved as an inert ingredient according to 40 CFR 152.25(f)(2).

C. Bite-Lite LLC was cited for two (2) counts (for the years 2017 and 2018) of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing an unregistered pesticide product. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed for these violations.

D. On August 13, 2018, I spoke with Ms. Marie Maher who indicated Bite-Lite LLC did not intend to re-register this pesticide product.

2018/0178 On February 14, 2018, I performed a routine marketplace inspection at Tractor Supply. I spoke with the Team Lead Maegan Starkey and informed her of the process of the marketplace inspection.

Disposition:

A. On February 20, 2018, this information was forwarded to the Registration section for label review.

B. On April 5, 2018, the label review was returned and revealed the following:

a. The full list of active/inert ingredients were not listed on the front of the label along with percentages;

b. The term "other insects" is too generic/broad;

c. The term "natural" is not allowed since the product includes citric acid.

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

D. Protector Brands 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.

20185/0251 On March 20, 2018, I performed a routine marketplace inspection at Orscheln Farm and Home located at 1326 N Gardner Street in Scottsburg, Indiana. I spoke with the Support Manager Jonathan Randall and informed him of the process of the marketplace inspection.

Disposition:

- A. On March 26, 2018, this information was forwarded to the Registration Section for label review.
- B. On March 27, 2018, the label review was completed and revealed the following:
- a. Acacia Gum is not an approved inert ingredient;
 - b. Soy Lecithin and Acacia Gum were not listed by percentage weight;
 - c. The label does not include enough information on “repels Ticks”, “Deet Free” and “Other Insects”;
 - d. The label did not list both active and inert ingredients in column form totaling to 100 %;
 - e. The label states the product is “natural” but contains xanthan gum, a compound not found in nature.
- C. Protector Products was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in Indiana.

A civil penalty in the amount of \$250.00 was assessed for this violation. However, this civil penalty was held in abeyance and will not be assessed provided Protector Products properly registers the product within thirty (30) days of receipt of this notice.

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

E. As of July 26, 2018, Protector Products has not properly registered their pesticide product. As a result, the original civil penalty for violation of section 57(1) was reinstated for a total civil penalty of \$500.00.

2018/0256

On March 20, 2018, I performed a routine marketplace inspection at Ace Hardware located at 785 W. McClain St. Scottsburg, Indiana. I spoke with the Owner Scott Howser and informed him of the process of the marketplace inspection.

Disposition:

- A. On March 27, 2018, the information was forwarded to the Registration Section for label review. The label review was returned the same date.
- B. BioDefend was cited for one count of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide that was not registered in Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation. However, this civil penalty will be held in abeyance and will not be assessed provided BioDefend properly registers this product within thirty (30) days from receipt of this notice.
- C. Enforcement letters to BioDefend were returned to OISC as “undeliverable” on August 6 and August 9, 2018. The company is presumably out of business. No information for the company and/or their products could be found on the web as of October 9, 2018.
- D. The \$250.00 civil penalty is uncollectable at this time. Future attempts to become an established business and register products will be denied, until the civil penalty is paid.

2018/0274

On March 20, 2018, I received an anonymous complaint regarding Mr. Ryan McGrady

making pesticide application without a pesticide applicators license in the Hill Run Ct. area. I went to Mr. McGrady's residence, but found no one to be home.

Disposition: Ryan McGrady was cited for five (5) 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 \$1,250.00 (5 counts x \$250.00 per count) was assessed.

2018/0339 On March 28, 2018, I conducted a routine bulk pesticide container containment inspection at Harrell's in Whitestown, Indiana. When I arrived at the facility, I met with the operations manager, Brad Bolyard, and informed him of the inspection. Mr. Bolyard joined me for the entire course of the inspection.

Disposition:

A. Harrell's was cited for 180 counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 5-4-1(a) for storing bulk pesticides outside of secondary containment. A civil penalty in the amount of \$45,000.00 (180 counts x \$250.00 per count) was assessed. However, it was proposed that the civil penalty be reduced to \$11,250.00 provided approval may be obtained by the Indiana Pesticide Review Board (IPRB)². Consideration was given to the fact Harrell's cooperated during the investigation; corrective action was taken; there was no previous history of similar nature and no restricted use pesticides were involved.

B. On May 23, 2018, I contacted Brad Bolyard and advised him of the civil penalty and the proposed mitigation amount provided I could get IPRB approval. He requested that I call corporate officer Sandy Simon. I called Mr. Simon and advised him of the situation. He stated he understood and agreed to the proposed settlement amount of \$11,250.00.

C. On June 14, 2018, the IPRB authorized the proposed mitigated civil penalty.

2018/0382 On April 30, 2018, an anonymous complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Orange County Cutters making pesticide/fertilizer applications at Hoosier Hill Credit Union in Paoli, Indiana. OISC database indicates Orange County Cutters is not licensed.

Disposition: Cary Jenkins and Orange County Cutters were cited for four (4) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides/fertilizer for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$1,000.00 (4 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$750.00. Consideration was given to the fact Mr. Jenkins cooperated during the investigation.

2018/0485 On May 11, 2018, I observed an Aptive Environmental applicator exit a house in Hamilton County. I introduced myself to Adam Rafail and initiated a pesticide use and licensing inspection.

Disposition: Talvin Williams and Aptive Environmental were cited for eight (8) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified

individual. A civil penalty in the amount of \$1,000.00 (8 counts x \$125.00 per count) was assessed. However, the civil penalty was reduced to \$350.00. Consideration was given to the fact Mr. Williams cooperated during the investigation; corrective action was taken; there was a good-faith effort to comply and no restricted use pesticides were involved.

2018/0586 On May 30, 2018, an anonymous complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Hoosier Heights Country Club no longer had a certified applicator and is allowing members to make pesticide applications to the property.

Disposition: Hoosier Heights Country Club was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticides to a golf course without having a certified applicator. A civil penalty in the amount of \$250.00 was assessed for this violation.

20185/0781 On July 12, 2018, I observed Zack Brizendine making a for-hire pesticide application at a strip mall off Madison Avenue on the Southside of Indianapolis.

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

2018/0782 On July 11, 2018, I conducted a use inspection of Greenix Pest Control who were located at 1510 Windview Drive in Brownsburg, Indiana. I made contact with the applicator Garryck Davies and advised him I was an investigator for the Office of Indiana State Chemist (OISC). I showed Mr. Davies my OISC credentials and gave him my business card.

Disposition: Jeffrey Chase was cited for thirteen (13) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide onsite supervision to a non-certified individual. A civil penalty in the amount of \$1,625.00 (13 counts x \$125.00 per count) was assessed. However, the civil penalty was reduced to \$1,218.75. Consideration was given to the fact Mr. Chase cooperated during the investigation.

2018/0802 On July 17, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Brad Gwinnup just purchased 'two loads' of Xtendimax herbicide, a restricted use pesticide (RUP). Mr. Morgan stated Mr. Gwinnup advised him that he had a license but had forgotten to bring it. Mr. Morgan stated he sold the Xtendimax to Mr. Gwinnup. Later, Mr. Morgan checked on the licensing status of Mr. Gwinnup and found that he was not licensed in Indiana to purchase and use an RUP.

Disposition: Morgan Fertilizer was cited for two (2) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-3-2, for distributing a restricted use pesticide to a non-certified user. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed.

Morgan Fertilizer was cited for two (2) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-3-5(a), for failure to keep restricted use pesticide distribution records. A civil penalty in the amount of \$200.00 (2 counts x \$100.00 per count) was assessed. The total amount of civil penalty assessed to Morgan Fertilizer is \$700.00. However, the civil penalty was reduced to \$500.00. Consideration was given to the fact Morgan Fertilizer cooperated during the investigation.

Brad Gwinnup was cited for two (2) counts of violation of section 15-16-5(10) of the Indiana Pesticide Use and Application Law for using a restricted use pesticide without having a certified applicator in direct supervision. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed.

Brad Gwinnup was cited for two (2) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-4-1.5, for failure to keep and maintain private applicator restricted use pesticide application records. A civil penalty in the amount of \$200.00 (2 counts x \$100.00 per count) was assessed.

2018/0895 On August 6, 2018, the Certification & Licensing section contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Seth Stout failed to properly renew his license for 2018. Specifically, Mr. Stout's 3b (turf) certification had expired, and he needed to reexamine.

Disposition: Seth Stout was 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 \$250.00. Consideration was given to the fact Mr. Stout cooperated during the investigation and corrective action was taken.

2018/0922 On August 23, 2018, Alexandria Davis spoke with Joe Becovitz, Pesticide Program Specialist for the Office of Indiana State Chemist (OISC) regarding a possible misapplication of a plant growth regulator. Ms. Davis stated Plant Growth Management Systems treated a tree on her property with Shortstop, growth regulator, in June or July of 2017. Ms. Davis stated the turf near the roots of the treated tree and garden plants near the roots of the tree are injured or dead.

Disposition: Plant Growth Management Systems was cited for forty (40) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual. A civil penalty in the amount of \$5,000.00 (40 counts x \$125.00 per count) was assessed. However, the civil penalty was reduced to \$1,250.00. Consideration was given to the fact Plant Growth Management Systems cooperated during the investigation; corrective action was taken; no previous violations of similar nature and no restricted use pesticides were involved.

2018/0927 On June 26, 2018, the Office of Indiana State Chemist (OISC) received information from

OISC Inspector Ken Neuhoﬀ of the Fertilizer Section of OISC regarding a subject (George Behensky) from Spring Green Lawn Care making a pesticide application in Mishawaka, Indiana without a pesticide applicator's license.

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

CASE SUMMARY

Case #2016/0566

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

Location: Ace Hardware
5979 Central Avenue
Portage, IN 46368
219-762-7107

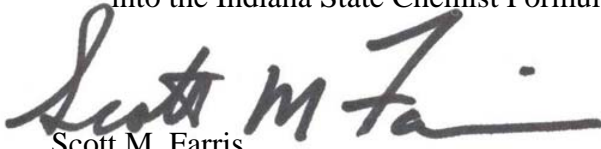
Respondents: Lynwood Laboratories, Inc.
945 Great Plain Avenue
Needham, MA 02492
781-449-6776

United Pet Group, Inc.
7794 Five Mile Road, Suite 190
Cincinnati, OH 45230
877-880-8855

REGULATORY CONTACT:
Attn: Judy Deal / Spectrum Brands
United Pet Group, Inc.
One Rider Trail Plaza Dr. Suite 300
Earth City, MO 63045

1. On March 1, 2016, I conducted a routine marketplace inspection at Ace Hardware, located at 5979 Central Avenue, Portage, Indiana. I spoke to and issued a Notice of Inspection (NOI) to Manager, Steve Thorne, and explained the nature of my visit. During my inspection, I discovered three (3) pesticide products that were not registered for sale, use or distribution in the state of Indiana.
2. The unregistered products found were:
 - Shoo-fly Hornet Wasp Jet-Bomb II: EPA Reg. #3546-40-Lynwood Laboratories
 - Shoo-fly Screen & Surface Insect Spray: EPA Reg. #3546-37-Lynwood Laboratories
 - Natures Miracle No-Chew Bitter Taste Spray: EPA Reg. # Exempt-United Pet Group
3. According to a "Pesticide Sample Collection Report & Affidavit" signed by owner and General Manager, Michelene Becker:
 - Shoo-fly Hornet Wasp Jet-Bomb II was received at Ace Hardware on September 11, 2015;
 - Shoo-fly Screen & Surface Insect Spray was received at Ace Hardware on May 30, 2014; and
 - Natures Miracle No-Chew Bitter Taste Spray was received at Ace Hardware on August 23, 2015.

4. I collected one (1) sample of each unregistered product and issued a Stop Sale Use or Removal Order to the Ace Hardware owner, Michelene Becker. These samples were turned into the Indiana State Chemist Formulations Lab on Friday, March 4, 2016.

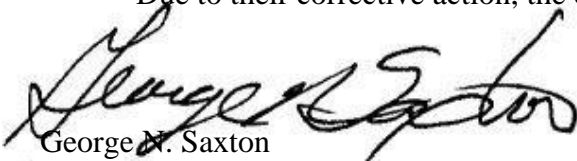


Scott M. Farris
Investigator

Date: March 8, 2016

Disposition:

- A. Lynwood Laboratories, Inc. was cited for five (5) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide that was not registered in Indiana. A civil penalty in the amount of \$1,250.00 (5 counts x \$250.00 per count) was assessed.
- Shoo-fly Hornet Wasp Jet-Bomb II for 2015 and 2016;
 - Shoo-fly Screen & Surface Insect Spray for 2014, 2015 and 2016
- B. United Pet Group, Inc. was cited for two (2) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide that was not registered in Indiana. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed.
- Natures Miracle No-Chew Bitter Taste Spray for 2015 and 2016
- C. On October 20, 2017, the Registration Section of OISC notified me that Lynwood Laboratories, Inc. registered their pesticide products for past years and paid late fees. Due to their corrective action, the civil penalty assessed to them was waived.



George N. Saxton
Compliance Officer

Draft Date: October 20, 2017
Final Date: September 18, 2018

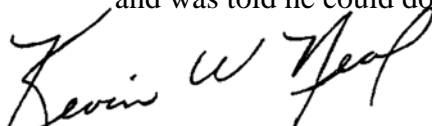
CASE SUMMARY

Case #2016/0651

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

Respondent: Don Sella Non-Certified
Mink Lake Golf Course
636 N. Calumet
Valparaiso, IN 46383
219-462-2585

1. On March 30, 2016, I conducted a pesticide use at golf courses inspection at the above named facility and spoke with Mr. Sella.
2. During the course of the interview, Mr. Sella advised he was aware of the rule regarding pesticide use on golf courses and mentioned he had been fined by OISC previously for making pesticide applications without being properly certified. He then went on to say he has not paid the fines as he just did not have the money.
3. I asked Mr. Sella if he made any pesticide applications since his last inspection. He stated he made an application of "an insecticide to a few of the greens last fall". I asked if he had records of his applications but all he had was a calendar that was very incomplete. To the best of his memory, this pesticide application was made around the end of September or the first of October 2015. No applications had been made to the course thus far in 2016.
4. Mr. Sella was advised he is not to make any further pesticide applications until such time as he becomes properly credentialed. He asked about hiring someone to make applications and was told he could do that.



Kevin W. Neal
Investigator

Date: April 1, 2016

DISPOSITION:

- A. Mink Lake Golf Course was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticides to a golf course without having a pesticide certification.
- B. Mink Lake Golf Course was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-4, for failure to keep mandatory pesticide application records at a golf course.

- C. Mink Lake Golf Course was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for violating two (2) Stop Action Orders.
- D. Because Mink Lake Golf Course has refused to comply with the Orders of the Office of Indiana State Chemist, the Porter County Prosecutor's Office was contacted regarding the possibility of obtaining an injunction under I.C. 15-16-5-69(c) prohibiting Mink Lake Golf Course from applying pesticides to the golf course until proper certification is obtained. See OISC case investigations 2010/1185 and 2015/1251.

George N. Saxton, Compliance Officer

Date: April 5, 2016

- E. On April 29, 2016, Prosecuting Attorney 67th Judicial Circuit of Indiana, Brian Gensel, forwarded an email dated April 28, 2016, from Robert Taylor, Porter County Prosecutors Investigator. In the correspondence, Investigator Taylor stated Don Stella is "*without money*" and "*would not be applying anymore chemicals*". Furthermore, Investigator Taylor stated, "*No further action taken by me and Mr. Stella was cooperative and admitted he was wrong in his past practice of applying chemicals*".
- F. Mink Lake Golf Course was cited for one (1) count 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 pesticide certification. A civil penalty in the amount of \$500.00 was assessed. Mink Lake Golf Course was cited for one (1) count of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-4, for failure to keep mandatory pesticide application records at a golf course. A civil penalty in the amount of \$500.00 was assessed. And Mink Lake Golf Course was cited for two (2) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law for violating two (2) Stop Action Orders. A civil penalty in the amount of \$1,000.00 was assessed. See OISC case investigations 2010/1185 and 2015/1251. Though this was Mink Lake Golf Course and Don Stella's third offense in six (6) years, consideration was given to the fact this is Mink Lake Golf Course second offense in a five (5) year period. Therefore, a civil penalty in the amount of \$2,000.00 was assessed.
- G. As of December 2, 2016, Mink Lake Golf Course & Park had not paid the civil penalty from case 2015/1251.

Paul J. Kelley, Case Review Officer

Draft Date: January 13, 2017

- H. As of September 25, 2018, Mink Lake Golf Course & Park had not paid the civil penalty on this case. The case was forwarded to the Indiana Attorney General for collection.


George N. Saxton
Compliance Officer

Final Date: September 25, 2018

CASE SUMMARY

Case #2016/0845

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

Respondent: Richard Bruce Grimes
Lewis Star Pest Control
3600 N. Everbrook Lane, Suite A
Muncie, Indiana 47304
765-288-1838

1. On April 8, 2016, the Certification and Licensing section contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Richard Bruce Grimes was not licensed but information was received that he was making for-hire pesticide applications. The OISC database indicated Mr. Grimes received his license on May 24, 2016. The allegation was that he was making for-hire pesticide applications before that date.
2. I, agent Kevin Gibson, met with and issued a Notice of Inspection (NOI) on June 8, 2016. I explained the reason for the meeting to Mr. Grimes. He told me he thought he had paid for his license in November 2015. In May 2016, he received notice he had not paid for his 2016 pesticide applicator's license. He immediately mailed his payment and required paperwork. He admitted he made pesticide applications from January 2016 until he received his license in the mail. He agreed to send copies of those applications.
3. After leaving telephone messages for Mr. Grimes, on August 22, 2016, I received copies of the requested pesticide applications via e-mail. Listed below are the dates, locations and product information for those applications:

1/7/16	1536 E. 400 N., Hartford, Indiana	Termidor SC (EPA #7969-210)
3/7/16	936 E. First St., Albany, Indiana	Termidor SC (EPA #7969-210)
3/15/16	9520 W. Canal, Yorktown, Indiana	Zenprox EC (EPA #2724-804)
3/18/16	3216 W. Noel, Muncie, Indiana	Termidor SC (EPA #7969-210)
3/22/16	3508 Delaware Trl, Muncie, Indiana	Termidor SC (EPA #7969-210)
3/28/16	9718 N. Prairie Rd., Springport, Indiana	Zenprox EC (EPA #2724-804)
4/14/16	4805 N. Tillotson, Muncie, Indiana	Termidor SC (EPA #7969-210)
4/21/16	8612 W. Thorn Tree Dr., Muncie, Indiana	Termidor SC (EPA #7969-210)
4/25/16	1018 S. Italiano, Muncie, Indiana	Termidor SC (EPA #7969-210)

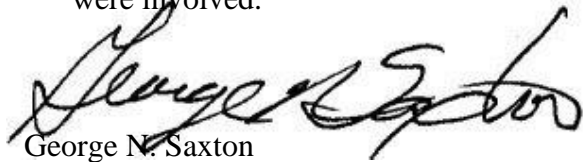
4. After reviewing all information, Mr. Grimes is in violation for making nine (9) pesticide applications without having received his pesticide applicator's license for 2016.



Kevin W. Gibson
Investigator

Date: October 18, 2016

Disposition: Richard Bruce Grimes was cited for nine (9) 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 \$2,250.00 (9 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$562.50. Consideration was given to the fact Mr. Grimes cooperated during the investigation; corrective action was taken; a good faith effort and no restricted use pesticides were involved.



George N. Saxton
Compliance Officer

Draft Date: November 30, 2016

Final Date: September 18, 2018

CASE SUMMARY


Case #2016/1110

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

Respondent: Gregory Mijares
Bob Lane
Lane Lawn Sprinklers and Landscape
6082 E. Wood Haven Court
Monticello, Indiana 47960
574-583-8607

**Registered Technician
Licensed Supervisor**

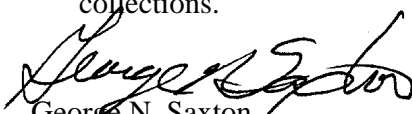
1. On, August 4, 2016, Agent Rosch and I, of the Office of Indiana State Chemist (OISC), observed a subject make what appeared to be a pesticide application to a lawn located at 4659 S. US 421 in Francisville, Indiana.
2. We made contact with and issued a Notice of Inspection (NOI) to Gregory Mijares. Mr. Mijares told us he was making an application of fertilizer and pesticide application to the above-mentioned location. As we were talking to him, we observed he was wearing a short-sleeved shirt, long pants, shoes and socks. He told us the pesticide was **Lesco Three-Way Selective Herbicide (EPA #10404-43; active ingredient: dicamba, 2, 4-D and MCP-P)** and provided us with a copy of the pesticide label.
3. The label for **Lesco Three-Way Selective Herbicide** reads in part, *"When applying this product, wear safety glasses and chemical resistant gloves, long-sleeved shirt, long pants socks and shoes"*.
4. Mr. Mijares admitted he was not wearing the proper Personal Protective Equipment (PPE) as required by the label. We advised him he could not make any further application until he obtained the proper PPE.
5. I spoke to Mr. Mijares' supervisor, Bob Lane. I made him aware of Mr. Mijares' violation. Mr. Lane told me he advised Mr. Mijares of the proper PPE for the pesticide application before Mr. Mijares left the office in the morning.


Kevin W. Gibson
Investigator

Date: August 8, 2016

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

As of September 25, 2018, Gregory Mijares had not paid the civil penalty. The case was forwarded to collections.


George N. Saxton
Compliance Officer

Draft Date: September 22, 2016
Final Date: September 25, 2018

CASE SUMMARY

Case #2016/1177

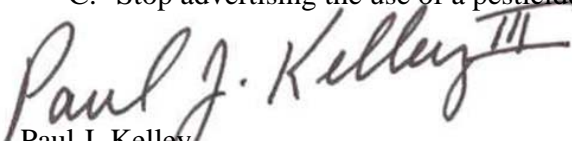
Complainant: Nate Richardson
Coeus Technology
5540 W. 53rd St. Pkwy
Anderson, IN 46013
317-340-9951

Respondent:	David Parker	Unlicensed Applicator
	Anthony Annee	Unlicensed Applicator
	DM (Disaster Masters) Corporation or	Unlicensed Business
	Duroclean Application Services	
	12621 Walrond Road	
	Fishers, IN 46037	
	317-385-2216	

1. On August 26, 2016, the Office of Indiana State Chemist (OISC) received a complaint regarding an unlicensed pesticide application company. Nate Richardson, president of Coeus Technologies stated a former employee, Tony Annee, was making pesticide applications for current Coeus customers.
2. On October 3, 2016, I met with Ralph Reiff, Executive Director of St. Vincent Sports Performance (SVSP), located at 8227 Northwest Boulevard, Indianapolis Indiana (46278). Mr. Reiff stated SVSP has used Coeus to perform “fogging” of Monofoil at two (2) SVSP locations. Mr. Reiff stated he was contacted by the owner of Coeus, Nate Richardson, in August 2016 and was informed David Parker and Anthony Annee were no longer employees. Mr. Reiff stated he discovered Mr. Parker and Mr. Annee made applications at the two (2) SVSP locations under the name DM (Disaster Masters) Inc.
3. Mr. Reiff provided me with a statement dated October 5, 2016, chronicling his interaction with DM Inc. regarding this matter. Furthermore, Mr. Reiff provided me copies of two (2) invoices for applications made by DM Inc.

A. Invoice #1	Date 6/11/2016	DuRo Clean Application Services provided by DM
B. Invoice #4	Date 7/1/2016	DuRo Clean Application Services provided by DM
4. On October 3, 2016, I contacted Jennie Phillips, Assistant Director, and Fitness & Fitness Facilities, at The University of Notre Dame. Ms. Phillips confirmed Tony Annee made applications to equipment, which she had an invoice. Ms. Phillips referred me to Michael McCauslin, Sr. Associate Director, Risk Management and Safety.
5. On October 7, 2016, I spoke with Mr. McCauslin regarding the investigation. I sent Mr. McCauslin a follow-up email on October 10, 2016, requesting documentation. Mr. McCauslin responded with a copy of an Invoice for service date 10/11/16. The invoice listed, “*Antimicrobial treatment*” of various athletic equipment. In addition, I was sent a copy of a Material Safety Data Sheet (MSDS) for the product, **Duro-Clean DC-1.5 antimicrobial 1.0%**, advertisement for Duro-clean, and literature listing the organisms Duro-clean controls.

6. On October 13, 2016, I met with David Parker, Chief Executive Officer, for DuRo Clean. Mr. Parker stated he was in the process of changing DM Inc. to DuRo Clean. Mr. Parker stated he and Anthony Annee had performed applications at Notre Dame and St. Vincent Sports Performance. Mr. Parker provided me with copies of invoices for applications at Notre Dame and St. Vincent Sports Performance. The invoice matched the invoices I obtained earlier. I explained to Mr. Parker that he
7. He was advertising a non-existent pesticide that is not registered by the Environmental Protection Agency (EPA) and OISC. Mr. Parker stated he was in the process internally of getting an OISC license. Mr. Parker stated he was in the process of working with a company to create a new product DuRo Clean. Mr. Parker stated no DuRo Clean product exists at this time.
8. Mr. Parker was issued an Action Order for the following;
 - A. To stop advertising or making pesticide applications for hire until business location is credentialed by OISC.
 - B. Stop using a federally and state un-registered product if using.
 - C. Stop advertising the use of a pesticide product not federally or state registered.

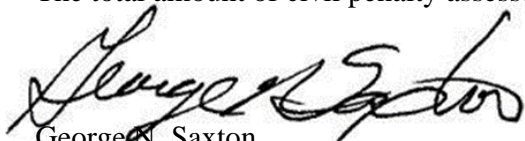

Paul J. Kelley
Investigator

Date: November 8, 2016

Disposition: David Parker and Anthony Annee were 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.

David Parker and Anthony Annee were cited for violation of section 65(16) of the Indiana Pesticide Use and Application Law for knowingly purchasing and/or using a pesticide that was not registered under I.C 15-16-4. A civil penalty in the amount of \$250.00 was assessed.

The total amount of civil penalty assessed in this investigation is \$1,000.00.


George N. Saxton
Compliance Officer

Draft Date: January 13, 2017
Final Date: September 18, 2018

CC: Ralph Reiff, Executive Director
St. Vincent Sports Performance
8227 Northwest Boulevard, Suite 160
Indianapolis IN 46278
317-415-5727

Michael McCauslin
Sr. Associate Director
Risk Management and Safety
636 Grace Hall
University of Notre Dame
Notre Dame, IN 46556
mmccausl@nd.edu
574-631-5037

CASE SUMMARY

Case 2016/1190

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

Respondent: Rural King
3235 Wabash Avenue
Terre Haute, Indiana 47803

1. On September 14, 2016, Agent Brian Baker of the Office of Indiana State Chemist conducted a Market Place Inspection of the Rural King store in Terre Haute Indiana.
2. I met with the store Manager Mr. Chris Vanarsdale. I identified myself verbally and with OISC credentials. I explained the role of OISC in Market Place Inspections and issued a Notice of Inspection.
3. While inspecting the pesticide products displayed for sale to the public, I located two containers without the proper pesticide label and label booklets (figs. 1-4). The first container seen in figures 1&2, is a 1-quart tip and pour type dispenser which was marked "No Label" in black marker and priced for sale. The price tag identifies the liquid product as "Cattplex Aquatic Herbicide". The second container seen in figs. 3&4 is a one-gallon white plastic container with the faint black marking "24D ester". The two products were collected and tagged. I issued a Pesticide Sample Collection Report and Affidavit to the store management. The unmarked containers of suspected but unknown pesticide solutions were transported to the OISC Formulation Laboratory for analysis.



Fig. 1



Fig. 2



Fig. 3



Fig. 4

4. When I asked for shipping invoices for the unlabeled suspected pesticide products, I was told the stores only have skew numbers from the parent company. The numbers are listed on the Pesticide Sample Collection Report and Affidavit.

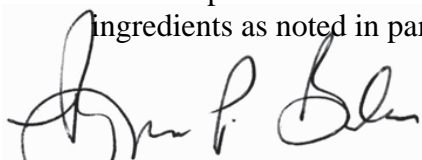
5. On January 13, 2017, I received the final reports in this case from the OISC Pesticide Formulation Laboratory on the two samples submitted. The sample seen in figures 1&2 of this report and tagged as sample #2016-323709 was found to be:

- *Cattplex Aquatic Herbicide, EPA Reg. #42750-59-72838, AI=glyphosate salt 53.8%, glyphosate acid 39.86%*

The sample seen in figures 3&4 of this report and tagged as sample #2016-323710 was found to be:

- *2, 4-D Ester Brand & EPA Reg. # unk., AI=2,4-D Acid 45.8%*

6. In this case, the two items displayed for sale in the pesticide section of the Rural King store listed as the respondent in this case, were not properly labeled (paragraph 3, figs 1-4). The two samples were collected and tested positive as products containing pesticide active ingredients as noted in paragraph 5 of this report.

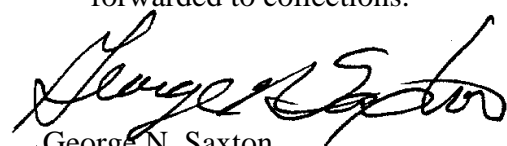


Brian P. Baker
Pesticide Investigator

Date: January 23, 2017

Disposition: Rural King was cited for two (2) counts of violation of section 57(4) of the Indiana Pesticide Registration Law for offering for sale a pesticide a product that did not have a label with the required information. A civil penalty in the amount of \$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 there was potential for human harm, but Rural King cooperated during the investigation.

As of September 25, 2018, Rural King had not paid the civil penalty. The case was forwarded to collections.



George N. Saxton
Compliance Officer

Draft Date: March 28, 2017
Final Date: September 25, 2018

CASE SUMMARY

Case #2017/0124

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

Respondent: Christopher Eisenhut
Chris Eisenhut Professional Home Inspections
3980 E. Fox Run Drive
Vincennes, Indiana 47591

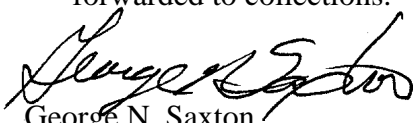
1. On, May 22, 2016, the Certification and Licensing Manager of the Office of Indiana State Chemist (OISC) sent a letter to Christopher Eisenhut advising him his certification expired December 31, 2015, invalidating his Wood Destroying Inspector license. Mr. Eisenhut did not respond.
2. On several dates, I went to the business location (residential home) of Mr. Eisenhut. Mr. Eisenhut was not at the home, however, I spoke to a woman on one occasion and gave her a business card and she informed me she would have Mr. Eisenhut contact me. I went back to the business location again after Mr. Eisenhut did not contact me. A man who identified himself as Mr. Eisenhut's son-in-law was at the home and stated he would again have Mr. Eisenhut contact me, which he did not. I was also given a cell phone number by the son-in-law allegedly belonging to Mr. Eisenhut. I attempted several times to contact Mr. Eisenhut at the cell phone number and his business phone on file, but again no return contact was made.
3. A search of Facebook revealed Mr. Eisenhut had a Facebook account. I reviewed the public information on Mr. Eisenhut's Facebook pages and found he listed on his work timeline the following statement: "Indiana Licensed Home Inspector, Termite Inspector and IHCD A APPROVED July 2010 to present Vincennes, Indiana."


Scott M. Farris
Investigator

Date: February 16, 2017

Disposition: As of February 22, 2017, Christopher Eisenhut's Facebook page still lists him as a "termite inspector". Christopher Eisenhut was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for professing to be in the business of making diagnostic pest inspections without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation.

As of September 25, 2018, Christopher Eisenhut had not paid the civil penalty. The case was forwarded to collections.


George N. Saxton
Compliance Officer

Draft Date: April 11, 2017
Final Date: September 25, 2018

CASE SUMMARY

Case #2017/0351

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

Respondent: Full Care of Indianapolis
2553 Emerson Access
Indianapolis, Indiana 46218
317-828-7097

Involved other: Darren Gerlach Certified Applicator (KY)
Full Care IN/KY
www.fullcareinc.com
502-261-1424

1. On February 13, 2017, Agent Brian Baker of OISC initiated a New Business Inspection for the Respondent in this case. I made contact with Josh Savage at the Emerson Access address only to find that his company, Environmental Restoration, shared the building with Full Care of Indy. Mr. Savage was able to show me the shared shop and storage area and he assisted me in getting in touch with the Management at Full Care of Indy to complete the full inspection. I left my card with Mr. Savage and within a day, I received a call from Mr. Darren Gerlach. A meeting was set for February 22, 2017 at 10 am.
2. On February 22, 2017, I met with Mr. Darren Gerlach and Mr. Matt Edmiston. Mr. Gerlach is a certified applicator with a Kentucky credential and the Head of Professional Development for the Full Care Co. Mr. Edmiston is the Vice President of Operations for the Full Care Co. I identified myself to both men verbally and with OISC credentials. I explained the scope of the New Business Inspection to both men and issued a Notice of Inspection.
3. The areas covered in the New Business Inspection were:
 - Supervision.
 - Records Keeping.
 - Storage of Pesticide products.
 - The Indiana School rule.
 - The use of NPIRS to check product registration.
4. During the course of the inspection and while speaking about supervision, I found Full Care of Indianapolis had utilized one of their personnel from a Kentucky office to supervise personnel at the Indianapolis office. Mr. Gerlach told me he was sure at the time that the reciprocity had covered that situation. The Indianapolis office of Full Care lost their OISC certified applicator in mid-year; thereby negating their pesticide business license. They were in the process of replacing him as we spoke. I made a phone call to Mr. Leo Reed at OISC and verified the offense. Mr. Reed said there was no current OISC certified applicator on record for Full Care of Indianapolis and added there had not been

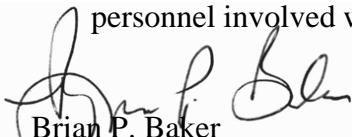
for the better part of 2016. Mr. Reed explained the scope of the reciprocity to Mr. Gerlach and Mr. Edmiston. I issued a Stop Action Order to the business and asked Mr. Gerlach for a list of the pesticide applications, which were made under the supervision of the Kentucky, only licensed supervisor.

5. The list, which follows, was provided by Mr. Darren Gerlach on February 23, 2017. All of the pesticide applications were made by Kyle O'Malley and supervised by Mr. Terrell Rice who has a Kentucky pesticide applicators license in category 3A and 3B. Mr. O'Malley works out of the Full Care Indianapolis office and Mr. Rice works out of the Full Care Kentucky office.

Date/Time	Location **	Pesticide product applied
8-9-16 8:00am-1:30pm	Willow Lake Common Willow Lakes The Lakes	Surge EPA#2217-867
8-10-16 8:00am-2:30pm	Yardley Court Domain at Bennett Farms 82 Flats	Surge EPA#2217-867
8-11-16 8:00am	Lake Clearwater	Surge EPA#2217-867
8-12-16 8:30am	Northlake Village	Surge EPA#2217-867
8-17-16 8:00am-9:00am	Matt Kuznarsky / Carmel Center	Surge EPA#2217-867
8-18-16 9:30am-1:30pm	Continental Terrace Hickory Grove Richelieu	Surge EPA#2217-867
8-23-16 8:00am	Castle Creek	Surge EPA#2217-867
8-26-16 8:30am	Harbour Town on Morse Lake	Surge EPA#2217-867
9-7-16 8:00am	Chateau Deville	Surge EPA#2217-867
9-8-16 8:00am	Overlook at Valley Ridge	Surge EPA#2217-867
9-9-16 8:30am	Park at Eagle Creek	Surge EPA#2217-867
10-4-16 8:30am	Astoria Park	Surge EPA#2217-867
10-7-16 8:30am	Jamestown Village	Surge EPA#2217-867

** Complete addresses for locations are attached to the case file. The specimen label for "Surge" is also in the case file.

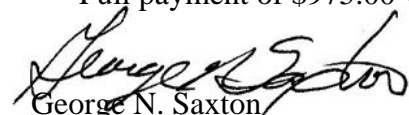
6. In this case, there are 13 daily violations where pesticide spray applications of Surge EPA Reg. #2217-867, were applied to turf. The violations are all "improper supervision". It should be noted that all personnel involved were cooperative and mistook the limitations of reciprocity.


Brian P. Baker
Investigator

Date: February 27, 2017

Disposition: Full Care of Indianapolis was cited for thirteen (13) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$3,250.00 (13 x \$250.00 per count) was assessed for these violations. However, the civil penalty was reduced to \$975.00. Consideration was given to the fact Full Care of Indianapolis cooperated during the investigation; corrective action was taken; there was no previous history of similar nature and no restricted use pesticides were involved.

Full payment of \$975.00 was received on August 15, 2018.


George N. Saxton
Compliance Officer

Draft Date: April 11, 2017
Final Date: October 24, 2018

CASE SUMMARY

Case #2017/0425

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

Respondent: John Wells
Fresh Start Lawn Services
7614 Westchester Road
West Chester, Ohio 45069
513-487-9388

1. On January 31, 2017, I conducted a school inspection at the Franklin County School Corporation in Brookville, IN. During the inspections, I learned from Mr. Dennis Brown, Director of Maintenance, that the school corporation had contracted Mr. John Wells of Fresh Start Lawn Services to make pesticide applications to the lawns on the school properties in 2016. I checked the OISC database and found John Wells was not licensed as a certified pesticide applicator in the state of Indiana. I also found Fresh Start Lawn Services was not licensed as a pesticide business in Indiana. Mr. Brown provided me with the invoice records of the pesticide applications made by Mr. Wells and Fresh Start Lawn Services in 2016. These records are in this case file.
2. I made contact with Mr. Wells via telephone and advised him of the situation. He stated he was a licensed pesticide applicator in Ohio and his business was as well. He stated he had been working for Unique Lawn Care in Ohio and he knew they were licensed in Indiana. He stated he thought he could work under Unique Lawn Care's license. I advised him he had to hold an Indiana pesticide applicators license connected with a pesticide business licensed in Indiana and the pesticide company had to be the same company hired by the school corporation. I advised him since Fresh Start Lawn Service was hired by the school corporation, Fresh Start had to be a licensed pesticide business in Indiana and he had to be a licensed pesticide applicator in the State of Indiana connected to Fresh Start or the licensing had to be reciprocated from Ohio to Indiana, which it had not.
3. I met with Mr. John Wells and issued him a STOP ACTION ORDER, ordering him to cease all pesticide applications and advertising in Indiana until obtaining proper licensing through the Office of Indiana State Chemist. Mr. Wells stated he wanted to get the proper licensing in Indiana. I provided him with the training and testing information needed to obtain licensing in Indiana. Mr. Wells was very cooperative.

4. The following is a list of pesticide applications made by Mr. Wells and Fresh Start Lawn Service to the Franklin County Community Schools properties in 2016.

Date	Location	Pesticide Applied
March 25, 2016	Laurel Elementary Mt Carmel Elementary	Momentum FX Herbicide Momentum FX Herbicide
March 26, 2016	Administration Building Franklin Co. High School Brookville Middle School Athletic Complex	Momentum FX Herbicide Momentum FX Herbicide Momentum FX Herbicide Momentum FX Herbicide
April 23, 2016	Administration Building Franklin Co. High School Brookville Middle School Brookville Elementary Athletic Complex Mt Carmel Elementary Laurel Elementary	Momentum FX Herbicide Momentum FX Herbicide Momentum FX Herbicide Momentum FX Herbicide Momentum FX Herbicide Momentum FX Herbicide Momentum FX Herbicide
May 16, 2016	Laurel Elementary Mt Carmel Elementary	Momentum FX Herbicide Momentum FX Herbicide
June 20, 2016	Laurel Elementary	Momentum FX Herbicide
July 25, 2016	Franklin Co High School Brookville Middle School Brookville Elementary Mt Carmel Elementary	Momentum FX Herbicide Momentum FX Herbicide Momentum FX Herbicide Momentum FX Herbicide
July 31, 2016	Laurel Elementary	Momentum FX Herbicide



Robert D. Brewer
Pesticide Investigator

Date: February 27, 2017

Disposition: John Wells and Fresh Start Lawn Services were cited for seven (7) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-16-4, for applying pesticides at a school without having a pesticide certification.

John Wells and Fresh Start Lawn Services were 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 an Indiana pesticide business license.

Fresh Start Lawn Services was assessed a civil penalty in the amount of \$1,750.00 (7 counts x \$250.00 per count). However, the civil penalty was reduced to \$1,312.50. Consideration was given to the fact Mr. Wells cooperated during the investigation. However, consideration was also given to the fact the pesticide applications were made at a school.

As of September 25, 2018, John Wells had not paid the civil penalty. The case was forwarded to the Indiana Attorney General for collection.

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

George N. Saxton
Compliance Officer

Draft Date: April 11, 2017
Final Date: September 25, 2018

CASE SUMMARY

Case #2017/0426

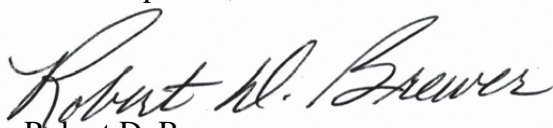
Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, IN 47907
765-494-1585

Respondent: Brandon Wells
Wells Scapes Comprehensive Ground Services
22160 Kokomo Hill
Laurel, IN 47024
513-516-6343

1. On January 31, 2017, I was conducting a school inspection at the Franklin County School Corporation in Brookville, IN. During my inspection, I learned the school corporation had hired Wells Scapes for the lawn care at all of the corporation schools in 2015. I spoke with Mr. Dennis Brown, Director of Maintenance and he advised me the school corporation had hired Mr. Brandon Wells of Wells Scape for part of 2015. I checked the OISC database and found Mr. Wells was not licensed to applied pesticides for hire in the state of Indiana. I also learned the business Wells Scapes Comprehensive Ground Services was not a licensed pesticide business in the State of Indiana. I advised Mr. Brown of this and that the school corporation could not use anyone not licensed in the state of Indiana. Mr. Brown provided me with the invoice records of the pesticide applications made by Wells Scapes in 2015. A copy of these records are in this case file.
2. I made contact with Mr. Brandon Wells and advised him of the issue. He stated he did the landscaping but had contracted his Father, John Wells to do the fertilizer and pesticide applications. I checked the OISC database and found that John Wells was not licensed to apply pesticides in the state of Indiana. Brandon stated he thought since his father was licensed in Ohio he could reciprocate to Indiana. I advised Brandon Wells since his company was contracted by the school corporation and he received payment from the school corporation for the landscaping as well as the fertilizer and weed control, he was responsible for having a pesticide business license through the state of Indiana and was responsible for having a certified pesticide applicator making the pesticide applications on school property. I met with Brandon Wells and issued him a STOP ACTION ORDER, ordering him to cease any and all pesticide applications and advertising in Indiana until obtaining proper licensing through the Office of Indiana State Chemist. Mr. Wells was very cooperative. I provided him with information for the training and testing needed for him to obtain his pesticide applicator and business license in Indiana.

3. Wells Scapes Comprehensive Ground Services made the following pesticide applications to the Franklin School Corporation properties:

<u>Date</u>	<u>Location</u>	<u>Pesticide/s Applied</u>
April 12, 2015	Laurel School	Momentum/Blanket Herbicides
April 12, 2015	Mt Carmel School	Momentum/Blanket Herbicides
April 26, 2015	Franklin Co. HS	Momentum/Blanket Herbicides
April 26, 2015	Brookville Middle School	Momentum/Blanket Herbicides
April 26, 2015	Brookville Elementary	Momentum/Blanket Herbicides
April 26, 2015	Athletic Complex	Momentum/Blanket Herbicides



Robert D. Brewer
Investigator

Date: February 27, 2017

Disposition: Brandon Wells and Wells Scapes Comprehensive Ground Services were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-16-4, for applying pesticides to a school without having a certified applicator.

Brandon Wells and Wells Scapes Comprehensive Ground Services were cited for two (2) violations of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. Wells Scapes Comprehensive Ground Services was assessed a civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count). However, the civil penalty was reduced to \$375.00. Consideration was given to the fact Wells Scapes Comprehensive Ground Services cooperated during the investigation. Consideration was also given to the fact this was a pesticide application at a school.

As of September 25, 2018, Brandon Wells had not paid the civil penalty. The case was forwarded to collections.



George N. Saxton
Compliance Officer

Draft Date: April 11, 2017
Final Date: September 25, 2018

CASE SUMMARY

Case #2017/0475

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

Respondent: Chuck Hendren
Chuck's Lawn Service
275 Fiddler Lane
Taylorsville, IN 40071
502-419-8706

Uncertified Applicator

1. On March 9, 2017, an anonymous complainant contacted the Office of Indiana State Chemist (OISC) to report an unlicensed applicator from Kentucky advertising pesticide applications at the Champions Point subdivision in Henryville, Indiana. The anonymous complainant provided a photograph of a yard sign for a lawn application performed by "Chuck's Lawn Service". See figure 1. A search of OISC's database indicated "Chuck's Lawn Service" is not a licensed pesticide business in Indiana.

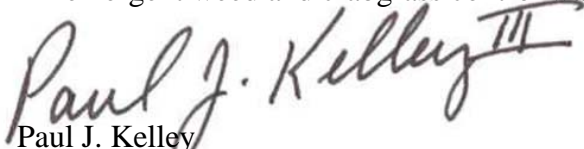


Figure 1 – "Chuck's" yard sign

2. On March 3, 2017, I drove to Taylorsville, Kentucky to the address of Chuck's Lawn Service. Mr. Hendren's daughter-in-law told me Mr. Hendren was not available but she would have him contact me.
3. On March 4, 2017, Chuck Hendren contacted me. Mr. Hendren admitted to making a pesticide application at the Champion's Point subdivision in Henryville, Indiana. Mr. Hendren stated he did not think to look into licensing in Indiana when he got the account for the Champion's Point subdivision job. Mr. Hendren stated he contacted OISC to inquire

about licensing. Mr. Hendren was cooperative by providing an invoice for the work completed at the Champion's Point subdivision.

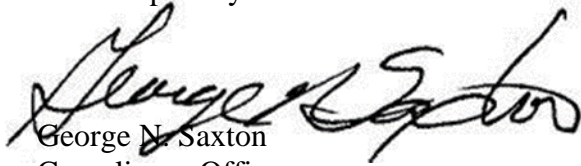
4. Invoice #8549, indicated an application of Stonewall Granular, slow release fertilizer, pre-emergent weed and crabgrass control was applied at a rate of 1.2 pounds per 1,000.


Paul J. Kelley
Investigator

Date: April 3, 2017

Disposition: Chuck's Lawn Service was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides/fertilizers for-hire without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation. However, the civil penalty was held in abeyance and will not be assessed provided Chuck's Lawn Service becomes licensed within thirty (30) days from receipt of this summary.

As of July 17, 2018, Chuck's Lawn Service had not become properly licensed. The \$250.00 civil penalty was enforced.


George N. Saxton
Compliance Officer

Draft Date: July 17, 2018
Final Date: September 18, 2018

CASE SUMMARY

Case #2017/0548

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

Respondent: Daniel J. Burklow Not licensed
973 S. Colorado Street
Rushville, Indiana 46173
317-448-7420

1. On March 31, 2017, an anonymous complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Daniel Burklow was making for-hire pesticide/fertilizer lawn applications without a license. The OISC database indicated Burklow was licensed through 2015 but no longer had a valid pesticide license. Anonymous indicated Burklow used to work with Bret Wells (see case number 20170547) but now works on his own.
2. On Friday April 28, 2017, I made telephone contact with Mr. Burklow. I advised him of the complaint and asked him if he had been making any pesticide applications during 2017. He stated he had made a few for some friends, but he was paid by cases of beer. I asked him if he had been advertising for weed control and he stated he had not. I then found on his Facebook page, where he was advertising to homeowners, "Lawns are growing and dandelions are here! If you would like an estimate to get on a program to maintain your lawn or to just get rid of the dandelions, call or text me for a free estimate". 317-448-7420. A copy of this Facebook page is in this case file.
3. On Wednesday May 3, 2017, I met with Mr. Burklow. He advised me he had made pesticide or fertilizer applications to 15 yards in 2017. He stated all but four were friends and family and he only charged for the four. He stated he made the applications sometime the first week of April in Rushville. He stated he did not have records on them. He stated he applied 16-0-4 fertilizer and 2,4-D (product unknown). He stated he charged them the cost of the product he applied. He stated he knew he has not been licensed since 2015 as he had merged with Wells Lawn Care and they had since gone separate ways. He stated he has a mowing business, Dan's Lawn Care of which he mowed lawns during 2016. He stated he would begin a new job with the Rushville Parks Department on March 4, 2017. I advised him he could make pesticide applications for the Parks Department on only the Parks Department property without a license. He stated he still wished to get his category 3b license through OISC so he could make pesticide applications under his Dan's Lawn Care business. I advised him he would also need a pesticide business license through OISC. He stated he would go online and get set up to take the category 3b test and would send in the proper paperwork and all fees to

get his licenses. I advised him, he would need to keep his Parks Department pesticide applications and his personal company pesticide applications separate. Mr. Burklow was very cooperative with me during the investigation.

4. I issued Mr. Burklow an ACTION ORDER, ordering him to cease any and all pesticide and fertilizer applications and advertising until obtaining proper licensing through the Office of Indiana State Chemist. I informed Mr. Burklow, violation of the ACTION ORDER could result in a criminal Misdemeanor offense, which could result in a fine or imprisonment. Mr. Burklow stated he understood and would not make any pesticide or fertilizer applications until he obtained proper licensing.
5. Mr. Burklow was in violation of making pesticide and or fertilizer applications without holding proper licensing through OISC. He was also in violation of advertising for weed control without holding proper licensing through OISC.



Robert D. Brewer
Investigator

Date: May 4, 2017

Disposition: Daniel J. Burklow was cited for four (4) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticide/fertilizers for-hire without having an Indiana pesticide business license. A civil penalty in the amount of \$1,000.00 (4 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$500.00. Consideration was given to the fact Mr. Burklow cooperated during the investigation; there was no previous history of similar nature and no restricted use pesticides were involved.

As of January 2, 2019, Daniel J. Burklow had not paid the civil penalty. The case was forwarded to the Indiana Attorney General for collection of the unmitigated civil penalty of \$1,000.00.



George N. Saxton
Compliance Officer

Draft Date: May 16, 2017
Final Date: January 2, 2019

CASE SUMMARY

Case #2017/0705

Complainant: David Fiess
Allen County Department of Health
2242 Carroll Road
Fort Wayne, IN 46818
260-449-7473

Respondent: Baltazar Diaz
6817 Malvern Drive
Fort Wayne, IN 46816
260-255-9314

1. On April 26, 2017, David Fiess, Director of Vector Control & Environmental Services with the Allen County Department of Health, contacted the Office of Indiana State Chemist (OISC) regarding a property owner who allegedly purchased a chemical in Mexico for the control of bedbugs in an apartment in Fort Wayne, Indiana. Inspector Joshua Blauvelt reportedly responded to a bedbug complaint at a house apartment at 1215 Stophlet Street and was told by the tenant that the property owner provided her with a spray bottle of an unknown chemical to spray in the apartment. Mr. Blauvelt collected the bottle of unknown chemical.
2. On April 27, 2017, I met Mr. Fiess at his office and collected the bottle of unknown chemical. He indicated the tenant, Isabel Ortega, told Mr. Blauvelt that the property owner gave her the bottle and told her should could spray it in the apartment for bedbugs. Mr. Fiess stated his office would issue the property owner, Baltazar Diaz, a warning letter indicating the bedbugs needed to be exterminated and that they would strongly suggest he use a professional.




Unknown pesticide

3. On April 27, 2017, I went to the house apartment on Stophlet Street and spoke to Daniel, the son of Ms. Ortega, as she was not home. Ms. Ortega soon arrived and, with her daughter and son helping

to translate, we discussed the complaint. I was told the apartment had bedbugs for approximately one year and that Mr. Diaz applied an over-the-counter pesticide with an electronic mister/applicator approximately four times since January 2017. Mr. Diaz recently gave Ms. Ortega an unlabeled spray bottle containing a pink liquid and instructed her to spray it in the apartment to help control bedbugs. It was sprayed on a piece of remnant carpet in the living room one time before she decided she did not want to spray it any more. During his inspection, Mr. Blauvelt instructed Ms. Ortega to remove the remnant from the apartment so it was removed and discarded. Mr. Diaz reportedly told Ms. Ortega he purchased the bottle of pink liquid in Mexico while visiting family.

4. On May 1, 2017, I went to the home of Mr. Diaz but no one was there. I then spoke with him on the phone and informed him of the complaint. He agreed to meet me at the apartment. I then received a call from Mr. Diaz's wife, Angelica, who reported that her husband was confused by my phone call and thought I was with a pest control company. I explained the complaint to her. When Mr. Diaz arrived, I explained the situation to him. He reported that he applied JT Eaton Kills Bedbugs II (EPA Reg. #45385-97-56), a registered pesticide which he purchased at Menard's, a few times in the apartment. He had the product in his vehicle and showed me the container. Since bedbugs were still a problem, Mr. Diaz stated he planned to have the apartment serviced by Bug Free Pest Control. I informed him I collected the bottle of pink liquid from the health department. Mr. Diaz confirmed he purchased the bottle, which reportedly had a label stating it was for ants, roaches and bedbugs, in Mexico and gave it to Ms. Ortega to spray in the apartment. I informed him the bottle had no label. We then went to his home to try to locate the label.
5. At the Baltazar home, I explained the federal and state registration processes and the role labeling plays in regulating pesticides in the United States. Mr. Diaz and his wife, who helped translate, indicated they understood and he agreed to provide a written statement regarding the incident. Mr. Diaz was unable to find a label for the bottle he purchased in Mexico.
6. The OISC Formulations Lab performed a general screen on the pink liquid from the spray bottle purchased in Mexico. Cypermethrin, a common active ingredient in insecticides, was detected and reported at a concentration of approximately 0.25%. This result was reported as approximate due to matrix effect.
7. In the written statement, Mr. Diaz again confirmed he purchased the pink liquid in Mexico at the beginning of January before returning to the United States. The label, which was not found, reportedly had no mixing instructions and the spray was purchased as seen in the photo. Both apartments in the Stophlet Street house were treated for bedbugs by a licensed pest control company in May.


Andrew R. Roth
Investigator

Date: October 4, 2017

Disposition: Baltazar Diaz was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a state unregistered pesticide product. A civil penalty in the amount of \$250.00 was assessed for this violation.

Baltazar Diaz was cited for violation of section 57(4) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to that container, and to any outside container or wrapper of the retail package through which the required information on the immediate container cannot be clearly read, a label bearing:

- (A) the name and address of the manufacturer, registrant, or person for whom manufactured;
- (B) the name, brand, or trademark under which the pesticide product is sold; and
- (C) the net weight or measure of the content, subject, however, to reasonable variations as the state chemist may permit.

A civil penalty in the amount of \$250.00 was assessed for this violation.

Baltazar Diaz was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for distributing a pesticide product that violates the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) or regulations adopted under the Act in that this pesticide product is not registered with the United States Environmental Protective Agency. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: December 14, 2017
Final Date: October 3, 2018

CASE SUMMARY

Case #2017/0735

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

Respondent: Brian Hayes
The Pest Detectives, LLC
7393 West Reformatory Road
Fortville, IN 46040
317-572-7378

Certified Applicator

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 The Pest Detectives, an unlicensed company, at the home of Stephanie Hylton, 3763 E 650 N Alexandria, Indiana. The application allegedly occurred this past week. The Pest Detectives advertises on their webpage: <https://thepestdetectives.com/>
2. On May 12, 2017, I met with Mr. Brian Hayes at 7393 West Reformatory Rd. in Fortville, Indiana. Also present during the meeting was Mr. Hayes' business partner, Mr. Allen Guieb. As I arrived at the residence, I observed a tan Toyota SUV parked in the driveway with a magnetic sign on the door of the vehicle, stating The Pest Detectives 317-572-PEST Protect your Home & Business! The following photographs show this sign.



3. I advised Mr. Hayes of the anonymous complaint our office had received. Mr. Hayes advised me he had been employed by Perseverance Pest Control LLC, but had left there on December 28, 2016. He stated he decided to start his own business and got with Mr. Guieb and they started The Pest Detectives, LLC in February of 2017. Mr. Hayes stated he knew he was certified through OISC in 2017 as a certified category 7a applicator. He stated he and Mr. Guieb had put a great amount of money and time into starting this business and he

thought he had everything completed as far as certification, but had overlooked obtaining a Pesticide Business License through OISC. I advised Mr. Hayes even though he was a certified applicator, he could not advertise as a pest control company or that he offered pest control without being a licensed pesticide business. I further advised him, he could not make pesticide applications as a certified applicator, unless his certified applicator license was connected to a licensed pesticide business. He stated he completely overlooked the pesticide business license. I advised Mr. Hayes, he would need to fill out a business license application and send it along with the fee and proof of insurance to the OISC office to obtain a business license. Mr. Hayes stated he would do so immediately.

4. I advised Mr. Hayes he could not have the sign on his vehicle until he was a licensed pesticide business. Mr. Guieb walked out to the vehicle and removed the magnetic signs while I was there. I further advised Mr. Hayes, they could not continue the advertising, of which I had observed on his Facebook page. He and Mr. Guieb stated they would contact the person who maintains their Facebook page as well as any other advertising and have the accounts suspended until they obtain the proper pesticide business license.
5. I then asked Mr. Hayes, how many pesticide applications he had made in 2017. He stated his first application was on February 25, 2017. Mr. Guieb stated all of the records were stored electronically. I advised him I would need a copy of all of the pesticide applications Mr. Hayes had made during 2017. These records were emailed to me and were on my computer upon arriving home to my office on that same day. A copy of these pesticide application records are in this case file.
6. I then issued Mr. Hayes an ACTION ORDER, ordering him to cease any and all pesticide applications and advertising until obtaining proper Pesticide Business License through the Office of Indiana State Chemist. Mr. Hayes stated he understood and signed the Order. He further stated he would drive to the OISC office as soon as we were finished and provide the Licensing Section with the proper documents and fees to obtain his Pesticide Business License. Note: On Monday May 15, 2017, I made contact with Ms. Jill Davis of the OISC Licensing Section. Ms. Davis advised me, Mr. Hayes did come to the OISC office on Friday May 12, 2017 and provided the proper documents and fees and did obtain his Pesticide Business License.
7. I reviewed the records provided to me by Mr. Hayes. The records indicated Mr. Hayes made the first pesticide application on February 25, 2017 and the last being on May 11, 2017. A total of 34 days of which pesticide applications were made. The following is a list of days in which Mr. Hayes made a pesticide application without having a proper pesticide business license.

February 25, 2017	April 3, 2017
February 27, 2017	April 5, 2017
March 2, 2017	April 12, 2017
March 6, 2017	April 13, 2017
March 8, 2017	April 19, 2017
March 9, 2017	April 21, 2017
March 11, 2017	April 22, 2017
March 13, 2017	April 23, 2017
March 17, 2017	April 24, 2017

March 18, 2017
March 19, 2017
March 20, 2017
March 21, 2017
March 25, 2017
March 27, 2017
March 28, 2017
March 30, 2017

April 26, 2017
April 29, 2017
May 3, 2017
May 4, 2017
May 5, 2017
May 6, 2017
May 9, 2017
May 11, 2017



Robert D. Brewer
Investigator

Date: May 15, 2017

Disposition:

- A. Brian Hayes and The Pest Detectives, LLC were cited for thirty-four (34) 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 \$8,500.00 (34 counts x \$250.00 per count) was assessed to The Pest Detectives. However, the civil penalty was reduced to \$1,700.00. Consideration was given to the fact Mr. Hayes cooperated during the investigation; corrective action was taken; there was no previous history of similar violation and no restricted use pesticides were involved.
- B. On June 30, 2017, Brian Hayes called regarding the payment of his civil penalty. It was determined he could make payments in \$200.00 installments beginning August 1, 2017, and the first of each subsequent month until the civil penalty is paid in full.
- C. Full payment of \$1,700.00 was received on September 18, 2018.



George N. Saxton
Compliance Officer

Draft Date: July 21, 2017
Final Date: October 24, 2018

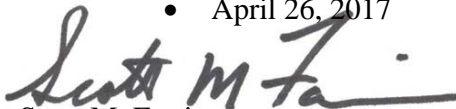
CASE SUMMARY

Case #2017/0740

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

Respondent: Crop Production Services (CPS)
7187 W. State Rd 66
Hatfield, IN 47617
Jeremy A Puckett (Manager)
812-359-4463

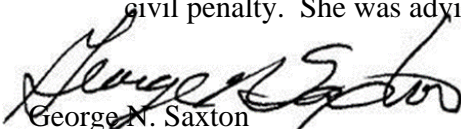
1. On May 5, 2017, OISC received information the above CPS facility had newer seed treatment equipment, but no Category 4 (Seed Treatment) certified applicator was listed at this location. OISC records indicate Crop Production Services of Hatfield, Indiana is certified to make pesticide applications in category 1 (agriculture) and are certified in category 14 (fertilizer).
2. On May 5, 2017, I met with Crop Consultant, Brely Fichter at the CPS location. Ms. Fichter informed me the CPS facility had made a few seed treatment applications this year. I informed Ms. Fichter no required Category 4 certified applicator was listed at the location. Ms. Fichter informed me they planned to use a Category 4 applicator from a different CPS location until they were able to get someone at the facility licensed. I informed Ms. Fichter a licensed person must be listed at this location to make seed treatment applications. Ms. Fichter provided me with copies of the seed treatment records for applications made at the facility. In addition, Ms. Fichter was issued an Action Order to stop any further seed treatment applications until licensing requirements were met.
3. A review of the seed treatment application records provided by Ms. Fichter indicated seed treatment applications were made on the following dates:
 - April 18, 2017
 - April 19, 2017
 - April 26, 2017


Scott M. Farris
Investigator

Date: May 25, 2017

Disposition:

- A. Crop Production Services was cited for three (3) counts of violation of section 65(12) of the Indiana Pesticide Use and Application Law for failure to comply with any limitation or restriction on or in a duly issued license, permit, registration or certification. A civil penalty in the amount of \$750.00 was assessed for this violation. However, the civil penalty was reduced to \$562.50. Consideration was given to the fact Crop Production Services cooperated during the investigation.
- B. Ashia Lauer of Crop Production Services called and requested an extension on their time to pay the civil penalty. She was advised she had until August 15, 2017 to send in the payment.


George N. Saxton
Compliance Officer

Draft Date: July 20, 2017
Final Date: September 18, 2018

CASE SUMMARY

Case #2017/0831

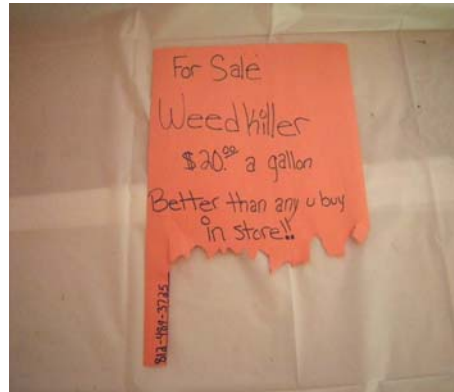
Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
800-893-6637

Respondent: Anthony Todd Cronin
611 Short Center Street
Rockport, IN 47635
812-660-2423

Charley Hall
4013 Foogle Drive
Owensboro, KY 42301
270-993-3228

1. On May 30, 2017, OISC received information of a bulletin board flyer posting at the IGA Store in Rockport, Indiana that stated the following: *“For Sale Weed Killer \$20 a gallon Better than any u buy in store!!”* (See photograph #1 below). This flyer contained the phone number 812-489-3725.
2. On June 7, 2017, I went to the IGA in Rockport and removed the flyer from the bulletin board. I contacted the phone number on the flyer and was instructed to come to the address listed above to purchase the weed killer product. I proceeded first to the Rockport Police Department and requested a police officer accompany me to this location.
3. The officer and I went to the address listed above and I met with A. Todd Cronin. I informed Mr. Cronin who I was and presented OISC credentials and issued Mr. Cronin a Notice of Inspection (NOI). I questioned Mr. Cronin about the product he was offering for sale and Mr. Cronin showed me five (5) one-gallon water containers in which he stated he had mixed the pesticide product. The product was green in color and located in the back of Mr. Cronin’s vehicle. Mr. Cronin also provided me with a 2.5-gallon container, which he indicated contained the concentrate of the product used to mix into the empty water containers. The 2.5-gallon container did not have a product label and Mr. Cronin was unable to find it. Mr. Cronin stated he believed the product was called “Pramoxone”, but later indicated he believed the product to be “Promoxicil”. The correct spelling of the product was unclear and a later search of pesticide products was unable to find any product with variations of these spellings.
4. The following photographs were taken of the products listed in paragraph 3. Photograph #1 below is a picture of the flyer advertised in the IGA store in Rockport, IN. Photograph #2 below is a picture of the 2.5-gallon (unknown concentrate product) container confiscated

from Mr. Cronin. Photograph #3 is a picture of the five (5) one gallon water containers (unknown dilution product) confiscated from Mr. Cronin.



Photograph #1



Photograph #2



Photograph #3

5. Mr. Cronin was informed it was illegal to offer for sale or and distribute an unregistered pesticide product and I would be taking all of the products he had with me. Mr. Cronin refused to provide me with the name of the person he had acquired the concentrate product from and did not know the names of any of the persons to whom he had sold or given the product. Mr. Cronin stated he was unsure how much of the product he had sold or given away. Mr. Cronin indicated he had mixed the product at three ounces per gallon of water and this was all of the product he had remaining. Mr. Cronin was issued an Action Order to stop all sales or distribution of unregistered pesticide products.
6. On June 8, 2017, all of the products listed above were turned into the OISC formulation lab for analysis. The results of the analysis were returned on June 23, 2017, and indicated the following results:
 - The 2.5 gallons concentrate container (Photograph #2 above) contained 32.9% paraquat dichloride.
 - The 1 gallon containers (Photograph #3 above) are listed as Jugs A-E as follows and also contained paraquat dichloride in the listed amounts:
 - Jug A: 0.82%

- Jug B: 0.72%
- Jug C: 0.97%
- Jug D: 0.76%
- Jug E: 0.57%
- No other active ingredients were found in the above samples.

7. On June 21, 2017, Mr. Cronin contact OISC and indicated he was able to recover two of three gallons of the mixed pesticide dilution he had made and sold to a resident in Rockport. Mr. Cronin stated one of the gallons sold to this resident had been used by them. I went to Mr. Cronin's home and took possession of the two gallons he had reclaimed. I also again spoke to Mr. Cronin about the necessity to speak with the source of the original concentrate product given to him. Later that day, Mr. Charley Hall contacted Agent George Saxton and advised him he was the one who gave the pesticide to Mr. Cronin.
8. On June 26, 2017, I met with Charley Hall and conducted a taped statement interview. During the interview, Mr. Hall admitted he had given the product to Mr. Cronin and was aware it was a Restricted Use Product (RUP). Mr. Hall indicated he had obtained the product from his employer (Southern States Co-op) located in Owensboro, Kentucky, but does not have a pesticide applicator's license in either Kentucky or Indiana. Mr. Hall stated he was unaware Mr. Cronin was going to sell the product and it had been intended only for Mr. Cronin's use.



Scott M. Farris
Investigator

Date: June 30, 2017

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

Anthony Todd Cronin was cited for violation of section 57(4) of the Indiana Pesticide Registration Law for distributing a pesticide product without the manufacturer's label and in a container other than the manufacturer's original unbroken container. A civil penalty in the amount of \$250.00 was assessed for this violation.

Anthony Todd Cronin was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for distributing a pesticide that violates the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) or regulations adopted under the Act. A civil penalty in the amount of \$250.00 was assessed for this violation.

Anthony Todd Cronin was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for producing a pesticide product without being a producing establishment. A civil penalty in the amount of \$250.00 was assessed for this violation.

Anthony Todd Cronin was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-3-2, for distributing a restricted use pesticide to a

person who was not a certified user. A civil penalty in the amount of \$250.00 was assessed for this violation.

Anthony Todd Cronin was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-3-3, for distributing a restricted use pesticide without being a certified dealer. A civil penalty in the amount of \$250.00 was assessed for this violation.

Anthony Todd Cronin was cited for violation of section 65(7) of the Indiana Pesticide Use and Application Law for failure to keep and maintain mandatory restricted use pesticide sales records. A civil penalty in the amount of \$250.00 was assessed for this violation.

The total amount of civil penalty assessed for these violations is \$1,750.00.

In addition, the information was forwarded to the Kentucky Department of Agriculture for their review of the original distribution by Mr. Hall.

On August 2, 2018, Mr. Cronin called requesting a reduction on the civil penalty and that he be allowed to make payments. He stated he would call back to make the payment arrangements. As of October 1, 2018, Mr. Cronin had not called back to arrange for any payments.

As of October 8, 2018, Mr. Cronin had not paid the civil penalty. The case was forwarded to collections.


George N. Saxton
Compliance Officer

Draft Date: August 18, 2017
Final Date: October 8, 2018

CASE SUMMARY

Case #2017/0988

Complainant: Gary Alldredge
1616 Ranes Road
Mt. Vernon, IN 47620
812-760-7415

Respondent: Charles Roby Private Applicator
1724 Old Beech Road
New Harmony, IN 47361
812-783-2246

1. On July 11, 2017, the Office of Indiana State Chemist (OISC) received a complaint regarding dicamba drift. The complainant, Gary Aldridge, stated he has several soybean fields that are devastated by dicamba injury.
2. On July 20, 2017, I met with Gary Alldredge and we went to his soybean field located to the southeast of Curtis Road and County Road 300 West, near Mt. Vernon, Indiana. Mr. Alldredge stated Roby Farms had applied a dicamba product to a soybean field located across County Road 300 West to the west of his field and he believed it might have affected his Roundup Ready, non-dicamba tolerant (DT) beans. Mr. Alldredge indicated he first noticed the symptoms on July 11, 2017, and contacted OISC. Mr. Alldredge informed me he had not applied any dicamba products this year on any of his farm fields. Mr. Alldredge stated he had only made a post-emergent application of Roundup PowerMax (EPA Reg. #524-549; active ingredient: glyphosate) to his soybeans.
3. During my on-site investigation I did the following:
 - a) Looked for but did not observe, nor learn of from Mr. Alldredge, 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 west side of Mr. Alldredge's field closest to the alleged target field and decreased with distance (pattern of drift). Symptoms were notable throughout the field. Figure #2 below shows Mr. Alldredge's soybean field on the left of photo and target field across the gravel road on the right side of photo.
 - c) Collected soybean vegetation from Mr. Alldredge's field and a vegetation and soil sample from the target soybean field to the west.
 - d) The graph below (Illustration #1) shows the field locations in question and areas where samples were obtained. Wind direction is also noted in the illustration and explained later in this report.



Figure #1



Figure #2

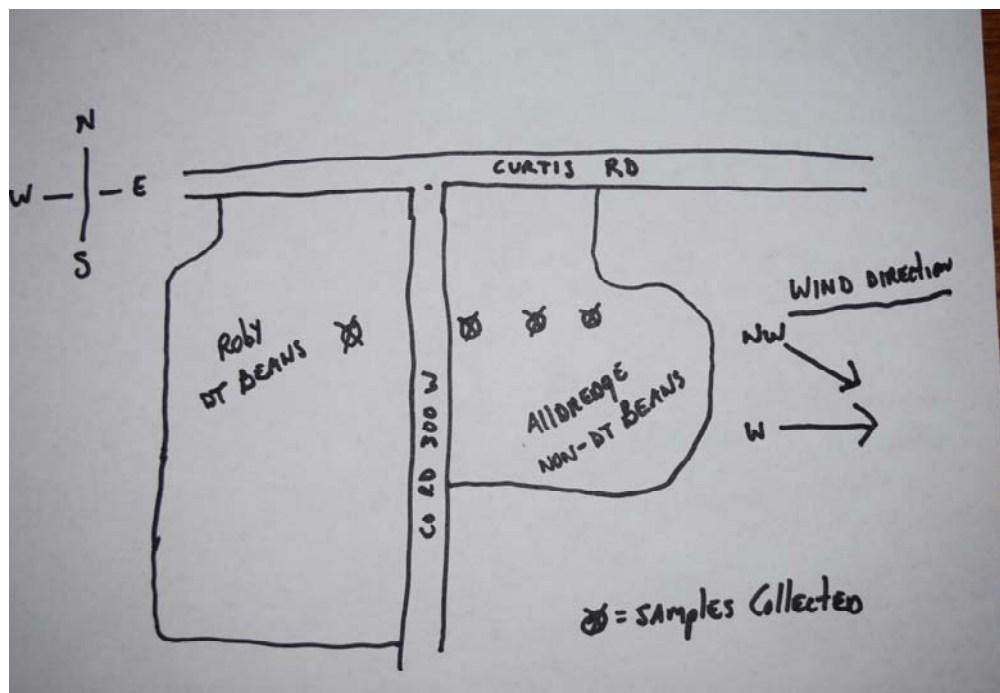


Illustration #1


4. I contacted Charles Roby and spoke to him about the target field in question. Mr. Roby indicated no buffer had been used (other than the gravel road between fields), but stated the winds were light at the time of his application. Mr. Roby informed me he had applied Engenia (EPA Reg. #7969-345; active ingredient: dicamba), Zidua (EPA Reg. #7969-338; active ingredient: pyroxasulfone) and Tomahawk (EPA Reg. #; active ingredient: glyphosate) on June 20, 2017. I informed Mr. Roby he would be receiving a Pesticide Investigation Inquiry (PII) form to be completed and returned. The form was returned on August 17, 2017, and indicated the following:
 - a) Application date & time: June 20, 2017, between 9:15am and 12:15pm (CDT).
 - b) Target Field: soybean field directly west of Mr. Alldredge's bean field
 - c) Application rate of Engenia: 12.8oz per acre
 - d) Adjuvants: Iconic
 - e) Nozzles: TTI 04

- f) Winds: from the west/northwest (blowing toward Mr. Alldredge's bean field) between 3.5 miles per hour (mph) and 6.9 mph (wind information noted from Carmi, Illinois Airport).
- g) Applicator: Charles Roby
- h) Buffer used: 30 feet (gravel road)
- i) Ground speed: 10 mph
- j) Boom Height: 18 inches
- k) Checked Registrants website before application: yes
- l) Checked Field Watch before application: no
- m) Survey site before application: yes

5. I searched historical wind data from www.wunderground.com for the closest weather stations located near Mt. Vernon, Indiana, for the reported date and time of the application. The results were as follows on June 20, 2017:

- Carmi Illinois Airport (distance 10 miles): winds were from the west/northwest (blowing toward Mr. Alldredge's bean field) between 3.5 mph and 6.9 mph. No gusts were reported.
- Henderson Kentucky Airport (distance 21 miles): winds were from the west and variable (blowing toward Mr. Wallis' bean field at least part of the application time frame), between 5.8 mph and 11.5 mph. No gusts were reported.
- Evansville, Indiana Airport (distance 27 miles): winds were from the west/southwest (blowing toward Mr. Alldredge's bean field) between 4.6 mph and 10.4 mph. No gusts reported.

6. On July 21, 2017, the collected vegetation and soil samples were turned into the Indiana State Chemist Office for analysis. The results were reported back on November 29, 2017, and indicated the following:

Case #	2017/0988			Investigator	Scott Farris		
Sample #	Sample Description	Amount of Analyte(ppb)					
		Matrix	Dicamba	DCSA	5-OH Dicamba	Fomesafen	Pyroxa-sulfone
2017-510170	Soybean vegetation 240 ft east of target field	Vegetation	0.85	BDL	BDL	BDL	BDL
2017-510171	Soybean vegetation 120 ft east of target field	Vegetation	1.28	BDL	BDL	BDL	BDL
2017-510172	Soybean vegetation 40 ft east of target field	Vegetation	1.91	BDL	BDL	BQL	BDL
2017-510173	Soybean vegetation in target field	Vegetation	BDL	6.10	BDL	BQL	BDL
2017-510174	Soil from target field	Soil	BDL	23.6	BDL	0.70	2.39
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= Zidua and Engenia							
Application=?							
Sampling=7/21/17							
LOQ (ppb)	Soil/Vegetation		0.7	0.3	3	0.3	0.3
Signature					Date	11/29/2017	

7. The Engenia Supplemental label stated the following:

- *"The applicator must also consult sensitive crop registries to locate nearby sensitive areas where available."*
- *"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 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."*



Scott M. Farris
Investigator

Date: December 18, 2017

Disposition: Charles Roby 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 before application.

Charles Roby 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 desirable vegetation. 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.

Full payment of \$100.00 was received on September 5, 2018.



George N. Saxton
Compliance Officer

Draft Date: February 5, 2018
Final Date: October 24, 2018

CASE SUMMARY

Case #2017/1007

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

Respondent: Seven Peaks Water Park
Jo Penny Owner
1275 Waverly Road
Porter, Indiana 46304
219-250-2490
702-544-2765 Jo Penny

Green Frog Turbines
Bill Helton CEO
950 North 100 West
Pleasant Grove, Utah 84062
385-244-7215

1. On July 12, 2017, the Office of Indiana State Chemist (OISC) received a report of a possible pesticide misuse at Seven Peaks Water Park in Porter Indiana. The possible pesticide misuse allegedly resulted in several human health complaints and the Water Park being shut down by the Porter County Health Department.
2. On July 14, 2017, Investigator Rosch and I went to the Porter County Health Department to obtain more information on the incident that occurred at Seven Peaks Water Park. We met with the Environmental Health Director, Kelly Cadwell. Mrs. Cadwell was able to provide us with a Complaint Inspection Summary from the Porter County Health Department. In the Complaint Summary it listed multiple complaints from patrons of the Seven Peaks Waterpark in Porter, Indiana from June 15 and 16, 2017. The complaints included nine chemical burns, two respiratory injuries, and two broken bone complaints. While speaking with Mrs. Caldwell, she was able to provide contact information for Jo Penny, co-owner, and Bill Helton of Green Frog Environmental, contractor. Mrs. Cadwell informed us that the park was currently closed and would not be permitted to reopen until the Porter County Health Department allows.
3. Investigator Rosch and I then went to Seven Peaks Waterpark. When we arrived we were met by Ed Yuhgaze. Mr. Yuhgaze stated that he was the Parks Department Manager for Seven Peaks Waterpark. Mr. Yuhgaze stated that Jo Penny was not there and Bill Helton would be there in a few days. Mr. Yuhgaze then showed us over to the main pump house. This is where he stated the cause of the issue was located. He told us that the automated pumps that included the chemical injection system were not working properly. He stated that instead of

automatically turning on an off and monitoring the rate of chemical that was going into the pool, they were having to operate it manually to maintain a chemical balance in the pools. He said they did this by simply plugging and unplugging the system.

4. Mr. Yuhgaze stated that on June 15 and 16, with regards to the chemical burns and respiratory injuries, the pumps that put chemical into the pools were unintentionally left on overnight. This pumped large amounts of chemical into the pool pump housings since the pool pumps were turned off. When the pool pumps were turned on just as the park was opened, they sent a large concentration of the chemical into the pool all at once. He stated that they quickly realized there was an issue and tried to get everyone out of the affected pools.
5. Mr. Yuhgaze then showed us what chemical it was that was being used. The product was:
 - a. LIQUICHLOR 12.5% Solution. EPA Reg. #550-198.
6. Liquichlor is a pesticide product containing 12.5% active ingredient sodium hypochlorite to be used as chlorine in swimming pool disinfection. The label of this product only allows the chlorine concentration to be a maximum of 4 ppm. Mr. Yuhgaze had another employee show us the handwritten pool testing logs and it showed that they keep the pools at 5 ppm chlorine. It was made aware to them that they go by the label and not exceed 4 ppm. The label states:
 - a. *“Re-entry into treated swimming pools is prohibited above levels of 4 ppm of chlorine due to risk of bodily harm.”*
7. After leaving the facility, I attempted to contact both Jo Penny and Bill Helton but was unable to reach either. On June 18, 2017, Bill Helton returned my call and was able to speak with me about the problem. He informed me that he was hired to come and fix all of the issues at the Seven Peaks Waterpark so they could reopen. He advised they were currently in the process of replacing all the chemical pumps and monitoring systems as well as all the filtering systems. Mr. Helton stated that they were having a meeting with the Porter County Health Department as well as other agencies on July 19, 2017 and asked me to be there.
8. On July 19, 2017, I went back to Seven Peaks Waterpark with Investigator Rosch for a follow up. Also in attendance was Porter County Health Department, State Department of Health, and the City of Porter Building Inspector. We met with Mr. Helton and escorted the group around the park. When we made it aware to Mr. Helton that the label states that they may not go above 4ppm of chlorine, the state health department representative Steve Yeary said that state law allows a maximum of 7ppm but that the label of the product should be followed if it is more restrictive.
9. Under Indian 410 IAC 6-2.1-30 Pool Water Chemistry, it states that for all pools there is a maximum of 7ppm. However, under part (t) it states:
 - a. *“(t) Any chemical used to treat the water in a pool must be used in accordance with the product label directions.”*
10. Steve Yeary provided me with the report of his findings and it was attached to this case. In Mr. Yeary’s report, it describes the many other deficiencies found at the park, preventing them to reopen until they were repaired.

11. I attempted to call Jo Penny multiple times but have not been able to speak to her.
12. As of the date of this report the Seven Peaks Waterpark in Porter, Indiana had not reopened.



Fig. 1) Photo of the chemical metering system for the effected pools.



Fig. 2) Photo of the chemical pumps that were left plugged in overnight.



Fig. 3) Photo of Liquichlor label on tank at Seven Peaks.

Garret A. Creason
Investigator

Date: March 1, 2018

Disposition: Seven Peaks Water Park was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application and maximum parts per million.

Seven Peaks Water Park was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and negligent manner for inadvertently leaving the chemical pumps on overnight.

A civil penalty in the amount of \$250.00 was assessed for the violations in this investigation.

As of October 8, 2018, Seven Peaks Water Park had not paid the civil penalty. The case was forwarded to collections.

George N. Saxton
Compliance Officer

Draft Date: May 23, 2018
Final Date: October 8, 2018

CASE SUMMARY

Case #2017/1097

Complainant: Evan Eslinger
5178 N 900 W
Sullivan, Indiana 47882
812-382-4451

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

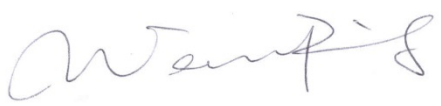
Certified Applicator

1. On July 31, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to him and his wife. He stated an aerial applicator flew over him and his wife while they were standing in their backyard and they were drifted upon. He stated they could feel the spray mist hit them. He also stated he and his wife experienced vomiting and diarrhea.
2. On August 3, 2017, I met with Mr. Eslinger at his residence. He stated that on July 29, 2017 he and his wife heard an airplane flying over their house. He stated they went outside to see what was going on and observed an aerial applicator-type airplane making an aerial application to the cornfield surrounding his residence to the north and to the east. He stated they were attempting to get their chickens into their pens when the airplane flew over them and they felt a mist. He stated his children were outside playing, so they all quickly ran inside, shut the windows, took a shower and washed their clothing. He stated they felt nauseous and were vomiting in the evening. He stated they did not seek medical attention. He stated they made contact with Eddie Huddleston of Ed-Air, Inc. and explained to him what had happened. He stated Mr. Huddleston advised him to shower and wash their clothing. Mr. Eslinger stated he then contacted OISC. I obtained a written statement from Mr. and Mrs. Eslinger, which is in this case file. I provided Mr. Eslinger with the telephone number for the National Pesticide Information Center.
3. I then took photographs of the area. I collected soil and vegetation samples from the target cornfield and vegetation samples from the Eslinger property. I had Mrs. Eslinger show me where she was standing when she stated she felt the mist upon her. I then collected a vegetation sample from the location where she stated she was standing. I also collected swab samples from the house, the chicken coup and a shed in the back yard. All of the samples were labeled and submitted to the OISC residue lab. The following photographs show the location of the target field in relationship to the complainant's property and where Mrs. Eslinger was standing.

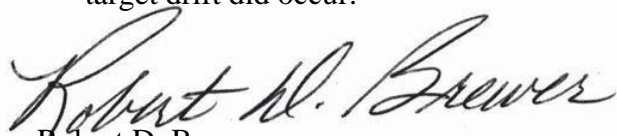


4. I spoke with Mr. Eddie Huddleston of Ed-Air, Inc. He stated he was aware of the complaint as Mr. Eslinger had contacted him. He stated he had taken all necessary steps to avoid spraying the Eslinger house. He stated he had advised Mr. Eslinger to have his wife shower and wash their clothing. Mr. Huddleston stated he asked Mr. Eslinger how he could settle the situation and he stated Mr. Eslinger stated at that time he didn't know what he was going to do, but was going to call OISC on Monday morning.
5. Mr. Huddleston stated he made the aerial pesticide application on July 29, 2017. He stated he applied Headline Amp fungicide EPA Reg. #7969-291 with the active ingredients pyraclostrobin and metconazole and Delta Gold Insecticide EPA Reg. #264-1011-1381 with the active ingredient deltamethrin. I advised Mr. Huddleston I would be sending a Pesticide Investigation Inquiry (PII) to him. Mr. Huddleston received the PII, completed it and returned it to OISC. The PII is in this case file. The PII confirmed the information regarding the pesticides applied given to me by Mr. Huddleston. The PII also indicated the winds were NE at 7-9 mph at the time of the aerial pesticide application.
6. I researched the Weather Underground website for weather conditions at the date, time, and location of the aerial pesticide application. The website indicated the winds were NNE at 4.2 mph and the temperature was 79.3 degree F. A copy of the weather report is in this case file.
7. On September 8, 2017, I received a report from the OISC residue lab. The report indicated the active ingredients pyraclostrobin and metconazole were detected in elevated levels from the vegetation samples I collected from the target field and from the complainant's front yard and where Mrs. Eslinger stated she was standing. The report further indicated the same active ingredients were detected at elevated levels in the swab samples I collected from the north side of the house, the chicken coup and the shed. The following is a copy of the OISC residue lab report.

Case # 2017/1097			Investigator: B. Brewer		
Sample #	Sample Description	Sample Matrix	Amount Found (ng/swab or ppb)		
			Pyraclostrobin	Metconazole	Deltamethrin
2017-335054	Trip blank	Swab	BDL	BDL	Not tested
2017-335055	Control swab	Swab	3.07	BDL	Not tested
2017-335056	Swab North side of the house	Swab	276	56.5	Not tested
2017-335057	Swab South side of the house	Swab	BQL	BDL	Not tested
2017-335058	Swab north side of the chicken coupe	Swab	560	125	Not tested
2017-335059	Swab north side of the shed	Swab	268	53.9	Not tested

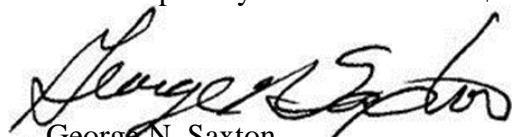
2017-335060	Soil target	Soil	Not tested	Not tested	Not tested
2017-335061	Vegetation target	Vegetation	532*	139	Not tested
2017-335062	Vegetation complainant front yard	Vegetation	563*	209	Not tested
2017-335063	Vegetation where complainant was standing	Vegetation	143	50.8	Not tested
PPM= Parts Per Million; 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 amount reported due to concentration exceeded calibration curve range.					
LOQ (ng/swab)	Swab		1	0.2	N/A
LOQ (ppb)	Veg		0.7	0.3	N/A
Signature			Date	9/8/17	

8. I 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”*. *“Do not apply when conditions favor drift from target area”*.
9. The results of the OISC residue lab along with the weather report which indicated the winds were blowing from the target field towards the complainant’s property, would indicate off target drift did occur.


Robert D. Brewer
Investigator

Date: September 18, 2017

Disposition: Edward A. 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.


George N. Saxton
Compliance Officer

Draft Date: December 20, 2017
Final Date: September 18, 2018

CASE SUMMARY

Case #2017/1140

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

Respondent: Big R Stores
Dean Johanning
1401 W. 26th Street
Marion, IN 46953
765-662-9163

Manager

Registrant: The Green Rancher Corp.
Attn: Tracy Tonnessem
10 Cager Place
Huntington Station, NY 11746

Gerson International
1450 S. Lone Elm Road
Olathe, KS 66209
(913) 262-7400

Hey! Cool Pool
530 11th Avenue South
Hopkins, MN 55343

1. On September 15, 2017, I performed a marketplace inspection at Big R Stores located at 1401 W 26th St Marion, IN. I spoke with the manager Dean Johanning and informed him of the process of the marketplace inspection.
2. Upon completion of the inspection, I located four (4) unregistered pesticide products that were being offered for sale in the Big R store. I spoke with Ed White, Pesticide Administrator, and he confirmed the products were not registered. The products were as follows:
 - a. Eco Bed Bug RIP; The Green Rancher Corp; 25b¹
 - i. Last Received June 29, 2017
 - b. Outdoor Citronella Candle; Gerson International; 25b
 - i. Last Received February 13, 2015
 - c. Outdoor Citronella Tea Lights; Gerson International; 25b
 - i. Last Received July 6, 2015
 - d. Flip-Plop Automatic All-In-One Pool Care; EPA REG 53735-2-90240
 - i. Last Received March 3, 2016

¹ Minimum risk pesticide

3. I spoke with Mr. Johanning and informed him of the unregistered pesticide products I had located. I informed Mr. Johanning that I would be placing the unregistered pesticide products under an Action Order. I further explained to Mr. Johanning 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.
4. On September 15, 2017, I delivered the evidentiary samples to the Formulation Lab.



Fig. 1. Eco Bed Bug RIP being offered for sale.



Fig. 2. Outdoor Citronella Candle being offered for sale. Products makes pesticidal claim of “insect repellent”.



Fig. 3 Outdoor Citronella Tealights being offered for sale.
Products makes pesticidal claim of “insect repellent”.



Fig. 4. Flip Plop Pool Care Products being offered for sale.

Garret A. Creason
Garret A. Creason
Investigator

Date: October 4, 2017

Disposition: On October 17, 2017, a label review was performed on the 25b pesticide products. The label review revealed the following:

Maximum Strength Green Formula ECO Bed Bug RIP (The Green Rancher Corp)

- A. Unqualified Safety Terms: The following claims are currently unqualified. Claims must be qualified with the full statement "...when used as directed".
 - a. "Safe for Humans & Pets"
 - b. "Non-Toxic"
- B. The following statements are false and misleading:
 - a. "Specifically formulated with no dangerous chemicals"
 - b. "Bed Bug Rest in Peace is safer around children and pets". There is no explanation as to what or why the product is safer.
- C. Family pictogram must be removed.
- D. Images of children are only acceptable on products specifically meant for use on children or pool products.
- E. Label is missing:
 - a. Keep Out of Reach of Children and signal word on front label;
 - b. Ingredient Statement – Also mandated by USEPA;
 - c. Full address (including street/PO Box) – Also mandated by USEPA;

Outdoor Citronella Candle & Tealights Gerson Company/International

- A. Label is missing:
 - a. Keep Out of Reach of Children and signal word on front label;
 - b. Ingredient Statement – Also mandated by USEPA;
 - c. Full address (including street/PO Box) – Also mandated by USEPA;
 - d. FIFRA 25b exempt statement.

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

The Green Rancher Corp 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.

Gerson International was cited for six (6) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing unregistered pesticide products. A civil penalty in the amount of \$1,500.00 (6 counts x \$250.00 per count) was assessed for this violation.

Gerson International was cited for six (6) counts of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a misbranded pesticide product. A civil penalty in the amount of \$1,500.00 (6 counts x \$250.00 per count) was assessed for this violation.

Hey! Cool Pool was cited for two (2) counts (2016 & 2017) of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing an unregistered pesticide product. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed.

As of October 16, 2018, The Green Rancher Corp. had not paid their \$500.00 civil penalty. The case was forwarded to collections.


George N. Saxton
Compliance Officer

Draft Date: December 14, 2017
Final Date: October 16, 2018

CASE SUMMARY

Case #2017/1186

Complainant: Jeff Hardy
807 S 400 W
New Castle, IN 47362
765-414-2396

Respondent: James Slonaker
Armstrong Farms
4691 W. State Road 38
New Castle, IN 47362
765-993-4356

Ty Gill, Owner
Black Star LLC
148 Runway Road, Suite F
Picayune, MS 39466
601-273-0215

1. On August 8, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected aerial agricultural pesticide drift to the creek that runs through his property. Mr. Hardy stated, *"all of the fish are dead"*. He stated helicopter(s) have been spraying upstream.
2. I made telephone contact with Mr. Hardy. He stated on August 8, 2017, he noticed the dead fish in the Dry Branch Creek which ran through the back of his property. He stated he observed a helicopter making applications to fields north of him, but was unable to advise which exact field. He stated he had followed the trail of dead fish to where Dry Branch Creek met with Duck Creek. I made contact with Ms. Karla Frownfelter of the Indiana Department of Environmental Management (IDEM). I advised her of the information I received from Mr. Hardy. I advised her I would be contacting the Department of Natural Resources (DNR) regarding the fish kill. She stated if DNR was going to be involved, IDEM would not need to respond. I made contact with the DNR and was advised a Conservation Officer would contact me.
3. On August 10, 2017, I went to the Hardy residence. I observed many dead fish along the creek on the back of his property. I took photographs of the scene and collected silt and vegetation from the creek. The samples were labeled and submitted to the OISC residue lab. The following photographs show the dead fish in the creek.



4. I then began going from farm to farm north of the Hardy residence, to see if anyone had applied a pesticide to the fields. No one up to SR 234 had made any pesticide applications since spring. I then went to Harvest Land Coop and spoke with Manager Royce Cook. I asked if they had any aerial pesticide applications made in the area north of the Hardy residence. He stated they had not. He stated he did believe there were helicopters making pesticide application at the Armstrong farms located on SR 38 north of the Hardy residence.
5. I went to the Armstrong Farms located at 4691 W SR 38 New Castle, Indiana. I made contact with Mr. James Slonaker. He stated he was the Manager for Farmers Ag Products, Inc., which was located at the Armstrong farm. I asked him if there had been any helicopters making pesticide applications to any surrounding fields over the past weekend. He stated Black Star LLC had made a pesticide application from a helicopter to the cornfield located north of SR 234 to the west side of Dry Branch Creek on August 5, 2017. He provided me with the application report, which showed on August 5, 2017, they made an aerial pesticide application and applied Trivapro fungicide EPA Reg. #100-1613 with the active ingredient azoxystrobin and propiconazole. I asked Mr. Slonaker if they had made any other pesticide applications in the area. He stated he applied pesticide to the bean field on the east side of Dry Branch Creek just north of SR 234 earlier in the spring.
6. I then met with Officer Joseph Young at the bridge on SR 234 over the Dry Branch Creek. I explained the original complaint to him and what I had discovered. Other Conservation Officers then met Officer Young and they began their procedure for counting the dead fish along Dry Branch Creek and into Duck Creek. He advised me they had found dead fish in the Dry Branch Creek as well as the Duck Creek. This would be a distance of nearly four miles from the suspected target cornfield.
7. I then walked along Branch Creek north from the SR 234 bridge to the target cornfield, which was 0.4 miles north of the bridge. I observed dead fish all along the way in Dry Branch Creek. I collected vegetation samples from the target field as well as along the west bank of the creek. I collected swab samples from a tree and vegetation along the west bank of the creek. All of the samples were labeled and submitted to the OISC residue lab. The following photographs show the location of the target cornfield to the creek and from the bridge over SR 234.



8. On August 11, 2017, I received a call from DNR District 4 Commander Lt. Andy Wuestefeld. He advised me he had received an anonymous complaint regarding Armstrong Farms cleaning out pesticide application equipment at their farm and allowing it to run into a drain tile, which empties into the Dry Branch Creek. Lt. Wuestefeld further advised me he and his Officers had located dead fish in Dry Branch Creek, Duck Creek and as far as the Blue River. He stated all of the waters are connected and cover a total of 6.85 miles of dead fish. I advised him it would be too far for an aerial pesticide drift to have killed fish for that

great of a distance. I advised him there would have had to of been a larger amount of pesticide in the creeks to cause a kill for that distance. We agreed to meet on August 14, 2017, to investigate the anonymous complaint regarding the alleged cleanout of equipment on the Armstrong Farm.

9. On August 14, 2017, I met with Lt. Wuestefeld and we went to the Armstrong Farm Office. The farm had a large pole barn type building which contained the office and storage of pesticides and equipment. There was a large stone lot located north of the original target cornfield. I observed a large drain at the south side of the stone lot. I further observed a stain on the concrete surrounding the drain. The stain appeared to have been made from some type of chemical. I then observed a stain trail approximately five feet wide proceeding east from the drain to a distance of 180 feet. There I observed a larger area, which appeared to be where something may have been rinsed out. This spot was 45 feet from the pole barn building. I took photographs of the area, including the drain and the stained area. While getting ready to collect samples, Mr. Slonaker arrived. I advised him of the anonymous complaint. I asked him if he had cleaned out any pesticide equipment, which may have run into the drain tile. He stated on July 15, 2017, he was making a pesticide application with the John Deere ground applicator. He stated the spray pattern was not right, so he decided to go back to the farm and clean out the boom and nozzles. He stated he parked the applicator at the location I had found the cleanout stain just west of the pole building. He stated he used an acid solution to clean out the applicator. I asked him what pesticide he had been applying and cleaned out of the applicator. He stated he had applied Quadris Top SB fungicide EPA Reg. #100-1313 with the active ingredients azoxystrobin and difenoconazole. He stated also in the tank mix was Endigo ZC insecticide EPA Reg. #100-1276 with the active ingredients Lamda-cyholothrin and thiamethoxam. Mr. Slonaker stated he did not think the rinsate from the applicator ran to the drain. I asked him if he had cleaned out any other applicators or tanks in the area. He stated he did rinse out a 1000-gallon tank of water as it had moss in it and he wished to clean it out. He stated he rinsed this tank out in the same location he did the John Deere applicator. He stated he cleaned out the water tank a short time after he had cleaned out the pesticide applicator. He stated he rinsed the water tank, so Black Star LLC, could use it to clean their equipment. I advised him that the large amount of water flushed down the same path as the pesticide, could have washed the pesticide into the drain tile. Mr. Slonaker stated he never thought of that. He was very cooperative and very concerned of the possibility he had washed pesticides into the drain tile, which could have reached Dry Branch Creek. The labels on the products Quadris Top SB fungicide and Endigo AC insecticide both stated the products are toxic to fish and aquatic life. I then collected swab and soil samples from the stained path at intervals starting on the concrete surrounding the drain, then 40 feet east of the drain, 80 feet east of the drain and at the clean out site. I collected swab samples on the inside wall of the drain tile. All of the samples were labeled and submitted to the OISC residue lab. The following photographs show the location of the clean out and the stain path on the stone and around the drain.




10. Lt. Wuestefeld advised me he had walked the creek and perimeter of the cornfield located directly south of the drain. He stated the drain spills into a tile which runs south through the cornfield and empties into the Dry Branch Creek. He stated he had observed dead fish up to the location where the tile empties into Dry Branch Creek, but had live fish north of that point. Lt. Wuestefeld and I then drove to the bridge on SR 38 over Dry Branch Creek north of the tile exit point. I observed many live fish in the water under the bridge. We also went to the town of Cadiz and checked any drains and field risers. We were unable to locate any, which had any signs of runoff, which could have entered the creek. Lt. Wuestefeld stated there had not been any significant rains since the time of the cleanout.
11. We then drove to where the tile exited into Dry Branch Creek. I took photographs and collected silt and vegetation samples from the creek. I also collected a swab sample from the tile where it exited into the creek. The following photographs show the tile exit and the path from the tile exit directly north to the area where the cleanout occurred.



OFFICE OF INDIANA STATE CHEMIST
Pesticide Residue Laboratory
 Lab Report

Case #	2017/1186		Investigator			B. Brewer
Sample #	Sample Description	Amount of Analyte (ng/swab or ppb)				
		Matrix	Pyraclostrobin	Azoxystrobin	Propiconazole	Thiamethoxam
2017-33-5082	Trip blank swab	Swab	BDL	BDL	BDL	BDL
2017-33-5083	Control swab	Swab	BDL	BDL	BDL	BDL
2017-33-5084	Swab tree on creek bank next to target field	Swab	2.23 ng/swab	37.1 ng/swab	20.4 ng/swab	BDL
2017-33-5085	Vegetation swab on creek bank next to target field	Swab	3.60 ng/swab	2360 ng/swab	208 ng/swab	BDL
2017-33-5086	Silt from dry branch creek at complt's property	Soil	1.03 ppb	2.05 ppb	1.23 ppb	BDL
2017-33-5087	Vegetation from dry branch creek at complt's property	Veg	NA	NA	NA	NA
2017-33-5088	Vegetation from target field	Veg	NA	NA	NA	NA
2017-33-5089	Vegetation from creek bank next to target	Veg	NA	NA	NA	NA
2017-33-5090	Silt from creek next to target field at tile exit	Soil	34.8 ppb	3.13 ppb	3.98 ppb	BDL

2017-33-5091	Vegetation from creek next to target field at tile exit	Veg	NA	NA	NA	NA
2017-33-5092	Soil at drain entrance	Soil	160 ppb	29.8 ppb	170 ppb	54.5 ppb
2017-33-5093	Soil at clean out site runoff 40 ft.	Soil	BDL	322 ppb	780 ppb*	181 ppb
2017-33-5094	Soil at clean out location	Soil	BDL	14500 ppb	1110 ppb	1970 ppb
2017-33-5095	Swab inside wall of drain tile entrance	Swab	7440 ng/swab*	246 ng/swab	92.4 ng/swab	BDL
2017-33-5096	Swab inside exit tile located inside of drain tile entrance	Swab	11000 ng/swab*	87.9 ng/swab	176 ng/swab	5.75 ng/swab
2017-33-5097	Swab at drain tile entrance pad	Swab	253000 ng/swab*	5950 ng/swab	5980 ng/swab	4.79 ng/swab
2017-33-5098	Swab at clean out off path 40 ft. from drain	Swab	1560 ng/swab*	350 ng/swab	177 ng/swab	6.58 ng/swab
2017-33-5099	Swab at clean out runoff path 80 ft. from drain	Swab	864 ng/swab	1680 ng/swab	218 ng/swab	2080 ng/swab
2017-33-5100	Swab at clean out location 180 ft. from drain	Swab	311 ng/swab	500 ng/swab	108 ng/swab	9.80 ng/swab
2017-33-5101	Swab inside tile at exit into creek	Swab	4840 ng/swab*	24.2 ng/swab	104 ng/swab	BDL
2017-33-5102	Swab vegetation at tile exit into creek	Swab	194 ng/swab	14.3 ng/swab	7.14 ng/swab	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						
*Results exceeded calibration curve range and reported as minimum concentration found.						
LOQ	Swab		1 ng/swab	1 ng/swab	0.2 ng/swab	0.2 ng/swab
LOQ	Soil		0.7 ppb	0.7 ppb	0.1 ppb	0.1 ppb
Signature				Date		8/23/17

12. The above report is the OISC residue lab report, which I received on August 23, 2017. The report indicated the active ingredients in Quadris Top SB fungicide and Endigo ZC insecticide were detected in all of the samples collected at the cleanout site and the drain entrance and exit into Dry Branch Creek. The report also indicated the active ingredient pyraclostrobin, which is the active ingredient in Headline Fungicide, was detected in very high quantities in the samples collected from the stone lot at Armstrong farms and leading into the drain tile, which leads to Dry Branch Creek. The report further indicated pyraclostrobin was detected in the samples collected from the tile exit at Dry Branch Creek.

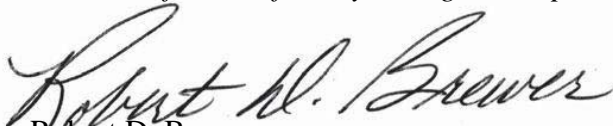
13. On August 29, 2017, I met with OISC Compliance Office George Saxton and OISC Residue Lab Supervisor Ping Wan to discuss the lab report. Mrs. Wan advised me the active ingredient pyraclostrobin is the active ingredient found in the fungicide Headline. She stated

it is very toxic to aquatic life. She stated it takes a very small quantity to have a substantial amount of dead fish. She stated this active ingredient could definitely have remained in the water for the 6.85 miles of dead fish located during this investigation. During this meeting, we all determined the need to determine if the product Headline Fungicide was used in applications around the Armstrong Farm and if it may have been in any equipment, which may have been cleaned out at the stone lot at the Armstrong Farm.

14. On August 30, 2017, I returned to the Armstrong Farm and again spoke with Mr. James Slonaker. I advised him of the OISC residue lab findings. I asked him if they had used any Headline Fungicide on the farm and if it could have been in the equipment, he had cleaned out. He stated he has been employed there as a manager for five years and they have never used Headline Fungicide. He provided me with the records of all applications they have made. We also walked through the storage building and I was unable to locate any containers of Headline Fungicide. I asked Mr. Slonaker if he had any idea from where the active ingredient pyraclostrobin may have come. He stated he had observed Headline Fungicide boxes on the truck of Black Star LLC Helicopter. He stated they had parked their trucks and helicopters on the lot for a month from July 15, 2017 through August 11, 2017. He stated he provided them with water to use to clean off their equipment. I then obtained contact information for Owner of Black Star LLC, Mr. Ty Gill.
15. On August 31, 2017, I made telephone contact with Mr. Gill. I advised him of the situation. He stated he was aware of the investigation, as he had been in contact with Mr. Craig Armstrong of Armstrong Farms. Mr. Gill stated his crew did park their trucks and helicopters on the back part of the stone lot at the Armstrong Farm, while they were making pesticide applications in the area over the past month. He stated he was not aware of the drain at the back of the lot. He stated they would have approximately six gallons of product (Headline fungicide, EPA Reg. #7969-186) left in their tank and would add one thousand gallons of fresh water to it and use this to spray off the helicopter and truck. He stated they felt the small amount of product (Headline fungicide) would be diluted enough it would not be an issue. I explained to Mr. Gill that only a small quantity of the active ingredient pyraclostrobin is extremely toxic to fish. I advised him the OISC residue lab had detected pyraclostrobin in the samples I had collected from the stone lot and the drain entrance and drain exit into Dry Branch Creek. Mr. Gill stated he has a very good rapport with the Armstrongs and did not want them in any trouble. He stated he was responsible and accepted responsibility, if we found the active ingredient from their tanks in the samples. I requested Mr. Gill to send me a written statement. He stated he would email the statement to me.
16. On September 11, 2017, I spoke with Mr. Gill, as I had not received his statement. He had advised me that Black Star LLC contracted Ag Maxx out of Louisiana for the ground crew for his aerial applications made to the Armstrong Farms and other applications in Indiana. Mr. Gill asked if Black Star LLC was responsible or if Ag Maxx would be since they actually would have done any cleaning of the helicopters and equipment. I had made contact with Mr. George Saxton, Compliance Officer with OISC. I explained Mr. Gills question to him. Mr. Saxton stated if Ag Maxx were a license pesticide business in Indiana, they would be responsible for any disposal of pesticide or rinsate. If Ag Maxx was not a licensed Indiana pesticide business, Black Star LLC would be responsible as the certified Indiana pesticide business overseeing Ag Maxx as a contracted employee. I explained this to Mr. Gill and he stated he knows that Ag Maxx was not licensed in Indiana. I researched the OISC database and found that Ag Maxx is not a license pesticide business in Indiana.

17. Black Star was the only company involved to use propiconazole and pyraclostrobin, which was found at several locations in the creek and tile exit to the creek. Armstrong Farms was the only one to use thiamethoxam, which was NOT found at any of the tile exit locations. It is clear Black Star was responsible for the pesticide that got into the creek and killed the fish.


18. The Headline Fungicide label with EPA Reg. #7969-186, states, "*DO NOT contaminate water, food, or feed by storage or disposal.*"



Robert D. Brewer
Investigator

Date: September 11, 2017

Disposition: Black Star was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label instructions regarding contamination of water by disposal. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: September 22, 2017
Final Date: September 24, 2018

CASE SUMMARY

Case #2017/1207

Complainant: Henry Johnson
10858 S. CR400 W.
Geneva, IN 46740
260-849-2983

Respondent: Kevin Sudhoff
4179 State Road 49
Fort Recovery, OH 45846
419-375-1029

Unlicensed

1. On August 11, 2017, John Stahly contacted the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his non dicamba-tolerant (DT) soybeans (Case#2017/1200).
2. On August 14, 2017, in speaking with Mr. Stahly about his complaint, I was informed that another grower, Henry Johnson, suspected his soybeans may have been affected by the same application. I informed him I could do both on-site investigations on the same day.
3. On August 14, 2017, I met both complainants and, after completing the on-site investigation at the Stahly field, went to the Johnson field at the southeast corner of CR750N and CR50W in northern Jay County. Mr. Johnson reported he noticed cupped leaves on his non dicamba-tolerant (DT) Roundup Ready soybeans about a week prior. An agronomist from Helena Chemical, the commercial ag business which sprayed his field with Roundup in mid-July, had reportedly been out to look at the soybeans. The field bordering the Johnson field to the south, which was being farmed by Sudhoff Brothers Farms, was suspected to have been sprayed with a dicamba-containing tank mix.
4. During my on-site investigation, I did the following:
 - a) Looked for, but did not find, any other potential sources of dicamba adjacent to the Johnson soybean field (Fig.1). The target field bordered the southeast portion of the Johnson field with no fence line or biological barrier separating the two.
 - b) Observed and photographed mostly uniform, widespread cupping and puckering on new growth of non-DT soybeans in the southeast portion of the Johnson field. These symptoms are commonly associated with exposure to a growth-regulator type herbicide such as dicamba. Soybean plants in the target field exhibited no symptoms.
 - c) Collected soybean plant samples which exhibited symptoms from the Johnson field for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue.
 - d) Collected plant samples of non-DT soybeans which exhibited symptoms from approximately 40 feet into the Johnson field, north of the target field. Collected a soybean sample and a soil sample from approximately 40 feet into the northern portion of the target field. Those samples were submitted to the OISC Residue lab for analysis.



Fig.1 Aerial photo of fields



Fig.2 NW corner of target field & Johnson field



Fig.3 Johnson soybeans, looking north



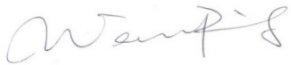
Fig.4 Cupped/puckered leaves in Johnson field

5. On August 14, 2017, I contacted Kevin Sudhoff who confirmed he sprayed the target field with Roundup PowerMax and Xtendimax on July 18, 2017. Mr. Sudhoff later returned a completed Pesticide Investigation Inquiry which indicated the following:
 - a) Application date & time: July 18, 2017, from 1030am-5pm (multiple fields)
 - b) Target field: Corner of SR18 and CR50E (soybeans), south of Johnson soybeans
 - c) Pesticides: Roundup PowerMax (glyphosate) EPA Reg. #524-549
Xtendimax (dicamba) EPA Reg. #524-617
 - d) Application rate of Xtendimax: 22 oz. per acre
 - e) Adjuvants: Astonish
 - f) Nozzles: TTI11004
 - g) Ground speed: 9-11mph
 - h) Winds: 3mph from east-southeast (toward Johnson soybeans)
 - i) Applicator: Kevin Sudhoff
 - j) Buffer zone: not provided
 - k) Checked registrant's web site before application: yes
 - l) Checked Driftwatch/Fieldwatch before application: yes
 - m) Surveyed application site before application: yes
6. I checked recorded wind data at www.wunderground.com for the closest official weather stations to the application site for July 18, 2017, and found the following:
 - The Delaware County Airport, which is 30 miles southwest of the application site, recorded winds ranging from out of the west to out of the northeast. Wind speeds ranged from "Calm" up to 5.8mph.

- The Fort Wayne International Airport, which is 31 miles north-northwest of the application site, recorded winds from various directions, including “Variable”. Wind speeds ranged from “Calm” up to 5.8mph.
- The Marion Municipal Airport, which is 36 miles west of the application site, recorded winds ranging from out of the west-southwest to out of the west-northwest. Several recordings were listed only as “Calm” during the time of the application. Wind speeds were recorded at 5.8mph or less.

7. The PPDL report stated, “*Cupping/puckering of leaves and discolored leaf tip are indicative of injury from dicamba.*” It further stated, “*A common fungal foliar disease, Brown Spot, was confirmed on lower leaves.*”

8. The OISC Residue Lab analyzed the plant samples and the soil sample for dicamba and its breakdown products, DCSA and 5-OH dicamba, and reported the following:

Case #	2017/1207		Investigator	Andy Roth	
Sample #	Sample Description	Amount of Analyte (ppb)			
		Matrix	Dicamba	DCSA	5-OH Dicamba
2017-474129	Non target beans-Johnson	Vegetation	12.2	1.60	BDL
2017-474130	Target beans	Vegetation	8.92	49.0	BDL
2017-474131	Target soil	Soil	75.9	*291	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 (ppb)	Soil	1	2	1	
LOQ (ppb)	Vegetation	4	0.4	4	
Signature				Date	12/4/2017

9. Dicamba and both breakdown products were detected in all samples collected. The evidence at the site and the lab reports suggest dicamba from the application made to the target field moved off-target to the Johnson soybeans. It is difficult to determine whether dicamba moved off-target due to direct particle drift, application into an inversion or volatility at some point after the application, but the wind conditions, provided by Mr. Sudhoff, support that the Xtendimax was applied while winds were blowing toward the Houser sensitive non-DT soybeans.

10. All three weather-reporting stations also indicate the winds were calm for at least part of the application. Calm is defined by the Beaufort Scale¹ as less than one knot or 1.15 mph.

¹ American Heritage® Dictionary of the English Language, Fifth Edition. Copyright © 2016 by Houghton Mifflin Harcourt Publishing Company. Published by Houghton Mifflin Harcourt Publishing Company. All rights reserved.

11. 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.”***

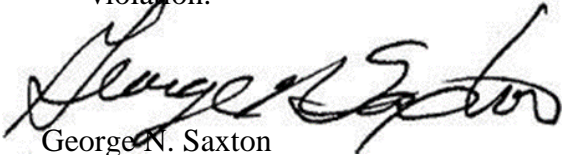
12. ***“Wind speed <3 mph, Do not apply XtendiMax with VaporGrip Technology.”***



Andrew R. Roth
Investigator

Date: March 15, 2018

Disposition: Kevin Sudhoff was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for applying when the wind is blowing toward sensitive crops and when the wind is below three miles per hour. A civil penalty in the amount of \$100.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: April 10, 2018
Final Date: September 18, 2018

CASE SUMMARY

Case #2018/0001

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

Respondent: Ralph Stevens
9474 W. Pearl Street
Manilla, Indiana 46150
317-643-6254

1. On October 2, 2017, an anonymous complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Mr. Stevens had a 'mini-bulk' tank of pesticide rinsate that he had in his back yard on the bed of a truck from which he has been spraying his yard. Anonymous stated he was not sure Mr. Stevens was not selling some of the rinsate he got from the place where he works which is a farm supply store in Greensburg.
2. On October 9, 2017, I went to Mr. Stevens's residence in Manilla, Indiana. Mr. Stevens had two (2) partially filled mini-bulk shuttles stacked on top of each other in his fenced backyard. See figures 1-2. Mr. Stevens stated he was unsatisfied with the weed killer he purchased at the hardware store and wanted something stronger to kill weeds in his yard. Mr. Stevens stated he went down to Crop Production Services (CPS) located at 7440 State Road 44, in Manilla, Indiana (46146) to see if he could get something stronger to kill his weeds. Mr. Stevens stated on two (2) occasions, five plus years ago and two plus years ago, and unnamed and un-identified employee of CPS provided him with mini bulk shuttles of leftover or spilled pesticides. Mr. Stevens did not know exactly what products or concentration of pesticides was in the mixture.



Figure 1- Two Shuttles

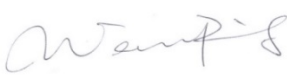


Figure 2-Shuttle with CPS sticker

3. On October 9, 2017, I collected swab samples of the contents in both mini-bulk shuttles for analysis by OISC's Residue Lab.

4. On October 9, 2017, I met with Jobe Kissel, Branch Manager for CPS in Manilla, Indiana. CPS did not have any record of Mr. Stevens or any records of mini-bulk shuttles being given away. Mr. Kissel gave me access to CPS's bulk pesticide facility. I recorded the current bulk pesticides CPS had on hand at the time of my investigation including Restricted Use Pesticide (RUP). Mr. Kissel stated he would contact Mr. Stevens to discuss removing and disposing of the mini-bulk shuttles.

5. On November 29, 2017, OISC's Residue Lab reported the following;


Case #	2018/0001				Investigator		J. Kelly	
Sample #	Sample Description	Amount of Analyte (ng/swab)						
		Matrix	Metolachlor	Acetochlor	Atrazine	Mesotrione	Glyphosate	2,4-D
2018-50-2001	Trip Blank swab	Swab	BDL	BDL	BDL	BDL	BDL	Not Tested
2018-50-2002	Swab from top shuttle of unknown use dilution	Swab	400000	330000	2480000	144000	13300000	Not Tested
2018-50-2003	Swab from bottom shuttle of unknown dilution	Swab	49.1	44.4	97900	BDL	44000000	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	Swab		0.3	0.7	0.3	0.3	10	Not Tested
Signature					Date		11/29/2017	

6. OISC Residue Lab report indicated the active ingredients metolachlor, atrazine, and acetochlor were detected in both mini-bulk shuttles. The active ingredients metolachlor, atrazine, and acetochlor are classified as Restricted Use Pesticides (RUP) and require a certification to use. Mr. Stevens does not hold any license or certification.

7. On January 8, 2018, I contacted Jobe Kissel of CPS to follow-up with our conversation regarding collecting and disposing of the mini-bulk shuttles. Mr. Kissel stated he spoke with Mr. Stevens regarding the mini-bulk shuttles. Mr. Kissel stated Mr. Stevens told him he (Mr. Stevens) put some of his own pesticides in the shuttles over time. Mr. Kissel stated he was reluctant to assume responsibility for the shuttles after his conversation with Mr. Stevens.

8. I was not able to determine that Mr. Stevens was distributing or selling pesticides.

9. CPS hauled the violative pesticides to a Clean Sweep program on August 16, 2018 for proper disposal.


Paul J. Kelley
Investigator

Date: January 18, 2018

Disposition: Ralph Stevens was cited for violation of section 65(10) of the Indiana Pesticide Use and Application Law for using a restricted use pesticide without having an applicator who is licensed or permitted. A civil penalty in the amount of \$250.00 was assessed for this violation.

Ralph Stevens was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless or negligent manner by storing mini bulks of an unknown pesticide in a non-contained, urban area. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: October 3, 2018
Final Date: November 20, 2018

CASE SUMMARY

Case #2018/0002

Complainant: Shane Westerman
1315 S. Purdum
Kokomo, Indiana 46902
765-461-5711

Respondent: Elijah L. Church
Affordable Pest Management
2220 W. Defenbaugh Street
Kokomo, Indiana
765-431-5728

Unlicensed Applicator
Unlicensed Business

1. On October 2, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Elijah Church is advertising pest control but does not appear to be licensed. A check of the OISC database indicated Mr. Church was a Registered Technician only and did not have a pesticide business license.
2. On October 2, 2017, I telephoned the complainant Shane Westerman. Mr. Westerman stated that he has responded to the respondent's local garage sale website-said that he asked him a few weeks ago on facebook if he was licensed and what company he worked for. Mr. Westerman was going to send me screen shots of the conversations and messages with Mr. Church. After reviewing the screen shots from Mr. Westerman, Mr. Church and Sarah Brunnemer-Woodruff are advertising for Mr. Church's pesticide application services with a business name of "Affordable Pest Management- (317)324-6653."

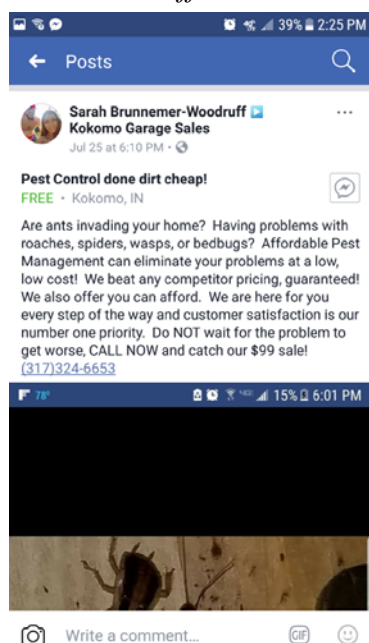


Figure 1



Figure 2

- Figure 1 is a screen shot of Saran Brunnemer-Woodruff advertising in Kokomo Garage Sales on Facebook for Affordable Pest Management.
 - Figure 2 is a screen shot of Elijah L Church advertising in Kokomo Garage Sales on Facebook for Affordable Pest Management.
3. On October 2, 2017 I verified with the OISC Licensing division it was confirmed that Mr. Church is a Registered Technician but was terminated May 15, 2017 from Ecoliving Pest Solutions 2824 W. Gilbert Street, Muncie, Indiana 317-721-8548.
 4. On October 9, 2017, I was able to view the Facebook page of the respondent Elijah L. Church. His Facebook page was linked to a Facebook business page of Affordable Pest Management 2220 W. Defenbaugh Street, Kokomo, Indiana 46902 (317) 243-6653.

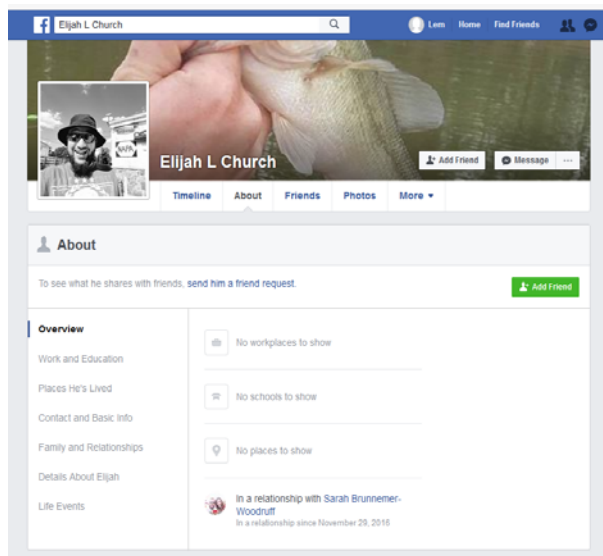


Figure 3

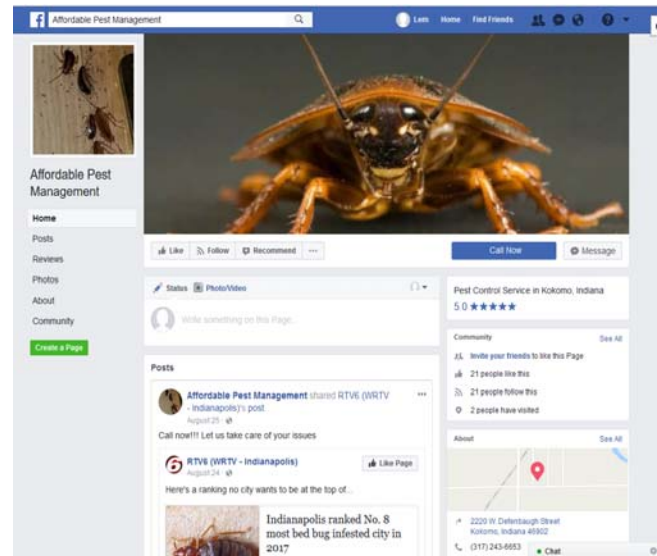


Figure 4

- Figure 3 is a Facebook screen shot of the respondent Elijah L Church
 - Figure 4 is a Facebook screen shot of the business Affordable Pest Management advertised on Facebook with the same telephone number listed as the one in Paragraph 2-Figures 1 & 2
5. On October 9, 2017, I confirmed with the OISC Licensing division there is not a business registered by the name Affordable Pest Management at 2220 W. Defenbaugh St., Kokomo, Indiana 46902.
 6. On October 9, 2017, I identified via the Affordable Pest Management Facebook review page two possible customers/applications made. The first one is from a person named Kristi Scheiman and the second is Cathryn Margaret Piker.

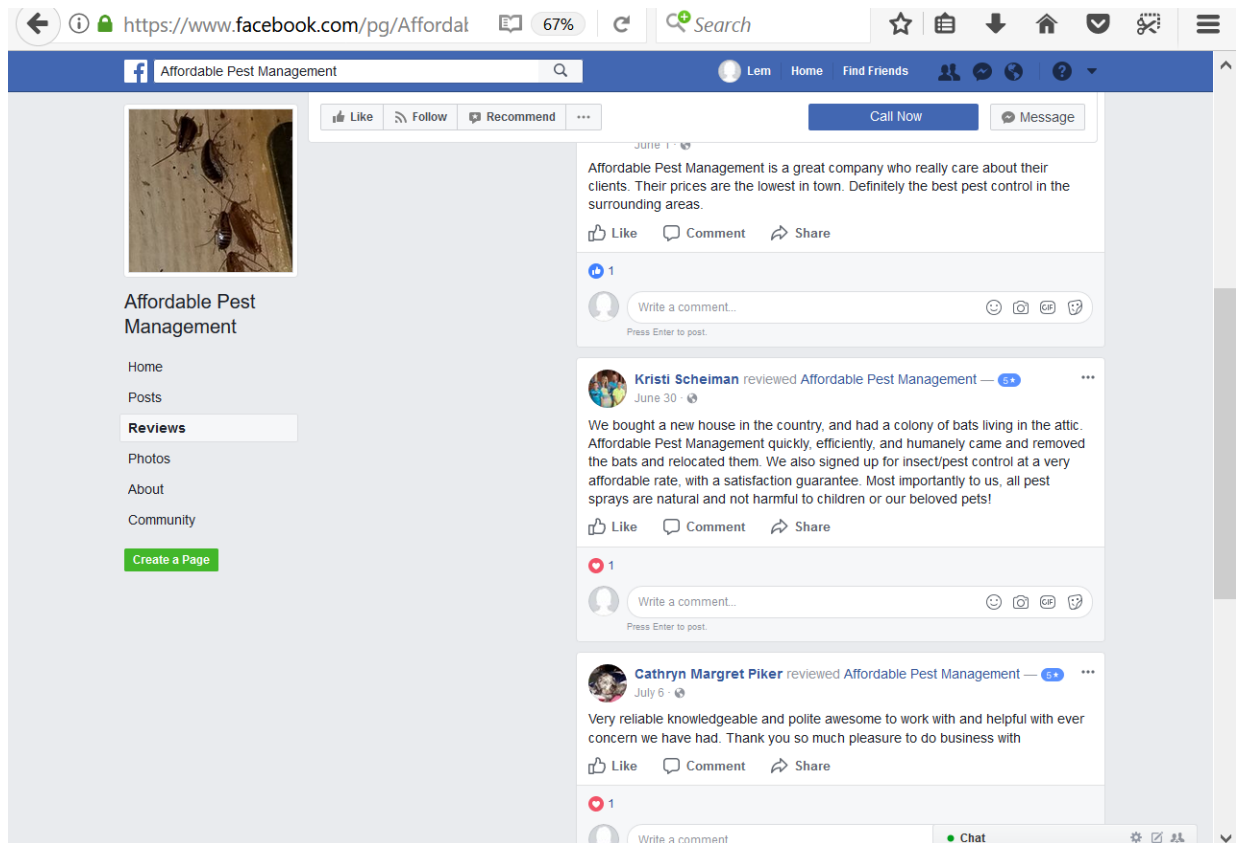


Figure 5

- Figure 5 shows two reviews on the Affordable Pest Management Facebook page.
7. On November 1, 2017, I met Mr. Church at the OISC office 175 S. University St, West Lafayette, Indiana. Mr. Church stated that he was unaware that he needed a business license with OISC and assumed that when he applied for a business license with the State of Indiana there was not an additional requirement with OISC. I explained to Mr. Church the parameters involved with obtaining a business license and not advertising for a pest-control company if he did not have the proper license. Mr. Church was issued an **ACTION ORDER** stating: *“Stop advertising /making pesticide applications for hire until your business location is qualified by OISC.”*
 8. On November 7, 2017, I spoke to Mr. Westerman and he stated that Mr. Church is still advertising for Pest Control. Mr. Westerman sent me this photo:

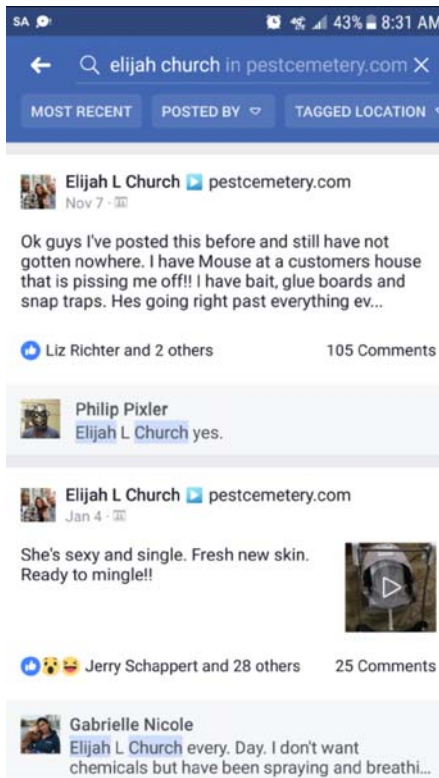


Figure 6

- Figure 6 is a screen shot from Mr. Westerman on Facebook from Mr. Church
9. On November 13, 2017, I spoke with Mr. Church and asked him for details regarding the customer in Figure 6. Mr. Church stated that he was not advertising for pest control. I stated to him by his wording "*customers house*" that he is implying that he :
 - 1). Is performing pest control for hire
 - 2). Is continuing to operate without an OISC Business License after being issued an **ACTION ORDER**.
 10. It appears there is a violation in this case because:
 1. Mr. Church was advertising for pest control without proper licensing as seen in Figures 1-5.
 2. Mr. Church violated the **ACTION ORDER** and continued to advertise he was performing pest control for hire, in which he was told to stop (Figure 6).

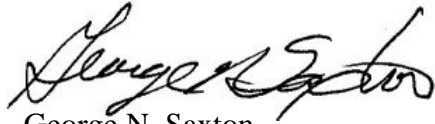
Melissa D. Rosch
Investigator

Date: January 19, 2018

Disposition: Elijah L. Church and Affordable Pest Management were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to comply with a lawful Order of the state chemist. A civil penalty in the amount of \$250.00 was assessed for this violation.

Elijah L. Church and Affordable Pest Management were cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for professing to be in the business of applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation.

As of October 8, 2018, Affordable Pest Management had not paid the civil penalty. The case was forwarded to collections.

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

George N. Saxton
Compliance Officer

Draft Date: March 2, 2018
Final Date: October 8, 2018

CASE SUMMARY

Case #2018/0008

Complainant: Ken Hughes
Peace of Mind Pest Control
2530 E 450 N
Anderson, Indiana 46012
317-513-3009

Respondent: E&E Decorative Concrete
Tom Evans
1040 E. Shockley Road
Muncie, Indiana 47302
765-686-3101

1. On October 6, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report an unlicensed company treated for the control of termites with a pesticide and is not licensed in Indiana. The location where this alleged pesticide application took place is:

Sheila Lephart
109 W Main Street
Spring Port, Indiana 47387

2. On October 13, 2017, I met with Mrs. Lephart in New Castle, Indiana. She stated she had found Mr. Evans through the Home Advisory. She hired him to do some concrete work and home remodeling at her residence. She stated he completed a concrete job of which she paid him. She stated the end of June or first of July 2017, Mr. Evans began tearing the old wooden siding off of her house in order to replace it with vinyl siding. She stated while he was tearing the old wooden siding off, he advised her he found termites beneath the siding. She stated he then sprayed a product on the side of the house from a hand pump-type sprayer. He advised her he was treating for termites. She stated he replaced the siding and she paid him for the work, plus additional pay for gutter materials. She stated he did not return to install the gutters. She stated she had telephone contact with Mr. Evans and he agreed to refund the money, but never did and she stated he has moved and has had no further contact with him. Mrs. Lephart was going to complete a written statement and mail it to me. Mrs. Lephart stated she hired another company, Peace of Mind Pest Control, to do work on her residence. She advised Mr. Ken Hughes of the termite treatment applied by Mr. Evans. He told her Mr. Evans was not licensed to apply pesticides for hire.
3. I left some telephone messages for Mr. Evans and he did return my call on October 13, 2017. I advised him of the complaint and informed him I had checked the OISC database and learned he was not licensed in the State of Indiana to apply pesticides for hire. I asked him if he applied pesticide to the termites on the house of Mrs. Lephart. He stated he did. He stated

as he pulled off the old siding, he noticed termites. He stated he went to Gilman's hardware and purchased a dry termite pesticide of which he applied to the house. I advised him that Mrs. Lephart stated he had used a sprayer to spray the termites. He stated he only applied a dry pesticide around the house. I asked him if he was paid for the job. He stated he was paid for removing the old siding and installing the new siding. I advised him in the State of Indiana, he could not applied any pesticide for hire, without being licensed through OISC. He stated he had only applied pesticides this one time. I advised Mr. Evans that I needed to meet with him to issue him an ACTION ORDER. He stated he could not meet that day as he was out of town working. I advised him I would contact him the first of the next week to set up a time and date to meet with him to issue him the Order. I advised him I needed the exact pesticide product he applied. He stated he was unsure, but would get the information for me when we met. He advised me he no longer had the company E & E Decorative Concrete. He state he now works for another company.

4. On Monday October 16, 2017, I attempted to contact Mr. Evans by telephone. I left a message and he failed to return the call. I left several more messages over the next few days and again he failed to return my calls. He had still not made contact with me at the time of this report.



Robert D. Brewer
Investigator

Date: October 24, 2017

Disposition: Tom Evans was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation.

As of October 8, 2018, Tom Evans had not paid the civil penalty. The case was forwarded to collections.



George N. Saxton
Compliance Officer

Draft Date: December 14, 2017

Final Date: October 8, 2018

CASE SUMMARY

Case #2018/0034


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

Respondent:	J&J Lawn Service	Owner
	Jonathan Preusz	Former certified applicator
	Thomas Joe Enyeart	Unlicensed at time of complaint
	Paul Eyer	
	6121 S. Western Avenue	
	Marion, Indiana 46953	
	765-661-5495	

Alternate contact: P.O. Box 278
Gas City, Indiana 46933
765-251-0113

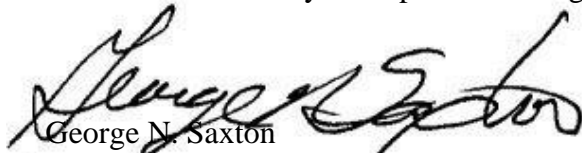
1. On October 19, 2017, an anonymous complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report the only certified applicator for J&J Lawn Service left and went out of state and no longer works for J&J but they continue to apply pesticides for hire.
2. On October 30, 2017, I met with Mr. Paul Eyer of J&J Landscaping. He stated J&J Lawn Service "*no longer existed.*" He said J & J had been purchased by Corey Charette of Weed Whackers in June of 2017. According to Mr. Eyer, Mr. Charette was making all the pesticide applications and that he (Mr. Eyer) only made pesticide applications when Mr. Charette was onsite. He went on to say that as of January 1, 2018, Weed Whackers and J&J would all become Weed Whackers doing business as (DBA) The Grounds Guys of Muncie. I expressed some concerns to Mr. Eyer regarding the transition of J&J to Weed Whackers. I stated it was very important the paperwork accurately stated who and which business was applying the pesticides. Mr. Eyer stated he and Mr. Charette were trying hard to maintain as many customers as possible during the transition. I also reminded Mr. Eyer he was not allowed to make any for hire pesticide applications without Mr. Charette onsite. Finally, I requested copies of J&J pesticide application records.
3. On November 2, 2017, Mr. Eyer emailed me the pesticide applications records for September and October 2017. All the applications were recorded on J&J Lawn Service letterhead and were recorded as being applied by Cory Charette with a license number of F257902. (This license is associated with Weed Whackers only.)
4. I collected the following licensing information from the OISC licensing department.
 - Weed Whackers and Cory Charette were licensed for all of 2017.
 - Mr. Eyer was a registered technician (RT) with J & J from March 2015 to December 2015. His RT certification expired 12/31/15. He did not have an RT license with J & J for 2016, and he did not retake his Core until 2017.

- Mr. Eyer did not have any RT in 2017 with J&J. The only licensed applicator was Thomas Joe Enyeart. (I learned during my investigation Mr. Enyeart left sometime in early summer.)
 - After meeting with Mr. Eyer, he acquired his RT license with Weed Whackers in November 2017.
5. On November 9, 2017, I called and spoke with Mr. Charette. He acknowledged he purchased J&J, but was waiting to formally transition to Weed Whackers doing business as (DBA) The Grounds Guys of Muncie until January 1, 2018. In general, his story collaborated with Mr. Eyer. Mr. Charette stated he had made all the pesticide applications since he had acquired J&J. I expressed my concern that the customers were unclear who was making the applications. Mr. Charette stated the billing listed J&J DBA the Grounds Guys of Muncie. He also said he had liability insurance for all three companies. I requested he send me a copy of the policy and his billing.
 6. On November 10, 2017, I received a copy of the insurance policy for all three companies from Ashley Rayn of Insurance Management Group. It appeared to be sufficient.
 7. On November 20, 2017, Agent Bob Brewer and I met with Mr. Eyer again. After a somewhat lengthy conversation, I expressed my concern that Mr. Eyer did not have an RT license with J&J for most of the year. Mr. Eyer stated Mr. Enyeart the certified applicator made the pesticide applications before he left J&J. Mr. Eyer thought Mr. Jonathan Preusz, the owner of J&J, had "taken care of his license." It wasn't until the acquisition that Mr. Eyer realized he did not have a license. He then admitted to "making approximately 25 pesticide applications without a license" between when Mr. Enyeart left and Mr. Charette of Weed Whackers acquired J&J.
 8. On November 21, 2017, Mr. Eyer emailed copies of the pesticide applications he made without a license. The full records can be found in the case file. The application dates are as follows: May 15, 16, 17, 18 and 19.


Elizabeth C. Carter
Investigator

Date: November 29, 2017

Disposition: Paul Eyer was cited for five (5) 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 \$1,250.00 (5 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$937.50. Consideration was given to the fact Mr. Eyer cooperated during the investigation.


George N. Saxton
Compliance Officer

Draft Date: January 31, 2018
Final Date: September 18, 2018

CASE SUMMARY

Case #2018/0175

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

Respondent: True Value
Joe Hollingsworth
25 Boone Village Shopping Center
Zionsville, IN 46077
317-873-5255
Store Manager

Registrant: Bite-Lite LLC
211 Greenwood Avenue
Building 202, Suite 102
Bethel, CT 06801
855-248-3548

1. On February 14, 2018, I performed a routine marketplace inspection at True Value in the Village Shopping Center in Zionsville, Indiana. I spoke with the Store Manager Joe Hollingsworth and informed him of the process of the marketplace inspection.
2. Upon completion of the inspection, I located one (1) unregistered pesticide product that was being offered for sale in the True Value store. I spoke with Sarah Caffery, Pesticide Registration, and she confirmed that the pesticide product was unregistered but had been registered in 2016. The product was as follows:
 - a. Bite-Lite Natural Mosquito Repellent, a 25(B)¹ product.
 - i. OISC ID:2014-076716
3. I spoke with Mr. Hollingsworth and informed him of the unregistered product I had located. I informed Mr. Hollingsworth that I would be issuing an Action Order instructing them to remove the unregistered pesticide product from the shelves and place them in storage and that they are not to be sold or removed from the store unless contacted in writing by OISC. I also informed him that I would be retaining an evidentiary sample of the product for my case. I asked Mr. Hollingsworth if he was able to provide me with any information for when the last shipment came to the store and he was able to print off a stocking form that stated it was last received on 7/15/15.
4. On February 14, 2018, I delivered the evidentiary sample to the Formulation Lab.

¹ Minimum Risk Pesticide



Garret A. Creason

Garret A. Creason
Investigator

Date: February 15, 2018

Disposition:

- A. On February 19, 2018, this information was forwarded to the Registration Section for label review.
- B. On March 16, 2018, the results of the label review were finalized. The label review revealed that:
 - a. Mint oil was listed as an active ingredient but is not approved by EPA 40 CFR 152.25(f)(1).
 - b. Hydrogenated vegetable oil is not approved as an inert ingredient according to 40 CFR 152.25(f)(2).
- C. Bite-Lite LLC was cited for two (2) counts (for the years 2017 and 2018) of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing an unregistered pesticide product. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed for these violations.
- D. On August 13, 2018, I spoke with Ms. Marie Maher who indicated Bite-Lite LLC did not intend to re-register this pesticide product.

George N. Saxton

George N. Saxton
Compliance Officer

Draft Date: August 13, 2018
Final Date: September 24, 2018

CASE SUMMARY

Case #2018/0178

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

Respondent: Tractor Supply
Maegan Starkey
2423 N. Lebanon Street
Lebanon, IN 46052
765-483-1224

Team Lead

Registrant: Protector Brands
100 30th Street Drive SE
Cedar Rapids, IA 52413
(319) 362-8101

1. On February 14, 2018, I performed a routine marketplace inspection at Tractor Supply. I spoke with the Team Lead Maegan Starkey and informed her of the process of the marketplace inspection.
2. Upon completion of the inspection, I located one (1) unregistered pesticide product that was being offered for sale in the Tractor Supply store. The product was as follows:
 - a. Bug Protector All Natural Bug Repellent, a 25(b)¹ product.

I spoke with Sarah Caffery, Pesticide Registration and she stated that the product was registered with the company Protector Products. However, the company that was listed on the product container was Protector Brands therefore making the registration invalid.

3. I spoke with Ms. Starkey and informed her of the unregistered pesticide product I had located. I informed Mrs. Starkey that I would be issuing an Action Order instructing them to remove the unregistered pesticide product from the shelves and place them in storage and that they are not to be sold or removed from the store unless contacted in writing by OISC. I also informed her that I would be retaining an evidentiary sample of the product for my case. I spoke with Kimberly Thornsborough, who was in charge of stocking, and asked if she was able to provide me with any information for when the last shipment came to the store. She was unable to locate information on exactly when it came in but stated she believed it came in around January 1, 2018.
4. On February 14, 2018, I delivered the evidentiary sample to the Formulation Lab.

¹ Minimum Risk Pesticide



Garret A. Creason

Garret A. Creason
Investigator

Date: February 19, 2018

Disposition:

- A. On February 20, 2018, this information was forwarded to the Registration section for label review.
- B. On April 5, 2018, the label review was returned and revealed the following:
 - a. The full list of active/inert ingredients were not listed on the front of the label along with percentages;
 - b. The term "other insects" is too generic/broad;
 - c. The term "natural" is not allowed since the product includes citric acid.

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

D. Protector Brands 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: June 27, 2018
Final Date: December 19, 2018

CASE SUMMARY

Case #2018/0251

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

Respondent: Orscheln Farm and Home
Jonathan Randall
1326 N. Gardner Street
Scottsburg, IN 47170
812-754-0828
Support Manager

Registrant: Protector Products
100 30th Street Drive SE
Cedar Rapids, IA 52403
888-301-4820

1. On March 20, 2018, I performed a routine marketplace inspection at Orscheln Farm and Home located at 1326 N Gardner Street in Scottsburg, Indiana. I spoke with the Support Manager Jonathan Randall and informed him of the process of the marketplace inspection.
2. Upon completion of the inspection, I located one (1) unregistered pesticide product that was being offered for sale in the Orscheln Farm and Home store. I spoke with Sarah Caffery, Pesticide Registration, and she confirmed that the pesticide product was unregistered. The product is as follows:
 - a. Bug Protector All Natural Bug Repellent for Ticks, a 25(b)¹ product.
3. The registration that is on file with OISC does not specify that the product is for Ticks which makes the registration invalid.
4. I spoke with Mr. Randall and informed him of the unregistered products I had located. I informed Mr. Randall that I would be issuing an Action Order instructing them to remove the remaining seven bottles of the unregistered pesticide product from the shelves and place them in storage and that they are not to be sold or removed from the store unless contacted in writing by OISC. I also informed him that I would be retaining an evidentiary sample of the product for my case. I asked Mr. Randall if he was able to provide me with any information for when the last shipment came to the store and he stated he was not able to look up that information.

¹ Minimum Risk Pesticide

5. On March 21, 2018, I delivered the evidentiary sample to the Formulation Lab.




Garret A. Creason
Investigator

Date: March 23, 2018


Disposition:

- A. On March 26, 2018, this information was forwarded to the Registration Section for label review.
- B. On March 27, 2018, the label review was completed and revealed the following:
 - a. Acacia Gum is not an approved inert ingredient;
 - b. Soy Lecithin and Acacia Gum were not listed by percentage weight;
 - c. The label does not include enough information on “repels Ticks”, “Deet Free” and “Other Insects”;
 - d. The label did not list both active and inert ingredients in column form totaling to 100 %;
 - e. The label states the product is “natural” but contains xanthan gum, a compound not found in nature.
- C. Protector Products was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in Indiana.

A civil penalty in the amount of \$250.00 was assessed for this violation. However, this civil penalty was held in abeyance and will not be assessed provided Protector Products properly registers the product within thirty (30) days of receipt of this notice.

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

E. As of July 26, 2018, Protector Products has not properly registered their pesticide product. As a result, the original civil penalty for violation of section 57(1) was reinstated for a total civil penalty of \$500.00.


George N. Saxton
Compliance Officer

Draft Date: July 26, 2018
Final Date: December 19, 2018

CASE SUMMARY

Case #2018/0256

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

Respondent: Ace Hardware
Scott Howser
785 W. McClain Street
Scottsburg, IN 47170
812-752-2991
Owner/Co-Owner

Registrant: BioDefend
75 Camden Bypass
Camden, AL 36726

1. On March 20, 2018, I performed a routine marketplace inspection at Ace Hardware located at 785 W. McClain St. Scottsburg, Indiana. I spoke with the Owner Scott Howser and informed him of the process of the marketplace inspection.
2. Upon completion of the inspection, I located one (1) unregistered pesticide product that was being offered for sale in the Ace Hardware store. I spoke with Sarah Caffery, Pesticide Registration and she confirmed that the pesticide product was unregistered. The product is as follows:
 - a. BioDefend Mosquito Repellent, a 25(b)¹ product.
3. I spoke with Mr. Howser and informed him of the unregistered product I had located. I informed Mr. Howser that I would be issuing an Action Order instructing them to remove the remaining four containers of the unregistered pesticide product from the shelves and place them in storage and that they are not to be sold or removed from the store unless contacted in writing by OISC. I also informed him that I would be retaining an evidentiary sample of the product for my case. I asked Mr. Howser if he was able to provide me with any information for when the last shipment came to the store and he stated he was not able to look up that information.
4. On March 21, 2018, I delivered the evidentiary sample to the Formulation Lab.

¹ Minimum Risk Pesticide



Garret A. Creason

Garret A. Creason
Investigator

Date: March 26, 2018

Disposition:

- A. On March 27, 2018, the information was forwarded to the Registration Section for label review. The label review was returned the same date.
- B. BioDefend was cited for one count of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide that was not registered in Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation. However, this civil penalty will be held in abeyance and will not be assessed provided BioDefend properly registers this product within thirty (30) days from receipt of this notice.
- C. Enforcement letters to BioDefend were returned to OISC as “undeliverable” on August 6 and August 9, 2018. The company is presumably out of business. No information for the company and/or their products could be found on the web as of October 9, 2018.
- D. The \$250.00 civil penalty is uncollectable at this time. Future attempts to become an established business and register products will be denied, until the civil penalty is paid.

George N. Saxton

George N. Saxton
Compliance Officer

Draft Date: June 29, 2018
Final Date: December 19, 2018

CASE SUMMARY

Case #2018/0274

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

Respondent Ryan McGrady Owner
McGrady Outdoor
97 Prairie Knoll Drive
New Castle, Indiana 47362
765-686-2145

1. On March 20, 2018, I received an anonymous complaint regarding Mr. Ryan McGrady making pesticide application without a pesticide applicators license in the Hill Run Ct. area. I went to Mr. McGrady's residence, but found no one to be home.
2. On March 29, 2018, I returned to the area. I began checking the Hill Run Ct. area and observed a lawn marker in the front yard of 115 Hill Run Ct, with McGrady Outdoor and Mr. McGrady's telephone number on it. I took a photograph of the lawn marker. I then made contact with homeowner at 115 Hill Run Ct. He advised me, Mr. McGrady did make a pesticide application to his lawn within the past two weeks. I advised him Mr. McGrady did not possess a pesticide business license or an applicators license through the Office of Indiana State Chemist. He stated he had no idea Mr. McGrady was not licensed. The following is a photograph of the lawn marker.



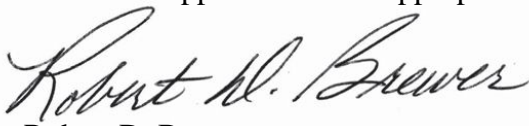
3. I then made contact with Mr. McGrady by telephone. I advised him of the situation and he admitted over the telephone he knew he did not have a pesticide business license or an

applicator license. He stated he knew better as he had possessed one in the past. I advised him I needed to meet with him and obtain records of any pesticide applications he had made. We agreed to meet on Monday April 2, 2018 at his residence.

4. On April 2, 2018, I met with Mr. McGrady at his residence. He provided me with application records indicating he had made 22 pesticide applications over a period from March 10, 2018 through March 28, 2018. The following is a list of pesticide applications by date made by Mr. McGrady.

March 10, 2018	10 pesticide applications
March 12, 2018	2 pesticide applications
March 19, 2018	2 pesticide applications
March 27, 2018	2 pesticide applications
March 28, 2018	6 pesticide applications

5. Mr. McGrady was in violation of making pesticide applications without a business license or pesticide applicator license on five days. The records provided by Mr. McGrady indicated he applied on each application, Nutrients Plus16-2-3, 38 % CRN, 15% Bio, 1 Fe, .37% Barricade. Copies of the application records are in this case file.
6. I issued Mr. McGrady an ACTION ORDER ordering him to cease any and all pesticide and fertilizer advertising and applications for hire until obtaining proper business and applicator license through the Office of Indiana State Chemist. A copy of the Action Order is in this case file.
7. Mr. McGrady stated he knew he did not have a business license or applicator license. He stated he was trying to get his new business going and had just neglected to get the proper licensing. Mr. McGrady stated he would send in the application for the business license and category 3b pesticide applicator license immediately. Note: On April 6, 2018, I contacted Ms. Jill Davis, of the OISC licensing section. She advised me, she had received the applications and appropriate fees from Mr. McGrady on April 4, 2018.



Robert D. Brewer
Investigator

Date: April 6, 2018

Disposition: Ryan McGrady was cited for five (5) 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 \$1,250.00 (5 counts x \$250.00 per count) was assessed.



George N. Saxton
Compliance Officer

Draft Date: June 26, 2018
Final Date: September 24, 2018

CASE SUMMARY

Case #2018/0339

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

Respondent: Harrell's
Brad Bolyard
3851 Perry Blvd.
Whitestown, IN 46075
317-769-2500

Operations Manager

1. On March 28, 2018, I conducted a routine bulk pesticide container containment inspection at Harrell's in Whitestown, Indiana. When I arrived at the facility, I met with the operations manager, Brad Bolyard, and informed him of the inspection. Mr. Bolyard joined me for the entire course of the inspection.
2. While in the warehouse I observed that there were four (4) portable refillable containers (mini-bulk) containing a herbicide. While checking through the facility I did not observe any kind of secondary containment. I asked Mr. Bolyard if there was any secondary containment in the facility and he informed me there was not. Mr. Bolyard stated that they ordered this product for a customer and were storing them until the customer was ready for them. I explained to Mr. Bolyard that bulk pesticides such as this need to be stored in containment. Mr. Bolyard stated that instead of installing secondary containment into the facility, he would contact the customers and have them removed from the facility.
3. Inside this facility were four portable refillable containers. The product was:
 - a. Triplet SF Selective Herbicide, EPA Reg. #228-312,
4. I asked Mr. Bolyard if he was able to get information on when each of the containers arrived at the facility. Mr. Bolyard provided me with the Bill of Lading, Plant Receipt, and also two shipping tickets. The bill of lading and plant receipt indicate that six portable refillable containers of Triplet SF arrived at the facility on December 11, 2017. Two of the containers were shipped out on March 20, 2018.
5. The total violations considering per container and per day is 446 days:
 - December 11, 2017 to March 20, 2018 = 99 days; minus 30-day grace period = 69 violative days x 6 containers or 414 per container per day violations.

- March 21, 2018 to March 28, 2018 = 8 violative days x 4 containers or 32 per container per day violations.
 - Total per container per day violations is 446 counts.¹
6. I issued an Action Order instructing Harrell's to have the four containers of Triplet SF herbicide removed from the facility by 4/30/2018.
 7. On May 7, 2018, I contacted Mr. Bolyard via telephone to inquire about the Action Order. Mr. Bolyard stated that all the containers had been removed from the facility per the request of the Action Order. He stated that they all had been removed by 4/23/2018.
 8. On May 8, 2018, I went to Harrell's and met with Mr. Bolyard. We went into the warehouse and I was able to see that the containers had been removed.



Containers have been removed from the facility

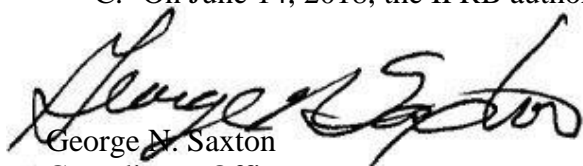
Garret A. Creason
Garret A. Creason
Investigator

Date: May 10, 2018

¹ Per rule 357 IAC 1-6-2(b), penalties of this nature may not be imposed for more than one hundred eighty (180) days.

Disposition:

- A. Harrell's was cited for 180 counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 5-4-1(a) for storing bulk pesticides outside of secondary containment. A civil penalty in the amount of \$45,000.00 (180 counts x \$250.00 per count) was assessed. However, it was proposed that the civil penalty be reduced to \$11,250.00 provided approval may be obtained by the Indiana Pesticide Review Board (IPRB)². Consideration was given to the fact Harrell's cooperated during the investigation; corrective action was taken; there was no previous history of similar nature and no restricted use pesticides were involved.
- B. On May 23, 2018, I contacted Brad Bolyard and advised him of the civil penalty and the proposed mitigation amount provided I could get IPRB approval. He requested that I call corporate officer Sandy Simon. I called Mr. Simon and advised him of the situation. He stated he understood and agreed to the proposed settlement amount of \$11,250.00.
- C. On June 14, 2018, the IPRB authorized the proposed mitigated civil penalty.


George N. Saxton
Compliance Officer

Draft Date: August 7, 2018
Final Date: September 18, 2018

² 357 IAC 1-6-2(a) does not allow for mitigation by the Office of Indiana State Chemist.

CASE SUMMARY

Case #2018/0382

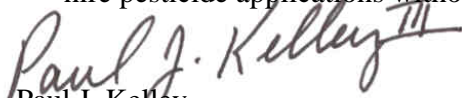
Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, Indiana 47907-2063
800-893-6637

Respondent: Cary Jenkins
Orange County Cutters
6597 North State Road 337
Orleans, Indiana 47452
812-865-2551

Unlicensed Applicator
Unlicensed Business

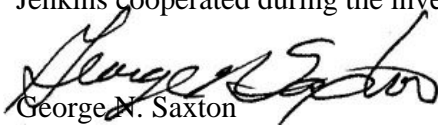
1. On April 30, 2018, an anonymous complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Orange County Cutters making pesticide/fertilizer applications at Hoosier Hill Credit Union in Paoli, Indiana. OISC database indicates Orange County Cutters is not licensed.
2. On May 7, 2018, Agent Nate Davis and I met with Tawnya Daugherty, VP Paoli Operations Hoosier Hills Credit Union. Mrs. Daugherty confirmed Orange County Cutters was hired to perform lawn care duties. Mrs. Daugherty stated she would provide copies of invoices.
3. On May 7, 2018, I spoke with Cary Jenkins, owner of Orange County Cutters. Mr. Jenkins stated he had applied 2,4-D herbicide at the Hoosier Hills Credit Union in Paoli, Indiana in 2018. Furthermore, Mr. Jenkins stated he applied Round-up at the Old National Bank in Paoli, Indiana in 2018.
4. On May 7, 2018, I received three (3) invoices from Hoosier Hills Credit Union for applications made by Orange County Cutters in 2017.

Invoice #2372	Date 3/25/17	fertilized
Invoice #2513	Date 4/12/17	Spray
Invoice #3421	Date 10/20/17	spray 2-4-D, fertilize
5. On May 11, 2018, I received correspondence from Staci Jenkins of Orange County Cutters stating Orange County Cutters "serviced" Hoosier Hills Credit Union and Old National Bank in Paoli Indiana on 4-27-18. This corresponds to Mr. Jenkins' admission of spraying pesticides at these locations in 2018.
6. On May 11, 2018, Orange County Cutters and Cary Jenkins were issued an Action Order to cease making for-hire pesticide applications without a license.


Paul J. Kelley
Investigator

Date: July 23, 2018

Disposition: Cary Jenkins and Orange County Cutters were cited for four (4) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides/fertilizer for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$1,000.00 (4 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$750.00. Consideration was given to the fact Mr. Jenkins cooperated during the investigation.


George N. Saxton
Compliance Officer

Draft Date: August 27, 2018
Final Date: October 24, 2018

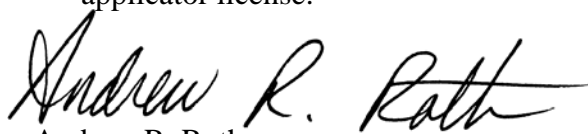
CASE SUMMARY

Case #2018/0485

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

Respondent:	Talvin Williams	Certified Applicator
	Adam Rafail	Not Licensed
	Aptive Environmental	Licensed Business
	7301 Georgetown Road, Suite 125	
	Indianapolis, IN 46268	
	317-641-2847	

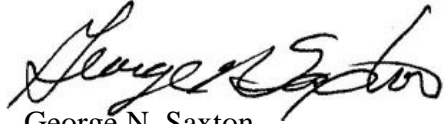
1. On May 11, 2018, I observed an Aptive Environmental applicator exit a house in Hamilton County. I introduced myself to Adam Rafail and initiated a pesticide use and licensing inspection.
2. I verified that Mr. Rafail had made a pesticide application at the residence and asked to see his applicator license. He reported that he passed the Core exam the week prior, but he had not yet received his license. I instructed Mr. Rafail to cease making applications until his licensing status could be determined. I checked with the OISC Licensing & Certification section and was told Mr. Rafail Nunez passed the Core exam on May 2, 2018, and although the business had money at the OISC, the application for credential had not been received.
3. I then spoke with Aptive Environmental manager Talvin Williams on the phone. I explained that Mr. Rafail was not licensed as a registered technician and that he could not make for-hire pesticide applications without the on-site supervision of a certified applicator. Mr. Williams indicated he was under the impression applicators were allowed to make such applications once they passed the exam. We discussed the licensing procedures and the options for getting the application to the OISC. He indicated he would drive to the OISC to submit what was necessary to ensure Mr. Rafail was properly licensed for future applications.
4. According to records provided by Mr. Williams, the certified supervisor, Mr. Rafail made for-hire pesticide applications on May 3, 4, 5, 7, 8, 9, 10 and 11, without on-site supervision. The license application was driven to the OISC and Mr. Rafail was subsequently issued an applicator license.



Andrew R. Roth
Investigator

Date: August 14, 2018

Disposition: Talvin Williams and Aptive Environmental were cited for eight (8) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual. A civil penalty in the amount of \$1,000.00 (8 counts x \$125.00 per count) was assessed. However, the civil penalty was reduced to \$350.00. Consideration was given to the fact Mr. Williams cooperated during the investigation; corrective action was taken; there was a good-faith effort to comply and no restricted use pesticides were involved.

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

George N. Saxton
Compliance Officer

Draft Date: September 20, 2018

Final Date: October 24, 2018

CASE SUMMARY

Case #2018/0586

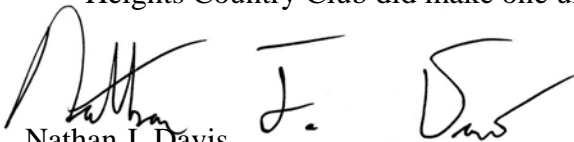
Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, Indiana 47907-2063
800-893-6637

Respondent:	Hoosier Heights Country Club	Unlicensed
	Guy Clark	Unlicensed
	3822 Mozart Street	
	Tell City, Indiana 47586	
	812-547-2196	

1. On May 30, 2018, an anonymous complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Hoosier Heights Country Club no longer had a certified applicator and is allowing members to make pesticide applications to the property.
2. On June 6, 2018, I went to Hoosier Heights Country Club. Upon arrival, I spoke with Mike Dickman who was a member of the country club and was at the golf course maintenance building. I advised Mr. Dickman I was a Pesticide Investigator with OISC and the complaint against Hoosier Heights Country Club. Mr. Dickman stated their certified applicator David Bradley Hord had been terminated, but was not sure when. Mr. Dickman advised me to contact Dan Lagrange who was the head of the grounds at the country club for more information.
3. I contacted Dan Lagrange via telephone. I advised Mr. Lagrange I was a pesticide investigator with OISC and there was a complaint against Hoosier Heights Country Club. Mr. Lagrange confirmed David Bradley Hord the courses only certified applicator had been terminated, but he was unsure when. When I asked Mr. Lagrange if country club members had made any pesticide application to the golf course since their certified applicator was terminated, Mr. Lagrange stated he did not know if any members made a pesticide application to the golf course. I advised Mr. Lagrange I would be issuing Hoosier Heights Golf Course an **Action Order** to stop pesticide applications on your golf course until you obtain a category 3b (turf management) Pesticide Applicator license from OISC and I would give the Action Order to Mr. Dickman. Mr. Lagrange advised Fran Evans the president of the country club would have any details I needed about pesticide application on the golf course. I contacted Mrs. Evans via telephone and left a message for her to contact me.
4. I again spoke to Mr. Dickman who stated country club members were volunteering to mow the country club, but did not know if any members were making pesticide applications to the golf course. I advised Mr. Dickman I was issuing Hoosier Heights Golf Course an **Action Order** to stop pesticide applications on your golf course until you obtain a category 3b (turf

management) *Pesticide Applicator license from OISC*. I gave the Action Order to Mr. Dickman and he stated he would give it to Mrs. Evans.

5. On June 6, 2018, Mrs. Evans contacted me via telephone and I explained the complaint against Hoosier Heights Country Club. Mrs. Evans stated David Bradley Hord the golf courses only certified applicator was terminated on May 22, 2018. Mrs. Evans stated the previous course superintendent Guy Clark made a pesticide application to the course after Mr. Hord was terminated, but was unsure of the exact date of application. A search of the OISC Licensing Database did not return any pesticide license for Guy Clark. I advised Mrs. Evans I would need the following information: Date of Application, Area of Application, Pesticide Applied, and Amount Applied. Mrs. Evans stated she would e-mail me the information.
6. I advised Mrs. Evans of the **Action Order** I issued to Hoosier Heights Country Club *to stop pesticide applications on your golf course until you obtain a category 3b (turf management) Pesticide Applicator license from OISC*. Mrs. Evans stated she received the Stop Action Order and understood the golf course could not make any pesticide applications without a certified applicator. Mrs. Evans stated they were in process of hiring a new course superintendent. I informed Mrs. Evans on the process to obtain proper licensure through OISC licensing section.
7. On June 7, 2018, Mrs. Evans sent me the following information via e-mail that I requested.
 - a. Unlicensed Applicator: Guy Clark
 - b. Date of Application: June 2, 2018
 - c. Area of Application: Fairways
 - d. Pesticide Applied: Revolver Herbicide, EPA Reg. #432-1266, Active Ingredient=Foramsulfuron 2.34%
 - e. Amount Applied: 4, 87 Fluid oz. containers
8. In this case, there was concern that Hoosier Heights Country Club made unlicensed pesticide application to their golf course. Through investigation, it was discovered Hoosier Heights Country Club did make one unlicensed pesticide application to their golf course.


Nathan J. Davis
Investigator

Date: June 8, 2018

Disposition: Hoosier Heights Country Club was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticides to a golf course without having a certified applicator. A civil penalty in the amount of \$250.00 was assessed for this violation.


George M. Saxton
Compliance Officer

Draft Date: August 14, 2018
Final Date: October 16, 2018

CASE SUMMARY

Case #2018/0781

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

Respondent: Zack Brizendine
Brizendine Lawn Care
2118 East Dudley Avenue
Indianapolis, IN 46227
317-445-7660

Unlicensed Applicator
Unlicensed Business

1. On July 12, 2018, I observed Zack Brizendine making a for-hire pesticide application at a strip mall off Madison Avenue on the Southside of Indianapolis. See figure 1.



Figure 1-Mr. Brizendine making an application

2. Mr. Brizendine stated he was unaware he needed a license to apply Roundup. Mr. Brizendine stated he has sprayed at other sites but does not document any applications on invoices to customers. Mr. Brizendine stated he does not have the container of Roundup.
3. I was unable to look at label language for personal protection equipment PPE since the container with the label was not available.
4. Mr. Brizendine was issued an Action Order to cease making for-hire pesticide applications without a license.

Paul J. Kelley
Investigator

Date: July 17, 2018

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

George N. Saxton
Compliance Officer

Draft Date: August 27, 2018
Final Date: October 24, 2018

CASE SUMMARY

Case #2018/0782

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

Respondent:	Garryck Davies	Unlicensed Applicator
	Jeffrey Chase	Certified Supervisor
	Greenix Pest Control	Licensed Business
	14024 Britton Park Road	
	Fishers, Indiana 46038	

884-233-7378

1. On July 11, 2018, I conducted a use inspection of Greenix Pest Control who were located at 1510 Windview Drive in Brownsburg, Indiana. I made contact with the applicator Garryck Davies and advised him I was an investigator for the Office of Indiana State Chemist (OISC). I showed Mr. Davies my OISC credentials and gave him my business card.
2. I asked Mr. Davies to see his Indiana Pesticide License. Mr. Davies stated he did not currently have his Indiana Pesticide License card, but they might have it at the Greenix Pest Control Office. Mr. Davies stated he had taken an exam a month ago and did two weeks of training with his certified supervisor Jeffrey Chase. I advised Mr. Davies to contact his certified supervisor by telephone.



Fig. 1



Fig. 2

Fig. 1 is the Greenix Pest Control truck.

Fig. 2 are various pesticides and application equipment located in the back of the truck.

3. I spoke to Jeffrey Chase via telephone. Mr. Chase stated he was Mr. Davies' certified supervisor. Mr. Chase advised me he had sent in an application for an Indiana Pesticide License to OISC for Mr. Davies, but had not received an Indiana Pesticide License back for Mr. Davies. Further, Mr. Chase stated he thought Mr. Davies could make pesticides applications as a registered technician since Mr. Davies had taken the core exam and he had sent in the application for an Indiana Pesticide License. I advised Mr. Chase Mr. Davies could not make pesticide application as a

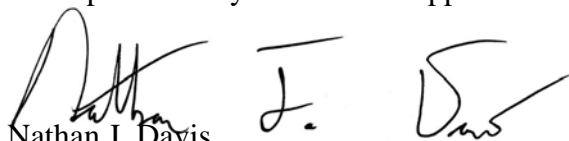
registered technician until he received his Indiana Pesticide License from OISC. I advised Mr. Chase I was issuing an **Action Order** to Mr. Davies to stop pesticide or fertilizer applications for hire until he obtains a registered technician credential from OISC. Mr. Chase stated he would be in route to our location to supervise any further pesticide application made by Mr. Davies.

4. I contacted Jill Davis of OISC Licensing and Certification to confirm Mr. Davies did not currently have an Indiana Pesticide License. Mrs. Davis advised she had no record of Mr. Davies taking the core exam and he did not currently have an Indiana Pesticide License.
5. I issued an **Action Order** to Mr. Davies to stop pesticide or fertilizer applications for hire until he obtains a registered technician credential from OISC. I explained the Action Order to Mr. Davies and directed him to the back of the Action Order for more information.
6. Mr. Chase arrived at our location and presented me with his Indiana Pesticide License. A search of the OISC Licensing database confirmed Mr. Chase was licensed to make category 7a and 7b pesticide applications in Indiana. I advised Mr. Chase to email me the pesticides Mr. Davies applied and the dates he made applications without an onsite certified supervisor. Mr. Chase stated he would send me the work orders for the two pesticide applications Mr. Davies had done prior to my inspection on July 11, 2018, which would include the pesticides used.
7. On July 12, 2018, Mr. Chase emailed me the pesticides Mr. Davies applied. A list of those pesticides are below.
 - a. Suspend Polyzone, EPA #432-1514, Active Ingredient = Deltamethrin
 - b. Deltagard G, EPA #432-836, Active Ingredient = Deltamethrin
 - c. Delta Dust, EPA #432-772, Active Ingredient = Deltamethrin
 - d. Tempo 1%, EPA #432-1373, Active Ingredient = Cyfluthrin

Mr. Chase also emailed the dates Mr. Davies made unlicensed pesticide application without onsite supervision by a certified applicator. Those dates are below.

6/25/2018	6/26/2018	6/27/2018	6/28/2018	6/29/2018	6/30/2018	
7/2/2018	7/3/2018	7/5/2018	7/7/2018	7/9/2018	7/10/2018	7/11/2018

8. In conclusion, Mr. Davies made thirteen unlicensed pesticide applications without onsite supervision by his certified applicator Mr. Chase.


Nathan J. Davis
Investigator

Date: July 13, 2018

Disposition: Jeffrey Chase was cited for thirteen (13) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual. A civil penalty in the amount of \$1,625.00 (13 counts x \$125.00 per count) was assessed. However, the civil penalty was reduced to \$1,218.75. Consideration was given to the fact Mr. Chase cooperated during the investigation.


George N. Saxton
Compliance Officer

Draft Date: August 27, 2018
Final Date: October 24, 2018

CASE SUMMARY

Case #2018/0802

Complainant: Dean Morgan
Morgan Fertilizer
10805 N 800 E
Lewisville, Indiana 47352
765-561-3771

Respondent: Brad Gwinnup
513 N 575 W
Connersville, Indiana 47331
765-969-6883

Unlicensed Applicator

Dean Morgan
Morgan Fertilizer
10805 N 800 E
Lewisville, Indiana 47352
765-561-3771


RUP Dealer

1. On July 17, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Brad Gwinnup just purchased 'two loads' of Xtendimax herbicide, a restricted use pesticide (RUP). Mr. Morgan stated Mr. Gwinnup advised him that he had a license but had forgotten to bring it. Mr. Morgan stated he sold the Xtendimax to Mr. Gwinnup. Later, Mr. Morgan checked on the licensing status of Mr. Gwinnup and found that he was not licensed in Indiana to purchase and use an RUP.
2. On July 17, 2018, I spoke with Dean Morgan of Morgan Fertilizer. Mr. Morgan stated he sold Xtendimax to Brad Gwinnup on July 12, 2018, and July 13, 2018. Xtendimax is a Restricted Use Pesticide (RUP) requiring a license from OISC to purchase and use. Mr. Morgan stated he asked Mr. Gwinnup for his OISC license. Mr. Gwinnup stated to Mr. Morgan he did not have it on him but would produce the license at a later time. Mr. Morgan proceeded with the sale transaction of the Xtendimax. See figure 1 of the receipt. Mr. Morgan stated Morgan Fertilizer filled at their facility Mr. Gwinnup's spray equipment three (3) times before checking to find out that Mr. Gwinnup was not licensed.



Figure 1 – Sales receipt

3. On July 17, 2018, I met with Mr. Gwinnup. Mr. Gwinnup stated he thought he had an OISC Private Applicator's license. Mr. Gwinnup stated he took the Core exam but had not received a license. Mr. Gwinnup stated he did not check the OISC website for confirmation of his test results.
4. OISC's database indicated Mr. Gwinnup took the Core exam, but failed.
5. Mr. Gwinnup stated he sprayed the three (3) loads of Xtendimax and had two (2) more waiting at Morgan Fertilizer. Mr. Gwinnup stated he made arrangements with Morgan Fertilizer to apply the remaining loads.
6. Mr. Gwinnup purchased and applied an RUP pesticide on July 17, 2018, and July 18, 2018.
7. Mr. Gwinnup did not keep the required RUP application records for the use of Xtendimax.
8. Morgan Fertilizer and Dean Morgan sold an RUP pesticide (Xtendimax) to an unlicensed individual.
9. Morgan Fertilizer and Dean Morgan failed to keep the required sales records for the sale of and RUP.


Paul J. Kelley
Investigator

Date: August 31, 2018

Disposition: Morgan Fertilizer was cited for two (2) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-3-2, for distributing a restricted use pesticide to a non-certified user. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed.

Morgan Fertilizer was cited for two (2) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-3-5(a), for failure to keep restricted use pesticide distribution records. A civil penalty in the amount of \$200.00 (2 counts x \$100.00 per count) was assessed. The total amount of civil penalty assessed to Morgan Fertilizer is \$700.00. However, the civil penalty was reduced to \$500.00. Consideration was given to the fact Morgan Fertilizer cooperated during the investigation.

Brad Gwinnup was cited for two (2) counts of violation of section 15-16-5(10) of the Indiana Pesticide Use and Application Law for using a restricted use pesticide without having a certified applicator in direct supervision. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed.

Brad Gwinnup was cited for two (2) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-4-1.5, for failure to keep and maintain private applicator restricted use pesticide application records. A civil penalty in the amount of \$200.00 (2 counts x \$100.00 per count) was assessed.


George N. Saxton
Compliance Officer

Draft Date: October 5, 2018
Final Date: November 20, 2018

CASE SUMMARY

Case #2018/0895

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

Respondent: Stout Mowing & Services
Seth Stout
8435 N 900 W
Huntington, Indiana 46750
260-224-5258

1. On August 6, 2018, the Certification & Licensing section contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Seth Stout failed to properly renew his license for 2018. Specifically, Mr. Stout's 3b (turf) certification had expired, and he needed to reexamine.
2. On August 30, 2018, I went to the address listed above. I spoke with Mr. Stout and explained the purpose of my visit. I asked Mr. Stout how many pesticide applications he had made. He estimated six applications. I asked for copies of his invoices, and he asked if he could email them to me. I then reviewed the licensing process with Mr. Stout. He stated he planned on taking the exam soon. I also issued Mr. Stout an *Action Order* stating that he could not apply any more pesticide for hire until he acquired the appropriate 3b license.
3. On September 5, 2018, I received an email from Mr. Stout showing he passed the 3b exam. He also reported making the following pesticide applications:

3/23/2018

- 1430 Oak St Huntington, IN 46750, US 18-0-3 w/dimension
- 1525 Oak St Huntington, IN 46750, US 18-0-3 with dimension
- 7050 N Clear Creek Rd Huntington, IN 46750, US 18-0-3 w/dimension

4/2/2018

- 8555 ST RTE 15 N Roann, IN 46974, US 18-0-5 w/dimension
- 1603 Westchester Dr. North Manchester, IN 46962, US 18-0-5 w dimension
- 2212 N 750 E Andrews, IN 18-0-5 with dimension


Elizabeth C. Carter
Investigator

Date: September 5, 2018

Disposition: Seth Stout was 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 \$250.00. Consideration was given to the fact Mr. Stout cooperated during the investigation and corrective action was taken.

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 24, 2018
Final Date: January 2, 2019

CASE SUMMARY

Case #2018/0922

Complainant: Alexandria Davis/ Steve Stroda
1227 E. 4th Street
Mishawaka, IN 46544
260-437-7940

Respondent: Plant Growth Management Systems
28875 Runkle Street
Niles, MI 49120
269-663-7467

Licensed business

1. On August 23, 2018, Alexandria Davis spoke with Joe Becovitz, Pesticide Program Specialist for the Office of Indiana State Chemist (OISC) regarding a possible misapplication of a plant growth regulator. Ms. Davis stated Plant Growth Management Systems treated a tree on her property with Shortstop, growth regulator, in June or July of 2017. Ms. Davis stated the turf near the roots of the treated tree and garden plants near the roots of the tree are injured or dead.
2. On August 31, 2018, I met with one of the complainants, Steve Stroda. He told me he plants a garden every year in the back of his lawn. He said this year the watermelon, pumpkins, cucumbers and sunflowers were dwarfed. He said he has never had that happen. He thought back and remembered a company had made a chemical application to one of the trees near the garden in the summer of 2017. He was concerned that chemical application caused the irregular growth to his plants. Mr. Stroda told me the chemical was “Shortstop” (EPA #80697-4-82866; active ingredient: paclobutrazol). It was applied by Plant Growth Management Systems in Niles, Michigan.
3. I checked the area near the tree and the garden. I found no bare dirt areas and no problem with grass growth. I did observe some watermelons and pumpkins appeared to be smaller than normal. The leaves of the plants also appeared to have a white powdery substance on their leaves. I observed no other irregular or stunted grown to other vegetation in the area. (See photos below)



Treated Tree



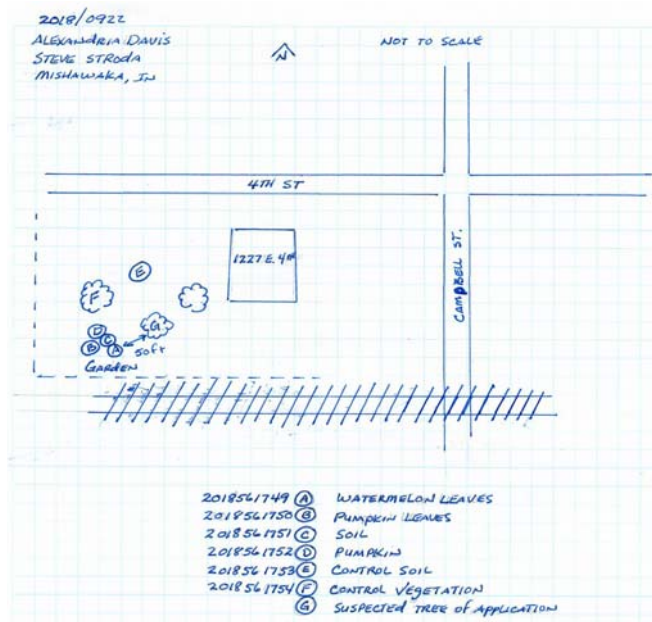
Garden Vegetation

4. I obtained the following vegetation samples for submission to the Purdue Plant and Pest Diagnostic Lab (PPDL) for analysis:
- pumpkin leaves and vines
 - watermelon leaves and vines

5. I following samples were placed in Mylar bags for submission to the Residue Lab:

- 2018561749 watermelon leaves
- 2018561750 pumpkin leaves
- 2018561751 composite soil
- 2018561752 pumpkin
- 2018561753 control soil
- 2018561754 control vegetation

(See diagram below)



6. I made contact with Plant Growth Management Systems and spoke to Laurie Mann. After explaining the complaint, she told me the pesticide application of “Shortstop” was made on August 2, 2017. She said she would send the pesticide application information for review.
7. I received the following information from PPDL, “No herbicide damage on the submitted plants.” “The pumpkin sample was literally covered with powdery mildew. The watermelon sample had insect injury. The photos show the ‘garden’ has more grass and weeds than garden plants and is badly neglected. No herbicide injury symptoms found.”
8. Because PPDL reported “no herbicide injury symptoms found” environmental issues with the submitted samples, the environmental samples were not analyzed. No application violation could be found.
9. I reviewed the application records from Plant Growth Management Systems. The pesticide applicator was Nick Doughman. According to OISC Licensing Section, Mr. Doughman was not licensed in Indiana. I contacted Plant Growth Management Systems and spoke to Diana McCaleb.

She told me Mr. Doughman is a licensed applicator in Michigan. She said she failed to send in his reciprocity license application into OISC. I told her Mr. Doughman was in violation for everyday he made a pesticide application in the state of Indiana without an Indiana pesticide license. She told me Mr. Doughman was the only company pesticide applicator making applications in Indiana without the proper license.

10. Upon my request, Ms. McCaleb sent pesticide application records for Mr. Doughman for 2017 and 2018. According to their application records for Mr. Doughman, he made pesticide applications of **Shortstop** (EPA #80697-4-82866; active ingredient: paclobutrazol) in Indiana 21 days in 2017 and 19 days in 2018. (See chart below)

Company Name: Plant Growth Management Systems										
Applications by: Nicholas (Nick) Doughman										
Contact Person: Diane McCaleb (269-663-7467)										
Invoice Date	Invoice Number	2017 Application Dates								# of Application Days
07/25/2017	5863	ShortStop	Mishawaka	7/21/17						1
08/30/2017	5922	ShortStop	Mishawaka	7/24/18	7/27/18	7/28/17	8/2/17	8/8/17	11/1/17	6
09/29/2017	5975	ShortStop	Mishawaka	7/27/17	7/28/17	8/2/17	8/8/17	9/14/17	9/20/17	6
11/15/2017	6026	ShortStop	Mishawaka	10/26/17						1
04/10/2017	5694	ShortStop	Gas City	4/6/17	4/7/17					2
12/28/2017	6118	ShortStop	Richmond	12/20/17						1
12/28/2017	6119	ShortStop	Greenfield	11/30/17	12/1/17	12/19/17				3
12/28/2017	6120	ShortStop	Greenfield	11/21/17						1
Total # of Applications Days										21
Invoice Date	Invoice Number	2018 Application Dates								# of Application Days
04/11/2018	6237	ShortStop	Mishawaka	3/28/18	3/29/18	4/2/18				3
05/09/2018	6284	ShortStop	Greenfield	4/19/18	4/20/18					2
05/09/2018	6286	ShortStop	Richmond	4/18/18	4/19/18	4/20/18				3
07/18/2018	6434	ShortStop	Mishawaka	5/2/18	5/4/18	5/8/18	5/9/18	5/17/18	5/30/18	7
08/07/2018	6456	ShortStop	Mishawaka	7/27/18						1
08/28/2018	6493	ShortStop	Richmond	8/23/18	8/24/18					2
08/28/2018	6512	ShortStop	South Whitley	9/6/18						1
Total # of Applications Days										19

11. After reviewing the records, Mr. Doughman is in violation for applying pesticides in Indiana without an Indiana pesticide license for a total of 40 days. An **“Action Order”** was issued for Mr. Doughman which stated, *“Subject to I.C. 15-16-5-65 (6), you are hereby ordered to cease all pesticide applications in Indiana until properly licensed with Office of Indiana State Chemist”*.



Kevin W. Gibson
Pesticide Investigator

Date: September 14, 2018

Disposition: Plant Growth Management Systems was cited for forty (40) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual. A civil penalty in the amount of \$5,000.00 (40 counts x \$125.00 per count) was assessed. However, the civil penalty was reduced to \$1,250.00. Consideration was given to the fact Plant Growth Management Systems cooperated during the investigation; corrective action was taken; no previous violations of similar nature and no restricted use pesticides were involved.



George N. Saxton
Compliance Officer

Draft Date: October 24, 2018
Final Date: January 2, 2019

CASE SUMMARY

Case #2018/0927

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

Respondent: Spring Green Lawn Care Licensed Business
George Behensky Unlicensed Applicator
Ricky Wolfe Supervisor
2612 S. 11th Street
Niles, Michigan 49120
269-683-7533

1. On June 26, 2018, the Office of Indiana State Chemist (OISC) received information from OISC Inspector Ken Neuhoﬀ of the Fertilizer Section of OISC regarding a subject (George Behensky) from Spring Green Lawn Care making a pesticide application in Mishawaka, Indiana without a pesticide applicator's license.
2. I received a Spring Green Lawn Care invoice from Ken Neuhoﬀ. The invoice concerned a pesticide application for "grub control" made by Mr. Behensky at 4207 Manor Drive in Mishawaka on 6/26/18. The product was **15-0-4 Fertilizer with 0.2% MERIT Insecticide** (EPA #432-1349-9198; active ingredient: imidacloprid).
3. I made contact with the owner of Spring Green Lawn Care, Candi Wolfe. Ms. Wolfe told me she was aware of the situation. She had contacted OISC Licensing Section to rectify the situation. She explained Mr. Behensky had an OISC pesticide applicator license for turf (category 3B) for 2017. She said he decided to take a job in Illinois therefore, she did not renew his OISC license. She further said he returned to work for Spring Green Lawn Care in the summer. He told her he had his OISC license. She said she erroneously failed to check.
4. Ms. Wolfe providing me with the following pesticide applications made by Mr. Behensky in Indiana in 2018:

6/26/18	1811 Renfrew Dr.	South Bend, Indiana
6/26/18	4557 MacDougall Ct.	South Bend, Indiana
6/26/18	3524 S. St. Joseph Street	South Bend, Indiana
6/26/18	3326 Whitcomb Avenue	South Bend, Indiana
6/26/18	3426 S. St. Joseph Street	South Bend, Indiana
6/26/18	3515 Whitcomb Avenue	South Bend, Indiana
6/26/18	1717 S. Douglas Street	South Bend, Indiana

6/26/18	546 Altgeld Street	South Bend, Indiana
6/26/18	4207 Manor Drive	South Bend, Indiana
6/26/18	2022 S. Scott Street	South Bend, Indiana
6/26/18	3212 S. St. Joseph Street	South Bend, Indiana
6/26/18	726 E. Eckman Street	South Bend, Indiana
6/26/18	218 E. Chippewa Avenue	South Bend, Indiana

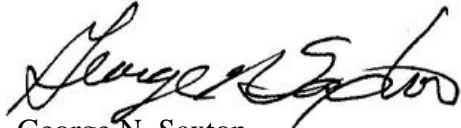
5. Ms. Wolfe told me Mr. Behensky did not make any other pesticide applications in Indiana for 2018. I issued an **"Action Order"** for Mr. Behensky which stated, *"Subject to I.C. 15-16-5-65(6), you are hereby ordered to cease all pesticide and fertilizer applications in the state of Indiana until properly licensed by the Office of Indiana State Chemist."* I confirmed with the OISC Licensing Section Ms. Wolfe had been attempting to resolve the licensing situation since Mr. Behensky was stopped by Mr. Neuhoff.
6. George Behensky obtained his technician registration on August 29, 2018.



Kevin W. Gibson
Pesticide Investigator

Date: August 30, 2018

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



George N. Saxton
Compliance Officer

Draft Date: October 4, 2018
Final Date: November 20, 2018