

## A Summary of Cases

August 7, 2019

2016/1049 On July 19, 2016, the Certification & Licensing section of the OISC contacted the Compliance Officer to report Dogwood Glen Golf Course failed to renew the pesticide license of Michelle Smith and requested a pesticide application records check of the course.

**Disposition:**

**A.** Dogwood Glen Golf Course and Ernie Smiley are cited for eight (8) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying a pesticide to a golf course without having a certified applicator. A civil penalty in the amount of \$2,000.00 (8 counts X \$250.00) was assessed. However, the civil penalty was reduced to \$700.00 due to the fact Mr. Smiley cooperated during the investigation; had no previous history; and corrective action was taken.

**B.** On April 18, 2018, Ernie Smiley called and stated that this was just an over-sight and that he had experience in treating golf courses so there would be no potential for damage. The civil penalty was further reduced to \$400.00.

**C.** As of June 21, 2018, Dogwood Glen Golf Course still had not paid the negotiated civil penalty. The full civil penalty in the amount of \$2,000.00 was reinstated.

**D.** As of August 13, 2018, Dogwood Glen Golf Course had not paid the civil penalty. The case was forwarded to the Indiana Attorney General for collection. See Case #PS19-0114 addressing the failure to follow a lawful Order of the State Chemist by refusing to pay a civil penalty and the suspension of the pesticide certification issued to Ernie Smiley of Dogwood Glen Golf Course, until this civil penalty is paid.

**E.** On May 2, 2019, Ernie Smiley called and stated he sent the \$400.00 back in June. He stated the check was returned. I asked him about the address and he said he sent it to "Purdue University" at 175 South University "Park". I corrected the address for him. He stated he would send the check to the correct address immediately.

**F.** On May 6, 2019, a check for the civil penalty of \$400.00 was received from Dogwood Glen Golf Course. The collection process was terminated on this case.

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. On March 29, 2019, a check for the civil penalty of \$375.00 was received from Rural King's Corporate Office. The collection process was terminated.

2017/0299 On, January 19, 2017, the Office of Indiana State Chemist (OISC) received an anonymous letter indicating Patrick Delaney, at that time employed by CPS in Roachdale, was selling restricted use pesticides (RUP's) to unlicensed individuals. The restricted use dealer (RUD) permit issued to CPS of Roachdale expired in 2009. It is unknown at this time if they are still at that location, if they have moved, or where their RUD records might be.

**Disposition:**

A. Raymond Modglin 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 under IC 15-16-5, in direct supervision. A civil penalty in the amount of \$100.00 was assessed for this violation.

B. Patrick Delaney was cited for violation of section 65(13) of the Indiana Pesticide Use and Application Law for Aiding or abetting a person to evade IC 15-16-5, conspire with a person to evade IC 15-16-5, or allow a license, permit, registration, or certification to be used by another person. A civil penalty in the amount of \$250.00 was assessed for this violation.

C. Crop Production Services (CPS) 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 non-certified user. A civil penalty in the amount of \$250.00 was assessed for this violation.

D. Crop Production Services 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 having a dealer registration. A civil penalty in the amount of \$250.00 was assessed for this violation.

E. As of December 18, 2018, the civil penalties had not been paid by Raymond Modglin or Crop Production Services. A second letter was sent to Ray Modglin as a reminder he still owed OISC. The enforcement letters for CPS and Patrick Delaney were combined and sent to Nutrien Ag, attention of Danny Carmony for payment of the civil penalties since the company name had changed.

F. As of February 11, 2019, Nutrien Ag had not paid the \$750.00 civil penalty assessed. A second letter was sent as a reminder they still owed OISC.

G. On February 27, 2019, Nutrien Ag paid their \$750.00 civil penalty in full.

H. As of March 27, 2019, Raymond Modglin had not paid the \$100.00 civil penalty assessed. The case was forwarded to collections. See Case #PS19-0122 addressing the failure to follow a lawful Order of the State Chemist by refusing to pay a civil penalty and the suspension of Raymond Modglin's private applicator permit until this civil penalty is paid.

I. On April 5, 2019, a check for the civil penalty of \$100.00 was received from Raymond Modglin. The collection process was terminated on this case.

2017/0423 On, February 20, 2017 I, Agent Melissa Rosch with the Office of the Indiana State Chemist (OISC), conducted a routine marketplace inspection at Hungry Hound Pet Store 8243 Wicker Ave. St. John, Indiana 46373.

**Disposition:** On July 27, 2017, Wondercide was notified by mail they had not completed and/or submitted the application requirements for the products listed above. OISC rejected and terminated the application received on February 14 for Flea & Tick Control: Pets & Home Fresh Lemongrass Scent. All six products were given to the Compliance Section for enforcement.

Wondercide LLC was cited for six (6) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing pesticide products that were not registered in the state of Indiana. A civil penalty in the amount of \$1,500.00 (6 counts x \$250.00 per count) was assessed.

2017/0437 On January 20, 2017, Joseph Becovitz of the Office of the Indiana State Chemist was approached regarding a possible line of pesticide products that are being distributed and sold in the State of Indiana without being registered. The products were identified as being distributed by Wondercide LLC in Austin, Texas and were making "natural" 25(b) as well as pesticidal claims. After reviewing the product registrations in Indiana with product manager Ed White, it was determined that Wondercide had never had any pesticide products registered in Indiana.

**Disposition:** On July 27, 2017, Wondercide was notified by mail they had not completed and/or submitted the application requirements for the products listed above. OISC rejected and terminated the application received on February 14th for Flea & Tick Control: Pets & Home Fresh Lemongrass Scent. All six products were given to the Compliance Section for enforcement. Wondercide LLC was cited for six (6) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing pesticide products that were not registered in the state of Indiana. A civil penalty in the amount of \$1,500.00 (6 counts x \$250.00 per count) was already assessed for the violative years under case number 2017/0423.

2017/0737 On May 5, 2017, I conducted a routine marketplace inspection at Petco located at 2140 E. Boulevard, Kokomo Indiana 46902. I stated to the assistant manager Ashely O'Neal that I would be performing a routine marketplace inspection at her facility. During my inspection, I performed a product check on four products making pesticidal claims made by Richard's Organics.

**Disposition:**

A. A letter was sent to SynergyLabs LLC dated July 14, 2017, advising them their pesticide products could not be registered due to improper labels.

B. The case report was forwarded to the Pesticide Registration Section for label review on November 20, 2017.

C. Richard's Organics was cited for four (4) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing pesticide products that were not registered for sale in the state of Indiana. A civil penalty in the amount of \$1,000.00 (4 counts x \$250.00 per count) was assessed.

2017/0957 On July 4, 2017, I was investigating an alleged pesticide drift case (2017/0929), when

Mr. Frazier arrived and advised me had had observed symptoms of a possible pesticide drift to his soybean field. He stated he believed the pesticide drift was from a dicamba pesticide application made by Mr. Sieber to the target soybean field located directly west of his soybean field. He stated he believed the pesticide application had been made around the end of May or first of June. He stated he observed curling of leaves on his soybean plants two weeks prior to my investigation.

**Disposition:** Adam Sieber was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$100.00 was assessed for this violation. As of March 27, 2019, Adam Sieber had not paid the \$100.00 civil penalty assessed. The case was forwarded to collections. On July 8, 2019, the \$100.00 civil penalty was received from Adam Sieber. The collection process was terminated.

2017/0979 On July 5, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.

**Disposition:** David Michael Childress and Posey County Co-op were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the checking of registrant's website and a sensitive crop registry as well as applying when winds are blowing towards a sensitive crop. A civil penalty in the amount of \$250.00 was assessed to Posey County Co-op.

2017/1009 On July 13, 2017, the Office of Indiana State Chemist (OISC) received a complaint regarding dicamba drift. The complainant, Ben DeFreese, stated he first noticed injury on his soybeans about one week ago. Mr. DeFreese stated he is not sure when the dicamba application was made.

**Disposition:** Craig Gamble was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the checking of the registrant's website; a sensitive crop registry and for failure to survey the site before application. Craig Gamble was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$100.00 was assessed for this violation.

2017/1012 On July 13, 2017, the Office of Indiana State Chemist (OISC) received a complaint regarding dicamba drift to soybeans. The complainant, Tyson Bell, stated the soybean field to the west of his Liberty soybeans were sprayed with dicamba. Mr. Bell stated about  $\frac{3}{4}$  of his 34-acre soybean field has dicamba injury.

**Disposition:** Michael Hunt 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. Michael Hunt was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to



follow label directions regarding the application when wind is blowing towards a sensitive crop. A civil penalty in the amount of \$100.00 was assessed for this violation. As of March 27, 2019, Michael Hunt had not paid the \$100.00 civil penalty assessed. The case was forwarded to collections.

2017/1209 On August 15, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report a Facebook advertisement by Nelson Langlois selling "Industrial Strength Weed & Grass Killer". Photos were included with the words "weed killer" written on the containers with no label.

**Disposition:** Nelson Langlois was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for producing and offering for sale 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. Nelson Langlois was cited for fifteen (15) counts of violation of section 57(4) of the Indiana Pesticide Registration Law for offering for sale a pesticide product without the manufacturer's label in a container other than the manufacturer's original unbroken container. A civil penalty in the amount of \$3,750.00 (15 counts x \$250.00 per count) was assessed. Nelson Langlois was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for violating the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA) by producing a pesticide product without being a producing establishment. A civil penalty in the amount of \$250.00 was assessed for this violation. The total amount of civil penalty assessed for this investigation is \$4,250.00. However, the civil penalty was reduced to \$1,275.00. Consideration was given to the fact Nelson Langlois cooperated during the investigation; corrective action was taken and there was no previous history of similar nature. As of April 1, 2019, Nelson Langlois had not paid the civil penalty assessed. The case was forwarded to the Indiana Attorney General for collection of the unmitigated civil penalty of \$4,250.00.

2017/1216 On August 18, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.

**Disposition:**

A. Co-Alliance LLP and Cory Fordice were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding cleanout and section 65(4) for operating faulty or unsafe equipment. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was their first violation of similar nature.

B. As of February 8, 2019, Co-Alliance LLP and Cory Fordice had not paid the \$250.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC.

C. As of March 27, 2019, Co-Alliance LLP and Cory Fordice had not paid the \$250.00 civil penalty assessed. The case was forwarded to collections.

2017/1234 On August 31, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report an agricultural pesticide drift to his corn. Mr.

Gick stated his neighbor applied what he suspects as Roundup to GMO corn that drifted on to his non-GMO corn.

**Disposition:** Crossroads Farms was warned for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-4-1, for failure to keep all required restricted use pesticide application record elements.

Jeff Haurt was warned for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a non-target site. Crossroads Farms was cited for eleven (11) counts of 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 \$1,100.00 (11 counts x \$100 per count) was assessed.

2018/0104 On November 29, 2017, the Certification & Licensing section contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Aaron Long, the only certified applicator, was no longer employed at Greensburg Country Club.

**Disposition:** Greensburg Country Club was warned 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 golf course pesticide application records. Greensburg Country Club was cited for five (5) counts of violate 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 \$1,250.00 (5 counts x \$250.00 per count) was assessed.

2018/0145 I was informed, per Ed White, Assistant Pesticide Administrator, that in October of 2013, the Office of the Indiana State Chemist (OISC) received the initial application to register Rat X by Conseal International. OISC refused to register the product on the basis that it did not qualify for the FIFRA 25(b) exemption because corn gluten meal was not a credible pesticide active ingredient in a rodenticide product and because corncobs, the actual ingredient responsible for any killing of rodents, was misrepresented as an inert/other ingredient in the product.

**Disposition:**

A. On March 26, 2018, the information was forwarded to the Registration Section for label review.

B. On March 6, 2018, the analysis was performed and reported that the product failed to meet its label guarantee.

C. EcoClear Products, Inc. was cited for violation of section 57(1) of the Indiana Pesticide Registration Law 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.

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

2018/0258 On March 20, 2018, I performed a routine marketplace inspection at Ace Hardware located at 785 W. McClain Street, 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, an analysis of the pesticide product was requested from the OISC formulations lab.

B. On November 28, 2018, the formulation analysis was reported and indicated that although the label guarantees the product to contain 8.9% Captan, the formulation analysis actually revealed 49.7% Captan. In researching the label for the parent pesticide product, 19713-235, it was discovered the pesticide product was supposed to be 49.25% making the label claim of 8.9% misbranded.

C. On December 20, 2018, the information was forwarded to USEPA for federal review. On January 31, 2019, the information was returned to OISC for state enforcement.

D. Southern Agricultural Insecticides 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, the allowable civil penalty was held in abeyance and not assessed provided Southern Agricultural Insecticides properly registers the pesticide product within thirty (30) days from receipt of this notice.

E. Southern Agricultural Insecticides 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.

F. On May 22, 2019, the Action Order was modified to allow for proper disposal of Southern Ag Captan Fungicide, EPA Reg. #19713-235-829.

2018/0264 On March 20, 2018, the Office of Indiana State Chemist (OISC) received an anonymous complaint regarding an unlicensed business. The unlicensed business was identified as Aquascapes of Michiana. The anonymous complainant referred to a video on the Aquascapes website where a pesticide application was made to a pond in Mishawaka.

**Disposition:** Craig Shaffer was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation. As of March 20, 2019, Craig Shaffer had not paid the \$250.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC. On April 11, 2019, the civil penalty payment was received by OISC.

2018/0280 On March 30, 2018, I performed a routine marketplace inspection at Rural King located at 2007 W. Broadway in Princeton, Indiana. I spoke with the Store Manager Jack Crawford and informed him of the process of the marketplace inspection.

**Disposition:**

A. On April 4, 2018, the information was forwarded to the Registration Section for a label review.

B. The label review was completed and revealed the pesticide product was false and misleading in that it stated “bug free day” and “insect repellent”.

C. Mystical Distributing Company Ltd was cited for four (4) counts (2015, 2016, 2017 and 2018) of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered for sale in Indiana. A civil penalty in the amount of \$1,000.00 (4 counts x \$250.00 per count) was assessed.

D. Mystical Distributing Company Ltd was cited for four (4) counts of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide with a label that is false and misleading. A civil penalty in the amount of \$1,000.00 (4 counts x \$250.00 per count) was assessed for this violation.

E. On September 28, 2018, Laurie Boyd called and stated this product was sold in Mexico but not anywhere in the United States. She had no idea how Rural King got possession of the product.

F. As of March 17, 2019, Mystical Distributing Company Ltd. had not paid the \$2,000.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC.

G. On April 8, 2019, Laurie Boyd called and stated she thought this matter was handled when she spoke to George Saxton during an earlier phone conversation. She does not understand how Mystical Distributing is responsible for this when they only sell in Mexico. She wants to speak with George when he returns.

H. On April 15, 2019, I spoke with Laurie Boyd and explained to her that Mystical Distributing would still be responsible for the civil penalty.

I. On April 22, 2019, the OISC received a letter from Mark Phillips, Owner of Mystical Distributing, requesting we review the case again. Mystical Distributing is still responsible for the \$2,000.00 civil penalty assessed. The civil penalty is to be paid by May 15, 2019, or we will forward the case to collections. A letter was sent to affirm the above information with Mr. Phillips.

J. As of May 21, 2019, Mystical Distributing Company Ltd. had not paid the \$2,000.00 civil penalty assessed. The case was forwarded to the Indiana Attorney General for collection.

2018/0333      On April 17, 2018, the Compliance Officer of the Office of Indiana State Chemist (OISC) received information that “Joe’s Lawn Service” was advertising in the classified ads in various newspapers that he was performing fertilization and weed control. The OISC database indicated this company was not licensed to apply pesticides for hire in Indiana.

**Disposition:**

A. Joseph Bickel and Joe’s Lawn Service Lawn Care were cited for eight (8) 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 \$2,000.00 (8 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$500.00. Consideration was given to the fact Mr. Bickel cooperated; corrective action was taken; there was no previous history of similar nature and no restricted use pesticides were involved.

**B.** On September 13, 2018, Joseph Bickel called requesting an extension for payment of his civil penalty. It was agreed upon that his civil penalty would not be due until January 10, 2019.

**C.** On January 10, 2019, Joseph Bickel called requesting another extension. He was given a final extension of April 1, 2019.

**D.** On April 1, 2019, Joseph Bickel called requesting information to pay the civil penalty online. He was granted a few days extension to get the payment mailed in to OISC.

**E.** On April 4, 2019, the civil penalty payment from Joseph Bickel was received.

2018/0337

On March 29, 2018, I conducted a routine bulk pesticide container containment inspection at Ceres Solutions in Logansport, Indiana. When I arrived at the facility, I met with the manager, Steve Allen, and informed him of the inspection. Mr. Allen joined me for the entire course of the inspection.

**Disposition:**

A. Ceres Solutions was cited for one hundred-eighty (180) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 5-4-2, for failure to operate secondary containment with properly constructed or sealed walls. A civil penalty in the amount of \$18,000.00 (180 counts x \$100.00 per count) was assessed. However, the civil penalty was reduced to \$3,600.00. Consideration was given to the fact Ceres Solutions cooperated during the investigation; corrective action was taken; there were no previous violations of a similar nature and a good-faith effort to comply since some secondary containment was in place.

B. As of February 11, 2019, Ceres Solutions had not paid the civil penalty. A second letter was sent.

C. Ceres Solutions paid the civil penalty on February 19, 2019.

2018/0350

On April 19, 2018, the Office of Indiana State Chemist (OISC) began receiving anonymous information, which indicated the branch manager at Orkin Exterminating in Fort Wayne, Indiana, had been fired for allowing unlicensed applicators to make for-hire pesticide applications. Following subsequent correspondence, the case was assigned on April 23, 2018.

**Disposition:**

A. William Eugene Fryman and Orkin Exterminating were cited for one hundred – eighty (180) counts<sup>1</sup> 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 noncertified individual. A civil penalty in the amount of \$22,500.00 (180 counts x \$125.00 per count) was assessed. However, the civil penalty was reduced to \$5,625.00. Consideration was given to the fact Orkin cooperated during the investigation; corrective action was taken; there was no previous history of similar nature and no restricted use pesticides were involved.

B. As of February 11, 2019, Orkin Exterminating had not paid the \$5,625.00 civil penalty assessed. A second letter was sent as a reminder they still owed the civil penalty.

C. On February 25, 2019, OISC received payment of \$5,625.00 from Orkin Exterminating.

2018/0447 On May 10, 2018, the Office of Indiana State Chemist (OISC) received a complaint regarding agricultural pesticide drift. The complainant, Katie Roush, stated her property is surrounded on three sides by a farm field. Ms. Rausch stated the field was sprayed last Friday (May 4) and today she noticed injury on the ornamentals on her property.

**Disposition:** Jerome Keller and Tanner Hulmes were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a non-target site. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact this was their first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

2018/0462 On May 17, 2018, Certification and Licensing section contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report the Respondent failed to renew their business license.

**Disposition:**

A. Mark White and Whites Home Inspection LLC were cited for five (5) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for making wood-destroying pest inspections for hire without the required 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 \$250.00. Consideration was given to the fact Mr. White cooperated during the investigation; corrective action was taken; there was no potential for harm and no previous history of similar violations.

B. As of February 11, 2019, Whites Home Inspection LLC had not paid the \$250.00 civil penalty assessed. A second letter was sent as a reminder they still owed OISC.

C. As of March 27, 2019, Whites Home Inspection LLC had not paid the \$250.00 civil penalty. The case was forwarded to the Indiana Attorney General for collection of the full \$1,250.00 civil penalty.

2018/0510 On December 16, 2016, the Office of Indiana State Chemist (OISC) received an application for registration of seventeen (17) pesticide products under the registrant name Kittrich Corporation, submitted by Sharon Johnston at RegGuide. All of the 17 products submitted for registration with OISC were FIFRA Sec. 25(b) products, exempt from federal registration, but not exempt from Indiana state registration.

**Disposition:**

In consideration of the evidence collected in this investigation which suggests that OISC did previously register substantially similar labels prior to December 16, 2016, that OISC did not issue updated *FIFRA Minimum Risk Pesticides-25(b) Product Label Guidance* until on or about October, 2017, and that the OISC product registration application review process was not formally finalized until August 9, 2018, the citation for violation and civil penalty for five counts of distributing a misbranded pesticide were rescinded.

In consideration of the evidence collected in this investigation which suggests that Kittrich Corporation knowingly distributed unregistered pesticides into Indiana, the citation for five (5) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in Indiana and the associated civil penalty in the amount of \$1,250.00 (5 counts x \$250.00 per count) shall remain. In accordance with IC 15-16-4-64, OISC notified Kittrich Corporation and RegGuide of a proposal to formally deny the registration submitted on December 16, 2016 and the applicant's right to obtain a review of this decision under I.C. 15-16-4-64.5.

2018/0596 On May 31, 2018, I performed a routine marketplace inspection at Family Dollar in Connersville, Indiana. I spoke with the Assistant Manager Denise Hentz and informed her of the process of the marketplace inspection.

**Disposition:**

A. On June 18, 2018, the information was forwarded to the Registration Section for a label review.

B. On July 2, 2018 the label review was complete and revealed:

a. The ingredient statement cannot be clearly read and is hard to locate within the other text on the label.

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

D. Shanghai Daisy, LLC 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.

E. On October 18, 2018, the Registration Section notified Compliance that the product in question has now been registered. The Action Order was released.

F. On October 22, 2018, the enforcement letter and case summary were returned to our agency with an address correction for Shanghai Daisy LLC, from the postal service.

G. The \$250.00 of the allowable civil penalty held in abeyance pending product registration will not be imposed since Shanghai Daisy LLC properly registered the pesticide product.

H. The \$250.00 civil penalty assessed for distributing a misbranded pesticide is still owed to OISC.

I. On March 19, 2019, a revised enforcement letter and case summary were sent to Shanghai Daisy LLC at the new address.

J. On April 9, 2019, the enforcement letter and case summary sent on March 19, 2019, were returned to our agency as "Not Deliverable As Addressed".

K. On April 17, 2019, the enforcement letter and case summary were sent to Shanghai Daisy LLC using the new address provided by Sarah Caffery in Pesticide Registrations.

2018/0597 On May 31, 2018, I performed a routine marketplace inspection at Family Dollar in

Connersville, Indiana. I spoke with the Assistant Manager Denise Hentz and informed her of the process of the marketplace inspection.

**Disposition:**

- A. On June 18, 2018, the information was forwarded to the Registration Section for label review.
- B. On August 3, 2018, the label review was completed and revealed:
  - a. The label statement “Keeps Bugs Away” is too broad and therefore, false and misleading.
- C. Midwood Brands, LLC was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing into Indiana an unregistered pesticide product. A civil penalty in the amount of \$250.00 was assessed for this violation. However, this civil penalty will be held in abeyance and not assessed provided Midwood Brands, LLC properly registers this pesticide product within thirty (30) days from receipt of this notice.
- D. Midwood Brands, LLC was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product into Indiana that was false and misleading. A civil penalty in the amount of \$250.00 was assessed for this violation.
- E. As of February 11, 2019, Midwood Brands, LLC had not paid the civil penalty. Sarah Caffery, Pesticide Product Registrations, confirmed the product had not been registered either, therefore, Midwood Brands, LLC owes the full \$500.00 civil penalty. A second letter was sent with a copy of the original letter and the draft case summary.
- F. The civil penalty was paid in full on March 25, 2019.

2018/0599

On June 1, 2018, I performed a routine virtual marketplace inspection at MosquitoMagician.com.

**Disposition:**

- A. On June 20, 2018, the information was forwarded to the Registration Section for a label review.
- B. On July 2, 2018, the label review was complete and revealed that:
  - 1) Sodium lauryl sulfate is not an approved inert ingredient;
  - 2) “All natural” and “Made in nature” are false and misleading statements;
  - 3) This 25b pesticide is making a health claim contrary to EPA restrictions on 25b pesticide products by advertising that it controls Zika virus.
- C. Sprinkler Magician 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. However, the allowable civil penalty was held in abeyance and not assessed provided Sprinkler Magician properly registers the pesticide product within thirty (30) days from receipt of this notice.
- D. Sprinkler Magician 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. Sprinkler Magician was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for distributing a pesticide product in violation of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) (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.

F. On September 6, 2018, Sarah Caffery, Pesticide Product Registrations, spoke with Peter Olt with Sprinkler Magician. He is working on the label revisions and requested an extension for the registration application.

G. On November 6, 2018, the registration application was received by the registration department.

H. On January 31, 2019, the Mosquito Magician Mosquito Killer Concentrate product registration was completed for 2019. The product was registered for 2019 instead of 2018 because of the backlog in registration and processing.

I. As of February 6, 2019, Sprinkler Magician had not paid the civil penalty. A reminder letter was sent with a copy of the original letter and draft case summary.

J. On March 20, 2019, we received payment for the civil penalty. However, the check was for \$750.00, which was a \$250.00 overpayment. The check was returned and a new check requested.

K. On April 19, 2019, we received payment for the \$500.00 civil penalty assessed.

2018/0601      On June 1, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) via a written complaint form indicating Tom Osborn drifted onto his soybeans.

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

2018/0604      On June 4, 2018, I received information from Kelly Denny of Metro Institute, that one of our remote testing sites had an incident of cheating. Mr. Denny had received the below written statement from the exam proctor. The proctor is an IVTCH employee, who was administering the computer-based exam.

**Disposition:**

**A.** Carroll Shelton was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-1-2.1 (f), for failure to comply with examination instructions. As a result, the exam that was taken on June 4, 2018, was not scored and Mr. Shelton was prohibited from taking any more pesticide certification exams for a period of five (5) years.

**B.** On November 20, 2018, Mr. Shelton called and admitted he used his phone after he was told not to but he wanted to request leniency on his five-year waiting period. I advised him that he was not eligible to re-test until 2023.

2018/0622      On June 7, 2018, the Certification & Licensing Section contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Lawns by Ryan failed to renew their business license for 2018.

**Disposition:** Ryan Friend and Lawns by Ryan were cited for two (2) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed. As of October 29, 2018, Lawns By Ryan still had not renewed the pesticide business license. As of March 18, 2019, Ryan Friend had not paid the \$500.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC. As of May 3, 2019, Ryan Friend had not paid the \$500.00 civil penalty assessed. The case was forwarded to collections.

2018/0629 On June 7, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) via email indicating *"For approximately 8-10 years the Starke County Co-op at 2451 N Peabody St in Knox has been emptying chemicals from an approximately 2,000 gallon plastic tank directly onto the ground. It goes into a sump hole, into a tank, & when it fills up they spray onto ground. There is a nearby ditch & tile drain."*

**Disposition:** Starke County Co-op was cited for two (2) counts of violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding disposal. Starke County Co-op was cited for violation of section 64 of the Indiana Pesticide Use and Application Law for disposing of a pesticide product in a manner that may cause injury to humans, beneficial vegetation or pollute any waterway in a way harmful to any wildlife in a waterway. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed.

2018/0647 On June 14, 2018, Leonard Reinhart spoke with Joe Becovitz, Pesticide Program Specialist for the Office of Indiana State Chemist (OISC) regarding an agricultural drift. Mr. Reinhart stated an herbicide application was made to a neighboring farm field about three to four weeks ago. The application appears to have injured ornamentals on his property.

**Disposition:** Rusty L. Oeth was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed for this application under case number 2018/0650. Consideration was given to the fact this was his first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

2018/0650 On June 16, 2018, Lindsay Halbig spoke with Joe Becovitz, Pesticide Program Specialist for the Office of Indiana State Chemist (OISC) regarding an agricultural drift. Ms. Halbig stated she noticed someone spraying a neighboring farm field on May 11, 2018 when it was windy. The next day she noticed brown spots on her ornamentals. She stated her husband took photos of the injured plants on May 13, 2018.

**Disposition:** Rusty L. Oeth was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift

management. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was his first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

2018/0655 On June 19, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report a suspected herbicide application to a neighboring farm field drifted onto her trees. She stated an agent from the Cooperative Extension Service had been to her home and also stated it appears to be chemical drift.

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

2018/0657 On June 19, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.

**Disposition:** Doug Morrow was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was already assessed for this spray application on case number 2018/0715. Based on the evidence collected in this investigation, it has been determined that Doug Morrow failed to comply with both the off-target drift restrictions and the drift management restrictions on the label for the herbicide FeXapan.

2018/0663 On June 20, 2018, the Certification & Licensing Section contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that the pesticide certification of Seth Brown, the only certified applicator for the company, had expired December 31, 2017, therefore invalidating the pesticide business license of the company.

**Disposition:** Seth Brown was cited for twenty-six (26) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides/fertilizer for hire without having a pesticide business license. A civil penalty in the amount of \$6,500.00 (26 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$2,600.00. Consideration was given to the fact Mr. Brown cooperated during the investigation; there was no previous history of similar violations; no documented potential for harm or damage and no restricted use pesticides were involved.

2018/0670 On June 20, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected agricultural pesticide drift to her alfalfa and garden.

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

As of May 7, 2019, Andy Hardy had not paid the \$100.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty was still owed to OISC. The civil penalty was received on May 20, 2019.

2018/0673 On June 20, 2018, I performed a routine marketplace inspection at Meijer in Noblesville, Indiana. I spoke with the Freshline Manager Mike Soliday and informed him of the process of the marketplace inspection.

**Disposition:**

A. On June 7, 2018, the information was forwarded to the Registration Section for label review.

B. On July 27, 2018, the label review was complete and revealed the following:

- a. Deet Free Bug Repellent (spray bottle)
  - i. GWO soap is not an approved inert ingredient;
  - ii. "Liquid Soy Lecithin" ingredient is not on the label;
  - iii. Cannot make public health claims;
  - iv. Organic and chemical free claims must be removed.
- b. Mosquito FreeZone (pouch)
  - i. "Herbal Extracts" is not an approved label display name;
  - ii. Wormwood, mint, angelica root and lemon balm are not approved ingredients;
  - iii. Product includes ingredients that are not listed on the label, i.e. wheat flour and FD&C blue dye #1;
  - iv. Label cannot make public health claims;
  - v. Organic claims must be removed;
  - vi. "All Natural" must be removed.

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

D. Greenerways LLC was cited for two (2) counts of 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 \$500.00 (2 counts x \$250.00 per count) was assessed for these violations.

E. As of March 17, 2019, Greenerways LLC had not paid the \$1,000.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC.

F. On April 15, 2019, the civil penalty of \$1,000.00 was received from Greenerways LLC.

2018/0679 On June 22, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift from dicamba beans to his Liberty Link beans.

**Disposition:** Allen Casson was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed for this violation.

- 2018/0687      On June 25, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans from the bean field to the east of his residence.
- Disposition:** Ty Breedlove and Bruce Horner were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty for this application date was assessed in case number 2018/0692.
- 2018/0692      On June 27, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans from the bean field to the east of his residence.
- Disposition:** Ty Breedlove and Bruce Horner were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed for this violation.
- 2018/0715      On June 29, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
- Disposition:** Doug Morrow was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation. Based on the evidence collected in this investigation, it has been determined that Doug Morrow failed to comply with both the off-target drift restrictions and the drift management restrictions on the label for the herbicide FeXapan.
- 2018/0716      On June 29, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans from the bean field to the west.
- Disposition:** Registered Technician Ty Breedlove and Certified Applicator Bruce Horner were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed for this violation. Based on the evidence collected in this investigation, it has been determined that Ty Breedlove and Bruce Horner failed to comply with the drift management restrictions on the label for the herbicide Xtendimax. It should also be noted that OISC was not able to determine whether the herbicide moved off-target as the result of drift, application into an inversion, or volatilization at some point after the application, and was not able to clearly identify the source of the off-target movement.

2018/0720 On July 2, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.

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

2018/0727 On July 11, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.

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

2018/0740 On July 5, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected aerial agricultural pesticide drift or direct spray to her grapes and fruit trees. She was also concerned about her goats whose milk she uses.

**Disposition:**

A. Karl Lindemann was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2 for applying a pesticide in a manner that allowed it to drift from the target site in sufficient quantity to cause harm to a non-target site. A civil penalty in the amount of \$250.00 was assessed to Provine Helicopter Service, Inc. for this violation. Consideration was given to the fact this was Mr. Lindemann's first violation of similar nature. Consideration was also given to the fact there was potential for human harm since the pesticide was found in the goat milk.  
B. As of March 17, 2019, Provine Helicopter Service, Inc. had not paid the \$250.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty was still owed to OISC.

C. On March 28, 2019, Michael McCool of Provine Helicopter Service, Inc. called questioning the findings of this case. He stated there were other aerial applicators in the area as well as theirs, some of whom were applying fungicides. He also stated they followed label directions with wind speed and direction. He requested OISC review this case again.

D. Upon request, OISC reviewed the facts of this case including contacting Mr. Bart Meyers, who farms the fields located across CR 500 W., west of the Gabhart property (paragraph #9). An aerial map was also attached. After further review, the original citation and civil penalty stands.

2018/0745 On July 6, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.

**Disposition:** Tad Hook was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was his first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

2018/0746 On July 6, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.

**Disposition:** Doug Morrow was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation. The civil penalty payment was received.

2018/0748 On July 6, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans. He stated his exposure symptoms may have come from multiple farms.

**Disposition:** Steven J. Clark was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation. Based on the evidence collected in this investigation, it has been determined that you failed to comply with the drift management restrictions on the label for the herbicide Engenia. It should also be noted that OISC was not able to determine whether the herbicide moved off-target as the result of drift, application into an inversion, or volatilization at some point after the application, and was not able to clearly identify the source of the off-target movement. As of March 21, 2019, Steven J. Clark had not paid the \$100.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC. The civil penalty payment was received on April 1, 2019.

2018/0749 On July 6, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected agricultural pesticide drift from a bean field to his garden and his person. Jeff Hackman stated the unknown herbicide drifted from the neighbor's soybean field and killed his entire garden. He also stated he thought he had a pair of shorts he was wearing that had not been laundered and understood that he would not get the shorts back if the investigator took them for analysis.

**Disposition:** VTF Sunrise was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. Matt VanTilburg was cited for twenty-four (24) 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 \$3,000.00 (24 counts x \$125.00 per count) was assessed. However, the civil penalty was reduced to \$1,500.00. Consideration was given to the fact Matt VanTilburg cooperated

during the investigation; this was his first violation of similar nature and no restricted use pesticides were involved. As of May 6, 2019, VTF Sunrise had not paid the \$1,500.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty was still owed to OISC. The civil penalty payment was received on June 10, 2019.

2018/0750 On June 27, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans from the bean field to the east of his residence. In the complainant's initial OISC Case #2018/0692 (application date of 6/6/18) the respondent Ty Breedlove stated he made a second application of the borders on 6/16/18 with the same tank mix.

**Disposition:** Ty Breedlove and Bruce Horner were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed for this violation.

2018/0753 On July 9, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) aerial applicator agricultural pesticide drift to his property and person.

**Disposition:** Wesley Redden was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was Wesley Redden's second violation of similar nature. See case number 2015/1165. As of May 6, 2019, Milhon Air, Inc. had not paid the \$250.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty was still owed to OISC. The civil penalty payment was received on May 13, 2019.

2018/0760 On July 10, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural drift to his soybeans.

**Disposition:** Kevin Sudhoff was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact this was his fourth violation of similar nature. See case numbers 2017/1194, 2017/1200 and 2017/1207. Kevin Sudhoff was also cited for three (3) counts of violation of section 65(10) of the Indiana Pesticide Use and Application Law for applying restricted use pesticides without having a certification. A civil penalty in the amount of \$300.00 (3 counts x \$100.00 per count) was assessed for this violation.

2018/0774 On July 11, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.



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

2018/0778 On July 11, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected agricultural dicamba pesticide drift to his beans.

**Disposition:** Carl Salomon and Monticello Farm Service were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was their first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

2018/0785 On July 13, 2018, Joe Becovitz, Pesticide Program Specialist for the Office of Indiana State Chemist (OISC), received a complaint regarding agricultural drift. The complainant, Amy Beebe, stated she had more than one non dicamba-tolerant (DT) soybean field affected by drift from suspected dicamba applications made to fields farmed by Mark Glessner.

**Disposition:**

**A.** Greg Comer was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation. In addition, Mr. Comer's Private Applicator permit was suspended for a period of one year. Consideration was given to the fact this is Mr. Comer's sixth violation of similar nature. See case numbers 2017/1043, 2017/1087, 2017/1089, 2017/1179 and 2017/1307.

**B.** Based on the evidence collected in this investigation, it has been determined that Mr. Comer failed to comply with the drift management restrictions on the label for the herbicide Xtendimax. It should also be noted that OISC was not able to determine whether the herbicide moved off-target as the result of drift, application into an inversion, or volatilization at some point after the application, and was not able to clearly identify the source of the off-target movement.

**C.** On January 11, 2019, Greg Comer sent an email requesting a review before the Indiana Pesticide Review Board (IPRB). David Scott, Secretary to the Board was notified immediately.

**D.** On January 16, 2019, I spoke with Mr. Comer on the phone. He stated he did not have an issue with the facts of the case but he thought the label language was somewhat confusing and he wanted to argue the suspension of his Private Applicator permit.

**E.** A hearing before the Indiana Pesticide Review Board was scheduled for 9:00 a.m. on April 5, 2019, at the Daniel Turf Center located at 1340 Cherry Lane in West Lafayette, Indiana.

**F.** On April 5, 2019, a hearing was conducted at the Daniel Turf Center in accordance with the Administrative Orders and Procedures Act. The three-person Administrative Law Judge panel upheld the suspension of Mr. Comer's Private Applicator permit.

**G.** On April 8, 2019, the full Indiana Pesticide Review Board upheld the panel's recommendation. The proposed enforcement action in this case stands.

2018/0786

On July 13, 2018, Joe Becovitz, Pesticide Program Specialist for the Office of Indiana State Chemist (OISC), received a complaint regarding agricultural drift. The complainant, Amy Beebe, stated she had more than one non dicamba-tolerant (DT) soybean field affected by drift from suspected dicamba applications made to fields farmed by Mark Glessner.

**Disposition:**

**A.** Greg Comer was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation. In addition, Mr. Comer's Private Applicator permit was suspended for a period of one year. Consideration was given to the fact this is Mr. Comer's seventh violation of similar nature. See case numbers 2017/1043, 2017/1087, 2017/1089, 2017/1179, 017/1307 and 2018/0785.

**B.** Based on the evidence collected in this investigation, it has been determined that Mr. Comer failed to comply with the drift management restrictions on the label for the herbicide Xtendimax. It should also be noted that OISC was not able to determine whether the herbicide moved off-target as the result of drift, application into an inversion, or volatilization at some point after the application, and was not able to clearly identify the source of the off-target movement.

**C.** On January 11, 2019, Greg Comer sent an email requesting a review before the Indiana Pesticide Review Board (IPRB). David Scott, Secretary to the Board was notified immediately.

**D.** On January 16, 2019, I spoke with Mr. Comer on the phone. He stated he did not have an issue with the facts of the case but he thought the label language was somewhat confusing and he wanted to argue the suspension of his Private Applicator permit.

**E.** A hearing before the Indiana Pesticide Review Board was scheduled for 9:00 a.m. on April 5, 2019, at the Daniel Turf Center located at 1340 Cherry Lane in West Lafayette, Indiana.

**F.** On April 5, 2019, a hearing was conducted at the Daniel Turf Center in accordance with the Administrative Orders and Procedures Act. The three-person Administrative Law Judge panel upheld the suspension of Mr. Comer's Private Applicator permit.

**G.** On April 8, 2019, the full Indiana Pesticide Review Board upheld the panel's recommendation. The proposed enforcement action in this case stands.

2018/0790

On August 20, 2018, the Office of Indiana State Chemist (OISC) received information regarding a possible misapplication of a rodenticide. The complainant stated unsecured rodent stations with bait were found outside a rental home at 5101 Lillie Street in Fort Wayne, Indiana. The rental home is leased to Joseph Pochodzay (260) 431-9656. According to the tenant, the rodent stations were placed by Critter Control. The rental home management agency, DBD Homes, (260) 423-1414, has allegedly denied hiring anyone to treat for rodents.

**Disposition:**

**A.** Critter Control of NC Indiana was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding secure rodent bait stations. A civil penalty in the amount of **\$250.00** was assessed for this violation. Consideration was given to the fact there was potential for human or animal harm.

**B.** Critter Control of NC Indiana was cited for seventy-three (73) 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 **\$18,250.00** was assessed for this violation. However, the penalty was reduced to **\$8,212.50**. Consideration was given to the fact Critter Control of NC Indiana cooperated during the investigation; corrective action was taken and no restricted use pesticides were involved.

**C.** On January 23, 2019, OISC received a letter from Critter Control requesting an appeal of the civil penalty. A message was left with Critter Control the same date.

**D.** On January 28, 2019, Mr. Helton called and stated he has gotten all of the necessary licenses in Indiana and this was a paperwork issue for them. As a result of this conversation, **\$5,000.00** of the original civil penalty was held in abeyance and not assessed provided Critter Control of NC Indiana committed no further violations of similar nature for a period of five (5) years from finalization of this investigation. The remaining civil penalty in the amount of **\$3,462.50** was assessed.

**E.** A letter dated February 22, 2019, was sent to OISC indicating \$1,000.00 of the civil penalty had been paid; requesting permission for the remaining civil penalty to be paid over a period of time. The remaining civil penalty was allowed to be paid in four consecutive months, starting April 1, 2019. The payment schedule is as follows:

- a. \$615.62 due by April 1, 2019
- b. \$615.62 due by May 1, 2019
- c. \$615.62 due by June 1, 2019
- d. \$615.64 due by July 1, 2019

**F.** On June 24, 2019, the final payment on the civil penalty was received by OISC.

2018/0792

On August 20, 2018, the Office of Indiana State Chemist (OISC) received a written complaint from Frank Terrell regarding dicamba drift to his non-DT soybeans. Mr. Terrell wrote that the soybean field south of his property was sprayed with a dicamba-type herbicide. Mr. Terrell wrote his soybeans suffered a gradient injury going approximately 200 yards into his field and had caused his beans to stop growing for 4 weeks.

**Disposition:** Tim Talbert, Frank Davenport Jr. and Nutrien Ag were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label language regarding drift management. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was given to the fact this was Mr. Talbert's second violation of similar nature. See case number 2018/0769. Consideration was also given to the fact a restricted use pesticide was involved.

2018/0797 On July 16, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report aerial agricultural spray drift to her person while she was in her private swimming pool.

**Disposition:** Edward L. Huddleston was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was given to the fact this was his second violation of similar nature. See case number 2017/1103.

2018/0801 On July 17, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.

**Disposition:** Brad Sondgerath was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation. Based on the evidence collected in this investigation, it has been determined that Brad Sondgerath failed to comply with the drift management restrictions on the label for the herbicide Xtendimax. It should also be noted that OISC was not able to determine whether the herbicide moved off-target as the result of drift, application into an inversion, or volatilization at some point after the application, and was not able to clearly identify the source of the off-target movement.

2018/0809 On July 17, 2018, the complainant, through their agent Scott Frosch, contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report an unlicensed lawn care company making a pesticide application at a nursing home located at 3043 N Lintel Drive in Bloomington. The applicator was allegedly making the pesticide application "without due regard". According to OISC database, Nick Wolf is not a certified and licensed applicator nor is Wolfe's Lawn Care a licensed pesticide business.

**Disposition:** Nick Wolfe and Wolfe's Lawn Care and Snow Removal were cited for six (6) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides/fertilizers for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$1,500.00 (6 counts x \$250.00 per count) was assessed. Consideration was given to the fact Mr. Wolfe did not cooperate during the investigation. As of March 21, 2019, Nick Wolfe and Wolfe's Lawn Care & Snow Removal had not paid the \$1,500.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC. On April 17, 2019, the civil penalty of \$1,500.00 was received from Wolfe's Lawn Care & Snow Removal.

2018/0813 On July 13, 2018, Joe Becovitz, Pesticide Program Specialist for the Office of Indiana State Chemist (OISC), received a complaint regarding agricultural drift. The complainant, Amy Beebe, stated she had more than one non dicamba-tolerant (DT)

soybean field affected by drift from suspected dicamba applications made to fields farmed by Mark Glessner.

**Disposition:**

**A.** Greg Comer was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation. In addition, Mr. Comer's Private Applicator permit was suspended for a period of one year.

Consideration was given to the fact this is Mr. Comer's eighth violation of similar nature. See case numbers 2017/1043, 2017/1087, 2017/1089, 2017/1179, 017/1307, 2018/0785 and 2018/0786.

**B.** Based on the evidence collected in this investigation, it has been determined that Mr. Comer failed to comply with the drift management restrictions on the label for the herbicide Xtendimax. It should also be noted that OISC was not able to determine whether the herbicide moved off-target as the result of drift, application into an inversion, or volatilization at some point after the application, and was not able to clearly identify the source of the off-target movement.

**C.** On January 11, 2019, Greg Comer sent an email requesting a review before the Indiana Pesticide Review Board (IPRB). David Scott, Secretary to the Board was notified immediately.

**D.** On January 16, 2019, I spoke with Mr. Comer on the phone. He stated he did not have an issue with the facts of the case but he thought the label language was somewhat confusing and he wanted to argue the suspension of his Private Applicator permit.

**E.** A hearing before the Indiana Pesticide Review Board was scheduled for 9:00 a.m. on April 5, 2019, at the Daniel Turf Center located at 1340 Cherry Lane in West Lafayette, Indiana.

**F.** On April 5, 2019, a hearing was conducted at the Daniel Turf Center in accordance with the Administrative Orders and Procedures Act. The three-person Administrative Law Judge panel upheld the suspension of Mr. Comer's Private Applicator permit.

**G.** On April 8, 2019, the full Indiana Pesticide Review Board upheld the panel's recommendation. The proposed enforcement action in this case stands.

2018/0828      On July 23, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected aerial pesticide application drift to her property.

**Disposition:** Clay Abel was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. Consideration was given to the fact this was his first violation of similar nature. Clay Abel was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-1-1.1(b), for failure to obtain a second applicator license when working for a second licensed business. A civil penalty in the amount of \$250.00 was assessed for this violation.

2018/0841      On July 24, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report aerial pesticide drift to her vehicle and her person

while she was driving to Lafayette on Hoosier Heartland Highway around 10:15 am this morning. She stated she had her sunroof open and could feel and smell the drift. She agreed to surrender the shirt she was wearing at the time with the understanding the shirt would not be returned to her. She also stated she has pesticide residue on her windshield.

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

2018/0844      On July 24, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.

**Disposition:** Tyler Hensler and Colin Kammer were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed for this violation. Based on the evidence collected in this investigation, it has been determined that you failed to comply with the drift management restrictions on the label for the herbicide Engenia. It should also be noted that OISC was not able to determine whether the herbicide moved off-target as the result of drift, application into an inversion, or volatilization at some point after the application. As of March 17, 2019, Ceres Solutions, Inc. had not paid the \$250.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC. On March 27, 2019, the civil penalty of \$250.00 was received from Ceres Solutions, Inc.

2018/0853      On July 26, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report a possible unlicensed pest control applicator at her apartment complex. She stated the applicator applied 'flour' to control bedbugs and allegedly made the comment he did not have to be licensed in Indiana because he was not using a pesticide.

**Disposition:** Timothy Marshall was cited for violation of section 65(1) of the Indiana Pesticide Use and Application Law for making a false or fraudulent claim either verbally or through any media misrepresenting the effect of a pesticide product or a method to be used. A civil penalty in the amount of \$250.00 was assessed for this violation. Timothy Marshall was cited for violation of section 65(3) of the Indiana Pesticide Use and Application Law for using a known ineffective or improper pesticide product or known ineffective amount of pesticide. A civil penalty in the amount of \$250.00 was assessed for this violation. Timothy Marshall was cited for eighteen (18) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$4,500.00 (18 counts x \$250.00 per count) was assessed. As of March 22, 2019, Timothy Marshall / No More Bites Tonight had not paid the \$5,000.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to

OISC. As of May 3, 2019, Timothy Marshall / No More Bites Tonight had not paid the \$5,000.00 civil penalty assessed. The case was forwarded to the Indiana Attorney General for collection.

2018/0856 On July 26, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report an aerial applicator flew over her home today and either drifted or directly sprayed her and her dog. She stated she has a shirt she will surrender to the investigator that she was wearing with the understanding the shirt will not be returned to her.

**Disposition:** George J. Camarata was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to people. A civil penalty in the amount of \$250.00 was assessed for this violation. As of March 21, 2019, Aero Crop Services had not paid the \$250.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC. On April 8, 2019, the civil penalty of \$250.00 was received from Aero Crop Services.

2018/0860 On July 26, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.

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

2018/0868 On July 30, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.

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

2018/0870 On July 31, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his soybeans.

**Disposition:** Curt Worster was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation. Based on the evidence collected in this investigation, it has been determined that Curt Worster failed to comply with the drift management restrictions on the label for the herbicide XtendiMax. It should also be noted that OISC was not able to determine whether the herbicide moved off-target as the result of drift, application into an inversion,

or volatilization at some point after the application, and was not able to clearly identify the source of the off-target movement.

2018/0872 On August 1, 2018 while I was investigating a dicamba complaint, 2018/0858, with complainant Kurt Theurer, he notified me that he had another non-dicamba tolerant soybean field in the area that also appeared to have been injured by dicamba.

**Disposition:** Jerry D. Wasson was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation.

2018/0875 On August 1, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report a pesticide application at a local Duke Energy power substation had drifted or runoff onto his soybeans.

**Disposition:** Bryan Comito was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding off-target movement. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was his second violation of similar nature. See case number 2015/1202.

2018/0879 On August 2, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.

**Disposition:** Phil Hunt was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation. As of March 17, 2019, Phil Hunt had not paid the \$100.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC. On March 26, 2019, the civil penalty of \$100.00 was received from Phil Hunt.

2018/0883 On August 3, 2018, the complainant, through David Cage of IDEM, contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report an aerial pesticide application took place in neighboring fields and now there are two lakes with a 'film' on them and a 'large amount' of fish have died.

**Disposition:**

A. Andrew Mushrush was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was Mr. Mushrush's first violation of similar nature. Consideration was also given to the fact there was environmental harm.

B. On January 24, 2018, OISC was notified by the complainant Charity Vaughn that Klein Aerial and compensated her for her loss. As a result of the corrective action, the \$250.00 civil penalty was held in abeyance.



- 2018/0883      On August 3, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to her beans.
- Disposition:** Aaron Lee was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation. In addition, considering Mr. Lee failed to attend the mandatory dicamba training, Mr. Lee's Private Applicator permit and certification were revoked.
- 2018/0889      On August 3, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to her beans.
- Disposition:** Kevin Wheatley was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation. As of March 17, 2019, Kevin Wheatley had not paid the \$100.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC. On March 28, 2019, the civil penalty of \$100.00 was received from Kevin Wheatley.
- 2018/0890      On August 6, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
- Disposition:** Doug Morrow was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation.
- 2018/0891      On August 6, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
- Disposition:** Doug Morrow was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation. Based on the evidence collected in this investigation, it has been determined that Doug Morrow failed to comply with the drift management restrictions on the label for the herbicide Fexapan. It should also be noted that OISC was not able to determine whether the herbicide moved off-target as the result of drift, application into an inversion, or volatilization at some point after the application, and was not able to clearly identify the source of the off-target movement.

- 2018/0903 On August 3, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
- Disposition:** Jeremy Sharp was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$1,000.00 was already assessed for this application under case number 2018/0904.
- 2018/0904 On August 3, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
- Disposition:** Jeremy Sharp was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$1,000.00 was assessed for this violation. Consideration was given to the fact this was his third violation of similar nature. See case numbers 2017/1304 and 20171305. As of May 6, 2019, Nutrien Ag Solutions had not paid the \$1,000.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty was still owed to OISC. The civil penalty payment was received on May 28, 2019.
- 2018/0933 On July 17, 2018, the Compliance Officer of the Office of Indiana State Chemist (OISC) received information from an anonymous source that Fielder's Choice Lawn Care was operating without a license.
- Disposition:** Brian Hooper was cited for fifty-five (55) 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 \$13,750.00 (55 x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$2,062.00. Consideration was given to the fact Mr. Hooper cooperated during the investigation; corrective action was taken; there was no previous history of similar nature; a good faith effort to comply and no restricted use pesticides were involved. As of March 21, 2019, Brian Hooper had not paid the \$2,062.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC. On April 19, 2019, the civil penalty of \$2,062.00 was received from Brian Hooper.
- 2018/0970 On September 17, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) via email to report a possible unlicensed pesticide application to a sorority house by Mark Allen Alldredge. Mr. Wolford forwarded a jpeg of Alldredge's license, which had clearly been forged. See Figure 1. Alldredge's license expired December 31, 2014, but his current license indicates an expiration date of 2018. It should be noted Alldredge had been cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire in case number 2012/0939.

**Disposition:** Mark Allen Alldredge was cited for five (5) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law. The civil penalty in the amount of \$2,500.00 (5 counts x \$500.00 per count) was held in abeyance pending criminal charges in Monroe County.

Mark Allen Alldredge was cited for violation of section 65(18) of the Indiana Pesticide Use and Application Law for intentionally altering a duly issued license, permit, registration or certification. The civil penalty in the amount of \$250.00 was held in abeyance pending criminal charges in Monroe County. Consideration was given to the fact this was not his first violation of similar nature. See case numbers 2012/0939 and 2018/1002.

2018/1002 On September 28, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report possible chemical burns to her face while staying in room 204 at "Salt Lake Inn". She stated she believed there was a pesticide applied to the mattress for the control of bedbugs in which she came into contact. She had been to the doctor. The complainant also notified the Brown County Health Department.

**Disposition:** Mark Alldredge was cited for three (3) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$3,000.00 was held in abeyance pending criminal charges from the Monroe County Prosecutor's office. Consideration was given to the fact this was not his first violation of similar nature. See case numbers 2012/0939 and 2018/0970.

2018/1023 On June 1, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) via a written complaint form indicating Tom Osborn drifted onto his soybeans.

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

2018/1026 On June 14, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to her trees and garden.

**Disposition:** Gavin Murray and Brady Waible were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed for this violation.

2018/1027 On June 14, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to her trees and garden.

**Disposition:** Certified Applicator Brady Waible and Registered Technician Zachary Kilgore were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift as well as section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a non-target site. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was Brady Waible's first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

2018/1037      On July 13, 2018, Joe Becovitz, Pesticide Program Specialist for the Office of Indiana State Chemist (OISC), received a complaint regarding agricultural drift. The complainant, Amy Beebe, stated she had several non dicamba-tolerant (DT) soybean fields that she believed were affected by drift from dicamba applications made to neighboring farm fields.

**Disposition:** Richard Clark was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed for this violation.

2018/1038      On August 3, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.

**Disposition:** Bart Barnett was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed for this violation.

**PS19-0005**      On October 15, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report realtors Geri & Ed Neu made a termite control application with bait at the complainant's home that the complainant feels is 'suspect'.

**Disposition:**

A. Corey Smith 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.

B. Ed Neu was cited for violation of section 65(13) of the Indiana Pesticide Use and Application Law for aiding or abetting a person to evade this chapter. A civil penalty in the amount of \$250.00 was assessed for this violation.

C. On December 4, 2018, the OISC received Ed Neu's \$250.00 civil penalty payment.

D. As of February 21, 2019, Corey Smith had not paid his civil penalty. A reminder letter was sent.

E. On April 2, 2019, the reminder letter sent to Corey Smith was returned to our agency marked as “unclaimed”.

F. On April 12, 2019, the reminder letter was resent. It was sent both regular and certified mail with a reply/pay by date of May 13, 2019.

G. On May 16, 2019, the certified mail was returned to our agency. The regular mail did not come back.

H. As of May 21, 2019, Corey Smith had not paid his civil penalty. The case was forwarded to collections.

**PS19-0024** On October 16 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report the use of a possible unregistered Chinese pesticide product in the China Garden Restaurant in Seymour, Indiana.

**Disposition:** This information was forwarded to E.P.A.’s Criminal Investigation Division.

**PS19-0043** On October 17, 2018, Edward White, Assistant Pesticide Administrator, informed me of a federally unregistered pesticide product that was being offered for sale on Ebay.com

**Disposition:** This case was forwarded to E.P.A.’s Criminal Investigative Division for federal review.

**PS19-0044** On October 17, 2018, Edward White, Assistant Pesticide Administrator, informed me of a federally unregistered pesticide product that was being offered for sale on Ebay.com

**Disposition:** This case was forwarded to E.P.A.’s Criminal Investigative Division for federal review.

**PS19-0114** On March 13, 2019, the Office of Indiana State Chemist (OISC) discovered Dogwood Glen Golf Course failed to pay a civil penalty in case number 2016/1049. A license was issued to them for 2019.

**Disposition:**

A. Dogwood Glen Golf Course was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to follow a lawful Order of the State Chemist by refusing to pay a civil penalty. The pesticide certification issued to Ernest Smiley of Dogwood Glen Golf Course was suspended until such time as the full civil penalty is paid.

B. On May 2, 2019, Mr. Smiley called and spoke with George Saxton and stated he sent in the \$400.00 check but it was returned. Saxton asked him about the address and he said

he sent it to "Purdue University" at 175 South University "Park". Saxton corrected the address for him. He stated he would send the check to the correct address immediately. C. On May 6, 2019, a check for the civil penalty of \$400.00 was received from Dogwood Glen Golf Course. The collection process on Case #2016/1049 was terminated.

**PS19-0120** Pursuant to case number 2017/0957, Adam Sieber was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$100.00 was assessed for this violation.

**Disposition:** Adam Sieber was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to follow a lawful Order of the State Chemist by refusing to pay a civil penalty. The business license of Geoponic Enterprises and pesticide license of Adam Sieber were suspended until such time as the civil penalty was paid.

As of May 14, 2019, when our letter was received, the licenses of Geoponic Enterprises and Adam Sieber were suspended.

As of June 19, 2019, Adam Sieber had not paid the civil penalty on Case #2017/0957. The licenses of Geoponic Enterprises and Adam Sieber remain suspended.

**PS19-0121** Pursuant to case number 2017/1216, Co-Alliance LLP and Cory Fordice were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding cleanout and section 65(4) for operating faulty or unsafe equipment. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was their first violation of similar nature.

**Disposition:** Co-Alliance and Cory Fordice were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to follow a lawful Order of the state chemist by refusing to pay a civil penalty. The business license of Co-Alliance and pesticide license of Cory Fordice were suspended until the civil penalty is paid.

On May 14, 2019, a representative from Co-Alliance came into the Office of Indiana State Chemist to deliver a check to pay the \$250.00 civil penalty due on 2017/1216. The business license of Co-Alliance and pesticide license of Cory Fordice were not suspended.

**PS19-0122** Pursuant to case number 2017/0299, Raymond Modglin 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 under IC 15-16-5, in direct supervision. A civil penalty in the amount of \$100.00 was assessed for this violation.

**Disposition:** Raymond D. Modglin was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to follow a lawful Order of the state chemist by not paying the civil penalty. His Private Applicator permit was suspended until such time as the civil penalty is paid. On April 5, 2019, a check for the civil penalty of \$100.00 was received from Raymond Modglin. The collection process on Case

#2017/0299 was terminated. On May 8, 2019, the license suspension enforcement on this case was terminated and the case was closed.

## CASE SUMMARY

Case #2016/1049

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

**Respondent:** Dogwood Glen Golf Course  
Ernie Smiley  
753 E. CR 900 S.  
Warren, IN 46792  
260-375-4752

1. On July 19, 2016, the Certification & Licensing section of the OISC contacted the Compliance Officer to report Dogwood Glen Golf Course failed to renew the pesticide license of Michelle Smith and requested a pesticide application records check of the course.
2. On July 25, 2016, I went to Dogwood Glen Golf Course and was told by the pro shop attendant that Ms. Smith was no longer employed by the golf course and that Ernie Smiley was the current superintendent. Mr. Smiley was not there but I was given his phone number.
3. On July 25, 2016, I spoke with Mr. Smiley and informed him that the golf course did not have a certified applicator. Mr. Smiley indicated he had been in the industry for 18 years, working under certified applicators at several other golf courses. He indicated he passed the Core exam but was unable to pass the category 3b (turf) exam. A check of OISC's database indicated Mr. Smiley did not have a registered technician credential. Mr. Smiley confirmed he made pesticide applications to the golf course in 2016. I later met Mr. Smiley at the golf course and issued a Stop Action Order instructing him to cease making applications until he was licensed or the golf course secured a certified applicator to supervise his applications. We discussed the options for coming into compliance, which included having a certified applicator from his former employer, Sycamore Hills Golf Club, obtain a secondary license to be able to supervise his applications.
4. Mr. Smiley provided copies of the application program for the golf course, which included fertilizer and pesticide applications completed at the golf course in 2016. According to the records provided, Mr. Smiley made pesticide applications to the golf course without the supervision of a certified applicator on the following dates:  
May 15, 19 and 22  
June 5, 16 and 19  
July 3 and 7
5. I then spoke with Scott Winling, a certified applicator at Sycamore Hills, and informed him of the situation at Dogwood Glen. He confirmed that Mr. Smiley had worked with him at the



golf course and indicated he would work to get him into compliance at Dogwood Glen. Mr. Winling later called and stated he would apply for a second license so he could supervise applications at Dogwood Glen. He indicated he planned to go to Dogwood Glen and work with Mr. Smiley to ensure he was properly trained and comfortable operating the equipment.

6. On September 28, 2016, I was notified by the Certification & Licensing section that Mr. Winling was issued a secondary license to be the certified applicator at Dogwood Glen.



Andrew R. Roth  
Investigator

Date: December 13, 2016

**Disposition:**

- A. Dogwood Glen Golf Course and Ernie Smiley are cited for eight (8) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying a pesticide to a golf course without having a certified applicator. A civil penalty in the amount of \$2,000.00 (8 counts X \$250.00) was assessed. However, the civil penalty was reduced to \$700.00 due to the fact Mr. Smiley cooperated during the investigation; had no previous history; and corrective action was taken.
- B. On April 18, 2018, Ernie Smiley called and stated that this was just an over-sight and that he had experience in treating golf courses so there would be no potential for damage. The civil penalty was further reduced to \$400.00.
- C. As of June 21, 2018, Dogwood Glen Golf Course still had not paid the negotiated civil penalty. The full civil penalty in the amount of \$2,000.00 was reinstated.
- D. As of August 13, 2018, Dogwood Glen Golf Course had not paid the civil penalty. The case was forwarded to the Indiana Attorney General for collection. See Case #PS19-0114 addressing the failure to follow a lawful Order of the State Chemist by refusing to pay a civil penalty and the suspension of the pesticide certification issued to Ernie Smiley of Dogwood Glen Golf Course, until this civil penalty is paid.
- E. On May 2, 2019, Ernie Smiley called and stated he sent the \$400.00 back in June. He stated the check was returned. I asked him about the address and he said he sent it to "Purdue University" at 175 South University "Park". I corrected the address for him. He stated he would send the check to the correct address immediately.
- F. On May 6, 2019, a check for the civil penalty of \$400.00 was received from Dogwood Glen Golf Course. The collection process was terminated on this case.



George N. Saxton  
Compliance Officer

Draft Date: June 21, 2018  
Final Date: May 7, 2019

# 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.

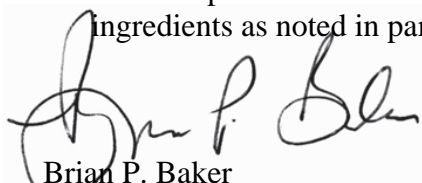
5. On January 13, 2017, I received the final reports in this case from the OISC Pesticide Formulation Laboratory on the two samples submitted. The sample seen in figures 1&2 of this report and tagged as sample #2016-323709 was found to be:

- *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.

On March 29, 2019, a check for the civil penalty of \$375.00 was received from Rural King's Corporate Office. The collection process was terminated.



George N. Saxton  
Compliance Officer

Draft Date: March 28, 2017  
Final Date: April 1, 2019

## CASE SUMMARY

Case #2017/0299

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

**Respondent:** Patrick Delaney  
Crop Production Services (CPS) Unlicensed Dealer  
100 E. Railroad Street  
Roachdale, Indiana 46172  
765-522-1923

**Respondent:** Danny Carmony (formerly CPS) General Manager  
888 Keystone Crossing, Suite 825  
Indianapolis, Indiana 46240  
765-561-2416

Raymond Modglin Non-Credentialed  
5238 S 625 W  
Reelsville, Indiana 46171  
765-672-8276

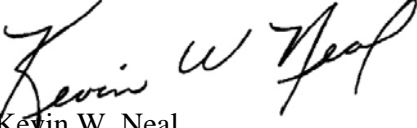
1. On, January 19, 2017, the Office of Indiana State Chemist (OISC) received an anonymous letter indicating Patrick Delaney, at that time employed by CPS in Roachdale, was selling restricted use pesticides (RUP's) to unlicensed individuals. The restricted use dealer (RUD) permit issued to CPS of Roachdale expired in 2009. It is unknown at this time if they are still at that location, if they have moved, or where their RUD records might be.
2. On January 30, 2017, I made a visit and met with Mr. Raymond Modglin as he was named in the anonymous letter as receiving RUP's from Mr. Delaney.
3. During my interview with Mr. Modglin, he stated that, yes, in fact he did receive a quantity of Atrazine 4L Herbicide (EPA Reg. #34704-69) active ingredient atrazine from Mr. Delaney. He then took me the area where it was located. See Figure One



Figure One

4. Mr. Modglin advised that at the time of the purchase he expressed his concern to Mr. Delaney, as he, Mr. Modglin, was not a certified applicator. According to Mr. Modglin, Mr. Delaney said not to worry about it and they would run it through his (Mr. Delaney's) license.

5. A copy of the invoice is included in the case file that indicates Mr. Delaney used his license to purchase the product for Mr. Modglin with the invoice date of July 1, 2013. However, Mr. Delaney had a registered technician (RT) number and was not a certified applicator himself.
6. Mr. Delaney no longer is employed by CPS and it is unknown at this time where he is.

  
Kevin W. Neal  
Investigator

Date: May 5, 2017

**Disposition:**

- A. Raymond Modglin 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 under IC 15-16-5, in direct supervision. A civil penalty in the amount of \$100.00 was assessed for this violation.
- B. Patrick Delaney was cited for violation of section 65(13) of the Indiana Pesticide Use and Application Law for Aiding or abetting a person to evade IC 15-16-5, conspire with a person to evade IC 15-16-5, or allow a license, permit, registration, or certification to be used by another person. A civil penalty in the amount of \$250.00 was assessed for this violation.
- C. Crop Production Services (CPS) 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 non-certified user. A civil penalty in the amount of \$250.00 was assessed for this violation.
- D. Crop Production Services 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 having a dealer registration. A civil penalty in the amount of \$250.00 was assessed for this violation.
- E. As of December 18, 2018, the civil penalties had not been paid by Raymond Modglin or Crop Production Services. A second letter was sent to Ray Modglin as a reminder he still owed OISC. The enforcement letters for CPS and Patrick Delaney were combined and sent to Nutrien Ag, attention of Danny Carmony for payment of the civil penalties since the company name had changed.
- F. As of February 11, 2019, Nutrien Ag had not paid the \$750.00 civil penalty assessed. A second letter was sent as a reminder they still owed OISC.
- G. On February 27, 2019, Nutrien Ag paid their \$750.00 civil penalty in full.
- H. As of March 27, 2019, Raymond Modglin had not paid the \$100.00 civil penalty assessed. The case was forwarded to collections. See Case #PS19-0122 addressing the failure to follow a lawful Order of the State Chemist by refusing to pay a civil penalty and the suspension of Raymond Modglin's private applicator permit until this civil penalty is paid.
- I. On April 5, 2019, a check for the civil penalty of \$100.00 was received from Raymond Modglin. The collection process was terminated on this case.

  
George N. Saxton  
Compliance Officer

Draft Date: February 11, 2019  
Final Date: April 8, 2019

## CASE SUMMARY

Case #2017/0423

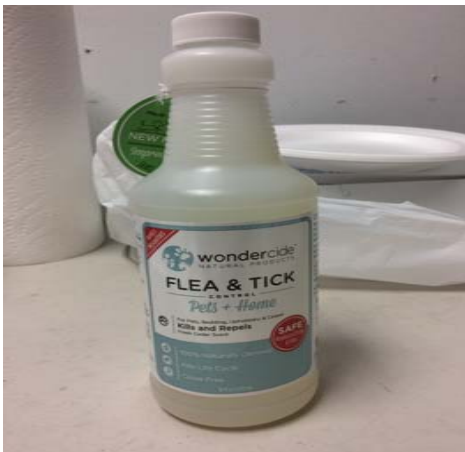
**Complainant:** Office of Indiana State Chemist (OISC)  
175 South University Street  
West Lafayette, Indiana 47907-2063  
800-893-6637

**Respondent:** Wondercide LLC  
9415 Neils Thompson Drive  
Austin, Texas 78758

Unregistered Products

1. On, February 20, 2017 I, Agent Melissa Rosch with the Office of the Indiana State Chemist (OISC), conducted a routine marketplace inspection at Hungry Hound Pet Store 8243 Wicker Ave. St. John, Indiana 46373.
2. I advised the storeowner Shelly Becker that I would be conducting a routine marketplace inspection. During the routine product check, I observed a known unregistered product by Wondercide on their shelves, some of which are making pesticidal claims. I advised Ms. Becker that the products would need to be removed from the shelves and issued Ms. Becker an action order to stop offering pesticide products for sale until the products are registered with OISC.
3. The products listed below were Wondercide products available at this location that had not yet been sampled in concurrent the Wondercide case 2017/0325. These items were taken to the OISC Formulations Lab:

Sample #	Brand	Product Description	Size (fl oz)
2017355244	Wondercide	Flea & Tick Control-Pets & Home (Blue Label/Cedar)	16 oz
2017355245	Wondercide	Flea & Tick Control- Pets & Home (Blue Label/Cedar)	4oz
2017355246	Wondercide	Flea & Tick Control-Pets & Home (Blue Label/Cedar)	1 oz



2017355244



2017355245




2017355246

4. On March 1, 2017, I received copies of the purchasing receipts for the Wondercide products shipped to Hungry Hound Pet Store 8243 Wicker Avenue in St. John, Indiana 46373. After reviewing the records it was determined for this store location:

A. In the year 2016, Wondercide had distributed ten (10) unregistered products making pesticidal claims.

- a. Wondercide Flea & Tick Control-Pets & Home 4oz (Green Label/Lemongrass)
- b. Wondercide Flea & Tick Control- Yard & Garden 32oz
- c. Wondercide Flea & Tick Control-Pets & Home 16oz (Lemongrass/Green Label)
- d. Wondercide Flea & Tick Control-Pets & Home 1oz (Purple Label/Rosemary)
- e. Wondercide Flea & Tick Control-Pets & Home 1oz (Green Label/Lemongrass)
- f. Wondercide Flea & Tick Control-Pets & Home 16oz (Purple Label/Rosemary)
- g. Wondercide Flea & Tick Control-Pets & Home 4oz (Purple Label/Rosemary)
- h. Wondercide Flea & Tick Control-Pets & Home 1oz (Blue Label/Cedar)
- i. Wondercide Flea & Tick Control-Pets & Home 4oz (Blue Label/Cedar)
- j. Wondercide Flea & Tick Control-Pets & Home 16oz (Blue Label/Cedar)



Melissa D. Rosch  
Investigator

Date: June 4, 2017

**Disposition:** On July 27, 2017, Wondercide was notified by mail they had not completed and/or submitted the application requirements for the products listed above. OISC rejected and terminated the application received on February 14 for Flea & Tick Control: Pets & Home Fresh Lemongrass Scent. All six products were given to the Compliance Section for enforcement.

Wondercide LLC was cited for six (6) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing pesticide products that were not registered in the state of Indiana. A civil penalty in the amount of \$1,500.00 (6 counts x \$250.00 per count) was assessed.



George N. Saxton  
Compliance Officer

Draft Date: February 12, 2019

Final Date: March 27, 2019

## CASE SUMMARY

Case #2017/0437

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

**Respondent:** Wondercide LLC  
9415 Neils Thompson Drive  
Austin, Texas 78758

Unregistered Products

1. On January 20, 2017, Joseph Becovitz of the Office of the Indiana State Chemist was approached regarding a possible line of pesticide products that are being distributed and sold in the State of Indiana without being registered. The products were identified as being distributed by Wondercide LLC in Austin, Texas and were making “natural” 25(b) as well as pesticidal claims. After reviewing the product registrations in Indiana with product manager Ed White, it was determined that Wondercide had never had any pesticide products registered in Indiana.
2. The Wondercide LLC website listed four possible distributor locations for their product in Indiana. These locations were:
  1. Pet People-1300 E. 86<sup>th</sup> St. Indianapolis, IN
  2. Pet People-2480 E. 146<sup>th</sup> St. Indianapolis, IN
  3. The Nutty Mutt-16 W. North St. Greenfield, IN
  4. Green Dog Goods-3421 North Anthony Blvd. Fort Wayne, IN
3. On February 10, 2017, I arrived at The Nutty Mutt store at 16 W. North Greenfield, Indiana. The store manager Rebecca Tee Guarden stated that they did previously have Wondercide products available for sale but do not currently have any in stock. Ms. Tee Guarden stated she would send a receipt of purchase from Wondercide to document which items have been sold.
4. On March 1, 2017, I received an email with a copy of the Wondercide product transfers to Indiana. After reviewing the records, it was determined for this store location:
  - A. In the year 2016, Wondercide had distributed six (6) unregistered products making pesticidal claims:



1. Wondercide Flea & Tick Control-Pets & Home 16oz (Purple Label/Rosemary)
2. Wondercide Flea & Tick Control-Pets & Home 16oz (Green Label/Lemongrass)
3. Wondercide Flea & Tick Control-Pets & Home 4oz (Purple Label/Rosemary)
4. Wondercide Flea & Tick Control-Pets & Home 4oz (Green Label/Lemongrass)
5. Wondercide Flea & Tick Control-Pets & Home 1oz (Purple Label/Rosemary)
6. Wondercide Flea & Tick Control-Pets & Home 1oz (Green Label/Lemongrass)

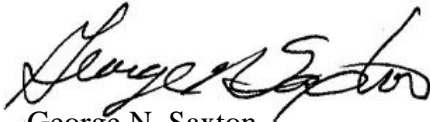


Melissa D. Rosch  
Investigator

Date: March 19, 2017

**Disposition:** On July 27, 2017, Wondercide was notified by mail they had not completed and/or submitted the application requirements for the products listed above. OISC rejected and terminated the application received on February 14th for Flea & Tick Control: Pets & Home Fresh Lemongrass Scent. All six products were given to the Compliance Section for enforcement.

Wondercide LLC was cited for six (6) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing pesticide products that were not registered in the state of Indiana. A civil penalty in the amount of \$1,500.00 (6 counts x \$250.00 per count) was already assessed for the violative years under case number 2017/0423.



George N. Saxton  
Compliance Officer

Draft Date: March 12, 2019  
Final Date: July 10, 2019

## CASE SUMMARY

Case #2017/0737

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

**Location:** Petco  
Ashely O'Neal  
2140 E. Boulevard  
Kokomo, Indiana 46902  
Assistant Manager

**Respondent:** Richard's Organics  
SynergyLabs  
3201 SW 42nd Street  
Fort Lauderdale, Florida 33312  
(954) 525-1133  
Unregistered Products

1. On May 5, 2017, I conducted a routine marketplace inspection at Petco located at 2140 E. Boulevard, Kokomo Indiana 46902. I stated to the assistant manager Ashely O'Neal that I would be performing a routine marketplace inspection at her facility. During my inspection, I performed a product check on four products making pesticidal claims made by Richard's Organics.



2. After reviewing the product registrations in Indiana with product manager Ed White, it was determined that Richard's Organics products were not registered in Indiana. I issued an Action Order to Dawn Cadwell, the corporation animal lead, advising her that these products were not registered in the State of Indiana. I told Ms. Cadwell that the products needed to be removed from the shelves until further notice from OISC. Ms. Cadwell removed the Richards Organics products from the shelves and contacted her corporate office to retrieve all records for distribution of the Richards Organics products to this store.

3. The products listed below were Richards Organics products available for sale at the Petco location. These items were also sampled and taken to the OISC formulations lab:

Sample #	Brand	Product Description	Size (fl oz)
2017355278	Richard's Organics	Richard's Organics Natural Flea/Tick Spray	12 oz
2017355279	Richard's Organics	Richard's Organics Premise Treatment	20 oz
2017355280	Richard's Organics	Richard's Organics Flea & Tick Shampoo	12 oz
2017355281	Richard's Organics	Richard's Organics Flea & Tick Home Bedding Spray	32 oz

4. On July 13, 2017, I received an email from the OISC product specialist's assistant Sarah Caffery stating that she received the distribution information from Kimberly Destefani, Manager Vendor Regulatory Affairs & Compliance for Petco. Ms. Caffery stated all four unregistered products making pesticidal claims were distributed in the State of Indiana in 2017:

1. Richard's Organics Flea/Tick Spray 12 oz
2. Richard's Organics Premise Treatment 20 oz
3. Richard's Organics Flea & Tick Shampoo 12 oz
4. Richard's Organics Flea/Tick Home Bedding Spray 32 oz



Melissa D. Rosch  
Investigator

Date: November 13, 2017

**Disposition:**

- A. A letter was sent to SynergyLabs LLC dated July 14, 2017, advising them their pesticide products could not be registered due to improper labels.
- B. The case report was forwarded to the Pesticide Registration Section for label review on November 20, 2017.
- C. Richard's Organics was cited for four (4) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing pesticide products that were not registered for sale in the state of Indiana. A civil penalty in the amount of \$1,000.00 (4 counts x \$250.00 per count) was assessed.



George N. Saxton  
Compliance Officer

Draft Date: February 13, 2019  
Final Date: May 2, 2019

## CASE SUMMARY

Case #2017/0957

**Complainant:** William Frazier  
8001 N. Williamson Road  
Muncie, Indiana 47303  
765-748-9433

**Respondent:** Adam Sieber  
Geoponic Enterprises  
3101 E 700 N  
Muncie, Indiana 47303  
765-741-0946

Certified Applicator

1. On July 4, 2017, I was investigating an alleged pesticide drift case (2017/0929), when Mr. Frazier arrived and advised me he had observed symptoms of a possible pesticide drift to his soybean field. He stated he believed the pesticide drift was from a dicamba pesticide application made by Mr. Sieber to the target soybean field located directly west of his soybean field. He stated he believed the pesticide application had been made around the end of May or first of June. He stated he observed curling of leaves on his soybean plants two weeks prior to my investigation.
2. I asked Mr. Frazier if he had applied any pesticides to his soybean field. He stated he had applied Barricade herbicide with the active ingredient prodiamine and 2, 4-D to his field earlier in the year. I asked if he was aware of any other field that may have had dicamba applied to them, which may have impacted his soybean field. He stated the only other field he knew had any pesticides applied were Mr. Shroyer directly north of his field and the field on the NE corner of County Road 700 N and CR 300 E. I contacted Helena Chemical in Pennville and was advised they had made a pesticide application to the NE field, but had not applied any pesticide containing dicamba.
3. I observed some curling of the leaves symptoms to the soybeans in Mr. Frazier's field. The symptoms appeared to be in an irregular pattern, consistent to drift. I then took photographs of the area, showing the location of the fields and the symptoms to the soybeans in Mr. Frazier's field. I also collected soil and vegetation samples from the target soybean field, along with soil and vegetation samples from the complainant's field. All of the samples were labeled and submitted to the OISC residue lab. I also collected soybean plant samples from the complainant's field and submitted them to the Purdue Plant and Pest Diagnostics Lab (PPDL). I also researched the area and found no other pesticide applications with dicamba that may have affected the complainant's field. The following are photographs taken from the scene.




4. I then made contact with Mr. Adam Sieber. He stated he had applied Xtendimax herbicide EPA Reg. #524-617 with the active ingredient dicamba and Roundup Power Max herbicide EPA Reg. #524-549 with the active ingredient glyphosate to his soybean field on May 30, 2017 between the hours of 8:41 am -10:21 am. He stated he followed the labels for the pesticides he applied. He stated he had left a 110-foot buffer along the east side of his soybean field. I advised Mr. Sieber, I would be sending a Pesticide Investigation Inquiry (PII) to him. Mr. Sieber received the PII, completed it and returned it to OISC. The PII is in this case file. Mr. Sieber also provided me with the pesticide application record for this application. The application record is in this case file. The following are the label requirements for Xtendimax herbicide:

- Application rate of Xtendimax: 22 oz per acre
- Adjuvants: Kabak Plus and Capsule
- Equipment: Rogator RG 1100 120 ft. stainless steel boom
- Nozzles: Tee Jet TTI 11005 with 15 inch spacing
- Winds per PII: West SW 5-7 mph
- Applicator: Adam Sieber
- 110 foot untreated buffer left on east side of target field
- No untreated buffer left on the north side of target field
- Ground speed: 14.2 mph
- Boom height: 18 inches above soybean canopy
- Checked registrants website prior application: yes
- Checked Field Watch prior to application: yes
- Surveyed site prior to application: yes

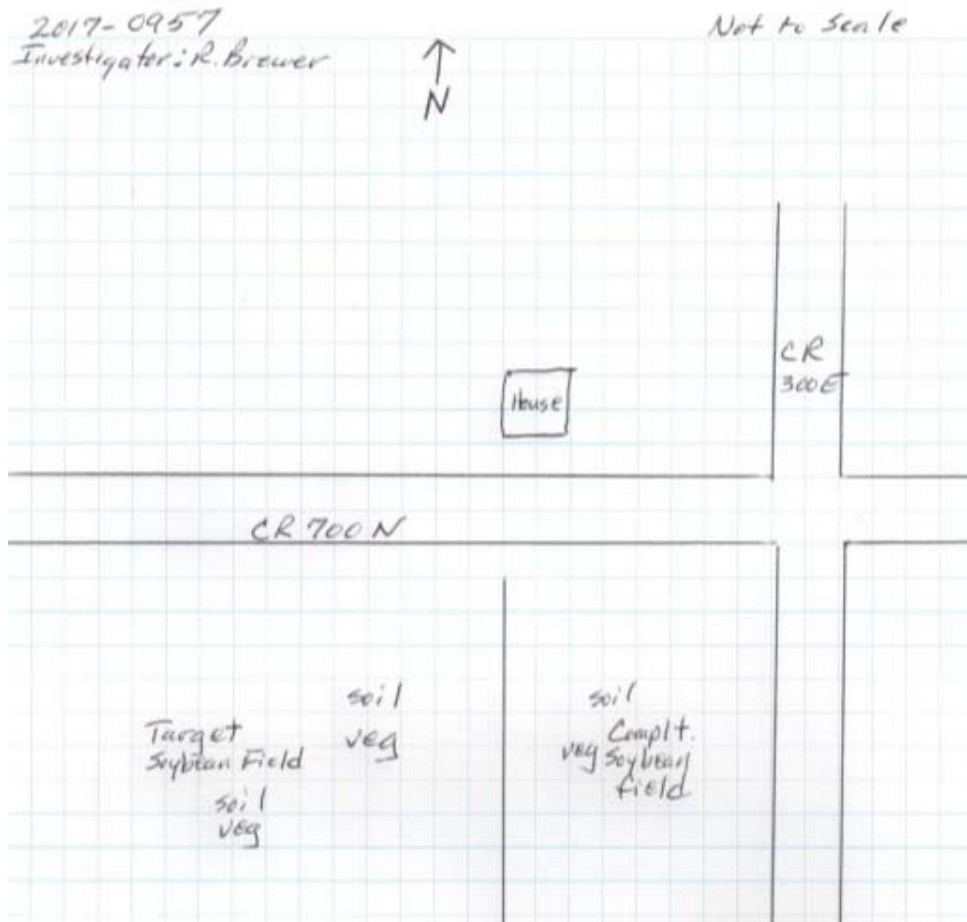
5. I then researched the Weather Underground website for weather conditions at nearest reporting stations to the target field on the date and time of the pesticide application. The results are as follows:

- K9UO Portland approximately 10 miles north, winds at 8:40 am SW at 5 mph and at 10:21 am W at 7 mph. No indication of temperature inversion.
- M Kress Field approximately 10 miles south, winds at 8:42 am WSW at 8 mph and at 10:21 am W at 12 mph. No indication of temperature inversion.
- Fort Recovery approximately 20 miles east, winds at 8:42 am W at 5 mph and at 10:23 am W at 6 mph. No indication of temperature inversion.

6. On July 9, 2017, I received a report for PPDL. The report stated, “*Strapping and puckering of leaves is indicative of injury from a growth regulator herbicide like dicamba*”. A copy of the PPDL report is in this case file.
7. On December 20, 2017, I received a report from the OISC residue lab. The report indicated the active ingredient dicamba or its metabolites were not detected in the samples submitted. The following is a copy of the OISC residue lab report.

Case # 2017/0957			Investigator: R. Brewer		
Sample #	Sample Description	Sample Matrix	Amount Found (ppb)		
			Dicamba	DCSA	5-OH Dicamba
2017-33-4883	Soil target field	Soil	7.51	141	BDL
2017-33-4884	Soil buffer zone target field	Soil	BDL	1.77	BDL
2017-33-4885	Vegetation target field	Vegetation	BDL	3.49	BDL
2017-33-4886	Vegetation buffer zone target field	Vegetation	BDL	BDL	BDL
2017-33-4887	Soil complainant field	Soil	BDL	BQL	BDL
2017-33-4888	Vegetation complainant field	Vegetation	BDL	BDL	BDL
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC					
LOQ (ppb)	Soil		2	1	1 – 2
LOQ (ppb)	Vegetation		1	2	1
Signature			Date	12/20/17	

8. The following is a diagram of the area, showing the location of the fields and the locations of the sample collections.



9. Although Mr. Sieber followed most of the label requirements for Xtendimax herbicide, the winds were blowing per his PII, W SW which would be towards the complainant's soybean field. I researched the label for Xtendimax herbicide and it stated, "Do not apply when wind is blowing in the direction of neighboring sensitive crops".

*Robert D. Brewer*

Robert D. Brewer  
Investigator

Date: February 1, 2018

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

As of March 27, 2019, Adam Sieber had not paid the \$100.00 civil penalty assessed. The case was forwarded to collections.

On July 8, 2019, the \$100.00 civil penalty was received from Adam Sieber. The collection process was terminated.

*George N. Saxton*

George N. Saxton  
Compliance Officer

Draft Date: March 19, 2018  
Closed Case: July 20, 2019

## CASE SUMMARY

Case #2017/0979

**Complainant:** Mike Allyn  
5101 Lamont Road  
Mt. Vernon, Indiana 47620  
812-598-7597

**Respondent:** Posey County Coop (Licensed Business)  
817 W. 4th Street  
Mt. Vernon, Indiana 47620  
David Michael Childress (Certified Applicator)  
812-838-4468

**MAILING ADDRESS:**  
PO Box 565  
Mt. Vernon, Indiana 47620

1. On July 5, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
2. On July 13, 2017, I met with Mike Allyn at his soybean field located on the south side of Ranes Road, near Mount Vernon, Indiana. Mr. Allyn stated the Posey County Coop had applied a dicamba product to a soybean field located to the adjacent south of his bean field that may have impacted his Liberty, non-dicamba tolerant (DT) beans. Mr. Allyn indicated he had planted the field on June 2, 2017, and first noticed symptoms to his bean on or around June 25, 2017. Mr. Allyn also informed me he had not applied any dicamba products this year on any of his farm fields. Mr. Allyn stated he had made a post-emergent application of Liberty (EPA Reg. #264-829; active ingredient: glufosinate) to his bean field on July 3, 2017.
3. During my on-site investigation I did the following:
  - a) Looked for but did not observe, nor learn of from Mr. Allyn, 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 (no notable pattern of drift). These symptoms did appear to be more pronounced on the south side of his field closest to the alleged target field and decreased slightly with distance. However, symptoms were still notable throughout the field.
  - c) Collected soybean vegetation from Mr. Allyn's field and a soil sample from the target field to the south of Mr. Allyn's bean field. The target field did not have any notable weed vegetation on the south side of the field, closest to Mr. Mason's bean field, which may suggest no buffer zone was left.
  - d) A separate bean field directly to the adjacent east of Mr. Allyn's bean field showed similar exposure symptoms to a growth regulator herbicide. Mr. Allyn informed me this bean field was a non-DT bean field not farmed by him.
  - e) Soybeans located in Mr. Allyn's field that were protected by a stand of trees from the target field to the south, showed fewer growth regulator symptoms and were farther along in plant development (indicating protected from drift by tree stand).



- f) The graph below (Illustration #1) shows the field locations in question, wind direction, and areas where samples were collected.



Illustration #1

4. Figure 2 below shows the target bean field on the left side of photograph and Mr. Allyn's bean on the right.



Figure #1

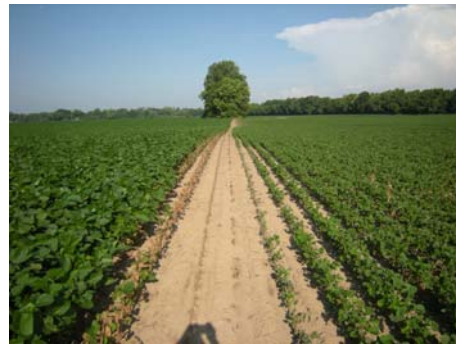
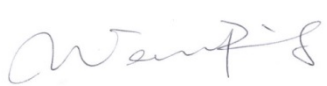


Figure #2

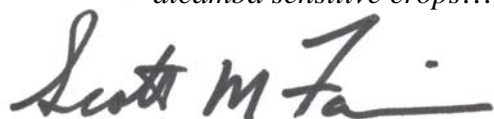
5. I contacted Julie Stevens, Safety Coordinator Posey County Coop, and spoke to her about the target field in question. Mrs. Stevens indicated Posey County Coop had made an application of Xtendimax (EPA Reg. #524-617; active ingredient: dicamba), Roundup PowerMax (EPA Reg. #524-549; active ingredient: glyphosate) and Warrant (EPA Reg. #524-591; active ingredient: acetochlor) to the target field on June 21, 2017. I forwarded a Pesticide Investigation Inquiry (PII) form to be completed and returned by the applicator to Mrs. Stevens. The form was returned on July 25, 2017, and indicated the following:
- a) Application date & time: June 21, 2017, between 4:40pm and 6:35pm (CDT).
  - b) Target Field: soybean field directly adjacent south of Mr. Allyn's bean field
  - c) Application rate of Xtendimax: 22oz per acre
  - d) Adjuvants: Astonish
  - e) Nozzles: TTI 04

- f) Winds: 9.1 to 10 Miles per hour (mph), from the south/southwest (blowing toward Mr. Allyn's bean field)
- g) Applicator: David Michael Childress
- h) Buffer used: no
- i) Ground speed: 7 mph
- j) Boom Height: 24 inches
- k) Checked Registrants website before application: no
- l) Checked Field Watch before application: no
- m) Surveyed site before application: yes

6. A check of the historical weather conditions at the date and time of Mr. Childress's application were reported from the following weather stations as follows:
- Carmi Illinois Airport (approximately 11 miles away): Winds were reported from the south (blowing toward Mr. Allyn's bean field), between 11.5 and 16.1 mph. Gust were reported between 15 and 21.9 mph.
  - Henderson Kentucky Airport (approximately 20 miles away): Winds were reported from the southwest (blowing toward Mr. Allyn's bean field) at 9.2 mph. No gusts were reported.
  - Evansville Indiana Airport (approximately 25 miles away): Winds were reported from the South/southwest (blowing toward Mr. Allyn's bean field) between 12.7 and 13.8 mph.
7. On July 14, 2017, the collected vegetation and soil samples were turned into the Indiana State Chemist Residue Lab for analysis. The results were reported back on October 3, 2017, and indicated the following:

Case #	2017/0979			Investigator	S. Farris	
Sample #	Sample Description	Amount of Analyte (ppb)				
		Matrix	Acetochlor	Dicamba	5-OH Dicamba	DCSA
2017-510131	Soybean vegetation 300 feet north of target field	Vegetation	4.32	BQL	BDL	BDL
2017-510132	Soybean vegetation 150 feet north of target field	Vegetation	3.99	BQL	BDL	BDL
2017-510133	Soybean vegetation 50 feet north of target field	Vegetation	5.21	BQL	BDL	BDL
2017-510134	Soybean vegetation in target field	Vegetation	4.42	BDL	BDL	BQL
2017-510135	Soil from target field	Soil	15600	BDL	41.9	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						
Products applied= Xtendimax + Warrant Application= 6/21/17 Sampling=7/14/17						
LOQ (ppb)	Vegetation	3	2	2	1	
LOQ (ppb)	Soil	33	2	1	1	
Signature				Date	10/3/2017	

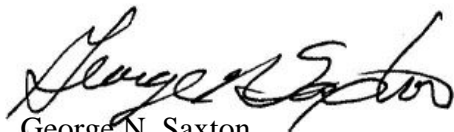
8. The lab results listed above indicated no dicamba compound could be detected in the vegetation samples submitted. However, the active ingredient found in the product Warrant was detected in the vegetation samples from Mr. Allyn's bean field.
9. The Xtendimax Supplemental Label stated the following:
- *"Do not apply at wind speeds greater than 15 mph"*
  - *"The applicator must also consult sensitive crop registries to identify any commercial specialty or certified organic crops that may be located near the application site."*
  - *"Do not tank mix any product with XtendiMax with VaporGrip Technology unless you check the list of tested products found not to adversely affect the offsite movement potential of XtendiMax with VaporGrip Technology at [www.xtendimaxapplicationrequirements.com](http://www.xtendimaxapplicationrequirements.com) no more than 7 days before applying XtendiMax with VaporGrip Technology;"*
  - *"Do not apply this product when the wind is blowing toward adjacent commercially grown dicamba sensitive crops..."*



Scott M. Farris  
Investigator

Date: October 17, 2017

**Disposition:** David Michael Childress and Posey County Co-op were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the checking of registrant's website and a sensitive crop registry as well as applying when winds are blowing towards a sensitive crop. A civil penalty in the amount of \$250.00 was assessed to Posey County Co-op.



George N. Saxton  
Compliance Officer

Draft Date: August 13, 2018

Final Date: March 27, 2019

## CASE SUMMARY

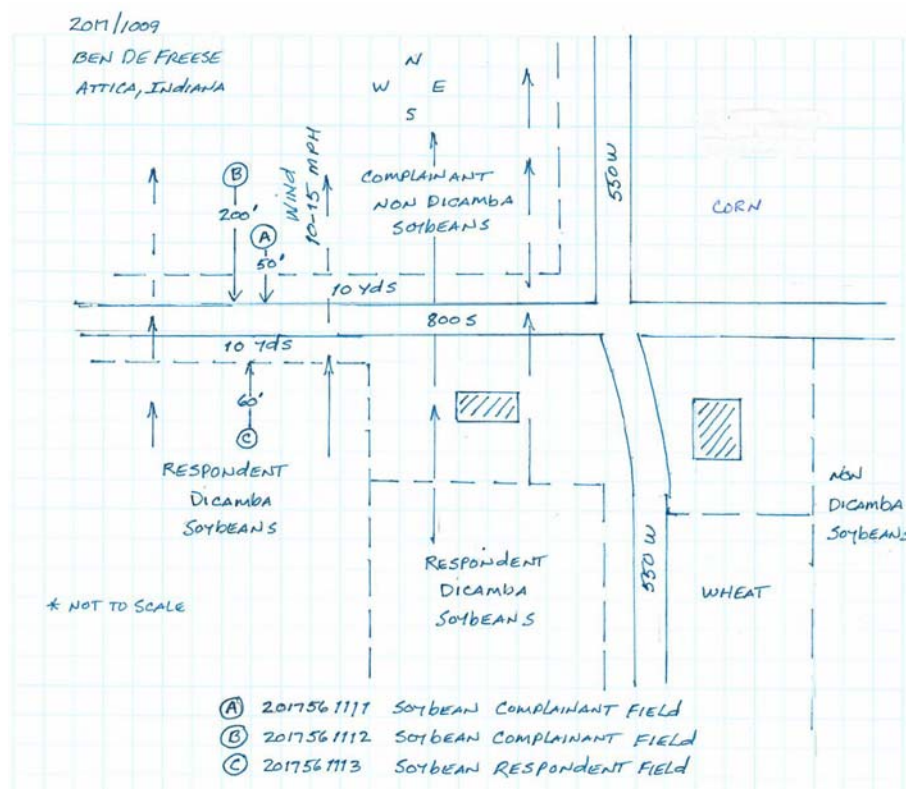
Case #2017/1009

**Complainant:** Ben DeFreese  
9865 SR 25 S  
Attica, Indiana 47918  
765-714-2386

**Respondent:** Craig Gamble  
Raub Farms  
7707 S. 475 W.  
Lafayette, Indiana 47909  
765-418-0609

Private Applicator

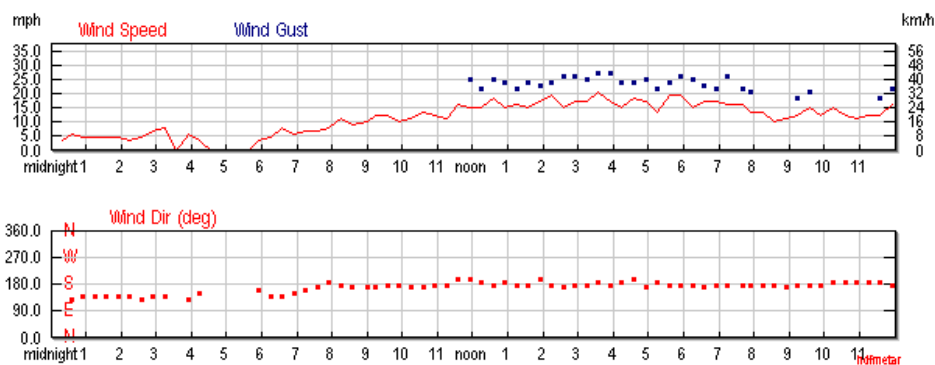
1. On July 13, 2017, the Office of Indiana State Chemist (OISC) received a complaint regarding dicamba drift. The complainant, Ben DeFreese, stated he first noticed injury on his soybeans about one week ago. Mr. DeFreese stated he is not sure when the dicamba application was made.
2. On July 17, 2017, I met with the complainant Ben DeFreese at the investigation site. He told me he had been checking his field from time to time. He first noticed injury to his soybeans about one week two weeks ago. He said he knew Raub Farms had planted dicamba tolerant soybeans. He was worried any dicamba application made by Raub Farms had affected his non-dicamba tolerant soybeans. He said he first noticed cupping and puckering to his soybeans on or about July 11. He was not sure when Raub Farms made their dicamba application. He told me he planted Liberty Link soybeans. He would send me his pesticide application information for the field in question.
3. During my on-site investigation, I did the following:
  - a. I checked the complainant's field. It appeared as though the growth regulator-type symptoms of leaf puckering, cupping and strapping were uniform across much of the field. I checked the soybean field to the south of the complainant's field owned by the respondent. I did not observe any growth regulator-type symptoms.
  - b. I photographed the complainant's soybean field showing the growth regulator symptoms. (see photos below)
  - c. I collected impacted soybean samples for submission to the Purdue Plant and Pest Diagnostic Lab (PPDL) for analysis.
  - d. I collected the following environmental samples in Mylar bags for submission to the OISC Residue Lab for analysis (see diagram below)
    - 2017561111 soybeans 50 feet into complainant's field
    - 2017561112 soybeans 200 feet into complainant's field
    - 2017561113 soybeans 60 feet into respondent's field



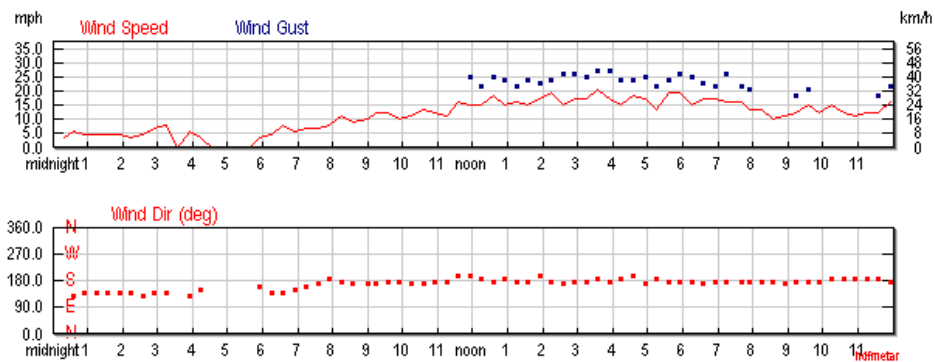
4. I made contact with the respondent/pesticide applicator Craig Gamble. He told me he was an employee of Raub Farms. He completed the following Pesticide Investigation Inquiry (PII). According to the PII, he made an application of Engenia (EPA #7969-345; active ingredient: dicamba) and Buccaneer 5 Extra Herbicide (EPA #55467-15; active ingredient: glyphosate). The completed PII contained the following information:
  - a. Pesticide application was made on June 28, 2017 between 10:20am and 11:00am.
  - b. Application was made to the field south of the complainant's field
  - c. Application rate of 12.5 ounces per acre of Engenia and 22 ounces of Buccaneer per acre
  - d. Application made with TTI 11004 nozzles.
  - e. Boom height was set at 24 inches
  - f. Equipment ground speed recorded during application at 11.5 – 12 miles per hour (mph)
  - g. Checked website prior to application? No
  - h. Checked Fieldwatch/Driftwatch prior to application? No

- i. Surveyed application site prior to application? No
  - j. Buffer used: 70 feet in addition to road and ditch
  - k. Wind speed at time of application recorded at 7 mph from the south
  - l. Certified applicator: Craig Gamble
5. I spoke again to the complainant. He reiterated he planted Liberty Link soybeans and did not apply dicamba to his field. I also learned Bryan Shelby planted non-dicamba soybeans to the field southeast of the complainant's field. He did not apply dicamba to his field.
  6. I checked the weather data for the application site at [www.wunderground.com](http://www.wunderground.com). I checked historical weather data at Danville, Illinois (approximately 30 miles west of site), Lafayette, Indiana (approximately 10 miles east of site) and Indianapolis, Indiana (approximately 50 miles southeast of site). (see tables below)

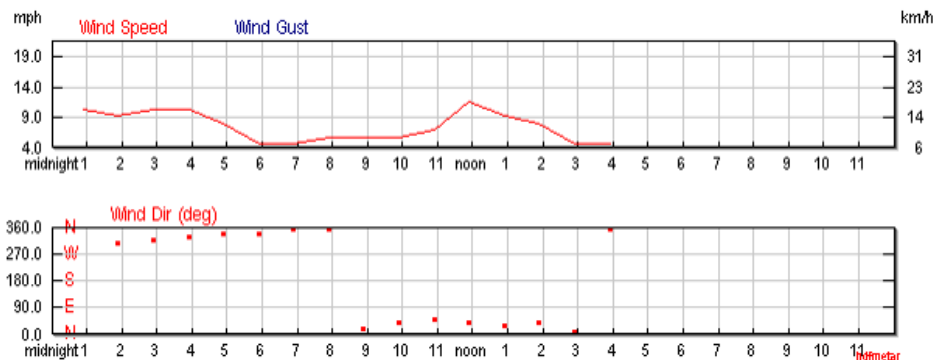
#### Danville, Illinois



#### Lafayette, Indiana



#### Indianapolis, Indiana






- According to the weather information from Danville, Illinois, the wind was blowing 10-15 miles per hour between 10:20am and 11:00am in a northerly direction parallel to the complainant's property.
- According to the weather information from Lafayette, Indiana the wind was blowing 10-12 miles per hour in a northerly direction parallel to the complainant's property.
- According to the weather information from Indianapolis, Indiana, the wind was blowing 5 miles per hour in a southwesterly direction away from the complainant's property.

7. I received the following information from PPDL: *"Cupping and puckering on soybean leaves is indicative of injury from dicamba. Cupping of leaves on mulberry is indicative of injury from dicamba."*

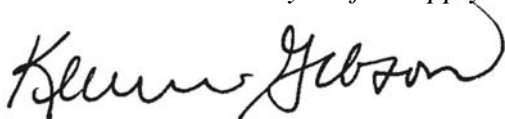
8. I received the following information from the OISC Residue Lab:

Case # 2017/1009			Investigator: K. Gibson		
Sample #	Sample Description	Sample Matrix	Amount Found (ppb)		
			Dicamba	DCSA	5-OH Dicamba
2017-561111	Soybean complainant's field	Vegetation	10.2	BQL	BDL
2017-561112	Soybean complainant's field	Vegetation	7.26	BQL	BDL
2017-561113	Soybean respondent's field	Vegetation	BDL	63.0	BDL
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC					
LOQ = 2.00 ppb Dicamba LOQ = 0.40 ppb DCSA LOQ = 20.0 ppb 5-OH Dicamba					
Signature			Date	11/30/2017	

The Residue Lab results indicated the presence of dicamba in two of the samples in gradient amounts (i.e. amounts found in environmental samples were greater closest to the respondent's field and less farther from the respondent's field) suggesting particle drift. Information from the weather data web site reporting the wind blowing from the respondent field toward the complainant's field as well as the respondent stating the wind was blowing toward the complainant's field also suggests particle drift to the complainant's field. Applicator failed to check the Engenia web site prior to application; he failed to check the Fieldwatch/Driftwatch web site prior to application; he failed to survey the application site prior to the application. Also, the applicator reported the wind was blowing toward the complainant's field at the time of the application.

9. The label for Engenia reads in part,

- *“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 when wind is blowing in the direction of neighboring specialty crops.”*
- *“Before making an application, the applicator must survey the application site for neighboring sensitive areas.*
- *The applicator must also consult sensitive crop registries to locate nearby sensitive areas where available.”*
- *“DO NOT tank mix any product with Engenia unless . . . You check the list of EPA approved products for use with Engenia at [www.engeniatankmix.com](http://www.engeniatankmix.com) no more than 7 days before applying Engenia . . .”*

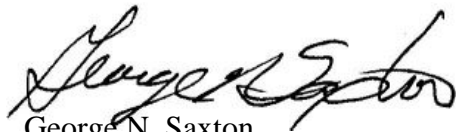


Kevin W. Gibson  
Pesticide Investigator

Date: February 21, 2018

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

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



George N. Saxton  
Compliance Officer

Draft Date: March 23, 2018

Final Date: March 27, 2019



## CASE SUMMARY

Case #2017/1012

**Complainant:** Tyson Bell  
8803 W 850 S  
Covington, IN 47932  
765-585-9733

**Respondent:** Michael Hunt  
Wright Agri-Group  
10858 W 1150 S  
Covington, IN 47932  
765-793-4957

Unlicensed

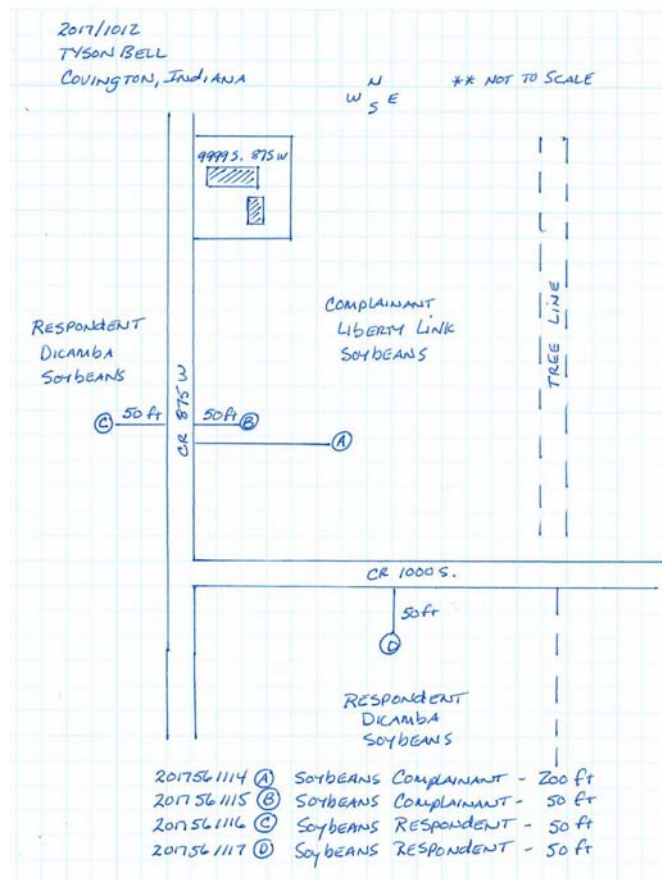
1. On July 13, 2017, the Office of Indiana State Chemist (OISC) received a complaint regarding dicamba drift to soybeans. The complainant, Tyson Bell, stated the soybean field to the west of his Liberty soybeans were sprayed with dicamba. Mr. Bell stated about  $\frac{3}{4}$  of his 34-acre soybean field has dicamba injury.
2. On July 19, 2017, I spoke with the complainant concerning his “impacted” soybean field located at CR 875 West and CR 100 South in Fountain County. I surveyed the field. It appeared more than  $\frac{1}{2}$  of the complainant’s soybean field had been impacted. I observed growth regulator-type symptoms of leaf cupping and puckering. There were two other soybean fields adjacent to the complainant’s soybean field. One field was west of the complainant’s field he told me was farmed by Keith and John Wright. He believed dicamba was applied to their field. The field to the south of the complainant’s field was also farmed by Keith and Jake Wright. He believed they also applied dicamba to their field. I checked the Wright soybean fields. I did not observe any growth regulator-type symptoms to those soybeans. The complainant told me he planted Liberty Link soybeans.
3. During my on-site investigation, I did the following:
  - a. I checked the complainant’s field. It appeared as though the growth regulator-type symptoms of cupping and puckering were uniform across approximately  $\frac{1}{2}$  of the field.
  - b. I photographed the complainant’s soybean field showing the growth regulator-type symptoms. (See photos below)
  - c. I collected impacted soybean plant samples for submission to the Purdue Plant and Pest Diagnostic Lab (PPDL) for analysis.
  - d. I collected the following environmental samples in Mylar bags for submission to the OISC Residue Lab for analysis (See diagram below)
    - 2017561114 soybeans 200 feet into complainant’s field
    - 2017561115 soybeans 50 feet into complainant’s field
    - 2017561116 soybeans 50 feet into respondent’s field
    - 2017561117 soybeans 50 feet into respondent’s field



Complainant's Soybean Field



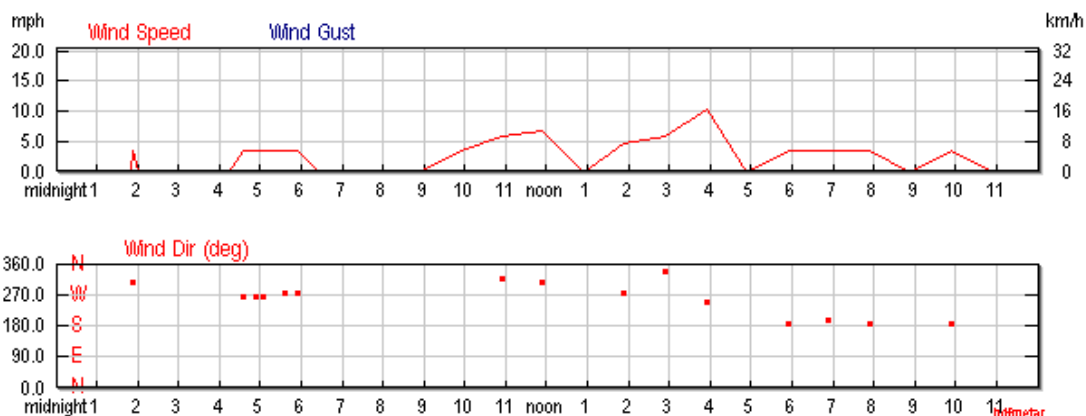
Close Up



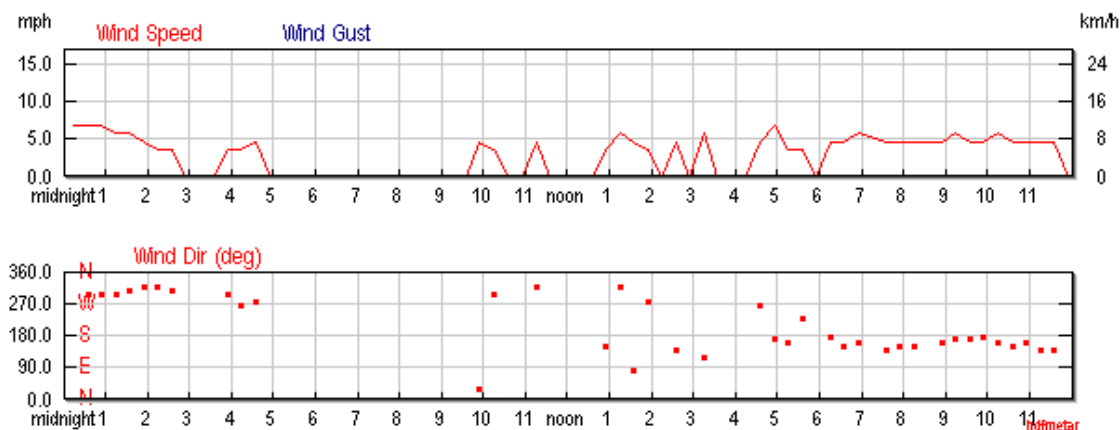
4. I made contact with Wright Agri Group. I emailed a Pesticide Investigation Inquiry (PII) to Mr. Brian Wright be completed by the applicator for the two fields listed in question.
5. I received a completed PII from Mr. Michael Hunt. According to the completed PII, Mr. Hunt made an application of **Engenia** (EPA #7969-345; active ingredient: dicamba). The completed PII also contained the following:
  - a. Pesticide application was made on **June 27, 2017 between 10:12am and 2:17pm**
  - b. Application was made to the fields at the corner of County Roads 875 W and 1000 S
  - c. Application rate was
  - d. Application was made with (Nozzle type)
  - e. Boom height was set at **20 inches** at time of application

- f. Equipment ground speed was recorded at **14.1 mph**
  - g. Checked Engenia web-site: **Yes**
  - h. Checked Fieldwatch/Driftwatch prior to application: **No**
  - i. Surveyed application site prior to application: **Yes**
  - j. Buffer used: **45 feet to the west and 48 feet to the south**
  - k. Wind speed at time of application was recorded at **3 mph from the southeast**
  - l. Applicator: **Michael Hunt**
6. I checked the historical weather data at [www.wudnerground.com](http://www.wudnerground.com) for June 27, 2017 for the application site. I obtained information for Purdue Airport (35 miles northeast of application site), Rantoul Airport (36 miles west of application site) and Terre Haute International-Hulman Airport (48 miles south of application site) (See tables below)

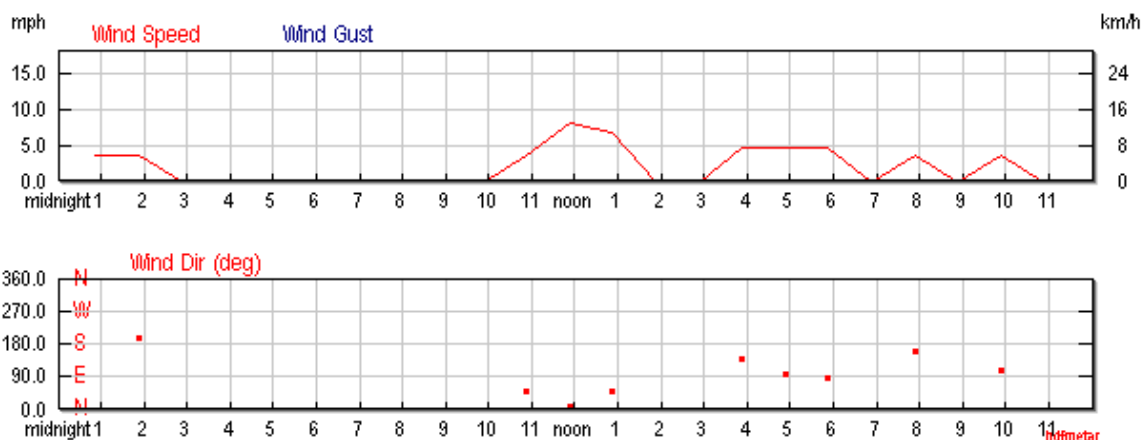
**June 27, 2107**  
**Purdue Airport**  
**West Lafayette, Indiana**  
**35 miles Northeast**



**Rantoul Airport**  
**Rantoul, Illinois**  
**36 miles West**




**Terre Haute International-Hulman Airport**  
**Terre Haute, Indiana**  
**48 miles South**



- According to the weather information from the Purdue Airport, the wind was blowing 3-5 mph from the northwest in a southeasterly direction toward southwest corner of the complainant's field
- According to the weather information for the Rantoul Airport, the wind was blowing 0-5 mph from southeast and northwest directions (no consistent direction)
- According to the weather information for the Terre Haute International-Hulman Airport the wind was blowing 0-8 mph from the northeast in a southwesterly direction away from the complainant's field.

7. I received the following information from PPDL: "Cupping and puckering of new soybean leaves is indicative of injury from dicamba."

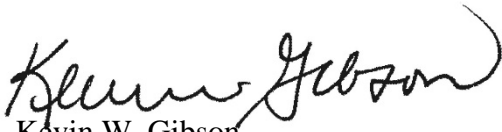
8. I received the following analysis information from the OISC Residue Lab:

Case # 2017/1012			Investigator: K. Gibson		
Sample #	Sample Description	Sample Matrix	Amount Found (ppb)		
			Dicamba	DCSA	5-OH Dicamba
2017-561114	Soybean complainant field	Vegetation	2.99	BDL	BDL
2017-561115	Soybean complainant field	Vegetation	3.05	BDL	BDL
2017-561116	Soybean respondent Wright field	Vegetation	BDL	2.61	BDL
2017-561117	Soybean respondent Lape field	Vegetation	BDL	3.72	BDL
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC					
LOQ = 2 ppb Dicamba LOQ = 0.4 ppb DCSA LOQ = 20 ppb 5-OH Dicamba					
Signature			Date	11/30/2017	

The Residue Lab results indicated the presence of dicamba in both of the complainant's soybean samples. The applicator reported the wind blowing 3 mph from the southeast which would have been blowing toward the complainant's field from the respondent's field south of County Road 1000 S. (See diagram page 2). The applicator failed to check the Fieldwatch/Driftwatch web site prior to the application. Only two of the three weather stations reported "calm" conditions at some time during the application.

9. The label for Engenia reads in part,

- *"DO NOT apply when wind is blowing in the direction of neighboring specialty crops."*
- *"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."*
- *The applicator must also consult sensitive crop registries to locate nearby sensitive areas where available."*



Kevin W. Gibson  
Pesticide Investigator

Date: March 12, 2018

**Disposition:** Michael Hunt 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.

Michael Hunt was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the application when wind is blowing towards a sensitive crop. A civil penalty in the amount of \$100.00 was assessed for this violation.

As of March 27, 2019, Michael Hunt had not paid the \$100.00 civil penalty assessed. The case was forwarded to collections.



George N. Saxton  
Compliance Officer

Draft Date: April 10, 2018  
Final Date: March 27, 2019

## CASE SUMMARY

Case #2017/1209

**Complainant:** Christine Bowman  
Bowman's Pro Turf  
5121 N. Murphy Road  
Brazil, Indiana 47834  
812-448-1852

**Respondent:** Nelson Langlois  
605 E. Washington Street  
Wheatland, Indiana 47597  
812-830-8502

1. On August 15, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report a Facebook advertisement by Nelson Langlois selling "Industrial Strength Weed & Grass Killer". Photos were included with the words "weed killer" written on the containers with no label.
2. On August 15, 2017, I called the number that was written on the Facebook post at 812-830-8502 to attempt to contact Nelson Langlois. I reached a voicemail message that stated it belonged to Nelson Langlois. I left him a voice message asking him to call me back and that I was interested in purchasing the weed killer he had for sale. Mr. Langlois called me back a few hours later. I asked Mr. Langlois if he had any more of the weed killer left for sale. He stated *"yes, and I won't run out any time soon, I have about 66 gallons of it."* Mr. Langlois then asked me if I worked for a weed chemical or a landscape company and I said no. He then told me that at one point a representative from Syngenta told him that it wasn't a good idea for him to try and sell weed killers from his home. Mr. Langlois then stated that he gets this weed killer from his job. He told me that his employer recycles these jugs and so he brings home the jugs with the residual chemical and rinse water to sell as weed killer. Mr. Langlois openly stated that he was not going to tell me whom he worked for. I asked Mr. Langlois what the weed killer was and he said, *"It's a myriad of things. It's Round Up, Gramoxone, and all kinds of things."* Mr. Langlois and I then set up a time to meet the following day at his home in Wheatland. Mr. Langlois told me he would lower the price to \$20.00 for a 2.5-gallon jug because he had too much and needed to get rid of it.
3. After I spoke with Mr. Langlois on the phone, I attempted to locate more information about him, specifically where he worked since he told me that he got the product from his employer. I was able to find that he worked for an Agricultural Chemical company.
4. On August 17, 2017, Agent Scott Farris and I were able to make contact with Mr. Langlois' employer and made them aware of the situation and asked if they could help properly dispose of the chemicals that Mr. Langlois had. The company agreed to assist with the investigation and sent a representative with a truck with us to help collect the materials.

5. Agent Farris and I, along with the representative from the chemical company, had a Knox County Sheriff Deputy escort us to the property at 605 E Washington St. in Wheatland. When we arrived at the residence, a male was standing on the front porch. I asked if he was Nelson Langlois and he stated he was. I asked him to come down and speak with us, which he did. I presented Mr. Langlois with my OISC credentials and informed him I was with the Office of the Indiana State Chemist. I asked Mr. Langlois if he still had the weed killer and he stated yes and pointed to the barn where two 33-gallon white containers sat along with several other 2.5 and 1-gallon containers. I advised Mr. Langlois of the violations he was committing by manufacturing and selling the weed killer at his home. I also informed him that I would be taking samples of the products and taking the entire product he had with us so that we could dispose of it properly. Mr. Langlois stated that he understood and helped us load the weed killer product into the truck.
6. Agent Farris and I then went back to the chemical company to inventory and photographed the products. There were:
  - a. two full 33 gallon containers;
  - b. 16 empty one gallon containers;
  - c. 10 full 2.5 gallon containers;
  - d. a full one gallon container;
  - e. a full two gallon container, and
  - f. a full one gallon container that said “weed killer” handwritten on the containers.

I collected a 2.5-gallon, 2 gallon, and two 1-gallon containers for sampling.

7. On August 18, 2017, I submitted the samples I collected to the Formulations Lab for analysis.
8. On April 6, 2018, I received the lab report from the OISC lab. The lab detected:
  - a. Metolachlor in all four samples;
  - b. Atrazine in samples 2017-37-5716 and 2017-37-5717; and
  - c. Paraquat in samples 2017-37-5715, 2017-37-5716 and 2017-37-5717.<sup>1</sup>



Figure 1. Barrels and Jugs containing Pesticide



Figure 2. Product at respondent address

<sup>1</sup> Metolachlor, Atrazine, and Paraquat are Restricted Use Pesticides





Figure 3. 33 gallon barrels

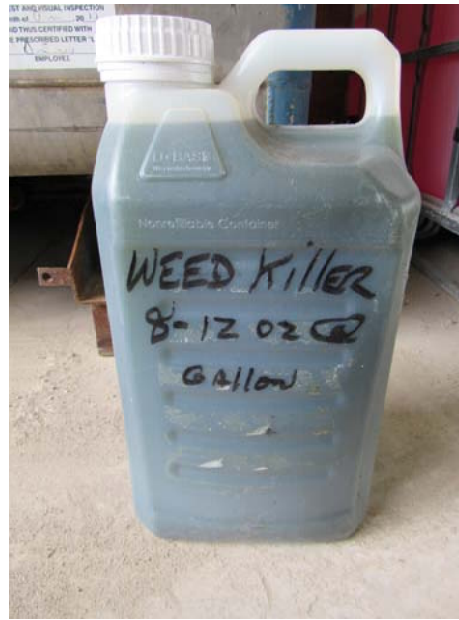


Figure 4. Sampled container with unknown mix.

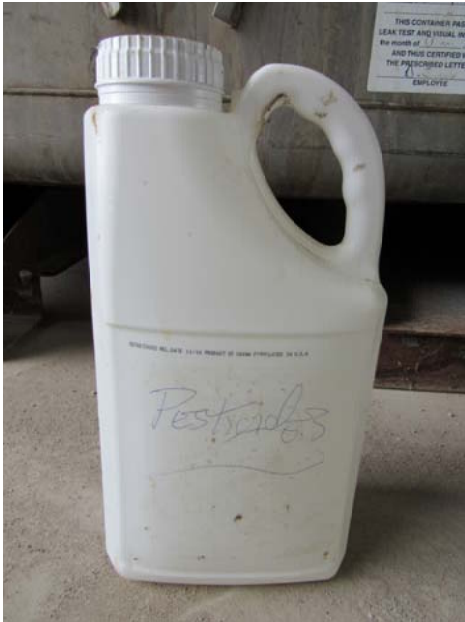


Figure 5. Sampled container with unknown mix.



Figure 6. Sampled container with unknown mix.



Figure 7. Sampled Container with unknown mix.



Figure 8. Labels collected at the respondent address.



Case # 2017/1209			Investigator: G. Creason			
Sample #	Sample Description	Sample Matrix	Detection and Amount Found (ppm) *			
			General Screen	Atrazine	Metolachlor	Paraquat
2017-37-5714	Unknown Unlabeled Use Dilution	Liquid	Potential hits include Metolachlor, Acetamiprid	BDL	1280	BDL
2017-37-5715	Unknown Unlabeled Use Dilution	Liquid	Potential hits include Metolachlor, Propisochlor, Picoxystrobin	nBDL	6.49	0.0045
2017-37-5716	Unknown Unlabeled Use Dilution	Liquid	Potential hits include Metolachlor, Propisochlor, Picoxystrobin, Atrazine, Metribuzin, Sulfentrazone, Simazine, Acetochlor, Azoxystrobin, Imazethapyr	27.2	159	3.72
2017-37-5717	Unknown Unlabeled Use Dilution	Liquid	Potential hits include Metolachlor, Picoxystrobin, Atrazine, Metribuzin, Sulfentrazone, Simazine, Azoxystrobin, Imazethapyr	27.4	259	3.43
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  *Quantitative analysis was selectively performed on the A.I.s involved in restricted use pesticides.						
LOQ (ppm)			NA	2	2	0.001
<div> <div>Signature</div> <div></div> </div> <div> <div>Date</div> <div>4/6/18</div> </div>						

  
 Garret A. Creason  
 Investigator

Date: September 1, 2017


**Disposition:** Nelson Langlois was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for producing and offering for sale 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.

Nelson Langlois was cited for fifteen (15) counts of violation of section 57(4) of the Indiana Pesticide Registration Law for offering for sale a pesticide product without the manufacturer's label in a container other than the manufacturer's original unbroken container. A civil penalty in the amount of \$3,750.00 (15 counts x \$250.00 per count) was assessed.

Nelson Langlois was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for violating the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA) by producing a pesticide product without being a producing establishment. A civil penalty in the amount of \$250.00 was assessed for this violation.

The total amount of civil penalty assessed for this investigation is \$4,250.00. However, the civil penalty was reduced to \$1,275.00. Consideration was given to the fact Nelson Langlois cooperated during the investigation; corrective action was taken and there was no previous history of similar nature.

As of April 1, 2019, Nelson Langlois had not paid the civil penalty assessed. The case was forwarded to the Indiana Attorney General for collection of the unmitigated civil penalty of \$4,250.00.



George N. Saxton  
Compliance Officer

Draft Date: August 31, 2018  
Final Date: April 1, 2019

## CASE SUMMARY

Case #2017/1216

**Complainant:** Robert Cheatham  
3612 E 660 N  
Marshall, Indiana 47859  
765-592-1209

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

Licensed Business  
Licensed Applicator

1. On August 18, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
2. On August 22, 2017, I met with the complainant at 4486 E. State Road 236 in Marshall, Indiana where the complainant reported a suspected dicamba drift to his field. Mr. Cheatham told me he checked his field approximately 2-3 weeks ago to discover the soybean leaves were cupped and crinkled. He said the north end of the field by the residence seemed to be affected the worst. He also told me the soybean field south of State Road 236 was farmed by Mark Kessler of 6418 S. 200 E. in Crawfordsville, Indiana. The complainant believed the soybeans were of a dicamba tolerant variety.
3. During my on-site investigation, I did the following: I checked the soybeans in the complainant's field. The rows of beans in the northern part of the field appeared to be more affected than the rest of the field. The most symptomatic part of the field was approximately 0-100 feet from the northern edge of the field. I also observed discoloration on leaves of corn stalks which were planted on the very north edge of the soybean field. I obtained environmental samples of soybeans and cornstalks for submission to the Purdue Plant and Pest Diagnostic Lab (PPDL) for analysis. I also checked the south edge of the field near SR 236. I did observe some growth regulator symptoms of cupping and puckering however, those symptoms were very slight. I did take soil samples from the soybean field south of State Road 236.

I obtained the following environmental samples and placed them in Mylar bags for submission to the OISC Residue Lab for analysis (see diagram and photos below):

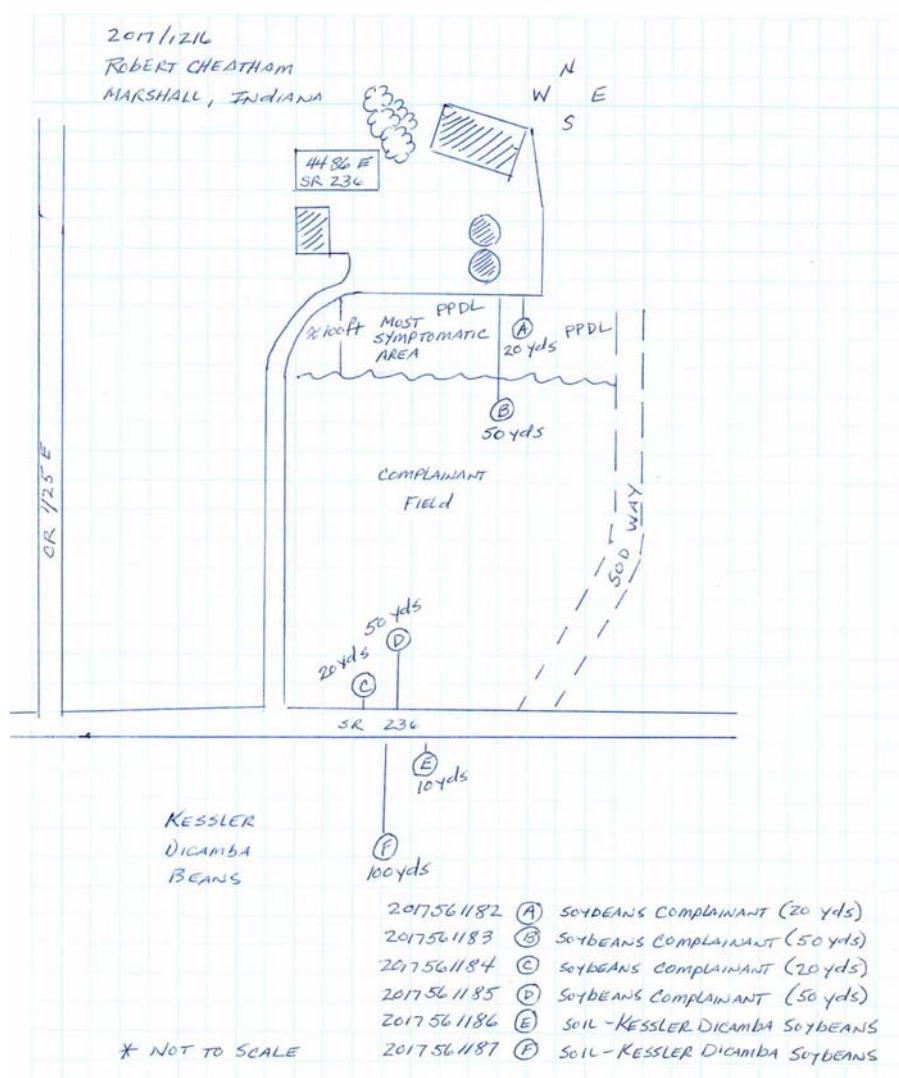
2017561182	soybeans complainant field	(20 yards north)
2017561183	soybeans complainant field	(50 yards north)
2017561184	soybeans complainant field	(20 yards south)
2017561185	soybeans complainant field	(50 yards south)
2017561186	soil dicamba soybean field	(10 yards Kessler field)
2017561187	soil dicamba soybean field	(100 yards Kessler field)



North part of field



Close up




4. The complainant told me Co-Alliance LLP makes pesticide applications to his farm field. I told him I would contact them for the application records. I made contact with Co-Alliance LLP in Russellville, Indiana. They agreed to send me the requested pesticide applications for the complainant's farm field.

5. I received the following information from the Purdue Plant and Pest Diagnostic Laboratory (PPDL): *“Cupping/puckering of soybean leaves and discolored leaf tip are indicative of injury from dicamba. Necrotic spots on soybean leaves and top of petiole can be indicative of injury from PPO-inhibiting herbicide. There were no symptoms of herbicide injury on the sweet corn sample. Common rust was confirmed on the leaves of the sweet corn. Discoloration on the corn leaves is similar to symptoms caused by nutrient deficiency.”*
6. I received the complainant’s pesticide application records from Co-Alliance LLP. I spoke to Gerrit Thompson the manager of the Co-Alliance in Russellville, Indiana. I told him of my observations of the complainant’s soybean field. He told me the equipment used to make the pesticide application to the complainant’s field had been used earlier in the day to make a dicamba application of Xtendimax (EPA #524-617; active ingredient: dicamba) to a different field. He said the equipment uses a direct injection system for the application of dicamba to reduce possibility of drift. He said the John Deere equipment they used has a separate tank for the dicamba. He told me he believed the “check valve” for the dicamba tank malfunctioned which allowed the dicamba product into the hoses when spraying other non-dicamba chemicals. He further said the pattern in the field (approximately 100 feet on the northern edge exhibiting the worst symptoms) would be consistent with where the applicator (Cory Fordice) began his application.
7. I spoke to Mark Kessler concerning his soybean field to the south of the complainant’s soybean field. He told me he applied a dicamba product known as Engenia. He agreed to send me his pesticide application records for his soybean field south of the complainant’s soybean field.
8. I received a completed Pesticide Investigation Inquiry (PII) from Mark Kessler. The completed PII indicated the following:
  - a) Mr. Kessler applied Engenia (EPA #7964-345; active ingredient: dicamba) on June 5, 2017 from 10:00am and 11:30am.
  - b) Wind recorded at 3-5 miles per hour (mph) from the northwest blowing in a southeastern direction away from the complainant’s soybean field.
  - c) Ground speed at time of the application: 12 mph.
  - d) Checked the registrant’s websites prior to the application: Yes
  - e) Checked Field Watch prior to application: Yes
  - f) Did not leave buffer of any type: No
  - g) Boom height at time of application: 20 inches.
  - h) Site surveyed prior to application: Yes
9. I checked the weather data from [www.wunderground.com](http://www.wunderground.com) website for June 5, 2017. I checked the information for Crawfordsville, Indiana, Rockville, Indiana and Greencastle, Indiana.
  - a) The weather station for Crawfordsville, Indiana was 18 miles northeast of the application site. The weather station recorded the wind at 3-5 mph from the east in a westerly direction parallel to the complainant’s soybean field.
  - b) The weather station for Rockville, Indiana was 7 miles southwest of the application site. The weather station recorded the wind at 3-5 mph from the west-southwest in an east-northeasterly direction toward the corner of the complainant’s soybean field.

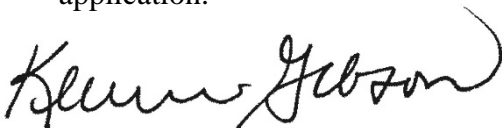
- c) The weather station for Greencastle, Indiana was 21 miles southeast of the application site. The weather station recorded the wind at 3-5 mph from the northwest in a southwesterly direction away from the complainant's soybean field.

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

Case #	2017/1216		Investigator		K. Gibson		
Sample #	Sample Description	Amount of Analyte					
		Matrix	Dicamba	DCSA	5-OH Dicamba	Glyphosate	AMPA
2017-56-1182	Soybean from Complainant field 20 yards	Vegetation	BDL	BDL	BDL	7033	346
2017-56-1183	Soybean from Complainant field 50 yards	Vegetation	BDL	BDL	BDL	3141	209
2017-56-1184	Soybean from Complainant field 20 yards	Vegetation	BDL	BDL	BDL	7318	256
2017-56-1185	Soybean from Complainant field 50 yards	Vegetation	BDL	BDL	BDL	3694	220
2017-56-1186	Soil from Respondent field 10 yards	Soil	35.3	100	BDL	127	254
2017-56-1187	Soil from Respondent field 100 yards	Soil	2.76	32.8	BDL	326	414
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC							
LOQ (ppb)	Soil	2	1	2	5	50	
LOQ (ppb)	Vegetation	2	0.4	4	5	125	
Signature				Date	12/04/2017		

11. The label for **Xtendimax** reads in part, *“Do not allow herbicide solution to mist, drip, drift or splash onto desirable vegetation because severe injury or destruction to desirable broadleaf plants could results”. “Minute quantities of dicamba can cause injury to sensitive crops . . . clean equipment immediately after using this product . . .”*


12. After reviewing available information, the complainant's soybean field appeared to most severe injury to the north end of the field. The Co-Alliance manager admitted the plant injuries were due to a malfunction in their application equipment at time of the application. PPDL's analysis indicated plant injury consistent with dicamba exposure. Weather data indicated wind was blowing away from complainant's soybean field at time of Mr. Kessler's pesticide application.

  
Kevin W. Gibson  
Investigator

Date: February 5, 2018

**Disposition:**

- A. Co-Alliance LLP and Cory Fordice were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding cleanout and section 65(4) for operating faulty or unsafe equipment. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was their first violation of similar nature.
- B. As of February 8, 2019, Co-Alliance LLP and Cory Fordice had not paid the \$250.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC.
- C. As of March 27, 2019, Co-Alliance LLP and Cory Fordice had not paid the \$250.00 civil penalty assessed. The case was forwarded to collections.



George N. Saxton  
Compliance Officer

Draft Date: February 8, 2019  
Final Date: March 27, 2019



## CASE SUMMARY

Case #2017/1234

**Complainant:** David Gick  
3082 N 100 E  
Fowler, Indiana 47944  
765-366-0708

**Respondent:** Mark Stephen  
Travis Stephen  
Jeff Haurt  
Crossroads Farms  
4012 W 300 N  
Williamsport, Indiana 47993  
765-426-0206

Non-Credentialed Applicator  
Unlicensed Business

1. On August 31, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report an agricultural pesticide drift to his corn. Mr. Gick stated his neighbor applied what he suspects as Roundup to GMO corn that drifted on to his non-GMO corn.
2. On September 8, 2017, I met the complainant David Gick at his field to conduct an on-site physical investigation of the alleged off-target pesticide movement reported to OISC. Mr. Gick stated that this happens every other year because of the planting cycle but he has not seen damage like this before. The actual target field address is 5684 W SR 18, Fowler, Indiana 47944. I asked Mr. Gick if he knew who the farmer of the adjacent property and he said he did not know if the name was Stephen or Stephens.
3. During my onsite investigation, I observed and photographed the “damaged” vegetation in the complainant’s field. There was a pattern of damage, which resembled shorter and stunted growth in addition to discolored leaves. I collected swab, vegetation, and soil samples for chemical analysis by the OISC Pesticide Residue Laboratory from the complainant’s field as well as the target field. Mr. Gick stated that he applies the following pesticides to his field:
  - **Impact EPA#5481-524, Active Ingredient Topramezone 29.7%**
  - **Dupont Cinch ATZ Herbicide EPA#352-624, Active Ingredients Atrazine 33%, S-Metolachlor 26.1%**



Figure 1



Figure 2



\*Figures 1 & 2 are photographs of the damage described by the complainant.

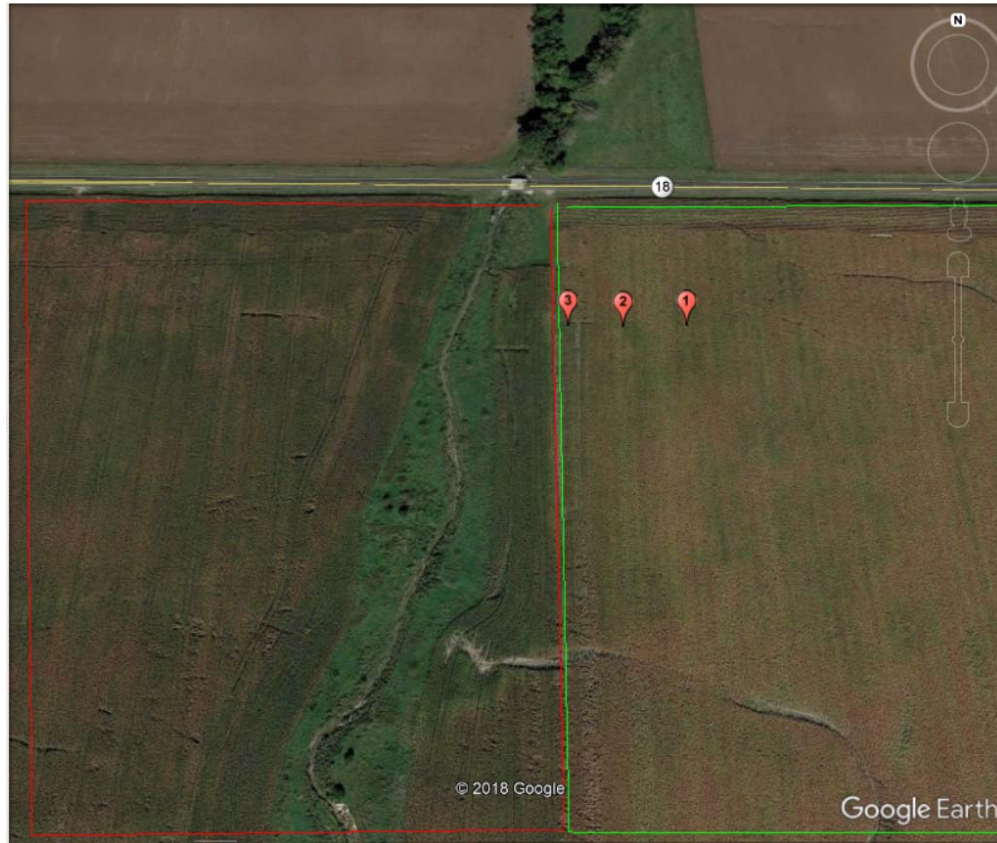


Figure 3

\*Figure 3 is a Google Earth image of the complainant's field outlined in green (Gick) and the target field outlined in red (Stephen).

\*Markers 1-3 are the sample locations.

4. After searching the OISC Licensing database for applicators, I initially thought the possible respondent could be John M. Stephens in Benton County. I called Mr. Stephens on 10/9, 10/18 and left messages on his answering machine. On 10/25, someone picked up the phone and hung up on me. I called back with no answer. On October 25, 2017, I requested from the OISC secretary a certified mail letter be sent to Mr. Stephens asking him to contact me as soon as possible. On November 13, 2017, I received a phone call from Mr. Stephens and he stated he does not farm the target farm location. He stated he believed that Denny Stephen out of Judyville, Indiana farmed that field.
5. On November 27, 2017, I performed an internet search for Denny Stephen and it showed a business of Crossroad Farms with a contact for Dennis Stephen of 765-986-2090 at 4012 W 300 N, Williamsport, Indiana 47993. I called the number given and no one answered. I went to the address for Crossroad Farms and spoke to Mark Stephen. Mr. Stephen stated they do farm that location he would send the application records for the target field. Mr. Stephen printed out a record (Figure 4) while I was there in the office. I recognized one of the pesticide products as being a restricted use product and the record he was providing did not contain all of the application information required by law for restricted use products. Mr. Stephen stated this was the only record he had of the application. I told Mr. Stephen I would email him the required information to add to his records so he could send them to me. I emailed Mark Stephen the requirements for the restricted use records, which I cut and pasted from the IAC Code 4-4-1.

6. I attempted to reach Mark Stephen at the Crossroads Farms telephone number on 12/4/17 and 12/6/17 with no answer.
7. On December 15, 2017, I texted Mark Stephen at 765-585-3246 to call me as soon as possible. Travis Stephen called me back and asked that I send the same email to him to fill out the required information. I forwarded the same email I had previously send to Mark over to Travis.
8. I called Travis Stephen on December 18, 2017, because I had not received anything back from him. There was no answer at that time.
9. On December 19, 2017, Travis texted me stating he did not receive my email. We were able to get my email to go through on December 19, 2017 because my emails were going to his junk mail folder. I resent the information from the original email to Mark containing the required restricted use information to Travis again.
10. On December 19, 2017, I received an email from Brent Rademacher at Crossroad Farms with the following application record attachment:

Chemical Application Record			
Farm	D. Sond	Date	Jun 24, 2017
Field	160	Time	1:42 PM
Operator	Jeff	Crop	Corn
Machine	4940		Pre-Plant
			Pre-Emerge
Carrier Rate	10 GPA		Post - Emerge
			Fall
			Fertilizer
	H2O		
	28%		
	50 - 50 H2O & 28%	Windspeed	15
Lilly Water	Other	Wind Direction	W
		Temp.	72

Product Name	Rate / Acre	Acres	Notes
Lilly Water	10	149.34	
Callisto Xtra	20 Oz	149.34	
Abundit Edge	22 Oz	149.34	
Fortix	5 Oz	149.34	

Turn This Sheet Into Ticket Box In Shop, After Job Is Completed

Figure 4

\*Figure 4 is the application record Mark Stephen showed me in the office on 11/27/17 and Brent Rademacher emailed on 12/19/17.

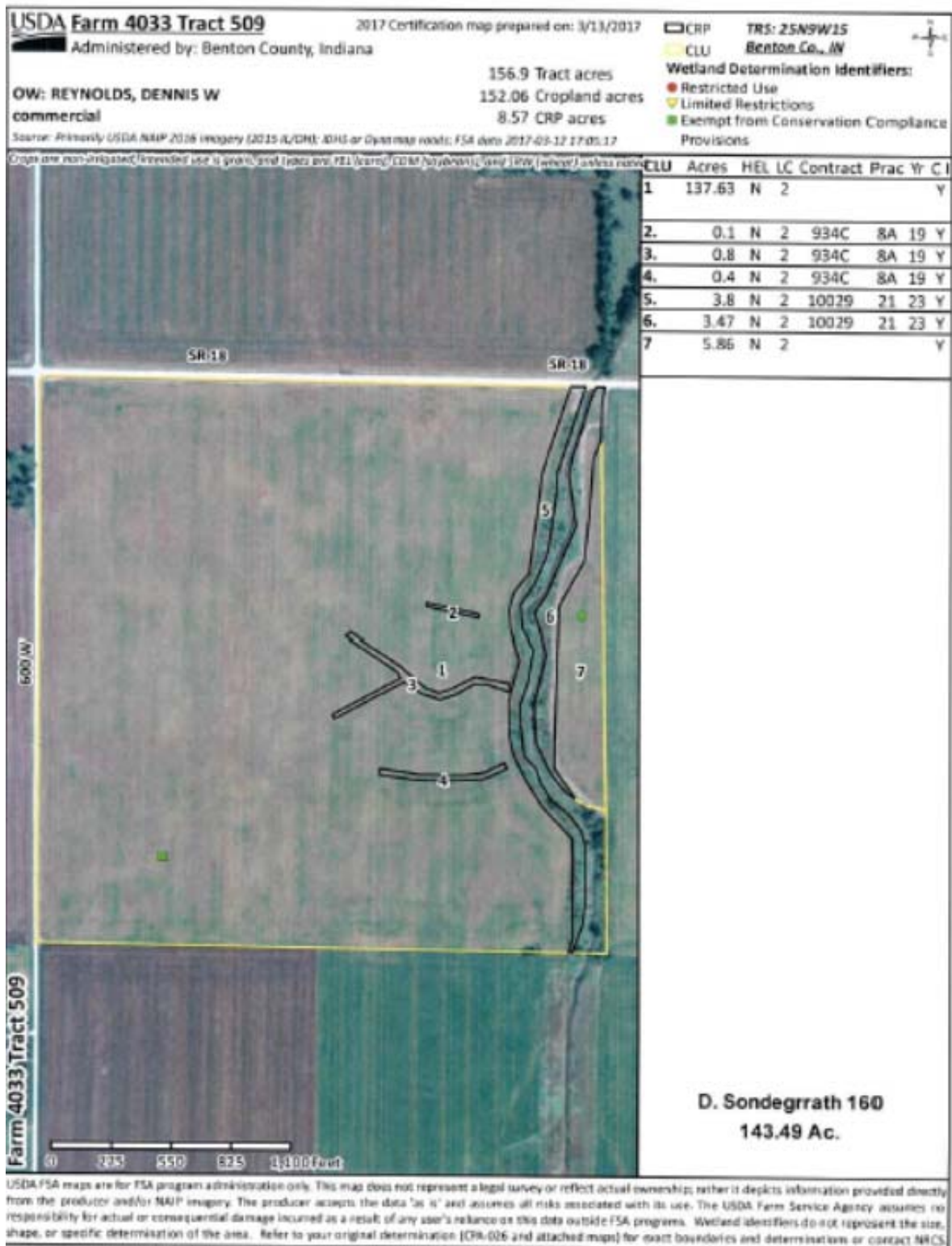


Figure 5

\*Figure 5 is the second page of the respondent's application record provided on 12/19/17.

11. On January 3, 2018, I emailed Brent Rademacher to call me as soon as possible.
12. On January 5, 2018, I texted Mark Stephen and Travis Stephen together stating:  
*"Good Morning this is Melissa with the State Chemists Office. I am sending you both my final written notice to collect completed application records from you. I have emailed the correct*

*information to both of you regarding the legal requirements for applications with a restricted use product. If I do not receive these records by Monday Jan 8, 2018, I will proceed further with my investigation. Please do not hesitate to call or email me with any questions.”*

I received a text from Travis stating he would look at them and asked if I received an email from Brent a few weeks ago. I replied,

*“I did. These are not the completed records as per the IC code I pasted in the email for use with restricted products. I emailed Brent on Wednesday that these were no the completed records.”*

13. On January 8, 2018, I called Travis and asked for the records again. He stated that he would get back to me.
14. On January 31, 2018, I performed a records search for the property owner in which Crossroads Farms applied the pesticides on. I called property owner Dennis Reynolds at 11537 E 141st in Fishers, Indiana 46038. I asked Mr. Reynolds if Crossroads Farms was still farming the land that he owned and he said yes.
15. I contacted the OISC Licensing Division to search for any business licenses or applicator licenses associated with the address of 4012 W 300 N Williamsport, Indiana. The OISC Licensing Specialist Jill Davis stated Dennis W. Stephen had a private applicator license that expired December 31, 2010. There was no other licenses for Mark Stephen, Dennis Mark Stephen, or Crossroad Farms.
16. I checked the Indiana Business Search website to see if there was another name for the farm, in which, an applicator or business might has a license with OISC. When I searched with the address given for Crossroads Farms, 4012 W 300 N, Williamsport, Indiana it showed the following (none of which are Crossroads Farms):


- Alfrey Farms
- Clem & Helen Geswein, Inc.
- DE Farms, Inc.
- DW Farms, Inc.
- Gesweins B's, Inc.
- ME Farms, Inc.
- MEM Farms, Inc.
- MW Farms, Inc.
- SBF-B, Inc.
- SBF-C, Inc.
- SBF-D, Inc.
- TE Farms, Inc.
- TW Farms, Inc.

None of these above listed businesses was in the OISC Applicator Licensing Database.

17. On February 1, 2018, OISC Investigator Kevin Neal went to 4012 W. 300 N, Williamsport, Indiana to discuss the records I have requested numerous times. This is the record provided to him onsite:





2017-35-5651	Soil 1	Soil	Not tested	19.9	0.947	BQL	397
2017-35-5652	Acetone swab 2	Swab	Not tested	Not tested	Not tested	Not tested	Not tested
2017-35-5653	Vegetation 2	Vegetation	No pesticide analytes of interest detected	Not tested	Not tested	BDL	BDL
2017-35-5654	Soil 2	Soil	Not tested	7.10	0.710	BQL	432
2017-35-5655	Acetone swab 3	Swab	Not tested	Not tested	Not tested	Not tested	Not tested
2017-35-5656	Veg 3	Vegetation	No pesticide analytes of interest detected	Not tested	Not tested	42.2	BDL
2017-35-5657	Soil 3	Soil	Not tested	14.7	4.82	115	394
2017-35-5658	Target field Acetone swab	Swab	Not tested	Not tested	Not tested	Not tested	Not tested
2017-35-5659	Target field veg	Vegetation	No pesticide analytes of interest detected	Not tested	Not tested	281	BDL
2017-35-5660	Target field soil	Soil	Atrazine and Metolachlor detected	Not tested	Not tested	145	480
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC							
LOQ (ppb)	Vegetation	NA	NA	NA	10	125	
LOQ (ppb)	Soil	NA	0.7	0.7	10 (2/22/18), 25 (5/31/18)	125 (2/22/18), 25 (5/31/18)	
<b>Signature</b>			<b>Date</b>			6/7/18	

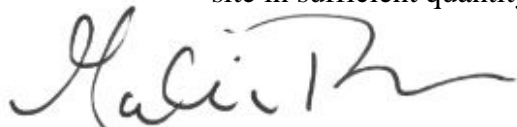
20. The label violations for this case are the following:

**Callisto Xtra Herbicide EPA# 100-1359- Active Ingredients Atrazine 34.3%, Mesotrione 5.36%**

-Page 1 of the label reads, "For retail sale and use only by certified applicators or persons under their direct supervision, and for those uses covered by the certified applicator's certification."

21. In this case, there appears to be a violation based on the following:

- Mr. Haurt made twelve (12) restricted use pesticide applications without an applicator license or proper supervision.
- On November 27, 2017 and January 5, 2018, Mark Stephen failed to provide requested pesticide application records for inspection or copying.
- Mr. Haurt applied a pesticide in a manner that allowed it to drift from the target site in sufficient quantity to cause harm to a non-target site.




Melissa D. Rosch  
Investigator

Date: June 9, 2018

**Disposition:** Crossroads Farms was warned for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-4-1, for failure to keep all required restricted use pesticide application record elements.

Jeff Haurt was warned for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a non-target site.

Crossroads Farms was cited for eleven (11) counts of 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 \$1,100.00 (11 counts x \$100 per count) was assessed.

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

George N. Saxton  
Compliance Officer

Draft Date: February 12, 2019  
Final Date: May 13, 2019

## CASE SUMMARY

Case #2018/0104

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

**Respondent:** Greensburg Country Club  
1630 W. Park Road  
Greensburg, Indiana 47240  
812-663-2229

1. On November 29, 2017, the Certification & Licensing section contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Aaron Long, the only certified applicator, was no longer employed at Greensburg Country Club.
2. On April 24, 2018, I went to the Greensburg Country Club. Upon arrival at the golf course, I learned the new superintendent, Bob Barker, was not available. I then asked to speak with Mr. Barker via phone call. During the phone conversation, I explained the purpose of the inspection. I asked him if he was licensed and he stated he was. I then asked him to send me a copy of all pesticide applications he completed at the golf course.
3. On May 4, 2018, Mr. Barker emailed me his application records. He made pesticide applications at the golf course in 2018 on the following dates:
  - a. March 5;
  - b. March 15;
  - c. April 11;
  - d. April 12; and
  - e. April 25.

Missing from the pesticide application records were the following elements: applicator credential number, time of application, pest controlled, EPA Registration Number, and pesticide manufacturer. Application records are in the case file.

4. Upon further review of Mr. Barker's pesticide license, I determined he did have a category 3b (turf) license with his former employer, a licensed turf company. However, in order to comply with *Golf Course Rule*, he needed a different license under Greensburg Country Club.
5. On May 15, 2018, I spoke with Mr. Barker on the phone. I explained to him the issue with his license. He apologized and said he had been busy and 'one of the guys in the office would take care of it.' I asked him to please mail in the new license no later than Friday, May 25, 2018.



6. As of June 12, 2018, Mr. Barker had not applied for a pesticide applicator license under Greensburg Country Club.
7. On June 12, 2018, I mailed Mr. Barker an *Action Order* stating he could not make any pesticide applications at the golf course until he acquired the appropriate pesticide applicator license.

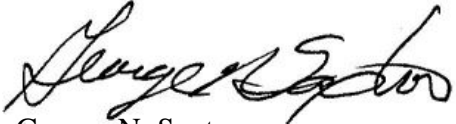


Elizabeth C. Carter  
Investigator

Date: June 12, 2018

**Disposition:** Greensburg Country Club was warned 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 golf course pesticide application records.

Greensburg Country Club was cited for five (5) counts of violate 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 \$1,250.00 (5 counts x \$250.00 per count) was assessed.



George N. Saxton  
Compliance Officer

Draft Date: August 15, 2018  
Final Date: March 27, 2019

## CASE SUMMARY

Case #2018/0145

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

**Respondent:** Connolly's Hardware  
Mary Harmon  
10301 Illinois Road  
Ft. Wayne, IN 46814  
260-625-1009  
Manager

**Registrant:** EcoClear Products, Inc.  
4975 City Hall Blvd.  
North Port, FL 34290  
888-511-7289

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

### Pre Investigation

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

*animal feeds and, we believe, is not a credible pesticide active ingredient in a rodenticide product. The mechanism by which corn gluten meal would prove lethal to rodents is unclear to me.”*

4. On July 7, 2017, Joe Becovitz, Pesticide Investigator, obtained samples of Mouse X from Meijer (Indianapolis, IN). Mr. Becovitz also obtained samples of Rat X from Home Depot (Indianapolis, IN) on the same day.
5. On July 21, 2017, OISC received a new pesticide product application for Rat X and Mouse X with the company responsible indicating EcoClear Products Inc, submitted by Killoren Regulatory Consulting.
6. On October 19, 2017, OISC lab analysis reported that both products were found adulterated. Reports attached as Appendix A (Mouse X) and Appendix B (Rat X).

  
Sarah K. Caffery  
Pesticide Registration Section

### **Investigation**

7. On December 18, 2017, I performed a routine marketplace inspection at Connolly's Hardware located at 10301 Illinois Rd. Ft. Wayne, Indiana. I spoke with the Manager Mary Harmon and informed her of the process of the marketplace inspection.
8. Upon completion of the inspection, I located one (1) unregistered pesticide product that was being offered for sale at Connolly's Hardware store. I spoke with Ed White, Assistant Pesticide Administrator, and he confirmed that the pesticide product was unregistered and that he would like for me to collect a sample of the product. The product was as follows:
  - a. RatX Ready-To-Use Pre-Measured Bait Trays, a 25(b)<sup>1</sup> Product.
9. I spoke with Mrs. Harmon and informed her of the unregistered product I had located. I informed Mrs. Harmon that I would be collecting a sample from them to take to the lab for analysis. I asked Mrs. Harmon if she was able to provide me with any information for when the last shipment came to the store and she provided me with a store purchase history showing that the store received three on 10/09/17, three on 11/09/17, and four on 12/07/17.
10. On December 20, 2017, I delivered the evidentiary sample to the Formulation Lab.

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<sup>1</sup> Minimum Risk Pesticide





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

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

**PESTICIDE FORMULATION REPORT**

INVESTIGATOR <b>GARRET CREASON</b>	DATE SAMPLED <b>12/18/2017</b>	COUNTY	INDIANA REG. NO. <b>UNREG</b>	SAMPLE NO. <b>18-3-0019 2</b>
CASE NO. <b>20180145</b>	CONTAINER/SAMPLE SIZE <b>12 oz. / 12 oz.</b>	NO. SAMPLED	TYPE	REPORT DATE <b>03/06/2018</b>
PRODUCT NAME <b>RAT X READY TO USE BAIT TRAYS</b>				
LOT NUMBER		EPA REG. NO. <b>NONE</b>	EPA EST. NO. <b>NONE</b>	
MANUFACTURER OR REGISTRANT <b>CONSEAL INTERNATIONAL 90 KERRY PLACE - SUITE 2 NORWOOD MA 02062</b>		DISTRIBUTOR <b>ECOCLEAR PRODUCTS INC 4975 CITY HALL BLVD NORTH PORT FL 34290</b>		
DEALER		SAMPLED IN POSSESSION OF CONNOLLY'S HARDWARE 10301 ILLINOIS ROAD FORT WAYNE IN 46814		
SHIPMENT DATA DATE	QUANTITY	INVOICE NO.	NO. ON HAND	
ACTIVE INGREDIENT		%GUARANTEE	%FOUND	
CORN GLUTEN MEAL SODIUM CHLORIDE PROTEIN		55.0 2.0 33.0	6.7 *	
REMARKS *ADULTERATED - THIS PRODUCT FAILS TO MEET ITS COMPONENT GUARANTEE(S). WE CALL THE REGISTRANT'S ATTENTION TO THE REPORTED VIOLATION.				

  
Garret A. Creason  
Investigator

Date: March 23, 2018

## Post Investigation

1. On June 15, 2018, OISC Pesticide Registration Section, sent a certified letter to Killoren Reg Consulting in reference to the registration of the pending Eco Clear Products, Inc. and Conseal International, Inc. applications that we received. Both applications were rejected.
2. On June 15, 2018, Ed White, Pesticide Administrator Assistant determined the product to be adulterated. Ed White stated, via email, "*the product label of RAT X Ready to use bait trays identifies the active ingredients as 55% corn gluten meal. Corn gluten meal is 60% protein according to the feed industry reference FEEDSTUFFS NUTRITION HANDBOOK (October 2, 2017). Therefore, the protein content of Rat X Ready to use bait trays is calculated to be  $(55\%) \times (0.6) = 33\%$  protein. However, analysis of the product sample collected at Connolly's Hardware (Ft. Wayne, IN) found only 6.7% protein. The product fails to meet its label guarantee of 55% corn gluten meal and is adulterated.*"
3. On July 6, 2018, OISC received a certified mail in response to Pesticide Registration's from Ms. Killoren. The letter addresses the concerns/terms of the rejection letter from OISC.
4. January 17, 2019, I set up a call with OISC, Killoren, Ecoclear and Conseal representatives to discuss label issues and registration of the products. Ms. Killoren called and cancelled the call because Ecoclear and Conseal were working on a new formula and were not interested in pursuing registration of the old formula.



Sarah K. Caffery  
Pesticide Registration Section

### Disposition:

- A. On March 26, 2018, the information was forwarded to the Registration Section for label review.
- B. On March 6, 2018, the analysis was performed and reported that the product failed to meet its label guarantee.
- C. EcoClear Products, Inc. was cited for violation of section 57(1) of the Indiana Pesticide Registration Law 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.
- D. EcoClear Products, Inc. was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that was adulterated. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton  
Compliance Officer

Draft Date: February 6, 2019  
Final Date: May 13, 2019

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



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Seed Commissioner

**PESTICIDE FORMULATION REPORT**

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



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



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 Seed Commissioner

### PESTICIDE FORMULATION REPORT

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



## CASE SUMMARY

Case #2018/0258

**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:** Southern Agricultural Insecticides  
511 Maple Street  
Hendersonville, NC 28792  
828-692-2233

1. On March 20, 2018, I performed a routine marketplace inspection at Ace Hardware located at 785 W. McClain Street, 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 has never been registered in Indiana. The product is as follows:
  - a. Southern Ag Captan Fungicide, EPA Reg. #19713-235-829.
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.



*Garret A. Creason*

Garret A. Creason  
Investigator

Date: March 26, 2018

**Disposition:**

- A. On March 27, 2018, an analysis of the pesticide product was requested from the OISC formulations lab.
- B. On November 28, 2018, the formulation analysis was reported and indicated that although the label guarantees the product to contain 8.9% Captan, the formulation analysis actually revealed 49.7% Captan. In researching the label for the parent pesticide product, 19713-235, it was discovered the pesticide product was supposed to be 49.25% making the label claim of 8.9% misbranded.
- C. On December 20, 2018, the information was forwarded to USEPA for federal review. On January 31, 2019, the information was returned to OISC for state enforcement.
- D. Southern Agricultural Insecticides 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, the allowable civil penalty was held in abeyance and not assessed provided Southern Agricultural Insecticides properly registers the pesticide product within thirty (30) days from receipt of this notice.
- E. Southern Agricultural Insecticides 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.
- F. On May 22, 2019, the Action Order was modified to allow for proper disposal of Southern Ag Captan Fungicide, EPA Reg. #19713-235-829.

*George N. Saxton*

George N. Saxton  
Compliance Officer

Draft Date: April 25, 2019  
Closed Case: July 19, 2019

# CASE SUMMARY

Case #2018/0264

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

**Respondent:** Craig Shaffer  
Aquascapes of Michiana  
901 S. 7th Street  
Goshen, Indiana 46526  
574-361-7745

**Unlicensed Applicator**  
**Unlicensed Business**

1. On March 20, 2018, the Office of Indiana State Chemist (OISC) received an anonymous complaint regarding an unlicensed business. The unlicensed business was identified as Aquascapes of Michiana. The anonymous complainant referred to a video on the Aquascapes website where a pesticide application was made to a pond in Mishawaka.
2. I located a website for Aquascapes of Mishawaka. I located the video in question on the website. The video showed a male subject making what appeared to be some type of chemical application to the edges of a pond. The video narrator stated the apartment complex paid for an application to kill the algae. He also stated it was their first such application ever. A second video showed the pond sometime after the application was made depicting the pond without algae. I could not locate a business license or applicator license for Aquascapes of Michiana.
3. On March 28, 2018, I met with the owner of Aquascapes of Michiana, Krystofer Yacks. I explained OISC had received an anonymous complaint that required an investigation into a possible unlicensed application. I told him I watched a video of what appeared to be a pesticide application to a pond. I told him according to the narrator of the video, the pond was located in northern Indiana. Mr. Yacks admitted his company made an application for hire to a pond located at Summer Place Apartments, 825 Summer Place Ln. in Granger Indiana. He told me one of his employees Craig Shaffer, made the application on July 10, 2017. The product applied to the pond was **Algae Defense** (EPA #83742-1; active ingredient: copper triethanolamine).
4. I issued an **Action Order** which stated, “*subject to I.C. 15-16-5-65 (6), you are ordered to cease all pesticide applications until properly licensed*” to Krystofer Yacks. He told me he was signed up for one of the Purdue Pesticide Programs (PPP) Core classes in May. He also told me he signed up for the PPP Category 5 (Aquatics) examination for June.

5. After reviewing all available information, Craig Shaffer of Aquascapes of Michiana was in violation of making a pesticide application without a pesticide business license.



Kevin W. Gibson  
Pesticide Investigator

Date: April 2, 2018

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

As of March 20, 2019, Craig Shaffer had not paid the \$250.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC.

On April 11, 2019, the civil penalty payment was received by OISC.



George N. Saxton  
Compliance Officer

Draft Date: March 20, 2019

Final Date: April 19, 2019

## CASE SUMMARY

Case #2018/0280

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

**Respondent:** Rural King  
Jack Crawford  
2007 W. Broadway  
Princeton, IN 47670  
812-385-4078  
Store Manager

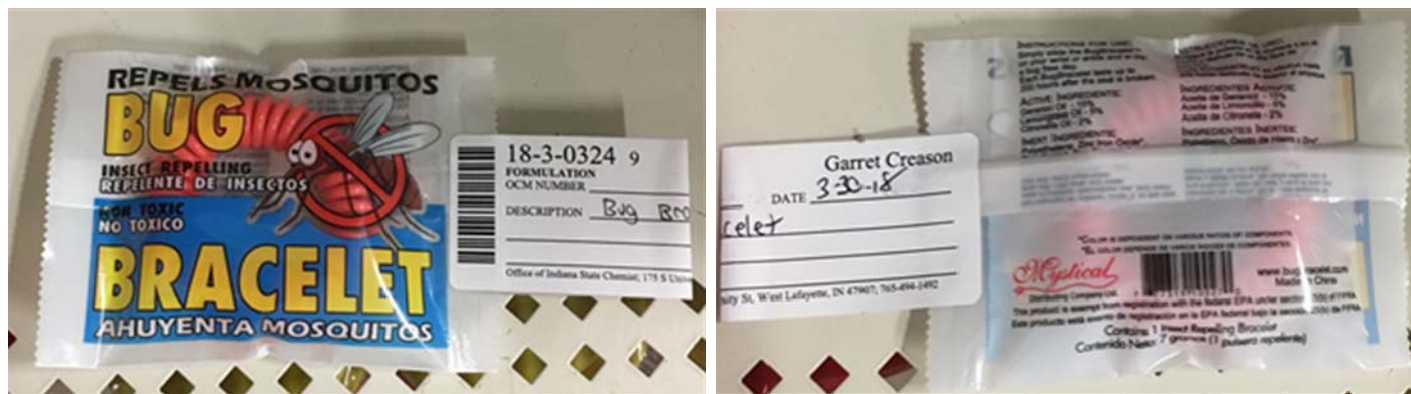
**Registrant:** Mystical Distributing Company Ltd  
Laurie Boyd  
6 Foster Stearns Road  
Trenton, ON Canada K8V5R5  
800-856-7556  
613-394-7056

1. On March 30, 2018, I performed a routine marketplace inspection at Rural King located at 2007 W. Broadway in Princeton, Indiana. I spoke with the Store Manager Jack Crawford 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 Rural King store. I spoke with Sarah Caffrey, Pesticide Registration, and she confirmed that the pesticide product was unregistered. The product is as follows:
  - a. Bug Bracelet, a 25(b)<sup>1</sup> product.
3. While speaking with Sarah Caffrey she informed me that the product had a rejected registration from 2015.
4. I spoke with Mr. Crawford and informed him of the unregistered product I had located. I informed Mr. Crawford that I would be issuing an Action Order instructing them to remove the remaining 152 items 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. Crawford if he was able to provide me with any information for when the last shipment came to the store and Mr. Crawford was able to provide me with inventory sheets showing that the product was last delivered on 8/24/2015.

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<sup>1</sup> Minimum Risk Pesticide

5. On April 2, 2018, I delivered the evidentiary sample to the Formulation Lab.



*Garret A. Creason*


Garret A. Creason  
Investigator

Date: March 4, 2018

**Disposition:**

- A. On April 4, 2018, the information was forwarded to the Registration Section for a label review.
- B. The label review was completed and revealed the pesticide product was false and misleading in that it stated “bug free day” and “insect repellent”.
- C. Mystical Distributing Company Ltd was cited for four (4) counts (2015, 2016, 2017 and 2018) of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered for sale in Indiana. A civil penalty in the amount of \$1,000.00 (4 counts x \$250.00 per count) was assessed.
- D. Mystical Distributing Company Ltd was cited for four (4) counts of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide with a label that is false and misleading. A civil penalty in the amount of \$1,000.00 (4 counts x \$250.00 per count) was assessed for this violation.
- E. On September 28, 2018, Laurie Boyd called and stated this product was sold in Mexico but not anywhere in the United States. She had no idea how Rural King got possession of the product.
- F. As of March 17, 2019, Mystical Distributing Company Ltd. had not paid the \$2,000.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC.
- G. On April 8, 2019, Laurie Boyd called and stated she thought this matter was handled when she spoke to George Saxton during an earlier phone conversation. She does not understand how Mystical Distributing is responsible for this when they only sell in Mexico. She wants to speak with George when he returns.
- H. On April 15, 2019, I spoke with Laurie Boyd and explained to her that Mystical Distributing would still be responsible for the civil penalty.

- I. On April 22, 2019, the OISC received a letter from Mark Phillips, Owner of Mystical Distributing, requesting we review the case again. Mystical Distributing is still responsible for the \$2,000.00 civil penalty assessed. The civil penalty is to be paid by May 15, 2019, or we will forward the case to collections. A letter was sent to affirm the above information with Mr. Phillips.
- J. As of May 21, 2019, Mystical Distributing Company Ltd. had not paid the \$2,000.00 civil penalty assessed. The case was forwarded to the Indiana Attorney General for collection.

  
George N. Saxton  
Compliance Officer

Draft Date: April 22, 2019  
Final Date: May 21, 2019

# CASE SUMMARY

Case #2018/0333

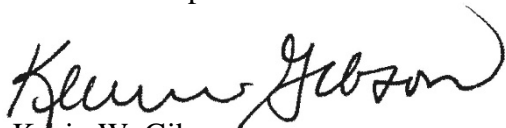
**Complainant:** Office of Indiana State Chemist (OISC)  
175 S. University Street  
West Lafayette, Indiana 47907-2063  
800-893-6637

**Respondent:** Joseph Bickel  
Joe's Lawn Service Lawn Care  
508 Parkovash Avenue  
South Bend, Indiana 46617  
574-261-2352

1. On April 17, 2018, the Compliance Officer of the Office of Indiana State Chemist (OISC) received information that "Joe's Lawn Service" was advertising in the classified ads in various newspapers that he was performing fertilization and weed control. The OISC database indicated this company was not licensed to apply pesticides for hire in Indiana.
2. On May 2, 2018, I made contact with the respondent Joe Bickel. During our conversation, he admitted he made some crabgrass pre-emergent applications as a favor to some of his customers. He said he was unaware he needed to be licensed through OISC in order to make such applications. I explained the licensing procedure. I further told him before he could make any more pesticide applications or advertise for applications, he needed to be properly licensed. He told me he would cancel the newspaper ad. In the meantime, he agreed to send me his customer application information.
3. I issued an **Action Order** which stated, "*Subject to I.C 15-16-5-65 (6), you are hereby ordered to cease all fertilizer and/or pesticide applications and advertising until properly licensed with the Office of Indiana State Chemist*".
4. Mr. Bickel sent me the below customer address, date of application and product information:
  - 4/2/18 1205 Sussex Dr., South Bend Premium Crabgrass Preventer (epa# 57131-15)
  - 4/4/18 15344 Carriage Ln., Mishawaka Scott's Turf Builder (epa# 538-190)
  - 4/6/18 3401 Whitcomb Ave., South Bend LawnScape Premium Crabgrass (epa# 73327-5)
  - 4/9/18 1301 E. Jackson Rd. South Bend. Sta-Green Crabgrass Preventer (epa# 8660-19)
  - 4/12/18 16731 Brick Rd., Granger Scott's Turf Builder (epa# 538-190)
  - 4/21/18 4801 Parkway St., South Bend Scott's Turf Builder (epa# 538-190)
  - 4/23/18 122 S. Victoria St., Mishawaka Premium Crabgrass Preventer (epa# 57131-15)
  - 4/26/18 53296 Bajer Ln., South Bend Sta-Green Crabgrass Preventer (epa# 8660-19)



5. I spoke to Mr. Bickel again prior to completing this report. He told me he did not intend to pursue a pesticide applicator's license at this time. As of the date of this report, the newspaper advertisement had been removed.
6. After reviewing all available information, Mr. Bickel of Joe's Lawn Service Lawn Care is in violation of making pesticide applications on eight (8) different dates in the state of Indiana without a pesticide business license and a pesticide applicator license.

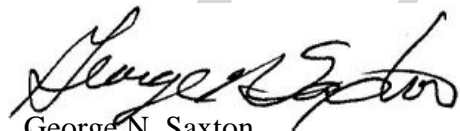


Kevin W. Gibson  
Pesticide Investigator

Date: June 26, 2018

**Disposition:**

- A. Joseph Bickel and Joe's Lawn Service Lawn Care were cited for eight (8) 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 \$2,000.00 (8 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$500.00. Consideration was given to the fact Mr. Bickel cooperated; corrective action was taken; there was no previous history of similar nature and no restricted use pesticides were involved.
- B. On September 13, 2018, Joseph Bickel called requesting an extension for payment of his civil penalty. It was agreed upon that his civil penalty would not be due until January 10, 2019.
- C. On January 10, 2019, Joseph Bickel called requesting another extension. He was given a final extension of April 1, 2019.
- D. On April 1, 2019, Joseph Bickel called requesting information to pay the civil penalty online. He was granted a few days extension to get the payment mailed in to OISC.
- E. On April 4, 2019, the civil penalty payment from Joseph Bickel was received.



George N. Saxton  
Compliance Officer

Draft Date: April 1, 2019  
Final Date: April 12, 2019

## CASE SUMMARY

Case #2018/0337

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

**Respondent:** Ceres Solutions  
Steve Allen  
4145 W CR 400 S  
Logansport, IN 46947  
574-753-2929  
Manager

1. On March 29, 2018, I conducted a routine bulk pesticide container containment inspection at Ceres Solutions in Logansport, Indiana. When I arrived at the facility, I met with the manager, Steve Allen, and informed him of the inspection. Mr. Allen joined me for the entire course of the inspection.
2. While in the building that stores the portable refillable containers (mini-bulks), I observed that around the entry doorway and the service doorway there was no form of secondary containment. Mr. Allen stated that part of the building did have a curb however it was covered up by the metal walls and that these doorways were the only part not contained. I informed Mr. Allen that the facility needed to be brought into compliance by installing secondary containment around the doorways or to remove the portable refillable containers and place them in a contained area. Mr. Allen stated that they would install secondary containment into this facility.
3. Inside this facility were four portable refillable containers. The products were as follows:
  - a. Atrazine 4L, EPA Reg. #1381-158, a Restricted Use Pesticide
    - i. Date logged: November 30, 2017
  - b. Degree Xtra, EPA Reg. #524-511, a Restricted Use Pesticide
    - i. Date Logged: August 31, 2017
  - c. Outlook, EPA Reg. #7969-156
    - i. Date Logged: August 31, 2017
  - d. Shredder 2,4 D LV6, EPA Reg. #1381-250
    - i. Date Logged: August 31, 2017.
4. I asked Mr. Allen if he was able to get information on when each of the containers arrived at the facility and he informed me that he could look up inventory logs but he would not be able to look up the exact date of receipt. Mr. Allen did provide me with copies of the inventory logs showing the first month each product was logged into the inventory. These inventory logs indicated that the products arrived sometime within those months.

5. The calculations for the violative days of the mini bulks being out of containment per minibulk per day is:

- a. Atrazine 4L, EPA Reg. #1381-158 from December 1, 2017 to March 29, 2018 = 119 days – 30-day grace period = **89 violative days** for this product.
- b. Degree Xtra, EPA Reg. #524-511 from September 1, 2017 to March 29, 2018 = 210 days – 30-day grace period = **180 violative days** for this product.
- c. Outlook, EPA Reg. #7969-156 from September 1, 2017 to March 29, 2018 = 210 days – 30-day grace period = **180 violative days** for this product.
- d. Shredder 2,4 D LV6, EPA Reg. #1381-250 from September 1, 2017 to March 29, 2018 = 210 days – 30-day grace period = **180 violative days** for this product.

The total number of violative days = 629 (89 + 180 + 180 + 180). By rule, only a total of 180 counts may be considered<sup>1</sup>.

6. I issued an Action Order instructing Ceres Solutions to install secondary containment around doorways in mini-bulk storage area and to have completed by May 31, 2018.
7. On April 17, 2018, Mr. Allen contacted me via email to inform me that the secondary containment had been installed in the facility. Mr. Allen included photographs in the email to show how the work was completed. A 3-inch tall piece of angled stainless steel was installed and sealed. In the service doorway, concrete was also added as a curb. All repairs were made in accordance to the Action Order and in the given timeframe.



Fig. 1. Entry and service doorway



Fig. 2. Entry door



Fig. 3. Shredder Portable Refillable Container



Fig. 4. Shredder

<sup>1</sup> 357 IAC 1-6-2(b)



Fig. 5 Outlook



Fig. 6 Degree Xtra



Fig. 7 Curbing added

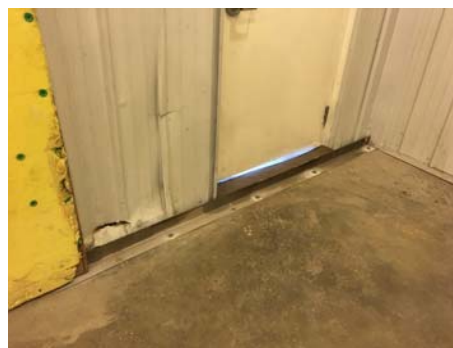


Fig. 8 Stainless Steel edging

Garret A. Creason  
Investigator

Date: May 9, 2018

**Disposition:**

- A. Ceres Solutions was cited for one hundred-eighty (180) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 5-4-2, for failure to operate secondary containment with properly constructed or sealed walls. A civil penalty in the amount of \$18,000.00 (180 counts x \$100.00 per count) was assessed. However, the civil penalty was reduced to \$3,600.00. Consideration was given to the fact Ceres Solutions cooperated during the investigation; corrective action was taken; there were no previous violations of a similar nature and a good-faith effort to comply since some secondary containment was in place.
- B. As of February 11, 2019, Ceres Solutions had not paid the civil penalty. A second letter was sent.
- C. Ceres Solutions paid the civil penalty on February 19, 2019.

George N. Saxton  
Compliance Officer

Draft Date: February 11, 2019  
Final Date: March 27, 2019

## CASE SUMMARY

Case #2018/0350

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

<b>Respondent:</b>	Orkin Exterminating	Licensed Business
	William Eugene Fryman	Certified Applicator
	3835 Superior Ridge Drive	
	Fort Wayne, IN 46808	
	260-471-5803	

1. On April 19, 2018, the Office of Indiana State Chemist (OISC) began receiving anonymous information, which indicated the branch manager at Orkin Exterminating in Fort Wayne, Indiana, had been fired for allowing unlicensed applicators to make for-hire pesticide applications. Following subsequent correspondence, the case was assigned on April 23, 2018.
2. On April 26, 2018, I went to the above business location and explained the reason for my visit to acting branch manager, Michael Brock II, who indicated he had come from the Kokomo/Daleville facility to fill temporarily the vacant position. Mr. Brock reported he was not aware of the particulars of the situation but he would help me the best he could. He stated it might be best if I spoke with his region manager, Jason Shlater, in Fishers, Indiana.
3. On April 26, 2018, I spoke with Mr. Shlater, who reported he discovered the previous branch manager, Willie Fryman, allowed unlicensed applicators to run routes during an extended visit to the Fort Wayne branch, which began on or about April 10, 2018. Upon learning there were three employees making applications without having passed the Core exam and being properly licensed, Mr. Shlater had them pulled from the field. He indicated that, while all three had completed company training, branch managers are expected to ensure all applicators are properly licensed before running routes without on-site supervision. Mr. Fryman was ultimately terminated from the company as a result of the incident. Mr. Shlater reported that all three applicators were then scheduled and for, and passed, the Core exam on April 13, 2018. I informed Mr. Shlater that I would need to document the days the unlicensed applications were made. He stated he would forward copies of the records and anything else I needed. Mr. Shlater later provided a written statement regarding the incident, which included hire dates and first application dates for the three unlicensed applicators.
4. On or about May 18, 2018, the OISC received a box containing service tickets for applications made by Bronson Long, Ronald Penick and Evan Ramer. The records indicated applications were made by the three unlicensed applicators as follows:

Bronson Long - hired September 1, 2017; first application made on September 18, 2017  
Made applications on **149 days** between September 18, 2017 and April 11, 2018

Ronald Penick – hired July 3, 2017; first application made on July 22, 2017  
Made applications on **181 days** between July 22, 2017 and April 12, 2018

Evan Ramer – hired November 1, 2017; first application made on December 19, 2017  
Made applications on **70 days** between December 19, 2017 and April 12, 2018

5. Due to the number of application dates involved in this investigation, they were not listed in this summary. However, a list of those dates, as well as the application records, will be kept on file at the OISC.



Andrew R. Roth  
Investigator

Date: August 15, 2018

**Disposition:**

- A. William Eugene Fryman and Orkin Exterminating were cited for one hundred – eighty (180) counts<sup>1</sup> 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 \$22,500.00 (180 counts x \$125.00 per count) was assessed. However, the civil penalty was reduced to \$5,625.00. Consideration was given to the fact Orkin cooperated during the investigation; corrective action was taken; there was no previous history of similar nature and no restricted use pesticides were involved.
- B. As of February 11, 2019, Orkin Exterminating had not paid the \$5,625.00 civil penalty assessed. A second letter was sent as a reminder they still owed the civil penalty.
- C. On February 25, 2019, OISC received payment of \$5,625.00 from Orkin Exterminating.



George N. Saxton  
Compliance Officer

Draft Date: February 11, 2019  
Final Date: March 18, 2019

Cc: [brabe@rollins.com](mailto:brabe@rollins.com)

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<sup>1</sup> Although 400 counts were documented, by rule, the maximum allowable counts that can be assessed is 180.

## CASE SUMMARY

Case #2018/0447

**Complainant:** Katie Rausch  
1630 N 600 W  
Winamac, IN 46996  
574-242-2644

**Respondent:** Jerome Keller  
Tanner Hulmes  
2760 E CR 200 N  
Winamac, IN 46996  
574-225-0150

Private Applicator

1. On May 10, 2018, the Office of Indiana State Chemist (OISC) received a complaint regarding agricultural pesticide drift. The complainant, Katie Roush, stated her property is surrounded on three sides by a farm field. Ms. Rausch stated the field was sprayed last Friday (May 4) and today she noticed injury on the ornamentals on her property.
2. On May 14, 2018, I met with the complainant to conduct an on-site physical investigation of the alleged off-target pesticide movement incident reported to OISC. The complainant advised me that she believed her ornamental trees had been damaged by a pesticide application made by the respondent Tanner Hulmes to a nearby cornfield.
3. During my on-site investigation I did the following:
  - a) Looked for and discovered there was one agricultural pesticide application made in the area of the impacted site.
  - b) Observed and photographed what I believed to be herbicide exposure symptoms (figure 1) throughout the complainant's ornamental trees (figure 2 & 3) located to the north and west of the target field.
  - c) Collected samples for chemical analysis by the OISC Pesticide Residue Laboratory from the following areas:
    - i) Impacted ornamental plants from complainant's property;
    - ii) Soil from target fields; and
    - iii) Swabs of the complainant's house siding.
  - d) Made a diagram/map of the investigation site, depicting locations of relevant fields, sample collection, roads, structures, and other landmarks (figure 4).





Figure 1



Figure 2



Figure 3

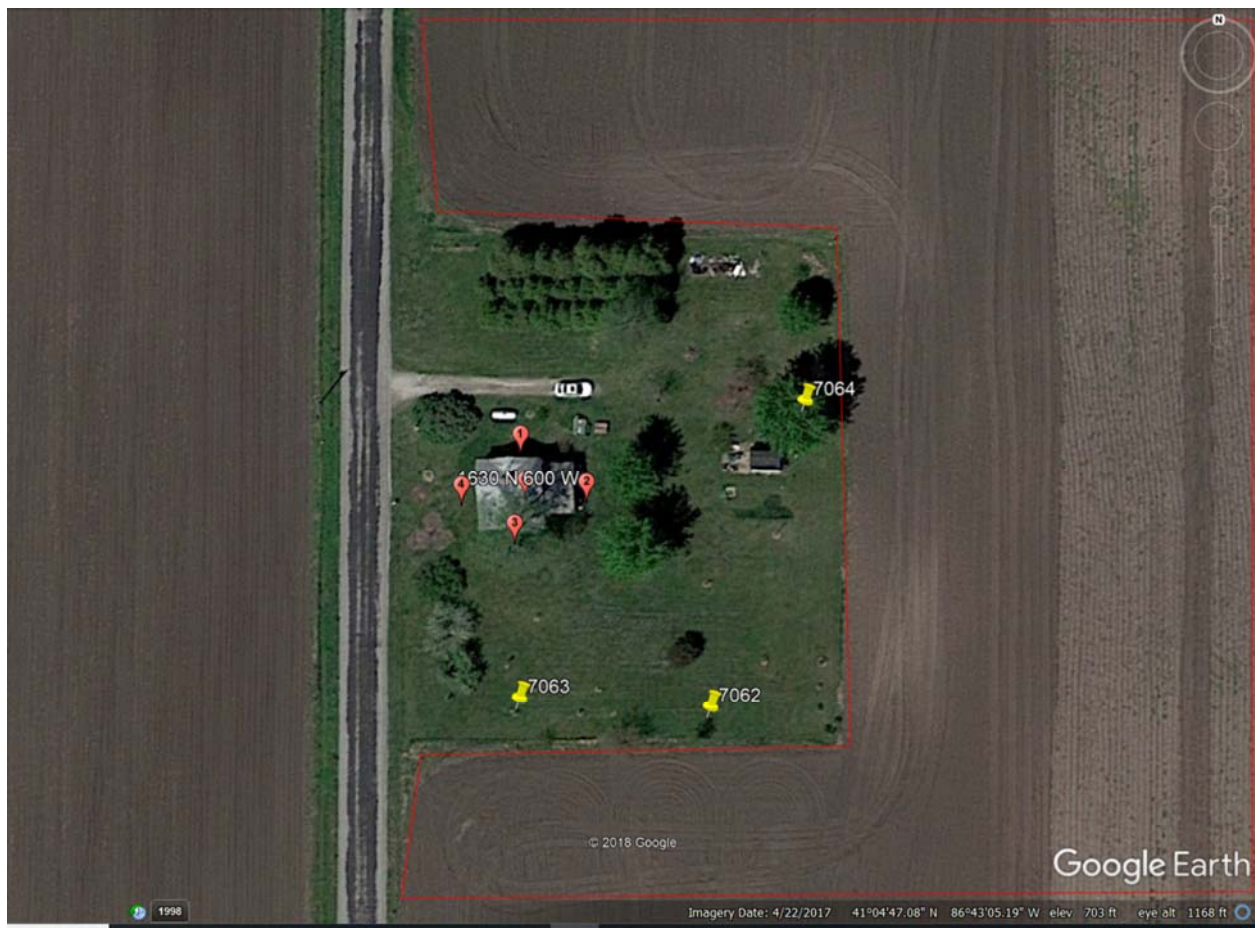


Figure 4

\*Figure 4 is a Google Earth Image showing the complainant's residence 1630 N 600 W, Winamac, Indiana

\*Markers 1-4 show the approximate location for the corresponding swab samples

\*The Yellow Pin markers show the approximate location for the corresponding vegetation samples



4. I collected written records from the applicator Mr. Hulmes. The written records and statements addressed the below items as follows regarding the application:
- a) Application date & time: May 4, 2018; May 5, 2018 times given between 4-6pm (not specific to either date)
  - b) Target field: corn
  - c) Pesticides: Atrazine 4L EPA# 55467-13, Metalica EPA#83529-57
  - d) Application rate: Atrazine 1.4 qt, Metalica 1pt
  - e) Adjuvants: none
  - f) Nozzles: Teejet AITTJ60-11004VT
  - g) Boom height: 24 inches
  - h) Ground speed: 15 mph
  - i) Winds: 13mph W/SW
  - j) Applicator: Tanner Hulmes
  - k) Certified supervisor: Jerome Keller;
  - l) Left a 110' untreated buffer next to non-target site: not applicable
  - m) Checked registrant's web site before application: n/a
  - n) Checked Field Watch before application: n/a
  - o) Surveyed application site before application: yes
5. I searched wind data from [www.weatherunderground.com](http://www.weatherunderground.com) for Winamac, Indiana for the reported dates and times of the applications. The results of that search indicated that wind speeds and directions during the applications were as follows:

Purdue University Station- Lafayette, In 46 Miles SE of Target Field

May 4, 2018

3:54 PM	67 ° F	50 ° F	54 %	NW	3 mph	0 mph	29.4 in	0.0 in	0.0 in	Fair
4:54 PM	65 ° F	51 ° F	61 %	CALM	0 mph	0 mph	29.4 in	0.0 in	0.0 in	Fair
5:54 PM	60 ° F	51 ° F	72 %	CALM	0 mph	0 mph	29.4 in	0.0 in	0.0 in	Fair
6:54 PM	57 ° F	51 ° F	81 %	CALM	0 mph	0 mph	29.4 in	0.0 in	0.0 in	Fair

May 5, 2018


3:54 PM	74 ° F	51 ° F	45 %	CALM	0 mph	0 mph	29.3 in	0.0 in	0.0 in	Fair
4:54 PM	70 ° F	50 ° F	49 %	SSE	6 mph	0 mph	29.3 in	0.0 in	0.0 in	Fair
5:54 PM	67 ° F	48 ° F	51 %	S	6 mph	0 mph	29.3 in	0.0 in	0.0 in	Fair
6:54 PM	65 ° F	47 ° F	52 %	VAR	5 mph	0 mph	29.3 in	0.0 in	0.0 in	Fair

6. The report from the OISC Residue laboratory states:

Case # 2018/0447			Investigator: M. Rosch	
Sample #	Sample Description	Sample Matrix	Amount Found (ppb or ng/swab)	
			Atrazine	Metolachlor
2018-35-7056	Trip blank	Swab	BDL	BDL
2018-35-7057	Control sample West side of house	Swab	5.60	2.23
2018-35-7058	A1 North side of house swab	Swab	4.61	BDL
2018-35-7059	A2 East side of house swab	Swab	7.57	2.67
2018-35-7060	A3 South side of house swab	Swab	33.8	11.4
2018-35-7061	A4 Inside garage cabinet swab	Swab	11.6	BDL
2018-35-7062	Hazelnut vegetation	Vegetation	917	242
2018-35-7063	Forsythia vegetation	Vegetation	52.2	46.4
2018-35-7064	Maple vegetation	Vegetation	1130	29
2018-35-7065	Target field soil	Soil	47.2	203

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 (ng/swab)	Swab	0.4	2
LOQ (ppb)	Soil	3	0.7
LOQ (ppb)	Vegetation	3	3
<b>Signature</b>		<b>Date</b>	09/21/18

7. There appears to be a violation in this case because the active ingredients used by the applicator were found in the samples taken from the complainant's property.



Melissa D. Rosch  
Investigator

Date: April 24, 2019

**Disposition:** Jerome Keller and Tanner Hulmes were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a non-target site. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact this was their first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.



George N. Saxton  
Compliance Officer

Draft Date: April 25, 2019  
Final Date: June 4, 2019


## CASE SUMMARY

Case #2018/0462

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

**Respondent:** Whites Home Inspection LLC  
Mark White  
3122 SR 135 N  
Nashville, Indiana 47448  
317-420-1222

1. On May 17, 2018, Certification and Licensing section contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report the Respondent failed to renew their business license.
2. On June 25, 2018, I spoke with Mark White. Mr. White stated he forgot to send in his renewal. Mr. White stated he had performed WDI inspections in 2018. Mr. White stated he would send me copies of the WDI inspections.
3. On June 26, 2018, I received copies of five (5) WDI inspections performed without a license dated:  
1/20/18    2/16/183/21/184/6/18    4/26/18
4. On July 12, 2018, I received correspondence from the Secretary to Certification Manager, that Mark White and White Home Inspection had submitted the 2018 licensing fees plus late fees.

  
Paul J. Kelley  
Investigator

Date: July 23, 2018

### Disposition:

- A. Mark White and Whites Home Inspection LLC were cited for five (5) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for making wood-destroying pest inspections for hire without the required 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 \$250.00. Consideration was given to the fact Mr. White cooperated during the investigation; corrective action was taken; there was no potential for harm and no previous history of similar violations.
- B. As of February 11, 2019, Whites Home Inspection LLC had not paid the \$250.00 civil penalty assessed. A second letter was sent as a reminder they still owed OISC.
- C. As of March 27, 2019, Whites Home Inspection LLC had not paid the \$250.00 civil penalty. The case was forwarded to the Indiana Attorney General for collection of the full \$1,250.00 civil penalty.

  
George N. Saxton  
Compliance Officer

Draft Date: February 11, 2019  
Final Date: March 27, 2019

## CASE SUMMARY

Case #2018/0510

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

**Respondent:** Target  
Laura Stanley  
Food and Beverage Leader  
11750 Commercial Drive  
Fishers, IN 46038  
317-845-4945

**Registrant:** Kittrich Corporation  
1585 W. Mission Boulevard  
Pomona, CA 91766  
714-736-1000

**Submitter:** RegGuide  
Sharon Johnston  
509 Tower Valley Drive  
Hillsboro, MO 63050  
636-942-2583

1. On December 16, 2016, the Office of Indiana State Chemist (OISC) received an application for registration of seventeen (17) pesticide products under the registrant name Kittrich Corporation, submitted by Sharon Johnston at RegGuide. All of the 17 products submitted for registration with OISC were FIFRA Sec. 25(b) products, exempt from federal registration, but not exempt from Indiana state registration.
2. On January 25, 2017, OISC Product Registration Secretary, Sarah Caffery, sent an email notification to Ms. Johnston informing her of OISC's initial assessment of the need to refuse to register the products, based on product ingredient and labeling concerns for some of the products, including claims and references on the related Kittrich website.
3. Ms. Johnston replied to OISC's email on January 26, 2017, indicating that Kittrich disagreed with OISC's assessment that the use of images of children on the label and related safety claims were inappropriate and misleading relative to the safe use of the product. She stated that Kittrich was working to review the website concerns pointed out by OISC. She indicated that the product labels submitted for registration through the ALSTAR portal would need to be corrected, but she had not gotten to that task yet.
4. On October 26, 2017, after reported discussions between RegGuide and Kittrich, Ms. Johnston reconnected with OISC regarding the *FIFRA Minimum Risk Pesticides-25(b) Product Label*

*Guidance* issued by OISC in October 2017. She indicated that she shared that guidance with Kittrich.

5. On November 1, 2017, Caffery returned the Kittrich labels to Ms. Johnston via ALSTAR. At that time, OISC also requested submission of efficacy data to support the pest control claims being made on the labels for all 17 products. Ms. Johnston promptly replied, agreeing to send efficacy and revised mock/draft labels for the products to OISC for review.
6. On November 7, 2017, Caffery confirmed with Ed White, the Assistant Pesticide Administrator and primary product registration official for OISC, that OISC could register the products conditionally for 2017 and 2018 if Kittrich agreed to revise their labels to address the unsupported safety claims and make revisions to their labels at the next printing of those labels. OISC asked for confirmation on Kittrich's printing timeline, including when the old labeled products would most likely be out of the channels of trade.
7. On May 22, 2018, Garret Creason, OISC Pesticide Investigator, performed a random routine marketplace inspection at the Target Store, located in Fishers, Indiana, unrelated to the pending product registration process. Creason spoke with the Food and Beverage Leader at Target, Laura Stanley, and informed her of the process for the marketplace inspection.
8. During the course of the inspection, Creason located five (5) unregistered pesticide products that were being offered for sale in the Target Store. Creason spoke with Caffery, and she confirmed that the pesticide products were not currently registered for sale or distribution in Indiana. Creason photographed the below-listed products:
  - a. EcoSmart Mosquito Fogger, a 25(b) product.
    - i. 1 unit in stock since 5-19-18
  - b. EcoSmart Ant and Roach Killer, a 25(b) product.
    - i. 13 units in stock since 5-16-2018
  - c. EcoSmart Mosquito and Tick Control, a 25(b) product.
    - i. 3 units in stock since 5-19-18
  - d. EcoSmart Weed and Grass Killer 24oz., a 25(b) product.
    - i. 6 units in stock since 5-2-18
  - e. EcoSmart Home Pest Control 24oz., a 25(b) product.
    - i. 6 units in stock since 5-16-18







9. Creason spoke with Ms. Stanley and informed her of the unregistered products he had observed on their sales shelves. Creason informed Ms. Stanley that he would be issuing an OISC Action Order instructing them to remove the unregistered pesticide products from the shelves and place them in storage and that they were not to be sold or removed from the store unless contacted in writing by OISC. Creason also informed her that he would be retaining an evidentiary sample of the pesticide products listed above, for his case. Creason asked Ms. Stanley if she was able to provide him with any information documenting when the last shipment of these products came to the store. Ms. Stanley scanned the product containers and verbally told him of the most recent shipping date. The arrival dates that Creason was given with the corresponding products are listed in item #8 above.
10. Creason placed all samples in a clear evidence bag and sealed them for transport to the OISC Formulation Lab.
11. On May 23, 2018, Creason delivered the evidentiary samples to the Formulation Lab.
12. On June 5, 2018, the product labels collected by Creason at Target were forwarded to the OISC registration section for label review.
13. On June 8, 2018, Ms. Johnston reconnected with OISC via email after Kittrich received notification of an Action Order relating to Creason's inspection at Target. Ms. Johnston stated that Kittrich was working on revising the labels for 2019, and submitted one label mock-up for review by OISC.
14. On July 25, 2018, the OISC label review was completed and revealed that all five (5) pesticide product labels contained language indicating "Safe Around Children and Pets Non-Toxic" or just "Safe". However, OISC's reference of the website WebMD (<https://www.webmd.com/vitamins/ai/ingredientmono-783/wintergreen>) indicated that wintergreen oil can be deadly to children, is unsafe to take by mouth and can cause skin irritation.
15. On August 9, 2018, OISC sent a certified letter to RegGuide c/o Kittrich Corp., advising them that the applications for registration of the 17 products submitted on December 16, 2016, including the five (5) products being distributed at Target Store in Fishers, Indiana, were being refused for registration, based on the safety claims labeling in conjunction with the wintergreen oil ingredient, making the products misbranded.
16. On September 24, 2018, OISC sent a certified letter to Kittrich Corporation citing them for five (5) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in Indiana. A civil penalty in the amount of \$1,250.00 (5 counts x \$250.00 per count) was assessed for this violation. In addition, Kittrich Corporation was cited for five (5) counts of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that was misbranded due to the unsupported safety claims on the labels. A civil penalty in the amount of \$1,250.00 (5 counts x \$250.00 per count) was assessed for this violation.
17. On October 3, 2018, Kittrich Corporation sent letter to George Saxton, Compliance Officer at OISC, in response to his September 24, 2018 letter. In that letter, Kittrich indicated that in 2014, Kittrich Corporation purchased a line of substantially similarly labeled FIFRA 25(b) products from EcoSmart Technologies, Inc. that were previously registered by OISC for more than ten years. They also indicated that they did not receive a formal response regarding their application

for registration of these products from the OISC registration section until August 9, 2018, suggesting it was not fair or reasonable to refuse registration or assess civil penalties for these pesticide products.



Garret A. Creason  
Investigator

Date: May 30, 2018

**Disposition:**

In consideration of the evidence collected in this investigation which suggests that OISC did previously register substantially similar labels prior to December 16, 2016, that OISC did not issue updated *FIFRA Minimum Risk Pesticides-25(b) Product Label Guidance* until on or about October, 2017, and that the OISC product registration application review process was not formally finalized until August 9, 2018, the citation for violation and civil penalty for five counts of distributing a misbranded pesticide were rescinded.

In consideration of the evidence collected in this investigation which suggests that Kittrich Corporation knowingly distributed unregistered pesticides into Indiana, the citation for five (5) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in Indiana and the associated civil penalty in the amount of \$1,250.00 (5 counts x \$250.00 per count) shall remain.

In accordance with IC 15-16-4-64, OISC notified Kittrich Corporation and RegGuide of a proposal to formally deny the registration submitted on December 16, 2016 and the applicant's right to obtain a review of this decision under I.C. 15-16-4-64.5.



George N. Saxton  
Compliance Officer

Draft Date: October 17, 2018  
Final Date: March 18, 2019



## CASE SUMMARY

Case #2018/0596

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

**Respondent:** Family Dollar  
Denise Hentz  
401 E. 5th Street  
Connersville, IN 47331  
765-827-1789  
Assistant Manager

**Registrant:** Shanghai Daisy, LLC  
923 Homestead Drive  
PO Box 307  
Yorkville, IL 60560  
844-660-3400

**MAILING ADDRESS FROM SARAH:**  
Shanghai Daisy LLC  
ATTN: Alex Sandeno  
230 Manitoba Avenue, Suite 120  
Wayzata, Minnesota 55391

1. On May 31, 2018, I performed a routine marketplace inspection at Family Dollar in Connersville, Indiana. I spoke with the Assistant Manager Denise Hentz 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 Family Dollar store. I spoke with Ed White, Assistant Pesticide Administrator, and he confirmed that the pesticide product was unregistered. The product is as follows:
  - a. Scatterbug Mosquito Repellent Torch Fuel, a 25(b)<sup>1</sup> product.
3. I spoke with Mrs. Hentz and informed her of the unregistered product I had located. I informed Mrs. Hentz that I would be issuing an Action Order instructing them to remove the remaining 69 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 her that I would be retaining an evidentiary sample of the product for my case. I asked Mrs. Hentz if she was able to provide me with any information for when the last shipment came to the store and he stated she was not able to look up that information.
4. I placed the evidentiary sample into a clear plastic bag and sealed it for transport to the formulation lab.

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<sup>1</sup> Minimum Risk Pesticide

5. On June 4, 2018, I delivered the evidentiary sample to the Formulation Lab.



  
Garret A. Creason  
Investigator

Date: June 8, 2018

**Disposition:**

- A. On June 18, 2018, the information was forwarded to the Registration Section for a label review.
- B. On July 2, 2018 the label review was complete and revealed:
  - a. The ingredient statement cannot be clearly read and is hard to locate within the other text on the label.
- C. Shanghai Daisy, LLC was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation. However, the civil penalty was held in abeyance and not assessed provided Shanghai Daisy, LLC properly registers this pesticide product within thirty (30) days from receipt of this notice.
- D. Shanghai Daisy, LLC 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.
- E. On October 18, 2018, the Registration Section notified Compliance that the product in question has now been registered. The Action Order was released.

- F. On October 22, 2018, the enforcement letter and case summary were returned to our agency with an address correction for Shanghai Daisy LLC, from the postal service.
- G. The \$250.00 of the allowable civil penalty held in abeyance pending product registration will not be imposed since Shanghai Daisy LLC properly registered the pesticide product.
- H. The \$250.00 civil penalty assessed for distributing a misbranded pesticide is still owed to OISC.
- I. On March 19, 2019, a revised enforcement letter and case summary were sent to Shanghai Daisy LLC at the new address.
- J. On April 9, 2019, the enforcement letter and case summary sent on March 19, 2019, were returned to our agency as "Not Deliverable As Addressed".
- K. On April 17, 2019, the enforcement letter and case summary were sent to Shanghai Daisy LLC using the new address provided by Sarah Caffery in Pesticide Registrations.

  
George N. Saxton  
Compliance Officer

Draft Date: April 17, 2019  
Final Date: June 4, 2019

## CASE SUMMARY

Case #2018/0597

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

**Respondent:** Family Dollar  
Denise Hentz  
401 E. 5th Street  
Connersville, IN 47331  
765-827-1789  
Assistant Manager

**Registrant:** Midwood Brands, LLC  
10611 Monroe Road  
Matthews, NC 28105  
704-847-6961

1. On May 31, 2018, I performed a routine marketplace inspection at Family Dollar in Connersville, Indiana. I spoke with the Assistant Manager Denise Hentz 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 Family Dollar store. I checked the product through the National Pesticide Information Retrieval System and confirmed it was not registered. The product is as follows:
  - a. Mosquito Repellent Wristband, a 25(b)<sup>1</sup> product.
3. I spoke with Mrs. Hentz and informed her of the unregistered product I had located. I informed Mrs. Hentz that I would be issuing an Action Order instructing them to remove the remaining 18 packages of the unregistered pesticide product from the shelves and place them in storage and that they are not to be sold or removed from the store unless contacted in writing by OISC. I also informed her that I would be retaining an evidentiary sample of the product for my case. I asked Mrs. Hentz if she was able to provide me with any information for when the last shipment came to the store and he stated she was not able to look up that information.
4. I placed the evidentiary sample into a clear plastic bag and sealed it for transport to the formulation lab.
5. On June 4, 2018, I delivered the evidentiary sample to the Formulation Lab.

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<sup>1</sup> Minimum Risk Pesticide



Garret A. Creason  
Investigator

Date: June 8, 2018

**Disposition:**

- A. On June 18, 2018, the information was forwarded to the Registration Section for label review.
- B. On August 3, 2018, the label review was completed and revealed:
  - a. The label statement “Keeps Bugs Away” is too broad and therefore, false and misleading.
- C. Midwood Brands, LLC was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing into Indiana an unregistered pesticide product. A civil penalty in the amount of \$250.00 was assessed for this violation. However, this civil penalty will be held in abeyance and not assessed provided Midwood Brands, LLC properly registers this pesticide product within thirty (30) days from receipt of this notice.
- D. Midwood Brands, LLC was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product into Indiana that was false and misleading. A civil penalty in the amount of \$250.00 was assessed for this violation.
- E. As of February 11, 2019, Midwood Brands, LLC had not paid the civil penalty. Sarah Caffery, Pesticide Product Registrations, confirmed the product had not been registered either, therefore, Midwood Brands, LLC owes the full \$500.00 civil penalty. A second letter was sent with a copy of the original letter and the draft case summary.
- F. The civil penalty was paid in full on March 25, 2019.

George N. Saxton  
Compliance Officer

Draft Date: February 11, 2019  
Final Date: March 27, 2019

## CASE SUMMARY

Case #2018/0599

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

**Respondent/  
Registrant:** Sprinkler Magician  
404 S. MLK Jr. Avenue, Suite A  
Clearwater, Florida 33755  
888-829-0893

1. On June 1, 2018, I performed a routine virtual marketplace inspection at MosquitoMagician.com.
2. I located one (1) pesticide product that was being offered for sale on the MosquitoMagician.com website. I checked the product on the National Pesticide Information Retrieval System (NPIRS) and found that it was not registered in the state of Indiana. The product is as follows:
  - a. Mosquito Magician Mosquito Killer Concentrate, a 25(b)<sup>1</sup> product.
3. I was able to order a container of the pesticide product and have it sent to Indiana. I documented the online sale through screenshots and attached them to this case file.
4. On June 8, 2018, the pesticide product was delivered to me. The package was sent from Mosquito Magician in Clearwater, Florida. I photographed the outside of the package prior to opening and then photographed the pesticide product itself. After photographing the pesticide product, I placed it in a clear evidence bag and sealed it for transport to the formulation lab. I then issued an Action Order to the registrant Sprinkler Magician and sent it to the customer service department. As of June 20, 2018, I have not received a response from Sprinkler Magician.
5. On June 11, 2018, I delivered the evidentiary sample to the Formulation Lab.

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<sup>1</sup> Minimum Risk Pesticide



*Garret A. Creason*


Garret A. Creason  
Investigator

Date: June 20, 2018

**Disposition:**

- A. On June 20, 2018, the information was forwarded to the Registration Section for a label review.
- B. On July 2, 2018, the label review was complete and revealed that:
  - 1) Sodium lauryl sulfate is not an approved inert ingredient;
  - 2) “All natural” and “Made in nature” are false and misleading statements;
  - 3) This 25b pesticide is making a health claim contrary to EPA restrictions on 25b pesticide products by advertising that it controls Zika virus.
- C. Sprinkler Magician 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. However, the allowable civil penalty was held in abeyance and not assessed provided Sprinkler Magician properly registers the pesticide product within thirty (30) days from receipt of this notice.
- D. Sprinkler Magician 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. Sprinkler Magician was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for distributing a pesticide product in violation of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) (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.
- F. On September 6, 2018, Sarah Caffery, Pesticide Product Registrations, spoke with Peter Olt with Sprinkler Magician. He is working on the label revisions and requested an extension for the registration application.

- G. On November 6, 2018, the registration application was received by the registration department.
- H. On January 31, 2019, the Mosquito Magician Mosquito Killer Concentrate product registration was completed for 2019. The product was registered for 2019 instead of 2018 because of the backlog in registration and processing.
- I. As of February 6, 2019, Sprinkler Magician had not paid the civil penalty. A reminder letter was sent with a copy of the original letter and draft case summary.
- J. On March 20, 2019, we received payment for the civil penalty. However, the check was for \$750.00, which was a \$250.00 overpayment. The check was returned and a new check requested.
- K. On April 19, 2019, we received payment for the \$500.00 civil penalty assessed.

  
George N. Saxton  
Compliance Officer

Draft Date: February 6, 2019  
Final Date: April 29, 2019



## CASE SUMMARY

Case #2018/0601

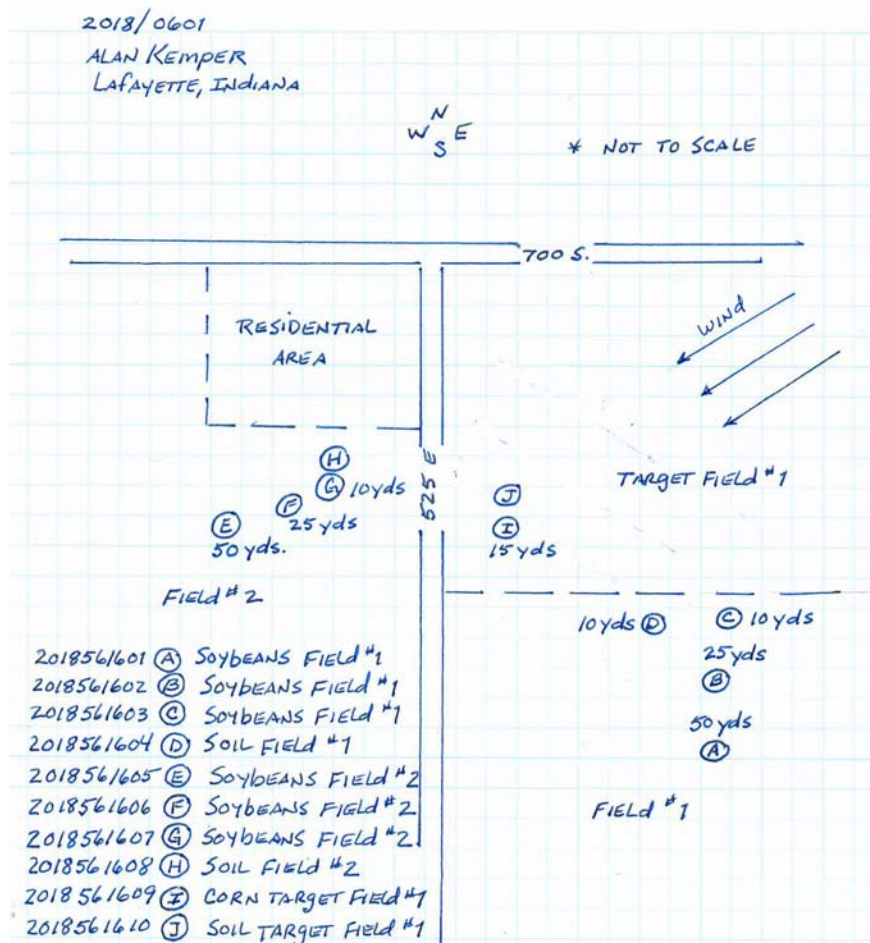
**Complainant:** Alan Kemper  
5710 East 700 South  
Lafayette, Indiana 47909  
765-714-2124

**Respondent:** Osborn Farms  
Ben Osborn  
8536 East 1000 South  
Clarks Hill, Indiana 47930  
765-479-2287

**Private Applicator**


1. On June 1, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) via a written complaint form indicating Tom Osborn drifted onto his soybeans.
2. On June 11, 2018, I met with the complainant Alan Kemper. He told me Mr. Osborn made pesticide applications which drifted onto three of Mr. Kemper's soybean fields. (See also case 2018/1023). We drove to two of his affected soybean fields located on county road 525 east just south of county road 700 east. (See diagram below).
3. During my on-site investigation, I did the following:
  - a. I checked the vegetation in both soybean fields. I observed growth regulator type exposure symptoms such as strapped/puckered/cupped leaves on the soybeans.
  - b. I photographed the complainant's soybean fields (See photos below)
  - c. I obtained impacted soybean samples from both fields for submission to Purdue Plant and Pest Diagnostic Lab (PPDDL) for analysis.
  - d. I placed the following environmental samples in Mylar bags for submission to the OISC Residue Lab for analysis: (See diagram below)

• 2018561601	soybeans field #1	(50 yards from target field)
• 2018561602	soybeans field #1	(25 yards from target field)
• 2018561603	soybeans field #1	(10 yards from target field)
• 2018561604	soil field #1	(10 yards from target field)
• 2018561605	soybeans field #2	(50 yards from target field)
• 2018561606	soybeans field #2	(25 yards from target field)
• 2018561607	soybeans field #2	(10 yards from target field)
• 2018561608	soil field #2	(10 yards from target field)
• 2018561609	corn stalks target field	
• 2018561610	soil target field	



4. I made contact with pesticide applicator Ben Osborn of Osborn Farms located in Clarks Hill Indiana. Mr. Osborn agreed to complete a Pesticide Investigation Inquiry (PII) for the pesticide application made to the field adjacent to the complainant's soybean field on country road 525 east.
5. I received the following information from PPPDL: "Strapping of leaves is indicative of injury from a growth regulator like clopyralid (found in Resicore). Necrosis and chlorosis on the edge of the first trifoliate leaves could be indicative of atrazine."

6. I received a completed PII from applicator Ben Osborn. According to the PII, Mr. Osborn made a pesticide application of **Resicore** (EPA #62719-693; active ingredient: clopyralid, acetochlor, mesotrione), **Roundup** (EPA #524-549; active ingredient: glyphosate), **Radiate** (EPA #34704-909; active ingredient: indole-3-butyric acid, cytokinin) and **Atrazine** (EPA# 34704-69, active ingredient: atrazine) on May 16, 2018 between 2:57pm and 3:40pm. He recorded the wind blowing at 10 miles per hour from the east-northeast in a south-southwesterly direction toward the complainant's soybean fields (See diagram above).
7. I checked the weather data for the application site at [www.wunderground.com](http://www.wunderground.com). Historical information for the application site confirmed the weather data supplied by Mr. Osborn.
8. I received the following analysis information from the OISC Residue Lab:


Case #	2018/0601		Investigator		K. Gibson	
Sample #	Sample Description	Amount of Analyte (ng/swab or ppb)				
		Matrix	Atrazine	Mesotrione	Acetochlor	Clopyralid
2018-56-1601	Soybeans field #1 - 50 yds	Vegetation	5.86	BDL	BDL	0.855
2018-56-1602	Soybeans field #1 - 25 yds	Vegetation	5.85	BDL	BDL	4.36
2018-56-1603	Soybeans field #1 - 10 yds	Vegetation	6.68	BDL	BDL	12.0
2018-56-1604	Soil fields #1 - 10 yds	Soil	Did not test	Did not test	Did not test	Did not test
2018-56-1605	Soybeans field #2 - 50 yds	Vegetation	6.46	BDL	BDL	3.95
2018-56-1606	Soybeans field #2 -25 yds	Vegetation	6.02	BDL	BQL	4.40
2018-56-1607	Soybeans field #2 - 10 yds	Vegetation	5.22	BDL	BDL	12.4
2018-56-1608	Soil field #2 - 10 yds	Soil	Did not test	Did not test	Did not test	Did not test
2018-56-1609	Corn target field #1	Vegetation	BDL	BDL	BDL	191
2018-56-1610	Soil target field #1	Soil	Did not test	Did not test	Did not test	Did not test
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC						
LOQ (ppb)	Soil		Did not test	Did not test	Did not test	Did not test
LOQ (ppb)	Vegetation		3	0.7	3	0.4
Signature				Date	1/9/19	

9. I checked with the complainant concerning recent pesticide applications made to his soybean fields. He told me he made pesticide applications of atrazine in 2017. According to the OISC lab director, the low levels of atrazine detected in the complainant vegetation could be from an atrazine application made in 2017. The lab director also told me the low levels of the active ingredient of clopyralid found in **Resicore** were indicative of drift from the target field to the complainant's field.
10. The label for **Resicore** reads in part, "*Do not apply when wind conditions favor drift to non-target sites*" and "*Avoid spray drift onto adjacent crop or non-crop areas.*"
11. After review of available information, Ben Osborn was in violation of the **Resicore** label when he applied it in conditions favoring drift to non-target sites.

  
Kevin W. Gibson  
Investigator

Date: January 9, 2019

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

  
George N. Saxton  
Compliance Officer

Draft Date: March 4, 2019  
Final Date: April 12, 2019

## CASE SUMMARY

Case #2018/0604

**Complainant:** Leo Reed  
Office of Indiana State Chemist  
175 S. University Street  
West Lafayette, IN 47907

**Respondent:** Carroll Shelton  
911 Longfield Drive  
Clarksville, IN 47129

1. On June 4, 2018, I received information from Kelly Denny of Metro Institute, that one of our remote testing sites had an incident of cheating. Mr. Denny had received the below written statement from the exam proctor. The proctor is an IVTCH employee, who was administering the computer-based exam.
2. The statement reads as follows:

One of our candidates, Carroll Shelton, was taking the Industrial, Institutional, Structural and Health-related Pest Mgmt (7A) exam for the Office of Indiana State Chemist. Before the test, he was given the Metro Institute Candidate Rules Agreement to read and told to put all of his personal belongings into a locker, including anything he had in his pockets. After being seated and after I left the testing lab, the candidate pulled his phone out of his pocket and sat it behind the computer monitor. He started the test at 9:59am and grabbed his phone from behind the monitor and started using it at 10:03am. At 10:22am I noticed the phone sitting on his desk on the camera. I went back to tell him he needed to put his phone in his locker. When I walked into the testing lab he tried to put the phone back behind the monitor, but did not hesitate to put the phone away after I asked him to. He finished the test without further incident.

Please let me know if there is any additional information you need.

Thank you,

Paul McAndrews  
Test Center Proctor  
Ivy Tech Community College- Sellersburg  
812-246-3301 ext. 4156  
[Pmcandrews1@ivytech.edu](mailto:Pmcandrews1@ivytech.edu)

3. Attached to this report is the agreement, which the examinee must read and agree to, prior to taking the exam. The examinee agrees not to consult any unauthorized material, including electronic.
4. The proctor had previously advised the Shelton to remove all personal belongings from his pocket prior to taking the exam. Mr. Shelton clearly failed to follow those instructions and referred to his phone while taking the exam.

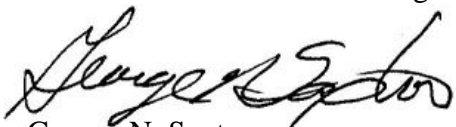


Leo A. Reed  
Manager, Licensing and Certification  
Office of Indiana State Chemist

Date: June 6, 2018

**Disposition:**

- A. Carroll Shelton was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-1-2.1 (f), for failure to comply with examination instructions. As a result, the exam that was taken on June 4, 2018, was not scored and Mr. Shelton was prohibited from taking any more pesticide certification exams for a period of five (5) years.
- B. On November 20, 2018, Mr. Shelton called and admitted he used his phone after he was told not to but he wanted to request leniency on his five-year waiting period. I advised him that he was not eligible to re-test until 2023.



George N. Saxton  
Compliance Officer

Draft Date: November 20, 2018  
Final Date: March 27, 2019

## CASE SUMMARY

Case #2018/0622

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

**Respondent:** Ryan Friend  
Lawns by Ryan  
9247 Aberdeen Road  
Rising Sun, IN 47040  
812-577-7245

Not Licensed

1. On June 7, 2018, the Certification & Licensing Section contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Lawns by Ryan failed to renew their business license for 2018.
2. On June 7, 2018, I spoke with Ryan Friend, owner of Lawns by Ryan, and informed him the licenses of his certified applicator, Andrew Haskell, and the pesticide business license had not been renewed for 2018. He indicated he recalled writing and sending a check to the OISC in the spring.
3. On June 8, 2018, I spoke with Mr. Friend who reported he looked into the situation and confirmed he wrote a check (#449) on April 7, 2018, and sent it to the OISC after receiving an email from the Certification & Licensing Section. I informed him that the check had not been received. We discussed his services and he reported that Mr. Haskell, who also works for Sugar Ridge Golf Course (Lawrenceburg, IN), makes the lawn applications for Lawns by Ryan. He indicated applications are a very small portion of his business and that all accounts can be serviced in two days for a particular round. Mr. Friend admitted Mr. Haskell made for-hire pesticide applications on March 6 and 7 (Round 1) and May 21 and 22 (Round 2) in 2018. I informed Mr. Friend the licenses were made inactive December 31, 2017 and he was so advised by OISC in a letter dated May 30, 2018. He indicated he would cooperate to avoid maximum enforcement action and he would send in payment, certificate of insurance and documentation for the days of operating without a license.
4. My last contact with Mr. Friend was on June 12, 2018, when he reported his internet had been down. I attempted to contact Mr. Friend several times via text, phone and email over the next two months. He did not respond to any of those attempts and no payment or renewal paperwork was received by the OISC.

5. On October 29, 2018, Mr. Friend finally responded and explained that no further applications were made and that Lawns by Ryan is no longer offering or providing lawn care applications as part of its services. He provided documentation for the two days Mr. Haskell made applications this year.



Andrew R. Roth  
Investigator

Date: October 26, 2018

**Disposition:** Ryan Friend and Lawns by Ryan were cited for two (2) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed. As of October 29, 2018, Lawns By Ryan still had not renewed the pesticide business license.

As of March 18, 2019, Ryan Friend had not paid the \$500.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC.

As of May 3, 2019, Ryan Friend had not paid the \$500.00 civil penalty assessed. The case was forwarded to collections.



George N. Saxton  
Compliance Officer

Draft Date: March 18, 2019  
Final Date: May 3, 2019



## CASE SUMMARY

Case #2018/0629

**Complainant:** Karla Frownfelter  
Complaint & Correspondence Coordinator  
Indiana Department of Environmental Management  
100 N. Senate Avenue, IGCN, Suite 1313  
Indianapolis, Indiana 46204  
Phone (317) 232-4464  
Toll Free 1-800-451-6027, Option 3  
[kfrownfe@idem.in.gov](mailto:kfrownfe@idem.in.gov)

**Respondent:** Starke County Co-op  
2451 N. Peabody Street  
Knox, Indiana 46534  
574-772-4590

1. On June 7, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) via email indicating *"For approximately 8-10 years the Starke County Co-op at 2451 N Peabody St in Knox has been emptying chemicals from an approximately 2,000 gallon plastic tank directly onto the ground. It goes into a sump hole, into a tank, & when it fills up they spray onto ground. There is a nearby ditch & tile drain."*
2. On June 13, 2018, I spoke to the anonymous complainant by telephone. The anonymous complainant did send me photographs by telephone texting. The photographs depicted spreading/spraying of chemicals in what appeared to be a gravel lot. The photographs also showed "milky white" puddles. There were also photographs of the same "milky white" substance near railroad tracks located at the rear of the Co-op property. The complainant said there was drainage tile located near those railroad tracks. (See photos below)



gravel lot east side



railroad tracks rear of property



stand pipe front of property

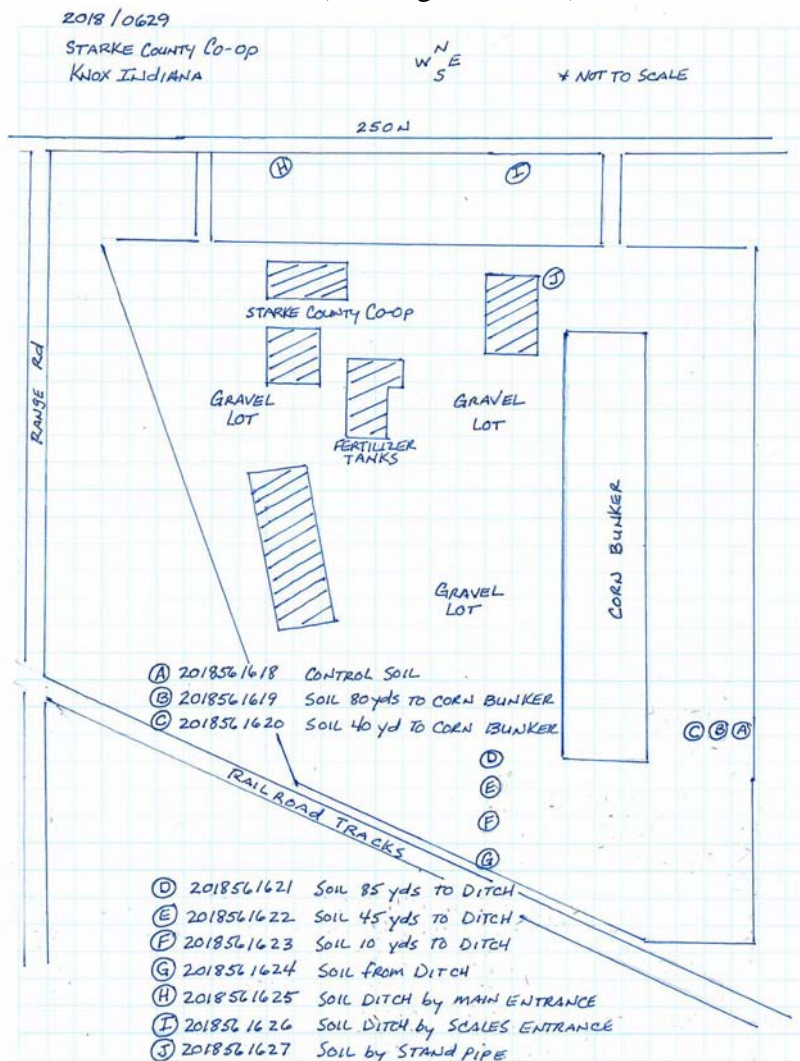


Co-op property east side

3. In further discussion with the anonymous complainant, he explained all drainage from the Co-op property eventually drains to the Kankakee River approximately two miles from the property. When I told him it was not illegal to spray chemical on the Co-op property or the gravel lot area, he said he was concerned about the amount that may eventually get to the Kankakee River. I further said the "chemicals" being spread was rinsate from the bulk and shuttle containers. He wasn't sure how long this practice had been taking place.

4. OISC agents Becovitz, Kreider and I met at Starke County Co-op. I explained the complaint to the General Manager Virgil Brown. He denied spreading or spraying any pesticide rinsate on the Co-op property. I showed him the photographs from the complaint. Mr. Brown told me the photograph depicting the chemical being spread was nothing more than water. He had no explanation for the other photographs. Mr. Brown further explained all rinsate from any applications was spread in the customers' fields.
5. Agents Becovitz, Kreider and I placed the following environmental samples in Mylar bags for submission to the OISC Residue Lab for analysis:
- 2018561618 control soil
  - 2018561619 soil 80 yards to corn bunker
  - 2018561620 soil 40 yards to corn bunker
  - 2018561621 soil 85 yards to ditch
  - 2018561622 soil 45 yards to ditch
  - 2018561623 soil 10 yards to ditch
  - 2018561624 soil from ditch
  - 2018561625 soil from ditch by main entrance
  - 2018561626 soil from ditch by scales entrance
  - 2018561627 soil by stand pipe

(see diagram below)

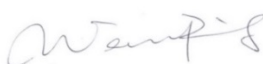


It should be noted samples “H” and “T” were taken from the ditch area on the north side of the property which eventually drains into the Kankakee River approximately 2-2.5 miles away.

6. I obtained the following list of pesticides sold by Starke County Co-op in bulk and shuttle containers:

- **Atrazine 4L** (EPA #1381-158; active ingredient: atrazine)
- **Bicep II Magnum** (EPA #100-817; active ingredient: atrazine, metolachlor)
- **Confidence Xtra 5.6** (EPA #524-485; active ingredient: atrazine, acetochlor)
- **Cornerstone 5 Plus** (EPA #42750-60-1381; active ingredient: glyphosate)
- **Durango** (EPA #62719-556; active ingredient: glycine)
- **Ful-Time NXT** (EPA #62719-668; active ingredient: acetochlor, atrazine)
- **Harness Xtra 5.6L** (EPA #524-485; active ingredient: acetochlor, atrazine)
- **Roundup Powermax** (EPA #524-549; active ingredient: glyphosate)
- **Warrant** (EPA #524-591; active ingredient: acetochlor)

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

Case #	2018/0629		Investigator		K. Gibson		
Sample #	Sample Description	Amount of Analyte (ppb)					
		Matrix	Acetochlor	Metolachlor	Atrazine	Glyphosate	AMPA
2018-56-1618	Control soil	Soil	30.1	14.6	5.96	158	324
2018-56-1619	Soil 80 yds to corn bunker	Soil	1840*	351*	872*	14500	5090
2018-56-1620	Soil 40 yds to corn bunker	Soil	10800*	211*	443*	30900	47900
2018-56-1621	Soil 85 yds to ditch	Soil	13100*	230*	139*	14800	4120
2018-56-1622	Soil 45 yds to ditch	Soil	1250*	203*	34.3	3240	978
2018-56-1623	Soil 10 yds to ditch	Soil	12700*	212*	430*	43100	8930
2018-56-1624	Soil from ditch	Soil	13000*	252*	494*	10400	6800
2018-56-1625	Soil from ditch by main entrance	Soil	829*	174*	16.9	384	909
2018-56-1626	Soil from ditch by scales entrance	Soil	10500*	224*	87.4*	1000	2770
2018-56-1627	Soil by stand pipe	Soil	10.1	19.0	9.11	BDL	BDL
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC							
* results exceeded calibration curve range and reported as minimum concentration found.							
LOQ (ppb)	Soil	3	1	0.7	10	50	
Signature				Date		09/27/18	

8. Analysis results for acetochlor, metolachlor and atrazine indicate a high concentration of those active ingredients in the environmental samples obtained.
9. The label for **Bicep II Magnum** (EPA #100-817; active ingredients: atrazine, metolachlor) reads in part, *“Do not contaminate water, food, or feed by storage, disposal or cleaning of equipment.”* and *Open dumping is prohibited. Improper disposal of unused pesticide, spray mixture, or rinsate is in violation of federal law”*.
10. The label for **Warrant** (EPA #524-591; active ingredient: acetochlor) reads in part, *“Do not allow this product to contaminate water, foodstuffs, feed or seed by storage or disposal”*.



Kevin W. Gibson  
Pesticide Investigator

Date: February 13, 2019

**Disposition:** Starke County Co-op was cited for two (2) counts of violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding disposal. Starke County Co-op was cited for violation of section 64 of the Indiana Pesticide Use and Application Law for disposing of a pesticide product in a manner that may cause injury to humans, beneficial vegetation or pollute any waterway in a way harmful to any wildlife in a waterway. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed.



George N. Saxton  
Compliance Officer

Draft Date: March 5, 2019

Final Date: April 12, 2019

## CASE SUMMARY

Case #2018/0647

**Complainant:** Leonard Reinhart  
10334 Bernadette Drive  
Evansville, Indiana 47725  
812-549-9482

<b>Respondent:</b>	Rusty L. Oeth Oeth Farm Services, Inc. 10866 Elberfeld Road Elberfeld, Indiana 47613 812-589-2734	Certified Applicator Licensed Business
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1. On June 14, 2018, Leonard Reinhart spoke with Joe Becovitz, Pesticide Program Specialist for the Office of Indiana State Chemist (OISC) regarding an agricultural drift. Mr. Reinhart stated an herbicide application was made to a neighboring farm field about three to four weeks ago. The application appears to have injured ornamentals on his property.
2. On June 4, 2018, I met with the complainant Leonard Reinhart at his residence located at 10334 Bernadette Drive in Evansville, Indiana. Mr. Reinhart stated he noticed his trees and ornamentals including a holly tree, dawn redwood tree, and Cyprus tree on his property showing signs of what he believed to be herbicide injury.
3. During my on-site investigation I did the following:
  - a. Looked for, and found one potential source of herbicide application in the area. The target field is located to the south and west of Mr. Reinhart's property (See Fig. 5).
  - b. Observed and photographed yellow and brown spots on a holly tree, dawn redwood trees, cyprus trees, and an assortment of ornamental plants throughout the property (See Fig. 1, 2, and 3).
  - c. Collected samples of injured holly tree, dawn redwood tree, and an assortment of ornamental plants from Mr. Reinhart's property for assessment by the Purdue Plant & Pest Diagnostic Laboratory (PPDDL)
  - d. Collected composite soil samples from the target field. Collected composite vegetation and soil samples from Mr. Reinhart's property (See Fig. 5). The residue samples were submitted to the OISC Residue Laboratory for analysis.





Figure 1



Figure 2



Figure 3



Figure 4

- Fig. 1 is a holly tree with yellow leaf tips and yellow spotting.
- Fig. 2 is a dawn redwood tree with yellow and brown leaf tips.
- Fig. 3 is an ornamental plant with yellow and brown spotting.
- Fig. 4 is looking south from the complainants property toward the target field.





Fig. 5

- Fig. 5 is an aerial diagram including wind data, property lines, and where soil and vegetation samples were taken from.
4. On June 29, 2018, I contacted Steve Oeth of Oeth Farm Services Inc. I advised Mr. Oeth I was a Pesticide Investigator for OISC and of the complaint I was investigating. Mr. Oeth confirmed Oeth Farm Services Inc. made pesticide applications to several fields surrounding the complainant's property. I advised Mr. Oeth I would be sending him via email a Pesticide Investigation Inquiry for the applicator to complete and return to me.
5. On July 13, 2018, I received a completed Pesticide Investigation Inquiry from Mr. Oeth which indicated the following:
  - a. Certified Applicator: Rusty L. Oeth
  - b. Application Date and Time: May 11, 2018, 8:00am to 4:00pm

- c. Pesticide Applied:  
Para-Shot 3.0, EPA Reg. #83529-27, Active=Paraquat, 2.5pt/Acre  
Anthem Maxx, EPA Reg. #279-3468, Active=Pyroxasulfone, Fluthiacet-Methyl 3oz/Acre  
Metrixx SC, EPA Reg. #83529-46, Active=Metribuzin, 6oz/Acre  
Sharpen, EPA Reg. #7969-278, Active=Saflufenacil
- d. Adjuvants: Prime Source MSO Select
- e. Target Field Location and Size: Off HWY 41, 198 acres
- f. Pre- or Post- Emergent Application: Pre
- g. Wind Direction at Boom Height: Start- S, End- S
- h. Wind Speed at Boom Height: Start- 8 mph, End- 14 mph
- i. Nozzle and Pressure: T-Jet AITTI60 11004, 50 to 60psi
- j. Boom Height: 24 to 30 inches

6. On Weather history data was obtained at [www.wunderground.com](http://www.wunderground.com) from the three closest official weather station to the application site. The locations and weather data for May 11, 2018 follow:

- Evansville Regional Airport (KEVV) located in Evansville, Indiana 2 miles to the south of the application site:

Date	Time	Temperature	Wind Direction	Wind Speed	Wind Gust
5/11/2018	7:54 AM	72 F	SSW	9 MPH	0 MPH
5/11/2018	8:54 AM	75 F	SSW	14 MPH	0 MPH
5/11/2018	9:54 AM	78 F	SW	13 MPH	0 MPH
5/11/2018	10:54 AM	81 F	WSW	16 MPH	29 MPH
5/11/2018	11:54 AM	83 F	WSW	17 MPH	26 MPH
5/11/2018	12:54 PM	84 F	SW	14 MPH	22 MPH
5/11/2018	1:54 PM	86 F	SW	16 MPH	0 MPH
5/11/2018	2:54 PM	86 F	SSW	15 MPH	23 MPH
5/11/2018	3:54 PM	88 F	SW	18 MPH	28 MPH

- Owensboro-Daviess County Regional Airport (KOWB) located in Owensboro, Kentucky 30 miles to the southeast of the application site:


Date	Time	Temperature	Wind Direction	Wind Speed	Wind Gust
5/11/2018	7:56 AM	73 F	S	6 MPH	0 MPH
5/11/2018	8:56 AM	77 F	SSW	9 MPH	0 MPH
5/11/2018	9:56 AM	80 F	WSW	13 MPH	0 MPH
5/11/2018	10:56 AM	82 F	WSW	20 MPH	0 MPH
5/11/2018	11:56 AM	84 F	W	16 MPH	23 MPH
5/11/2018	12:56 PM	85 F	SW	14 MPH	0 MPH
5/11/2018	1:56 PM	86 F	WSW	13 MPH	0 MPH
5/11/2018	2:56 PM	87 F	SSW	16 MPH	0 MPH
5/11/2018	3:56 PM	87 F	WSW	20 MPH	26 MPH

- Huntingburg Regional Airport (KHNB) located in Holland, Indiana 34 miles to the northeast of the application site:




Date	Time	Temperature	Wind Direction	Wind Speed	Wind Gust
5/11/2018	7:55 AM	67 F	S	8 MPH	0 MPH
5/11/2018	8:55 AM	74 F	SSW	10 MPH	0 MPH
5/11/2018	9:55 AM	78 F	WSW	15 MPH	20 MPH
5/11/2018	10:55 AM	82 F	WSW	15 MPH	23 MPH
5/11/2018	11:55 AM	83 F	WSW	15 MPH	29 MPH
5/11/2018	12:55 PM	85 F	WSW	17 MPH	24 MPH
5/11/2018	1:55 PM	86 F	W	18 MPH	26 MPH
5/11/2018	2:55 PM	87 F	WSW	13 MPH	23 MPH
5/11/2018	3:55 PM	89 F	SW	17 MPH	22 MPH

- The triangulated wind data from the Evansville Regional Airport (KEVV) Owensboro-Daviess County Regional Airport (KOWB) and Huntingburg Regional Airport (KHNB) indicate the wind speed during the application was between 6 mph and 20 mph with gusts up to 29 mph out of the south and west.
- The PPPDL report stated, *“No primary infectious fungal or bacterial disease was consistently confirmed to be associated with the symptoms of concern (spotting/twig dieback) on the sample submitted. Symptoms are not typical of damage caused by exposure to glyphosate or atrazine (listed on the submission form).”*
- The OISC Residue Laboratory analyzed the soil and vegetation samples collected for Paraquat, Pyroxasulfone, Metribuzin, and Saflufenacil and reported the following:

Case #	2018/0647			Investigator		N. Davis
Sample #	Sample Description	Amount of Analyte (ppb)				
		Matrix	Paraquat	Pyroxasulfone	Metribuzin	Saflufenacil
2018-39-9560	Comparative control composite veg	Vegetation	15.3	BDL	BDL	BDL
2018-39-9561	Comparative control composite soil	Soil	BDL	BDL	BDL	BDL
2018-39-9562	Target field composite soil	Soil	3440	2.59	BQL	0.676
2018-39-9563	Off target composite veg	Vegetation	154	BDL	32.0	BQL
2018-39-9564	Off target composite soil	Soil	236	BDL	BDL	BDL
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC						
LOQ (ppb)	Soil		6	0.3	0.3	0.3
LOQ (ppb)	Vegetation		6	3	0.3	3
Signature					Date	01/25/19

10. The OISC Residue Laboratory analysis detected Paraquat and Metribuzin in the off target composite vegetation samples. Saflufenacil was also detected in the off target composite vegetation samples, but was below quantification limits. Paraquat was also detected in the off target composite soil sample.
11. According to the triangulated wind data, wind speed during the application was between 6 mph and 20 mph with gusts up to 29 mph out of the south and west blowing towards the complainant's property. The label for *Metrixx SC*, EPA Reg. #83529-46, Active Ingredient = *Metribuzin* states: **"Only apply METRIX SC when the potential for drift to adjacent sensitive areas (e.g., residential areas, bodies of water, known habitat for threatened or endangered species, non-target crops) is minimal (e.g., when wind is blowing away from the sensitive areas)"**.
12. The label for Para-Shot 3.0 states, *"Do not apply when weather conditions favor drift from treated areas."* *"Do not use around home gardens, schools, recreational parks, or playgrounds."*

  
Nathan J. Davis  
Investigator

Date: January 29, 2019

**Disposition:** Rusty L. Oeth was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed for this application under case number 2018/0650. Consideration was given to the fact this was his first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

  
George N. Saxton  
Compliance Officer

Draft Date: March 11, 2019  
Final Date: April 24, 2019

## CASE SUMMARY

Case #2018/0650

**Complainant:** Lindsay Halbig  
845 Raphael Drive  
Evansville, Indiana 47725  
812-774-8418

**Respondent:** Rusty L. Oeth                      Certified Applicator  
Oeth Farm Services, Inc.              Licensed Business  
10866 Elberfeld Road  
Elberfeld, Indiana 47631  
812-589-2734

1. On June 16, 2018, Lindsay Halbig spoke with Joe Becovitz, Pesticide Program Specialist for the Office of Indiana State Chemist (OISC) regarding an agricultural drift. Ms. Halbig stated she noticed someone spraying a neighboring farm field on May 11, 2018 when it was windy. The next day she noticed brown spots on her ornamentals. She stated her husband took photos of the injured plants on May 13, 2018.
2. On June 4, 2018, I met with the complainant Lindsay Halbig at her residence located at 845 Raphael Drive in Evansville, Indiana. Mrs. Halbig stated on May 11, 2018 she observed someone spraying the field to the south of her residence. Further, Mrs. Halbig stated she could see the spray mist moving across her property. Mrs. Halbig stated days after the application she noticed trees and ornamentals on her property showing signs of what she believed to be herbicide injury.
3. During my on-site investigation I did the following:
  - a. Looked for, and found one potential source of herbicide application in the area. The target field is located to the south and west of Mrs. Halbig's property (See Fig. 5).
  - b. Observed and photographed yellow and brown spots on a tree in the front yard and on an assortment of ornamental plants throughout the property (See Fig. 1, 2, and 3).
  - c. Collected samples of the injured tree and an assortment of ornamental plants from Mrs. Halbig's property for assessment by the Purdue Plant & Pest Diagnostic Laboratory (PPDDL)
  - d. Collected composite soil samples from the target field. Collected composite vegetation and soil samples from Mr. Halbig's property (See Fig. 5). The residue samples were submitted to the OISC Residue Laboratory for analysis.



Fig. 1



Fig. 2



Fig. 3



Fig. 4

- Fig. 1 is an ornamental plant with yellow and brown spotting.
- Fig. 2 is an ornamental plant with yellow and brown spotting.
- Fig. 3 is a tree with brown spotting and holes in the leaves.
- Fig. 4 is looking south from the complainants property toward the target field.



Fig. 5

- Fig. 5 is an aerial diagram including wind data, property lines, and where soil and vegetation samples were taken from.
4. On June 29, 2018, I contacted Steve Oeth of Oeth Farm Services Inc. I advised Mr. Oeth I was a Pesticide Investigator for OISC and of the complaint I was investigating. Mr. Oeth confirmed Oeth Farm Services Inc. made pesticide applications to several fields surrounding the complainant's property. I advised Mr. Oeth I would be sending him via email a Pesticide Investigation Inquiry for the applicator to complete and return to me.
  5. On July 13, 2018, I received a completed Pesticide Investigation Inquiry from Mr. Oeth which indicated the following:

- a. Certified Applicator: Rusty L. Oeth
- b. Application Date and Time: May 11, 2018, 8:00am to 4:00pm
- c. Pesticide Applied:  
Para-Shot 3.0, EPA Reg. #83529-27, Active=Paraquat, 2.5pt/Acre  
Anthem Maxx, EPA Reg. #279-3468, Active=Pyroxasulfone, Fluthiacet-Methyl 3oz/Acre  
Metrixx SC, EPA Reg. #83529-46, Active=Metribuzin, 6oz/Acre  
Sharpen, EPA Reg. #7969-278, Active=Saflufenacil
- d. Adjuvants: Prime Source MSO Select
- e. Target Field Location and Size: Off HWY 41, 198 acres
- f. Pre- or Post- Emergent Application: Pre
- g. Wind Direction at Boom Height: Start- S, End- S
- h. Wind Speed at Boom Height: Start- 8 mph, End- 14 mph
- i. Nozzle and Pressure: T-Jet AITTTJ60 11004, 50 to 60psi
- j. Boom Height: 24 to 30 inches

6. On Weather history data was obtained at [www.wunderground.com](http://www.wunderground.com) from the three closest official weather station to the application site. The locations and weather data for May 11, 2018 follow:

- Evansville Regional Airport (KEVV) located in Evansville, Indiana 2 miles to the south of the application site:

Date	Time	Temperature	Wind Direction	Wind Speed	Wind Gust
5/11/2018	7:54 AM	72 F	SSW	9 MPH	0 MPH
5/11/2018	8:54 AM	75 F	SSW	14 MPH	0 MPH
5/11/2018	9:54 AM	78 F	SW	13 MPH	0 MPH
5/11/2018	10:54 AM	81 F	WSW	16 MPH	29 MPH
5/11/2018	11:54 AM	83 F	WSW	17 MPH	26 MPH
5/11/2018	12:54 PM	84 F	SW	14 MPH	22 MPH
5/11/2018	1:54 PM	86 F	SW	16 MPH	0 MPH
5/11/2018	2:54 PM	86 F	SSW	15 MPH	23 MPH
5/11/2018	3:54 PM	88 F	SW	18 MPH	28 MPH

- Owensboro-Daviess County Regional Airport (KOWB) located in Owensboro, Kentucky 30 miles to the southeast of the application site:


Date	Time	Temperature	Wind Direction	Wind Speed	Wind Gust
5/11/2018	7:56 AM	73 F	S	6 MPH	0 MPH
5/11/2018	8:56 AM	77 F	SSW	9 MPH	0 MPH
5/11/2018	9:56 AM	80 F	WSW	13 MPH	0 MPH
5/11/2018	10:56 AM	82 F	WSW	20 MPH	0 MPH
5/11/2018	11:56 AM	84 F	W	16 MPH	23 MPH
5/11/2018	12:56 PM	85 F	SW	14 MPH	0 MPH
5/11/2018	1:56 PM	86 F	WSW	13 MPH	0 MPH
5/11/2018	2:56 PM	87 F	SSW	16 MPH	0 MPH
5/11/2018	3:56 PM	87 F	WSW	20 MPH	26 MPH




- Huntingburg Regional Airport (KHNB) located in Holland, Indiana 34 miles to the northeast of the application site:



Date	Time	Temperature	Wind Direction	Wind Speed	Wind Gust
5/11/2018	7:55 AM	67 F	S	8 MPH	0 MPH
5/11/2018	8:55 AM	74 F	SSW	10 MPH	0 MPH
5/11/2018	9:55 AM	78 F	WSW	15 MPH	20 MPH
5/11/2018	10:55 AM	82 F	WSW	15 MPH	23 MPH
5/11/2018	11:55 AM	83 F	WSW	15 MPH	29 MPH
5/11/2018	12:55 PM	85 F	WSW	17 MPH	24 MPH
5/11/2018	1:55 PM	86 F	W	18 MPH	26 MPH
5/11/2018	2:55 PM	87 F	WSW	13 MPH	23 MPH
5/11/2018	3:55 PM	89 F	SW	17 MPH	22 MPH

- The triangulated wind data from the Evansville Regional Airport (KEVV) Owensboro-Daviess County Regional Airport (KOWB) and Huntingburg Regional Airport (KHNB) indicate the wind speed during the application was between 6 mph and 20 mph with gusts up to 29 mph out of the south and west.
- The PPPDL report stated: *No primary infectious fungal or bacterial disease was consistently confirmed to be associated with the symptoms of concern (spotting/twig dieback) on the sample submitted. Symptoms are not typical of damage caused by exposure to glyphosate or atrazine (listed on the submission form).*
- The OISC Residue Laboratory analyzed the soil and vegetation samples collected for Paraquat, Pyroxasulfone, Metribuzin, and Saflufenacil and reported the following:

Case #	2018/0650			Investigator		N. Davis
Sample #	Sample Description	Amount of Analyte (ppb)				
		Matrix	Paraquat	Pyroxasulfone	Metribuzin	Saflufenacil
2018-39-9565	Comparable control composite veg	Vegetation	59.3	BDL	BDL	BDL
2018-39-9566	Comparable control composite soil	Soil	BDL	BDL	BDL	BDL
2018-39-9567	Target field composite soil	Soil	2805	1.00	BQL	BQL
2018-39-9568	Off target composite veg	Vegetation	36.6	BDL	7.85	BQL
2018-39-9569	Off target composite soil	Soil	385	BDL	BDL	BDL
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC						
LOQ (ppb)	Soil		6	0.3	0.3	0.3
LOQ (ppb)	Vegetation		6	3	0.3	3
Signature					Date	01/25/19

10. The OISC Residue Laboratory analysis detected Paraquat and Metribuzin in the off target composite vegetation samples. Saflufenacil was also detected in the off target composite vegetation samples, but was below quantification limits. Paraquat was also detected in the off target composite soil sample.
11. According to the triangulated wind data, wind speed during the application was between 6 mph and 20 mph with gusts up to 29 mph out of the south and west blowing towards the complainant's property. The label for *Metrixx SC*, EPA Reg. #83529-46, Active Ingredient = Metribuzin states: ***"Only apply METRIX SC when the potential for drift to adjacent sensitive areas (e.g., residential areas, bodies of water, known habitat for threatened or endangered species, non-target crops) is minimal (e.g., when wind is blowing away from the sensitive areas)"***.
12. The label for Para-Shot 3.0 states: *"Do not apply when weather conditions favor drift from treated areas."*  
*"Do not use around home gardens, schools, recreational parks, or playgrounds."*

  
Nathan J. Davis  
Investigator

Date: January 29, 2019

**Disposition:** Rusty L. Oeth was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was his first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

  
George N. Saxton  
Compliance Officer

Draft Date: March 4, 2019  
Final Date: April 12, 2019

## CASE SUMMARY

Case #2018/0655

**Complainant:** Cathy Mattocks  
8100 S 1000 W  
Rensselaer, IN 47978  
219-819-1213

**Respondent:** Doug Koebecke  
351 N. Fargo Drive  
Rensselaer, IN 47978  
219-863-8776

Licensed Applicator

1. On June 19, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report a suspected herbicide application to a neighboring farm field drifted onto her trees. She stated an agent from the Cooperative Extension Service had been to her home and also stated it appears to be chemical drift.
2. On June 22, 2018, I met with Cathy Mattocks at her residence. She led me around her property to show me the vegetation she believed was injured. The majority of the injury was concentrated at the west of her property closest to the bean field farmed by Doug Koebecke. It also appeared that injury was caused by a direct application due to the uniformity and total amount of injury seen. The injured vegetation can be seen in Figures 1-3.



Figure 1



Figure 2



Figure 3

3. I collected vegetative samples from the west side of the property (spruce needles), middle of the property (tree leaves), and a control (weeds). I collected a soil sample from Mr. Koebecke's field. These samples were collected for analysis by the OISC residue lab. I also collected a spruce sample for analysis by Purdue Plant and Pest Diagnostic Lab (PPDL). The location of these samples can be seen in Figure 4.



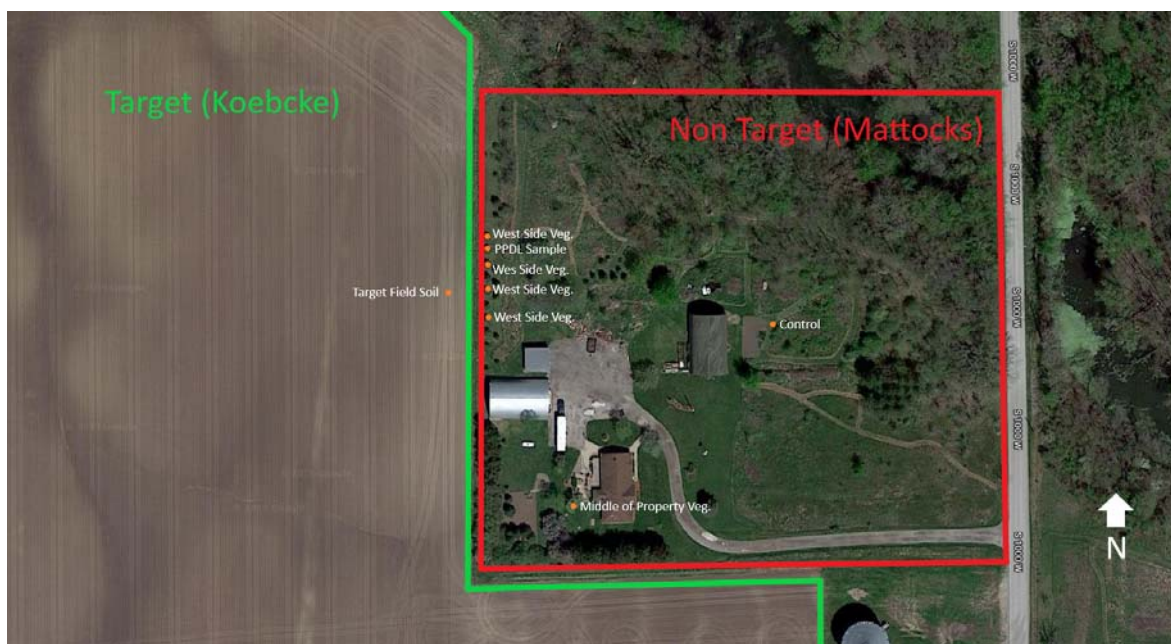


Figure 4

4. On July 9, 2018, I received a Pesticide Investigation Inquiry (PII) from Mr. Koebecke. He stated that the application was made the on June 6, 2018 between 1:00 PM and 3:00 PM. The application consisted of Engenia (EPA Reg. #7969-345, active ingredient dicamba) and Roundup PowerMax (EPA Reg. # 524-549, active ingredient glyphosate). He also stated the winds were 4 MPH from the south-southeast at the start of the application and 4 MPH from the southeast at the end of the application. Mr. Koebecke did not list the dates that he checked the DriftWatch or the registrant's websites.
5. On June 25, 2018, I received a report from PPDL that stated, *"There is most likely damage from glyphosate."*
6. The lab results from the OISC residue lab are as follows:


Case # 2018/0655			Investigator: A. Kreider				
Sample #	Sample Description	Sample Matrix	Amount Found (ppb)				
			5-OH Dicamba	DCSA	Dicamba	Glyphosate	AMPA
2018-54-0026	West side veg	Vegetation	BDL	BQL	9.87	24900	203
2018-54-0027	Middle of property veg	Vegetation	BDL	0.829	15.2	176	BDL
2018-54-0028	Control	Vegetation	BDL	0.267	2.87	BDL	BDL
2018-54-0029	Target field soil	Soil	BDL	84.0	2.59	327	422
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC							
LOQ (ppb)	Vegetation		0.4	0.2	0.2	5	125
LOQ (ppb)	Soil		0.4	0.2	0.2	10	50
Signature				Date	01/15/19		

7. The Engenia label states, *“Before making an application, the applicator must survey the application site for neighboring sensitive areas. The applicator must also consult sensitive crop registries to locate nearby sensitive areas where available.”* It also states that, **“DO NOT** tank mix any product with **Engenia** unless: You check the list of EPA approved products for use with **Engenia** at [www.engeniatankmix.com](http://www.engeniatankmix.com) no more than 7 days before applying **Engenia**.”
8. The Roundup PowerMax label states *“Do not allow the herbicide solution to mist, drip, drift, or splash onto desirable vegetation, as small quantities of this product can cause severe damage or destruction to the crop, plants or other vegetation on which application was not intended.”*
9. The lab results, along with the PPDL report, support the decision that the injury seen on Mrs. Mattocks’ property was the result of the application made by Mr. Koebcke. Mr. Koebcke also failed to check DriftWatch and the registrant’s website for approved tank mix partners 7 days prior to his application.

  
Aaron P. Kreider  
Investigator

Date: March 20, 2019

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

  
George N. Saxton  
Compliance Officer

Draft Date: April 24, 2019  
Final Date: June 4, 2019

## CASE SUMMARY

Case #2018/0657

**Complainant:** Brett Middlesworth  
4711 W. 200 S.  
Marion, Indiana 46953  
765-661-6043

<b>Respondent:</b>	Doug Morrow	Private Applicator
	Justin McGee	Unlicensed Applicator
	5411 W. 125 S.	
	Marion, Indiana 46952	
	219-819-9618	

1. On June 19, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
2. On June 20, 2018, I met with the complainant to conduct an on-site physical investigation of the alleged off-target pesticide movement incident reported to OISC. The complainant advised me that he believed his non-dicamba tolerant (DT) beans, planted on May 1, 2018, had been damaged by a pesticide application made by Mr. Morrow to a nearby soybean field.
3. During my on-site investigation I did the following:
  - a) Looked for and discovered there was one potential dicamba application made in the area of the impacted site.
  - b) Observed and photographed what I believed to be gradient symptoms clearly emanating from the suspected source throughout the complainant's non-target, non-DT soybean field (figures 1- 3) located to the east of the target field.
  - c) Collected samples for chemical analysis by the OISC Pesticide Residue Laboratory from the following areas:
    - i) Impacted soybean plants from complainant's non-target soybean field;
    - ii) Soil from target field
  - d) Made a diagram/map of the investigation site, depicting locations of relevant fields, roads, structures, and other landmarks (figure 4).



Figure 1



Figure 2



Figure 3



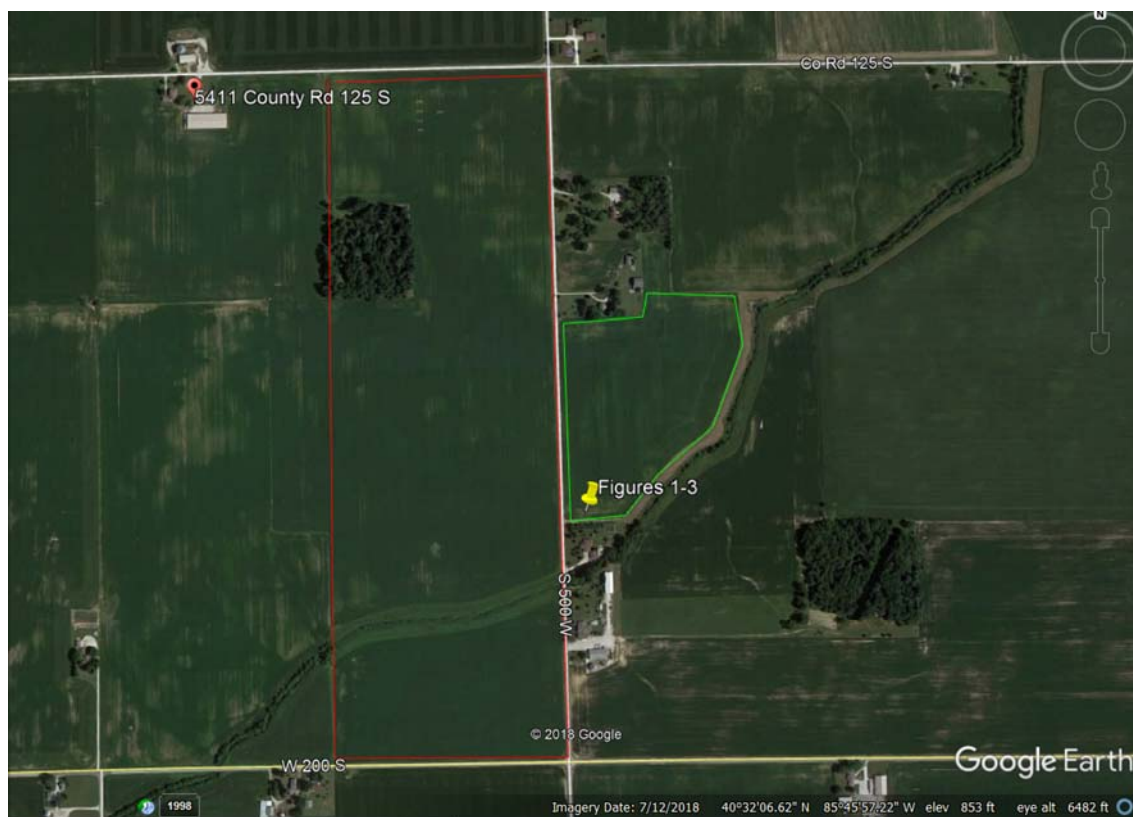


Figure 4

\*Figure 4 is a Google Earth Image of the approximate area of the target field outlined in Red and the complainant's field outlined in Green. The exact target field boundaries were not provided by the respondent.

\*The yellow marker is the approximate location of the photographs in Figures 1-3 of the complainant's damaged soybeans.

4. I collected written records from the applicator Mr. McGee. The written records and statements addressed the below items as follows:

Target Field

- a) Application date & time: June 2, 2018; 11:40 am to 12:30 pm.
- b) Target field: 92 acres beans, Corner 125w/500 west/west side. Pesticides: FeXapan EPA #352-913, Mad Dog EPA #34704-929.
- c) Application rate: Fexapan 22 oz, Round Up 22oz
- d) Adjuvants: Strike Force
- e) Nozzles: TJet TTI04 No Psi Given
- f) Boom height: 24"
- g) Ground speed: 11 mph
- h) Winds: 6mph NE at beginning, 6mph NW at end
- i) Applicator: Justin McGee
- j) Certified supervisor: Doug Morrow
- k) Left a 110' untreated buffer next to non-target site: not applicable
- l) Checked registrant's web site before application: not applicable
- m) Checked Field Watch before application: not applicable
- n) Surveyed application site before application: not applicable

5. I searched wind data from [www.weatherunderground.com](http://www.weatherunderground.com) for zip code 47653 in Marion, Indiana for the reported date of application. The results of that search indicated that wind speeds and directions during the application were as follows:

**Target Field on June 2, 2018**

As recorded at Marion Municipal Airport:

-Winds: Calm to NE at 7mph

11:35 AM	0 ° F	0 ° F	0 %	CALM	0 mph	0 mph
11:55 AM	0 ° F	0 ° F	0 %	CALM	0 mph	0 mph
12:15 PM	0 ° F	0 ° F	0 %	NE	7 mph	0 mph
12:35 PM	0 ° F	0 ° F	0 %	CALM	0 mph	0 mph

6. The report from the Purdue Plant and Pest Diagnostic Laboratory states:

*“Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba.”*

7. The label for FeXapan EPA#352-913 states:

Page 3, *“11. Nozzle and Pressure: Record of the spray nozzle manufacturer/brand, type, orifice size, and operating pressure used during each application of this product (See the SPRAYER SETUUP section of this label for information on nozzles and pressures.)*

Page 9, *“DO NOT APPLY this product when the wind is blowing toward adjacent non-dicamba tolerant susceptible crops; this includes **NON-Dicamba Tolerant Soybean and Cotton.**”*

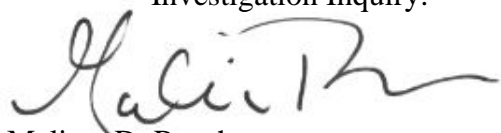
Page 9 *“Do not allow herbicide solution to mist, drip, drift or splash onto desirable vegetation because severe injury or destruction to desirable broadleaf plants could result.”*

Page 6, *“The applicator must check the list of tested products found not to adversely affect the offsite movement potential of DuPont FeXapan herbicide Plus VaporGrip Technology at [www.fexapanapplicationrequirements.dupont.com](http://www.fexapanapplicationrequirements.dupont.com) no more than 7 days before applying DuPont FeXapan herbicide Plus VaporGrip Technology.”*

Page 3, *“Susceptible Crops Awareness: Record that a sensitive crop registry was consulted: or document surveying neighboring fields for any susceptible crops prior to application.”*

8. There appears to be a violation in this case based on the following:

- The information provided on the Pesticide Investigation Inquiry indicates the wind was blowing toward a sensitive crop at the end of the application and there was a gradient pattern of herbicide exposure symptoms.
- The applicator failed to provide complete records as requested in the Pesticide Investigation Inquiry.



Melissa D. Rosch  
Investigator

Date: December 20, 2018

**Disposition:** Doug Morrow was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was already assessed for this spray application on case number 2018/0715.

Based on the evidence collected in this investigation, it has been determined that Doug Morrow failed to comply with both the off-target drift restrictions and the drift management restrictions on the label for the herbicide FeXapan.

A handwritten signature in black ink, appearing to read "George N. Saxton".

George N. Saxton  
Compliance Officer

Draft Date: February 21, 2019

Final Date: April 12, 2019



## CASE SUMMARY

Case #2018/0663

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

**Respondent:** Seth Brown  
Professional Edge Lawn Care LLC  
6617 E 250 S  
Franklin, Indiana 46131  
317-738-9370

Unlicensed Applicator  
Unlicensed Business

1. On June 20, 2018, the Certification & Licensing Section contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that the pesticide certification of Seth Brown, the only certified applicator for the company, had expired December 31, 2017, therefore invalidating the pesticide business license of the company.
2. On September 5, 2018, I met with Seth Brown, owner, of Professional Edge Lawn Care LLC. I informed him of his status with OISC and then I asked to see his records from applications he had made during 2018. There was a stack starting on April 6, 2018 and ending on August 22, 2018. I offered to allow Mr. Brown to keep his records so long as he emailed me copies of all his records. At that time I also issued Mr. Brown an Action Order to stop making fertilizer and pesticide applications until his license was up to date.
3. On October 5, 2018, I left a voicemail for Mr. Brown. It stated that I would give him until October 9, 2018 to provide me with his records or he would not receive any benefit of cooperation and could be subject to the full fine amount.
4. On October 9, 2018, I received the 2018 application records from Mr. Brown via mail. Those records indicated that on 26 different days, he made pesticide and fertilizer applications without a pesticide business license. The dates are as follows:

April 6, 2018  
April 27, 2018  
April 30, 2018  
May 1, 2018  
May 2, 2018  
May 3, 2018  
May 4, 2018  
May 7, 2018  
May 8, 2018

May 9, 2018  
May 10, 2018  
May 11, 2018  
May 14, 2018  
June 14, 2018  
July 2, 2018  
July 9, 2018  
August 3, 2018  
August 6, 2018

August 7, 2018  
August 8, 2018  
August 15, 2018  
August 22, 2018  
August 27, 2018  
August 29, 2018  
August 30, 2018  
September 4, 2018

5. Although Mr. Brown has had a pesticide business license since April of 2008, he has failed to meet the proper requirements to maintain a license for 2018. As of October 11, 2018, Mr. Brown still had not become properly licensed.



Aaron P. Kreider  
Investigator

Date: October 11, 2018

**Disposition:** Seth Brown was cited for twenty-six (26) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides/fertilizer for hire without having a pesticide business license. A civil penalty in the amount of \$6,500.00 (26 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$2,600.00. Consideration was given to the fact Mr. Brown cooperated during the investigation; there was no previous history of similar violations; no documented potential for harm or damage and no restricted use pesticides were involved.



George N. Saxton  
Compliance Officer

Draft Date: November 27, 2018

Final Date: March 18, 2019

## CASE SUMMARY

Case #2018/0670

**Complainant:** Courtney Hamilton/ Mike Poland  
1503 W. State Road 26  
Boswell, Indiana 47921  
765-404-9273

**Respondent:** Andy Hardy  
Wright Farms  
10858 W. 1150 S.  
Covington, Indiana 47932  
765-793-4957

**Private Applicator**

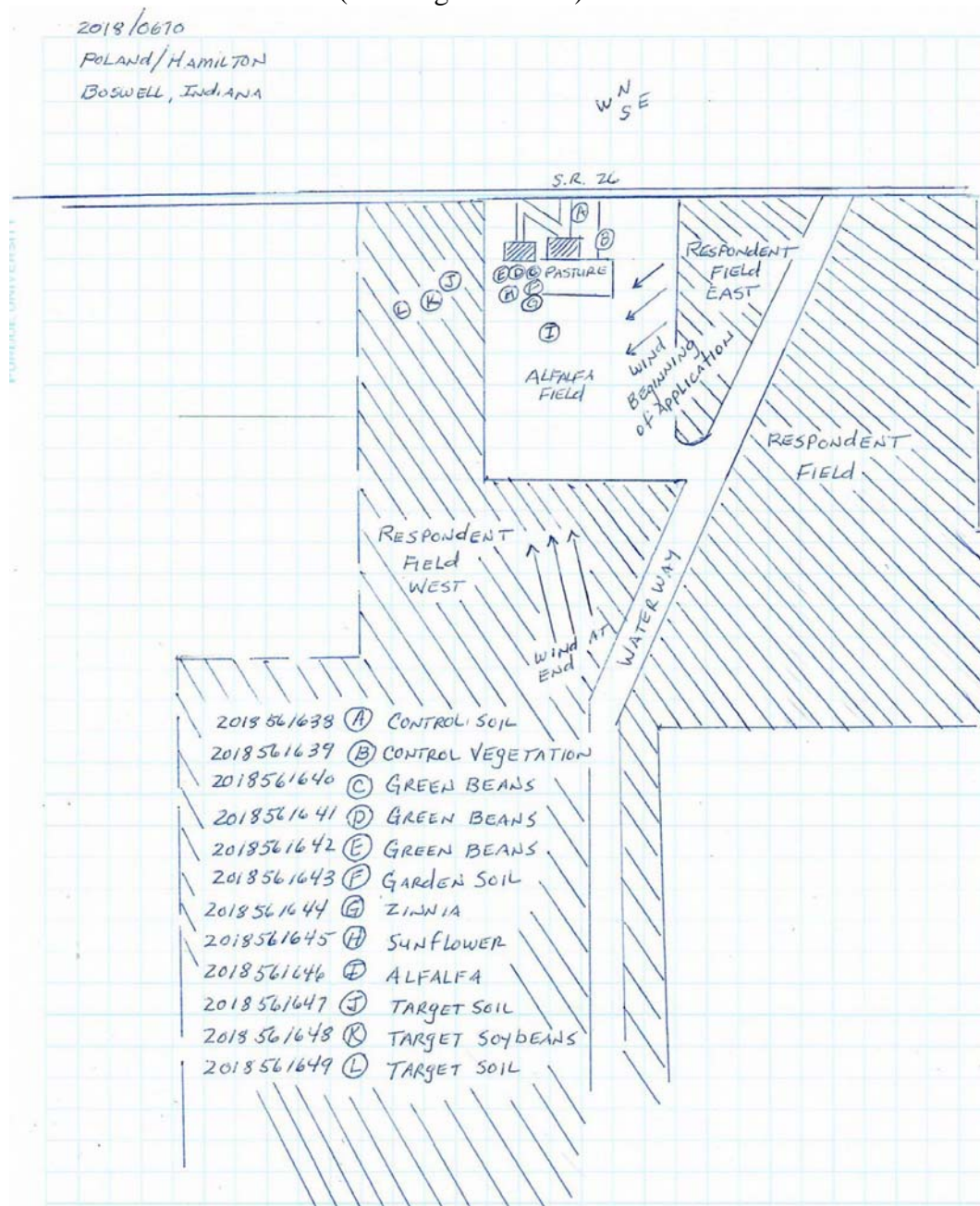
1. On June 20, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected agricultural pesticide drift to her alfalfa and garden.
2. On June 27, 2018, I met with one of the complainant's, Mike Poland. Mr. Poland reiterated he believed the neighboring farmer applied a pesticide that drifted on his property. He believed the farmer to be one of the Wright brothers.
3. I checked the complainant's garden for signs of pesticide exposure symptoms. I did observe some exposure symptoms of leaf bleaching. Other leaf samples exhibited dark spots and necrosis. I obtained garden plant samples for submission to the Purdue Plant and Pest Diagnostic Lab (PPDDL) for analysis. (See photos below)



4. I placed the following environmental samples in Mylar bags for submission to the OISC Residue Lab for analysis:

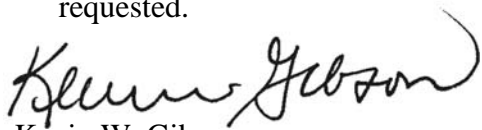
- |                                      |                                 |
|--------------------------------------|---------------------------------|
| • 2018561638 Control soil            | 2018561639 Control vegetation   |
| • 2018561640 Green beans 38 yds.     | 2018561641 Green beans 28 yds.  |
| • 2018561642 Green beans 16 yds.     | 2018561643 Garden soil 38 yds.  |
| • 2018561644 Zinnia 38 yds.          | 2018561645 Sunflower 16 yds.    |
| • 2018561646 Alfalfa 38 yds.         | 2018561647 Target soil 10 yds.  |
| • 2018561648 Target soybeans 10 yds. | 2018561649 Target soil 100 yds. |

(See diagram below)



5. I made contact with Keith Wright of the Wright Agri-group. He confirmed one of his employees made a pesticide application to the field west of the complainant's property. Mr. Wright agreed to submit a completed Pesticide Investigation Inquiry (PII) for the application.

6. I received the following information from PPPDL: *“Submitted plants show bleaching and chlorosis on the margins of new leaves. This is indicative of injury from a HPPD-inhibiting herbicide like mesotrione or topramezone. It can also be indicative of injury from glyphosate”* and *“As per the diagnosis above, a number of different fungal and bacterial diseases were found to be associated with the dark spots and blotches on the various leaf samples submitted”*.
7. I received a completed PII from Andy Hardy of Wright Agri-group. According to the PII, Mr. Hardy made a pesticide application of **Roundup Powermax** (EPA #524-537; active ingredient: glyphosate), **Engenia** (EPA #7969-345; active ingredient: dicamba) and **Cobra** (EPA #59639-34; active ingredient: lactofen) on June 15, 2018 between 12:18pm and 3:10pm. He provided wind data from **“Pocket Spray Smart”** on his cell phone. At the beginning of his application he recorded the wind blowing at 3.8 miles per hour in a south-southwesterly direction. (See diagram above). At the end of the application he recorded the wind blowing at 7.0 miles per hour in a north-northeasterly direction (See diagram above). I confirmed the applicator’s weather data at [www.wunderground.com](http://www.wunderground.com). In further review of the PII, the applicator completed the record keeping elements required by the **Engenia** label.
8. I spoke to Mr. Hardy about his application. Mr. Hardy told me he began his application of **Engenia** tank mix on the east side of the complainant’s property when the wind was blowing in a south-southeasterly direction toward the complainant’s property. He said he worked toward the south before he went back to the north to begin making the application on the west side of the complainant’s property. I told him based on his wind information at the beginning of his application he made his application when the wind was blowing toward the complainant’s property. He said at the angle of which the wind was blowing he didn’t believe it would have affected the complainant’s garden. (See diagram above)
9. The label for **Engenia** reads in part, **“DO NOT apply when wind is blowing in the direction of neighboring sensitive crops”**.
10. After reviewing all available information, Mr. Hardy is in violation of the **Engenia** label when he applied it while the wind was blowing toward the complainant’s property (as recorded by Mr. Hardy on the PII and confirmed at [www.wunderground.com](http://www.wunderground.com)). Therefore, residue analysis was not requested.

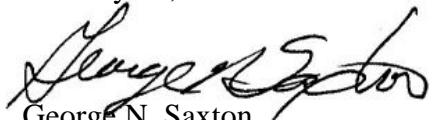


Kevin W. Gibson  
Pesticide Investigator

Date: November 30, 2018

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

As of May 7, 2019, Andy Hardy had not paid the \$100.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty was still owed to OISC. The civil penalty was received on May 20, 2019.



George N. Saxton  
Compliance Officer

Draft Date: May 7, 2019  
Final Date: June 11, 2019



## CASE SUMMARY

Case #2018/0673

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

**Respondent:** Meijer  
Mike Soliday  
17000 Mercantile Blvd.  
Noblesville, IN 46060  
317-774-7909  
Freshline Manager

**Registrant:** Greenerways LLC  
668 Stony Hill Road, Suite 143  
Yardley, PA 19067  
800-777-1603

1. On June 20, 2018, I performed a routine marketplace inspection at Meijer in Noblesville, Indiana. I spoke with the Freshline Manager Mike Soliday and informed him of the process of the marketplace inspection.
2. Upon completion of the inspection, I located two (2) unregistered pesticide products that were being offered for sale in the Meijer store. I spoke with Sarah Caffery, Pesticide Registration, and she confirmed that the pesticide products were unregistered. The products are as follows:
  - a. DEET Free Bug Repellent, a 25(b)<sup>1</sup> product.
  - b. Mosquito FreeZone, a 25(b) product.
3. I spoke with Mr. Soliday and informed him of the unregistered pesticide products I had located. I informed Mr. Soliday that I would be issuing an Action Order instructing them to remove the remaining 9 bottles of the DEET Free Bug Repellent and 3 packages of the Mosquito Freezone 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. Soliday if he was able to provide me with any information for when the last shipment came to the store. Mr. Soliday was able to have another employee provide me with information that the DEET Free Bug Repellent arrived on June 14, 2018 and the Mosquito FreeZone arrived on April 20, 2018.
4. I then placed the evidentiary samples into a clear plastic evidence bag and sealed it for transport to the formulation lab.

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<sup>1</sup> Minimum Risk Pesticide

5. On June 22, 2018, I delivered the evidentiary sample to the Formulation Lab.



*Garret A. Creason*

Garret A. Creason  
Investigator

Date: June 27, 2018

**Disposition:**


- A. On June 7, 2018, the information was forwarded to the Registration Section for label review.
- B. On July 27, 2018, the label review was complete and revealed the following:
  - a. Deet Free Bug Repellent (spray bottle)
    - i. GWO soap is not an approved inert ingredient;
    - ii. "Liquid Soy Lecithin" ingredient is not on the label;
    - iii. Cannot make public health claims;
    - iv. Organic and chemical free claims must be removed.



b. Mosquito FreeZone (pouch)

- i. "Herbal Extracts" is not an approved label display name;
- ii. Wormwood, mint, angelica root and lemon balm are not approved ingredients;
- iii. Product includes ingredients that are not listed on the label, i.e. wheat flour and FD&C blue dye #1;
- iv. Label cannot make public health claims;
- v. Organic claims must be removed;
- vi. "All Natural" must be removed.

- C. Greenerways LLC was cited for two (2) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that is not registered in the state of Indiana. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed for these violations.
- D. Greenerways LLC was cited for two (2) counts of 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 \$500.00 (2 counts x \$250.00 per count) was assessed for these violations.
- E. As of March 17, 2019, Greenerways LLC had not paid the \$1,000.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC.
- F. On April 15, 2019, the civil penalty of \$1,000.00 was received from Greenerways LLC.

  
George N. Saxton  
Compliance Officer

Draft Date: March 17, 2019  
Final Date: May 2, 2019

## CASE SUMMARY

Case #2018/0679

**Complainant:** Ralph Franz  
22 E. Degonia Road  
Boonville, Indiana 47601  
812-457-0914

**Respondent:** Allen Casson                      Certified Applicator  
DWD Miller Farms LLC              Licensed Business  
10399 Telephone Road  
Chandler, Indiana 47610  
812-430-9145

1. On June 22, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift from dicamba beans to his Liberty Link beans.
2. On July 3, 2018, I met with the complainant Ralph Franz at his soybean field located near the intersection of Franz Road and County Road 325 North in Boonville, Indiana. Mr. Franz stated he noticed his non-dicamba tolerant (non-DT) soybean fields showing symptom of what he believed to be dicamba injury. Mr. Franz stated the soybean field to the west of his non-DT soybean field had a dicamba product applied to it.
3. During my on-site investigation I did the following:
  - a. Looked for, and found one potential source of a growth regulator type herbicide application in the area. The target field is located directly to the west of Mr. Franz's non-DT soybean field across a county road (See Fig. 5).
  - b. Observed and photographed mostly uniform cupping and puckering of leaves on non-DT soybean plants across Mr. Franz's soybean field (See Fig. 1 and 2). Symptoms were visible throughout Mr. Franz's soybean field. Symptoms were notably more severe on the west end of Mr. Franz's field closet to the target field. These symptoms are commonly associated with exposure to a growth-regulator type herbicide such as dicamba. Soybeans in the target field exhibited no symptoms.
  - c. Collected samples of injured soybean plants from Mr. Franz's field for assessment by the Purdue Plant & Pest Diagnostic Laboratory (PPDDL)
  - d. Collected a composite soil sample from the target soybean field. Collected soil and vegetation samples from Mr. Franz's soybean field (See Fig. 5). The residue samples were submitted to the OISC Residue Laboratory for analysis.



Fig. 1



Fig. 2



Fig. 3



Fig. 4

- Fig. 1 is Mr. Franz's non-DT soybeans with cupped/puckered leaves and discolored leaf tips.
- Fig. 2 is Mr. Franz's non-DT soybeans with cupped/puckered leaves and discolored leaf tips.
- Fig. 3 is looking northeast across Mr. Franz's non-DT soybean field.
- Fig. 4 is looking northwest from Mr. Franz's non-DT soybean field towards the target field across the county road.



Fig. 5

- Fig. 5 is an aerial diagram of the fields including wind data, field property lines, and where soil and vegetation samples were taken from.
4. On July 3, 2018, while conducting my on-site investigation the applicator of the target field Allen Casson arrived at the field. I advised Mr. Casson I was a Pesticide Investigator for OISC and the complaint against him. Mr. Casson stated he made an application of Engenia to the soybean field to the west of Mr. Franz's non-DT soybean field. I advised Mr. Casson I would be sending him via email a Pesticide Investigation Inquiry for him to complete and return to me.
  5. On July 10, 2018 I received a completed Pesticide Investigation Inquiry from Mr. Casson which indicated the following:
    - a. Certified Applicator: Allen Casson
    - b. Application Date and Time: June 5, 2018, 2:30pm to 6:30pm
    - c. Pesticide Applied:
      - Engenia, EPA Reg. #7969-345, Active=Dicamba, 12.8oz/Acre
      - Buccaneer 5, EPA Reg. #524-549, Active=Glyphosate, 32oz/Acre
      - Zidua SC, EPA Reg. #7969-338, Active=Pyroxasulfone, 2oz/Acre
      - Buffer:
        - Buccaneer 5, EPA Reg. #524-549, Active=Glyphosate, 32oz/Acre
        - Zidua SC, EPA Reg. #7969-338, Active=Pyroxasulfone, 2oz/Acre
        - Drexel Foma 1.8, EPA Reg. #19713-659, Active=Fomesafen, 2oz/Acre
        - Conditioner Max Select, Dyne Amic



- d. Adjuvants: VaporGard, Dyne-Amic
- e. Target Field Location and Size: Klippel, 110.50 Acres
- f. Pre- or Post- Emergent Application: Post
- g. Wind Direction at Boom Height: Start- NE, End- E
- h. Wind Speed at Boom Height: Start- 6mph, End- 4mph
- i. Nozzle and Pressure: Wilgar DR110-10, 30psi
- j. Boom Height: 24 inches
- k. Downwind Buffer: 180 Feet
- l. Checked Registrants Website before application: Yes, April 15, 2018
- m. Checked DriftWatch before application: Yes, April 15, 2018
- n. Dicamba Mandatory Training Attended: Yes, February 8, 2018 #10723

6. Weather history data was obtained at [www.wunderground.com](http://www.wunderground.com) from the three closest official weather station to the application site. The locations and weather data for June 5, 2018 follows:

- Huntingburg Regional Airport (KHNB) located in Holland, Indiana 17 miles to the northeast of the application site:

Date	Time	Temperature	Wind Direction	Wind Speed	Wind Gust
6/5/2018	1:55 PM	Unavailable	SW	8 MPH	0 MPH
6/5/2018	2:55 PM	Unavailable	W	8 MPH	0 MPH
6/5/2018	3:55 PM	Unavailable	SW	7 MPH	0 MPH
6/5/2018	4:55 PM	Unavailable	W	8 MPH	0 MPH
6/5/2018	5:55 PM	Unavailable	SW	9 MPH	0 MPH
6/5/2018	6:55 PM	82 F	WSW	9 MPH	0 MPH


- Evansville Regional Airport (KEVV) located in Evansville, Indiana 19 miles to the west of the application site:

Date	Time	Temperature	Wind Direction	Wind Speed	Wind Gust
6/5/2018	1:54 PM	81 F	VAR	6 MPH	0 MPH
6/5/2018	2:54 PM	83 F	CALM	0 MPH	0 MPH
6/5/2018	3:54 PM	82 F	WSW	8 MPH	0 MPH
6/5/2018	4:54 PM	83 F	CALM	0 MPH	0 MPH
6/5/2018	5:54 PM	83 F	WNW	6 MPH	0 MPH
6/5/2018	6:54 PM	81 F	W	7 MPH	0 MPH


- Owensboro-Daviess County Regional Airport (KOWB) located in Owensboro, Kentucky 23 miles to the south of the application site:

Date	Time	Temperature	Wind Direction	Wind Speed	Wind Gust
6/5/2018	1:56 PM	81 F	CALM	0 MPH	0 MPH
6/5/2018	2:56 PM	82 F	NW	9 MPH	0 MPH
6/5/2018	3:56 PM	83 F	W	6 MPH	0 MPH
6/5/2018	4:56 PM	83 F	SW	5 MPH	0 MPH
6/5/2018	5:56 PM	83 F	WNW	5 MPH	0 MPH
6/5/2018	6:56 PM	81 F	W	5 MPH	0 MPH

7. The triangulated wind data from the Huntingburg Regional Airport (KHNB), Evansville Regional Airport (KEVV), and Owensboro-Daviess County Regional Airport (KOWB) indicate the wind speed during the application was between 0 mph and 9 mph with no gust varying out of the south and north and constantly out of the west.
8. The PPPDL report stated: *Cupped/puckered leaves with parallel leaf veins and cream or tan colored leaf tips are indicative of injury from dicamba.*
9. The OISC Residue Laboratory analyzed the vegetation samples collected from the field for glyphosate, dicamba, its breakdown products DCSA and 5-OH dicamba, and reported the following:

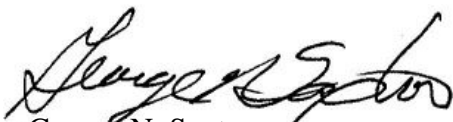
Case #	2018/0679		Investigator				N. Davis	
Sample #	Sample Description	Matrix	Amount of Analyte (ppb)					
			Pyroxasulfone	Dicamba	DCSA	5-OH Dicamba	Glyphosate	AMPA
2018-39-9577	Comparative control composite veg	Vegetation	NA	10.2	BQL	BDL	26.6	BDL
2018-39-9578	Comparative control composite soil	Soil	NA	NA	NA	NA	NA	NA
2018-39-9579	Target field composite soil	Soil	NA	NA	NA	NA	NA	NA
2018-39-9580	Off target Gradient #1 veg closest	Vegetation	NA	0.697	BQL	BDL	10.2	BDL
2018-39-9581	Off target Gradient #1 soil closest	Soil	NA	NA	NA	NA	NA	NA
2018-39-9582	Off target Gradient #2 veg	Vegetation	NA	0.872	BDL	BDL	16.8	BDL
2018-39-9583	Off target Gradient #2 soil	Soil	NA	NA	NA	NA	NA	NA
2018-39-9584	Off target Gradient #3 veg farthest	Vegetation	NA	0.707	BDL	BDL	17.8	BDL
2018-39-9585	Off target Gradient #3 soil farthest	Soil	NA	NA	NA	NA	NA	NA
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC								
LOQ (ppb)	Vegetation		NA	0.4	0.4	2	5	25
Signature						Date		1/15/19

10. The OISC Residue Laboratory analysis detected Dicamba and Glyphosate in all three off target gradient vegetation samples from Mr. Franz's non-DT soybean field.
11. The triangulated wind data from the Huntingburg Regional Airport (KHNB), Evansville Regional Airport (KEVV), and Owensboro-Daviess County Regional Airport (KOWB) indicate the wind speed during the application was between 0 mph and 9 mph (legal application) with no gust. The wind directions varied from the north and south and constantly out of the west blowing towards Mr. Franz's non-DT soybean fields. Since two locations showed legal application wind speeds, the benefit of the doubt was given to the applicator in regards to wind speed, especially since wind direction is usually more reliably corroborated or refuted by various weather data sources than wind speed. Wind speed data can vary significantly based on location and height of weather station.
12. On December 11, 2018, I contacted the respondent Allen Casson in regards to if the wind direction he wrote down on his pesticide investigation inquiry was in terms of the wind was out of that direction or the wind was blowing that direction. Mr. Casson stated the wind direction he wrote down was the direction the wind was blowing during the application.
13. The evidence of the application record and wind data indicate the wind directions varied from the north and south and constantly out of the west blowing towards Mr. Franz's non-DT soybean fields. The label for *Engenia*, EPA Reg. #7969-345, Active Ingredient = *dicamba* states, "**DO NOT apply when wind is blowing in the direction of a neighboring sensitive crop**".
14. Based on the evidence collected in this investigation, it has been determined that Allen Casson failed to comply with the drift management restrictions on the label for the herbicide *Engenia*, EPA Reg. #7969-345, Active Ingredient = *dicamba*. It should also be noted that OISC was not able to determine whether the herbicide moved off-target as the result of drift, application into an inversion, or volatilization at some point after the application, and was not able to clearly identify the source of the off-target movement.

  
Nathan J. Davis  
Investigator

Date: January 16, 2018

**Disposition:** Allen Casson was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed for this violation.

  
George N. Saxton  
Compliance Officer

Draft Date: February 26, 2019  
Final Date: April 12, 2019



## CASE SUMMARY

Case #2018/0687

**Complainant:** Brett Middlesworth  
4711 W 200 S  
Marion, Indiana 46953  
765-661-6043

<b>Respondent:</b>	Ty Breedlove Bruce Horner Co-Alliance 2655 S 600 W Marion, Indiana 46953 765-603-0728	Registered Technician Certified Supervisor Licensed Business
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1. On June 25, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans from the bean field to the east of his residence.
2. On June 26, 2018, I met with the complainant to conduct an on-site physical investigation of the alleged off-target pesticide movement incident reported to OISC. The complainant advised me that he believed his non-DT soybeans had been damaged by an agricultural pesticide application made by the Co-Alliance in Marion, Indiana.
3. During my on-site investigation I did the following:
  - a) Looked for and discovered there were no other potential dicamba applications made in the area adjacent to the impacted site.
  - b) Observed and photographed what I believed to be dicamba exposure symptoms (figure 1) throughout the complainant's non-target, non-DT soybean field (figures 2 & 3) located to the west of the target field. The target field and the complainant's non-target field were separated by a county road.
  - c) Collected soybean plant samples from impacted areas of the complainant's non-target soybean field for visual analysis by the Purdue Plant and Pest Diagnostic Lab (PPDDL).
  - d) Collected samples for chemical analysis by the OISC Pesticide Residue Laboratory from the following areas:
    - i) Impacted soybean plants from complainant's non-target soybean field;
    - ii) Soil from target field;
  - e) Made a diagram/map of the investigation site, depicting locations of the relevant fields, sample collection, roads, structures, and other landmarks (figure 4).



Figure 1



Figure 2



Figure 3

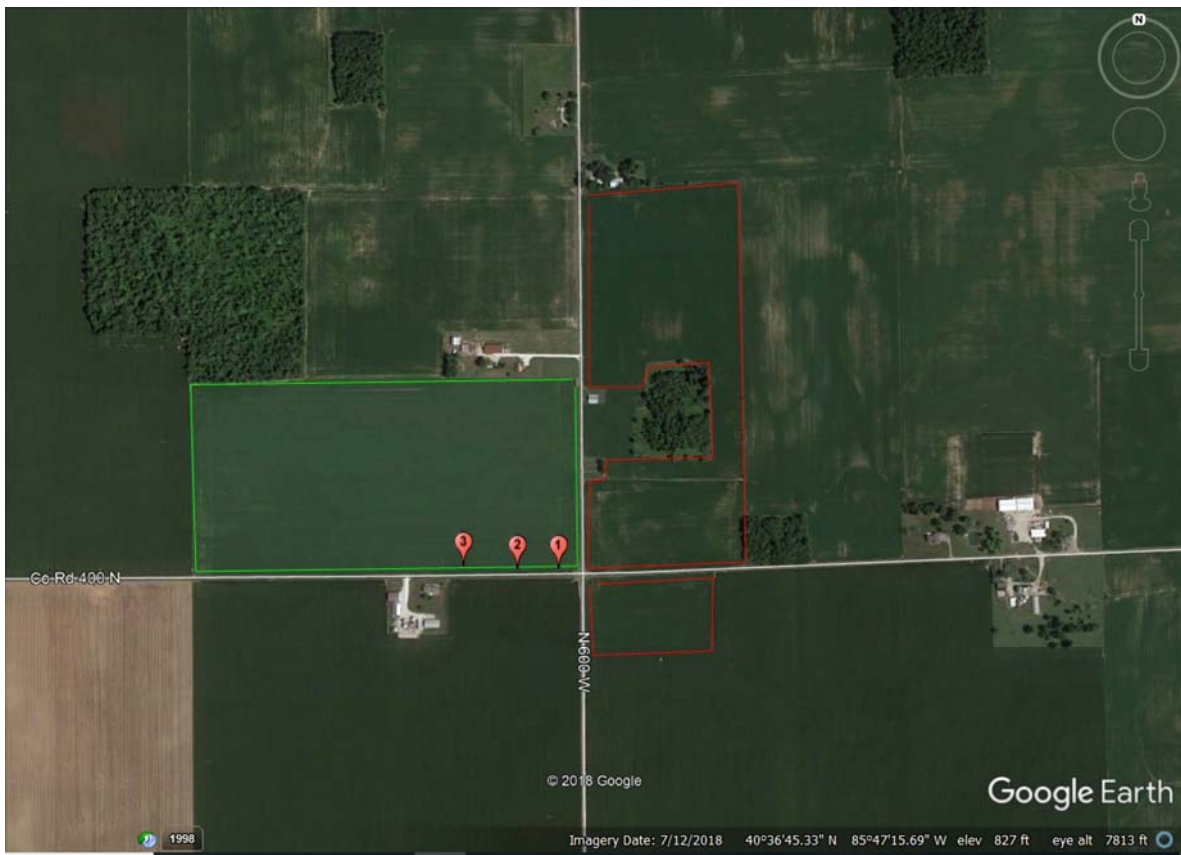


Figure 4

\*Figure 4 is a google earth image of the Complainant and Target Fields.

\*The Target field is outlined in Red

\*The Complainants field is outlined in Green

\*The 1, 2, and 3 markers are the approximate location for the correlating vegetation/soil samples.

4. I collected written records from the applicator Ty Breedlove. The written records and statements addressed the below items as follows:

Target Field

- a) Application date & time: June 6, 2018; 9:35 am to 9:50 am.
- b) Target field: 51.5 acres soybeans, 600 W south/ 600 W South of 400 N

- c) Pesticides: Warrant Bulk EPA #524-591 Active Ingredient Acetochlor, Roundup PowerMax EPA #524-549 Active Ingredient Glyphosate, Xtendimax EPA #524-617 Active Ingredient Dicamba (Diglycolamine Salt)
- d) Application rate: Xtendimax 22oz/acre, Roundup PowerMax 22 oz/acre, Warrant 3pts/acre
- e) Adjuvants: Astonish & Capsule
- f) Nozzles: UR 110-08 Wilger, 35 PSI
- g) Boom height: 24"
- h) Ground speed: 14 mph
- i) Record of sprayer cleanout - No
- j) Winds: 7 to 9 mph ESE for duration
- k) Applicator: Ty Breedlove
- l) Certified supervisor: Bruce Horner
- m) Left a 110' untreated buffer next to non-target site: yes
- n) Checked registrant's web site before application: yes
- o) Checked Field Watch before application: yes
- p) Surveyed application site before application: yes

5. I searched wind data from [www.weatherunderground.com](http://www.weatherunderground.com) for Marion, Indiana for the reported date and time of the application. The results of that search indicate the wind speeds and direction during the application were as follows:


9:35 AM	0 ° F	0 ° F	0 %	ENE	9 mph	0 mph	29.1 in	0.0 in	0.0 in	Fair
9:55 AM	0 ° F	0 ° F	0 %	E	12 mph	0 mph	29.1 in	0.0 in	0.0 in	Fair

6. The report from PPPDL states:

*"Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba. No primary infectious disease was found to be associated with the symptoms of concern."*

7. The report from the OISC Pesticide Residue Laboratory states:

Case #	2018/0687		Investigator				M. Rosch	
Sample #	Sample Description	Matrix	Amount of Analyte (ppb)					
			Acetochlor	Dicamba	DCSA	5-OH Dicamba	Glyphosate	AMPA
2018-35-7174	Control veg	Vegetation	BDL	0.514	BDL	BDL	BDL	BDL
2018-35-7175	Control soil	Soil	Not tested	Not tested	Not tested	Not tested	Not tested	Not tested
2018-35-7176	Veg 1	Vegetation	BDL	0.349	BDL	BDL	BDL	BDL
2018-35-7177	Soil 1	Soil	Not tested	Not tested	Not tested	Not tested	Not tested	Not tested
2018-35-7178	Veg 2	Vegetation	BDL	0.441	BDL	BDL	BDL	BDL
2018-35-7179	Soil 2	Soil	Not tested	Not tested	Not tested	Not tested	Not tested	Not tested
2018-35-7180	Veg 3	Vegetation	BDL	1.85	BQL	BDL	BDL	BDL
2018-35-7181	Soil 3	Soil	Not tested	Not tested	Not tested	Not tested	Not tested	Not tested
2018-35-7182	Target soil	Soil	489*	1.73	99.4	BDL	894	589
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC								

*Minimum concentration reported due to amount exceeding calibration curve range							
LOQ (ppb)	Soil	3	0.2	0.2	2	10	50
LOQ (ppb)	Vegetation	3	0.2	0.2	2	5	25
<b>Signature</b>					<b>Date</b>	10/05/18	

8. The label violations for this case are the following:

1. Xtendimax EPA#524-617:

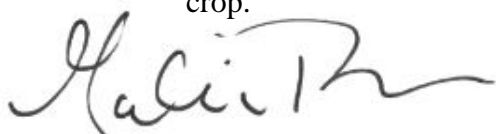
- Page 3 reads, *“Do not allow herbicide solution to mist, drip, drift, or splash onto desirable vegetation because severe injury or destruction to desirable broadleaf plants could result.”*

-Page 2 reads, *“Spray system cleanout: Record of compliance with the section of this label titled Section 9.5: Proper spray system cleanout. At minimum, records must include the confirmation that the spray system was clean before using this product and that the post-application cleanout was completed in accordance with Section 9.5.”*

-Page 4 reads, ***“DO NOT APPLY this product when the wind is blowing toward adjacent non-dicamba tolerant susceptible crops; this includes NON-DICAMBA TOLERANT SOYBEAN AND COTTON.”***

9. There appears to be a violation in this case base on the following:

- The label violations including not recording the crop planting and spray system cleanout dates.
- The dicamba application was made when the wind was blowing towards a sensitive crop.



Melissa D. Rosch  
Investigator

Date: January 26, 2019

**Disposition:** Ty Breedlove and Bruce Horner were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty for this application date was assessed in case number 2018/0692.



George N. Saxton  
Compliance Officer

Draft Date: March 5, 2019  
Final Date: April 12, 2019



## CASE SUMMARY

Case #2018/0692

**Complainant:** Danny Nally  
4279 N 600 W  
Marion, Indiana 46952  
765-661-9767

**Respondent:** Ty Breedlove  
Bruce Horner  
Co-Alliance  
2655 S 600 W  
Marion, Indiana 46953  
765-603-0728

Registered Technician  
Certified Supervisor  
Licensed Business

1. On June 27, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans from the bean field to the east of his residence.
2. On June 27, 2018, I met with the complainant to conduct an on-site physical investigation of the alleged off-target pesticide movement incident reported to OISC. The complainant advised me that he believed his non-DT soybeans had been damaged by an agricultural pesticide application made by the Co-Alliance in Marion, Indiana.
3. During my on-site investigation I did the following:
  - a) Looked for and discovered there were no other potential dicamba applications made in the area adjacent to the impacted site.
  - b) Observed and photographed what I believed to be dicamba exposure symptoms (figure 1) throughout the complainant's non-target, non-DT soybean field (figures 2 & 3) located to the west of the target field. The target field and the complainant's non-target field were separated by a county road.
  - c) Collected soybean plant samples from impacted areas of the complainant's non-target soybean field for visual analysis by the Purdue Plant and Pest Diagnostic Lab (PPDDL).
  - d) Collected samples for chemical analysis by the OISC Pesticide Residue Laboratory from the following areas:
    - i) Impacted soybean plants from complainant's non-target soybean field;
    - ii) Soil from target field;
  - e) Made a diagram/map of the investigation site, depicting locations of the relevant fields, sample collection, roads, structures, and other landmarks (figure 4).



Figure 1



Figure 2



Figure 3



Figure 4

\*Figure 4 is a google earth image of the Complainant and Target Fields.

\*The Target field is outlined in Red

\*The Complainants field is outlined in Green

4. I collected written records from the applicator Ty Breedlove. The written records and statements addressed the below items as follows:

Target Field

- a) Application date & time: June 6, 2018; 9:35 am to 9:50 am.
- b) Target field: 51.5 acres soybeans, 600 W south/ 600 W South of 400 N
- c) Pesticides: Warrant Bulk EPA # 524-591 Active Ingredient Acetochlor, Roundup PowerMax EPA# 524-549 Active Ingredient Glyphosate, Xtendimax EPA#524-617 Active Ingredient Dicamba (Diglycolamine Salt)
- d) Application rate: Xtendimax 22oz/acre, Roundup PowerMax 22 oz/acre, Warrant 3pts/acre
- e) Adjuvants: Astonish & Capsule
- f) Nozzles: UR 110-08 Wilger, 35 PSI
- g) Boom height: 24"
- h) Ground speed: 14 mph
- i) Winds: 7 to 9 mph ESE for duration
- j) Applicator: Ty Breedlove
- k) Certified supervisor: Bruce Horner
- l) Left a 110' untreated buffer next to non-target site: yes
- m) Checked registrant's web site before application: yes
- n) Checked Field Watch before application: yes
- o) Surveyed application site before application: yes

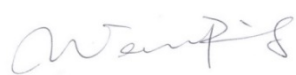
5. I searched wind data from [www.weatherunderground.com](http://www.weatherunderground.com) for Marion, Indiana for the reported date and time of the application. The results of that search indicate the wind speeds and direction during the application were as follows:

9:35 AM	0 ° F	0 ° F	0 %	ENE	9 mph	0 mph	29.1 in	0.0 in	0.0 in	Fair
9:55 AM	0 ° F	0 ° F	0 %	E	12 mph	0 mph	29.1 in	0.0 in	0.0 in	Fair

6. The report from PPPDL states:

*“Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba. No primary infectious disease was found to be associated with the symptoms of concern.”*

7. The report from the OISC Pesticide Residue Laboratory states:

Case #	2018/0692		Investigator				M. Rosch	
Sample #	Sample Description	Matrix	Amount of Analyte (ppb)					
			Acetochlor	Dicamba	DCSA	5-OH Dicamba	Glyphosate	AMPA
2018-35-7183	Veg 1	Vegetation	120	0.568	BDL	BDL	1110	96.1
2018-35-7184	Soil 1	Soil	NA	NA	NA	NA	NA	NA
2018-35-7185	Veg 2	Vegetation	237	0.762	BDL	BDL	1550	125
2018-35-7186	Soil 2	Soil	NA	NA	NA	NA	NA	NA
2018-35-7187	Veg 3	Vegetation	1020	3.04	BQL	BDL	3040	293
2018-35-7188	Soil 3	Soil	NA	NA	NA	NA	NA	NA
2018-35-7189	Target soil	Soil	877*	2.42	111	BDL	601	622
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 (ppb)	Soil	3	0.2	0.2	2	10	50	
LOQ (ppb)	Vegetation	3	0.2	0.2	2	5	25	
Signature						Date	10/4/18	

8. The label violations for this case are the following:

1. Xtendimax EPA#524-617:

- Page 3 reads, *“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.”*

-Page 2 reads, *“Spray system cleanout: Record of compliance with the section of this label titled Section 9.5: Proper spray system cleanout. At minimum, records must include the confirmation that the spray system was clean before using this product and that the post-application cleanout was completed in accordance with Section 9.5.”*

-Page 4 reads, *“DO NOT APPLY this product when the wind is blowing toward adjacent non-dicamba tolerant susceptible crops; this includes NON-DICAMBA TOLERANT SOYBEAN AND COTTON.”*



2. RoundUp PowerMax EPA#524-549:

-Page 136 reads, “Do not allow the herbicide solution to mist, drip, drift or splash onto desirable vegetation, as even small quantities of this product can cause severe damage or destruction to the crop, plants or other vegetation on which application was not intended.”

3. Warrant Herbicide EPA# 524-591:

-Page 31 reads, “Do not apply when wind conditions favor drift to non-target sites.”

9. There appears to be a violation in this case base on the following:

- The label violations including not recording the crop planting and spray system cleanout dates.
- The active ingredients used in the application were found in the samples submitted to the OISC Residue Laboratory.
- The dicamba application was made when the wind was blowing towards a sensitive crop.



Melissa D. Rosch  
Investigator

Date: January 26, 2019

**Disposition:** Ty Breedlove and Bruce Horner were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton  
Compliance Officer

Draft Date: February 26, 2019  
Final Date: April 12, 2019

## CASE SUMMARY

Case #2018/0715

**Complainant:** Ottis Buroker  
1875 S. 500 W.  
Marion, Indiana 46953  
765-661-3938

<b>Respondent:</b>	Doug Morrow	Private Applicator
	Justin McGee	Unlicensed Applicator
	5411 W. 125 S.	
	Marion, Indiana 46952	
	219-819-9618	

1. On June 29, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
2. On June 29, 2018, I met with the complainant to conduct an on-site physical investigation of the alleged off-target pesticide movement incident reported to OISC. The complainant advised me that he believed his non-dicamba tolerant (DT) beans, planted on April 30, 2018, had been damaged by a pesticide application made by Mr. Morrow to a nearby soybean field.
3. During my on-site investigation I did the following:
  - a) Looked for and discovered there was one potential dicamba application made in the area of the impacted site.
  - b) Observed and photographed what I believed to be gradient symptoms clearly emanating from the suspected source throughout the complainant's non-target, non-DT soybean field (figures 1- 3) located to the east of the target field.
  - c) Collected samples for chemical analysis by the OISC Pesticide Residue Laboratory from the following areas:
    - i) Impacted soybean plants from complainant's non-target soybean field;
    - ii) Soil from target fieldHowever, the samples were not analyzed since there were already documented violations.
  - d) Made a diagram/map of the investigation site, depicting locations of relevant fields, roads, structures, and other landmarks (figure 4).



Figure 1



Figure 2



Figure 3

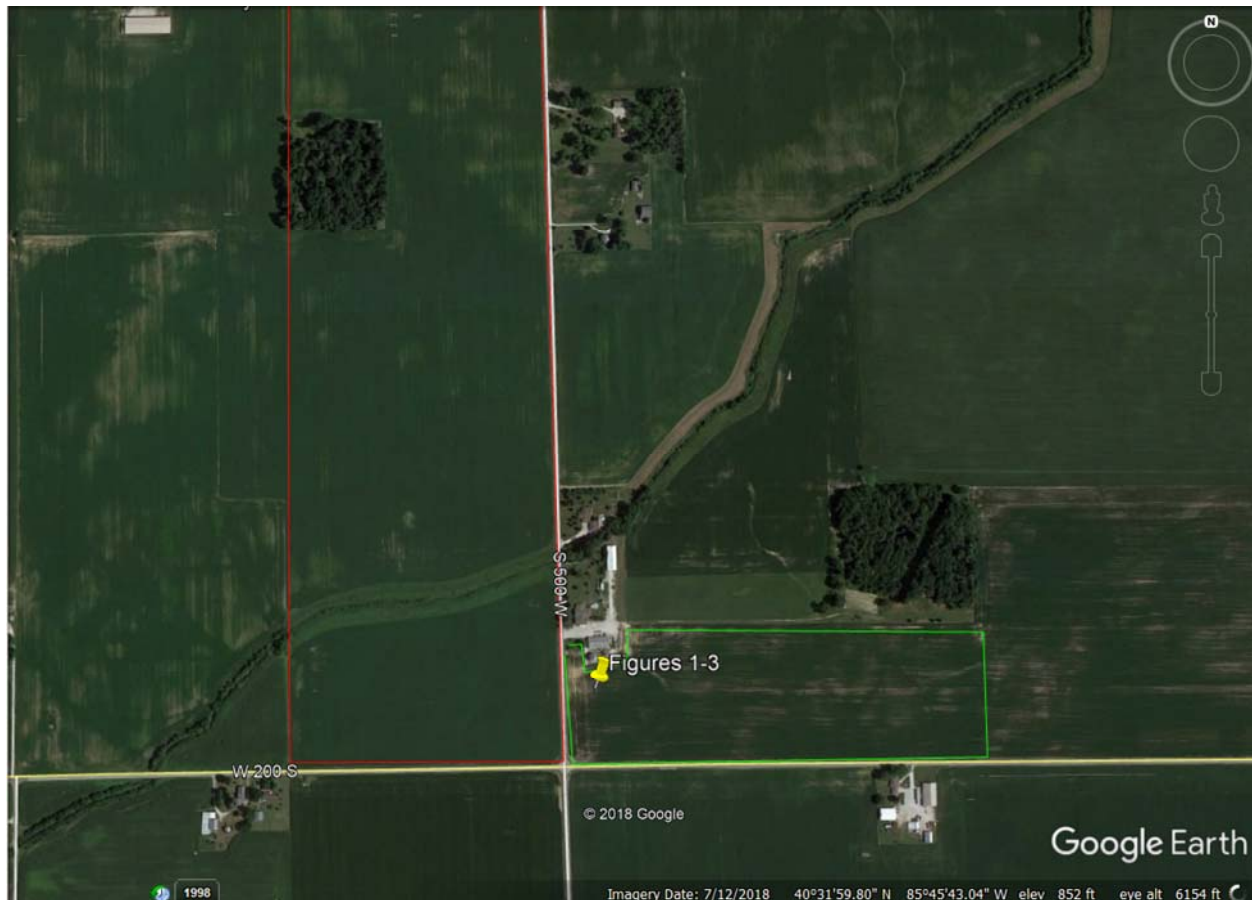


Figure 4

- \* Figure 4 is a Google Earth Image of the approximate area of the target field outlined in Red and the complainant's field outlined in Green. The exact target field boundaries were not provided by the respondent.
- \* The yellow marker is the approximate location of the photographs in Figures 1-3 of the complainant's damaged soybeans.

4. I collected written records from the applicator Mr. McGee. The written records and statements addressed the below items as follows:

Target Field

- a) Application date & time: June 2, 2018; 11:40 am to 12:30 pm.
- b) Target field: 92 acres beans, Corner 125w/500 west/west side. Pesticides: FeXapan EPA #352-913, Mad Dog EPA #34704-929.
- c) Application rate: Fexapan 22 oz, Round Up 22oz
- d) Adjuvants: Strike Force
- e) Nozzles: TJet TTI04 No Psi Given
- f) Boom height: 24"
- g) Ground speed: 11 mph
- h) Winds: 6mph NE at beginning, 6mph NW at end
- i) Applicator: Justin McGee
- j) Certified supervisor: Doug Morrow
- k) Left a 110' untreated buffer next to non-target site: not applicable
- l) Checked registrant's web site before application: not applicable
- m) Checked Field Watch before application: not applicable
- n) Surveyed application site before application: not applicable

5. I searched wind data from [www.weatherunderground.com](http://www.weatherunderground.com) for zip code 47653 in Marion, Indiana for the reported date of application. The results of that search indicated that wind speeds and directions during the application were as follows:

### Target Field on June 2, 2018

As recorded at Marion Municipal Airport:

-Winds: Calm to NE at 7mph

11:35 AM	0 ° F	0 ° F	0 %	CALM	0 mph	0 mph
11:55 AM	0 ° F	0 ° F	0 %	CALM	0 mph	0 mph
12:15 PM	0 ° F	0 ° F	0 %	NE	7 mph	0 mph
12:35 PM	0 ° F	0 ° F	0 %	CALM	0 mph	0 mph

6. The report from the Purdue Plant and Pest Diagnostic Laboratory states:

#### **Diagnosis and Recommendations**

Host/Habitat	Soybean (Glycine max)
List of Diagnosis/ID(s)	
Suspected for Herbicide injury; Exposure (Abiotic disorder)	

#### **Final Report**

6-30-18

Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba.

Joe Ikley  
Weed Science Program Specialist  
Purdue University  
915 West State Street  
W. Lafayette, IN 47907  
e-mail - [jikley@purdue.edu](mailto:jikley@purdue.edu)  
Cell - (410) 596-9091  
Office - (765) 496-2121

6-30-18

No primary infectious disease was found to be associated with the symptoms of concern.

Gail Ruhl  
Plant Disease Diagnostician

7. The label for FeXapan EPA #352-913 states:

Page 3, “11. Nozzle and Pressure: Record of the spray nozzle manufacturer/brand, type, orifice size, and operating pressure used during each application of this product ( See the SPRAYER SETUUP section of this label for information on nozzles and pressures.)

Page 9, “**DO NOT APPLY** this product when the wind is blowing toward adjacent non-dicamba tolerant susceptible crops; this includes **NON-Dicamba Tolerant Soybean and Cotton.**”

Page 6, “The applicator must check the list of tested products found not to adversely affect the offsite movement potential of DuPont FeXapan herbicide Plus VaporGrip

Technology at [www.fexapanapplicationrequirementns.dupont.com](http://www.fexapanapplicationrequirementns.dupont.com) no more than 7 days before applying DuPont FeXapan herbicide Plus Vaporgrip Technology.”

Page 8, “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.”

Page 3, “Susceptible Crops Awareness: Record that a sensitive crop registry was consulted: or document surveying neighboring fields for any susceptible crops prior to application.”

8. There appears to be a violation in this case based on the following:

- The information provided on the Pesticide Investigation Inquiry indicates the wind was blowing toward a sensitive crop at the end of the application.
- The applicator failed to provide complete records as requested in the Pesticide Investigation Inquiry.

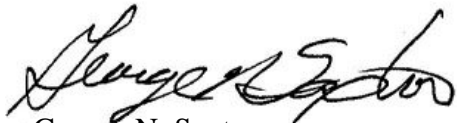


Melissa D. Rosch  
Investigator

Date: December 20, 2018

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

Based on the evidence collected in this investigation, it has been determined that Doug Morrow failed to comply with both the off-target drift restrictions and the drift management restrictions on the label for the herbicide FeXapan.



George N. Saxton  
Compliance Officer

Draft Date: February 21, 2019  
Final Date: April 12, 2019



## CASE SUMMARY

Case #2018/0716

**Complainant:** Brett Middlesworth  
4711 W 200 S  
Marion, Indiana 46953  
765-661-6043

**Respondent:** Ty Breedlove  
Bruce Horner  
Co-Alliance  
2655 S 600 W  
Marion, Indiana 46953  
765-603-0728

Registered Technician  
Certified Supervisor  
Licensed Business

1. On June 29, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans from the bean field to the west.
2. On June 29, 2018, I met with the complainant to conduct an on-site physical investigation of the alleged off-target pesticide movement incident reported to OISC. The complainant advised me that he believed his non-DT soybeans had been damaged by an agricultural pesticide application made by the Co-Alliance in Marion, Indiana.
3. During my on-site investigation I did the following:
  - a) Looked for and discovered there were no other potential dicamba applications made in the area adjacent to the impacted site.
  - b) Observed and photographed what I believed to be dicamba exposure symptoms (figure 1) throughout the complainant's non-target, non-DT soybean field (figures 2 & 3) located to the east of the target field.
  - c) Collected samples for chemical analysis by the OISC Pesticide Residue Laboratory from the following areas:
    - i) Impacted soybean plants from complainant's non-target soybean field;
    - ii) Soil from target field;
  - d) Made a diagram/map of the investigation site, depicting locations of the relevant fields, sample collection, roads, structures, and other landmarks (figure 4).





Figure 1



Figure 2



Figure 3

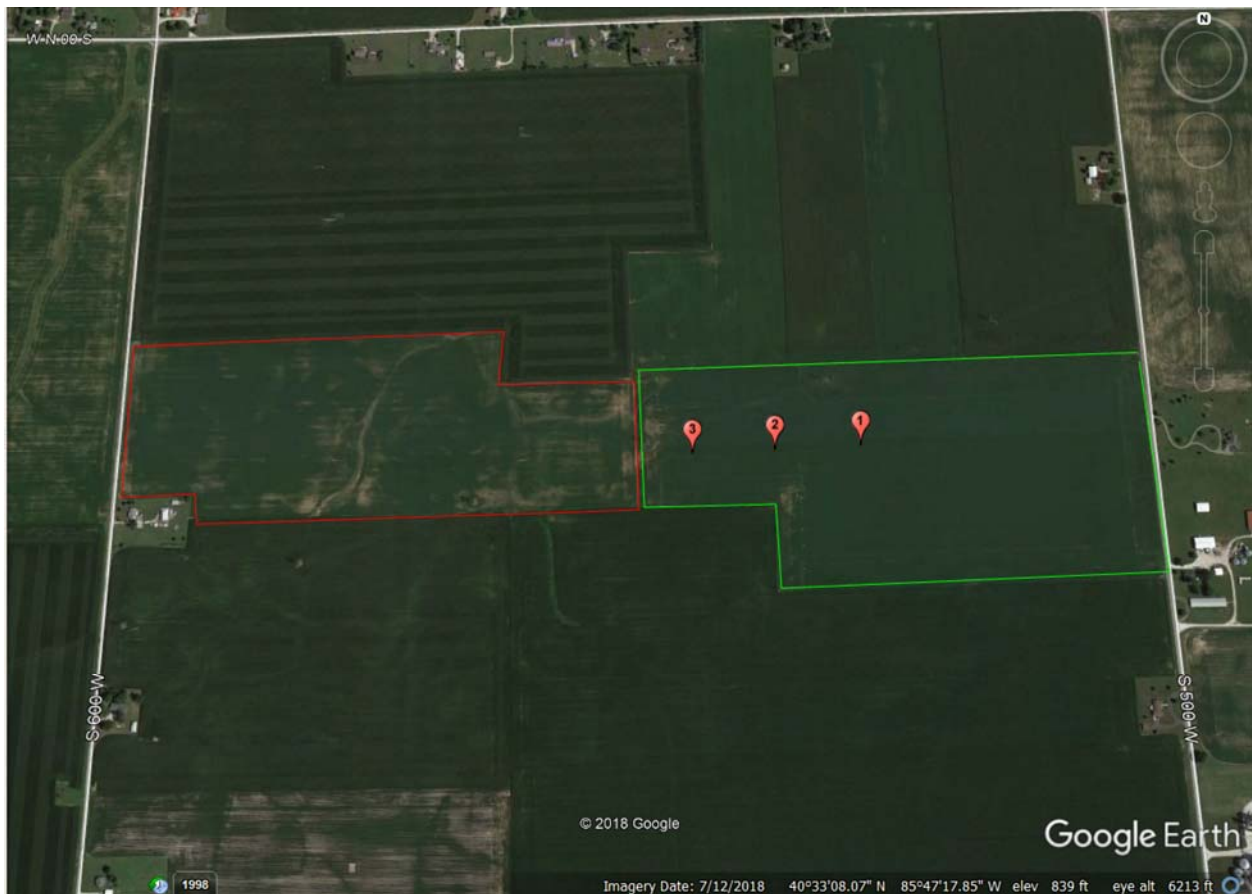


Figure 4

- \*Figure 4 is a google earth image of the Complainant and Target Fields.
- \*The Target field is outlined in Red
- \*The Complainants field is outlined in Green
- \*The 1, 2, and 3 markers are the approximate location for the correlating vegetation/soil samples.

4. I collected written records from the applicator Ty Breedlove. The written records and statements addressed the below items as follows:


Target Field

- a) Application date & time: June 4, 2018; 7:50am to 8:30am.
- b) Target field: soybeans
- c) Pesticides: **Warrant Bulk EPA #524-591 Active Ingredient Acetochlor, Roundup PowerMax EPA #524-549 Active Ingredient Glyphosate, Xtendimax EPA #524-617 Active Ingredient Dicamba (Diglycolamine Salt)**
- d) Application rate: Xtendimax 22oz/acre, Roundup PowerMax 22 oz/acre, Warrant 3pts/acre
- e) Adjuvants: Astonish & Capsule
- f) Nozzles: UR 110-08 Wilger, 35 PSI
- g) Boom height: 24"
- h) Ground speed: 14 mph
- i) Winds: **8mph from the NW for duration**
- j) Applicator: Ty Breedlove
- k) Certified supervisor: Bruce Horner
- l) Left a 110' untreated buffer next to non-target site: yes-200'
- m) Checked registrant's web site before application: yes
- n) Checked Field Watch before application: yes
- o) Surveyed application site before application: yes

5. I searched wind data from [www.weatherunderground.com](http://www.weatherunderground.com) for Marion, Indiana for the reported date and time of the application. The results of that search indicate the wind speeds and direction during the application were as follows:

7:35 AM	57 ° F	50 ° F	79 %	WNW	9 mph	0 mph	29.1 in	0.0 in	0.0 in	Fair
7:55 AM	58 ° F	50 ° F	76 %	WNW	10 mph	0 mph	29.1 in	0.0 in	0.0 in	Fair
8:15 AM	59 ° F	50 ° F	72 %	WNW	12 mph	0 mph	29.1 in	0.0 in	0.0 in	Fair
8:35 AM	60 ° F	49 ° F	68 %	NW	13 mph	0 mph	29.1 in	0.0 in	0.0 in	Fair

6. The report from the OISC Pesticide Residue Laboratory states:

Case # 2018/0716			Investigator: M. Rosch		
Sample #	Sample Description	Sample Matrix	Amount Found (ppb)		
			Acetochlor	Glyphosate	AMPA
2018-35-7200	Veg 1	Vegetation	BDL	BDL	BDL
2018-35-7201	Veg 2	Vegetation	BDL	BDL	BDL
2018-35-7202	Veg 3	Vegetation	4.27	BDL	BDL
2018-35-7203	Target	Soil	835*	394	459
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC					
*minimum concentration reported due to amount exceeding calibration curve range.					
LOQ (ppb)	Vegetation		3	5	25
LOQ (ppb)	Soil		3	10	50
Signature			Date	10/24/18	

7. The label violations for this case are the following:

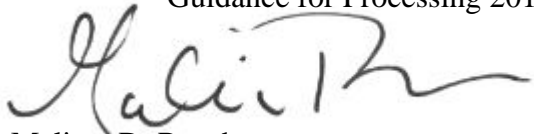
1. Xtendimax EPA #524-617:

-Page 2 reads, "*Spray system cleanout: Record of compliance with the section of this label titled Section 9.5: Proper spray system cleanout. At minimum, records must include the confirmation that the spray system was clean before using this product and that the post-application cleanout was completed in accordance with Section 9.5.*"

-Page 4 reads, "***DO NOT APPLY*** this product when the wind is blowing toward adjacent non-dicamba tolerant susceptible crops; this includes ***NON-DICAMBA TOLERANT SOYBEAN AND COTTON.***"

8. There appears to be a violation in this case base on the following:

- The label violations including not recording the crop planting and spray system cleanout dates.
- The dicamba application was made when the wind was blowing towards a sensitive crop.
- The OISC Residue samples were not analyzed for dicamba in accordance with the Guidance for Processing 2018 Dicamba Investigation Cases.



Melissa D. Rosch  
Investigator

Date: February 23, 2019

**Disposition:** Registered Technician Ty Breedlove and Certified Applicator Bruce Horner were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed for this violation.

Based on the evidence collected in this investigation, it has been determined that Ty Breedlove and Bruce Horner failed to comply with the drift management restrictions on the label for the herbicide Xtendimax. It should also be noted that OISC was not able to determine whether the herbicide moved off-target as the result of drift, application into an inversion, or volatilization at some point after the application, and was not able to clearly identify the source of the off-target movement.



George N. Saxton  
Compliance Officer

Draft Date: March 8, 2019  
Final Date: April 24, 2019

## CASE SUMMARY

Case #2018/0720

**Complainant:** Jerry Sparks  
6716 N 225 E  
Camden, IN 46917  
765-202-3456  
Private Applicator

**Respondent:** Titus Filbrun  
728 N 350 W  
Flora, IN 46929  
765-427-6552  
Private Applicator

1. On July 2, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
2. On July 6, 2018, I met with Jerry Sparks at his residence. He then led me to the field he believed was affected by dicamba. The injury seemed to be more prevalent on the south portion of the field that is adjacent to the bean field farmed by Mr. Filbrun. The injury Mr. Sparks reported can be seen in Figures 1-3.



Figure 1



Figure 2



Figure 3

3. I collected 3 vegetative samples (Affected Field 60' In, Affected Field 120' In, and Affected Field 180' In), a soil sample, and a control from Mr. Sparks' field. I collected a vegetative sample and a soil sample from Mr. Filbrun's field. These samples were taken to the OISC residue lab for analysis. I also collected a bean sample from Mr. Sparks' field for analysis by the Plant and Pest Diagnostic Lab at Purdue (PPDL). The location of these samples can be seen in Figure 4.






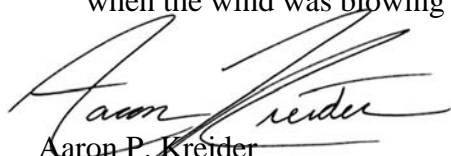
Figure 4

4. On July 6, 2018, I received a Pesticide Investigation Inquiry (PII) from Mr. Filbrun. It stated that on June 6, 2018 from 1:50 PM to 4 PM he made an application that consisted of:
  - a. Roundup WeatherMax (EPA Reg. #524-537, active ingredient glyphosate);
  - b. Engenia (EPA Reg. #7969-345, active ingredient dicamba);
  - c. Intensity One (EPA Reg. #34704-976, active ingredient clethodim); and
  - d. Zidua (EPA Reg. #7969-338, active ingredient pyroxasulfone).
5. He reported that the wind speed at the start of the application was 3 MPH from the southwest and at the end of the application the wind speed was 3 MPH from the southeast. This means that the wind was blowing towards a neighboring sensitive crop (Mr. Sparks' non-dicamba tolerant soybeans) during the entire application.
6. On July 11, 2018, I received a report from PPD L that stated, "*Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba.*"
7. The lab results from the OISC residue lab are as follows:

Case #	2018/0720			Investigator		A. Kreider	
Sample #	Sample Description	Matrix	Amount of Analyte (ppb)				
			Dicamba	DCSA	5-OH Dicamba	Acetochlor	Pyroxasulfone
2018-54-0052	Affected field 60' in	Vegetation	0.449	BDL	BDL	BDL	BDL
2018-54-0053	Affected field 120' in	Vegetation	BQL	BDL	BDL	BDL	BDL
2018-54-0054	Affected field 180' in	Vegetation	BQL	BDL	BDL	BDL	BDL
2018-54-0055	Affected field soil	Soil	Did not test	Did not test	Did not test	Did not test	Did not test
2018-54-0056	Target field veg	Vegetation	2.16	54.2	BDL	BDL	BDL
2018-54-0057	Target field soil	Soil	Did not test	Did not test	Did not test	Did not test	Did not test
2018-54-0058	Control veg	Vegetation	BQL	BDL	BDL	BDL	BDL

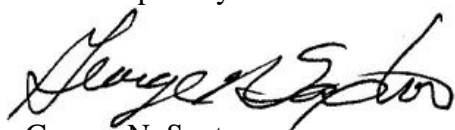
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC						
LOQ (ppb)	Vegetation	0.4	0.4	2	3	0.3
<b>Signature</b>					<b>Date</b>	11/27/18

8. The Engenia label states, “**DO NOT** apply when wind is blowing in the direction of neighboring sensitive crops.”
9. The PPDL report supports the conclusion that the injury seen on Mr. Sparks’ field was due to dicamba. It appears that Mr. Filbrun violated the Engenia label by making an application when the wind was blowing toward a sensitive crop (Mr. Sparks’ non-DT soybeans).

  
 Aaron P. Kreider  
 Investigator

Date: March 26, 2019

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

  
 George N. Saxton  
 Compliance Officer

Draft Date: April 24, 2019  
 Final Date: June 4, 2019

## CASE SUMMARY

Case #2018/0727

**Complainant:** Leonard “Sonny” Metzinger  
2382 Jonagold Court  
West Lafayette, Indiana 47906  
815-471-9014

**Respondent:** Brad Sondgerath  
5810 W 1325 S  
Kentland, Indiana 47951  
765-337-5145

Private Applicator

1. On July 11, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
2. On July 11, 2018, I met with the complainant to conduct an on-site physical investigation of the alleged off-target pesticide movement incident reported to OISC. The complainant advised me that he believed his non-DT Roundup Ready beans had been damaged by an application made by Mr. Sondgerath to a nearby cornfield.
3. Mr. Metzinger felt that some dicamba herbicide may have been applied to the corn located to the south across the gravel road from his non-DT beans.
4. During my on-site investigation I did the following:
  - a) Looked for and discovered there were no other potential dicamba applications made in the area adjacent to the impacted site.
  - b) Observed and photographed what I believed to be fairly uniform dicamba exposure symptoms (figure 1) throughout the complainant’s non-target, non-DT soybean field (figure 2) located to the north of the target field. The target field and the complainant’s non-target field were separated by about 30 feet. (figure 3)
  - c) Collected soybean plant samples from impacted areas of the complainant’s non-target soybean field for visual analysis by the Purdue Plant and Pest Diagnostic Lab (PPDDL).
  - d) Collected samples for chemical analysis by the OISC Pesticide Residue Laboratory from the following areas:
    - i) Impacted soybean plants from complainant’s non-target soybean field;
    - ii) Soil from target field
5. Made a diagram/map of the investigation site, depicting locations of relevant fields, sample collection, roads, structures, and other landmarks. (figure 4)
6. On July 30, 2018, I collected written records from the applicator Mr. Sondergrath.
  - a) Application date & time: April 30, 2018 from 3:00pm to 6:00pm;
  - b) Target field: corn field to the east of complainant’s soybean field;



- c) Pesticides: Corvus (isoxaflutole and thienencarbazone) EPA Reg. #246-1066 & Atrazine 4L (atrazine) EPA Reg. #33270-10
- d) Application rate: Corvus 5 oz. per acre Atrazine 4L 1 qt. per acre;
- e) Adjuvants: None;
- f) Nozzles: teejet xr 8006 vs
- g) Boom height: 18-20 inches
- h) Ground speed: 7-8 mph
- i) Winds: 13 mph from the north;
- j) Applicator: Brad Sondgerath;
- k) Certified Supervisor: not applicable

7. I searched wind data from [www.weatherunderground.com](http://www.weatherunderground.com) for zip code 47921 in Boswell, Indiana for the reported date and time of the application. The results of that search indicated that wind speed and direction during the application were as follows:

**As recorded at Purdue University 6-13 mph out of the South and Southwest**

2:54 PM	72 ° F	26 ° F	18 %	SSW	6 mph	0 mph
3:54 PM	73 ° F	28 ° F	19 %	S	8 mph	0 mph
4:54 PM	73 ° F	26 ° F	17 %	SW	12 mph	0 mph
5:54 PM	73 ° F	26 ° F	17 %	S	13 mph	0 mph

Purdue University Wind Data 28 Miles East Southeast

**As recorded at Jasper County 14-17 mph out of the South Southwest gusts 20-26 mph**

2:55 PM	75 ° F	0 ° F	0 %	SW	16 mph	0 mph
3:15 PM	77 ° F	0 ° F	0 %	S	14 mph	26 mph
3:35 PM	77 ° F	0 ° F	0 %	SSW	15 mph	0 mph
3:55 PM	77 ° F	0 ° F	0 %	SSW	17 mph	23 mph
4:15 PM	77 ° F	0 ° F	0 %	SSW	15 mph	0 mph
4:35 PM	77 ° F	0 ° F	0 %	SSW	16 mph	0 mph
4:55 PM	77 ° F	0 ° F	0 %	S	15 mph	24 mph
5:15 PM	77 ° F	0 ° F	0 %	SSW	16 mph	20 mph
5:35 PM	75 ° F	0 ° F	0 %	SSW	15 mph	21 mph
5:55 PM	75 ° F	0 ° F	0 %	S	16 mph	24 mph

Jasper County Wind Data 28 Miles Northeast

**As recorded in Vermillion County 13-18 mph out of the South gusts 20-23 mph**

2:55 PM	74 ° F	30 ° F	20 %	S	15 mph	21 mph
3:15 PM	75 ° F	30 ° F	19 %	SSE	18 mph	0 mph
3:35 PM	75 ° F	31 ° F	20 %	SSW	13 mph	22 mph
3:55 PM	75 ° F	31 ° F	19 %	S	17 mph	22 mph
4:15 PM	76 ° F	31 ° F	20 %	S	14 mph	20 mph
4:35 PM	75 ° F	31 ° F	20 %	S	18 mph	23 mph
4:55 PM	75 ° F	32 ° F	20 %	S	15 mph	21 mph
5:15 PM	75 ° F	32 ° F	21 %	S	16 mph	22 mph
5:35 PM	74 ° F	32 ° F	21 %	S	16 mph	0 mph
5:55 PM	74 ° F	32 ° F	21 %	S	16 mph	21 mph

**Vermillion County Wind Data 35 Miles South**

8. The winds would have been blowing in the direction of the complainants beans.
9. The report from the PPPDL states, *“Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba.”*
10. The report from the OISC Pesticide Residue Laboratory states:


Case #	2018/0727	Investigator					K. Neal	
Sample #	Sample Description	Amount of Analyte (ppb)						
		Matrix	Dicamba	DCSA	5-OH Dicamba	Acifluorfen	Amino Acifluorfen**	Lactofen
2018-22-1078	Soil sample Sondergrath corn 200N	Soil	N/A	N/A	N/A	N/A	N/A	N/A
2018-22-1079	Soil sample Metzinger RR beans 200N	Soil	N/A	N/A	N/A	N/A	N/A	N/A
2018-22-1080	RR beans Metzinger 200N	Vegetation	6.05	BQL	BDL	BDL	BQL	BDL
2018-22-1081	Extend beans Metzinger 200N	Vegetation	BDL	BQL	BDL	BDL	BDL	BDL
2018-22-1082	Soil sample Metzinger extend beans 200N	Soil	N/A	N/A	N/A	N/A	N/A	N/A
2018-22-1083	Soil sample Schellenberger Extend beans 200N	Soil	N/A	N/A	N/A	N/A	N/A	N/A
2018-22-1084	Weed veg Schellenberger Extend beans 200N	Vegetation	*6590	35.9	63.8	3.55	BQL	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								
N/A = Not Analyzed								
*Result reported as minimum detected due to concentration exceeded calibration curve range.								
**Amino Acifluorfen is a breakdown product of Acifluorfen. Experienced low analyte recovery during analysis. Amount reported is minimum detected.								
LOQ (ppb)	Vegetation	1	0.4	2	3	0.7	0.3	
Signature					Date		01/29/19	



Figure One



Figure Two



Figure Three



Figure Four

11. The label for Corvus states, “Only apply this product when the potential for drift to adjacent non-target areas is minimal (e.g. when the wind is 10 MPH or less and is blowing away from sensitive areas).”

*Kevin W. Neal*

Kevin W. Neal  
Investigator

Date: February 1, 2019

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

*George N. Saxton*

George N. Saxton  
Compliance Officer

Draft Date: March 5, 2019  
Final Date: June 20, 2019

## CASE SUMMARY

Case #2018/0740

**Complainant:** Audrey Gabhart  
7600 N 500 W  
Jasper, Indiana 47546  
812-639-3151

**Respondent:** Karl Lindemann  
Provine Helicopter Service, Inc.  
308 Airport Road  
Greenwood, Mississippi 38930  
662-453-9406

Certified Applicator


1. On July 5, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected aerial agricultural pesticide drift or direct spray to her grapes and fruit trees. She was also concerned about her goats whose milk she uses.
2. On July 10, 2018, I met with Mrs. Gabhart at her residence. She stated on July 4, 2018 in the evening, she observed a helicopter making an aerial application to the cornfield surrounding her property on the north, east and south sides. She stated the helicopter was applying from the north towards her property and would pull up and bank directly over her north pasture and barn. She stated she was concerned as she thought she could see the mist drifting over her pasture where she had milk goats. She further stated the helicopter applied to the east and south of her property where she had several trees. I asked Mrs. Gabhart if they had applied any pesticides to their property and she stated they applied Pyrethrin Garden Insect Spray EPA Reg. #4-371 with the active ingredient pyrethrin to their gardens approximately three weeks prior.
3. I then took photographs of the scene. I also began collecting samples. I collected vegetation samples from the target cornfield, the complainant's north and east pastures and the complainant's yard. I collected swab samples from the north and south side of the goat barn, the north and south side of the big barn and the north and south side of the house. I also collected a milk sample from one of the goats in the north pasture. All of the samples were labeled and submitted to the OISC residue lab. The following photographs show the location of the target field to the complainant's property and the sample collection locations.



4. I learned Mr. Karl Lindemann of Provine Helicopter Service, Inc. was the certified applicator who made the aerial pesticide application to the target field. I spoke with Jeanie at Provine and she advised me Mr. Lindemann applied Trivapro fungicide EPA Reg. #100-1613 with the active ingredients

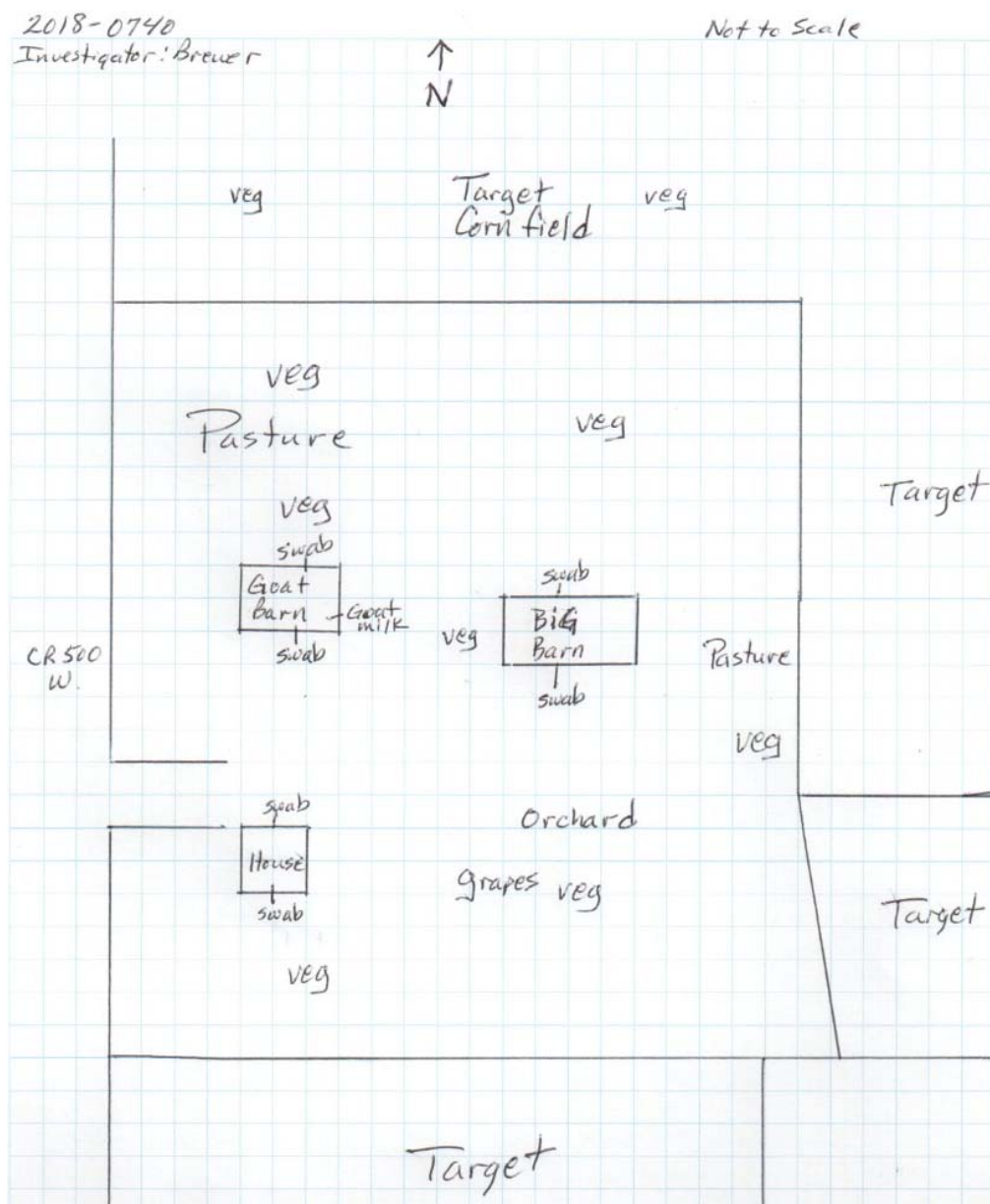
benzovindiflupyr + azoxystrobin and propiconazole and Tombstone EC Insecticide EPA Reg. #34704-912 with the active ingredient cyfluthrin to the target field on July 4, 2018. She provided me with the aerial application record. The application record indicated the aerial pesticide application was made on July 4, 2018 from 4:40 pm – 6:30 pm. I sent a Pesticide Investigation Inquiry (PII) to Mr. Lindemann of which he received, completed and returned to me. The PII is in this case file. The PII indicated the winds were south at two mph at the time of the application. The PII also indicated the aerial pesticide application was made on July 4, 2018 from 5:00 pm – 5:25 pm.

5. I researched the Weather Underground website for weather conditions at the nearest reporting station on the date and time of the aerial pesticide application. Since there was a discrepancy in the application record time of application and what was stated on the PII, I documented the wind conditions during both times. The winds on July 4, 2018 between the times of 4:40 pm – 6:30 pm were variable ranging from SE, E, WSW, ENE, N, NE from 0 mph – 2.9 mph. The report indicated the winds between 5:00 pm -5:25 pm were variable from ESE, E, SE, from 0 mph – 2.5 mph.
6. On October 2, 2018, I received a report from the OISC residue lab. The following is a copy of the lab report. The report indicated the active ingredients benzovindiflupyr, azoxystrobin and propiconazole and cyfluthrin were detected in most of the samples collected from the complainant's property, including the goat's milk.

Case #	2018/0740		Investigator		B. Brewer	
Sample #	Sample Description	Amount of Analyte (ng/swab or ppb)				
		Matrix	Benzovindiflupyr	Azoxystrobin	Propiconazole	Cyfluthrin
2018-33-6159	Trip blank	Swab	BDL	BDL	BDL	BDL
2018-33-6160	Control swab	Swab	3.10	11.1	17.7	BDL
2018-33-6161	Swab North side goat barn	Swab	0.442	4.25	BDL	BDL
2018-33-6162	Swab South side goat barn	Swab	BDL	0.701	BDL	BDL
2018-33-6163	Swab North side big barn	Swab	88.3	376	136	BQL
2018-33-6164	Swab South side big barn	Swab	5.74	40.6	21.2	BDL
2018-33-6165	Swab North side house	Swab	0.304	4.27	35.5	BDL
2018-33-6166	Swab South side house	Swab	30.5	252	342	BDL
2018-33-6167	Vegetation corn target	Vegetation	2580*	1920*	2780*	NA
2018-33-6168	Vegetation complt's North pasture	Vegetation	316	713	839	NA
2018-33-6169	Vegetation complt's East pasture	Vegetation	405	961	1720	NA
2018-33-6170	Vegetation complt's yard	Vegetation	60.7	138	142	NA
2018-33-6171	Goat's milk	Milk	0.0320	0.0810	BDL	NA
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC; NA=Results not available						
* results exceeded calibration curve range and reported as minimum concentration detected						
LOQ (ppb)	Milk	0.01	0.01	0.01	NA	
LOQ (ppb)	Vegetation	0.7	3	3	NA	
LOQ (ng/swab)	Swab	0.4	0.2	4	50	
Signature				Date	10/2/18	



7. The results of the OISC residue lab report indicated the active ingredients used during the aerial pesticide application, were detected in the samples collected. The weather report indicated the winds were variable, but were blowing towards the complainant's property during the aerial pesticide application. These factors indicate pesticide from the aerial pesticide application made by Mr. Lindemann, did go off target and onto the Gabhart property.
8. On April 25, 2019, At the request of the Compliance Officer, I made contact with Mr. Bart Meyers, who farms the fields located across CR 500 W. west of the Gabhart property. I asked Mr. Meyers if he had any pesticides/ fungicides applications made to the fields located to the west of the Gabhart property. He stated he had barley planted in the fields early in the season. He stated he harvested the barley in mid-July and then planted soybeans in those fields after harvesting the barley. He further stated he had not applied any pesticides to the barley.
9. The following is a diagram of the scene along with the sample collection locations.





*Robert D. Brewer*

Robert D. Brewer  
Investigator

Date: October 29, 2018

**Disposition:**

- A. Karl Lindemann was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2 for applying a pesticide in a manner that allowed it to drift from the target site in sufficient quantity to cause harm to a non-target site. A civil penalty in the amount of \$250.00 was assessed to Provine Helicopter Service, Inc. for this violation. Consideration was given to the fact this was Mr. Lindemann's first violation of similar nature. Consideration was also given to the fact there was potential for human harm since the pesticide was found in the goat milk.
- B. As of March 17, 2019, Provine Helicopter Service, Inc. had not paid the \$250.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty was still owed to OISC.
- C. On March 28, 2019, Michael McCool of Provine Helicopter Service, Inc. called questioning the findings of this case. He stated there were other aerial applicators in the area as well as theirs, some of whom were applying fungicides. He also stated they followed label directions with wind speed and direction. He requested OISC review this case again.
- D. Upon request, OISC reviewed the facts of this case including contacting Mr. Bart Meyers, who farms the fields located across CR 500 W., west of the Gabhart property (paragraph #9). An aerial map was also attached. After further review, the original citation and civil penalty stands.

*George N. Saxton*

George N. Saxton  
Compliance Officer

Draft Date: May 3, 2019  
Final Date: June 18, 2019



## CASE SUMMARY

Case #2018/0745

**Complainant:** J.B. Ladd  
6391 E 100 S  
Peru, IN 46970  
765-776-0512

**Respondent:** Tad Hook  
The Andersons  
8086 E. Co Rd 900 S.  
Galveston, IN 46068  
574-626-2522

Certified Applicator  
Licensed Business

1. On July 6, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
2. On July 9, 2018, I met with J.B. Ladd at his non-DT soybean field that he believed was affected by dicamba drift. He showed me where he felt the injury was most severe. It appeared that the damage was mostly concentrated on the south side of Mr. Ladd's field where it meets up with the DT soybean field that was sprayed by Tad Hook of The Andersons. The dividing line between the two soybean fields can be seen in Figure 1. The injury that was the cause of Mr. Ladd's complaint can be seen in Figures 2 and 3.



Figure 1



Figure 2



Figure 3

3. I collected three vegetation samples (Affected Field 30' in, Affected Field 90' in, and Affected Field 150' in), a soil sample, and a control sample from the affected field. I collected a vegetation sample and a soil sample from the target field (South Target Field). These samples were submitted to the OISC residue lab for analysis. I also collected a vegetation sample from the affected field to submit to the Plant and Pest Diagnostic Lab at Purdue (PPDL). The location of these samples can be seen in Figure 4.

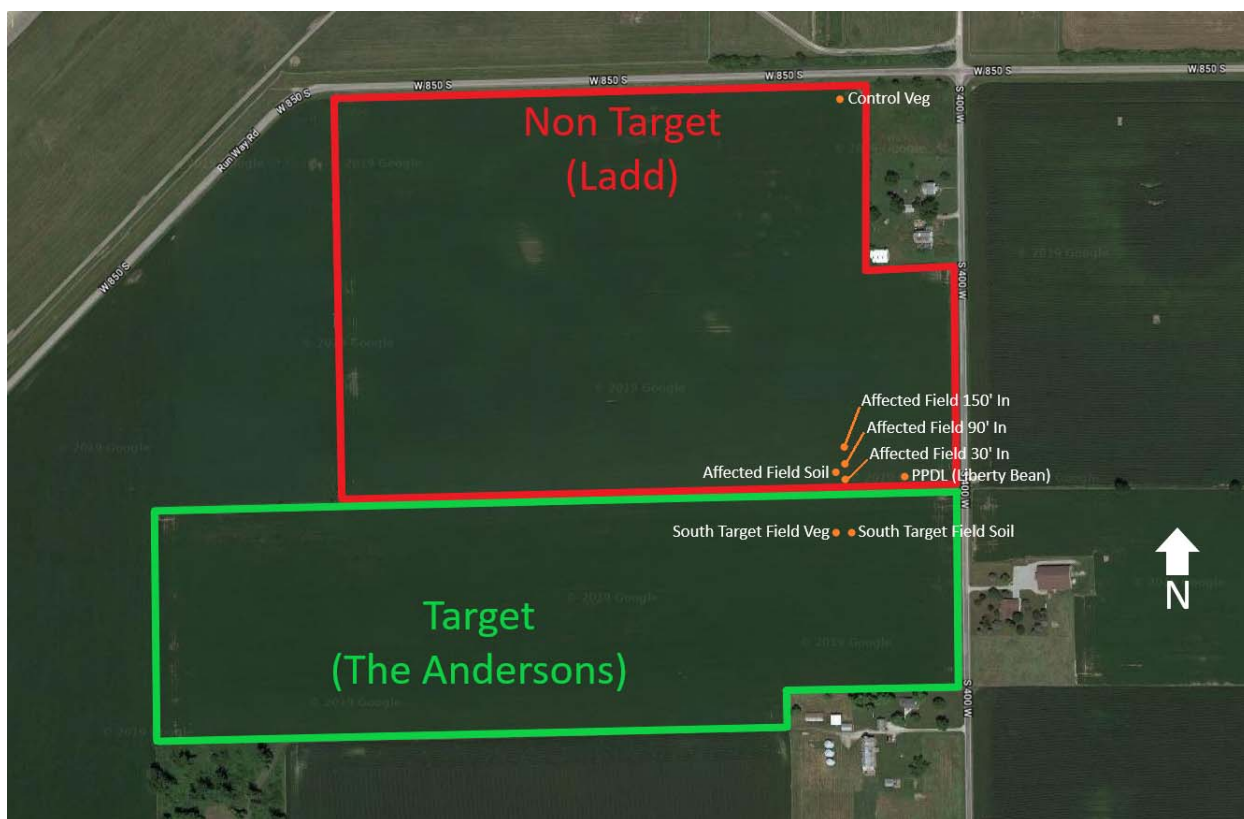



Figure 4

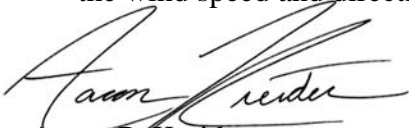
4. On July 19, 2018, I received a Pesticide Investigation Inquiry (PII) from Lee Franklin on behalf of Mr. Hook. It stated that the application was made on June 18, 2018 between 8:55 AM and 9:50 AM by Mr. Hook. The application consisted of:
  - A. Engenia (EPA Reg. #7969-345, active ingredient dicamba)
  - B. Buccaneer 5 Extra (EPA Reg. #55467-15, active ingredient glyphosate)
  - C. Cornbelt Vaporgard + DRA (surfactant/drift reducing agent)
  - D. Cornbelt Locktite (surfactant/drift reducing agent).

Mr. Franklin reported that the wind was 5 MPH from the west at the beginning of the application. He did not report wind information from the end time of the application.

5. I collected wind data from the Peru Municipal Airport, which is 10 miles from the target field. The wind speed at the start of the application was 8 MPH with gusts of 12 MPH from the southwest. The average wind speed was 8 MPH, with gusts averaging 13 MPH and not dropping below 12 MPH, from the west-southwest during the application. The wind speed at the end of the application was 8 MPH with gusts of 14 MPH from the west. This means that at the beginning and during part of the application the winds were blowing towards the Ladd non-DT soybean field.
6. The report from PPDL stated, “*Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba.*”
7. The results from the OISC residue lab are as follows:

<b>Case #</b>	<b>2018/0745</b>			<b>Investigator</b>		<b>A. Kreider</b>	
Sample #	Sample Description	Matrix	Amount of Analyte (ppb)				
			Dicamba	DCSA	5-OH Dicamba	Glyphosate	AMPA
2018-54-0059	Affected field 30' in	Vegetation	Did not test	Did not test	Did not test	BDL	BDL
2018-54-0060	Affected field 90' in	Vegetation	Did not test	Did not test	Did not test	BDL	BDL
2018-54-0061	Affected field 150' in	Vegetation	Did not test	Did not test	Did not test	BDL	BDL
2018-54-0062	Affected field soil	Soil	Did not test	Did not test	Did not test	Did not test	Did not test
2018-54-0063	South target field veg	Vegetation	Did not test	Did not test	Did not test	Did not test	Did not test
2018-54-0064	South target field soil	Soil	Did not test	Did not test	Did not test	Did not test	Did not test
2018-54-0065	East target field veg	Vegetation	Did not test	Did not test	Did not test	Did not test	Did not test
2018-54-0066	East target field soil	Soil	Did not test	Did not test	Did not test	Did not test	Did not test
2018-54-0067	West target field veg	Vegetation	Did not test	Did not test	Did not test	Did not test	Did not test
2018-54-0068	West target field soil	Soil	Did not test	Did not test	Did not test	Did not test	Did not test
2018-54-0069	Control veg	Vegetation	Did not test	Did not test	Did not test	Did not test	Did not test
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC							
LOQ (ppb)	Vegetation	Did not test	Did not test	Did not test	5	125	
<b>Signature</b>						<b>Date</b>	10/2/18

8. Samples 2018-54-0065 through 2018-54-0068 from the lab report can be disregarded as they were not pertinent to the investigation.
9. The Engenia label states, ***“DO NOT apply when wind is blowing in the direction of neighboring sensitive crops.”*** The Engenia label also states, ***“The following information must be recorded and kept as required by the Federal Pesticide Record Keeping Program, 7 CFR Part 110: 20. Wind Speed and Direction: the wind speed at boom height at the time the applicator starts and finishes applications of this product, and the wind direction at the time the applicator starts and finishes applications of this product.”***
10. The PPD L report supports the decision that the injury on Mr. Ladd’s non-DT soybean field is from the application made by Mr. Hook. However, since no other tank mix partners from Mr. Hook’s application could be found, it is most likely that the injury seen was not due to drift. Mr. Hook’s application did violate the Engenia label by making an application when winds were blowing towards a neighboring sensitive crop (Mr. Ladd’s non-DT soybean field). Mr. Hook was also found to be in violation of the Engenia label by not recording what the wind speed and direction was for the time the application was finished.

  
 Aaron P. Kreider  
 Investigator

Date: April 23, 2019

**Disposition:** Tad Hook was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was his first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

  
George N. Saxton  
Compliance Officer

Draft Date: April 24, 2019  
Final Date: June 4, 2019

## CASE SUMMARY

Case #2018/0746

**Complainant:** Rex Grossman  
6174 E. 400 N.  
Urbana, Indiana 46990  
260-591-0022  
260-591-0002 son Steven

<b>Respondent:</b>	Justin McGee	Not Licensed
	Doug Morrow	Private Applicator
	5411 W. CR125 S.	
	Marion, Indiana 46952	
	765-618-0735	

1. On July 6, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
2. On July 10, 2018, I spoke with Rex Grossman who reported he noticed cupping on non dicamba-tolerant (DT) Liberty Link soybeans in one of his fields approximately 3-4 weeks prior. He indicated symptoms worsened a week after he noticed them.
3. On July 11, 2018, I met Mr. Grossman at his farm and followed him to his field, which occupied the northeast corner of CR650E and SR16 in Wabash County. The field across SR16 to the south was thought to be farmed by Doug Morrow and was suspected to have been sprayed with a dicamba-containing tank mix on June 15, 2018. Mr. Grossman indicated his soybeans were last sprayed with Liberty and clethodim on June 14, 2018.
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 Grossman soybean field. The soybean field was bordered on the west by CR650E and SR16 on the south; across SR16, a grass ditch separated the target field from the road shoulder, leaving approximately 75 feet between crops.
  - b) Observed and photographed mostly uniform, widespread cupping and puckering of leaves on non-DT soybean plants in the southern portion of the Grossman field nearest SR16; symptoms were observed the entire length of the field. These symptoms are commonly associated with exposure to a growth-regulator type herbicide such as dicamba.
  - c) Collected soybean plants for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue.
  - d) Collected gradient plant samples of soybeans exhibiting symptoms from the Grossman field; one from the southern edge, one 50 yards into the field and one 100 yards into the field. Collected a soil sample from the target field across the road to the south. Those samples were submitted to the OISC Residue lab for analysis.



Fig.1 Aerial photo of fields



Fig.2 Cupped beans, south edge



Fig.3 Cupped/puckered non-DT beans


5. I later spoke with Mr. Morrow and informed him of the complaint. He indicated his applicator sprayed the field south of the Grossman field with FeXapan, Roundup and Strike Force on or about June 8, 2018. A Pesticide Investigation Inquiry was later completed and returned by applicator Justin McGee and indicated the following:

- a. Certified Supervisor: Doug Morrow  
Applicator: Justin McGee
- b. Application date and time: June 8, 2018, from 9am – 11am\*
- c. Pesticides: FeXapan (dicamba) EPA Reg. #352-913 22oz.  
Mad Dog (glyphosate), EPA Reg. #34704-929
- d. Adjuvants: Strike Force
- e. Target field: McWek
- f. Pre or post application: Post
- g. Wind speed/direction at start: 3mph from southwest (toward Grossman field)
- h. Wind speed/direction at end: 4mph from northwest
- i. Nozzles: Tee Jet TTI 04
- j. Boom Height: 24"
- k. Downwind Buffer: No
- l. Checked registrant's website before application: Not applicable
- m. Checked DriftWatch before application: Not applicable
- n. Dicamba mandatory training attended: April 3, 2018


\* There was a discrepancy as to which day, or week, the application was made to the target field. However, Mr. McGee's records indicated he sprayed several soybean fields in the area on June 8 and none on June 15.

6. I checked recorded wind data at [www.wunderground.com](http://www.wunderground.com) for the closest official weather stations for June 8, 2018. The Fort Wayne International Airport (25 miles east), Warsaw Municipal Airport (26 miles north-northwest) and Grissom Air Reserve Base (30 miles southwest), confirmed winds were from a southerly direction at some point during the reported time of the application.
7. The PPDL report stated, *"Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba. Some chlorosis on soybean leaves can be indicative of injury from glyphosate."* It further stated, *"No major disease, insect or mite issues observed on the sample submitted."*
8. The OISC Residue Lab analyzed the samples collected from the Grossman field for dicamba and its breakdown products, DCSA and 5-OH dicamba, as well as for glyphosate and its breakdown product, AMPA. The results are as follows:



<b>Case #</b>	<b>2018/0746</b>		<b>Investigator</b>		<b>A. Roth</b>		
Sample #	Sample Description	Amount of Analyte (ppb)					
		Matrix	Dicamba	5-OH Dicamba	DCSA	Glyphosate	AMPA
2018-47-5082	Nontarget beans South edge	Vegetation	1.97	BQL	BDL	23.3	BDL
2018-47-5083	Nontarget beans 50 yds	Vegetation	1.62	BQL	BDL	BDL	BDL
2018-47-5084	Nontarget beans 100 yds	Vegetation	0.561	BQL	BDL	BDL	BDL
2018-47-5085	Target soil	Soil	Did not test	Did not test	Did not test	489	491
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC							
LOQ (ppb)		Soil	Did not test	Did not test	Did not test	10	50
LOQ (ppb)		Veg	0.4	0.4	2	10	50
<b>Signature</b>			<b>Date</b>		09/25/2018		

9. Dicamba was detected in all three soybean samples; the breakdown product 5-OH dicamba was detected in all three soybean samples at levels below quantification limits. Glyphosate and AMPA were detected in the soil from the target field; glyphosate was also detected in the soybeans along the south edge of the Grossman field. The evidence at the site, the lab reports and the wind data suggest dicamba from the application to the target field moved off-target to the Grossman soybean field. 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. Regardless, the wind data provided by the applicator, and confirmed at the airports, supports that FeXapan was applied while winds were blowing toward the sensitive non-DT soybeans.
10. The FeXapan label reads, in part, **“DO NOT APPLY this product when the wind is blowing toward adjacent non-dicamba tolerant susceptible crops; this includes NON-Dicamba Tolerant Soybean and Cotton.”** Regarding tank mix partners, it states, **“The applicator must check the list of tested products found not to adversely affect the offsite movement potential of DuPont FeXapan herbicide Plus VaporGrip Technology at [www.fexapanapplicationrequirements.dupont.com](http://www.fexapanapplicationrequirements.dupont.com) no more than 7 days before applying DuPont FeXapan herbicide Plus VaporGrip Technology.”** It also states, **“The applicator must also consult applicable sensitive crop registries to identify any commercial specialty or certified organic crops that may be located near the application site.”**

  
 Andrew R. Roth  
 Investigator

Date: December 3, 2018



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

The civil penalty payment was received.



George N. Saxton  
Compliance Officer

Draft Date: January 15, 2019  
Final Date: June 7, 2019

## CASE SUMMARY

Case #2018/0748

**Complainant:** Doug Ransom  
7707 Amanda Lane  
West Lafayette, Indiana 47906  
765-426-4247

**Respondent:** Steven J Clark  
5123 N 600 W  
Williamsport, Indiana 47993  
765-585-1028

Private Applicator

1. On July 6, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans. He stated his exposure symptoms may have come from multiple farms.
2. On July 10, 2018, I met with the complainant to conduct an on-site physical investigation of the alleged off-target pesticide movement incident reported to OISC. The complainant advised me that he believed his non-DT beans had been damaged by an application made to a nearby DT soybean field.
3. During my on-site investigation I did the following:
  - a) Looked for and did not observe another potential dicamba application made in the area adjacent to the impacted site.
  - b) Observed and photographed what I believed to be fairly uniform dicamba exposure symptoms (figure 1) throughout the complainant's non-target, non-DT soybean field (figure 2) located to the north and east of the target field. The target field and the complainant's non-target field were separated by a county road and vegetative roadside areas totaling forty-eight (48) feet (figure 3) north to south and a tree line/fencerow eighty-four (84) feet east to west (figure 4) .
  - c) Collected soybean plant samples from impacted areas of the complainant's non-target soybean field for visual analysis by the Purdue Plant and Pest Diagnostic Lab (PPDDL).
  - d) Collected samples for chemical analysis by the OISC Pesticide Residue Laboratory from the following areas:
    - i) Impacted soybean plants from complainant's non-target soybean fields;
    - ii) Soil sample from target field
    - iii) Weed vegetation from the target field
  - e) Made a diagram/map of the investigation site, depicting locations of relevant fields, sample collection, roads, structures, and other landmarks (figure 5).
4. On July 25, 2018, I collected written records from the applicator Mr. Clark. There were three separate applications that took place near the complainant's non-DT beans by Mr. Clark. The written records and statements addressed the below items as follows (2018/0748):
  - a) Application date & time: June 7, 2018 from 11:00am to 12:30p
  - b) Target field: soybean field to the south and west of complainant's soybean fields;

- c) Pesticides: Engenia (dicamba) EPA Reg. #7969-345; Section Three (clethodim) EPA Reg. #66330-414-1381; Zidua (pyroxasulfone) EPA Reg. #7969-338;
- d) Application rate: 12.8 oz. per acre Engenia; 4 oz. per acre Section Three; 1 oz. per acre Zidua
- e) Adjuvants: Class Act Rideon, AG 16098, Superb;
- f) Nozzles: ULD 120-06
- g) Boom height: 24 Inches
- h) Ground speed: 13 mph
- i) Winds: 8 mph from the southwest;
- j) Applicator: Steven Clark;
- k) Certified supervisor: not applicable;
- l) Left a 110' untreated buffer next to non-target site: Yes 530 feet
- m) Checked registrant's web site before application: No
- n) Checked Field Watch before application: Yes June 7, 2018
- o) Surveyed application site before application: Yes

5. I searched wind data from [www.weatherunderground.com](http://www.weatherunderground.com) for zip code 47993 in Williamsport, Indiana for the reported date and time of the application. The results of that search indicated that wind speed and direction during the application were as follows.

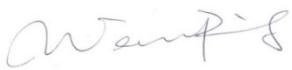
**As recorded at Purdue University 7-8 mph Southwest and West Southwest**

10:54 AM	78 ° F	65 ° F	64 %	SW	8 mph	0 mph
11:54 AM	81 ° F	67 ° F	62 %	WSW	7 mph	0 mph
12:54 PM	84 ° F	68 ° F	58 %	W	7 mph	0 mph

Purdue University Wind Data 25 Miles East

6. The wind would have been blowing in the direction of the complainants beans.
7. The report from the PPPDL states, "*Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba.*"
8. The report from OISC residue lab states:

Case #	2018/0748/1021/1022			Investigator	K. Neal		
Sample #	Sample Description	Amount of Analyte (ppb)					
		Matrix	Pyroxasulfone	Dicamba	DCSA	5-OH Dicamba	Clethodim/ Clethodim Sulfone/ Clethodim Sulfoxide
2018-22-1063	Soil sample Clark target field East	Soil	N/A	N/A	N/A	N/A	N/A
2018-22-1064	Weed veg Clark target field East	Vegetation	6.62	*2080	5.15	3.03	0.371/5.83/20.8
2018-22-1065	Ransom Liberty beans East 10 yards in	Vegetation	BDL	5.69	BQL	BDL	BDL
2018-22-1066	Ransom Liberty beans East 50 yards in	Vegetation	BDL	5.65	BQL	BDL	BDL
2018-22-1067	Ransom Liberty beans East 100 yards in	Vegetation	BDL	4.23	BDL	BDL	BDL
2018-22-1068	Ransom Liberty beans West 10 yards in	Vegetation	BDL	3.72	BQL	BDL	BDL

2018-22-1069	Ransom Liberty beans West 50 yards in	Vegetation	BDL	2.35	BDL	BDL	BDL
2018-22-1070	Ransom Liberty beans West 100 yards in	Vegetation	BDL	1.78	BDL	BDL	BDL
2018-22-1071	Soil sample Clark target field West	Soil	N/A	N/A	N/A	N/A	N/A
2018-22-1072	Weed veg Clark target field West	Vegetation	562	*21600	28.5	7.84	0.264/129/246
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC  *Minimum concentration reported due to amount exceeding calibration curve range.							
LOQ (ppb)	Vegetation	0.7	1	0.4	2	0.3/0.3/0.3	
<b>Signature</b>					<b>Date</b>	10/02/18	

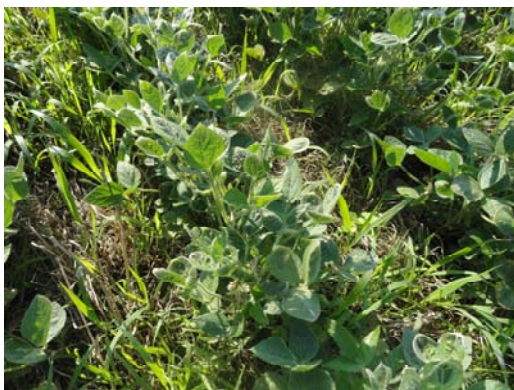


Figure One



Figure Two



Figure Three



Figure Four



Figure Five

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

*Kevin W. Neal*  
 Kevin W. Neal  
 Investigator

Date: November 26, 2018

**Disposition:** Steven J. Clark was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation.

Based on the evidence collected in this investigation, it has been determined that you failed to comply with the drift management restrictions on the label for the herbicide Engenia. It should also be noted that OISC was not able to determine whether the herbicide moved off-target as the result of drift, application into an inversion, or volatilization at some point after the application, and was not able to clearly identify the source of the off-target movement.

As of March 21, 2019, Steven J. Clark had not paid the \$100.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC.

The civil penalty payment was received on April 1, 2019.

*George N. Saxton*  
 George N. Saxton  
 Compliance Officer

Draft Date: March 21, 2019  
 Final Date: April 24, 2019



## CASE SUMMARY

Case #2018/0749

**Complainant:** Jeff Hackman  
958 Waynesboro Road  
Decatur, IN 46733  
260-724-4744

**Respondent:** Matt VanTilburg  
VTF Sunrise  
8398 Celina Mendon Road  
Celina, OH 45822  
419-586-3077

Certified Applicator  
Licensed Business

1. On July 6, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected agricultural pesticide drift from a bean field to his garden and his person. Jeff Hackman stated the unknown herbicide drifted from the neighbor's soybean field and killed his entire garden. He also stated he thought he had a pair of shorts he was wearing that had not been laundered and understood that he would not get the shorts back if the investigator took them for analysis.
2. On July 10, 2018, I spoke with Mr. Hackman who reported drift from the adjacent field occurred during the afternoon on July 3, 2018. He indicated he called Dan Buchan, who farms the field, several times and he did go out to look at the garden on July 7, 2018. The field was reportedly sprayed commercially by "DTF".
3. On July 12, 2018, I met Mr. Hackman at his residence. He indicated garden plants and ornamentals in the back yard near the field developed symptoms after the application was made. He indicated the clothing he was wearing in the back yard when the application was made had been washed. The back yard at the property was bordered by the target field to the south with no biological barrier separating the two. Tomato plants in the small garden exhibited necrotic leaves and discoloration. Morning glory and other ornamentals at the back of the property showed similar symptoms. I photographed the site documenting the symptoms observed. I collected plant samples from tomato and morning glory for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue. I also collected tomato foliage and soybeans from the target field for analysis by the OISC Residue Lab.



Fig.1 Back yard & field



Fig.2 Morning glory/garden




Fig.3 Tomato plants



Fig.4 Garden and field

4. On July 12, 2018, I determined that the “DTF” which reportedly sprayed the field was actually “VTF” for VanTilburg Farms, a licensed business in Celina, Ohio. I contacted Matt VanTilburg and informed him of the complaint. He confirmed the field was sprayed by his employee Ethan Bruggeman. According to information provided by Mr. VanTilburg, the field was sprayed with Liberty Herbicide (EPA Reg. #264-829), active ingredient glufosinate, on July 3, 2018, from 2:35pm-3:15pm. Winds were reportedly out of the southeast, blowing toward the Hackman property, at 6-10mph during the application.
5. I checked recorded wind data at the nearest official weather station to the application site. The Fort Wayne International Airport, 18 miles to the northwest, confirmed winds were from the southeast throughout the afternoon on July 3, 2018.
6. The PPDL report stated, “*Necrosis and chlorosis, next to off-color green symptoms, on tomato and morning glory are indicative of injury from glufosinate.*” It further stated, “*No obvious infectious disease or insect/mite pests were found to be associated with the samples submitted.*”
8. The OISC Residue Lab analyzed the samples from the site for glufosinate and its breakdown product, MPP, and reported the following:

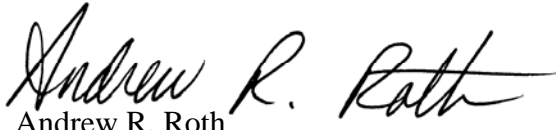
Case # 2018/0749			Investigator: A. Roth	
Sample #	Sample Description	Sample Matrix	Amount Found (ppb)	
			Glufosinate	MPP
2018-47-5090	Tomato	Vegetation	BDL	831**
2018-47-5091	Target soybeans	Vegetation	BDL	789**
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC				
** Amount estimated due to limited calibration curve levels				
LOQ (ppb)	Vegetation		6	30
Signature			Date	09/27/18

9. The glufosinate breakdown product, MPP, was detected in the tomato foliage collected from the Hackman garden as well as in soybeans from the target field. The Liberty label reads, in part, “**Do not apply when weather conditions, wind speed, or wind direction may cause spray drift to non-target areas.**” It further states, “**The pesticide must only be applied when the potential for drift to adjacent sensitive areas (e.g., residential areas, bodies of water, known habitats for threatened or endangered species, non-target crops) is minimal (e.g., when wind is blowing away from the sensitive areas).**”
10. Additionally, a check of the OISC database indicated Mr. Bruggeman was not a licensed applicator in Indiana. I spoke with Mr. Van Tilburg who confirmed Mr. Bruggeman was not



licensed in Indiana and stated he thought Indiana supervision rules were the same as Ohio; he thought as the certified applicator, he could supervise an unlicensed applicator while being off-site. I explained that a non-credentialed applicator must be a Registered Technician at the least, by passing the Core exam and obtaining a credential from the OISC, to be supervised by an off-site certified applicator. Mr. Van Tilburg stated they were guilty and indicated he would provide any documentation needed. According to records obtained from Mr. Van Tilburg, Mr. Bruggeman made unsupervised for-hire pesticide applications in Indiana on twenty-four (24) days in 2018. The documentation for those applications was put in the case file.

11. In a subsequent conversation, Mr. Van Tilburg reported that Mr. Bruggeman took a different job and was no longer employed by VTF Sunrise. He indicated he would work to obtain Indiana applicator licenses for employees who may be utilized to spray in Indiana.



Andrew R. Roth  
Investigator

Date: January 9, 2019

**Disposition:** VTF Sunrise was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift.

Matt VanTilburg was cited for twenty-four (24) 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 \$3,000.00 (24 counts x \$125.00 per count) was assessed. However, the civil penalty was reduced to \$1,500.00. Consideration was given to the fact Matt VanTilburg cooperated during the investigation; this was his first violation of similar nature and no restricted use pesticides were involved.

As of May 6, 2019, VTF Sunrise had not paid the \$1,500.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty was still owed to OISC.

The civil penalty payment was received on June 10, 2019.



George N. Saxton  
Compliance Officer

Draft Date: May 6, 2019  
Final Date: June 18, 2019

## CASE SUMMARY

Case #2018/0750

**Complainant:** Danny Nally  
4279 N 600 W  
Marion, Indiana 46952  
765-661-9767

**Respondent:** Ty Breedlove  
Bruce Horner  
Co-Alliance  
2655 S 600 W  
Marion, Indiana 46953  
765-603-0728

Registered Technician  
Certified Supervisor  
Licensed Business

1. On June 27, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans from the bean field to the east of his residence. In the complainant's initial OISC Case #2018/0692 (application date of 6/6/18) the respondent Ty Breedlove stated he made a second application of the borders on 6/16/18 with the same tank mix.
2. On July 6, 2018, I met with the complainant to conduct an on-site physical investigation of the alleged off-target pesticide movement incident reported to OISC. The complainant advised me that he believed his non-DT soybeans had been damaged by an application made by the Co-Alliance in Marion, Indiana to his soybean field.
3. During my on-site investigation I did the following:
  - a) Looked for and discovered there were no other potential dicamba applications made in the area adjacent to the impacted site.
  - b) Observed and photographed what I believed to be dicamba exposure symptoms (figure 1) throughout the complainant's non-target, non-DT soybean field (figure 2) located to the north/north east of the target field. The target field and the complainant's non-target field were separated by a wire fence. (figure 3)
  - c) Collected samples for chemical analysis by the OISC Pesticide Residue Laboratory from the following areas:
    - i) Impacted soybean plants from complainant's non-target soybean field;
    - ii) Soil from target field (Same Target soil taken from OISC Case# 2018/0692)



Figure 1



Figure 2



Figure 3

4. I collected written records from the applicator Ty Breedlove. The written records and statements addressed the below items as follows:

Target Field

- a) Application date & time: June 16, 2018; 8:45 am to 9:20 am.
- b) Target field: Borders 11.5 acres soybeans, 600 W 400 N 2 Fields NE SE
- c) Pesticides: Warrant Bulk EPA #524-591 Active Ingredient Acetochlor, Roundup PowerMax EPA #524-549 Active Ingredient Glyphosate, Xtendimax EPA #524-617 Active Ingredient Dicamba (Diglycolamine Salt)
- d) Application rate: Xtendimax 22oz/acre, Roundup PowerMax 22 oz/acre, Warrant 3pts/acre
- e) Adjuvants: Astonish & Capsule
- f) Nozzles: UR 110-08 Wilger, 35 PSI
- g) Sprayer cleanout records - No
- h) Boom height: 24"
- i) Ground speed: 14 mph
- j) Winds: 6-7 mph SSW for duration
- k) Applicator: Ty Breedlove
- l) Certified supervisor: Bruce Horner
- m) Left a 110' untreated buffer next to non-target site: not applicable
- n) Checked registrant's web site before application: yes
- o) Checked Field Watch before application: yes
- p) Surveyed application site before application: yes



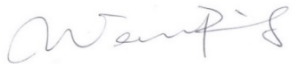
Figure Four

- \*Figure Four is a Google Earth Image of the complainant and target fields
- \*Target Field is outlined in red (OISC Case #2018/0692 Initial application sprayed on 6/6/18)
- \*Complainant's field is outlined in green
- \*Orange line is buffer area sprayed on 6/16/18
- \*Light blue arrow is the wind direction recorded by the respondent of S/SW

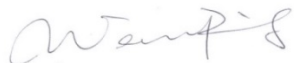
5. I searched wind data from [www.weatherunderground.com](http://www.weatherunderground.com) for Marion, Indiana for the reported date and time of the application. The results of that search indicate the wind speeds and direction during the application were as follows:

8:35 AM	0 ° F	0 ° F	0 %	CALM	0 mph	0 mph	29.1 in	0.0 in	0.0 in	Fair
8:55 AM	0 ° F	0 ° F	0 %	CALM	0 mph	0 mph	29.1 in	0.0 in	0.0 in	Fair
9:15 AM	0 ° F	0 ° F	0 %	CALM	0 mph	0 mph	29.1 in	0.0 in	0.0 in	Fair
9:35 AM	0 ° F	0 ° F	0 %	S	10 mph	0 mph	29.1 in	0.0 in	0.0 in	Fair

6. The report from the OISC Pesticide Residue Laboratory states:

Case #	2018/0750			Investigator			M. Rosch	
Sample #	Sample Description	Matrix	Amount of Analyte (ppb)					
			Acetochlor	Dicamba	DCSA	5-OH Dicamba	Glyphosate	AMPA
2018-35-7242	Control sample vegetation	Vegetation	6.40	0.493	BDL	BDL	439	BDL
2018-35-7204	Veg 1	Vegetation	BDL	0.298	BDL	BDL	156	BDL
2018-35-7205	Veg 2	Vegetation	BDL	BQL	BDL	BDL	132	BDL
2018-35-7206	Veg 3	Vegetation	11.4	0.292	BDL	BDL	395	BQL
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC								
LOQ (ppb)	Vegetation		3	0.2	0.2	2	10	125
Signature						Date		09/27/18

Target soil was taken on 6/27/18 OISC Case #2018-0692 (Application date 6/6/18 with same tank mix)

Case #	2018/0692		Investigator				M. Rosch	
Sample #	Sample Description	Matrix	Amount of Analyte (ppb)					
			Acetochlor	Dicamba	DCSA	5-OH Dicamba	Glyphosate	AMPA
2018-35-7183	Veg 1	Vegetation	120	0.568	BDL	BDL	1110	96.1
2018-35-7184	Soil 1	Soil	NA	NA	NA	NA	NA	NA
2018-35-7185	Veg 2	Vegetation	237	0.762	BDL	BDL	1550	125
2018-35-7186	Soil 2	Soil	NA	NA	NA	NA	NA	NA
2018-35-7187	Veg 3	Vegetation	1020	3.04	BQL	BDL	3040	293
2018-35-7188	Soil 3	Soil	NA	NA	NA	NA	NA	NA
2018-35-7189	Target soil	Soil	877*	2.42	111	BDL	601	622
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 (ppb)	Soil		3	0.2	0.2	2	10	50
LOQ (ppb)	Vegetation		3	0.2	0.2	2	5	25
Signature						Date		10/4/18

7. The label violations for this case are the following:

1. Xtendimax EPA#524-617:

- Page 3 reads, *"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."*

Page 4 reads, **"9.1.4.b. Susceptible Crops**

**DO NOT APPLY** this product when the wind is blowing toward adjacent non-dicamba tolerant susceptible crops; this includes **NON-DICAMBA TOLERANT SOYBEAN AND COTTON.**"

-Page 2 reads, *"Spray system cleanout: Record of compliance with the section of this label titled Section 9.5: Proper spray system cleanout. At minimum, records must include the confirmation that the spray system was clean before using this product and that the post-application cleanout was completed in accordance with Section 9.5."*

2. RoundUp PowerMax EPA#524-549:

-Page 136 reads, *"Do not allow the herbicide solution to mist, drip, drift of splash onto desirable vegetation, as even small quantities of this product can cause severe damage or destruction to the crop, plants or other vegetation on which application was not intended."*

3. Warrant Herbicide EPA# 524-591:

-Page 31 reads, *"Do not apply when wind conditions favor drift to non-target sites."*

8. There appears to be a violation in this case base on the following:

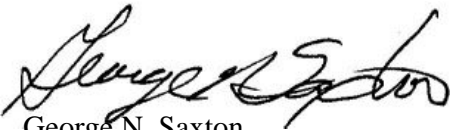
- The label violations including not recording the crop planting and spray system cleanout dates.
- The active ingredients used in the application were found in the samples submitted to the OISC Residue Laboratory.



Melissa D. Rosch  
Investigator

Date: January 25, 2019

**Disposition:** Ty Breedlove and Bruce Horner were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton  
Compliance Officer

Draft Date: February 26, 2019  
Final Date: April 12, 2019

## CASE SUMMARY

Case #2018/0753

**Complainant:** Rick Vance  
10522 E. SR 68  
Dale, Indiana 47523  
812-937-9000

**Respondent:** Wesley Redden  
Milhon Air, Inc.  
2151 Centerton Road  
Martinsville, Indiana 46151  
317-831-7464

Certified Applicator  
Licensed Business

1. On July 9, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) aerial applicator agricultural pesticide drift to his property and person.
2. On July 17, 2018, I met with complainant Rick Vance at his residence. Mr. Vance stated on July 9, 2018 he witnessed a “crop duster” flying back and forth north to south very low over his house. Mr. Vance stated he tried to wave the aerial applicator off from the back of his house and from the front of his house, but the aerial applicator continued to fly back and forth over his residence. Mr. Vance stated he stayed inside his home and could see droplets dripping from the plane over his property and he could smell the pesticides inside his house. Mr. Vance stated when he went back outside after the aerial applicator was finished he observed droplets on the front windshield of his vehicle.
3. During my on-site investigation I did the following:
  - a. Looked for, and found two fields to the north and south of the complainant’s property that could be possible sources of an aerial application. The target fields for this case is located to the north and south of the complainant’s property and consist of two different fields with applications made on the same day by the same applicator with the same tank mix. (See Fig. 1).
  - b. Collected composite vegetation samples from the target fields. Collected swab and vegetation samples from the complainant’s property (See Fig. 1). The residue samples were submitted to the OISC Residue Laboratory for analysis.





Fig. 1

- Fig. 5 is an aerial diagram including wind data, property lines, and where vegetation and swab samples were taken from.
4. On July 18, 2018, I contacted the Branch Manager of Superior Ag in Dale, Indiana Bernard Buening. I advised Mr. Bernard I was a Pesticide Investigator with OISC and the investigation I was conducting. Mr. Bernard stated Superior Ag had contracted Milhon Air Inc. to do their aerial applications.



5. On July 19, 2018, I contacted Milhon Air Inc. and spoke to the operations managers “Anne”. I advised Anne I was a Pesticide Investigator with OISC and the investigation I was conducting. Anne advised Milhon Air Inc. had been in the area of the complainant’s property doing aerial applications and she would have to check there application records to locate any fields near the complainant’s property.
6. On July 23, 2018, the operations manager contacted me and advised she had located the fields. Anne advised Milhon Air Inc. made aerial applications to two fields one to the north and one to the south of the complainant’s property. I advised Anne I would need the applicator to complete a pesticide investigation inquiry form for the application.
7. On August 8, 2018, I received a completed Pesticide Investigation Inquiry from Milhon Air Inc. for the application which indicated the following:
  - a. Certified Applicator: Wesley Redden
  - b. Application Date and Time: July 9, 2018, 8:00am to 12:45pm
  - c. Pesticide Applied:
    - Trivapro, EPA Reg. #100-1613, Active=Propiconazole, Benzovindiflupyr, Azoxystrobin 13.7oz/acre
    - Tundra EC, EPA Reg. #1381-196, Active=Bifenthrin, 2.1oz/acre
  - d. Adjuvants: Masterlock
  - e. Target Field Location and Size: H.R. Moesner Farms, 106 Acres
  - f. Pre- or Post- Emergent Application: Post
  - g. Wind Direction at Boom Height: Start- 235 Degrees, End- 235 Degrees
  - h. Wind Speed at Boom Height: Start- 2mph, End- 2mph
  - i. Nozzle and Pressure: CP Nozzels, 40psi
  - j. Boom Height: 6- 10 feet
8. Weather history data was obtained at [www.wunderground.com](http://www.wunderground.com) from the three closest official weather station to the application site. The locations and weather data for July 9, 2018 follow:
  - Huntingburg Regional Airport (KHNB) located in Holland, Indiana 7 miles to the northeast of the application site:

Date	Time	Temperature	Wind Direction	Wind Speed	Wind Gust
7/9/2018	7:55 AM	73 F	CALM	0 MPH	0 MPH
7/9/2018	8:55 AM	79 F	SW	5 MPH	0 MPH
7/9/2018	9:55 AM	82 F	WSW	7 MPH	0 MPH
7/9/2018	10:55 AM	83 F	W	6 MPH	0 MPH
7/9/2018	11:55 AM	85 F	SW	3 MPH	0 MPH
7/9/2018	12:55 PM	85 F	CALM	0 MPH	0 MPH

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


Date	Time	Temperature	Wind Direction	Wind Speed	Wind Gust
7/9/2018	7:54 AM	78 F	SW	5 MPH	0 MPH
7/9/2018	8:54 AM	81 F	SW	10 MPH	0 MPH
7/9/2018	9:54 AM	82 F	WSW	7 MPH	0 MPH
7/9/2018	10:54 AM	84 F	SSW	6 MPH	0 MPH
7/9/2018	11:54 AM	86 F	CALM	0 MPH	0 MPH
7/9/2018	12:54 PM	86 F	NNW	7 MPH	0 MPH

- Owensboro-Daviess County Regional Airport (KOWB) located in Owensboro, Kentucky 31 miles to the south of the application site:

Date	Time	Temperature	Wind Direction	Wind Speed	Wind Gust
7/9/2018	7:56 AM	76 F	SSW	6 MPH	0 MPH
7/9/2018	8:56 AM	80 F	SW	9 MPH	0 MPH
7/9/2018	9:56 AM	83 F	SW	7 MPH	0 MPH
7/9/2018	10:56 AM	84 F	SW	6 MPH	0 MPH
7/9/2018	11:56 AM	86 F	S	5 MPH	0 MPH
7/9/2018	12:56 PM	86 F	SW	7 MPH	0 MPH

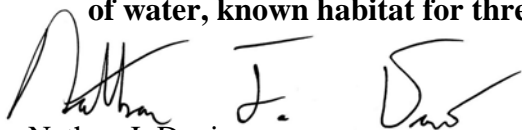
- The triangulated wind data from the Huntingburg Regional Airport (KHNB), Evansville Regional Airport (KEVV), and Owensboro-Daviess County Regional Airport (KOWB) indicate the wind speed during the application was between 0 mph and 10 mph with no gust out of the south or west.
- The OISC Residue Laboratory analyzed the north target field vegetation sample and off target swab samples from the complainant's property for Azoxystrobin, Propiconazole, Benzovindiflupyr, and Bifenthrin and reported the following:

Case #	2018/0753			Investigator		N. Davis
Sample #	Sample Description	Amount of Analyte (ng/swab or ppb)				
		Matrix	Azoxystrobin	Propiconazole	Benzovindiflupyr	Bifenthrin
2018-39-9630	Trip blank swab	Swab	BDL	BDL	BDL	BDL
2018-39-9631	Control acetone swab West side of aluminum window frame	Swab	39.9	12.1	4.73	BQL
2018-39-9632	A1 swab car windshield East side	Swab	866	69.9	182	BQL
2018-39-9633	A2 swab back of tin shed North side	Swab	69.3	16.2	9.40	BDL
2018-39-9634	A3 swab front door glass South side	Swab	77.2	41.1	17.7	BDL
2018-39-9635	Comparable control composite veg West side	Vegetation	Not tested	Not tested	Not tested	Not tested
2018-39-9636	North target field composite veg	Vegetation	41.9	30.9	22.2	20.7
2018-39-9637	South target field composite veg	Vegetation	Not tested	Not tested	Not tested	Not tested

2018-39-9638	Off target veg East side	Vegetation	Not tested	Not tested	Not tested	Not tested
2018-39-9639	Off target veg North side	Vegetation	Not tested	Not tested	Not tested	Not tested
2018-39-9640	Off target veg South side	Vegetation	Not tested	Not tested	Not tested	Not tested
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC						
LOQ (ppb)	Vegetation	3	3	0.7	2	
LOQ (ng/swab)	Swab	0.2	4	0.4	5	
<b>Signature</b>					<b>Date</b>	11/30/18

11. The OISC Residue Laboratory analysis detected Azoxystrobin, Propiconazole, and Benzovindiflupyr. Bifenthrin was also detected, but was below quantification limits. The tank mix for this application included the active ingredients Azoxystrobin, Propiconazole, Benzovindiflupyr, and Bifenthrin.

12. The evidence of the statement given by the complainant that he observed droplets on the windshield of his vehicle after the application and the OISC Residue Laboratory analysis of the swab taken from the vehicle windshield confirming the presence of the active ingredients included in the tank mix during the application indicate the pesticides moved off target during the application. The label for *Trivapro*, EPA Reg. #100-1613, Active Ingredient = Propiconazole, Benzovindiflupyr, and Azoxystrobin states: **“Do not apply this pesticide when the product may drift to non-target areas (i.e., residential areas, bodies of water, known habitat for threatened or endangered species, non-target crops)”**.

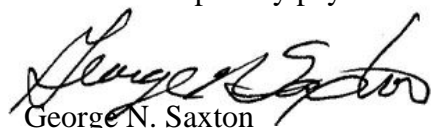
  
Nathan J. Davis  
Investigator

Date: December 7, 2018

**Disposition:** Wesley Redden was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was Wesley Redden’s second violation of similar nature. See case number 2015/1165.

As of May 6, 2019, Milhon Air, Inc. had not paid the \$250.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty was still owed to OISC.

The civil penalty payment was received on May 13, 2019.

  
George N. Saxton  
Compliance Officer

Draft Date: May 6, 2019  
Final Date: June 18, 2019

## CASE SUMMARY

Case #2018/0760

**Complainant:** Floyd Bergman  
2578 State Road 49  
Fort Recovery, OH 45846  
419-852-5561

**Respondent:** Kevin Sudhoff  
4179 State Road 49  
Fort Recovery, OH 45846  
419-852-3525

Not Licensed

1. On July 10, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural drift to his soybeans.
2. On July 12, 2018, I spoke with Floyd Bergman who reported he observed cupping on non dicamba-tolerant (DT) Roundup Ready soybeans in one of his fields after a neighboring grower notified him of the symptoms a few days prior. Mr. Bergman reported that his field was last sprayed with Roundup in June. He described the location of the field and stated he did not need to be present for the on-site investigation.
3. On July 12, 2018, I went to the Bergman field in eastern Jay County to conduct the on-site investigation before meeting with Mr. Bergman. The neighboring grower who notified Mr. Bergman of the exposure symptoms, Kevin Sudhoff, reportedly sprayed the soybean field across the road to the west with a tank mix containing dicamba.
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 Bergman soybean field. The Bergman field was bordered on the west by CR700E and on the north by CR150N (Fig.1). The East Prong of Franks Drain dissected the western portion of the Bergman field.
  - b) Observed and photographed what appeared to be mostly uniform, widespread cupping and puckering of leaves on non-DT soybean plants across the western portion of the Bergman field. These symptoms are commonly associated with exposure to a growth-regulator type herbicide such as dicamba.
  - c) Collected soybean plant samples from the Bergman field for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue.
  - d) Collected plant samples from soybean plants exhibiting symptoms at three locations in the Bergman field; one from along the west edge of the field, one from 50 yards into the field and one from 100 yards into the field. Collected a soil sample from the target (Sudhoff) field across CR700E to the west. Those samples were submitted to the OISC Residue lab for analysis.



Fig.1 Aerial photo of fields



Fig.2 Cupping in Bergman field



Fig.3 Cupped non-DT soybeans

5. On July 16, 2018, I spoke with Mr. Sudhoff who confirmed he farmed the field west of the Bergman soybean field. He reportedly sprayed the field with XtendiMax and Roundup in mid-June. Mr. Sudhoff stated he contacted Mr. Bergman about the symptoms when he noticed them. He later provided a Pesticide Investigation Inquiry, which provided the following information:

- a. Unlicensed Applicator: Kevin Sudhoff
- b. Application date and time: June 16, 2018, from 10:00am – 4:30pm
- c. Pesticides: Roundup PowerMax (glyphosate), EPA Reg. #524-549  
Xtendimax (dicamba) EPA Reg. #524-617
- d. Adjuvants: Class Act
- e. Target field: Sweeterman
- f. Pre or post application: Post
- g. Wind speed/direction at start: 5mph from south-southeast (away from Bergman)
- h. Wind speed/direction at end: 5mph from south-southeast
- i. Nozzles: Wilger VR 110-06
- j. Boom Height: 20” above crop
- k. Downwind Buffer: 120 feet
- l. Checked registrants website before application: June 16, 2018
- m. Checked DriftWatch before application: June 16, 2018
- n. Dicamba mandatory training attended: February 20, 2018


6. I checked recorded wind data at [wunderground.com](http://wunderground.com) for the closest official weather station to the application site for June 16, 2018. The Delaware County Airport (Muncie), which is 32 miles west-southwest of the application site, recorded winds as follows:

- 1053am from southwest at 9mph
- 1153am from west-southwest at 5mph
- 1253pm from southwest at 6mph
- 153pm from west-northwest at 12mph
- 253pm variable at 7 mph
- 353pm from west-southwest at 3mph

Any wind from a westerly direction would have been blowing toward the non-DT soybeans in the Bergman field.

7. The PPDL report indicated, “*Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba.*” It further indicated, “*Brown spot was observed on lower leaves. No major infectious disease or insect/mite pests were found to be associated with the symptoms of cupping on the sample submitted.*”


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

Case # 2018/0760			Investigator: A. Roth		
Sample #	Sample Description	Sample Matrix	Amount Found (ppb or ng/swab)		
			5-OH Dicamba	DCSA	Dicamba
2018-47-5092	Non DT Beans – west edge	Veg	BQL	BQL	0.963
2018-47-5093	Non DT Beans – 50 yards	Veg	BDL	BQL	0.656
2018-47-5094	Non DT Beans – 100 yards	Veg	BDL	BQL	0.255
2018-47-5095	Target Soil	Soil	BDL	374	17.6
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC					
LOQ (ppb)	Vegetation		0.4	0.2	0.2
LOQ (ppb)	Soil		0.4	2	0.2
Signature			Date	01/15/19	

9. Although some results were reported as below the quantification limit, the dicamba parent compound and the breakdown product, DCSA, were detected in all plant samples from the Bergman field and in the soil sample collected from the target (Sudhoff) field. Because the wind direction reported by Mr. Sudhoff conflicted with those recorded at the airport and some of the items on the PII were left blank, I contacted Mr. Sudhoff for clarification. Via email, he indicated winds were from the south-southwest, **blowing toward the Bergman field, at 3-5mph during the application.** Mr. Sudhoff also reported he did not leave an in-field downwind buffer when he made the application.
10. During the investigation, it was determined Mr. Sudhoff did not have an Indiana private applicator license. He indicated his brother, Gary Sudhoff, was licensed in Ohio, where the product was purchased, and he thought he could apply XtendiMax under his brother's license/supervision as that is permissible in Ohio. I explained that XtendiMax was made a restricted-use pesticide in Indiana for the 2018 growing season and that he was required to have a license to apply it. Mr. Sudhoff provided copies of application records for three days on which he applied XtendiMax to fields in Indiana during 2018. Those dates were June 6, June 7 and June 16. I later spoke to Gary Sudhoff and explained the licensing requirements and provided information for obtaining Indiana applicator licenses for the 2019 growing season.
11. The evidence at the site, the lab reports and the wind direction during the application suggest dicamba applied to the Sudhoff field moved off-target to the soybeans in the Bergman field. While 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,

XtendiMax was applied when winds were blowing toward sensitive non-DT soybeans in the Bergman field.


12. The XtendiMax label reads, “**DO NOT APPLY this product when the wind is blowing toward adjacent non-dicamba tolerant susceptible crops; this includes NON-DICAMBA TOLERANT SOYBEAN AND COTTON**”

  
Andrew R. Roth  
Investigator

Date: February 4, 2019

**Disposition:** Kevin Sudhoff was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact this was his fourth violation of similar nature. See case numbers 2017/1194, 2017/1200 and 2017/1207.

Kevin Sudhoff was also cited for three (3) counts of violation of section 65(10) of the Indiana Pesticide Use and Application Law for applying restricted use pesticides without having a certification. A civil penalty in the amount of \$300.00 (3 counts x \$100.00 per count) was assessed for this violation.

  
George N. Saxton  
Compliance Officer

Draft Date: February 26, 2019  
Final Date: April 12, 2019



## CASE SUMMARY

Case #2018/0774

**Complainant:** Brent Emerick  
5249 S. CR500 E.  
Columbia City, IN 46725  
260-450-0104

<b>Respondent:</b>	Jeff Hinen	Not Licensed
	Michael Hinen	Private Applicator
	2823 E. CR900 S.	
	Columbia City, IN 46725	
	260-609-3941	

1. On July 11, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
2. On July 12, 2018, I spoke with Brent Emerick who reported he noticed cupping on non dicamba-tolerant (DT) Roundup Ready soybeans in one of his fields. He indicated the neighboring grower, Michael Hinen, notified him when the adjacent field was going to be sprayed with a dicamba-containing tank mix in late-May. The Emerick field was sprayed commercially with Abundit (glyphosate) and Zidua (pyroxasulfone) early; it was sprayed with Abundit and clethodim in mid-June. Mr. Emerick provided records for the applications.
3. On July 16, 2018, I went to the field on the south side of SR14 in Whitley County. Mr. Emerick arrived later, after I had started the on-site investigation, to discuss the situation.
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 Emerick soybean field. The Hinen field bordered the Emerick field to the west; a grass lane divided the two, leaving approximately 20 feet between crops.
  - b) Observed and photographed minor cupping and puckering of leaves on non-DT soybean plants in the northern portion of the Emerick field, behind the barn, and in the southern portion of the field. These symptoms are commonly associated with exposure to a growth-regulator type herbicide such as dicamba.
  - c) Collected soybean plant samples for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue.
  - d) Collected gradient plant samples from soybeans exhibiting symptoms at the south end of the Emerick field; plants were collected along the west edge of the field, approximately 25 yards into the field and approximately 50 feet into the field. Collected a soil sample from the target (Hinen) field across the grass lane to the west. Those samples were submitted to the OISC Residue lab for analysis.



Fig.1 Aerial photo of fields



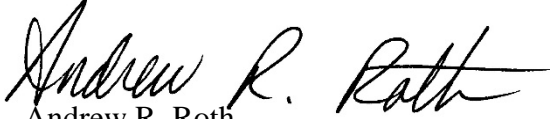
Fig.2 Fields separated by grass lane



Fig.3 Cupped/puckered leaves

5. On July 16, 2018, I spoke with Michael Hinen and informed him of the complaint. He confirmed he farmed the field in question and reported that his brother, Jeff Hinen, sprayed it early in the growing season. I then spoke with Jeff Hinen who confirmed he sprayed the field with Engenia, Zidua and Roundup in late-May and stated that he left a buffer of at least 120 feet along the east side of the field. Mr. Hinen, who noted he also worked for Monsanto Climate Corp and had a master's degree in weed science, suggested that, based on the location of the symptoms within the field (each end), tank contamination may have been an issue during the application to the Emerick field. He later provided a Pesticide Investigation Inquiry, screenshots of weather data, a planting map and a receipt for the purchase of Engenia. The information provided indicated the following:
  - a. Unlicensed Applicator: Jeff Hinen  
Certified Applicator: Michael Hinen
  - b. Application date and time: May 25, 2018, from 554pm – 648pm
  - c. Pesticides: Engenia (dicamba) EPA Reg. #7969-345  
Zidua (pyroxasulfone), EPA Reg. #7969-338  
Roundup PowerMax (glyphosate), EPA Reg#524-549
  - d. Adjuvants: Cornbelt Vaporgard + DRA
  - e. Target field: Hwy14
  - f. Pre or post application: Early-post
  - g. Wind speed/direction at start: 4mph from south (away from Emerick field)
  - h. Wind speed/direction at end: 4mph from west-southwest (toward Emerick field)
  - i. Nozzles: TTI 11004, 45
  - j. Boom Height: 18" above canopy
  - k. Downwind Buffer: 120 ft +
  - l. Checked registrants website before application: NA
  - m. Checked DriftWatch before application: April 18, 2018
  - n. Dicamba mandatory training attended: January 17, 2018
6. The PPDL report stated, *"Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba."* It further stated, *"No fungal or bacterial disease and no insect/mite pests were observed to be associated with the symptoms of concern (foliar distortion)."*
7. Because of the information provided by Mr. Hinen, the samples submitted to the OISC Residue Lab were no analyzed. Any wind from a westerly direction would be blowing toward the sensitive non-DT soybeans in the Emerick field.

8. The Engenia label reads, in part, “**DO NOT apply when wind is blowing in the direction of neighboring sensitive crops. Sensitive crops include, but are not limited to: non-DT soybeans...**” The label further states, “**DO NOT tank mix any product with Engenia unless: 1. You check the list of EPA approved products for use with Engenia at [www.engeniatankmix.com](http://www.engeniatankmix.com) no more than 7 days before applying Engenia;...**”

  
Andrew R. Roth  
Investigator

Date: December 11, 2018

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

  
George N. Saxton  
Compliance Officer

Draft Date: February 14, 2019

Final Date: March 27, 2019

## CASE SUMMARY

Case #2018/0778

**Complainant:** Neal Herr  
5995 E 575 N  
Camden, IN 46917  
765-437-9468

Private Applicator

**Respondent:** Carl Salomon  
Monticello Farm Service  
1415 N. 6th Street  
Monticello, IN 47960  
574-583-8238

Certified Applicator  
Licensed Business

1. On July 11, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected agricultural dicamba pesticide drift to his beans.
2. On July 17, 2018, I met with Neal Herr at his non-DT soybean field he believed was affected by agricultural dicamba pesticide drift. The injury appeared to be concentrated on the west side of Mr. Herr's field where it borders the DT soybean field that was sprayed by Carl Salomon of Monticello Farm Service. The border between the two fields can be seen in Figure 1. The injury that caused Mr. Herr's complaint can be seen in Figures 2 and 3.



3. I collected the following samples:
  - A. Affected Field 30' In
  - B. Affected Field 90' In
  - C. Affected Field 150' In
  - D. Affected Field Soil
  - E. Target Field Veg.
  - F. Target Field Soil
  - G. Control Veg.

These samples were submitted to the OISC residue lab for analysis. I also collected a non-DT soybean sample from the affected field to have analyzed by the Plant and Pest Diagnostic Lab at Purdue (PPDL). The locations of the samples can be seen in Figure 4.

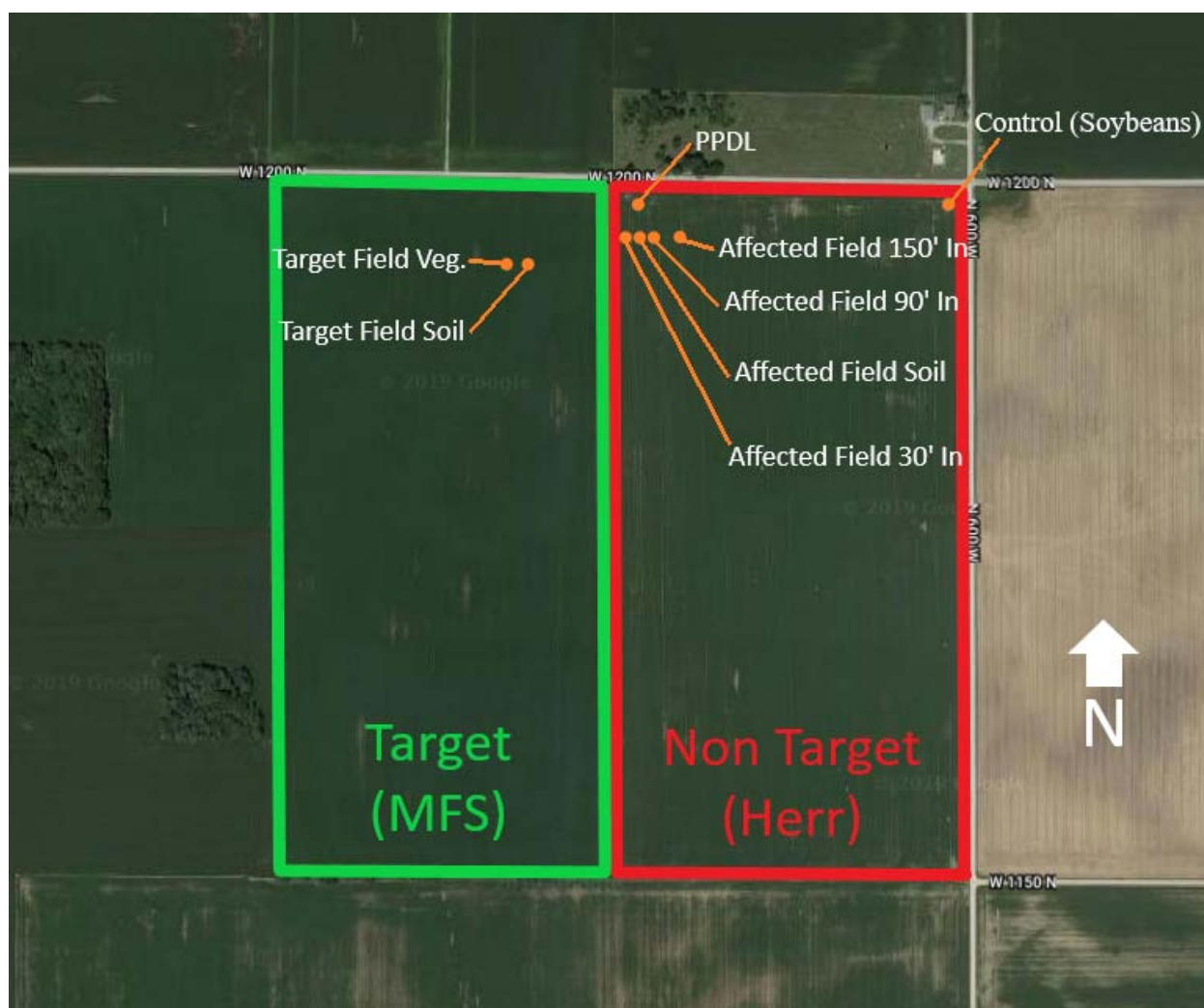


Figure 4


4. On July 25, 2018, I received a Pesticide Investigation Inquiry (PII) from Thom Timmons on behalf of Carl Salomon. The application was made on June 16, 2018 from 8:20 AM to 11:00 AM and consisted of:

- A. Engenia (EPA Reg. #7969-345, active ingredient dicamba)
- B. Generic Glyphosate (EPA Reg. #4110, active ingredient glyphosate)
- C. Clasp (surfactant/drift retardant)

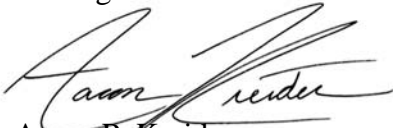
The wind data reported for the start of the application was 3 MPH from the west and at the end of the application the wind was 3 MPH from the northeast. This means that at the beginning of the application the wind was blowing towards the non-DT soybean field of Mr. Herr. The PII also states that Mr. Timmons checked the registrant's website for approved tank mix partners on May 1, 2018, which is more than 7 days before the application was made. I could not find any other instances where Mr. Timmons or Mr. Salomon violated the Engenia label required record keeping or the required application methods.

5. The PPDL report stated, "*Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba.*"
6. The lab results from the OISC residue lab are as follows:



<b>Case #</b>	<b>2018/0778</b>		<b>Investigator</b>		<b>A. Kreider</b>
<b>Sample #</b>	<b>Sample Description</b>	<b>Matrix</b>	<b>Amount of Analyte (ppb)</b>		
			<b>Dicamba</b>	<b>Glyphosate</b>	<b>AMPA</b>
2018-54-0101	Affected Field 30' In	Vegetation	Did not test	21.8	BDL
2018-54-0102	Affected Field 90' In	Vegetation	Did not test	22.8	BDL
2018-54-0103	Affected Field 150' In	Vegetation	Did not test	15.1	BDL
2018-54-0104	Affected Field Soil	Soil	Did not test	Did not test	Did not test
2018-54-0105	Target Field Veg	Vegetation	Did not test	1390	BDL
2018-54-0106	Target Field Soil	Soil	Did not test	Did not test	Did not test
2018-54-0107	Control Veg	Vegetation	Did not test	18.3	BDL
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC					
LOQ (ppb)	Vegetation	Did not test	5	125	
<b>Signature</b>  <b>Date</b> 02/01/19					

7. The Engenia label states, ***“DO NOT apply when wind is blowing in the direction of neighboring sensitive crops.”*** The Engenia label also states, ***“DO NOT tank mix any product with Engenia unless: 1. You check the list of EPA approved products for use with Engenia at [www.engeniatankmix.com](http://www.engeniatankmix.com) no more than 7 days before applying Engenia.”***
8. Based on the evidence collected in this investigation, it has been determined that Mr. Salomon failed to comply with the drift management restrictions on the label for the herbicide Engenia. It should also be noted, OISC was not able to determine whether the herbicide moved off target as the result of drift, application into an inversion, or volatilization at some point after the application, and was not able to clearly identify the source of the off-target movement.

  
Aaron P. Kreider  
Investigator

Date: May 30, 2019

**Disposition:** Carl Salomon and Monticello Farm Service were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was their first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

  
George N. Saxton  
Compliance Officer

Draft Date: June 10, 2019  
Closed Case: July 19, 2019

## CASE SUMMARY

Case #2018/0785

**Complainant:** Amy Beebe  
Losure Farms  
5360 E. CR300 N.  
Marion, IN 46952  
765-517-0327

**Respondent:** Greg Comer  
5195 S. CR600 W.  
Swayzee, IN 46986  
765-618-2012

Private Applicator

1. On July 13, 2018, Joe Becovitz, Pesticide Program Specialist for the Office of Indiana State Chemist (OISC), received a complaint regarding agricultural drift. The complainant, Amy Beebe, stated she had more than one non dicamba-tolerant (DT) soybean field affected by drift from suspected dicamba applications made to fields farmed by Mark Glessner.
2. On July 16, 2018, I contacted Mrs. Beebe who reported she noticed cupping on Liberty soybeans in several of her fields about ten days prior. All of the affected fields were reportedly adjacent to fields farmed by Mr. Glessner and had growth-regulator type symptoms; one field was adjacent to a field sprayed by Crop Production Services (CPS).
3. On July 18, 2018, I met Mrs. Beebe at her farm before driving to the first field, which was located at the southwest corner of CR200N and CR600E in Grant County. While soybeans in the southwest corner of her field exhibited leaf cupping, she stated they looked better than when she first observed the symptoms. The southwest portion of her field was bordered on the west and south sides by fields with unaffected soybeans. She reported that her field was last sprayed with Liberty and clethodim on July 3, 2018.
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 Beebe field other than the fields to the west and south, both of which were thought to have been farmed by Mr. Glessner (See Fig.1).
  - b) Observed and photographed mostly-uniform cupping and puckering of leaves on non-DT soybean plants in the southwestern portion of the field. These symptoms are commonly associated with exposure to a growth-regulator type herbicide such as dicamba.
  - c) Collected soybean plants exhibiting symptoms from the Beebe field for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue.
  - d) Collected a soil sample from the west target field. Collected two soybean samples from the Beebe field; one from near the corner of the field and one from approximately 25 yards into the field. Those samples were submitted to the OISC Residue lab for analysis.





Fig.1 Aerial photo of fields



Fig.2 West field/Beebe field border



Fig.3 Cupped non-DT beans



Fig.4 Beebe field/south field border



Fig.5 Southwest corner, Beebe field



Fig.6 Cupped non-DT beans

5. I later contacted Greg Comer, the applicator for Mr. Glessner, and informed him of the complaint. He confirmed he sprayed the ground adjacent to the Beebe field in mid-June with a tank mix containing XtendiMax, Warrant and Roundup and that he left a buffer along the Beebe field. Mr. Comer later provided field maps, application records and a completed a Pesticide Investigation Inquiry, which provided the following information:
  - a. Certified Applicator: Greg Comer
  - b. Application date and time: June 14, 2018, from 1130am – 1pm
  - c. Pesticides: XtendiMax (dicamba) EPA Reg. #524-617  
 Warrant (acetochlor), EPA Reg. #524-591  
 Roundup PowerMax (glyphosate), EPA Reg. #524-549
  - d. Adjuvants: Astonish, Capsule
  - e. Target field: Shinholt
  - f. Pre or post application: Post
  - g. Wind speed/direction at start: 3mph to northeast (toward Beebe field)
  - h. Wind speed/direction at end: 3mph to northeast
  - i. Nozzles: TTI 1104
  - j. Boom Height: 24"
  - k. Downwind Buffer: 110 ft.
  - l. Checked registrant's website before application: **Left blank**
  - m. Checked DriftWatch before application: June 7, 2018
  - n. Dicamba mandatory training attended: January 30, 2018
6. The PPDL report indicated, *"Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba."* It further indicated, *"No fungal or bacterial disease and no insect/mite pests were observed to be associated with the symptoms of concern (foliar distortion)."*

7. Because of the information provided by Mr. Comer, the samples submitted to the OISC Residue Lab were not analyzed. While symptoms were primarily observed in the southwest portion of the Beebe field, Mr. Comer noted that winds were blowing to the northeast, which would have been blowing toward sensitive non-DT soybeans in the Beebe field. During the investigation, it was determined the field west of the Beebe field was not part of the farm sprayed by Mr. Comer, but was sprayed by Crop Production Services. Subsequently, a separate investigation was conducted pursuant to that application (See Case #2018/1037).
8. The XtendiMax label reads, **“DO NOT APPLY this product when the wind is blowing toward adjacent non-dicamba tolerant susceptible crops; this includes NON-DICAMBA TOLERANT SOYBEAN AND COTTON.”** Regarding tank mixing, it states, **“The applicator must check the list of tested products found not to adversely affect the offsite movement potential of XtendiMax With VaporGrip Technology at [www.xtendimaxapplicationrequirements.com](http://www.xtendimaxapplicationrequirements.com) no more than 7 days before applying XtendiMax With VaporGrip Technology.”**



Andrew R. Roth  
Investigator

Date: January 3, 2019

**Disposition:**

- A. Greg Comer was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation. In addition, Mr. Comer's Private Applicator permit was suspended for a period of one year. Consideration was given to the fact this is Mr. Comer's sixth violation of similar nature. See case numbers 2017/1043, 2017/1087, 2017/1089, 2017/1179 and 2017/1307.
- B. Based on the evidence collected in this investigation, it has been determined that Mr. Comer failed to comply with the drift management restrictions on the label for the herbicide Xtendimax. It should also be noted that OISC was not able to determine whether the herbicide moved off-target as the result of drift, application into an inversion, or volatilization at some point after the application, and was not able to clearly identify the source of the off-target movement.
- C. On January 11, 2019, Greg Comer sent an email requesting a review before the Indiana Pesticide Review Board (IPRB). David Scott, Secretary to the Board was notified immediately.
- D. On January 16, 2019, I spoke with Mr. Comer on the phone. He stated he did not have an issue with the facts of the case but he thought the label language was somewhat confusing and he wanted to argue the suspension of his Private Applicator permit.
- E. A hearing before the Indiana Pesticide Review Board was scheduled for 9:00 a.m. on April 5, 2019, at the Daniel Turf Center located at 1340 Cherry Lane in West Lafayette, Indiana.

F. On April 5, 2019, a hearing was conducted at the Daniel Turf Center in accordance with the Administrative Orders and Procedures Act. The three-person Administrative Law Judge panel upheld the suspension of Mr. Comer's Private Applicator permit.

G. On April 8, 2019, the full Indiana Pesticide Review Board upheld the panel's recommendation. The proposed enforcement action in this case stands.

  
George N. Saxton  
Compliance Officer

Draft Date: April 8, 2019  
Final Date: May 14, 2019

## CASE SUMMARY

Case #2018/0786

**Complainant:** Amy Beebe  
Losure Farms  
5360 E. CR300 N.  
Marion, IN 46952  
765-517-0327

**Respondent:** Greg Comer  
5195 S. CR600 W.  
Swayzee, IN 46986  
765-618-2012

Private Applicator

1. On July 13, 2018, Joe Becovitz, Pesticide Program Specialist for the Office of Indiana State Chemist (OISC), received a complaint regarding agricultural drift. The complainant, Amy Beebe, stated she had more than one non dicamba-tolerant (DT) soybean field affected by drift from suspected dicamba applications made to fields farmed by Mark Glessner.
2. On July 16, 2018, I contacted Mrs. Beebe who reported she noticed cupping on Liberty soybeans in several of her fields about ten days prior. All of the affected fields were reportedly adjacent to fields farmed by Mr. Glessner and had growth-regulator type symptoms; one field was adjacent to a field sprayed by Crop Production Services (CPS).
3. On July 18, 2018, I met Mrs. Beebe at her farm before driving to the affected fields. In this case, her field occupied the southwest corner of CR200N and CR500E in Grant County. Symptoms were reportedly observed on the west side of the field, which bordered a Glessner field, and on the east side of the field, near the field, which was suspected to have been sprayed by CPS (See Case #2018/1037). Mrs. Beebe stated her field was sprayed on two separate days with Liberty and clethodim, starting on June 17 and finishing on June 30.
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 west side of the Beebe field.
  - b) Observed and photographed mostly-uniform cupping and puckering of leaves on non-DT soybean plants in the western portion of the field; soybeans in a separate Beebe field across the road to the north were also cupped (Fig.1). These symptoms are commonly associated with exposure to a growth-regulator type herbicide such as dicamba.
  - c) Collected soybean plants exhibiting symptoms from the Beebe fields for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue.
  - d) Collected a soil sample from the west target field. Collected two soybean samples from the Beebe field; one from the west edge of the field and one from approximately 25 yards into the field. Collected soybean plant samples from the Beebe field to the north. Those samples were submitted to the OISC Residue lab for analysis.



Fig.1 Aerial photo of fields



Fig.2 West border, Beebe field



Fig.3 Cupped non-DT soybeans

5. I later contacted Greg Comer, the applicator for Mr. Glessner, and informed him of the complaint. He confirmed he sprayed the ground west of the Beebe field in mid-June with a tank mix containing XtendiMax, Warrant and Roundup and that he left a buffer along the Beebe field. Mr. Comer later provided field maps, application records and a completed a Pesticide Investigation Inquiry, which provided the following information:
  - a. Certified Applicator: Greg Comer
  - b. Application date and time: June 14, 2018, from 5pm – 6pm
  - c. Pesticides: XtendiMax (dicamba) EPA Reg. #524-617  
Warrant (acetochlor), EPA Reg. #524-591  
Roundup PowerMax (glyphosate), EPA Reg. #524-549
  - d. Adjuvants: Astonish, Capsule
  - e. Target field: Wright
  - f. Pre or post application: Post
  - g. Wind speed/direction at start: 4mph to north (toward Beebe north field)
  - h. Wind speed/direction at end: 4mph to north
  - i. Nozzles: TTI 1104
  - j. Boom Height: 24"
  - k. Downwind Buffer: 110 ft.
  - l. Checked registrant's website before application: **Left blank**
  - m. Checked DriftWatch before application: June 7, 2018
  - n. Dicamba mandatory training attended: January 30, 2018
6. The PPDL report indicated, "*Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba.*" It further indicated, "*No fungal or bacterial disease and no insect/mite pests were observed to be associated with the symptoms of concern (foliar distortion).*"
7. Because of the information provided by Mr. Comer, the samples submitted to the OISC Residue Lab were not analyzed. Mr. Comer noted that winds were blowing to the north. While a wind blowing from south-to-north would not have been blowing toward the abutting Beebe field to the east, it would have been blowing toward sensitive non-DT soybeans in her other field across the road to the north. Soybeans along the east side of the Beebe field were inspected and documented but are addressed in Case #2018/1037.
8. The XtendiMax label reads, "**DO NOT APPLY this product when the wind is blowing toward adjacent non-dicamba tolerant susceptible crops; this includes NON-DICAMBA TOLERANT SOYBEAN AND COTTON.**" Regarding tank mixing, it states,



**“The applicator must check the list of tested products found not to adversely affect the offsite movement potential of XtendiMax With VaporGrip Technology at [www.xtendimaxapplicationrequirements.com](http://www.xtendimaxapplicationrequirements.com) no more than 7 days before applying XtendiMax With VaporGrip Technology.”**



Andrew R. Roth  
Investigator

Date: January 3, 2019

**Disposition:**

- A. Greg Comer was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation. In addition, Mr. Comer's Private Applicator permit was suspended for a period of one year. Consideration was given to the fact this is Mr. Comer's seventh violation of similar nature. See case numbers 2017/1043, 2017/1087, 2017/1089, 2017/1179, 017/1307 and 2018/0785.
- B. Based on the evidence collected in this investigation, it has been determined that Mr. Comer failed to comply with the drift management restrictions on the label for the herbicide Xtendimax. It should also be noted that OISC was not able to determine whether the herbicide moved off-target as the result of drift, application into an inversion, or volatilization at some point after the application, and was not able to clearly identify the source of the off-target movement.
- C. On January 11, 2019, Greg Comer sent an email requesting a review before the Indiana Pesticide Review Board (IPRB). David Scott, Secretary to the Board was notified immediately.
- D. On January 16, 2019, I spoke with Mr. Comer on the phone. He stated he did not have an issue with the facts of the case but he thought the label language was somewhat confusing and he wanted to argue the suspension of his Private Applicator permit.
- E. A hearing before the Indiana Pesticide Review Board was scheduled for 9:00 a.m. on April 5, 2019, at the Daniel Turf Center located at 1340 Cherry Lane in West Lafayette, Indiana.
- F. On April 5, 2019, a hearing was conducted at the Daniel Turf Center in accordance with the Administrative Orders and Procedures Act. The three-person Administrative Law Judge panel upheld the suspension of Mr. Comer's Private Applicator permit.
- G. On April 8, 2019, the full Indiana Pesticide Review Board upheld the panel's recommendation. The proposed enforcement action in this case stands.



George N. Saxton  
Compliance Officer

Draft Date: April 8, 2019  
Final Date: May 14, 2019

## CASE SUMMARY

Case #2018/0790

**Complainant:** Anonymous

**Respondent:** Sam Helton, Inc. dba Critter Control of NC Indiana  
1204 N. Division Street  
Bristol, Indiana 46507  
574-825-1079

1. On August 20, 2018, the Office of Indiana State Chemist (OISC) received information regarding a possible misapplication of a rodenticide. The complainant stated unsecured rodent stations with bait were found outside a rental home at 5101 Lillie Street in Fort Wayne, Indiana. The rental home is leased to Joseph Pochodzay (260) 431-9656. According to the tenant, the rodent stations were placed by Critter Control. The rental home management agency, DBD Homes, (260) 423-1414, has allegedly denied hiring anyone to treat for rodents.
2. On August 21, 2018, I went to the rental house and informed tenant, Sally Pochodzay, of the complaint investigation. She confirmed that four bait stations were placed outside the house by Critter Control a few days prior. I observed four plastic bait stations on the ground outside the house, one at each of the front corners of the house, one on the south side of the house and one near the back door. All four stations were baited and lockable, but they were not locked and one had a broken latch.



Fig.1 Station at SW corner



Fig.2 Baited station



Fig.3 Station at NW



Fig.4 Broken latch NW corner



Fig.5 Station on south side



Fig.6 Station at back door



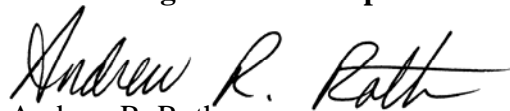
3. I then called Critter Control and informed office manager Dawn Wiggins of the complaint. She stated a technician was in the area and she would have him come to the site and replace or remove the stations, which contained Contrac rodent bait. I informed her that, because the stations were not secured, I would wait at the site. David Cole of Critter Control later arrived and I explained the situation. He reported that another employee, Joe George, had set the stations the previous week. I issued Mr. Cole a Notice of Inspection and asked to see his applicator credential. He produced a Department of Natural Resources trapping permit. It was then determined that he had not taken an exam nor had he been issued a license by the OISC. I instructed Mr. Cole to remove the stations from the property and to cease using any pesticides until the licensing issue was resolved. I then contacted Becky Howe at DBD Homes to explain the scope of the investigation.
4. I contacted Ms. Wiggins and informed her that Mr. Cole, a non-credentialed employee, was prohibited from using pesticides for-hire without the on-site supervision of a certified applicator. She stated she was unaware of the supervision requirements for unlicensed applicators, as the company does not use a lot of pesticides. Ms. Wiggins indicated the owner, Sam Helton, and the business were licensed in Indiana, and that she submitted the license renewals for 2018. Upon further discussion, it was determined that several unlicensed employees had used rodent baits in a similar manner. She indicated she would get the employees scheduled for exams immediately. I requested records for all unlicensed, for-hire applications (uses) by those employees. Ms. Wiggins noted that she passed the Category 7a exam earlier in the year but did not currently have a license. I informed her that I would check her records at the OISC, but she would also need to pass the Core exam and before applying for an applicator license.
5. A check of OISC records indicated the pesticide business license for Critter Control was inactive because the certification of the company's only certified applicator, Mr. Helton, expired on December 31, 2017. According to OISC records, he attempted to recertify in Category 7a but failed the exam four times within a 12-month period, making him ineligible to attempt the exam until December of 2018. I again contacted Ms. Wiggins and explained that the business license was not active. We discussed licensing options and she indicated she would likely take the Core exam and become the Certified Applicator for the company.
6. On September 11, 2018, the OISC received records and a written statement from Mr. Helton and Critter Control. According to those records, unlicensed employees David Cole, Joe George, James Lindsey and Shane Waterman, used pesticides without the on-site supervision of a licensed certified applicator on 73 days in 2018 as follows:

Month	January	February	March	April	May	June	July	August
Days	14	5	12	15	9	5	8	5

The records, which include applicator name, pesticides used and dates of application, were placed in the case file at the OISC. They indicated a combination of Contrac with Lumitrack (EPA Reg. #12455-133), Final All Weather Blox (EPA Reg. #12455-89), ZP Tracking Powder (EPA Reg. #12455-16), and Demand CS (EPA Reg. #100-1066), were used in the applications.

7. On September 12, 2018, the OISC approved the pesticide business license application for the company. Ms. Wiggins obtained certification and three applicators were issued registered technician credentials.

8. The Contrac with Lumitrack label reads, in part, **“Apply bait in locations out of reach of children, pets, domestic animals and nontarget wildlife, or in tamper-resistant bait stations. These stations must be resistant to destruction by dogs and by children under six years of age, and must be used in a manner that prevents such children from reaching into bait compartments and obtaining bait.”**



Andrew R. Roth  
Investigator

Date: December 7, 2018

**Disposition:**

- A. Critter Control of NC Indiana was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding secure rodent bait stations. A civil penalty in the amount of **\$250.00** was assessed for this violation. Consideration was given to the fact there was potential for human or animal harm.
- B. Critter Control of NC Indiana was cited for seventy-three (73) 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 **\$18,250.00** was assessed for this violation. However, the penalty was reduced to **\$8,212.50**. Consideration was given to the fact Critter Control of NC Indiana cooperated during the investigation; corrective action was taken and no restricted use pesticides were involved.
- C. On January 23, 2019, OISC received a letter from Critter Control requesting an appeal of the civil penalty. A message was left with Critter Control the same date.
- D. On January 28, 2019, Mr. Helton called and stated he has gotten all of the necessary licenses in Indiana and this was a paperwork issue for them. As a result of this conversation, **\$5,000.00** of the original civil penalty was held in abeyance and not assessed provided Critter Control of NC Indiana committed no further violations of similar nature for a period of five (5) years from finalization of this investigation. The remaining civil penalty in the amount of **\$3,462.50** was assessed.
- E. A letter dated February 22, 2019, was sent to OISC indicating \$1,000.00 of the civil penalty had been paid; requesting permission for the remaining civil penalty to be paid over a period of time. The remaining civil penalty was allowed to be paid in four consecutive months, starting April 1, 2019. The payment schedule is as follows:
- a. \$615.62 due by April 1, 2019
  - b. \$615.62 due by May 1, 2019
  - c. \$615.62 due by June 1, 2019
  - d. \$615.64 due by July 1, 2019
- F. On June 24, 2019, the final payment on the civil penalty was received by OISC.



George N. Saxton  
Compliance Officer

Draft Date: March 4, 2019  
Final Date: July 10, 2019

## CASE SUMMARY

Case #2018/0792

**Complainant:** Frank Terrell  
PO Box 104  
Kentland, IN 47951  
219-474-5165

Private Applicator

**Respondent:** Frank Davenport Jr.  
Tim Talbert  
Nutrien Ag  
220 North Clark Street  
Sheldon, IL 60966  
815-429-3015

Registered Technician  
Certified Applicator  
Licensed Business

1. On August 20, 2018, the Office of Indiana State Chemist (OISC) received a written complaint from Frank Terrell regarding dicamba drift to his non-DT soybeans. Mr. Terrell wrote that the soybean field south of his property was sprayed with a dicamba-type herbicide. Mr. Terrell wrote his soybeans suffered a gradient injury going approximately 200 yards into his field and had caused his beans to stop growing for 4 weeks.
2. On August 27, 2018, I met with Frank Terrell at his non-DT soybean field he believed was affected by dicamba drift. The injury seemed to be concentrated at the south side of Mr. Terrell's field which is across the road from the DT soybean field that had an application performed to it by Frank Davenport Jr. The border between the two fields can be seen in Figure 1. The injury that caused Mr. Terrell's complaint can be seen in Figures 2 and 3.

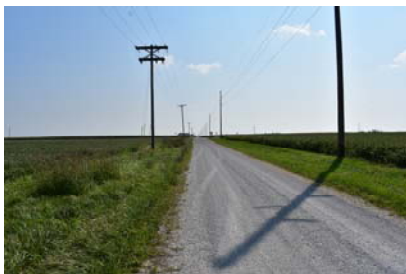


Figure 1



Figure 2



Figure 3

3. I collected three vegetation samples (Affected Roundup Beans 0' into the complainant's field; affected Roundup Beans 60' into the complainant's field; and affected Roundup Beans 120' into the complainant's field). A soil sample and a control (Roundup Beans) from the affected field were also taken. I collected a vegetation sample (Target Field Weeds) and a soil sample from the target field. These samples were submitted to the OISC residue lab for analysis. I also collected a sample of the affected non-DT soybeans for analysis by the Plant and Pest Diagnostic lab at Purdue (PPDL). The location of these samples can be seen in Figure 4.



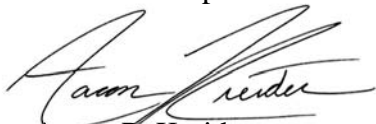
Figure 4

4. On August 27, 2018, I received a Pesticide Investigation Inquiry (PII) from Tim Talbert on behalf of Mr. Davenport. It stated that he made the application on June 26, 2018 from 1:37 PM to 4:32 PM. The application consisted of:

- A. Makaze Yield Pro (EPA Reg. #347-1033, active ingredient glyphosate)
- B. Engenia (EPA Reg. #7969-345, active ingredient dicamba)
- C. Satori (EPA Reg. #34704-1068, active ingredient azoxystrobin)

The wind data reported on the PII was 3 MPH from the south at the start of the application and 8 MPH from the south at the end of the application. This means that the wind was blowing towards the non-DT soybean field of Mr. Terrell. Mr. Talbert reported that he checked the registrant's website for approved tank mixes on March 1, 2018, more than 7 days before the application.

- 5. The PPDL report stated, "*Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba.*"
- 6. The Engenia label states, "**DO NOT** apply when wind is blowing in the direction of neighboring sensitive crops." The Engenia label states, "**DO NOT** tank mix any product with **Engenia** unless: 1. You check the list of EPA approved products for use with **Engenia** at [www.engeniatankmix.com](http://www.engeniatankmix.com) no more than 7 days before applying **Engenia**."
- 7. The samples for this case were not analyzed due to the fact that Mr. Talbert admitted to the winds blowing towards the non-DT soybean field of Mr. Terrell. Mr. Davenport violated the Engenia label by making his application when winds were blowing towards Mr. Terrell's non-DT soybean field. Mr. Talbert violated the Engenia label by not checking the registrant's website for approved tank mix partners within seven days before his application.

  
 Aaron P. Kreider  
 Investigator

Date: May 31, 2019

**Disposition:** Tim Talbert, Frank Davenport Jr. and Nutrien Ag were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label language regarding drift management. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was given to the fact this was Mr. Talbert's second violation of similar nature. See case number 2018/0769. Consideration was also given to the fact a restricted use pesticide was involved.



George N. Saxton  
Compliance Officer

Draft Date: June 10, 2019  
Closed Case: July 19, 2019

## CASE SUMMARY

Case #2018/0797

**Complainant:** Heather Wall  
2924 E 900 S  
Carlisle, Indiana 47838  
812-243-0689

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

Certified Applicator  
Licensed Business

1. On July 16, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report aerial agricultural spray drift to her person while she was in her private swimming pool.
2. On July 18, 2018, OISC Agent Aaron Kreider and I met with Ms. Wall at her residence. She stated on July 13, 2018 at approximately 4:00 pm, she and her boyfriend were in their back yard preparing to take down their swimming pool. She stated she noticed an airplane spraying the soybean field next to her residence. She stated the airplane made one pass over her house and looped around and made a second pass over her house. On that pass, she noticed spray coming from the airplane. She stated within seconds she saw a mist coming down on them, the dogs and everything around them. She stated all of the kids toys were sprayed, along with the lawn furniture and the deck. She stated the mist also drifted onto her alpacas, goats and horse, which were in the small pasture on the east side of her property. She stated she got out of the pool and contacted the farmer of the soybean field, who advised her Ed Air, Inc. was making the aerial pesticide application to the field. She stated she contacted Ed Air, Inc. and spoke with Paige Meredith. She requested the safety data sheet (SDS) and spray sheet for the field, so she would know what was applied. She stated she received the SDS sheet very quickly, but not the application sheet. Ms. Wall stated they then went in and got rinsed off. She stated she did wash the clothing they were wearing. She stated she was advised by Ed Air, Inc. to rinse off all of the toys and furniture. She stated she was advised by a friend to not rinse off anything until she contacted OISC. After speaking with George Saxton of OISC, she stated they retrieved a cover from the kids play cabana and put it in a trash bag.
3. I made contact with Ms. Meredith of Ed Air, Inc. and she advised me the aerial application was made by Ed L. Huddleston and he had applied Preempter Fungicide EPA Reg. #66330-409-279 with the active ingredients fluoxastrobin and flutriafol and Hero insecticide EPA Reg. #279-3315 with the active ingredients bifenthrin and zeta-cypermethrin. She sent an application record to me, which confirmed the products applied and stated the application was made on July 13, 2018 between 3:00pm – 4:00 pm. The application record is in this case file. I sent a Pesticide Investigation Inquiry (PII) to Ed L. Huddleston of which he received




completed a returned to me. The PII confirmed the information given to me by Ms. Meredith. It further stated the winds were NE at one Knot at the time of the aerial pesticide application. The PII is in this case file.

4. I then took photographs of the area. The target soybean field is directly to the east and south of the complainant's property. We collected vegetation samples from the target soybean field and from the complainant's property. I collected vegetation samples around the swimming pool, which was the area Ms. Wall stated they were in when she felt the mist. The swimming pool had been removed, thus no water samples were collected. We also collected swabs samples from the house, the shed in the back yard, the patio table, deck railing and playhouse window. I collected the cabana gym cover, which Ms. Wall had placed in a plastic bag for me. All of the samples were labeled and submitted to the OISC residue lab. The following photographs show the location of the field in relationship to the complainant's property and the locations samples were collected.

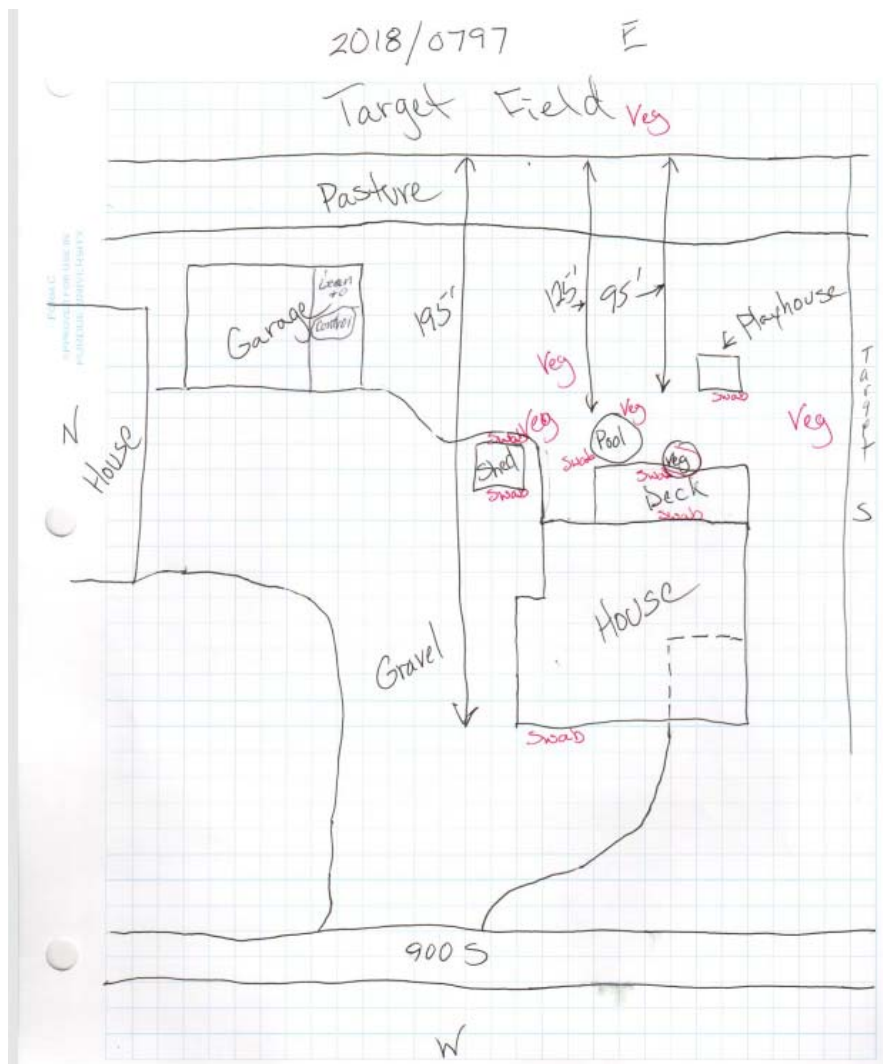


5. I researched the Weather Underground website for the weather conditions at the nearest reporting station from the target field on the date and time of the aerial pesticide application. The website indicated the winds were variable NE, ENE, NNE, ESE, ENE, E and calm. The temperature was 99 -90 degree F. A copy of the weather report is in this case file.
6. On November 27, 2018, I received a report from the OISC residue lab. The report indicated the active ingredients fluoxastrobin, flutriafol, bifenthrin and cypermethrin were detected in high quantities in the vegetation samples collected from the target field, the complainant's

property and around the complainant's swimming pool. The ingredients were also detected in the swab samples collected from the complainant's house, shed, patio table, deck railing and playhouse window. There were also high quantities of the active ingredients detected in the cloth cabana gym cover. The following is a copy of the OISC residue lab report.

Case #	2018/0797		Investigator		B. Brewer	
Sample #	Sample Description	Amount of Analyte (ng/swab, ng/cloth or ppb)				
		Matrix	Fluoxastrobin	Flutriafol	Bifenthrin	Cypermethrin
2018-33-6199	Trip blank	Swab	BDL	BDL	BDL	BDL
2018-33-6200	Control swab	Swab	BDL	BDL	BDL	BDL
2018-33-6201	Swab west side house	Swab	0.492	4.43	78.7	12000
2018-33-6202	Swab east side house	Swab	0.383	BDL	127	11200
2018-33-6203	Swab west side shed	Swab	0.640	BDL	149	BDL
2018-33-6204	Swab east side shed	Swab	9.14	55.4	335	BDL
2018-33-6205	Swab patio table	Swab	9.55	27.3	940	1580
2018-33-6206	Swab deck railing east side	Swab	2.21	16.5	135	1330
2018-33-6207	Swab playhouse window	Swab	0.643	5.00	131	511
2018-33-6208	Cloth play gym cover	Clothing	22900	78200	19100	19200
2018-33-6209	Vegetation soybean target	Vegetation	490*	1963*	1420	719
2018-33-6210	Vegetation ground pool	Vegetation	844	782	320	447
2018-33-6211	Vegetation complainant's property	Vegetation	1030	1025	362	411
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 (ppb)	Vegetation	0.3	3	2	2	
LOQ (ng/swab)	Swab	0.2	0.4	50	100	
Signature				Date	11/27/18	

- I researched the labels for Preemptor SC fungicide and Hero insecticide. The label for Preemptor SC stated on page 2 *"Do not apply this product in a way that will contact workers or other persons, either directly or through drift"* and on page 4 *"Do not apply directly to humans or animals"*. The label for Hero insecticide stated on page 3 *"Do not apply when weather conditions favor drift from treated areas"* *"Do not apply this product in a way that will contact workers or other persons either directly or through drift"*.
- The following is a diagram created by Agent Kreider showing the location of the target field in relation to the complainant's property along with the sample collection locations.



9. The results of the OISC residue lab report along with the weather report indicate pesticides from the aerial pesticide application made by Mr. Huddleston, did go off target and onto the complainant's property.

*Robert D. Brewer*

Robert D. Brewer  
Investigator

Date: December 18, 2018

**Disposition:** Edward L. Huddleston was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was given to the fact this was his second violation of similar nature. See case number 2017/1103.

*George N. Saxton*

George N. Saxton  
Compliance Officer

Draft Date: February 14, 2019  
Final Date: March 27, 2019

## CASE SUMMARY

Case #2018/0801

**Complainant:** Jim Hawkins  
703 N 800 W  
Fowler, Indiana 47944  
765-363-0331

**Respondent:** Brad Sondgerath  
5810 W 1325 S  
Kentland, Indiana 47951  
765-337-5145

Private Applicator

1. On July 17, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
2. On July 18, 2018, I met with the complainant to conduct an on-site physical investigation of the alleged off-target pesticide movement incident reported to OISC. The complainant advised me that he believed his non-DT Liberty Link beans had been damaged by an application made by Mr. Sondgerath to a nearby bean field.
3. During my on-site investigation I did the following:
  - a) Looked for and discovered there were no other potential dicamba applications made in the area adjacent to the impacted site.
  - b) Observed and photographed what I believed to be dicamba exposure symptoms (figure 1) throughout the complainant's non-target, non-DT soybean field (figure 2) located to the north of the target field. It appeared to me that the symptoms were heavier near the target field and lighter farther to the north. The target field and the complainant's non-target field were immediately adjacent to one another. (figure 3)
  - c) Collected soybean plant samples from impacted areas of the complainant's non-target soybean field for visual analysis by the Purdue Plant and Pest Diagnostic Lab (PPDDL).
  - d) Collected samples for chemical analysis by the OISC Pesticide Residue Laboratory from the following areas:
    - i) Impacted soybean plants from complainant's non-target soybean field;
    - ii) Soil from target field
    - iii) Weed veg from target field
4. Made a diagram/map of the investigation site, depicting locations of relevant fields, sample collection, roads, structures, and other landmarks. (figure 4)

5. On August 5, 2018, I collected written records from the applicator Mr. Sondergrath.
- a) Application date & time: June 16, 2018 from 10:00am to 12:00pm;
  - b) Target field: soybean field to the south of complainant's soybean field;
  - c) Pesticides: Xtendimax (dicamba) EPA Reg. #524-617 and Roundup PowerMax (glyphosate) EPA Reg. #524-549;
  - d) Application rate: Xtendimax 22 oz. per acre Roundup PowerMax 22 oz. per acre;
  - e) Adjuvants: Class Act;
  - f) Nozzles: TTI 11005
  - g) Boom height: 24 to 30 inches
  - h) Ground speed: 7.5 mph
  - i) Winds: 5-7 mph from the north;
  - j) Applicator: Brad Sondergrath;
  - k) Certified supervisor: not applicable;
  - l) Left a 110' untreated buffer next to non-target site: field was upwind
  - m) Checked registrant's web site before application: Yes June 7, 2018
  - n) Checked Field Watch before application: unknown date
  - o) Surveyed application site before application: Yes
6. I searched wind data from [www.weatherunderground.com](http://www.weatherunderground.com) for zip code 47921 in Boswell, Indiana for the reported date and time of the application. The results of that search indicated that wind speed and direction during the application were as follows.

**As recorded at Purdue University 6-8 mph variable SSE VAR W**

9:54 AM	79 ° F	71 ° F	77 %	SSE	8 mph	0 mph
10:54 AM	83 ° F	73 ° F	72 %	VAR	6 mph	0 mph
11:54 AM	86 ° F	73 ° F	65 %	W	6 mph	0 mph

Purdue University Wind Data 33 Miles Southeast

**As recorded at Jasper County Indiana 6-9 mph South and South Southwest**

9:55 AM	82 ° F	64 ° F	54 %	S	9 mph	0 mph
10:15 AM	82 ° F	64 ° F	54 %	S	8 mph	0 mph
10:35 AM	82 ° F	64 ° F	54 %	S	9 mph	0 mph
10:55 AM	84 ° F	66 ° F	55 %	S	6 mph	0 mph
11:15 AM	86 ° F	68 ° F	55 %	SSW	8 mph	0 mph
11:35 AM	86 ° F	68 ° F	55 %	SW	6 mph	0 mph
11:55 AM	86 ° F	68 ° F	55 %	SSW	6 mph	0 mph

Jasper County Wind Data 25 Miles Northeast



**As recorded at Watseka Illinois 6-12 mph South and South Southwest**

8:55 AM	79 ° F	69 ° F	69 %	S	6 mph	0 mph
9:15 AM	81 ° F	70 ° F	69 %	SSW	8 mph	0 mph
9:35 AM	82 ° F	71 ° F	69 %	SSW	10 mph	0 mph
9:55 AM	82 ° F	71 ° F	69 %	SSW	12 mph	0 mph
10:15 AM	83 ° F	72 ° F	68 %	S	9 mph	0 mph
10:35 AM	84 ° F	73 ° F	68 %	SSW	8 mph	0 mph
10:55 AM	85 ° F	73 ° F	66 %	SSW	9 mph	0 mph

**Watsseka Illinois Wind Data 15 Miles Northwest**

7. The wind would have been blowing in the direction of the complainant's beans.
8. The report from the PPPDL states, *"Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba. Very, very slight damage was observed. Barely noticeable symptomology on only a few trifoliate."*
9. The report from OISC residue lab states:


Case #	2018/0801		Investigator		K. Neal		
Sample #	Sample Description	Matrix	Amount of Analyte (ppb)				
			Dicamba	DCSA	5-OH Dicamba	Glyphosate	AMPA
2018-22-1112	Soil sample Sondgerath DT beans 900 W	Soil	Did not test	Did not test	Did not test	Did not test	Did not test
2018-22-1113	Weed veg Sondgerath DT beans 900 W	Vegetation	Did not test	Did not test	Did not test	526	BDL
2018-22-1114	Hawkins Liberty Link beans 10 yds in	Vegetation	Did not test	Did not test	Did not test	BDL	BDL
2018-22-1115	Hawkins Liberty Link beans 50 yds in	Vegetation	Did not test	Did not test	Did not test	BDL	BDL
2018-22-1116	Hawkins Liberty Link beans 100 yds in	Vegetation	Did not test	Did not test	Did not test	BDL	BDL
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC							
LOQ (ppb)	Vegetation		Did not test	Did not test	Did not test	10	125
Signature					Date	09/20/18	





Figure One



Figure Two



Figure Three



Figure Four

10. The label for Xtendimax states, “Do not exceed a boom height of 24 inches above target pest or crop canopy.” And, “DO NOT APPLY this product when the wind is blowing toward adjacent non-dicamba tolerant sensitive crops; this includes NON-DICAMBA TOLERANT SOYBEAN AND COTTON.”

*Kevin W. Neal*  
 Kevin W. Neal  
 Investigator

Date: December 14, 2018

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

Based on the evidence collected in this investigation, it has been determined that Brad Sondgerath failed to comply with the drift management restrictions on the label for the herbicide Xtendimax. It should also be noted that OISC was not able to determine whether the herbicide moved off-target as the result of drift, application into an inversion, or volatilization at some point after the application, and was not able to clearly identify the source of the off-target movement.

  
George N. Saxton  
Compliance Officer

Draft Date: February 14, 2019  
Final Date: April 1, 2019

## CASE SUMMARY

Case #2018/0809

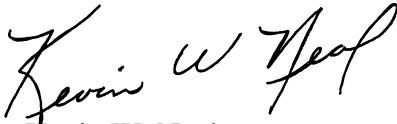
**Complainant:** Karla Frownfelter  
Complaint & Correspondence Coordinator  
Indiana Department of Environmental Management  
100 N. Senate Avenue, IGCN, Suite 1313  
Indianapolis, Indiana 46204  
Phone (317) 232-4464  
Toll Free 1-800-451-6027, Option 3  
[kfrownfe@idem.in.gov](mailto:kfrownfe@idem.in.gov)

**Respondent:** Nick Wolfe  
Wolfe's Lawn Care and Snow Removal  
4408 Old Meyers Road  
Bloomington, Indiana 47408  
812-345-1160

1. On July 17, 2018, the complainant, through their agent Scott Frosch, contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report an unlicensed lawn care company making a pesticide application at a nursing home located at 3043 N Lintel Drive in Bloomington. The applicator was allegedly making the pesticide application "without due regard". According to OISC database, Nick Wolf is not a certified and licensed applicator nor is Wolfe's Lawn Care a licensed pesticide business.
2. On July 23, 2018, I visited the Hearthstone Health Campus located at 3043 North Lintel Drive in Bloomington, Indiana. There I met with the Executive Director Ms. Stacey Hubbell. I explained to Ms. Hubbell that I was investigating the possibility of unlicensed pesticide applications being made to the property. Specifically I asked about Mr. Wolfe and Wolfe's Lawn Care. Ms. Hubbell advised that Wolfe's indeed did maintain the property and had been contracted to mow fertilize and spray or weeds.
3. Ms. Hubbell provided me with copies of invoices which do indicate that Wolfe's applied pesticides and fertilizer for hire.
4. The following table indicates the dates and service provided.

DATE	DESCRIPTION	AMOUNT
May 2, 2018	Spray Beds For Weeds	\$65.00
May 4, 2018	Fertilize Lawn	\$300.00
May 16, 2018	Spray Beds For Weeds	\$85.00
May 31, 2018	Spray Beds For Weeds	\$65.00
June 14, 2018	Spray For Weeds	\$65.00
June 27, 2018	Spray For Weeds	\$65.00

5. I spoke with Mr. Wolfe and advised him of the situation. He agreed that he would cease all pesticide applications. I also asked him to provide to me any and all other pesticide/fertilizer applications he may have made other than for Hearthstone. As of the writing of this report, I have not received them from Wolfe's Lawn Care.



Kevin W. Neal  
Investigator

Date: September 5, 2018

**Disposition:** Nick Wolfe and Wolfe's Lawn Care and Snow Removal were cited for six (6) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides/fertilizers for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$1,500.00 (6 counts x \$250.00 per count) was assessed. Consideration was given to the fact Mr. Wolfe did not cooperate during the investigation.

As of March 21, 2019, Nick Wolfe and Wolfe's Lawn Care & Snow Removal had not paid the \$1,500.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC.

On April 17, 2019, the civil penalty of \$1,500.00 was received from Wolfe's Lawn Care & Snow Removal.



George N. Saxton  
Compliance Officer

Draft Date: March 21, 2019

Final Date: May 2, 2019

## CASE SUMMARY

Case #2018/0813

**Complainant:** Amy Beebe  
Losure Farms  
5360 E. CR300 N.  
Marion, IN 46952  
765-517-0327

**Respondent:** Greg Comer  
5195 S. CR600 W.  
Swayzee, IN 46986  
765-618-2012

1. On July 13, 2018, Joe Becovitz, Pesticide Program Specialist for the Office of Indiana State Chemist (OISC), received a complaint regarding agricultural drift. The complainant, Amy Beebe, stated she had more than one non dicamba-tolerant (DT) soybean field affected by drift from suspected dicamba applications made to fields farmed by Mark Glessner.
2. On July 16, 2018, I contacted Mrs. Beebe who reported she noticed cupping on Liberty soybeans in several of her fields about ten days prior. All of the affected fields were reportedly adjacent to fields farmed by Mr. Glessner and had growth-regulator type symptoms.
3. On July 18, 2018, I met Mrs. Beebe at her farm before driving to the affected fields. In this case, her field was on the north side of CR100N in Grant County. Soybeans were reportedly cupped in the southern portion of the field near the road. The grower farming the field to the west reportedly planted DT soybeans but had not applied a dicamba product. Mrs. Beebe indicated her field was last sprayed with Liberty and clethodim on June 30, 2018.
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 Beebe field. The target field (Glessner) was across CR100N to the south, with approximately 45 feet between crops (See Fig.1).
  - b) Observed and photographed mostly-uniform cupping and puckering of leaves on non-DT soybean plants in lower-lying areas along the southern portion of the Beebe field. These symptoms are commonly associated with exposure to a growth-regulator type herbicide such as dicamba. Plants along the west side of her field did not exhibit growth-regulator herbicide exposure symptoms.
  - c) Collected soybean plants exhibiting symptoms from the Beebe field for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue.
  - d) Collected a soil sample from the target field. Collected two soybean samples from the Beebe field; one from near the southern edge of the field and one from approximately 25 yards into the field. Those samples were submitted to the OISC Residue lab for analysis.



Fig.1 Aerial photo of fields



Fig.2 Proximity of fields



Fig.3 Cupped non-DT beans

5. I later contacted Greg Comer, the applicator for Mr. Glessner, and informed him of the complaint. He confirmed he sprayed the field in question in mid-June with a tank mix containing XtendiMax, Warrant and Roundup and that he left a buffer near the Beebe field. Mr. Comer later provided field maps, application records and a completed a Pesticide Investigation Inquiry, which provided the following information:
  - a. Certified Applicator: Greg Comer
  - b. Application date and time: June 7, 2018, from 850am – 1115am
  - c. Pesticides: XtendiMax (dicamba) EPA Reg. #524-617  
Warrant (acetochlor), EPA Reg. #524-591  
Roundup PowerMax (glyphosate), EPA Reg. #524-549
  - d. Adjuvants: Astonish, Capsule
  - e. Target field: Hansel
  - f. Pre or post application: Post
  - g. Wind speed/direction at start: 8mph out of southwest (toward Beebe field)
  - h. Wind speed/direction at end: 5mph out of southwest
  - i. Nozzles: TTI 1104
  - j. Boom Height: 24"
  - k. Downwind Buffer: 110 ft.
  - l. Checked registrant's website before application: **Left blank**
  - m. Checked DriftWatch before application: June 7, 2018
  - n. Dicamba mandatory training attended: January 30, 2018
6. The PPDL report indicated, "*Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba.*" It further indicated, "*No fungal or bacterial disease and no insect/mite pests were observed to be associated with the symptoms of concern (foliar distortion).*"
7. Because of the information provided by Mr. Comer, the samples submitted to the OISC Residue Lab were not analyzed. While 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, XtendiMax was applied when winds were blowing toward the sensitive non-DT soybeans in the Beebe field.
8. The XtendiMax label reads, "**DO NOT APPLY this product when the wind is blowing toward adjacent non-dicamba tolerant susceptible crops; this includes NON-DICAMBA TOLERANT SOYBEAN AND COTTON.**" Regarding tank mixing, it states, "**The applicator must check the list of tested products found not to adversely affect the**



offsite movement potential of XtendiMax With VaporGrip Technology at [www.xtendimaxapplicationrequirements.com](http://www.xtendimaxapplicationrequirements.com) no more than 7 days before applying XtendiMax With VaporGrip Technology.”



Andrew R. Roth  
Investigator

Date: January 3, 2019

**Disposition:**

- A. Greg Comer was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation. In addition, Mr. Comer's Private Applicator permit was suspended for a period of one year. Consideration was given to the fact this is Mr. Comer's eighth violation of similar nature. See case numbers 2017/1043, 2017/1087, 2017/1089, 2017/1179, 017/1307, 2018/0785 and 2018/0786.
- B. Based on the evidence collected in this investigation, it has been determined that Mr. Comer failed to comply with the drift management restrictions on the label for the herbicide Xtendimax. It should also be noted that OISC was not able to determine whether the herbicide moved off-target as the result of drift, application into an inversion, or volatilization at some point after the application, and was not able to clearly identify the source of the off-target movement.
- C. On January 11, 2019, Greg Comer sent an email requesting a review before the Indiana Pesticide Review Board (IPRB). David Scott, Secretary to the Board was notified immediately.
- D. On January 16, 2019, I spoke with Mr. Comer on the phone. He stated he did not have an issue with the facts of the case but he thought the label language was somewhat confusing and he wanted to argue the suspension of his Private Applicator permit.
- E. A hearing before the Indiana Pesticide Review Board was scheduled for 9:00 a.m. on April 5, 2019, at the Daniel Turf Center located at 1340 Cherry Lane in West Lafayette, Indiana.
- F. On April 5, 2019, a hearing was conducted at the Daniel Turf Center in accordance with the Administrative Orders and Procedures Act. The three-person Administrative Law Judge panel upheld the suspension of Mr. Comer's Private Applicator permit.
- G. On April 8, 2019, the full Indiana Pesticide Review Board upheld the panel's recommendation. The proposed enforcement action in this case stands.



George N. Saxton  
Compliance Officer

Draft Date: April 8, 2019  
Final Date: May 14, 2019

## CASE SUMMARY

Case #2018/0828

**Complainant:** Jami Ferrell  
420 N. Market Street  
Lewisville, Indiana 47352  
765-987-8719

**Respondent:** Clay Abel  
Dungan Aerial Service, Inc.  
PO Box 778  
Connersville, Indiana 47331  
765-679-5000


Applicator  
Licensed Business

1. On July 23, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected aerial pesticide application drift to her property.
2. On July 26, 2018, I spoke with Nathan Foreman, representative for Dungan Aerial Service. Mr. Foreman verified Dungan aerial performed the aerial application to the field west of Jami Ferrell's property. I emailed Mr. Foreman a copy of the Pesticide Investigation Inquiry (PII) form to have the applicator complete, sign and return.
3. On July 30, 2018, I met with Ms. Ferrell at her residence in Lewisville, Indiana. Ms. Ferrell stated she was concerned for her property and livestock regarding the pesticide application.
4. On July 30, 2018, I collected vegetation samples from Ms. Ferrell's property and target field. (See site diagram on Page 2.)
5. On August 3, 2018, I received a completed PII from applicator Clay Abel. Mr. Abel listed he made an application of Trivapro fungicide (EPA Reg. #100-1613, active ingredients benzovindiflupyr, azoxystrobin and propiconazole) and Lambda-T (EPA Reg. #100-1112-5905, active ingredient lambda-cyhalothrin) on July 22, 2018, between 7:40am-11:15am.
6. OISC's database indicated Mr. Abel was not a license holder under Dungan Aerial Service. Service records indicate he was making aerial pesticide applications at the time for Dungan Aerial. OISC's records indicated Mr. Abel was licensed for Nick's Flying Service out of Lagrange, Indiana (Licensed Business).

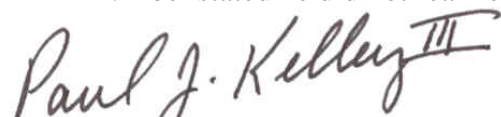


Site Diagram

7. On December 12, 2018, OISC's Residue Label reported the following:

Case #	2018/0828		Investigator		J. Kelley	
Sample #	Sample Description	Amount of Analyte (ppb)				
		Matrix	Propiconazole	Azoxystrobin	Benzovindiflupyr	Lambda-cyhalothrin *
2018-50-2118	CC-comparative control	Vegetation	BDL	BQL	3.22	BDL
2018-50-2119	V1-vegetation from target field	Vegetation	19.5	21.5	35.4	86.9
2018-50-2120	V2-vegetation 20yds from target field	Vegetation	37.8	29.8	35.9	44.3
2018-50-2121	V3-vegetation 90yds from target field	Vegetation	25.2	26.6	26.2	22.8
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 are estimate due to higher than normal instrument variation						
LOQ (ppb)	Vegetation	3	3	0.7	17	
Signature				Date	12/12/18	

8. Lab results indicate all active ingredients used by Mr. Abel to make an aerial application to the field west of Ms. Ferrell were found in vegetation samples collected on Ms. Ferrell's property.
9. Label language for Trivapro states in part, "*Do not apply this pesticide when product may drift to non-target areas...*"
10. On January 7, 2018, I spoke with Jeff Dungan, owner of Dungan Aerial Service, Inc. Mr. Dungan stated he did not know Mr. Abel needed to be linked to his business. Mr. Dungan believed since Mr. Abel was licensed under Nick's Flying Service he could make applications for other companies.
11. On January 7, 2018, I spoke with Mr. Abel. Mr. Abel resides in Arkansas. Mr. Abel stated his license in Arkansas allows him to make applications anywhere in the state for anyone. Mr. Abel stated he did not realize Arkansas and Indiana had different regulations.

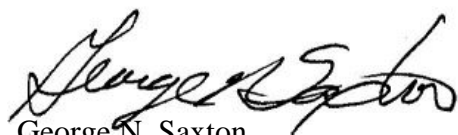


Paul J. Kelley  
Investigator

Date: January 7, 2019

**Disposition:** Clay Abel was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. Consideration was given to the fact this was his first violation of similar nature.

Clay Abel was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-1-1.1(b), for failure to obtain a second applicator license when working for a second licensed business. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton  
Compliance Officer

Draft Date: February 21, 2019

Final Date: March 27, 2019

# CASE SUMMARY

Case #2018/0841

**Complainant:** Christy Gaby  
1617 E. Broadway  
Logansport, Indiana 46947  
765-269-2127 work  
574-702-0017 cell

**Respondent:** Joseph Dees  
Townsend Aviation, Inc.  
2411 S Airport Road  
Monticello, Indiana 47960  
574-583-9900

Certified Applicator  
Licensed Business

1. On July 24, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report aerial pesticide drift to her vehicle and her person while she was driving to Lafayette on Hoosier Heartland Highway around 10:15 am this morning. She stated she had her sunroof open and could feel and smell the drift. She agreed to surrender the shirt she was wearing at the time with the understanding the shirt would not be returned to her. She also stated she has pesticide residue on her windshield.
2. On July 24, 2018, I met with Christy Gaby at her place of employment. Mrs. Gaby stated she was driving down Hoosier Heartland Highway in between Delphi and Buck Creek when an aerial applicator sprayed over the top of her car. Mrs. Gaby also stated that she had her sunroof open when the plane flew over top of her. Upon inspection of Mrs. Gaby's vehicle, I could see where the droplets from the application had landed. It was more noticeable on the clear glass, such as the windows and headlight lenses, and on the grill. The dried spray on Mrs. Gaby's vehicle can be seen in Figures 1-3.



Figure 1



Figure 2



Figure 3

3. I collected three swab samples from the outside of the vehicle (Windshield (Out), Driver Window (Out), and Passenger Window (Out)), and five samples from inside the vehicle (Driver Window (In), Passenger Window (In), Driver Seat, Passenger Seat, and Armrest).



On the following day, I was able to collect the shirt Mrs. Gaby said she was wearing when the incident occurred. These samples were submitted to the OISC residue lab for analysis.

4. On July 30, 2018, I received a Pesticide Investigation Inquiry (PII) from Brian Townsend on behalf of Joseph Dees. The application was on July 24, 2018 from 10:05 AM to 10:40 AM. The application consisted of:
  - A. Fitness (EPA Reg. #34704-1031, active ingredient propiconazole)
  - B. Priaxor (EPA Reg. #7969-311, active ingredients fluxapyroxad and pyraclostrobin)
  - C. Franchise (Surfactant)
  - D. Re-NForce K (Fertilizer)

The wind data reported on the PII states that the wind was 4 MPH from the north-northwest at the start of the application and 4 MPH from the north-northwest at the end of the application.


5. The location of Mr. Dees' application and the path of travel for Mrs. Gaby can be seen in Figure 4.




Figure 4

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



Case # 2018/0841			Investigator: A. Kreider		
Sample #	Sample Description	Sample Matrix	Amount Found (ng/swab or ng/clothing)		
			Propiconazole	Pyraclostrobin	Fluxapyroxad
2018-54-0124	Windshield (out) acetone	Swab	124000	102000	70100
2018-54-0125	Driver window (out) acetone	Swab	8.42	10.6	1.81
2018-54-0126	Passenger window (out) acetone	Swab	61.2	34.4	14.2
2018-54-0127	Driver window (in) acetone	Swab	BDL	BQL	BDL
2018-54-0128	Passenger window (in) acetone	Swab	BDL	0.314	BDL
2018-54-0129	Driver seat alcohol	Swab	BDL	BDL	BDL
2018-54-0130	Passenger seat alcohol	Swab	BDL	BDL	BDL
2018-54-0131	Arm rest alcohol	Swab	BDL	BDL	BDL
2018-54-0132	Trip blank	Swab	BDL	BDL	BDL
2018-54-0133	Complainant's shirt	Clothing	263	89.6	BDL
2018-10-9016	IPA from the store used to charge the swabs	Other	BDL	BDL	BDL
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC					
LOQ (ng/clothing)	Clothing		16	8	8
LOQ (ng/swab)	Swab		0.4	0.2	0.2
Signature			Date	09/16/18	

7. The Priaxor label states, “**DO NOT** apply this product in a way that will contact workers or other persons, either directly or through drift.” The Fitness label states, “Do not apply this product in a way that will contact workers or other persons, either directly or through drift.”
8. The lab results from the OISC residue lab confirm that the application made by Mr. Dees came in direct contact with the vehicle driven by Mrs. Gaby. The lab results also show that not only did the application contact Mrs. Gaby’s vehicle, she also had a significant amount of active ingredient on her shirt. Mr. Dees violated both Priaxor and Fitness labels by allowing his application to come in direct contact with Mrs. Gaby.

  
 Aaron P. Kreider  
 Investigator

Date: June 5, 2019

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

  
 George N. Saxton  
 Compliance Officer

Draft Date: June 10, 2019  
 Closed Case: July 19, 2019

## CASE SUMMARY

Case #2018/0844

**Complainant:** Jim Nesius  
11602 S 280 W  
Remington, Indiana 47977  
219-261-3300

**Respondent:** Tyler Hensler  
Colin Kammer  
Ceres Solutions, Inc.  
1201 W. State Road 114  
Rensselaer, Indiana 47978  
219-680-6659

Certified Applicator  
Registered Technician

1. On July 24, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
2. On July 26, 2018, I met with the complainant to conduct an on-site physical investigation of the alleged off-target pesticide movement incident reported to OISC. The complainant advised me that he believed his non-DT Roundup Ready beans had been damaged by an application made by Mr. Kammer to a nearby bean field.
3. During my on-site investigation I did the following:
  - a) Looked for and discovered there were no other potential dicamba applications made in the area adjacent to the impacted site.
  - b) Observed and photographed what I believed to be dicamba exposure symptoms (figure 1) throughout the complainant's non-target, non-DT soybean field (figure 2) located to the north and west of the target fields. The target fields and the complainant's non-target field were separated by county road 1300 S and county road 380 W approximately forty-five (45) feet. (figures 3 & 4)
  - c) Collected soybean plant samples from impacted areas of the complainant's non-target soybean field for visual analysis by the Purdue Plant and Pest Diagnostic Lab (PPDDL).
  - d) Collected samples for chemical analysis by the OISC Pesticide Residue Laboratory from the following areas:
    - i) Impacted soybean plants from complainant's non-target soybean field;
    - ii) Soil from target fields
    - iii) Weed vegetation from the target fields
4. Made a diagram/map of the investigation site, depicting locations of relevant fields, sample collection, roads, structures, and other landmarks. (figure 5)
5. On July 26, 2018, I collected written records from the applicator Mr. Kammer.
  - a) Application date & time: June 30, 2018 from 12:20pm to 2:45pm;
  - b) Target field: soybean fields to the south and east of complainant's soybean field;

- c) Pesticides: Engenia (dicamba) EPA Reg. #7969-345 and Roundup PowerMax (glyphosate) EPA Reg. # 524-549 and Section Three (clethodim) EPA Reg. #66330-414-1381;
- d) Application rate: Engenia 12.8 oz. per acre Roundup PowerMax 32 oz. per acre;
- e) Adjuvants: Class Act, Interlock, Superb HC;
- f) Nozzles: TTI 11005
- g) Boom height: 20 inches above canopy
- h) Ground speed: 10 mph
- i) Winds: 5 mph from the south southwest then south southeast;
- j) Applicator: Colin Kammer;
- k) Certified supervisor: Tyler Hensler;
- l) Left a 110' untreated buffer next to non-target site: 240 feet
- m) Checked registrant's web site before application: Yes
- n) Checked Field Watch before application: Yes
- o) Surveyed application site before application: Yes

6. I searched wind data from [www.weatherunderground.com](http://www.weatherunderground.com) for zip code 47977 in Remington, IN for the reported date and time of the application. The results of that search indicated that wind speed and direction during the application were as follows.

**As recorded at Jasper County Indiana 7-10 mph South, South Southwest, South Southeast**

12:15 PM	88 ° F	72 ° F	58 %	S	7 mph	0 mph
12:35 PM	88 ° F	72 ° F	58 %	SSW	8 mph	0 mph
12:55 PM	88 ° F	70 ° F	55 %	SSW	10 mph	0 mph
1:15 PM	88 ° F	70 ° F	55 %	S	8 mph	0 mph
1:35 PM	88 ° F	70 ° F	55 %	S	9 mph	0 mph
1:55 PM	90 ° F	70 ° F	52 %	S	9 mph	0 mph
2:15 PM	90 ° F	70 ° F	52 %	SSE	9 mph	0 mph
2:35 PM	90 ° F	70 ° F	52 %	SSE	10 mph	0 mph
2:55 PM	90 ° F	70 ° F	52 %	S	9 mph	0 mph

**Jasper County Wind Data 6 Miles North**

7. The wind would have been blowing in the direction of the complainant's beans.
8. The report from the PPPDL states, "*Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba.*"



Figure One



Figure Two



Figure Three



Figure Four

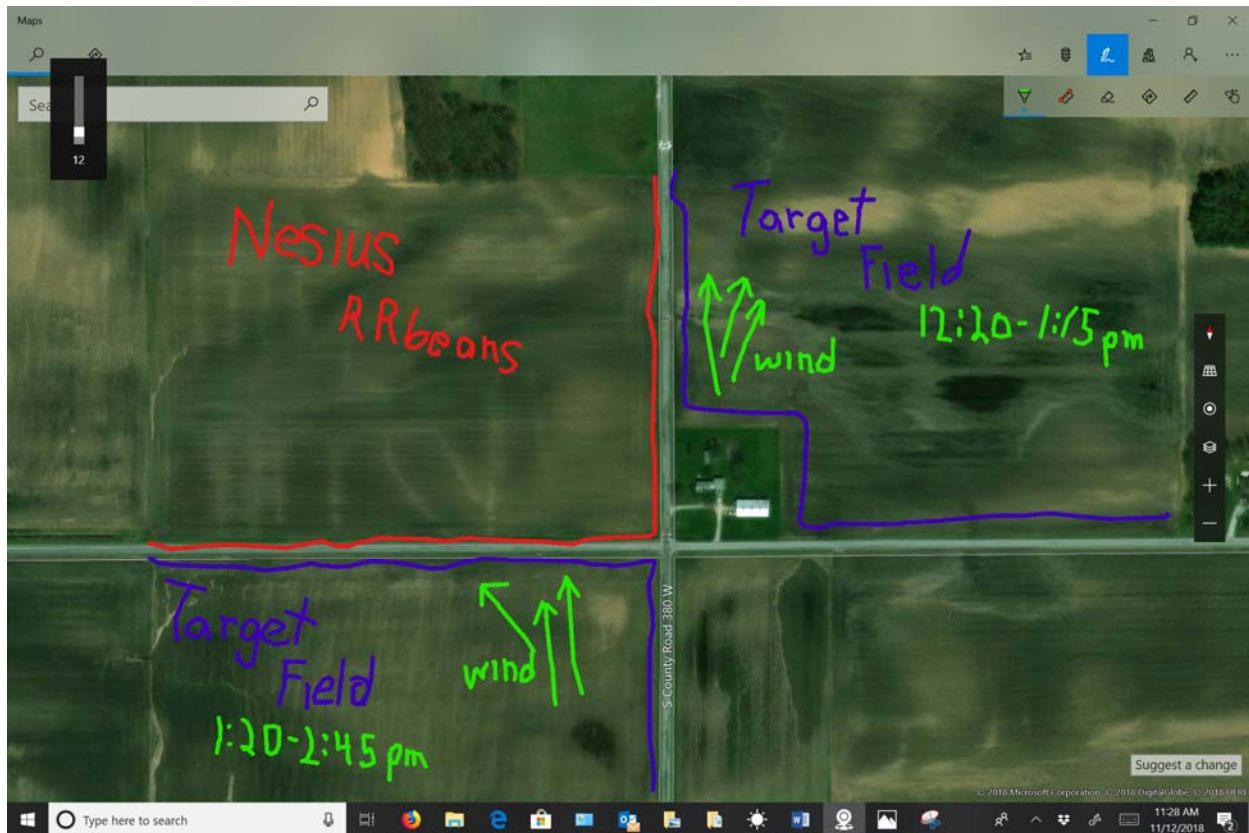


Figure Five

9. The label for Engenia states, “DO NOT apply when wind is blowing in the direction of neighboring sensitive crops.”

*Kevin W. Neal*

Kevin W. Neal  
Investigator

Date: November 12, 2018

**Disposition:** Tyler Hensler and Colin Kammer were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed for this violation.

Based on the evidence collected in this investigation, it has been determined that you failed to comply with the drift management restrictions on the label for the herbicide Engenia. It should also be noted that OISC was not able to determine whether the herbicide moved off-target as the result of drift, application into an inversion, or volatilization at some point after the application.

As of March 17, 2019, Ceres Solutions, Inc. had not paid the \$250.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC.

On March 27, 2019, the civil penalty of \$250.00 was received from Ceres Solutions, Inc.

*George N. Saxton*

George N. Saxton  
Compliance Officer

Draft Date: March 17, 2019  
Final Date: May 2, 2019

## CASE SUMMARY

Case #2018/0853


**Complainant:** Nicki Williams  
Coventry Court Town Homes  
522 Pinegrove Lane  
Fort Wayne, IN 46807  
260-740-7853

<b>Respondent:</b>	Timothy Marshall	Not Licensed
	No More Bites Tonight	Not Licensed
	63 Candlelite Lane	
	Pontiac, MI 48340	
	248-402-3405	

1. On July 26, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report a possible unlicensed pest control applicator at her apartment complex. She stated the applicator applied 'flour' to control bedbugs and allegedly made the comment he did not have to be licensed in Indiana because he was not using a pesticide.
2. On July 30, 2018, I spoke with Nicki Williams, manager at Coventry Court Town Homes, who reported a tenant opted not to use the licensed pest control company the complex uses and, instead, got a bedbug treatment from No More Bites Tonight. She indicated the tenant did not tell her about the treatment until after it was completed.
3. On July 30, 2018, I contacted Timothy Marshall, owner and applicator of No More Bites Tonight, and informed him of the complaint. He admitted he made the application at Coventry Court Town Homes and stated he was licensed in Michigan. I informed Mr. Marshall that neither he nor his business were licensed to make for-hire pesticide applications in Indiana. He indicated he uses food-grade fossil shell flour (diatomaceous earth), not chemicals, for the control of bedbugs. I explained that any for-hire application made to the property of another to control pests requires he and the company be licensed. We discussed the licensing procedures and Mr. Marshall indicated he would apply for Indiana licenses. I requested he provide documentation for all applications he made to properties in Indiana. Information from the Michigan Department Agriculture & Rural Development confirmed No More Bites Tonight had a Michigan license as of July 26, 2018.
4. On July 31, 2018, Mr. Marshall sent me electronic copies of literature he leaves with customers, including an EPA Inert Minimal Risk Pesticide list, a bedbug brochure, a diatomaceous general fact sheet and a safety data sheet for Perma-Guard Fossil Shell Flour (diatomaceous earth). I emailed instructions on how to obtain Indiana licenses to Mr. Marshall and again requested documentation for jobs he had done in Indiana.
5. On August 13, 2018, Mr. Marshall sent photos of the service agreements for the bedbug applications he made in Indiana. Application dates, which were written in the bottom corner

of each service agreement, were cut off in most of the photos. I notified Mr. Marshall that I needed the application dates. He indicated all the applications were made on separate days except one, which was a re-inspection, and that he would work on getting me the dates. Based on that clarification, Mr. Marshall made for-hire bedbug applications on eighteen (18) days in Indiana without being properly licensed.

6. On September 20, 2018, Mr. Marshall sent an email indicating he was sending his application and fees to the OISC. I reminded him that he was also required to provide a valid certificate of insurance for the company in order to be issued a pesticide business license.
7. The OISC Certification & Licensing section received the application and fees but a valid certificate of insurance was not provided. On or about November 1, 2018, the OISC sent a letter to Mr. Marshall notifying him he was not yet licensed and a valid certificate of insurance was needed. I also notified Mr. Marshall by email and again requested application dates. I asked if he had made any other applications in Indiana and he replied there were no new jobs. On November 28, 2018, Mr. Marshall reported he was sending hard copies of his application records and his certificate of insurance. As of the date of this summary, neither have been received.

  
Andrew R. Roth  
Investigator

Date: December 4, 2018

**Disposition:** Timothy Marshall was cited for violation of section 65(1) of the Indiana Pesticide Use and Application Law for making a false or fraudulent claim either verbally or through any media misrepresenting the effect of a pesticide product or a method to be used. A civil penalty in the amount of \$250.00 was assessed for this violation.

Timothy Marshall was cited for violation of section 65(3) of the Indiana Pesticide Use and Application Law for using a known ineffective or improper pesticide product or known ineffective amount of pesticide. A civil penalty in the amount of \$250.00 was assessed for this violation.

Timothy Marshall was cited for eighteen (18) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$4,500.00 (18 counts x \$250.00 per count) was assessed.

As of March 22, 2019, Timothy Marshall / No More Bites Tonight had not paid the \$5,000.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC.

As of May 3, 2019, Timothy Marshall / No More Bites Tonight had not paid the \$5,000.00 civil penalty assessed. The case was forwarded to the Indiana Attorney General for collection.

  
George N. Saxton  
Compliance Officer

Draft Date: March 22, 2019  
Final Date: May 3, 2019



## CASE SUMMARY

Case #2018/0856

**Complainant:** Ashlee Pritchett  
8901 W 200 N  
Waynetown, Indiana 47990  
217-454-1112

<b>Respondent:</b>	George J. Camarata	Certified Applicator
	Aero Crop Services	Licensed Business
	21409 N 2050 East Rd	
	Bismarck, IL 61814	
	217-446-5293	

1. On July 26, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report an aerial applicator flew over her home today and either drifted or directly sprayed her and her dog. She stated she has a shirt she will surrender to the investigator that she was wearing with the understanding the shirt will not be returned to her.
2. On July 27, 2018, I met with the complainant to conduct an on-site physical investigation of the alleged off-target pesticide movement incident reported to OISC.
3. During my on-site investigation I did the following:
  - a) Observed and photographed the complainant's property as it related to the target field. The target field and the complainant's property were immediately adjacent to one another. (figures 1,2,3 & 4)
  - b) Collected samples for chemical analysis by the OISC Pesticide Residue Laboratory from the following areas:
    - a) Swab samples from the complainant's property;
    - b) Shirt from complainant;
4. Made a diagram/map of the investigation site, depicting locations of relevant fields, sample collection, roads, structures, and other landmarks (figure 5).
5. On November 14, 2018, I collected written records from the applicator Mr. Camarata. According to a signed Pesticide Investigation Inquiry:
  - a) Application date & time: July 26, 2018 from 12:30pm to 12:50pm;
  - b) Target field: soybean field to the south of complainant's property;
  - c) Pesticides: Headline AMP (metconazole and pyraclostrobin) EPA Reg. #7969-291;
  - d) Wind: Northwest 10 mph
6. I searched wind data from [www.weatherunderground.com](http://www.weatherunderground.com) for zip code 47990 in Waynetown, Indiana for the reported date and time of the application. The results of that search indicated that wind speed and direction during the application were as follows:

**As recorded at Purdue University 12-13 mph West Southwest**

11:54 AM	79 ° F	65 ° F	62 %	WSW	13 mph	21 mph
12:54 PM	82 ° F	66 ° F	58 %	WSW	12 mph	0 mph

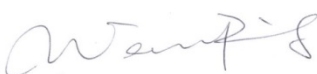
**Purdue University Wind Data 25 Miles North**

**As recorded at Vermillion County 8-9 mph variable West Northwest**

12:35 PM	79 ° F	70 ° F	75 %	WNW	9 mph	0 mph
12:55 PM	79 ° F	69 ° F	72 %	WNW	8 mph	16 mph

**Vermillion County Wind Data 25 Miles Southwest**

7. The wind would have been blowing in the direction of the Pritchett property.
8. The OISC lab reports states:

Case #	2018/0856		Investigator		K. Neal	
Sample #	Sample Description	Amount of Analyte (ng/swab or ng/clothing)				
		Matrix	Propiconazole	Azoxystrobin	Metconazole	Pyraclostrobin
2018-22-1132	Trip blank swab	Swab	BQL	BDL	BDL	BDL
2018-22-1133	Swab south side of pole barn	Swab	2020	42.8	BDL	1.23
2018-22-1134	Swab south side of propane tank	Swab	520	42.5	1.66	3.18
2018-22-1135	Swab south side of south building	Swab	4160	15.2	BQL	1.22
2018-22-1136	Pritchett shirt	Clothing	23100	1900	BDL	110
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC						
LOQ (ng/swab)	Swab		0.4	0.2	1	0.2
LOQ (ng/clothing)	Clothing		16	8	80	8
Signature				Date	09/06/18	

9. Analysis from OISC residue lab indicate high levels of propiconazole and azoxystrobin which are the active ingredients in a product/fungicide called Quilt. I contacted Mr. Camarata and asked if he were sure it was Headline AMP he was applying that day. Mr. Camarata stated he was only going by what he was told by Mr. Jerry Walker who loaded his aircraft. Mr. Camarata provided me with the only documentation he had regarding this. Upper left corner in blue it says 10 oz. Headline AMP. He also stated that if the lab results were that high for the actives in Quilt then it must have been Quilt. (figure 6)



Figure One



Figure Two



Figure Three



Figure Four

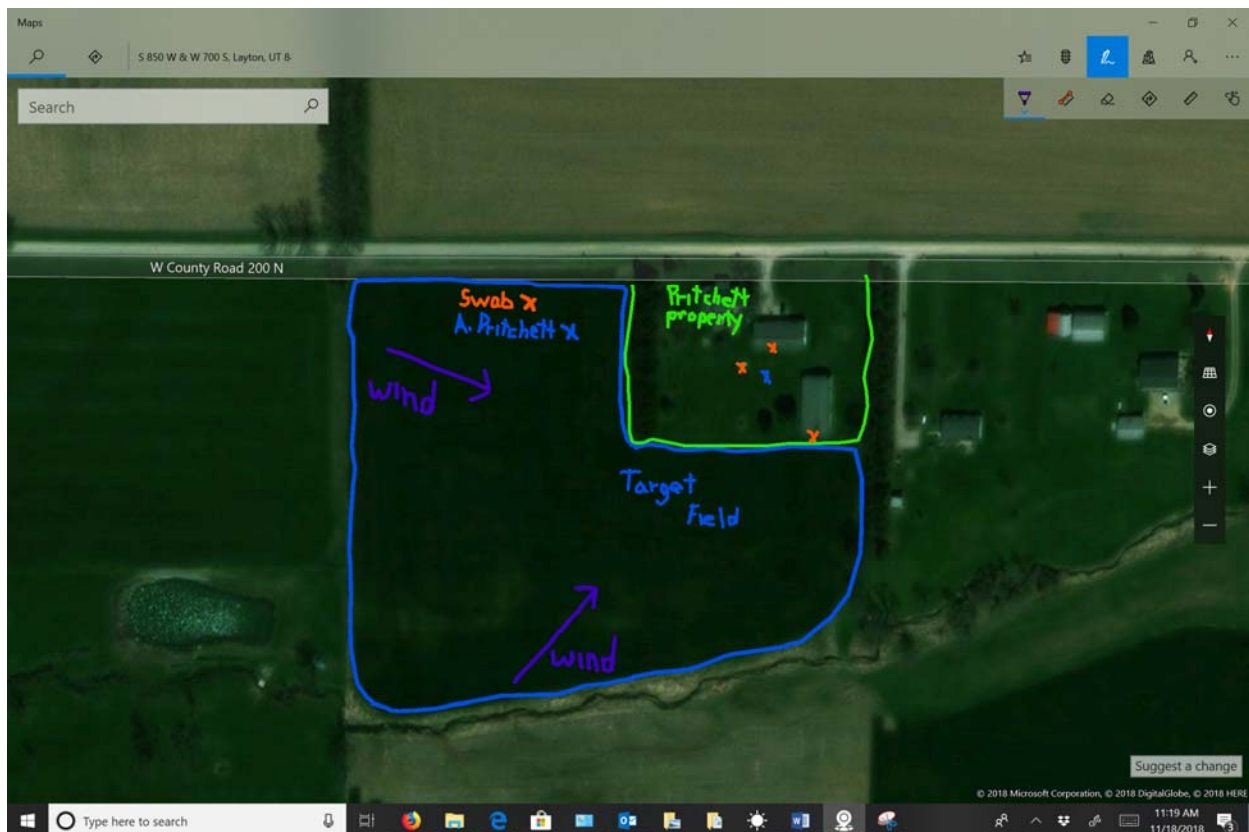


Figure Five



10 02 Headline Amp

# Waynetown 35

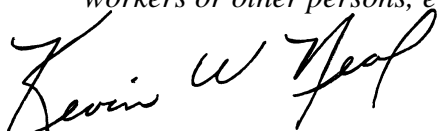


Figure Six

10. The label for Headline AMP states, “DO NOT apply when conditions favor drift from target area.” And “DO NOT apply under circumstances where possible drift to endangered species, unprotected persons, to food, forage, or other plantings that might be damaged, or crops thereof rendered unfit for sale, use or consumption can occur.” “DO NOT apply this

*product in a way that will contact workers or other persons, either directly or through drift."*

11. The label for Quilt states, *"DO NOT spray when conditions favor drift beyond area intended for application."* And *"To avoid spray drift, do not apply when conditions favor drift beyond the target area."* *"DO NOT apply this product in a way that will contact workers or other persons, either directly or through drift."*



Kevin W. Neal  
Investigator

Date: November 18, 2018

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

As of March 21, 2019, Aero Crop Services had not paid the \$250.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC.

On April 8, 2019, the civil penalty of \$250.00 was received from Aero Crop Services.



George N. Saxton  
Compliance Officer

Draft Date: March 21, 2019  
Final Date: May 2, 2019

## CASE SUMMARY

Case #2018/0860

**Complainant:** Larry Kummer  
3563 CR 39  
Auburn, IN 46706  
260-235-0632

**Respondent:** Greg Smith Private Applicator  
John D. Smith & Sons  
4395 E. Metz Road  
Angola, IN 46703  
260-243-0942

1. On July 26, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
2. On July 30, 2018, I spoke with Larry Kummer who reported he noticed cupped leaves on non dicamba-tolerant (DT) Liberty soybeans in two of his fields about ten days ago. He suspected the field adjacent to the two affected fields, which he believed was farmed by Smith & Sons, was sprayed with a dicamba-containing tank mix. His west field was reportedly sprayed with FlexStar (fomesafen) and Pursuit (imazethapyr) and the south field with Liberty (glufosinate) and clethodim. Those applications were made in early-July.
3. On July 31, 2018, after discussing the field locations with Mr. Kummer, I went to the application site near the intersection of SR8 and CR35 in DeKalb County to conduct the on-site investigation.
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 Kummer soybean fields. The Smith field was on the east side of CR35. One Kummer field was across a lane to the south of the Smith field, while the other was across CR35 to the west of the Smith field (See Fig.1); this field was dissected by a utility right-of-way.
  - b) Observed and photographed mostly- uniform, widespread cupping and puckering of leaves on non-DT soybean plants in the eastern portion of the west Kummer field and in the northern portion of the south Kummer field. These symptoms are commonly associated with exposure to a growth-regulator type herbicide such as dicamba.
  - c) Collected soybean plant sample exhibiting symptoms from both Kummer fields for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue.
  - d) Collected a soil sample from the target (Smith) field. Collected two soybean samples from each of the affected Kummer fields. In the south field, plants were collected from the northern edge and from approximately 25 yards into the field. In the west field, plants were collected from the eastern edge and from approximately 25 yards into the field. Those samples were submitted to the OISC Residue lab for analysis.





Fig.1 Aerial photo of field locations



Fig.2 South field, lane & target field



Fig.3 West field, CR35 & target field



Fig.4 Cupped/puckered leaves



Fig.5 Cupped soybeans, west field

5. I later learned that Greg Smith was farming the field in question and contacted him about the complaint. He confirmed he sprayed the field adjacent to the Kummer fields in early-July with a tank mix containing Engenia, Warrant and a glyphosate product. Mr. Smith completed a Pesticide Investigation Inquiry which provided the following information:
  - a. Certified Applicator: Greg Smith
  - b. Application date and time: July 3, 2018, from 10:24am – 10:55am
  - c. Pesticides: Engenia (dicamba) EPA Reg. #7969-345  
Warrant (acetochlor), EPA Reg#524-591  
Glyphosate 41% Plus (glyphosate), EPA Reg. #83772-8
  - d. Adjuvants: Leeway II
  - e. Target field: NE corner of CR35/SR8
  - f. Pre or post application: Post
  - g. Wind speed/direction at start: 5mph from east-southeast (toward Kummer west field)
  - h. Wind speed/direction at end: 7mph from east (toward Kummer west field)
  - i. Nozzles: Tee Jet TTI 11004
  - j. Boom Height: 24"
  - k. Downwind Buffer: 110 ft.
  - l. Checked registrant's website before application: July 2, 2018
  - m. Checked DriftWatch before application: July 3, 2018
  - n. Dicamba mandatory training attended: February 8, 2018
6. The PPDL report stated, *"Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba."* It further stated, *"No fungal or bacterial disease and no insect/mite pests were observed to be associated with the symptoms of concern (foliar distortion)."*

7. While it is difficult to determine whether off-target movement occurred through direct particle drift, application into an inversion or volatility at some point after the application, the evidence at the site and the lab report suggest dicamba from the application to the Smith field moved off-target to the non DT soybeans in the Kummer fields. Because of the information provided by Mr. Smith, the samples submitted to the OISC Residue Lab were not analyzed. Any wind from an easterly direction would be blowing toward the sensitive non-DT soybeans in the Kummer field across CR35 to the west.
8. The Engenia label reads, in part, **“DO NOT apply when wind is blowing in the direction of neighboring sensitive crops. Sensitive crops include, but are not limited to: non-DT soybeans...”**



Andrew R. Roth  
Investigator

Date: December 12, 2018

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



George N. Saxton  
Compliance Officer

Draft Date: February 14, 2019

Final Date: April 12, 2019

## CASE SUMMARY

Case #2018/0868

**Complainant:** Dennis Sheets  
9690 S. Raber Road  
Columbia City, IN 46725  
260-229-7766

**Respondent:** Jim Pettigrew  
6886 E. Delabalne Road  
Columbia City, IN 46725  
260-609-0405

Private Applicator

1. On July 30, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
2. On July 31, 2018, I spoke with Dennis Sheets who reported he noticed cupped leaves on non dicamba-tolerant (DT) Liberty soybeans in one of his fields a few days prior. He stated two rows of soybeans along the northern edge of his field were dead where it abuts the field to the north. He indicated symptoms were mainly across the northern portion of the field and that he suspected one of the adjacent fields had been sprayed with dicamba. He reported his field was sprayed commercially with Liberty (glufosinate) by Ag Plus around the first of July.
3. On August 1, 2018, after discussing the field location and the possible growers farming the neighboring fields with Mr. Sheets, I went to the his field, on the west side of S. Washington Road in Whitley County, to conduct the on-site investigation.
4. During my on-site investigation, I did the following:
  - a) Looked for potential sources of dicamba adjacent to the Sheets field. The two potential sources, based on the location of the symptoms in the Sheets field, were a field which bordered his field to the north (no biological barrier between crops) and a field across Washington Road to the east; healthy, unaffected soybeans were observed in both fields.
  - b) Observed and photographed mostly- uniform, widespread cupping and puckering of leaves on non-DT soybean plants in an east-to-west swath across the northern portion of the Sheets field. These symptoms are commonly associated with exposure to a growth-regulator type herbicide such as dicamba.
  - c) Collected soybean plants exhibiting symptoms from the Sheets field for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue.
  - d) Collected a soil sample from the potential target fields, north of the Sheets field and east of the Sheets field. Collected soybean samples from affected plants across the Sheets field. In the northeast corner of the field near the road, I collected one sample from the east edge, one from 50 yards into the field and one from 100 yards into the field. Those samples were submitted to the OISC Residue lab for analysis.



Fig.1 Aerial photo of fields



Fig.2 Cupping at east edge near road



Fig.3 Cupping, NE corner of Sheets



Fig.4 Widespread cupping



Fig.5 North field border, dead beans



Fig.6 Cupped/puckered non-DT beans

5. I spoke with Kyle Tom, of Tom Farms, who confirmed they farmed the field north of the Sheets field. The field was reportedly sprayed with Roundup, but not dicamba. After making several phone calls to determine who farmed the field to the east, I spoke with Jim Pettigrew who confirmed he sprayed the field with Engenia and a glyphosate product in early-July. He indicated he left a sizable buffer in the field. Mr. Pettigrew completed a Pesticide Investigation Inquiry which provided the following information:
  - a. Certified Applicator: Jim Pettigrew
  - b. Application date and time: July 7, 2018, from 826am – 1030am
  - c. Pesticides: Engenia (dicamba) EPA Reg. #7969-345  
Fusilade DX (fluazifop), EPA Reg#100-1070  
Cornerstone 5 Plus (glyphosate), EPA Reg#1381-241
  - d. Adjuvants: AG 16098, Class Act Ridion
  - e. Target field: SE corner 800S/Washington Road
  - f. Pre or post application: Post
  - g. Wind speed/direction at start: 8mph from east (toward the Sheets field)
  - h. Wind speed/direction at end: 7mph from east-southeast
  - i. Nozzles: Tee Jet TTI 11005
  - j. Boom Height: 24" above crop
  - k. Downwind Buffer: 180 ft.
  - l. Checked registrant's website before application: **Left blank**
  - m. Checked DriftWatch before application: **Left blank**
  - n. Dicamba mandatory training attended: January 8, 2018
6. The PPDL report indicated, *"Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba."* It further stated, *"No fungal or bacterial disease and no insect/mite pests were observed to be associated with the symptoms of concern (foliar distortion)."*



7. While it is difficult to determine whether off-target movement occurred through direct particle drift, application into an inversion or volatility at some point after the application, the evidence at the site and the lab report suggest dicamba from the application to the Pettigrew field moved off-target to the non DT soybeans in the Sheets field. Because of the information provided by Mr. Pettigrew, the samples submitted to the OISC Residue Lab were not analyzed. Wind from an easterly direction would have been blowing toward the sensitive non-DT soybeans in the Sheets field across Washington Road to the west.
8. The Engenia label reads, in part, **“DO NOT apply when wind is blowing in the direction of neighboring sensitive crops. Sensitive crops include, but are not limited to: non-DT soybeans...”** The label further states, “Before making an application, the applicator must survey the application site for neighboring sensitive areas. **The applicator must also consult sensitive crop registries to locate nearby sensitive areas where available.**” Regarding tank mix partners, the label states, **“DO NOT tank mix any product with Engenia unless: 1. You check the list of EPA approved products for use with Engenia at [www.engeniatankmix.com](http://www.engeniatankmix.com) no more than 7 days before applying Engenia;...”**



Andrew R. Roth  
Investigator

Date: December 13, 2018

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



George N. Saxton  
Compliance Officer

Draft Date: February 14, 2019  
Final Date: March 27, 2019

## CASE SUMMARY

Case #2018/0870

**Complainant:** Mike Harris  
974 W. State Road 124  
Bluffton, IN 46714  
260-273-1737

<b>Respondent:</b>	Jason Worster	Not Licensed
	Curt Worster	Private Applicator
	3758 E. CR400 S.	
	Markle, IN 46770	
	260-519-2494	

1. On July 31, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his soybeans.
2. On August 1, 2018, I spoke with Mike Harris who reported he observed cupped leaves on non dicamba-tolerant (DT) Roundup Ready soybeans in one of his fields. He indicated he was notified about the symptoms by neighboring grower a couple of days prior. Mr. Harris reported the possible growth-regulator herbicide symptoms were visible on soybeans along the edge of his field, across the county road from a field suspected to have been sprayed with dicamba. He believed that ground was being farmed by Worsters.
3. On August 1, 2018, I met with Mr. Harris at his field on the east side of CR400W in Wells County. The suspected target field was across the road from the northern portion of his field where symptoms were reportedly observed. Mr. Harris reported that his field was last sprayed with Roundup on June 30, 2018.
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 Harris soybean field. The suspected target (Worster) field was directly across CR400W to the west of the north end of the Harris field, with approximately 30 feet between crops.
  - b) Observed and photographed minor cupping of leaves on non-DT soybean plants along the western edge of the Harris field, near the road, adjacent to the Worster field. These symptoms are commonly associated with exposure to a growth-regulator type herbicide such as dicamba.
  - c) Collected soybean plants exhibiting symptoms from the Harris field for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue.
  - d) Collected a soil sample from the target (Worster) field. Collected two soybean plant samples from the Harris field, one from the western edge of the field and one from approximately 25 yards into the field. Those samples were submitted to the OISC Residue Lab for analysis.





Fig.1 Aerial photo of fields




Fig.2 Cupped soybeans, near road



Fig.3 Cupped/puckered soybean leaves

5. I later called and left a message for Curt Worster, a licensed private applicator in the OISC database, regarding the complaint. His son, Jason Worster, later called and confirmed that he sprayed the field adjacent to the Harris field in early-July with XtendiMax. He indicated that he left a buffer around the field which was sprayed with FlexStar and Roundup PowerMax. Mr. Worster indicated he was on vacation but would provide application records the following week. The application information was not received by the OISC so I contacted Mr. Worster in November. He indicated he compiled the information and thought he sent it to the OISC in August. Mr. Worster later provided a Pesticide Investigation Inquiry which provided much of the following information:
  - a. Unlicensed Applicator: Jason Worster  
Certified Applicator: Curt Worster
  - b. Application date and time: July 5, 2018, from 11:30am – 11:55am
  - c. Pesticides: XtendiMax (dicamba) EPA Reg. #524-617  
FlexStar (fomesafen), EPA Reg. #100-1101\*  
Roundup PowerMax (glyphosate), EPA Reg. #524-549\*
  - d. Adjuvants: Reign, Strike Force
  - e. Target field: Liberty 30
  - f. Pre or post application: Post
  - g. Wind speed/direction at start: 7-8mph to southeast (toward Harris field)
  - h. Wind speed/direction at end: 7-8mph to southeast
  - i. Nozzles: Green Leaf TDXL 11003
  - j. Boom Height: 36"-39"
  - k. Downwind Buffer: 165' around whole field
  - l. Checked registrant's website before application: July 5, 2018
  - m. Checked DriftWatch before application: **None**
  - n. Dicamba mandatory training attended: February 27, 2018
  - \* Application to buffer area made on June 23, 2018
6. I checked recorded wind data at the closest official weather station to the application site for July 5, 2018. The Fort Wayne International Airport, which is 19 miles north of the application site, recorded winds from the west-northwest (blowing to the east-southeast) at 8mph at 11:54am on July 5, 2018. Any winds from a westerly direction would have been blowing toward the Harris soybean field.
7. The PPDL report indicated, *"Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba."* It further stated, *"No fungal or bacterial disease and no insect/mite pests were observed to be associated with the symptoms of concern (foliar distortion)."*

8. I attempted to contact Mr. Worster several times regarding items he left blank on the PII. In late-January, he provided the missing application items. Based on the information provided by Mr. Worster, the samples submitted to the OISC Residue Lab were not analyzed. The evidence at the site, the lab reports and the wind data suggest dicamba applied to the Worster field moved off-target to soybeans in the Harris field. While 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, XtendiMax was applied while winds were blowing toward sensitive non-DT soybeans in the Harris field.
9. The XtendiMax label reads, **“DO NOT APPLY this product when the wind is blowing toward adjacent non-dicamba tolerant susceptible crops; this includes NON-DICAMBA TOLERANT SOYBEAN AND COTTON.”** It further states, “Before making an application, the applicator must survey the application site for adjacent non-target susceptible crops. **The applicator must also consult applicable sensitive crop registries to identify any commercial specialty or certified organic crops that may be located near the application site.**”

  
Andrew R. Roth  
Investigator

Date: February 4, 2019

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

Based on the evidence collected in this investigation, it has been determined that Curt Worster failed to comply with the drift management restrictions on the label for the herbicide XtendiMax. It should also be noted that OISC was not able to determine whether the herbicide moved off-target as the result of drift, application into an inversion, or volatilization at some point after the application, and was not able to clearly identify the source of the off-target movement.

  
George N. Saxton  
Compliance Officer

Draft Date: February 26, 2019  
Final Date: April 12, 2019

## CASE SUMMARY

Case #2018/0872

**Complainant:** Kurt Theurer  
Double XL Farms, Inc.  
6285 E 700 S  
Portland, Indiana 47371  
260-740-8472

**Respondent:** Jerry D. Wasson  
7565 N 700 E  
Union City, Indiana 47390  
765-546-2019

Private Applicator

1. On August 1, 2018 while I was investigating a dicamba complaint, 2018/0858, with complainant Kurt Theurer, he notified me that he had another non-dicamba tolerant soybean field in the area that also appeared to have been injured by dicamba.
2. After completing my initial investigation, I went with Mr. Theurer to the second field. The non-dicamba tolerant soybean field was located at the northeast corner of Highway 27 and 800 south in Jay County, Indiana. Mr. Theurer was able to show me that the most damaged area of the field was along the west edge adjacent to Highway 27. The damage extended east affecting approximately 2/3rds of Mr. Theurer's field (see Fig. 3). Mr. Theurer stated that he believed Doug Muhlenkamp or Jerry Wasson farmed the soybean field directly to the west of his field across highway 27. Mr. Theurer stated that he farms the cornfield directly to the south and does not use any dicamba products.
3. During my on-site investigation I did the following:
  - a. Looked for, but did not find, any other potential sources of a growth regulator type herbicide application adjacent to Mr. Theurer's soybean field. The target field was directly west of Mr. Theurer's soybean field with highway 27 separating the two fields.
  - b. Observed and photographed cupping and puckering of leaves on non-DT soybean plants across approximately 2/3rds of Mr. Theurer's soybean field (See Fig 1). Symptoms were notably more severe on the west end of the field closet to the target field. These symptoms are commonly associated with exposure to a growth-regulator type herbicide such as dicamba. Soybeans in the target field exhibited no symptoms.
  - c. Collected samples of injured soybean plants from Mr. Theurer's field for assessment by the Purdue Plant & Pest Diagnostic Laboratory (PPDDL)
  - d. Collected a composite soil sample from the target soybean field. Collected gradient vegetation samples and a soil sample from Mr. Theurer's soybean field (See Fig. 3). Also collected a soil sample from the soybean field located on 800 south to the southwest of the non-target field (see fig. 3). The residue samples were submitted to the OISC Residue Laboratory for analysis.



Fig. 1



Fig. 2

- Fig. 1 is Mr. Theurer's non-DT soybeans with cupped/puckered leaves and discolored leaf tips.
- Fig. 2 is a photo of the target field with highway 27 separating the fields.

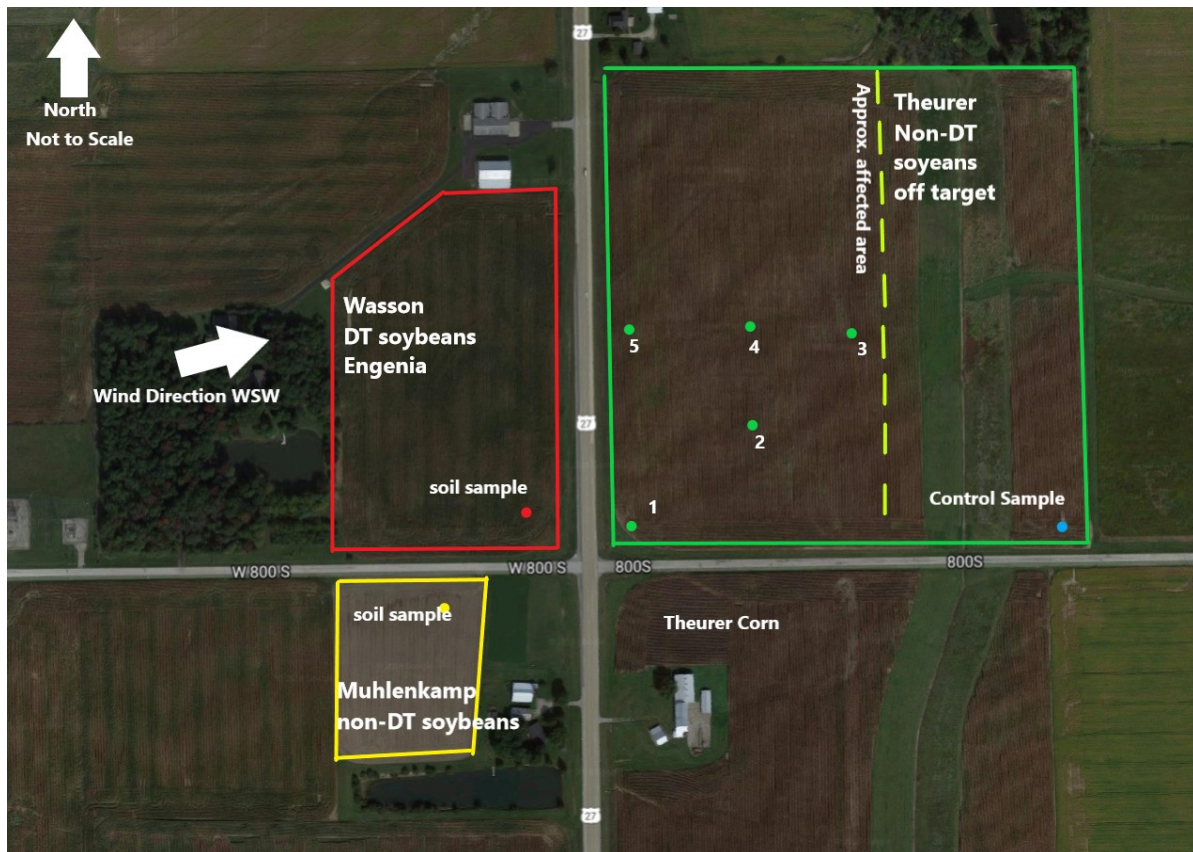


Fig. 3

- Fig. 3 is an aerial diagram of the fields including approximate field property lines and where soil and vegetation samples were taken from.
4. On September 5, 2018, I made contact with Jerry Wasson via telephone. Mr. Wasson confirmed that he farms the target field directly to the west of the complainant's field. Mr. Wasson stated that he did have dicamba tolerant soybeans and applied dicamba to the field. On September 5, 2018, I emailed Mr. Wasson a Pesticide Investigation Inquiry (PII) and instructed him to return it within 15 days.



5. On September 11, 2018, I made contact with Doug Muhlenkamp via telephone. Mr. Muhlenkamp stated that he farms the small soybean field to the southwest of the complainant's field. Mr. Muhlenkamp stated that the field was non-dicamba tolerant soybeans and that he has never applied dicamba. I had a PII mailed through USPS to Mr. Muhlenkamp on September 11, 2018. On September 26, 2018, I received a completed PII from Mr. Muhlenkamp stating no dicamba was applied to his field.
6. On September 27, 2018, Mr. Wasson contacted me saying the PII was completed but he wanted to ask me a few questions before sending it. On October 1, 2018, I received the completed PII from Mr. Wasson which indicated the following:
  - a. Private Applicator: Jerry D. Wasson
  - b. Application Date and Time: July 2, 2018, 1:30pm to 2:00pm
  - c. Pesticide Applied:
    - i. Roundup PowerMax, Glyphosate, 1qt/acre
    - ii. Engenia, EPA Reg. #7969-345, Dicamba, 12.5oz/Acre
  - d. Adjuvants: Design and Capsule
  - e. Target Field Location and Size: NW corner Us 27 and 800S, 12 Acres
  - f. Pre- or Post- Emergent Application: Post
  - g. Wind Direction at Boom Height: Start- N, End- N
  - h. Wind Speed at Boom Height: Start- 3mph, End- 5mph
  - i. Nozzles: TeeJet TTI04 RED
  - j. Boom Height: 2 feet to 24 Inches
  - k. Downwind Buffer: No
  - l. Checked Registrants Website before application: No
  - m. Checked DriftWatch before application: No
  - n. Dicamba Mandatory Training Attended: Yes, March 16, 2018
7. Weather history data was obtained at [www.wunderground.com](http://www.wunderground.com) and the closest official weather station to the application site was the Delaware County-Johnson Station (KMIE) located in Muncie, Indiana 23 miles southwest of the application site. The weather data for July 2, 2018 follows:

TIME	Temperature	Wind Direction	Wind Speed	Wind Gust
1:53 PM	87 F	CALM	0 mph	0 mph

8. The Delaware County-Johnson Station only had one recorded time of weather data during the application time. I obtained further weather history data from the next closest official weather station to the application site at the Darke County Station (KVES) located in Versailles, OH 24 miles southeast of the application site. The weather data for July 2, 2018 follows:

TIME	Temperature	Wind Direction	Wind Speed	Wind Gust
1:35 PM	82 F	W	5 mph	0 mph
1:55 PM	86 F	WSW	7 mph	0 mph

9. I also reviewed the historical weather data at two personal weather stations. The Personal weather stations KINRIDGE2, located 4.5 miles southwest of the application site, and KINPORTL4, 7.5 miles north of the application site. Both of the personal weather stations stated that during the application date and time the wind was out of the WSW. Wind out of the WSW from the application site was blowing toward the complainant's field.

10. The PPPDL report stated: *Cupped/puckered leaves with parallel leaf veins and cream or tan colored leaf tips are indicative of injury from dicamba.*
11. The wind data indicates during the application the wind direction was out of the west southwest towards Mr. Theurer's field. The label for *Engenia*, EPA Reg. #7969-345, Active Ingredient = *dicamba* states, "**DO NOT apply when wind is blowing in the direction of a neighboring sensitive crop**". Mr. Wasson's statements on the PII indicate that he did not check the registrant's website prior to the application. The label for *Engenia* states "**DO NOT tank mix any product with Engenia unless: You check the list of EPA approved products for use with Engenia at [www.engeniatankmix.com](http://www.engeniatankmix.com) no more than 7 days before applying Engenia**". Mr. Wasson's statements on the PII also indicate he did not check DriftWatch prior to the pesticide application. The label for *Engenia* states, "**Before making an application, the applicator must survey the application site for neighboring sensitive areas. The applicator must also consult sensitive crop registries to locate nearby sensitive areas where available.**"
12. Based on the evidence collected in this investigation, it has been determined that Jerry Wasson failed to comply with the drift management restrictions tank mix restrictions on the label for the herbicide *Engenia*, EPA Reg. #7969-345, Active Ingredient = *dicamba*. It should also be noted that OISC was not able to determine whether the herbicide moved off-target as the result of drift, application into an inversion, or volatilization at some point after the application, and was not able to clearly identify the source of the off-target movement.



Garret A. Creason  
Investigator

Date: December 11, 2018

**Disposition:** Jerry D. Wasson was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation.



George N. Saxton  
Compliance Officer

Draft Date: February 14, 2019  
Final Date: March 27, 2019



## CASE SUMMARY

Case #2018/0875

**Complainant:** Brad Phillips  
10743 W. Henry Road  
Deputy, IN 47230  
812-871-0240

**Respondent:** Bryan Comito  
G&T Services  
1630 Summit Street  
New Haven, IN 46774  
260-704-0198

Certified Applicator  
Licensed Business

1. On August 1, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report a pesticide application at a local Duke Energy power substation had drifted or runoff onto his soybeans.
2. On August 3, 2018, I spoke with Brad Phillips who reported he had two issues with soybeans in one of his fields. He indicated that, in addition to the soybeans affected by the application made to the substation, he also noticed soybeans were affected on the opposite side of the field by what he believed was off-site movement from an agricultural dicamba application. A separate investigation was conducted for that application (See Case#2018/0876).
3. On August 6, 2018, I met Mr. Phillips at his field on the north side of State Road 256 in Jefferson County. He reported his crops were affected by off-target movement of herbicides from the adjacent substation in the past (Case#2015/1202). The Madison West Substation abuts the southern portion of the Phillips field near the road. In that area of the field, which is low and holds surface water, the soybean stand was thin-to-bare. Plants were stunted and exhibited cupped and puckered leaves. I photographed the site, documenting the symptoms observed. I collected soybean plants for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue. I also collected soil samples, one from the corner of the substation at the point of runoff, one from the soybean field and one from a non-target area on the substation property (comparative). Those samples were submitted to the OISC Residue Lab for analysis.



Fig.1 Aerial photo of field and substation



Fig.2 Substation & Phillips field



Fig.3 Runoff area, looking north



Fig.4 Stunted beans, looking south




Fig.5 Cupped/puckered soybeans

4. On August 6, 2018, I contacted G&T Services, the licensed company responsible for vegetation control applications at the substation in the 2015 case, and informed Greg Lake of the complaint. He confirmed they still had the Duke Energy contract and that an application was likely done in the spring. Mr. Lake reported that manager Mike Voelker was not there but he would have him contact me. I emailed a Pesticide Investigation Inquiry (PII) to Mr. Lake for the application. After not receiving any information regarding the application, I contacted Mr. Voelker via email in late-September. He indicated he tried to send the tank mix information in August but it must not have made it to me. Mr. Voelker reported that the gravel area at the site was sprayed with a custom mix in April and was re-sprayed with Roundup Pro (glyphosate) only in late-July. He later returned a completed PII indicating the following herbicides were applied by Bryan Comito, a certified applicator, on April 13, 2018:


- Esplanade 200SC, active ingredient indaziflam EPA Reg. #432-1516
- Roundup Pro, active ingredient glyphosate EPA Reg. #524-529
- Plateau, active ingredient imazapic EPA Reg. #241-365
- Milestone, active ingredient aminopyralid EPA Reg. #62719-519

5. The PPDL report indicated, *"Cupping/puckering symptoms that look like dicamba injury can be caused by a few other growth regulator herbicides like aminopyralid or aminocyclopyrachlor. These herbicides tend to be water soluble and can move off-target with water movement in rainfall events."*

6. The OISC Residue Lab analyzed the soil samples for two of the active ingredients reportedly applied to the gravel area at the site, imazapic and indaziflam, and reported the following:


Case # 2018/0875			Investigator: A. Roth	
Sample #	Sample Description	Sample Matrix	Amount Found (ppb)	
			Imazapic	Indaziflam
2018-47-5130	Comparative soil - Duke	Soil	0.376	2.24
2018-47-5131	Soil - corner of substation	Soil	0.993	6.29
2018-47-5132	Soil - field dead area	Soil	7.81	2.09
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 (ppb)	Soil		0.2	0.4
Signature			Date	02/15/18

7. Imazapic and indaziflam were detected in *all* samples collected at the site, including in the comparative soil sample from a non-impacted turf area on the substation property. The evidence at the site and the lab reports support that active ingredients from the application made to the substation moved off-target to the Phillips soybean field.
8. The Esplanade 200SC label reads, **“Do not apply or otherwise permit this product or sprays containing this product to come into contact with any non-target or desirable plants.”**

  
Andrew R. Roth  
Investigator

Date: February 20, 2019

**Disposition:** Bryan Comito was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding off-target movement. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was his second violation of similar nature. See case number 2015/1202.

  
George N. Saxton  
Compliance Officer

Draft Date: March 6, 2019

Final Date: April 12, 2019

## CASE SUMMARY

Case #2018/0879

**Complainant:** Steve Carlson  
3177 E. 750 N.  
Monticello, Indiana 47960  
219-863-1039

**Respondent:** Phil Hunt  
6942 E. 350 N.  
Monticello, Indiana 47960  
765-427-5560

**Private Applicator**

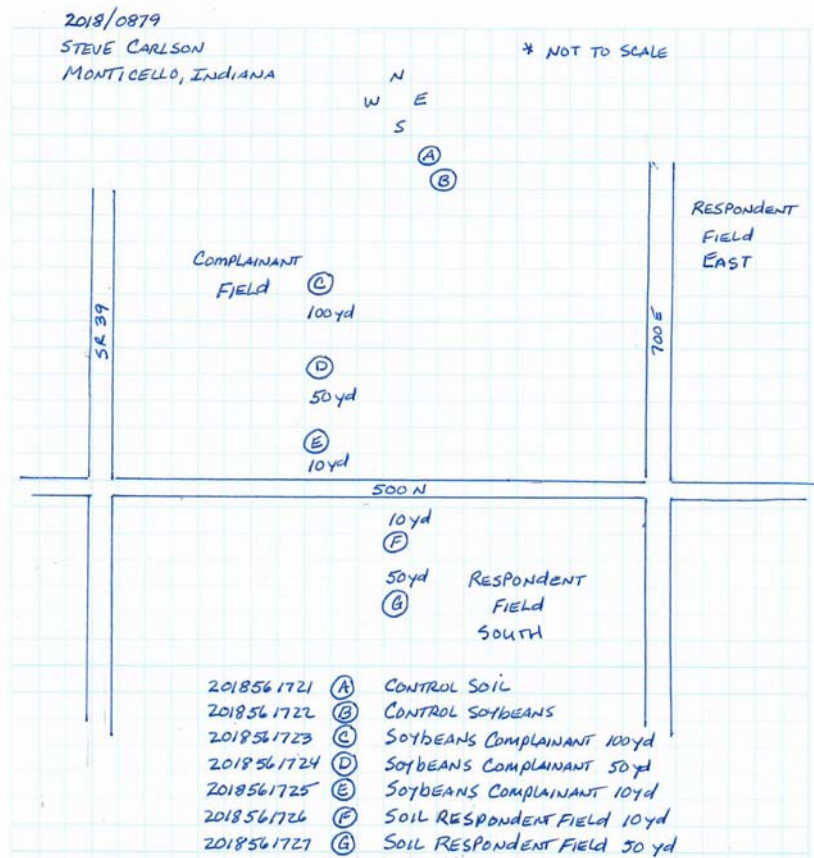
1. On August 2, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
2. On August 8, 2018, I met with the complainant Steve Carlson. He told me he believed a pesticide application of dicamba made by Phil Hunt drifted onto his non-dicamba tolerant (DT) Liberty Link soybeans. Now his soybeans have been adversely impacted from the drift. I checked the field in question. I observed growth regulator type exposure symptoms of leaf cupping and puckering to the soybean plants. As I looked across the field, it appeared as a majority exhibited the same pesticide exposure-type of symptoms. (See photos below):



3. I placed the following environmental samples in Mylar bags for submission to the OISC Residue Lab:
  - 2018561721 Control soil
  - 2018561722 Control soybeans
  - 2018561723 Soybeans complainant 100 yds.
  - 2018561724 Soybeans complainant 50 yds.
  - 2018561725 Soybeans complainant 10 yds.
  - 2018561726 Soil target field 10 yds.
  - 2018561727 Soil target field 50 yds.

(See diagram below)






4. I learned Phil Hunt was responsible for the pesticide applications to the fields east and south of the complainant's field. I made contact with Mr. Hunt. He agreed to submit a completed Pesticide Investigation Inquiry (PII).
5. I received the following information from PPPDL: *"Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba" and "No fungal or bacterial disease and no insect/mite pests were observed to be associated with the symptoms of concern (foliar distortion)"*.
6. I received a completed PII from applicator Phil Hun with the following information:
  - According to Mr. Hunt, he made a pesticide application of **Xtendimax** (EPA #524-617; active ingredient: dicamba) and **Select Max** (EPA #59639-132; active ingredient clethodim) on May 28, 2018 between 6:35pm and 7:15pm to a field east of the complainant's field. He recorded the wind blowing at 6 miles per hour in a westerly direction toward the complainant's field.
  - Mr. Hunt made a pesticide application of **Xtendimax** (EPA #524-617; active ingredient: dicamba) and **Select Max** (EPA #59639-132; active ingredient clethodim) on May 28, 2018 between 7:30am and 8:45am to a field south of the complainant's field. He recorded the wind blowing at 6 miles per hour in a westerly direction parallel to the complainant's field.
  - Mr. Hunt made a pesticide application of **Xtendimax** (EPA #524-617; active ingredient: dicamba) and **Select Max** (EPA #59639-132; active ingredient clethodim) on June 2, 2018 between 1:15pm and 3:51pm to the field east of the complainant's field. He recorded the wind blowing at 6 miles per hour in a westerly direction toward the complainant's field.
7. In further review of the PII, the applicator completed the record keeping elements required by the **Xtendimax** label.

8. I confirmed the weather information submitted by Mr. Hunt for May 28, 2018 and June 2, 2018 at [www.wunderground.com](http://www.wunderground.com).

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

Case # 2018/0879			Investigator: K. Gibson		
Sample #	Sample Description	Sample Matrix	Amount Found (ppb)		
			Clethodim	Clethodim Sulfone	Clethodim Sulfoxide
2018-56-1721	Control soil	Soil	BDL	BDL	BDL
2018-56-1722	Control soybeans	Vegetation	BDL	BDL	BDL
2018-56-1723	Soybeans complainant 100 yds	Vegetation	BDL	BDL	BDL
2018-56-1724	Soybeans complainant 50 yds	Vegetation	BDL	BDL	BDL
2018-56-1725	Soybeans complainant 10 yds	Vegetation	BDL	BDL	BDL
2018-56-1726	Soil target field 10 yds	Soil	BDL	BDL	BDL
2018-56-1727	Soil target field 50 yds	Soil	BDL	BQL	BQL
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC					
LOQ (ppb)	Vegetation/Soil		0.3	0.3	0.3
Signature			Date	09/27/18	

10. The label for **Xtendimax** reads in part, ***“DO NOT APPLY this product when the wind is blowing toward adjacent non-dicamba tolerant susceptible crops, this includes NON-DICAMBA TOLERANT SOYBEAN AND COTTON”***

11. After reviewing all available information, Mr. Hunt is in violation of the **Xtendimax** label when he applied it while the wind was blowing toward the complainant's field (as recorded by Mr. Hunt on the PII and confirmed at [www.wunderground.com](http://www.wunderground.com)).



Kevin W. Gibson  
Pesticide Investigator

Date: November 20, 2018

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

As of March 17, 2019, Phil Hunt had not paid the \$100.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC.

On March 26, 2019, the civil penalty of \$100.00 was received from Phil Hunt.



George N. Saxton  
Compliance Officer

Draft Date: March 17, 2019  
Final Date: May 2, 2019



## CASE SUMMARY

Case #2018/0883

**Complainant:** Charity Vaughn  
7901 Mt. Pleasant Road  
Poseyville, Indiana 47633  
812-431-5585

**Respondent:** Andrew Mushrush  
Klein Flying Service, Inc.  
20014 State Route 33 E  
Lawrenceville, Illinois 62439  
618-553-9141

Certified Applicator  
Licensed Business

1. On August 3, 2018, the complainant, through David Cage of IDEM, contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report an aerial pesticide application took place in neighboring fields and now there are two lakes with a 'film' on them and a 'large amount' of fish have died.
2. On August 3, 2018, I spoke with Mrs. Vaughn on the telephone. She advised me in the late morning or early afternoon on August 1, 2018, she observed an airplane making a pesticide application to the cornfield located directly east of her property. She stated the airplane was banking back and forth over her property and pond. She stated the next day she noticed several fish ranging in size floating dead on the surface of her large pond. She stated there have been more dead fish the following day. She stated she feels the pesticide from the aerial application made to the cornfield, drifted or went directly into her pond and killed her fish. I asked Mrs. Vaughn if she could find some fish which were freshly dead or dying and could collect them and place them in a plastic bag into the freezer. She was able to collect three fish which were freshly dead and froze them for me. I made an appointment with Mrs. Vaughn to meet with her at her residence on August 6, 2018 at 8:00 am.
3. On August 6, 2018, I met with Mrs. Vaughn at her residence. We walked to the pond which was between her house and the cornfield. I observed a large amount of dead fish on the surface on the water, ranging from small pan fish to large bass and catfish. I took photographs of the area and of the dead fish. She took me to a smaller pond approximately 50 yards to the south of the larger pond. There were no dead fish or any signs of dead fish in the smaller pond. This led me to believe there was not pond turnover happening to the large pond. I then collected the frozen fish from Mrs. Vaughn's freezer. I also collected water and silt samples from the larger pond. I collected vegetation samples from the target cornfield and from the west and east sides of the pond. I also collected swab samples from the east and west side of the Vaughn's house and from the deck on the west side of the pond and tree leaves on the west side of the pond. All of the samples were labeled and submitted to the OISC residue lab. Mrs. Vaughn advised me Mr. Mark Seib farmed the target field. The following photographs show the location of the pond and of the dead fish and sample locations.



4. I made telephone conversation with Mr. Seib. He stated Klein Flying Service made the aerial pesticide application for him. He stated they applied Headline Amp fungicide EPA Reg. #7969-291 with the active ingredients pyraclostrobin and metconazole and Silencer VXN insecticide EPA Reg. #66222-223 with the active ingredient lambda-cyhalothrin. I made contact with Mr. Ryan Klein of Klein Flying Service. He confirmed they had made the aerial pesticide application for Mr. Seib. He stated Mr. Andrew Mushrush was the pilot/certified applicator who made the application. They sent me the as applied record, which is in this case file. The application record indicated the aerial pesticide application was made on August 1, 2018 between the hours of 1:15 pm – 1:35 pm. It also indicated the winds were 335 – 343 degree (NW) and the temperature was 78 degree F. A copy of the application record is in this case file. I sent a Pesticide Investigation Inquiry (PII) to Mr. Mushrush. He received the PII, completed it and returned it to me. The PII had a discrepancy from the application record. The PII indicated the application was made between 5:00 – 5:30 pm. The PII is in this case file.
5. On December 11, 2018, I received a report from the OISC residue lab. The report indicated the active ingredient pyraclostrobin was detected in the swab samples, the vegetation samples from the east and west side of the complainant's pond and in the dead fish sample. The active ingredient metconazole was detected in the swab samples collected from the complainant's property. The following is a copy of the OISC residue lab report.

Case # 2018/0883			Investigator: B. Brewer		
Sample #	Sample Description	Sample Matrix	Amount Found (ppb or ng/swab)		
			Pyraclostrobin	Metconazole	Lambda-Cyhalothrin
2018-33-6233	Trip Blank	Swab	BDL	BDL	BDL
2018-33-6234	Control Swab	Swab	0.370	BDL	BDL
2018-33-6235	Swab west side of house	Swab	1.22	BDL	BDL
2018-33-6236	Swab east side of house	Swab	BDL	BDL	BDL


2018-33-6237	Swab tree leaves west side of pond	Swab	35.6	14.2	BQL
2018-33-6238	Swab deck at pond	Swab	3.60	BQL	BDL
2018-33-6239	Veg (corn) - Target	Vegetation	878*	727*	605**
2018-33-6240	Vegetation west side of pond	Vegetation	23.3	6.98	BQL**
2018-33-6241	Vegetation east side of pond	Vegetation	34.8	13.5	BDL**
2018-33-6242	Silt from pond	Soil	BDL	BDL	BDL
2018-33-6243	Pond water 1 of 4 SW	Water	BDL	BDL	BDL
2018-33-6244	Pond water 2 of 4 SE	Water	BDL	BDL	BDL
2018-33-6245	Pond water 3 of 4 NW	Water	BDL	BDL	BDL
2018-33-6246	Pond water 4 of 4 NE	Water	BDL	BDL	BDL
2018-33-6247	Dead fish	Fish	2.24	BDL	Did not test

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

\* Results exceeded calibration curve range and reported as minimum concentration found

\*\* Results reported as estimate due to poor instrument reproducibility

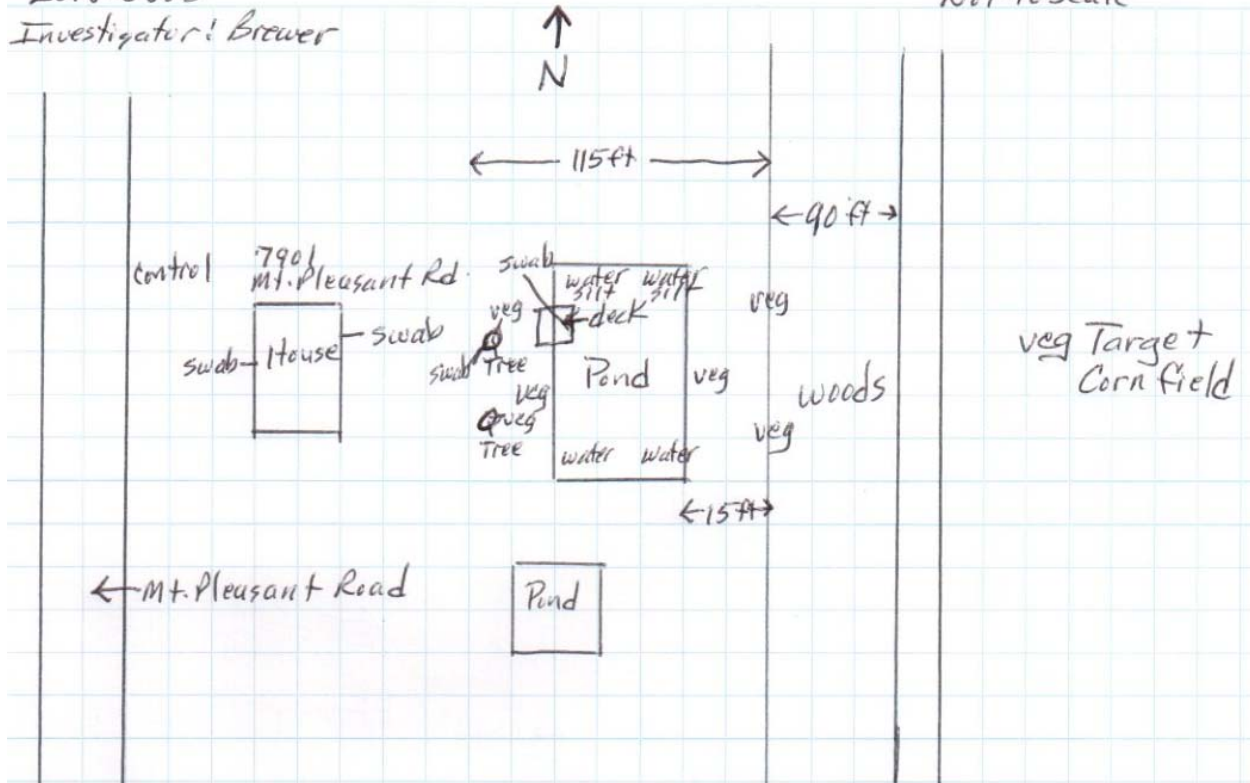
LOQ (ppb)	Water	0.02	0.1	0.04
LOQ (ppb)	Vegetation	3	3	17**
LOQ (ppb)	Soil	0.3	0.07	2
LOQ (ng/swab)	Swab	0.2	2	5
LOQ (ppb)	Fish	0.7	3	Did not test

<b>Signature</b>		<b>Date</b>	12/11/18
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6. I researched the Weather Underground Website for the weather conditions at the nearest reporting station to the target field on the date and time of the aerial pesticide application. The Website indicated the winds were NNW at 2 – 3.1 mph. The temperature ranged from 77.5 – 78.1 degree F. A copy of the weather report is in this case file.
7. I researched the label for Headline Amp Fungicide. The label stated on page 2, “Do not apply directly to water, or to areas where surface water is present, or to intertidal areas below the mean high water mark” ”Do not discharge effluent containing this product into lakes, streams, ponds, estuaries, oceans, or other waters”. On page 7 the label stated, “Do not apply when conditions favor drift from target area.” A copy of the label is in this case file.
8. The following is a diagram of the area, indicating the location of the target field in relationship to the complainant’s property and ponds. It also indicates the sample collection locations.

2018-0883  
Investigator: Brewer

Not to Scale



9. The results of the OISC residue lab indicated the active ingredients from the products applied in the aerial pesticide application were detected in the samples collected from the complainant's property. The proximity of the target field to the complainant's pond would indicate the possibility of the pesticide from the aerial application made by Mr. Mushrush did move off target and onto the complainant's property.

*Robert D. Brewer*

Robert D. Brewer  
Investigator

Date: January 3, 2019

**Disposition:**

- A. Andrew Mushrush was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was Mr. Mushrush's first violation of similar nature. Consideration was also given to the fact there was environmental harm.
- B. On January 24, 2018, OISC was notified by the complainant Charity Vaughn that Klein Aerial and compensated her for her loss. As a result of the corrective action, the \$250.00 civil penalty was held in abeyance.

*George N. Saxton*

George N. Saxton  
Compliance Officer

Draft Date: March 5, 2019  
Final Date: April 12, 2019

Cc: David Cage - DCage@IDEM.IN.GOV

## CASE SUMMARY

Case #2018/0888

**Complainant:** Jeannine Wiley  
18606 Clapp Road  
Otisco, Indiana 47163  
502-938-4358

**Respondent:** Aaron Lee  
501 E. Market Street  
Salem, Indiana 47167  
812-883-3276

Private Applicator

1. On August 3, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to her beans.
2. On August 16, 2018, I went to a non-DT soybean field owned by Jeanine Wiley south of Nabb Marysville Road in Marysville, Indiana. I observed some leaf cupping and slight leaf crinkling on soybean plants on the northwest corner of the field. See figure 1-2 and site diagram.



Figure 1 - Cupping and crinkling





Figure 2-View of northwest corner



Site Diagram

3. I collected a vegetation sample to be visually analyzed by Purdue's Pest and Plant Diagnostic Lab (PPDL). Furthermore, I collected investigative samples; however, these sample where not analyzed due to Mr. Lee's admission of a label violation on the completed Pesticide Investigation Inquiry (PII) form.
4. On August 20, 2018, I received the following from PPDL:



## Diagnosis and Recommendations

Host/Habitat	Soybean (Glycine max); Cultivar: RR
List of Diagnosis/ID(s)	
Herbicide injury; Exposure (Abiotic disorder)	

### Final Report

Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba.

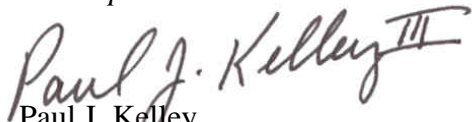
Joe Ikley  
Weed Science Program Specialist  
Purdue University  
e-mail - [jikley@purdue.edu](mailto:jikley@purdue.edu)  
Office - (765) 496-2121

No fungal or bacterial disease and no insect/mite pests were observed to be associated with the symptoms of concern (foliar distortion).

Tom Creswell  
[creswell@purdue.edu](mailto:creswell@purdue.edu)

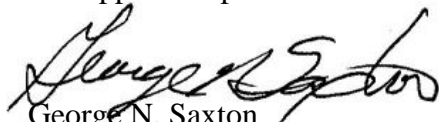
- On August 20, 2018, I received a completed PII from Mr. Lee. Mr. Lee documented he made an application on July 12, 2108, between 10:00am and 1:45pm using Xtendimax (EPA Reg. #524-617, active ingredient dicamba) and Roundup Powermax (EPA Reg. #524-549). Mr. Lee documented the wind was 4mph-5mph out of the northeast. The wind would have been blowing toward the northwest corner of Mrs. Wiley's non-DT soybeans. Furthermore, Mr. Lee documented he did not attend the state mandatory dicamba training.
- Label language for Xtendimax states in part, "*DO NOT APPLY this product when the wind is blowing toward adjacent non-dicamba tolerant susceptible crops; this includes NON-DICAMBA TOLERANT SOYBEAN AND COTTON.*"

*"Prior to applying this product in the 2018 growing season and each growing season thereafter, applicator(s) must complete dicamba or auxin-specific training. If training is available and required by the state where the applicator intends to apply this product, the applicator must complete that training. If the state where the application is intended does not require auxin or dicamba-specific training, then the applicator must complete dicamba or auxin-specific training provided by one of the following sources: a) a EPA Reg. No. 524-617 Master Label October 2017 Page 8 of 40 registrant of a dicamba product approved for in-crop use with dicamba-tolerant crops, or b) a state or state-authorized provider."*

  
Paul J. Kelley  
Investigator

Date: October 30, 2018

**Disposition:** Aaron Lee was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$100.00 was assessed for this violation. In addition, considering Mr. Lee failed to attend the mandatory dicamba training, Mr. Lee's Private Applicator permit and certification were revoked.

  
George N. Saxton  
Compliance Officer

Draft Date: December 11, 2018  
Final Date: May 2, 2019

## CASE SUMMARY

Case #2018/0889

**Complainant:** Jeannine Wiley  
18606 Clapp Road  
Otisco, Indiana 47163  
502-938-4358

**Respondent:** Kevin Wheatley  
Myers Sod Farm LLC  
1519 E. 600 N.  
Seymour, Indiana 47274  
812-371-1360

Private Applicator

1. On August 3, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to her beans.
2. On August 16, 2018, I went to a non-DT soybean field owned by Jeanine Wiley located north of East Tank Pond Road in Nabb, Indiana. I observed slight leaf crinkling on some soybeans plants. See figure 1. Soybeans plants that where effected where in openings in the tree row that separated Mrs. Wiley's non-DY soybeans from the field sprayed by Kevin Wheatley, south of the Wiley field. See site diagram.



Figure 1 - Crinkling



Site Diagram

3. I collected a vegetation sample to be visually analyzed by Purdue's Pest and Plant Diagnostic Lab (PPDL). Furthermore, I collected investigative samples; however, these sample where not analyzed due to Mr. Wheatley's admission of a label violation on the completed Pesticide Investigation Inquiry (PII) form.
4. On August 20, 2018, I received the following from PPDL:

**Diagnosis and Recommendations**

Host/Habitat	Soybean (Glycine max); Cultivar: Liberty
List of Diagnosis/ID(s)	
Herbicide injury; Exposure (Abiotic disorder)	

**Final Report**

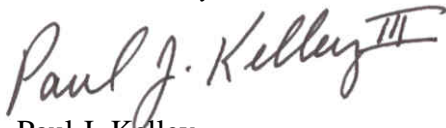
Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba.

Joe Ikley  
Weed Science Program Specialist  
Purdue University  
e-mail - [jikley@purdue.edu](mailto:jikley@purdue.edu)  
Office - (765) 496-2121

No fungal or bacterial disease and no insect/mite pests were observed to be associated with the symptoms of concern (foliar distortion).

Tom Creswell  
[creswell@purdue.edu](mailto:creswell@purdue.edu)

5. On August 15, 2018, I received a completed Pesticide Investigation Inquiry (PII) from Mr. Wheatley. Mr. Wheatley documented he made an application on July 2, 2018, between 1:00pm and 5:00pm. Mr. Wheatley applied Engenia (EPA Reg. #7969-345, active ingredient dicamba), Buccaneer (EPA Reg. #55467-9, active ingredient glyphosate), and Section Three (EPA Reg. #66330-414-1381, active ingredient clethodim. Mr. Wheatley documented the wind was out of the south at 3.8mph, blowing toward Mrs. Wiley's non-DT soybeans.
6. Label language for Engenia states in part, *“DO NOT apply when wind is blowing in the direction of neighboring sensitive crops. Sensitive crops include, but are not limited to: • non-DT soybeans.”*



Paul J. Kelley  
Investigator

Date: October 30, 2018

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

As of March 17, 2019, Kevin Wheatley had not paid the \$100.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC.

On March 28, 2019, the civil penalty of \$100.00 was received from Kevin Wheatley.



George N. Saxton  
Compliance Officer

Draft Date: March 17, 2019  
Final Date: May 2, 2019



## CASE SUMMARY

Case #2018/0890

**Complainant:** Dennis Tilden  
9533 N. Old Route 31  
Macy, Indiana 46951  
574-382-4001

**Respondent:** Justin McGee  
Doug Morrow  
5411 W. 125 S.  
Marion, Indiana 46952  
765-618-0735

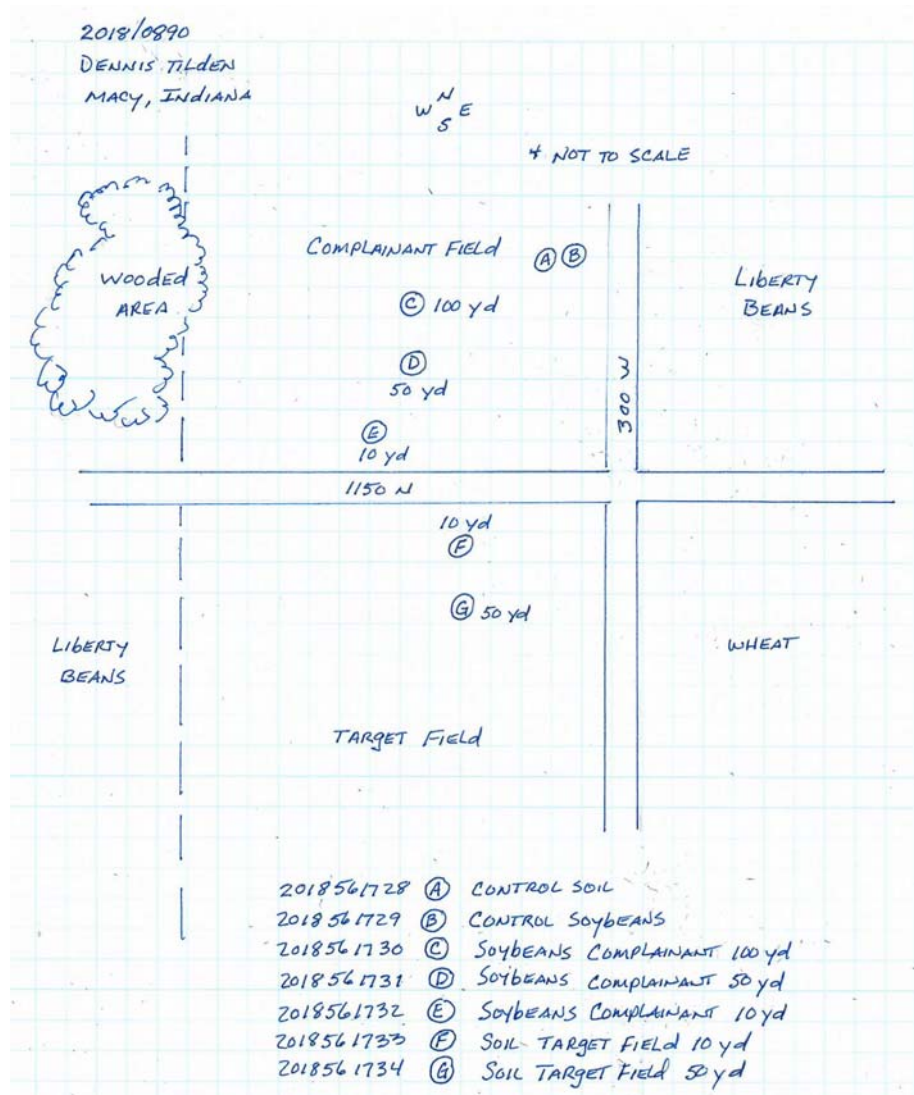
**Applicator**  
**Private Applicator/Supervisor**

1. On August 6, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
2. On August 14, 2018, I met with the complainant, Dennis Tilden. The complainant reiterated he believed a pesticide application was made to the neighboring field which impacted his non-dicamba tolerant soybeans (non-DT soybeans). I checked his soybean field for pesticide exposure symptoms. I did observe soybean leaves exposure symptoms of cupping/puckering. I obtained soybean plant samples for submission to the Purdue Plant and Pest Diagnostic Lab (PPDDL) for analysis. (See photos below)



3. I placed the following environmental samples in Mylar bags for submission to the OISC Residue Lab:
  - **2018561728** Control soil
  - **2018561729** Control soybeans
  - **2018561730** Soybeans complainant 100 yds.
  - **2018561731** Soybeans complainant 50 yds.

- **2018561732** Soybeans complainant 10 yds.
  - **2018561733** Soil target field 10 yds.
  - **2018561734** Soil target field 50 yds.
- (See diagram below)



- I learned Justin McGee made a pesticide application to the neighboring field in question. I made contact with Mr. McGee. He agreed to submit a completed Pesticide Investigation Inquiry (PII) for the application.
- I received the following information from PPPDL: “Cupped/puckered leaves with parallel leaf veins and cream or tanned colored leaf tips are indicative of injury from dicamba. No fungal or bacterial disease and no insect/mite pests were observed to be associated with the symptoms of concern (foliar distortion)”.
- I received a completed PII from applicator Justin McGee. According to the PII, Mr. McGee made an application of **Fexapan** (EPA #352-913; active ingredient: dicamba) and **Cornerstone** (EPA #1381-192; active ingredient: glyphosate) on July 3, 2018 between



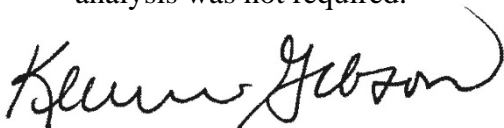
9:00pm and 10:30am. He recorded the wind blowing at 6 miles per hour in an easterly direction parallel to the complainant's field. In further review of the PII, I found Mr. McGee completed all of the **Fexapan** label record keeping requirements.

7. I obtained the following weather data from [www.wunderground.com](http://www.wunderground.com):

- According to the weather data for Grissom Air Reserve Base in Peru Indiana (29 miles south) on July 3, the wind was blowing at 6 miles per hour in a northwesterly direction toward the southwestern portion of the complainant's field.
- According to the weather data for Fulton County Airport in Rochester Indiana (10 miles north) on July 3, the wind was blowing 6 to 7 miles per hour in a northwesterly direction toward the southwestern portion of the complainant's field.
- According to the weather data for Delaware-Johnson County Airport in Muncie Indiana (64 miles southeast) on July 3, the wind was blowing 5 to 9 miles per hour in a northwesterly direction toward the southwestern portion of the complainant's field.

(It should be noted the wind direction reported by the applicator was in contradiction to weather data from three separate weather stations. Wind data from the three weather stations indicated wind blowing in the same direction toward the complainant's field both prior to and after the application was made)

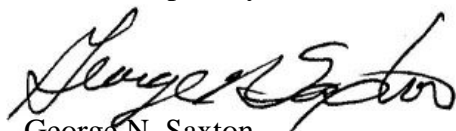
8. The label for Fexapan reads in part, "***DO NOT APPLY*** this product when the wind is blowing toward adjacent non-dicamba tolerant susceptible crops; this includes ***NON-Dicamba Tolerant Soybeans and Cotton***".
9. After reviewing all available information, Mr. McGee is in violation of the **Fexapan** label when he applied it while the wind was blowing toward the complainant's soybean field. Residue analysis was not required.



Kevin W. Gibson  
Pesticide Investigator

Date: December 13, 2018

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



George N. Saxton  
Compliance Officer

Draft Date: February 14, 2019  
Final Date: April 12, 2019

## CASE SUMMARY

Case #2018/0891

**Complainant:** David Halterman  
2469 W. 1200 N.  
Macy, Indiana 46951  
574-505-0753

**Respondent:** Justin McGee  
Doug Morrow  
5411 W. 125 S.  
Marion, Indiana 46952  
765-618-0735

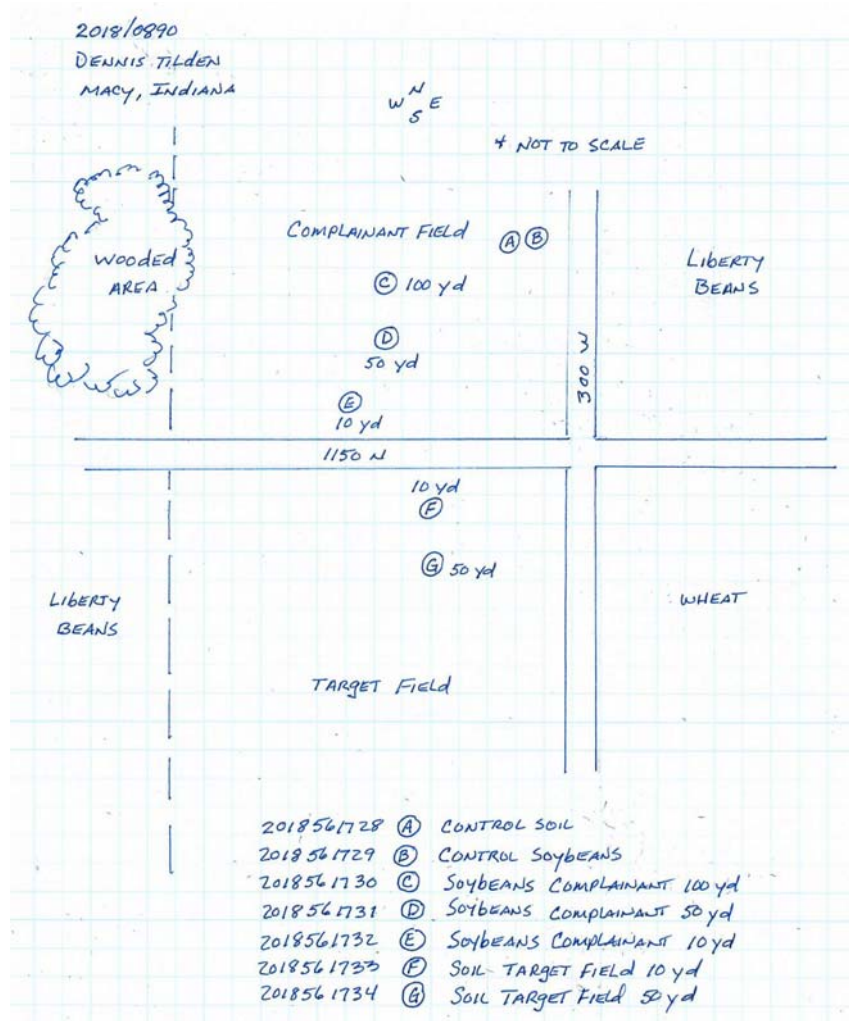
**Applicator**  
**Private Applicator/Supervisor**

1. On August 6, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
2. On August 16, 2018, I met with the complainant David Halterman. The complainant reiterated he believed a pesticide application was made to the neighboring field which impacted his non-dicamba tolerant soybeans (non-DT soybeans). I checked his soybean field for pesticide exposure symptoms. I did observe soybean leaves exposure symptoms of cupping/puckering. I obtained soybean plant samples for submission to the Purdue Plant and Pest Diagnostic Lab (PPDDL) for analysis. (See photos below)



3. I placed the following environmental samples in Mylar bags for submission to the OISC Residue Lab:
  - **2018561735** Control soil
  - **2018561736** Control soybeans
  - **2018561737** Soybeans complainant 100 yds.
  - **2018561738** Soybeans complainant 50 yds.

- **2018561739** Soybeans complainant 10 yds.
  - **2018561740** Soil target field 10 yds.
  - **2018561741** Soil target field 50 yds.
- (See diagram below)



- I learned Justin McGee made a pesticide application to the neighboring field in question. I made contact with Mr. McGee. He agreed to submit a completed Pesticide Investigation Inquiry (PII) for the application.
- I received the following information from PPPDL: “Cupped/puckered leaves with parallel leaf veins and cream or tanned colored leaf tips are indicative of injury from dicamba. No fungal or bacterial disease and no insect/mite pests were observed to be associated with the symptoms of concern (foliar distortion)”.
- I received a completed PII from applicator Justin McGee. According to the PII, Mr. McGee made an application of **Fexapan** (EPA #352-913; active ingredient: dicamba) and Cornerstone (EPA #1381-192; active ingredient: glyphosate) on July 3, 2018 between 1:00pm and 1:30pm. He recorded the wind blowing at 7 miles per hour in a southerly direction parallel to the complainant’s field. In further review of the PII, I found Mr. McGee completed all of the Fexapan label record keeping requirements.

7. I obtained the following weather data from [www.wunderground.com](http://www.wunderground.com):

- According to the weather data for Grissom Air Reserve Base in Peru Indiana (29 miles south), on July 3 the wind was blowing at 7 miles per hour in a northwesterly direction toward the northeastern portion of the complainant's field.
- According to the weather data for Fulton County Airport in Rochester Indiana (10 miles north), on July 3 the wind was blowing 7 miles per hour in a northwesterly direction toward the northeastern portion of the complainant's field.
- According to the weather data for Fort Wayne International Airport in Fort Wayne Indiana (51 miles east), on July 3<sup>rd</sup> the wind was blowing 8 to 9 miles per hour in a northwesterly direction toward the northeastern portion of the complainant's field.

(It should be noted the wind direction reported by the applicator was in contradiction to weather data from three separate weather stations. Wind data from the three weather stations indicated wind blowing in the same direction toward the complainant's field both prior to and after the application was made)

8. The label for Fexapan reads in part, ***“DO NOT APPLY this product when the wind is blowing toward adjacent non-dicamba tolerant susceptible crops; this includes NON-Dicamba Tolerant Soybeans and Cotton”***.
9. After reviewing all available information, Mr. McGee is violation of the **Fexapan** label when he applied it while the wind was blowing toward the complainant's non-dicamba tolerant soybean field. Residue analysis was not required.



Kevin W. Gibson  
Pesticide Investigator

Date: December 13, 2018

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

Based on the evidence collected in this investigation, it has been determined that Doug Morrow failed to comply with the drift management restrictions on the label for the herbicide Fexapan. It should also be noted that OISC was not able to determine whether the herbicide moved off-target as the result of drift, application into an inversion, or volatilization at some point after the application, and was not able to clearly identify the source of the off-target movement.



George N. Saxton  
Compliance Officer

Draft Date: February 14, 2019  
Final Date: April 12, 2019

## CASE SUMMARY

Case #2018/0903

**Complainant:** Bo Napier  
8638 S. State Road 62  
Nabb, Indiana 47147  
812-701-7801

**Respondent:** Nutrien Ag Solutions  
Jason Huff  
Jeremy Sharp  
71 S. State Road 3  
Lexington, Indiana 47138  
812-866-5513

Manager  
Certified Applicator

1. On August 3, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
2. On August 3, 2018, I contacted the complainant Bo Napier to set up a time to meet and look at the field. Mr. Napier said his father, William Napier, would be able to meet with me on August 7, 2018. Bo Napier stated that the field effected is non-GMO, non-dicamba tolerant soybeans. Mr. Napier stated that he believed CPS, now Nutrien Ag Solutions, applied dicamba in the adjacent fields.
3. On August 7, 2018, I met with William Napier at the complainants address in Nabb, Indiana. Mr. Napier stated they had several fields in the same area that they believed to be injured from dicamba. Mr. Napier then had me follow him to his residence which was centrally located between the affected fields. Once at his residence he stated that to get to the field for this case we would need to access it by ATV. Mr. Napier then took me to the affected field located on the east side of CR 1050 E just south of E. New London Road in Scott County (see fig. 3).
4. During my on-site investigation I did the following:
  - a. Looked for, but did not find, any other potential sources of a growth regulator type herbicide application adjacent to Mr. Napier's soybean field. The target field bordered Mr. Napier's soybean field to the south with a small grass strip separating the two fields (See Fig. 3).
  - b. Observed and photographed a gradient pattern of cupping and puckering of leaves on non-DT soybean plants across Mr. Napier's soybean field (See Fig 1). Symptoms were most severe on the south edge of the field and lessened northward. These symptoms are commonly associated with exposure to a growth-regulator type herbicide such as dicamba. Soybeans in the target field exhibited no symptoms.
  - c. Collected a composite soil sample from the target soybean field. Collected gradient vegetation samples from Mr. Napiers's soybean field (See Fig. 3). The residue samples were submitted to the OISC Residue Laboratory for analysis.





Fig. 1



Fig. 2

- Fig. 1 is Mr. Napier's non-DT soybeans with cupped/puckered leaves and discolored leaf tips.
- Fig. 2 is looking north through Mr. Napier's non-DT soybean field.



Fig. 3

- Fig. 3 is an aerial diagram of the fields including approximate field property lines and where soil and vegetation samples were taken from.
- On September 12, 2018, I met with Jason Huff, the manager at Nutrien Ag, in Lexington, Indiana. Mr. Huff was able to confirm that Nutrien Ag made a pesticide application of Xtendimax to the target field to the south. I provided him with a Pesticide Investigation Inquiry (PII), and instructed him to complete and send back to me.
  - The PII was completed on September 19, 2018 and provided the following information:
    - Certified Applicator: Jeremy Sharp
    - Application Date and Time: July 7, 2018, 9:00am to 12:30pm
    - Pesticide Applied:
      - Roundup PowerMax, EPA Reg. #524-549 Glyphosate 32 oz/acre
      - Xtendimax, EPA Reg. #534-617, Dicamba, 30 oz/acre
      - Warrant, EPA Reg. #524-591, Acetochlor 1 qt/acre




- d. Adjuvants: Reign and Strike Force
- e. Target Field Location and Size: Harsin 1, 53 acres
- f. Pre- or Post- Emergent Application: Post
- g. Wind Direction at Boom Height: Start- NE, End-NE
- h. Wind Speed at Boom Height: Start- 3mph, End- 3mph
- i. Nozzles: PSULDQ2005
- j. Boom Height: 35 to 40 Inches
- k. Downwind Buffer: No
- l. Checked Registrants Website before application: No
- m. Checked DriftWatch before application: No
- n. Dicamba Mandatory Training Attended: Yes, February 2, 2018

7. Weather history data was obtained at [www.wunderground.com](http://www.wunderground.com) and the closest official weather station to the application site was the Louisville International Airport (KSDF) located in Louisville, Kentucky approximately 33 miles south southwest of the application site. The weather data for July 7, 2018 follows:

Time	Temp	Wind Direction	Wind Speed	Wind Gust
8:56 AM	69 F	ENE	10 mph	0 mph
9:56 AM	73 F	ENE	8 mph	0 mph
10:56 AM	76 F	NE	8 mph	0 mph
11:56 AM	79 F	NNE	10 mph	0 mph
12:56 PM	81 F	ENE	6 mph	20 mph

8. The OISC Residue Laboratory analyzed the vegetation samples collected from the fields for glyphosate, acetochlor, dicamba, its breakdown products DCSA and 5-OH dicamba, and reported the following:

Case #	2018/0903				Investigator	G. Creason		
Sample #	Sample Description	Amount of Analyte (ppb or ng/swab)						
		Matrix	Dicamba	5-OH Dicamba	DCSA	Acetochlor	Glyphosate	AMPA
2018-37-8150	Comparative Control Veg, also for case 2018/0904	Veg	0.460	BQL	BQL	BDL	BDL	BDL
2018-37-8151	Comparative Control Soil, also for case 2018/0904	Soil	N/A	N/A	N/A	N/A	N/A	N/A
2018-37-8152	CP field least affected vegetation	Veg	0.325	BDL	BQL	BDL	BDL	BDL
2018-37-8153	CP field moderately affected vegetation	Veg	1.05	BDL	BQL	BDL	BDL	BDL
2018-37-8154	CP field most affected vegetation	Veg	11.7	BQL	0.737	BDL	BQL	BDL
2018-37-8155	CP field soil	Soil	N/A	N/A	N/A	N/A	N/A	N/A
2018-37-8156	Target field soil	Soil	N/A	N/A	N/A	N/A	N/A	N/A
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC								
N/A = Not Analyzed								
LOQ (ppb)	Soil		N/A	N/A	N/A	N/A	N/A	N/A
LOQ (ppb)	Vegetation		0.2	0.4	0.2	3	10	600
Signature						Date	01/15/19	

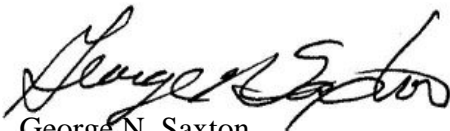
9. The OISC Residue Laboratory analysis detected dicamba in the vegetation samples from Mr. Napier's non-DT soybean field. Glyphosate was below quantification limits and Acetochlor was below detection limits in Mr. Napier's non-DT soybean field.
10. According to Mr. Sharp's statements on the Pesticide Investigation inquiry, Mr. Sharp did not check the registrant's website prior to the pesticide application. The Xtendimax label states **"The applicator must check the list of tested products found not to adversely affect the offsite movement potential of XtendiMax with VaporGrip Technology at [www.xtendimaxapplicationrequirements.com](http://www.xtendimaxapplicationrequirements.com) no more than 7 days before applying XtendiMax with VaporGrip Technology."** Mr. Sharp applied Xtendimax at a boom height of 35-40 inches above the target canopy. The label for Xtendimax states, **"Do not exceed a boom height of 24 inches above target pest or crop canopy. Excessive boom height will increase the drift potential."** Mr. Sharp also did not check DriftWatch prior to the pesticide application. The Xtendimax label states, **"Before making an application, the applicator must survey the application site for adjacent non-target susceptible crops. The applicator must also consult applicable sensitive crop registries to identify any commercial specialty or certified organic crops that may be located near the application site."**
11. Based on the evidence collected in this investigation, it has been determined that Jeremy Sharp failed to comply with the tank mix restrictions and drift management restrictions on the label for the herbicide *Xtendimax*, EPA Reg. #524-617, Active Ingredient = *dicamba*. It should also be noted that OISC was not able to determine whether the herbicide moved off-target as the result of drift, application into an inversion, or volatilization at some point after the application, and was not able to clearly identify the source of the off-target movement.



Garret A. Creason  
Investigator

Date: January 31, 2019

**Disposition:** Jeremy Sharp was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$1,000.00 was already assessed for this application under case number 2018/0904.



George N. Saxton  
Compliance Officer

Draft Date: March 5, 2019  
Final Date: April 12, 2019

## CASE SUMMARY

Case #2018/0904

**Complainant:** Bo Napier  
8638 South State Road 62  
Nabb, Indiana 47147  
812-701-7801

**Respondent:** Nutrien Ag Solutions  
Jason Huff  
Jeremy Sharp  
71 South State Road 3  
Lexington, Indiana 47138  
812-866-5513

Manager  
Certified Applicator

1. On August 3, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
2. On August 3, 2018, I contacted the complainant Bo Napier to set up a time to meet and look at the field. Mr. Napier said his father, William Napier, would be able to meet with me on August 7, 2018. Bo Napier stated that the field affected is non-GMO, non-dicamba tolerant soybeans. Mr. Napier stated that he believed Crop Production Services (CPS), now Nutrien Ag Solutions, applied dicamba in the adjacent fields.
3. On August 7, 2018, I met with William Napier at the complainants address in Nabb, Indiana. Mr. Napier stated they had several fields in the same area that they believed to be injured from dicamba. Mr. Napier then had me follow him to his residence, which was centrally located between the affected fields. Once at his residence, he stated that to get to the field for this case we would need to access it by ATV. Mr. Napier then took me to the affected field located just south of E New London Road, approximately one half mile east of CR 1050 East in Scott County (see fig. 3).
4. During my on-site investigation I did the following:
  - a. Looked for, but did not find, any other potential sources of a growth regulator type herbicide application adjacent to Mr. Napier's soybean field with regard to the gradient pattern present. The target field bordered Mr. Napier's soybean field to the east with a small vegetative strip separating the two fields (See Fig. 3).
  - b. Observed and photographed a gradient pattern of cupping and puckering of leaves on non-DT soybean plants across Mr. Napier's soybean field (See Fig 1). Symptoms were most severe on the east edge of the field and lessened westward. These symptoms are commonly associated with exposure to a growth-regulator type herbicide such as dicamba. Soybeans in the target field exhibited no symptoms.

- c. Collected samples of injured soybean plants from Mr. Napier's field for assessment by the Purdue Plant & Pest Diagnostic Laboratory (PPDDL)
- d. Collected a composite soil sample from the target soybean field. Collected gradient vegetation samples from Mr. Napier's soybean field (See Fig. 3). The residue samples were submitted to the OISC Residue Laboratory for analysis.



Fig. 1



Fig. 2

- Fig. 1 is Mr. Napier's non-DT soybeans with cupped/puckered leaves and discolored leaf tips.
- Fig. 2 is looking west through Mr. Napier's non-DT soybean field.



Fig. 3

- Fig. 3 is an aerial diagram of the fields including approximate field property lines and where soil and vegetation samples were taken from.

5. On September 12, 2018, I met with Jason Huff, the manager at Nutrien Ag, in Lexington, Indiana. Mr. Huff was able to confirm that Nutrien Ag made a pesticide application of Xtendimax to the target field to the east. I provided him with a Pesticide Investigation Inquiry (PII), and instructed him to complete and send back to me.
6. The PII was completed on September 19, 2018 and provided the following information:
  - a. Certified Applicator: Jeremy Sharp
  - b. Application Date and Time: July 7, 2018, 9:00am to 12:30pm
  - c. Pesticide Applied:
    - i. Roundup PowerMax, EPA Reg. #524-549 Glyphosate 32 oz/acre
    - ii. Xtendimax, EPA Reg. #534-617, Dicamba, 30 oz/acre
    - iii. Warrant, EPA Reg. #524-591, Acetochlor 1 qt/acre
  - d. Adjuvants: Reign and Strike Force
  - e. Target Field Location and Size: Harsin 2, 25 acres
  - f. Pre- or Post- Emergent Application: Post
  - g. Wind Direction at Boom Height: Start- NE, End-NE
  - h. Wind Speed at Boom Height: Start- 3mph, End- 3mph
  - i. Nozzles: PSULDQ2005
  - j. Boom Height: 35 to 40 Inches
  - k. Downwind Buffer: No
  - l. Checked Registrants Website before application: No
  - m. Checked DriftWatch before application: No
  - n. Dicamba Mandatory Training Attended: Yes, February 2, 2018
7. Weather history data was obtained at [www.wunderground.com](http://www.wunderground.com) and the closest official weather station to the application site was the Louisville International Airport (KSDF) located in Louisville, Kentucky approximately 33 miles south southwest of the application site. The weather data for July 7, 2018 follows:

Time	Temp	Wind Direction	Wind Speed	Wind Gust
8:56 AM	69 F	ENE	10 mph	0 mph
9:56 AM	73 F	ENE	8 mph	0 mph
10:56 AM	76 F	NE	8 mph	0 mph
11:56 AM	79 F	NNE	10 mph	0 mph
12:56 PM	81 F	ENE	6 mph	20 mph

8. The PPPDL report stated, Cupped/puckered leaves with parallel leaf veins and cream or tan colored leaf tips are indicative of injury from dicamba.
9. Mr. Sharp's statements on the Pesticide Investigation inquiry and the wind data indicate the wind was blowing towards Mr. Napier's field during the application. The label for Xtendimax states, **"DO NOT APPLY this product when the wind is blowing toward adjacent non-dicamba tolerant susceptible crops; this includes NON-DICAMBA TOLERANT SOYBEAN AND COTTON."** **"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."** Mr. Sharp applied Xtendimax at a boom height of 35-40 inches above the target canopy. The label for Xtendimax states, **"Do not exceed a boom height of 24 inches above target pest or crop canopy. Excessive boom height will**



increase the drift potential.” Mr. Sharp did not check the registrant’s website prior to the pesticide application. The Xtendimax label states “**The applicator must check the list of tested products found not to adversely affect the offsite movement potential of XtendiMax with VaporGrip Technology at [www.xtendimaxapplicationrequirements.com](http://www.xtendimaxapplicationrequirements.com) no more than 7 days before applying XtendiMax with VaporGrip Technology.**” Mr. Sharp also did not check DriftWatch prior to the pesticide application. The Xtendimax label states, “**Before making an application, the applicator must survey the application site for adjacent non-target susceptible crops. The applicator must also consult applicable sensitive crop registries to identify any commercial specialty or certified organic crops that may be located near the application site.**”

10. Based on the evidence collected in this investigation, it has been determined that Jeremy Sharp failed to comply with the tank mix restrictions and drift management restrictions on the label for the herbicide *Xtendimax*, EPA Reg. #524-617, Active Ingredient = dicamba.




Garret A. Creason  
Investigator

Date: January 31, 2018

**Disposition:** Jeremy Sharp was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$1,000.00 was assessed for this violation. Consideration was given to the fact this was his third violation of similar nature. See case numbers 2017/1304 and 20171305.

As of May 6, 2019, Nutrien Ag Solutions had not paid the \$1,000.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty was still owed to OISC.

The civil penalty payment was received on May 28, 2019.



George N. Saxton  
Compliance Officer

Draft Date: May 6, 2019  
Final Date: June 18, 2019



## CASE SUMMARY

Case #2018/0933

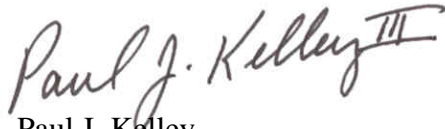
**Complainant:** Office of Indiana State Chemist (OISC)  
175 South University Street  
West Lafayette, IN 47907-2063  
800-893-6637

**Respondent:** Fielder's Choice Lawn Care LLC                      Unlicensed Business  
Brian Hooper    Unlicensed Applicator  
3730 Dethy Road  
Floyds Knobs, IN 47119  
502-640-8276

1. On July 17, 2018, the Compliance Officer of the Office of Indiana State Chemist (OISC) received information from an anonymous source that Fielder's Choice Lawn Care was operating without a license.
2. On August 29, 2018, I met with Brian Hooper, owner of Fielder's Choice Lawn Care. Mr. Hooper was cooperative and honest regarding making pesticide applications. Mr. Hooper stated he started Fielder's Choice Lawn Care in 2018. Mr. Hooper stated he did not know he needed to be licensed.
3. I issued Mr. Hooper an Action Order to cease making for-hire pesticide applications until licensed.
4. On September 4, 2018, I received information from Mr. Hooper that he had passed the Core exam and would apply for a Registered Technician credential under Lambs Lawn SVC & Landscaping (Licensed Business) until he can take the category 3B course and exam.
5. OISC's database indicated Brian Hooper is a Registered Technician under Lambs Lawn.
6. On September 17, 2018, I received a packet of invoices from Brian Hooper. Mr. Hooper made for-hire pesticide and/or fertilizer applications on the following days;

2/20/18	3/5/18	3/6/18	3/9/18	3/10/18	3/15/18
3/16/18	3/20/18	3/27/18	4/5/18	4/6/18	4/13/18
4/22/18	4/23/18	4/26/18	4/27/18	5/1/18	5/2/18
5/3/18	5/6/18	5/7/18	5/8/18	5/10/18	5/14/18
5/15/18	5/16/18	5/17/18	5/22/18	5/23/18	5/24/18
5/31/18	6/4/18	6/5/18	6/6/18	6/7/18	6/11/18
6/13/18	6/14/18	6/19/18	6/20/18	6/28/18	6/29/18
7/2/18	7/9/18	7/10/18	7/12/18	7/17/18	7/25/18

8/3/18 8/6/18 8/9/18 8/10/18 8/13/18 8/20/18  
9/6/18



Paul J. Kelley  
Investigator

Date: October 12, 2018

**Disposition:** Brian Hooper was cited for fifty-five (55) 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 \$13,750.00 (55 x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$2,062.00. Consideration was given to the fact Mr. Hooper cooperated during the investigation; corrective action was taken; there was no previous history of similar nature; a good faith effort to comply and no restricted use pesticides were involved.

As of March 21, 2019, Brian Hooper had not paid the \$2,062.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC.

On April 19, 2019, the civil penalty of \$2,062.00 was received from Brian Hooper.



George N. Saxton  
Compliance Officer

Draft Date: March 21, 2019

Final Date: May 2, 2019

## CASE SUMMARY

Case #2018/0970

**Complainant:** Cory Wolford  
Environmental Health Specialist  
Indiana University  
765-532-5528  
corywolf@iu.edu

<b>Respondent:</b>	Pro Care Termite & Pest Control	Unlicensed Business
	Mark Allen Alldredge	Unlicensed Applicator
	1898 W. State Road 46	
	Nashville, Indiana 47448	
	812-988-1937	

1. On September 17, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) via email to report a possible unlicensed pesticide application to a sorority house by Mark Allen Alldredge. Mr. Wolford forwarded a jpeg of Alldredge's license, which had clearly been forged. See Figure 1. Alldredge's license expired December 31, 2014, but his current license indicates an expiration date of 2018. It should be noted Alldredge had been cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire in case number 2012/0939.



Figure 1-Suspected altered license provided by Cory Wolford

2. On September 20, 2018, Agent Nathan Davis, Agent Aaron Kreider, Agent Garret Creason, and I met in Bloomington, Indiana, based on information by Mr. Wolford received from Alpha Phi's House Director (Beth Spradley). Ms. Spradley informed us that Mr. Alldredge, from Pro Care Termite and Pest, was to perform a for-hire pesticide application at the Alpha Phi sorority at 10:00am on September 20, 2019. After several hours of observing the Alpha Phi Sorority for Mr. Alldredge, I made contact with Beth Spradley when Mr. Alldredge

failed to show up. Ms. Spradley was initially reluctant to cooperate with the investigation. Ms. Spradley eventually provided me escorted access to the area on the 3rd floor dormitory where Mr. Alldredge made for-hire pesticide applications for bedbugs after I spoke with Crista Kieffer, President of the National Alpha Phi Housing Corporation Board. Ms. Spradley stated she contracted Mr. Alldredge and Pro Care Termite and Pest Control to perform the bedbug treatments because of previous dealings with Mr. Alldredge.

3. On September 20, 2018, I collected swab samples for areas identified by Ms. Spradley where she observed Mr. Alldredge make applications on the 3rd floor dormitory. See Figures 2-3. Products suspected to have been used by Mr. Alldredge were Transport (EPA Reg. #8033-109-279, active ingredients acetamiprid and bifenthrin), PT 565 Plus XL (EPA Reg. #499-290, active ingredients piperonyl butoxide and pyrethrins), and PT Apline flea & bedbug (EPA Reg. #499-540, active ingredients dinotefuran, prallethrin, and pyriproxyfen).

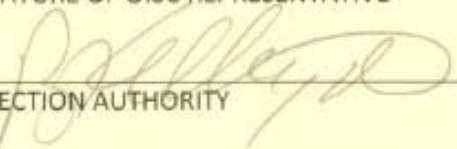



Figure 2-Bunkbed frame



Figure 3-Corner of bed frame

4. On September 20, 2018, Mr. Alldredge contacted the Compliance Officer of the Office of Indiana State Chemist (OISC), Dr. George Saxton, stating he wanted to “confess”.
5. On September 20, 2018, I contacted Mr. Alldredge. I stated to Mr. Alldredge that I received information from Dr. Saxton that he (Alldredge) wanted to “confess”. I asked Mr. Alldredge what he wanted to “confess”. Mr. Alldredge stated he had made pesticide applications at the Alpha Phi Sorority. I explained to Mr. Alldredge that we needed to meet to discuss this investigation. Mr. Alldredge agreed to a meeting on September 24, 2018, at his residence in Nashville, Indiana. I informed Mr. Alldredge he needed to have his applicator license, copies of all invoices for applications made at the Alpha Phi Sorority, and any and all other invoices for applications made by him and Pro Care Termite & Pest Control.
6. On September 24, 2018, Agent Robert Brewer and I met with Mr. Alldredge at his residence in Nashville, Indiana. Mr. Alldredge was verbally combative and evasive while answering questions. Mr. Alldredge did not have any of the documents I requested on September 20, 2018, immediately available. I presented on the Notice of Inspection (NOI) dates that he had made applications at the Alpha Phi Sorority. Dates included: 9/13/18, 9/14/18, 8/17/18, 9/18/18, and 9/19/19. Mr. Alldredge signed the NOI verifying the dates of applications. See Figure 4. Mr. Alldredge did provide an invoice for an application at the Alpha Phi Sorority dated 9-19-18, using the products Transport, Alpine BB, and PG565. See Figure 5.

<b>NOTICE OF INSPECTION</b>  OFFICE OF INDIANA STATE CHEMIST Purdue University 175 S. University Street West Lafayette, Indiana 47907-2063 1-800-893-6637		DATE <u>9/24/18</u> TIME <u>949</u> <u>AM</u> / PM
NAME OF INDIVIDUAL <u>Mark Alldredge</u>		TITLE <u>OWNER</u>
FIRM NAME <u>Pro Care T &amp; PC</u>	ADDRESS <u>5646 W. SR. 46</u> <u>Nashville, TN 47448</u>	
PHONE <u>812-988-1937</u>		
SIGNATURE OF OISC REPRESENTATIVE 		CASE # <u>2018/0970</u>
INSPECTION AUTHORITY  Under the authority granted in IC 15-16-2-38, IC 15-16-4-55, and IC 15-16-5-69, the above signed OISC representative may enter any public or private premises, including any vehicle of transport, at reasonable times to inspect, investigate, copy records, or collect samples of fertilizer materials (including manure), or pesticide products (including devices) being produced, sold, distributed, transported, stored, used (applied, mixed, loaded, handled, or staged) or disposed.		
REASON FOR INSPECTION <input type="checkbox"/> ROUTINE INSPECTION <input checked="" type="checkbox"/> INCIDENT or ALLEGATION RESPONSE		
COMMENTS <u>Unlicensed Business &amp; Application</u>  <u>- Made pesticide applications at Alpha Phi Society, located at 908 E 3rd St. Bloomington, IN 47406. on 9/13/18, 9/14/18, 9/17/18, 9/18/18, &amp; 9/19/18</u>  <u>* stated altered license &amp; sent to applicant</u>  		

CASE TYPE	NUMBER OF SAMPLES	SAMPLE TYPE(S)	CASE QUALIFIERS	ACTION ORDER
<u>NFu</u>	<u>3</u>	<u>RUS</u>	<u>20, 48, 68,</u>	<u>1</u>

Figure 4-NOI with application dates and Mr. Alldredges's signature

<i>Pro Care Pest Control</i> <i>PO Box 1484</i> <i>Nashville</i>		<b>SERVICE SLIP/INVOICE</b>																					
<div style="border: 1px solid black; padding: 2px; text-align: center;">SERVICE ADDRESS</div> <i>Alpha Phi</i> <i>100 E 2nd</i> <i>Bloomington</i>		<div style="border: 1px solid black; padding: 2px;">P.O. NUMBER</div> <div style="border: 1px solid black; padding: 2px;">DATE &amp; TIME <i>9-18-18</i></div> <div style="border: 1px solid black; padding: 2px;">TECH. NO.</div> <div style="border: 1px solid black; padding: 2px;">TIME IN</div> <div style="border: 1px solid black; padding: 2px;">TARGET PEST</div> <div style="border: 1px solid black; padding: 2px;">LOCATION</div> <div style="border: 1px solid black; padding: 2px;">ROUTE/GRID</div> <div style="border: 1px solid black; padding: 2px;">LAST SERV. DATE</div> <div style="border: 1px solid black; padding: 2px;">TIME OUT</div>																					
<div style="border: 1px solid black; padding: 2px;">SPECIAL COMMENTS</div>																							
<table style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 60%; text-align: left; font-size: small;">SERVICE TYPE</th> <th style="width: 40%; text-align: left; font-size: small;">AMOUNT</th> </tr> <tr> <td><i>Bud Bug</i></td> <td><i>\$0</i></td> </tr> <tr> <td colspan="2" style="padding-top: 10px;"> <div style="border: 1px solid black; padding: 2px; text-align: center;">PREVIOUS BALANCE</div> </td> </tr> <tr> <td colspan="2" style="padding-top: 5px;"> <div style="background-color: #333; color: white; padding: 5px; display: flex; justify-content: space-between;"> <span><b>TOTAL DUE</b></span> <span><i>\$0</i></span> </div> </td> </tr> </table>		SERVICE TYPE	AMOUNT	<i>Bud Bug</i>	<i>\$0</i>	<div style="border: 1px solid black; padding: 2px; text-align: center;">PREVIOUS BALANCE</div>		<div style="background-color: #333; color: white; padding: 5px; display: flex; justify-content: space-between;"> <span><b>TOTAL DUE</b></span> <span><i>\$0</i></span> </div>		<table style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 70%; text-align: left; font-size: small;">CHEMICALS / PRODUCTS</th> <th style="width: 10%; text-align: center; font-size: small;">%</th> <th style="width: 20%; text-align: left; font-size: small;">AMOUNT</th> </tr> <tr> <td><i>Troutp</i></td> <td><i>1025</i></td> <td><i>4</i></td> </tr> <tr> <td><i>Pipine BB</i></td> <td></td> <td><i>5</i></td> </tr> <tr> <td><i>P6565</i></td> <td></td> <td><i>2</i></td> </tr> </table>		CHEMICALS / PRODUCTS	%	AMOUNT	<i>Troutp</i>	<i>1025</i>	<i>4</i>	<i>Pipine BB</i>		<i>5</i>	<i>P6565</i>		<i>2</i>
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<div style="border: 1px solid black; padding: 2px; text-align: center;">PREVIOUS BALANCE</div>																							
<div style="background-color: #333; color: white; padding: 5px; display: flex; justify-content: space-between;"> <span><b>TOTAL DUE</b></span> <span><i>\$0</i></span> </div>																							
CHEMICALS / PRODUCTS	%	AMOUNT																					
<i>Troutp</i>	<i>1025</i>	<i>4</i>																					
<i>Pipine BB</i>		<i>5</i>																					
<i>P6565</i>		<i>2</i>																					
<div style="border: 1px solid black; padding: 2px;">TOTAL PAID</div> <div style="border: 1px solid black; padding: 2px;">ACCEPTED BY</div> <div style="display: flex; justify-content: space-between; font-size: x-small;"> <div> <input type="checkbox"/> CASH    <input type="checkbox"/> CK #  <input type="checkbox"/> BILL    TERMS:         </div> <div>DATE</div> </div>		<div style="border: 1px solid black; padding: 2px;">COMMENTS</div>																					

PLEASE PAY FROM THIS INVOICE

Figure 5-Invoice for treatment at Alpha Phi

7. On September 24, 2018, I asked to see Mr. Alldredge's credential. Mr. Alldredge stated he did not have it. I showed Mr. Alldredge a picture of his license he sent to Cory Wolford with the expiration date of 2018. Mr. Alldredge stated he altered the license to get the work. Mr. Alldredge signed the picture of the altered license verifying the picture of the altered license was accurate. See Figure 6. Mr. Alldredge eventually surrendered his credential. See Figure 7.



\* Stated altered license.

Mr. Allen 9/28/18

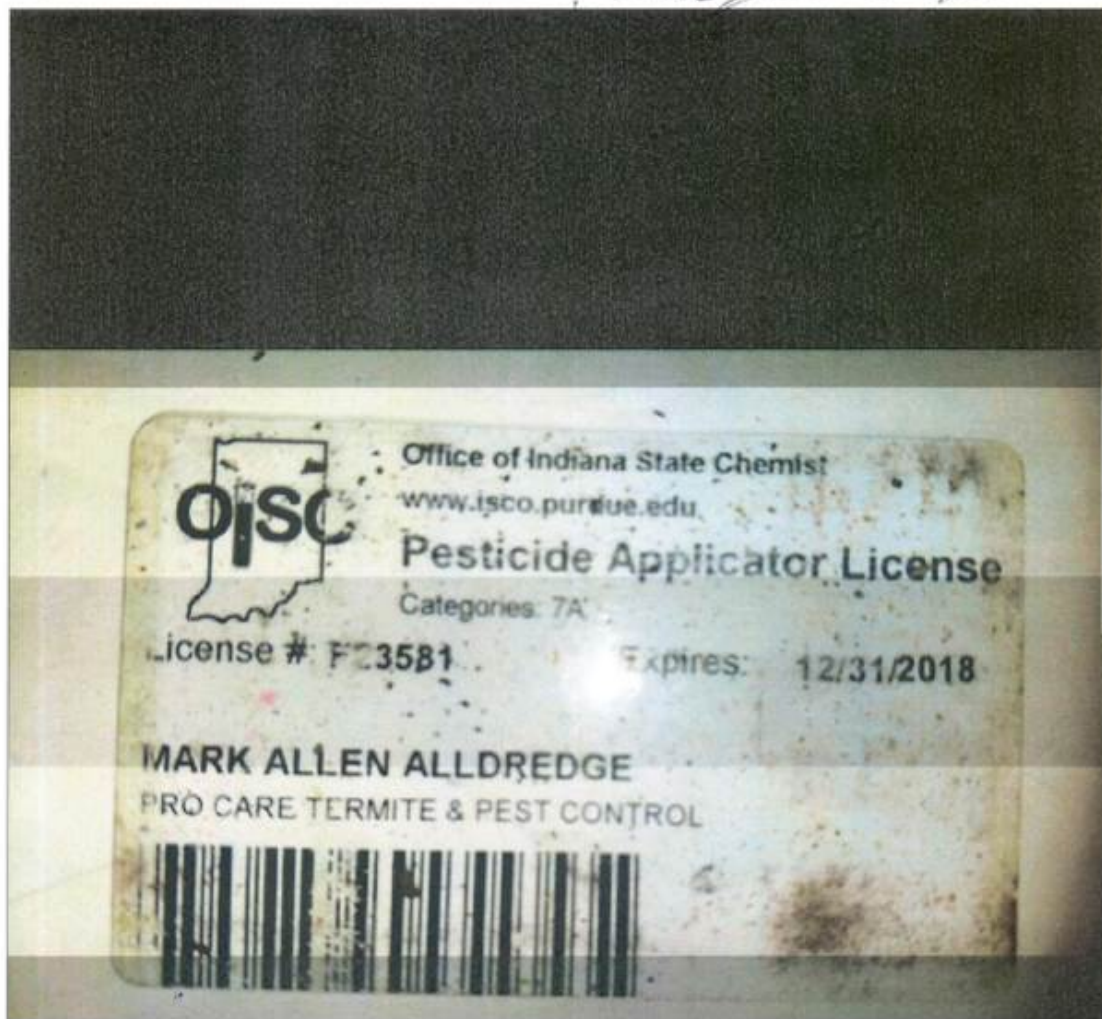


Figure 6-Altered license with Mr. Alldredge's signature

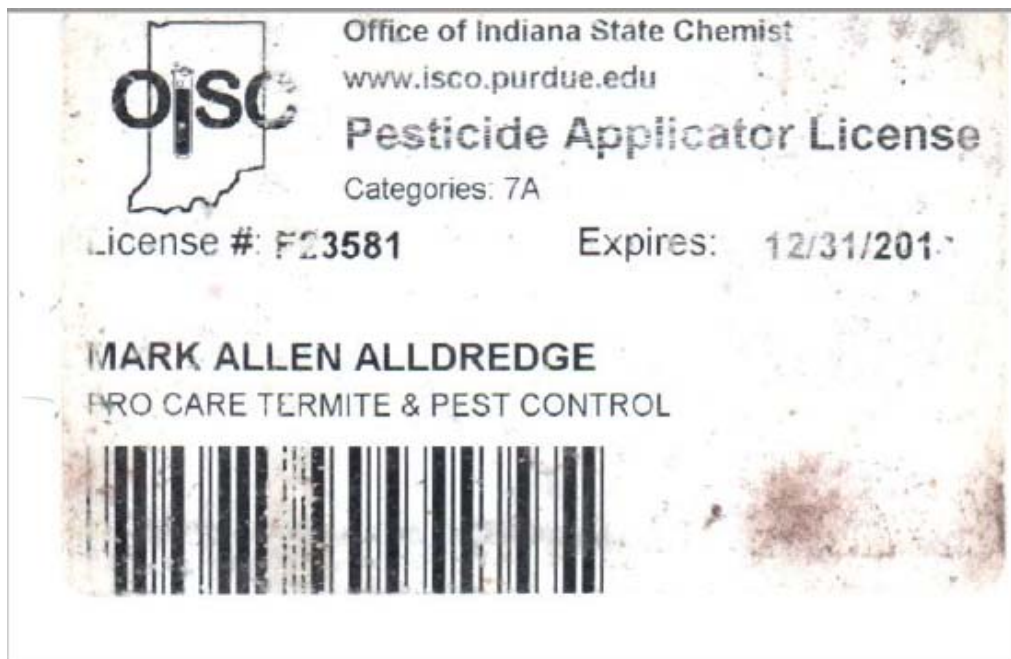


Figure 7-Mr. Alldredge's surrendered license with date missing

8. On September 24, 2018, I questioned Mr. Alldredge regarding other pesticide applications he performed without a license. Mr. Alldredge assured me there were no additional applications he performed. I gave Mr. Alldredge several opportunities to come forward with additional information. Mr. Alldredge was issued an Action Order to cease making for-hire pesticide applications without a license issued by OISC. See Figure 7.

2018/0970

Office of  
Indiana State Chemist and Seed Commissioner  
Purdue University  
175 S. University Street  
West Lafayette, Indiana 47907-2063  
800-893-6637  
[www.oisc.purdue.edu](http://www.oisc.purdue.edu)

**ACTION ORDER**

Subject to I.C. 15-16-4-77 and I.C. 15-16-5-70, any person who knowingly violates the terms or provisions of this ORDER commits a Class C misdemeanor, punishable by a fine of up to \$500.00 and sixty (60) days in jail. In accordance with I.C. 15-16-4-64.5 and I.C. 15-16-5-67, a person aggrieved by this ORDER may obtain a review by the Indiana Pesticide Review Board, if the person files a written petition with the Board not later than thirty (30) days after issuance of this ORDER at [scottde@purdue.edu](mailto:scottde@purdue.edu).

Issued to: Mark Alldredge + Pro Care T4 PC

Address: 5646 W. S. R. 46, Nashville, IN 47448

E-Mail: \_\_\_\_\_ Phone (\_\_\_\_) \_\_\_\_\_

☐ Subject to I.C. 15-16-4-73, you are hereby ordered to remove the below listed non-compliant products from sale and hold them at your location until released in writing by the state chemist.

Quantity	Product Brand Name	EPA Registration #	Registrant

☒ Subject to I.C. 15-16-5-65(6), you are hereby ordered to:

Cease making for-hire Pesticide Application  
without a license issued by OISC  
See Item #5 on Reverse

Details regarding the non-compliant issue(s) referenced above and any additional guidance on what steps to take to bring the issue(s) into compliance can be found on the reverse side of this ORDER, at [www.oisc.purdue.edu/pesticide/order](http://www.oisc.purdue.edu/pesticide/order), by contacting [saxtong@purdue.edu](mailto:saxtong@purdue.edu), or by calling (800) 893-6637 Mon-Fri, 8:00-5:00.

J. Kelley  
State Chemist Agent (PRINT)

Mark Alldredge  
Recipient (PRINT)

[Signature] 9/24/18  
Agent Signature Date

[Signature] 9/24/18  
Recipient Signature Date

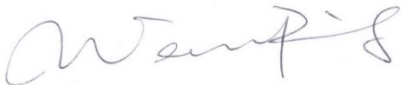
Form 51 Rev. 00 05/18/2016 MTD 0180-IV Page 1 of 1

Figure 7- Action Order

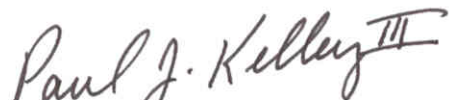
9. On September 28, 2018, I received an investigation regarding a human exposure situation at the Salt Creek Inn in Nashville, Indiana. The applicator and company involved was Mr. Alldredge and Pro Care Termite and Pest Control. See Case Summary 2018/1002.

10. On February 21, 2019, OISC's Residue Lab reported the following:

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

Case # 2018/0970			Investigator: J. Kelley
Sample #	Sample Description	Sample Matrix	Pesticides Detected
			General Pesticide Screen*
2018-50-2181	Trip blank swab	Swab	None
2018-50-2182	SW1-swab of bunkbed frame 3rd floor cold room	Swab	Bifenthrin, Prallethrin, Acetamiprid
2018-50-2183	SW2-swab of baseboard 3rd floor cold room	Swab	Bifenthrin, Piperonyl Butoxide, Cyfluthrin, Cypermethrin, Permethrin and Acetamiprid
<p>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</p> <p>*Many pesticide hits suggested by the GC-orbitrap general screen. Only the major hits and/or commonly used insecticides were reported.</p>			
Signature			Date 2/21/19

11. OISC's Residue Lab results indicate the presence of the active ingredients used by Mr. Alldredge.



Paul J. Kelley  
Investigator

Date: February 25, 2019

**Disposition:** Mark Allen Alldredge was cited for five (5) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law. The civil penalty in the amount of \$2,500.00 (5 counts x \$500.00 per count) was held in abeyance pending criminal charges in Monroe County.

Mark Allen Alldredge was cited for violation of section 65(18) of the Indiana Pesticide Use and Application Law for intentionally altering a duly issued license, permit, registration or certification. The civil penalty in the amount of \$250.00 was held in abeyance pending criminal charges in Monroe County.

Consideration was given to the fact this was not his first violation of similar nature. See case numbers 2012/0939 and 2018/1002.



George N. Saxton  
Compliance Officer

Closed Case: July 19, 2019

CC  
Crista Kieffer  
Alpha Phi  
1930 Sherman Avenue  
Evanston, IL 60201  
847-475-0063

Beth Spradley  
Alpha Phi  
908 E. 3rd Street  
Bloomington, IN 47406  
205-394-2027

## CASE SUMMARY

Case #2018/1002

**Complainant:** Jessica Thompson  
1922 Mace Drive  
Indianapolis, Indiana 46229  
317-716-6074 cell  
317-894-7028

**Location of Event:** Salt Creek Inn  
551 E. State Road 46  
Nashville, Indiana 47448  
(812) 988-1149

<b>Respondent:</b>	Mark Alldredge Pro Care Termite and Pest Control 5646 W. State Road 46 Nashville, Indiana 47448 812-988-1937	Unlicensed Applicator Unlicensed Business
--------------------	--	--


1. On September 28, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report possible chemical burns to her face while staying in room 204 at "Salt Lake Inn". She stated she believed there was a pesticide applied to the mattress for the control of bedbugs in which she came into contact. She had been to the doctor. The complainant also notified the Brown County Health Department.
2. On October 1, 2018, I spoke with Jessica Thompson. Mrs. Thompson stated she stayed at the Salt Creek Inn the weekend of September 14, 2018. Mrs. Thompson stated while in Nashville, Indiana, she enjoyed several activities both indoor and outside. Mrs. Thompson stated after her stay, she developed 2nd degree burns on her face requiring a visit to a medical professional. Mrs. Thompson stated she could not pinpoint where she received 2nd degree burns on her face. Mrs. Thompson stated her only recollection of a possible exposure came from sleeping at the Salt Creek Inn. Mrs. Thompson stated she remembered waking up in her hotel room with her face on the exposed corner of the hotel mattress. Mrs. Thompson believed she might have been exposed to a pesticide applied to the mattress.
3. On October 2, 2018, I met with Jack Patel, desk employee for Salt Creek Inn. Mr. Patel stated Mark Alldredge of Pro Care Termite and Pest Control was hired to perform pest control for the hotel. Mr. Patel provided me with copies of invoices for pest control performed by Pro Care Termite and Pest Control on September 10, 2018, September 12, 2018, and September 21, 2018. Mr. Alldredge applied Transport (EPA Reg. #8033-96-279, active ingredients acetamiprid and bifenthrin).
4. On October 2, 2018, I collected a swab sample from the corner of the bed described to me by Mrs. Thompson.

5. On October 2, 2018, I encountered Mr. Alldredge at an apartment complex off Old State Road 46 in Nashville, Indiana. Mr. Alldredge was dressed in his Pro Care Termite and Pest Control uniform with a spray tank in his truck. See figure 1. I questioned Mr. Alldredge regarding the applications at the Salt Creek Inn. Mr. Alldredge denied making any applications at the Salt Creek Inn until I presented him copies of the invoices. Mr. Alldredge was currently under investigation for another complaint (See case number 20180970) in which Mr. Alldredge performed pesticide applications without a license. Mr. Alldredge was asked to provide all instances he applied pesticides for-hire without a license. Mr. Alldredge stated he had only made the application in case number 2018/0970 without a license. I questioned Mr. Alldredge why he was not truthful in case 2018/0970 and disclosed all application. Mr. Alldredge stated, “*I got to do what I’ve got to do to survive*”. I reminded Mr. Alldredge about the Action Order he signed in case number 2018/0970 requiring him to cease all pesticide applications without a license.



Figure 1-Mr. Alldredge sitting in his Pest Control vehicle

6. On October 2, 2018, OISC’s Residue Lab reported the following:

Case # 2018/1002			Investigator: J. Kelley	
Sample #	Sample Description	Sample Matrix	Amount Found (ng/swab)	
			Acetamiprid	Bifenthrin
2018-50-2186	Trip Blank Swab	Swab	Not Detected	Not Detected
2018-50-2187	SW1 – Swab from corner of mattress from room #204	Swab	Not Detected	Not Detected
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	Qualitative run with an estimated detection limit of 10 ng/swab			
Signature			Date	10/23/18



7. Lab results did not detect Transport on the corner of the mattress. However, Mr. Alldredge does not have a license to perform for-hire pesticide applications.



Paul J. Kelley  
Investigator

Date: November 8, 2018

**Disposition:** Mark Alldredge was cited for three (3) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$3,000.00 was held in abeyance pending criminal charges from the Monroe County Prosecutor's office. Consideration was given to the fact this was not his first violation of similar nature. See case numbers 2012/0939 and 2018/0970.



George N. Saxton  
Compliance Officer

Closed Case: July 19, 2019

## CASE SUMMARY

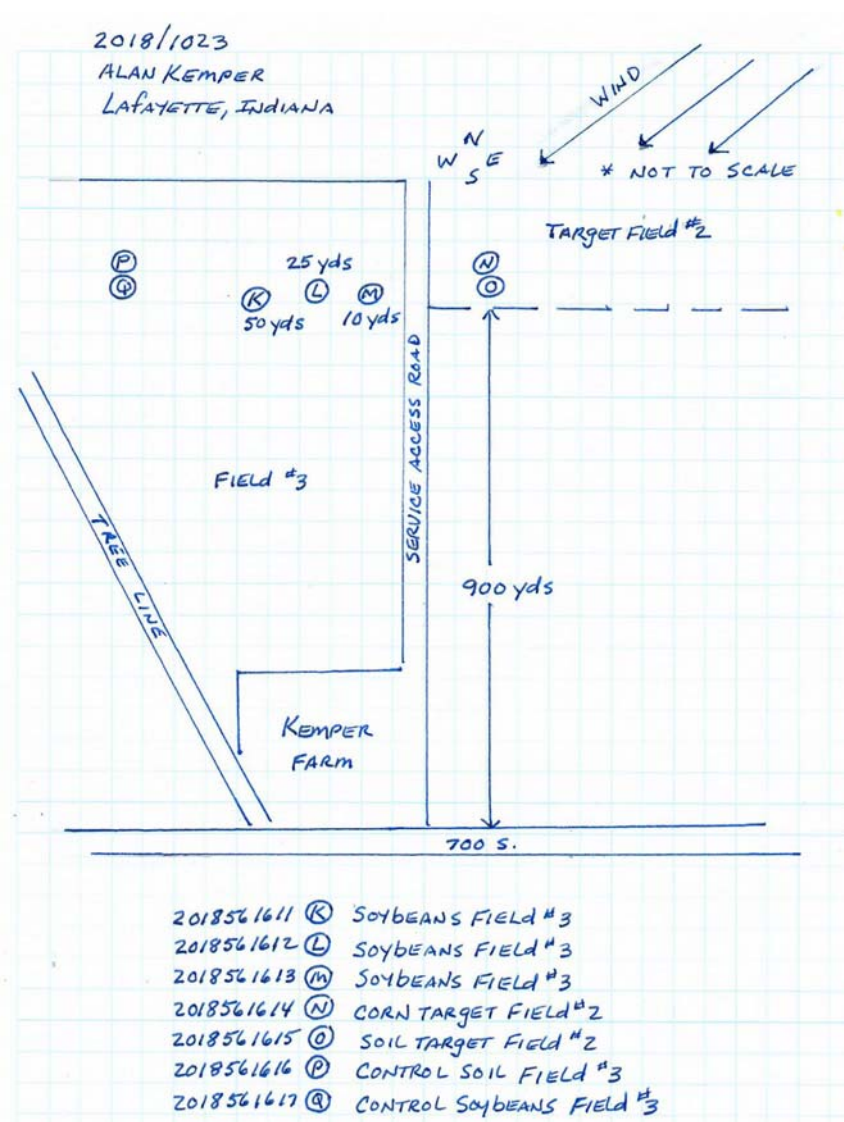
Case #2018/1023

**Complainant:** Alan Kemper  
5710 East 700 South  
Lafayette, Indiana 47909  
765-714-2124

**Respondent:** Ben Osborn  
Osborn Farms  
8536 East 1000 South  
Clarks Hill, Indiana 47930  
765-479-2287


**Private Applicator**

1. On June 1, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) via a written complaint form indicating Tom Osborn drifted onto his soybeans.
2. On June 11, 2018, I met with the complainant Alan Kemper. He told me Mr. Osborn made pesticide applications which drifted onto three of Mr. Kemper's soybean fields. (See also case 2018/0601). We drove to one of his affected soybean fields located behind his residence north of county road 700 east. (See diagram below).
3. During my on-site investigation, I did the following:
  - a. I checked the vegetation in the soybean field. I observed growth regulator type exposure symptoms such as cupped leaves on the soybeans.
  - b. I photographed the complainant's soybean field (See photos below)
  - c. I obtained impacted soybean samples from soybean field for submission to Purdue Plant and Pest Diagnostic Lab (PPDDL) for analysis.
  - d. I placed the following environmental samples in Mylar bags for submission to the OISC Residue Lab for analysis: (See diagram below)
    - 2018561611 soybeans field #3 (50 yards from target field)
    - 2018561612 soybeans field #3 (25 yards from target field)
    - 2018561613 soybeans field #3 (10 yards from target field)
    - 2018561614 corn stalks target field
    - 2018561615 soil target field
    - 2018561616 control soil field #3
    - 2018561617 control soybeans field #3



4. I made contact with pesticide applicator Ben Osborn of Osborn Farms located in Clarks Hill Indiana. Mr. Osborn agreed to complete a Pesticide Investigation Inquiry (PII) for the pesticide application made to the field adjacent to the complainant's soybean field north of county road 700 south.

5. I received the following information from PPPDL: *“Strapping of leaves is indicative of injury from a growth regulator like clopyralid (found in Resicore). Necrosis and chlorosis on the edge of the first trifoliolate leaves could be indicative of atrazine.”*
6. I received a completed PII from applicator Ben Osborn. According to the PII, Mr. Osborn made a pesticide application of **Resicore** (EPA #62719-693; active ingredient: clopyralid, acetochlor, mesotrione), **Roundup** (EPA #524-549; active ingredient: glyphosate), **Radiate** (EPA #34704-909; active ingredient: indole-3-butyric acid, cytokinin) and **Atrazine** (EPA #34704-69, active ingredient: atrazine) on May 16, 2018 between 12:14pm and 1:50pm. He recorded the wind blowing at 10 miles per hour with no wind direction. .
7. I checked the weather data for the application site at [www.wunderground.com](http://www.wunderground.com). Historical information from the Purdue University Airport located in West Lafayette Indiana (10 miles northwest from application site) indicated at the beginning of the application the wind was blowing at 7 miles per hour in a south to southwesterly direction toward the complainant's soybean field. At the end of the application, the wind was blowing at 12 miles per hour in a south to southwesterly direction toward the complainant's soybean field.
8. I received the following analysis information from the OISC Residue Lab:

Case #	2018/1023		Investigator		K. Gibson	
Sample #	Sample Description	Amount of Analyte (ng/swab or ppb)				
		Matrix	Atrazine	Mesotrione	Acetochlor	Clopyralid
2018-56-1611	Soybeans field #3 - 50 yds	Vegetation	7.26	BDL	BDL	1.34
2018-56-1612	Soybeans field #3 - 25 yds	Vegetation	7.46	BDL	BDL	0.978
2018-56-1613	Soybeans field #3 - 10 yds	Vegetation	5.90	BDL	BDL	0.772
2018-56-1614	Corn target field #2	Vegetation	BDL	BDL	BDL	1140*
2018-56-1615	Soil target field #2	Soil	Did not test	Did not test	Did not test	Did not test
2018-56-1616	Control soil field #3	Soil	Did not test	Did not test	Did not test	Did not test
2018-56-1617	Control soybeans field #3	Vegetation	6.48	BDL	BDL	BDL
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC						
*Result reported as Minimum Detected due to concentration exceeded calibration curve range.						
LOQ (ppb)	Soil		Did not test	Did not test	Did not test	Did not test
LOQ (ppb)	Vegetation		3	0.7	3	0.4
Signature				Date	1/9/19	

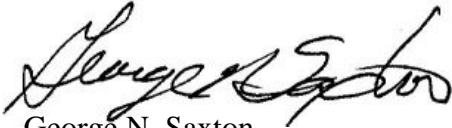
9. I checked with the complainant concerning recent pesticide applications made to his soybean fields. He told me he made pesticide applications of atrazine in 2017. According to the OISC lab director, the low levels of atrazine detected in the complainant vegetation could be from an atrazine application made in 2017. The lab director also told me the low levels of the active ingredient of clopyralid found in **Resicore** were indicative of drift from the target field to the complainant's field.
10. The label for **Resicore** reads in part, "*Do not apply when wind conditions favor drift to non-target sites*" and "*Avoid spray drift onto adjacent crop or non-crop areas.*"
11. After review of available information, Ben Osborn was in violation of the **Resicore** label when he applied it in conditions favoring drift to non-target sites.



Kevin W. Gibson  
Investigator

Date: January 9, 2019

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



George N. Saxton  
Compliance Officer

Draft Date: March 4, 2019  
Final Date: April 12, 2019

## CASE SUMMARY

Case #2018/1026

**Complainant:** Julie Turner  
4425 Welborn Church Road  
Mt. Vernon, Indiana 47620  
812-306-5822

<b>Respondent:</b>	Gavin Murray	Register Technician
	Brady Waible	Certified Applicator
	Posey County Co-Op	Licensed Business
	817 W. 4th Street	
	Mt. Vernon, Indiana 47620	
	812-838-4468	

1. On June 14, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to her trees and garden.
2. On June 15, 2018, I contacted the respondent Julie Turner. Ms. Turner stated she had pesticide injury to her trees and garden. Ms. Turner advised she had been in contact with the Co-Op in Mt. Vernon and they told her they sprayed the fields surrounding her house. Ms. Turner stated employees of the Co-Op had been out to her property to look at the injury.
3. On June 15, 2018, I contacted the Posey County Co-Op in Mt. Vernon, Indiana and spoke to the branch manager Brady Waible. I advised Mr. Waible I was a pesticide investigator with OISC and the complaint against Posey County Co-Op. Mr. Waible stated Posey County Co-Op made a total of six applications to three fields surrounding Ms. Turner's property. I advised Mr. Waible I would be sending him a pesticide investigation inquiry form to complete for each application and return to me.
4. On June 20, 2018, I met with Ms. Turner at her residence. Ms. Turner walked me around her property and pointed out her concerns on her maple trees, cyprus trees, pear trees, pecan, trees, pepper and tomato plants in her garden and also an assortment of ornamentals around her property. Ms. Turner stated she first noticed the injury to her trees, garden plants, and ornamentals on or around May 28, 2018.
5. During my on-site investigation I did the following:
  - a. Looked for, and found three fields surrounding the complainant's property that could be possible sources of herbicide application. The target field for this particular case is located to the north and west of Ms. Turner's property (See Fig. 5). For the other herbicide application in the area, reference cases 2018/0645, 2018/1027, and 2018/1028.
  - b. Observed and photographed leaf cupping and curling on maple trees, pear trees, and leaf strapping and cupping on pepper and tomato plants in the garden. (See Fig 1, 2, 3, and 4).



These symptoms are commonly associated with exposure to a growth-regulator type herbicide.

- c. Collected samples of injured tomato, pepper, maple, pecan, pear, and cyprus leaves from Ms. Turner's property for assessment by the Purdue Plant & Pest Diagnostic Laboratory (PPDDL)
- d. Collected composite soil samples from the target field. Collected composite soil and vegetation samples from Ms. Turner's property (See Fig. 4). The residue samples were submitted to the OISC Residue Laboratory for analysis.



Fig. 1



Fig. 2

- Fig. 1 is one of Ms. Turner's maple trees with leaves cupping and curling.
- Fig. 2 is one of Ms. Turner's pear trees with leaves cupping and curling.



Fig. 3



Fig. 4

- Fig. 3 is a pepper plant in Ms. Turner's garden with leaves strapping and cupping
- Fig. 4 is a tomato plant in Ms. Turner's garden with leaves strapping and cupping

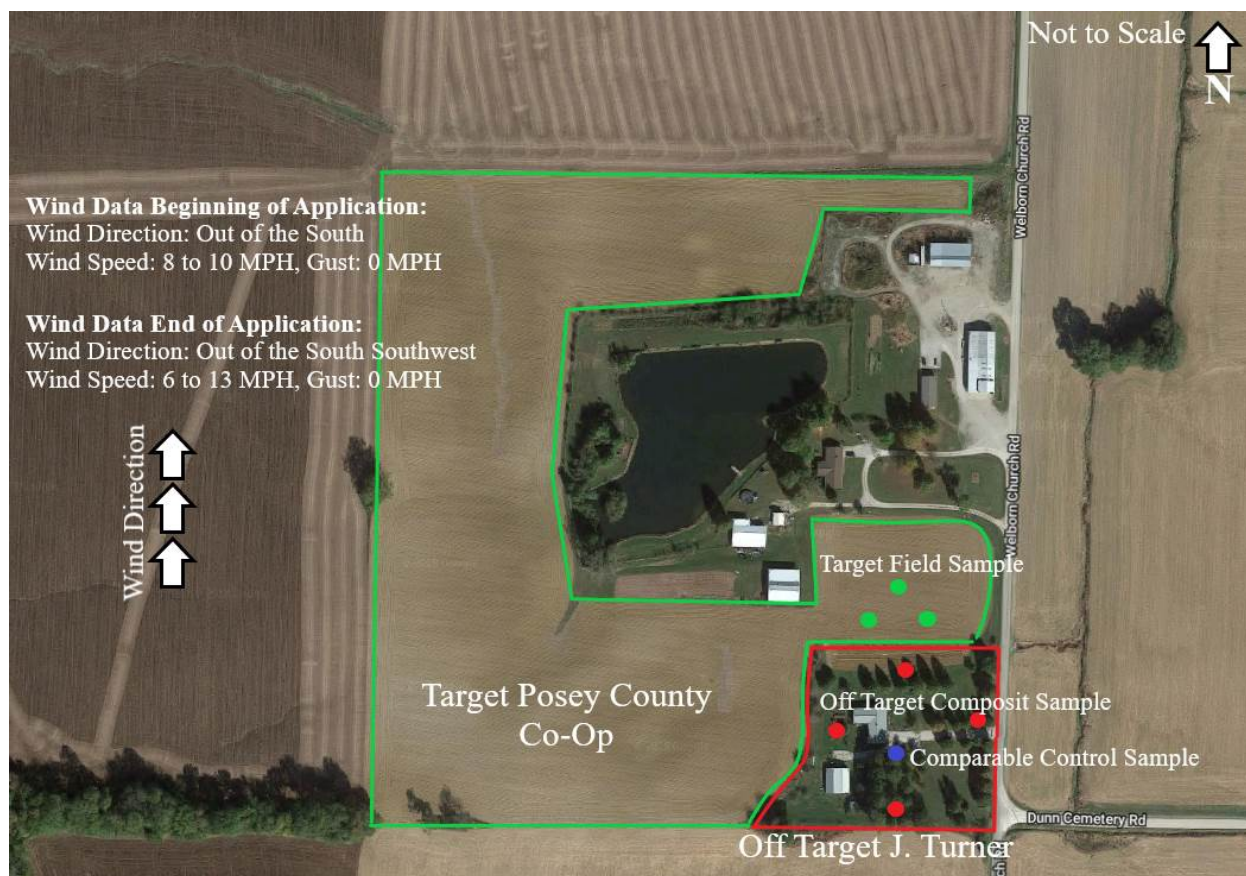


Fig. 5

- Fig. 5 is an aerial diagram including wind data, property lines, and where soil and vegetation samples were taken from.
6. On June 19, 2018 I received a completed Pesticide Investigation Inquiry from Mr. Waible for this application which indicated the following:
- a. Certified Applicator: Brady Waible
  - b. Registered Technician: Gavin Murray
  - c. Application Date and Time: June 7, 2018, 4:00pm to 4:30pm
  - d. Pesticide Applied:
    - Roundup PowerMax EPA Reg. #524-549, Active=Glyphosate, 32oz/acre
    - Warrant, EPA Reg. #524-591, Active=Acetochlor, 3pt/acre
    - Xtendimax, EPA Reg. #524-617, Active =Dicamba 22oz/acre
  - e. Adjuvants: Oculus
  - f. Target Field Location and Size: Ashworth, 22 Acres
  - g. Pre- or Post- Emergent Application: Post
  - h. Wind Direction at Boom Height: Start- Blowing N, End- Blowing N
  - i. Wind Speed at Boom Height: Start- 8.1mph, End- 8mph
  - j. Nozzle and Pressure: TeeJet TTAI 05
  - k. Boom Height: 24 inches
  - l. Downwind Buffer: 100% Adjacent Property
  - m. Checked Registrants Website before application: Yes, June 4, 2018
  - n. Checked DriftWatch before application: Yes, June 4, 2018
  - o. Dicamba Mandatory Training Attended: Yes, January 25, 2018 #10597



7. Weather history data was obtained at [www.wunderground.com](http://www.wunderground.com) from the three closest official weather station to the application site. The locations and weather data for June 7, 2018 follow:

- Carmi Municipal Airport (KCUL) located in Carmi, Illinois 12 miles to the northwest of the application site:

Date	Time	Temperature	Wind Direction	Wind Speed	Wind Gust
6/7/2018	3:55 PM	92 F	S	10 MPH	0 MPH
6/7/2018	4:55 PM	91 F	SW	7 MPH	0 MPH

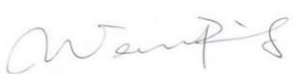
- Evansville Regional Airport (KEVV) located in Evansville, Indiana 24 miles to the east of the application site:

Date	Time	Temperature	Wind Direction	Wind Speed	Wind Gust
6/7/2018	3:54 PM	88 F	S	8 MPH	0 MPH
6/7/2018	4:54 PM	89 F	S	6 MPH	0 MPH

- Lawrenceville-Vincennes International Airport (KLWV) located in Lawrenceville, Illinois 57 miles to the north of the application site:

Date	Time	Temperature	Wind Direction	Wind Speed	Wind Gust
6/7/2018	3:53 PM	64 F	SW	8 MPH	0 MPH
6/7/2018	4:53 PM	67 F	SSW	13 MPH	0 MPH


8. The triangulated wind data from the Carmi Municipal Airport (KCUL), Evansville Regional Airport (KEVV), and Lawrence-Vincennes International Airport (KLWV) indicate the wind speed during the application was between 6 mph and 13 mph with no gust out of the south and west.
9. The PPPDL report stated: *Curled leaves with twisted petioles on all samples is indicative of injury from a growth regulator like 2,4-D or dicamba. Chlorosis on newest maple leaves is indicative of injury from glyphosate. The pepper plant had Bacterial spot, caused by Xanthomonas. This accounts for most of the leaf spots and leaf necrosis but would not cause leaf distortion. The pear tree has some symptoms of fire blight. No other disease or insect problems were noticed.*
10. The OISC Residue Laboratory analyzed the soil and vegetation samples collected for atrazine, metribuzin, dicamba, and glyphosate and reported the following:

Case # 2018/0645						Investigator		N. Davis	
Sample #	Sample Description	Matrix	Amount of Analyte (ng/g)						
			Atrazine	Metribuzin	Dicamba	DCSA	5-OH Dicamba	Glyphosate	AMPA
2018-39-9543	Comparable control composite veg #1	Vegetation	143	BDL	4.73	BDL	BDL	43.5	BDL
2018-39-9544	Comparable control composite soil #2	Soil	BQL	BDL	BDL	BDL	BDL	BDL	BDL
2018-39-9545	Off target composite veg #1	Vegetation	113	BDL	4.17	BQL	1.40	65.8	BDL
2018-39-9546	Off target composite soil #2	Soil	BQL	BDL	BDL	BDL	BDL	BDL	BDL
2018-39-9547	NW target field composite soil #1	Soil	BQL	BDL	BQL	159	BDL	649	739
2018-39-9548	E target field composite soil #2	Soil	12.0	45.1	BQL	2.46	BDL	742	504
2018-39-9549	S target field composite soil #3	Soil	52.6	BDL	BQL	BQL	BDL	327	1120
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC									
LOQ (ng/g)	Vegetation		3	3	1	0.4	1	5	25
LOQ (ng/g)	Soil		3	3	2	2	2	5	50
Signature							Date	11/20/18	

11. The OISC Residue Laboratory analysis detected atrazine, dicamba, and glyphosate in the off target composite vegetation samples. The tank mix for this application included the active ingredients Dicamba and Glyphosate.
12. The triangulated wind data from the Carmi Municipal Airport (KCUL), Evansville Regional Airport (KEVV), and Lawrence-Vincennes International Airport (KLWV) indicate the wind speed during the application was between 6 mph (legal application) and 13 mph with no gust. The wind directions were all from the south or west. Since two locations showed winds out of the south and wind speed 10 mph or below, and the application records indicate the winds were out of the south at 8 mph blowing away from the complainant's property, the benefit of the doubt was given to the applicator in regards to wind direction and speed.
13. According to the application records, Mr. Murray's tank mix included *RoundUp Powermax*, EPA Reg. #524-549, Active Ingredient=Glyphosate and the adjuvant Oculus. The label for *XtendiMax*, EPA Reg. #524-617, Active Ingredient=Dicamba states: **"DO NOT mix any product with XtendiMax With VaporGrip unless: All Requirements and restrictions on [www.xtendimaxapplicationrequirements.com](http://www.xtendimaxapplicationrequirements.com) are followed"**.  
On [www.xtendimaxapplicationrequirements.com](http://www.xtendimaxapplicationrequirements.com) it states: **"RoundUp Powermax, EPA Reg. #524-549, Active Ingredient=Glyphosate CANNOT be tank mixed with XtendiMax® With**

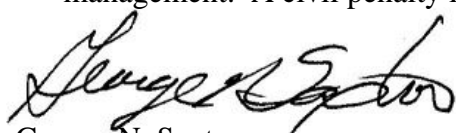
**VaporGrip® Technology UNLESS those products are tank mixed with one of the following DRAs".** The adjuvant Oculus is not on the required list of DRAs for use of *RoundUp Powermax*, EPA Reg.# 524-549, Active Ingredient=*Glyphosate* with *Xtendimax*, EPA Reg. #524-617, Active Ingredient=*Dicamba*.

14. Based on the evidence collected in this investigation, it has been determined that you failed to comply with the drift management restrictions on the label for the herbicide *Xtendimax*, EPA Reg. #524-617, Active Ingredient=*Dicamba*. It should also be noted that OISC was not able to determine whether the herbicide moved off-target as the result of drift, application into an inversion, or volatilization at some point after the application, and was not able to clearly identify the source of the off-target movement.

  
Nathan J. Davis  
Investigator

Date: December 5, 2018

**Disposition:** Gavin Murray and Brady Waible were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed for this violation.

  
George N. Saxton  
Compliance Officer

Draft Date: February 14, 2019  
Final Date: March 27, 2019

## CASE SUMMARY

Case #2018/1027

**Complainant:** Julie Turner  
4425 Welborn Church Road  
Mt. Vernon, Indiana 47620  
812-306-5822

<b>Respondent:</b>	Zachary Kilgore	Register Technician
	Brady Waible	Certified Applicator
	Posey County Co-Op	Licensed Business
	817 W. 4th Street	
	Mt. Vernon, Indiana 47620	
	812-838-4468	

1. On June 14, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to her trees and garden.
2. On June 15, 2018, I contacted the respondent Julie Turner. Ms. Turner stated she had pesticide injury to her trees, garden and ornamentals. Ms. Turner advised she had been in contact with the Co-Op in Mt. Vernon and they told her they sprayed the fields surrounding her house. Ms. Turner stated employees of the Co-Op had been out to her property to look at the injury.
3. On June 15, 2018, I contacted the Posey County Co-Op in Mt. Vernon, Indiana and spoke to the branch manager Brady Waible. I advised Mr. Waible I was a pesticide investigator with OISC and the complaint against Posey County Co-Op. Mr. Waible stated Posey County Co-Op made a total of six applications to three fields surrounding Ms. Turner's property. I advised Mr. Waible I would be sending him a pesticide investigation inquiry form to complete for each application and return to me.
4. On June 20, 2018, I met with Ms. Turner at her residence. Ms. Turner walked me around her property and pointed out her concerns on her maple trees, Cyprus trees, pear trees, pecan, trees, pepper and tomato plants in her garden and also an assortment of ornamentals around her property. Ms. Turner stated she first noticed the injury to her trees, garden plants, and ornamentals on or around May 28, 2018.
5. During my on-site investigation I did the following:
  - a. Looked for, and found three fields surrounding the complainant's property that could be possible sources of herbicide application. The target fields for this particular case are located to the south and east of Ms. Turner's property and consist of two different fields with applications made on the same day by the same applicator with the same tank mix. (See Fig. 5). For the other herbicide application in the area reference cases 2018/0645, 2018/1026, and 2018/1028.
  - b. Observed and photographed leaf cupping and curling on maple trees, pear trees, and leaf strapping and cupping on pepper and tomato plants in the garden. (See Fig 1, 2, 3, and 4). These symptoms are commonly associated with exposure to a growth-regulator type herbicide.



- c. Collected samples of injured tomato, pepper, maple, pecan, pear, and cyprus leaves from Ms. Turner's property for assessment by the Purdue Plant & Pest Diagnostic Laboratory (PPDDL)
- d. Collected composite soil samples from the target field. Collected composite soil and vegetation samples from Ms. Turner's property (See Fig. 4). The residue samples were submitted to the OISC Residue Laboratory for analysis.



Fig. 1



Fig. 2

- Fig. 1 is one of Ms. Turner's maple trees with leaves cupping and curling.
- Fig. 2 is one of Ms. Turner's pear trees with leaves cupping and curling.



Fig. 3



Fig. 4

- Fig. 3 is a pepper plant in Ms. Turner's garden with leaves strapping and cupping
- Fig. 4 is a tomato plant in Ms. Turner's garden with leaves strapping and cupping



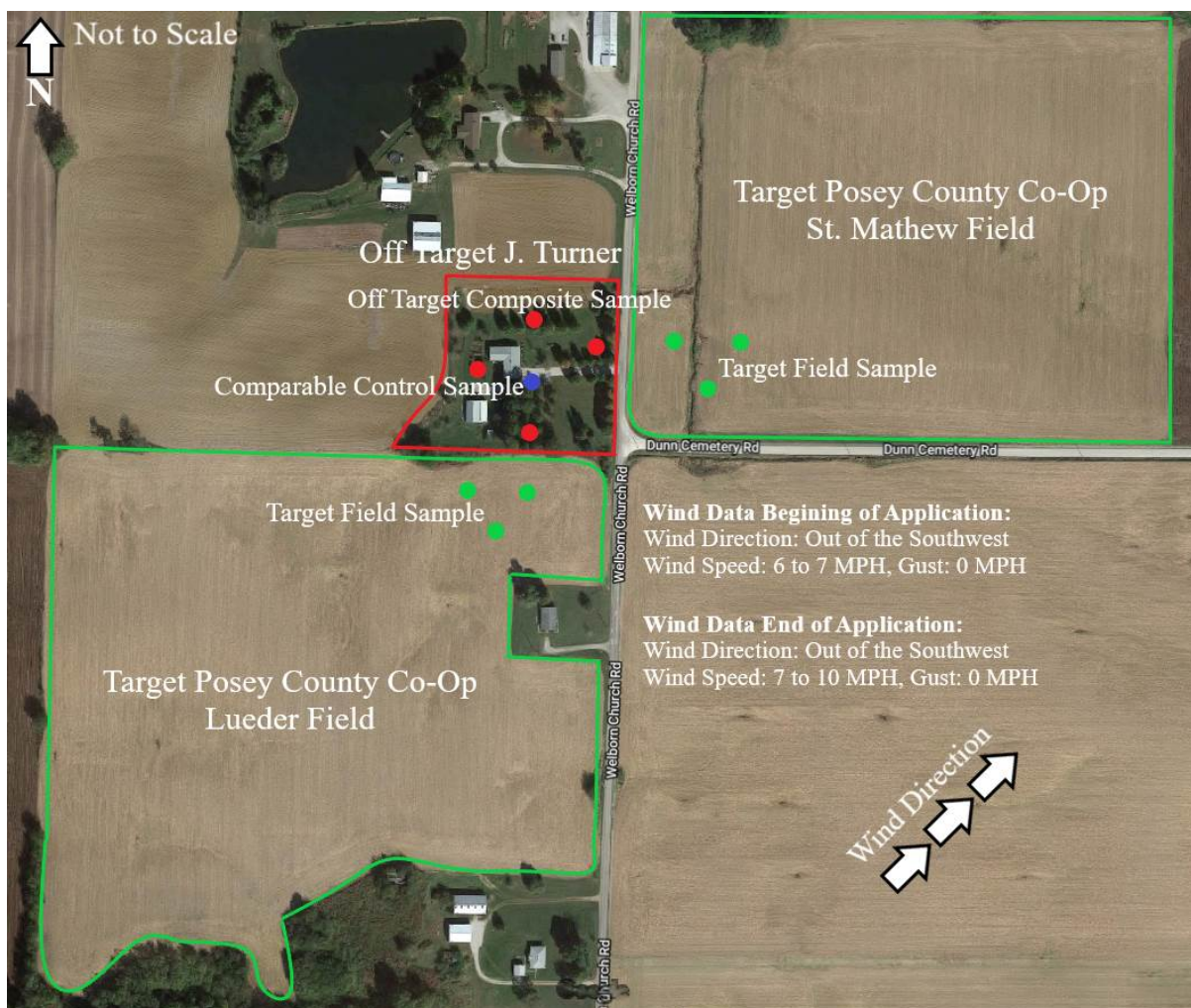


Fig. 5

- Fig. 5 is an aerial diagram including wind data, property lines, and where soil and vegetation samples were taken from.
6. On June 19, 2018, I received a completed Pesticide Investigation Inquiry from Mr. Waible for the two applications which indicated the following:
    - a. Certified Applicator: Brady Waible
    - b. Registered Technician: Zachary Kilgore
    - c. Application Date and Time: May 25, 2018, 10:41am to 1:00pm
    - d. Pesticide Applied:
      - Roundup PowerMax EPA Reg. #524-549, Active=Glyphosate, 32oz/acre
      - Lexar EZ, EPA Reg. #100-1414, Active=Atrazine, Metolachlor, Mesotrione, 3qt/acre
      - Lambda T-2, EPA Reg. #100-1295-5905, Active=Lambda-Cyhalothrin, 2oz/acre
      - Atrazine 4F, EPA Reg. #100-497-5905, Active=Atrazine, 32oz/acre
    - e. Adjuvants: None
    - f. Target Field Location and Size: Lueder, 31 Acres, St. Mathew 26 Acres
    - g. Pre- or Post- Emergent Application: Post
    - h. Wind Direction at Boom Height: Start- S, End- S
    - i. Wind Speed at Boom Height: Start- 8mph, End- 8mph
    - j. Nozzle and Pressure: Turbo Tee AI #5
    - k. Boom Height: 30 inches

7. Weather history data was obtained at [www.wunderground.com](http://www.wunderground.com) from the three closest official weather station to the application site. The locations and weather data for May 25, 2018 follow:

- Carmi Municipal Airport (KCUL) located in Carmi, Illinois 12 miles to the northwest of the application site:

Date	Time	Temperature	Wind Direction	Wind Speed	Wind Gust
5/25/2018	10:55 AM	86 F	SW	7 MPH	0 MPH
5/25/2018	11:55 AM	88 F	SSE	6 MPH	0 MPH
5/25/2018	12:55 PM	89 F	S	10 MPH	0 MPH


- Evansville Regional Airport (KEVV) located in Evansville, Indiana 24 miles to the east of the application site:

Date	Time	Temperature	Wind Direction	Wind Speed	Wind Gust
5/25/2018	10:54 AM	83 F	SSW	7 MPH	0 MPH
5/25/2018	11:54 AM	85 F	WSW	7 MPH	0 MPH
5/25/2018	12:54 PM	86 F	SSW	7 MPH	0 MPH

- Lawrenceville-Vincennes International Airport (KLWV) located in Lawrenceville, Illinois 57 miles to the north of the application site:

Date	Time	Temperature	Wind Direction	Wind Speed	Wind Gust
5/25/2018	10:53 AM	85 F	VAR	6 MPH	0 MPH
5/25/2018	11:53 AM	87 F	VAR	3 MPH	0 MPH
5/25/2018	12:53 AM	88 F	SW	8 MPH	0 MPH

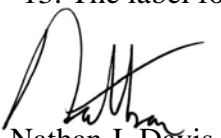
8. The triangulated wind data from the Carmi Municipal Airport (KCUL), Evansville Regional Airport (KEVV), and Lawrence-Vincennes International Airport (KLWV) indicate the wind speed during the application was between 3 mph and 10 mph with no gust out of the south and west.
9. The PPPDL report stated: *Curled leaves with twisted petioles on all samples is indicative of injury from a growth regulator like 2,4-D or dicamba. Chlorosis on newest maple leaves is indicative of injury from glyphosate. The pepper plant had Bacterial spot, caused by Xanthomonas. This accounts for most of the leaf spots and leaf necrosis but would not cause leaf distortion. The pear tree has some symptoms of fire blight. No other disease or insect problems were noticed.*
10. The OISC Residue Laboratory analyzed the soil and vegetation samples collected for Atrazine, Metribuzin, Dicamba, and Glyphosate and reported the following:

Case # 2018/0645						Investigator		N. Davis	
Sample #	Sample Description	Matrix	Amount of Analyte (ng/g)						
			Atrazine	Metribuzin	Dicamba	DCSA	5-OH Dicamba	Glyphosate	AMPA
2018-39-9543	Comparable control composite veg #1	Vegetation	143	BDL	4.73	BDL	BDL	43.5	BDL
2018-39-9544	Comparable control composite soil #2	Soil	BQL	BDL	BDL	BDL	BDL	BDL	BDL
2018-39-9545	Off target composite veg #1	Vegetation	113	BDL	4.17	BQL	1.40	65.8	BDL
2018-39-9546	Off target composite soil #2	Soil	BQL	BDL	BDL	BDL	BDL	BDL	BDL
2018-39-9547	NW target field composite soil #1	Soil	BQL	BDL	BQL	159	BDL	649	739
2018-39-9548	E target field composite soil #2	Soil	12.0	45.1	BQL	2.46	BDL	742	504
2018-39-9549	S target field composite soil #3	Soil	52.6	BDL	BQL	BQL	BDL	327	1120
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC									
LOQ (ng/g)	Vegetation		3	3	1	0.4	1	5	25
LOQ (ng/g)	Soil		3	3	2	2	2	5	50
<div> <div>Signature</div>  <div>Date</div> <div>11/20/18</div> </div>									

11. The OISC Residue Laboratory analysis detected Atrazine, dicamba, and glyphosate in the off target composite vegetation samples. The tank mix for these applications included the active ingredients Atrazine and Glyphosate.

12. According to application records and triangulated wind data, the wind was out of the south and west. The target field labeled Lueder is to the south of Ms. Turner's property, therefore during the application in this field the wind would have been blowing towards Ms. Turner's property. The label for *Lexar EZ*, EPA Reg. #100-1414, Active Ingredient = Atrazine, Metolachlor, and Mesotrione states: **"Do not apply when weather conditions favor drift from treated areas."**

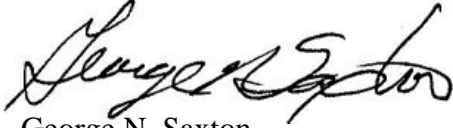
13. The label for Roundup Powermax, EPA Reg. #524-549 states, "

  
 Nathan J. Davis  
 Investigator

Date: December 5, 2018

**Disposition:** Certified Applicator Brady Waible and Registered Technician Zachary Kilgore were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift as well as section 65(6) of the Indiana Pesticide Use and Application Law,

specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a non-target site. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was Brady Waible's first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was 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: February 20, 2019  
Final Date: March 27, 2019

## CASE SUMMARY

Case #2018/1037

**Complainant:** Amy Beebe  
Losure Farms  
5360 E. CR300 N.  
Marion, IN 46952  
765-517-0327

**Respondent:** Richard Clark  
Nutrien Ag Solutions  
423 E. CR1000 S.  
Warren, IN 46792  
260-375-2770

Certified Applicator  
Licensed business

1. On July 13, 2018, Joe Becovitz, Pesticide Program Specialist for the Office of Indiana State Chemist (OISC), received a complaint regarding agricultural drift. The complainant, Amy Beebe, stated she had several non dicamba-tolerant (DT) soybean fields that she believed were affected by drift from dicamba applications made to neighboring farm fields.
2. On July 16, 2018, I contacted Mrs. Beebe who reported she noticed cupping on Liberty soybeans in several of her fields about ten days prior. In this case, soybeans were reportedly affected in two of her fields which were adjacent to a field suspected to have been sprayed with dicamba by Crop Production Services (now Nutrien Ag Solutions) at Warren, Indiana.
3. On July 18, 2018, I met Mrs. Beebe at her farm before inspecting the sites. All the fields in this case were on the south side of CR200N in Grant County; her fields flanked the suspected target field on the east and west. Soybeans were reportedly affected in the southwest corner of her east field and along the east side of her west field. Mrs. Beebe reported that her fields were last sprayed with Liberty and clethodim on July 3 (east field) and June 30 (west field).
4. During my on-site investigation, I did the following:
  - a) Looked for other potential sources of dicamba adjacent to the Beebe fields. Her east field was bordered on the south by another soybean field farmed by Glessner Farms; a separate investigation was subsequently conducted for that application (See Case#2018/0785).
  - b) Observed and photographed mostly-uniform cupping/puckering of leaves on non-DT soybeans in the southwestern portion of the east Beebe field, adjacent to the Nutrien field, and along the east side of the west Beebe field. These symptoms are commonly associated with exposure to a growth-regulator type herbicide such as dicamba.
  - c) Collected soybean plants exhibiting symptoms from the Beebe fields for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue.
  - d) Collected a soil sample from the Nutrien field. Collected two soybean samples from the east Beebe field, one from the west edge of the field and one from approximately 25 yards into the field. Those samples were submitted to the OISC Residue lab for analysis.





Fig.1 Aerial photo of target (Nutrien) field and Beebe fields



Fig.2 Target field & east Beebe field



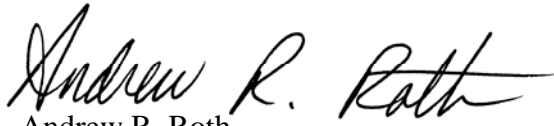
Fig.3 Cupped/puckered soybeans



Fig.4 Close-up of cupping, east field

5. I later contacted Rob Kelly, Operations Manager at Nutrien Ag, who confirmed a Nutrien Ag applicator had sprayed the field between the Beebe fields with a dicamba-containing tank mix in June. The OISC later received application records and a completed Pesticide Investigation Inquiry which provided the following information:
  - a. Certified Applicator: Richard Clark
  - b. Application date and time: June 15, 2018, from 3pm – 445pm
  - c. Pesticides: XtendiMax (dicamba) EPA Reg. #524-617  
 Radiate (kinetin+indole), EPA Reg. #34704-909  
 Roundup PowerMax (glyphosate), EPA Reg. #524-549
  - d. Adjuvants: Strike Force, Reign
  - e. Target field: Elliott Farm
  - f. Pre or post application: Post
  - g. Wind speed/direction at start: 3mph from southwest (toward Beebe east field)
  - h. Wind speed/direction at end: 3mph from southwest
  - i. Nozzles: Turbo Tee Jet 11005
  - j. Boom Height: 24"
  - k. Downwind Buffer: 120 ft.
  - l. Checked registrant's website before application: June 14, 2018 \*
  - m. Checked DriftWatch before application: June 14, 2018\*
  - n. Dicamba mandatory training attended: February 13, 2018  
 \*PII was blank, but dates were later provided
6. The PPDL report indicated, *"Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba."* It further indicated, *"No fungal or bacterial disease and no insect/mite pests were observed to be associated with the symptoms of concern (foliar distortion)."*

7. Because of the information provided by the applicator, the samples submitted to the OISC Residue Lab were not analyzed. Mr. Clark reported winds were from the southwest during the application and, while a southwest wind would have been blowing away from the Beebe west field, it would have been blowing toward the east field. The evidence the site and the PPDL report suggest dicamba from the application to the target field moved off-target to the non-target soybeans. While 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, XtendiMax was applied when winds were blowing toward the sensitive non-DT soybeans in the east Beebe field.
8. The XtendiMax label reads, **“DO NOT APPLY this product when the wind is blowing toward adjacent non-dicamba tolerant susceptible crops; this includes NON-DICAMBA TOLERANT SOYBEAN AND COTTON.”**



Andrew R. Roth  
Investigator

Date: January 7, 2019

**Disposition:** Richard Clark was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton  
Compliance Officer

Draft Date: February 21, 2019

Final Date: March 27, 2019

## CASE SUMMARY

Case #2018/1038

**Complainant:** Bo Napier  
8638 South State Road 62  
Nabb, Indiana 47147  
812-701-7801

**Respondent:** Nutrien Ag Solutions  
Jason Huff  
Bart Barnett  
71 South State Road 3  
Lexington, Indiana 47138  
812-866-5513

Manager  
Certified Applicator

1. On August 3, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report suspected dicamba agricultural pesticide drift to his beans.
2. On August 3, 2018, I contacted the complainant Bo Napier to set up a time to meet and look at the field. Mr. Napier said his father, William Napier, would be able to meet with me on August 7, 2018. Bo Napier stated that the field effected is non-GMO, non-dicamba tolerant soybeans. Mr. Napier stated that he believed CPS, now Nutrien Ag Solutions, applied dicamba in the adjacent fields.
3. On August 7, 2018, I met with William Napier at the complainants address in Nabb, Indiana. Mr. Napier stated they had several fields in the same area that they believed to be injured from dicamba. Mr. Napier then had me follow him to his residence at 4508 S Hardy Mill Road Lexington, Indiana, which was centrally located between the affected fields. The affected field in this case was located directly south of this location (See Fig. 2). Reference case 2018/0884; Mr. Napier had a second field directly south of this field that also appeared to be affected by dicamba. The two fields were separated by Concord Road. Both fields showed similar symptoms.
4. During my on-site investigation I did the following:
  - a. Looked for any other potential sources of a growth regulator type herbicide application adjacent to Mr. Napier's soybean field. The target field was directly north of Mr. Napier's soybean field with Mr. Napier's residential property and a creek separating the two fields.
  - b. Observed and photographed uniform cupping and puckering of leaves on non-DT soybean plants across the lower portion of Mr. Napier's soybean field (See Fig 1). The higher area of the field showed no symptoms. These symptoms are commonly associated with exposure to a growth-regulator type herbicide such as dicamba. Soybeans in the target field exhibited no symptoms.
  - c. Collected a composite soil sample from the target soybean field. Collected gradient vegetation samples from Mr. Napier's soybean field (See Fig. 2). The residue samples were submitted to the OISC Residue Laboratory for analysis.



Fig. 1

- Fig. 1 is Mr. Napier's non-DT soybeans with cupped/puckered leaves and discolored leaf tips.

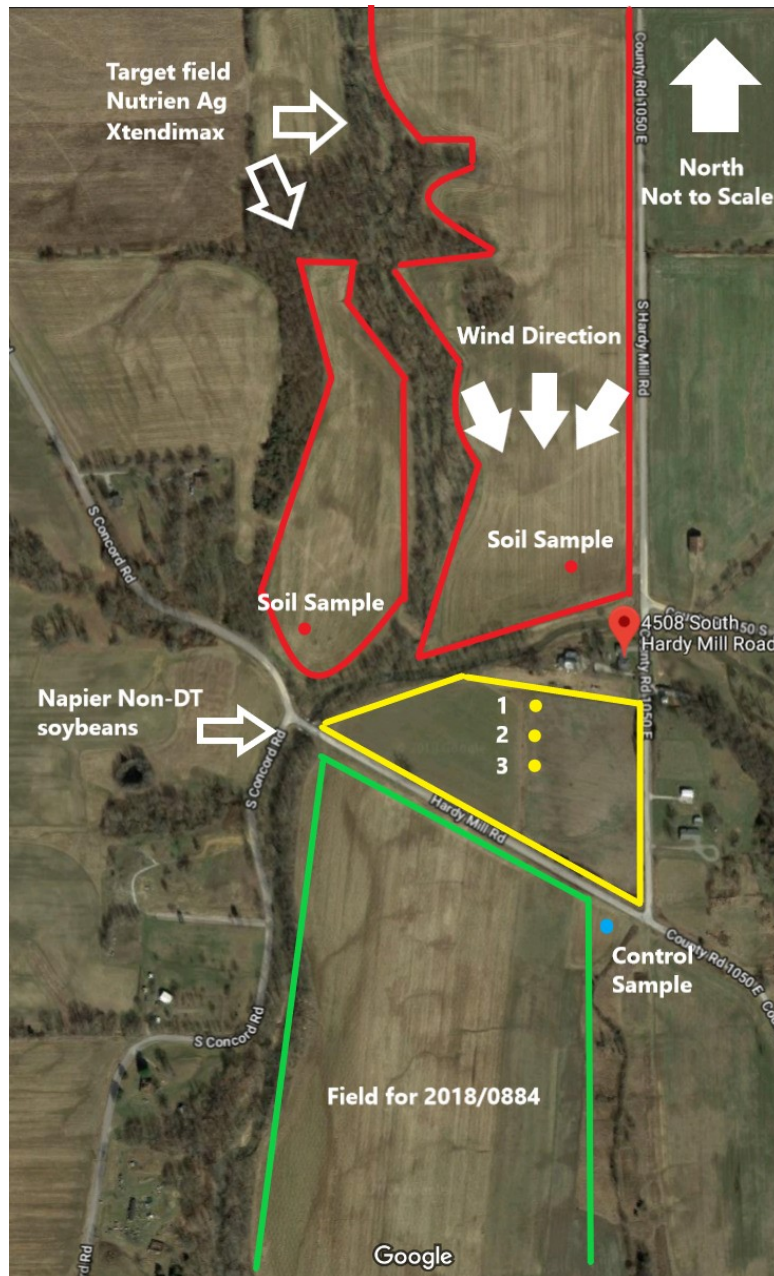


Fig. 3

- Fig. 3 is an aerial diagram of the fields including approximate field property lines and where soil and vegetation samples were taken from.

5. On September\_12, 2018, I met with Jason Huff, the manager at Nutrien Ag, in Lexington, Indiana. Mr. Huff was able to confirm that Nutrien Ag made a pesticide application of Xtendimax to the target field to the south. I provided him with a Pesticide Investigation Inquiry (PII), and instructed him to complete and send back to me.
6. The PII was completed on September 19, 2018 and provided the following information:
- a. Certified Applicator: Bart Barnett
  - b. Application Date and Time: July 6, 2018, 1:00pm to 4:00pm
  - c. Pesticide Applied:
    - i. Roundup PowerMax, EPA Reg. #524-549 Glyphosate 32 oz/acre
    - ii. Xtendimax, EPA Reg. #534-617, Dicamba, 30 oz/acre
    - iii. Intensity, EPA Reg. #34704-864, Clethodim, 10 oz/acre
    - iv. Radiate, EPA Reg. #34704-909, IBA, Kinetin, 2 oz/acre
  - d. Adjuvants: Strike Force and Reign
  - e. Target Field Location and Size: Arbuckle, 30 acres
  - f. Pre- or Post- Emergent Application: Post
  - g. Wind Direction at Boom Height: Start- NW, End-NW
  - h. Wind Speed at Boom Height: Start- 8mph, End- 8mph
  - i. Nozzles: ULD5
  - j. Boom Height: 24 Inches
  - k. Downwind Buffer: No
  - l. Checked Registrants Website before application: No
  - m. Checked DriftWatch before application: No
  - n. Dicamba Mandatory Training Attended: Yes, February 2, 2018
7. Weather history data was obtained at [www.wunderground.com](http://www.wunderground.com) and the closet official weather station to the application site was the Louisville International Airport (KSDF) located in Louisville, Kentucky approximately 33 miles south southwest of the application site. The weather data for July 6, 2018 follows:

Time	Temp	Wind Direction	Wind Speed	Wind Gust
12:56 PM	88 F	NNE	10 mph	0 mph
1:56 PM	86 F	N	15 mph	23 mph
2:56 PM	88 F	N	17 mph	23 mph
3:56 PM	86 F	NNE	21 mph	35 mph

8. With the evidence collected in this case including visual symptomology, weather data, and information gathered in the PII it was determined that the OISC residue lab did not need to process the submitted samples at this time.
9. Mr. Barnett's statements on the Pesticide Investigation inquiry and the wind data indicate the wind was blowing towards Mr. Napier's non-dicamba tolerant soybean field during the application. The label for Xtendimax states, **"DO NOT APPLY this product when the wind is blowing toward adjacent non-dicamba tolerant susceptible crops; this includes NON-DICAMBA TOLERANT SOYBEAN AND COTTON."** **"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."** Mr. Barnett did not check the registrant's website prior to the pesticide application. The Xtendimax label states **"The applicator must check the list of tested products found not to adversely affect the offsite movement potential of XtendiMax with VaporGrip Technology at**



[www.xtendimaxapplicationrequirements.com](http://www.xtendimaxapplicationrequirements.com) no more than 7 days before applying XtendiMax with VaporGrip Technology.” Mr. Barnett also did not check DriftWatch prior to the pesticide application. The Xtendimax label states, **“Before making an application, the applicator must survey the application site for adjacent non-target susceptible crops. The applicator must also consult applicable sensitive crop registries to identify any commercial specialty or certified organic crops that may be located near the application site.”**

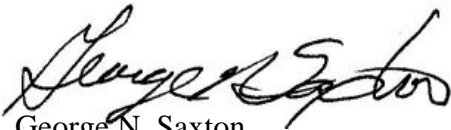
10. Based on the evidence collected in this investigation, it has been determined that Bart Barnett failed to comply with the tank mix restrictions and drift management restrictions on the label for the herbicide *Xtendimax*, EPA Reg. #524-617, Active Ingredient = *dicamba*. It should also be noted that OISC was not able to determine whether the herbicide moved off-target as the result of drift, application into an inversion, or volatilization at some point after the application, and was not able to clearly identify the source of the off-target movement.



Garret A. Creason  
Investigator

Date: February 4, 2018

**Disposition:** Bart Barnett was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton  
Compliance Officer

Draft Date: February 26, 2019

Final Date: April 12, 2019



## CASE SUMMARY

Case #PS19-0005

**Complainant:** Alex Kang  
99-632 Kahilina Place  
Aiea, Hawaii 96701  
808-358-6321

**Location:** 1121 North Grant Avenue  
Indianapolis, Indiana 46201

**Respondent:** Ed Neu  
Neu Real Estate Group  
6330 E. 75th Street, Suite 150  
Indianapolis, Indiana 46250  
317-710-9743

Corey Smith  
Black Knight LLC  
2960 Broadway Street  
Indianapolis, Indiana 46205  
317-384-5811

Unlicensed Applicator  
Unlicensed Business

1. On October 15, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report realtors Geri & Ed Neu made a termite control application with bait at the complainant's home that the complainant feels is 'suspect'.
2. On October 11, 2018, I went to 1121 North Grant Avenue, Indianapolis, Indiana 46201. I observed fifteen (15) green termite stakes installed around the perimeter of the house and garage. See figure 1.



Figure 1-1 of 15 termite stakes

3. On October 19, 2018, I spoke with Alex Kang. Mrs. Kang emailed me several documents that included purchased agreement, Home inspector's report, WDI report, and copy of filed Warranty Deed to property located at 1121 North Grant Avenue, Indianapolis, Indiana 46201. See figure 2. The Warranty Deed was executed July 13, 2018.

**WARRANTY DEED**

KNOW ALL MEN BY THESE PRESENTS: That MAX REAL ESTATE PROPERTY MANAGEMENT LLC of INDIANA for consideration paid grants and warrants to ALEX KANG of *HI* for the sum of ONE DOLLAR (\$1.00) and other valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the following described real estate in INDIANA.

LOTS 3 IN STACE'S GRANT AVENUE SUBDIVISION AN ADDITION TO THE CITY OF INDIANAPOLIS THE PLAT OF WHICH IS RECORDED IN PLAT BOOK 14, PAGE 258, IN THE OFFICE OF THE RECORDER OF MARION COUNTY, INDIANA.

PARCEL # 1009697  
STATE ID # 49-07-33-164-003.000-101

MORE COMMONLY KNOWN AS: 1121 N. GRANT AVENUE,  
INDIANAPOLIS, IN 46201

We, the grantors herein hereby release all rights or homestead in the above described premises.

Subject to any and all easements, agreements, and restrictions of record.

I, the grantor, and spouse of the grantor, hereby release our homestead interest in the above described premises.

I, We, the grantor(s) hereby join in and release my/our descent and all other rights.

Executed this 13TH day of JULY, 2018.

  
MAX REAL ESTATE PROPERTY  
MANAGEMENT LLC

Figure 2-Warranty Deed

4. Furthermore, Mrs. Kang forwarded me a copy of Mr. Neu's credit card statement showing he purchased termite stakes from Menards on August 18, 2018, to be installed at 1121 North Grant Avenue, Indianapolis, Indiana 46201. See figure 3. Mr. Neu purchased the termite stakes to be installed by his sub-contractor, Corey Smith, owner of Black Knight LLC. Neither Corey Smith nor Ed Neu have an applicator's Credential or Business License from the Office of Indiana State Chemist (OISC).

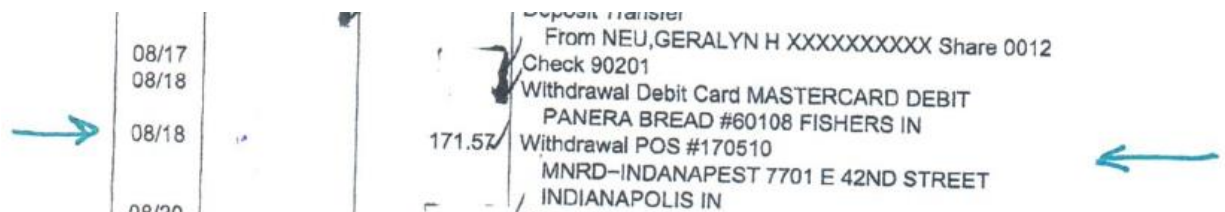


Figure 3-Ed Neu's Credit Card Statement

5. On October 23, 2018, I met with Ed Neu. Mr. Neu did not dispute the property was sold on July 13, 2018, and he instructed Mr. Smith to install the termites stakes at 1121 North Grant Avenue, Indianapolis, Indiana 46201, after August 18, 2018. Mr. Neu stated he was aware he could apply the stakes to his own property. I issued Mr. Neu an Action Order to cease making for-hire pesticide applications without a license.

6. On October 24, 2018, I met with Corey Smith of Black Knight LLC. Mr. Smith stated he is an independent contractor, but solely does work for Mr. Neu. Mr. Smith stated he installed the termite stakes as instructed by Mr. Neu. Mr. Smith stated the termite stake installation was part of a list of other assigned jobs. I explained to Mr. Smith based on the label directions of Spectracide Terminate Termite Detection & Killing Stakes (EPA Reg. #9688-299, active ingredient hexaflumuron) label, he was responsible for the monitoring and upkeep of the termite stakes for one (1) year. I explained he was responsible for inspecting the termite stakes quarterly and he was responsible for removing after one year. Mr. Smith stated he was not aware of the requirements and did not want to be responsible. Mr. Smith stated he was just doing the task he was given by Mr. Neu. Mr. Smith stated he would remove the termite stakes because e he did not want to be responsible.



Paul J. Kelley  
Investigator

Date: November 6, 2018

**Disposition:**

- A. Corey Smith 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.
- B. Ed Neu was cited for violation of section 65(13) of the Indiana Pesticide Use and Application Law for aiding or abetting a person to evade this chapter. A civil penalty in the amount of \$250.00 was assessed for this violation.
- C. On December 4, 2018, the OISC received Ed Neu's \$250.00 civil penalty payment.
- D. As of February 21, 2019, Corey Smith had not paid his civil penalty. A reminder letter was sent.
- E. On April 2, 2019, the reminder letter sent to Corey Smith was returned to our agency marked as "unclaimed".
- F. On April 12, 2019, the reminder letter was resent. It was sent both regular and certified mail with a reply/pay by date of May 13, 2019.
- G. On May 16, 2019, the certified mail was returned to our agency. The regular mail did not come back.
- H. As of May 21, 2019, Corey Smith had not paid his civil penalty. The case was forwarded to collections.



George N. Saxton  
Compliance Officer

Draft Date: April 12, 2019  
Final Date: May 21, 2019

## CASE SUMMARY

Case #PS19-0024

**Complainant:** Jackson County Health Department  
Whitney Kovener, Environmental Health Specialist  
801 West 2nd Street  
Seymour, IN 47274

**Respondent:** China Garden Restaurant  
Shu Ping Wu  
512 East Tipton Street, Unit B  
Seymour, IN 47274

Owner

1. On October 16 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report the use of a possible unregistered Chinese pesticide product in the China Garden Restaurant in Seymour, Indiana.
2. On October 25, 2018, OISC Agent Kelley and I met with the Environmental Health Specialist, Whitney Kovener, at the Jackson County Health Department. Mr. Kovener stated that he conducted an inspection at China Garden on September 13, 2018. During the inspection he located what he believed to be a pesticide product being used in trays placed on the floor throughout the restaurants food preparation area. Mr. Kovener stated he also located the pesticide product package which had Chinese writing on it and was in a blue and white package. He was also able to obtain a photograph of the product and provide that to me.
3. At this point Mr. Kovener stated that he was going to accompany us to the China Garden Restaurant and conduct a follow up inspection while we conducted our inspection.
4. We met Mr. Kovener at the China Garden restaurant. When we arrived we met with one of the employees, presented our credentials, and asked who we needed to speak to. The employee stated that we needed to speak with the owner and stated he would call her. The employee called and spoke to the owner and then informed us that she was on her way. The employee then stated that we could begin our inspection while we waited for her to arrive.
5. During the inspection I located and photographed the pesticide product being used in the trays throughout the food preparation area. While I was in the food preparation area Agent Kelley located the pesticide product in the original packaging underneath the front counter. Agent Kelley notified me so that I could photograph the product. The pesticide product is:
  - a. Cockroachkiller Bait, Fuzhou Control Termite Company
6. Once we located and photographed the pesticide product we were able to determine what product it was and confirm that it is a federally unregistered pesticide product.



Fig. 1) Photos of the unregistered pesticide product.



Fig. 2

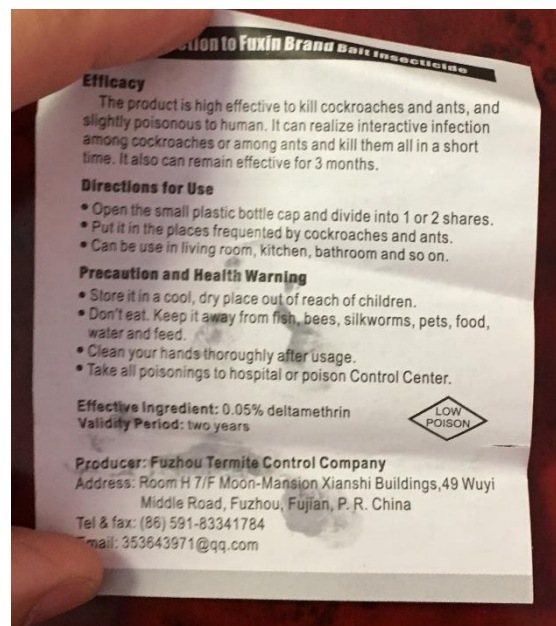



Fig. 3

- Fig. 2 is the pesticide product in the trays in the food preparation area.
- Fig. 3 is the label found inside the pesticide product box.

7. After locating the pesticide product the owner of China Garden arrived. Agent Kelley and I identified ourselves and presented OISC credentials. The owner identified herself as Shu Ping Wu. I asked Mrs. Wu where she got the pesticide product. While first beginning to speak with Mrs. Wu, I observed that there appeared to be a slight language barrier. Mrs. Wu stated that she received the product from her mother when she came to the US from China. I asked Mrs. Wu if her mother was around and available to speak with us. Mrs. Wu stated that she was not around and would not tell us her name.



8. I issued an Action Order to China Garden, Mrs. Wu as the recipient, instructing them to stop using unregistered pesticide product "Cockroachkiller Bait" in the China Garden restaurant. I explained to Mrs. Wu what the Action Order meant and that the pesticide product is federally unregistered and cannot be used in the US. I also explained that I would be collecting the pesticide product as evidence. One of the employees of China Garden was able to help me explain this to Mrs. Wu and she stated she understood.
9. I then placed the pesticide product into a clear evidence bag and sealed the bag for transportation to the OISC formulation lab. On October 29, 2018 I delivered the pesticide product to the formulation lab.
10. The OISC formulation lab tested the pesticide product and found that the product contained .07% Fipronil as an active ingredient. The label for the pesticide product states it contains .05% Deltamethrin, however no Deltamethrin was found. The results are below:

OCM Collection #	52766	Case #	PS19-0024	Investigator	G. Creason
Sample #	Product Description	Sample Size	Active Ingredient		
			Claim % Fipronil	% Fipronil Found	
19-3-0001 0	Chinese cockroach killer bait	10 units of 2.2g each	None*	0.07%	
Remarks:					
*Product bears a label claim of 0.05% Deltamethrin (in Chinese). A GC/MS general pesticide screen was performed and no Deltamethrin was detected in the sample. Instead, Fipronil was detected and quantitated.					
Signature				Date	01/10/2019

11. All supporting documents and photographs have been electronically attached to the OISC case management system.



Garret A. Creason  
Investigator

Date: February 12, 2019

**Disposition:** This information was forwarded to E.P.A's Criminal Investigation Division.



George N. Saxton  
Compliance Officer

Final Date: May 30, 2019



## CASE SUMMARY

Case #PS19-0043

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

**Respondent:** Ebay.com  
2025 Hamilton Avenue  
San Jose, CA 95125

**Respondent/  
Distributor:** Xiomara Rodriguez  
200 W. 143rd Street, Apt. 2D  
New York, NY 10030

1. On October 17, 2018, Edward White, Assistant Pesticide Administrator, informed me of a federally unregistered pesticide product that was being offered for sale on Ebay.com
2. On October 29, 2018, with the information that was provided to me by Mr. White I was able to locate the pesticide product on Ebay's virtual marketplace. The product was being advertised as "COCKROACH KILLER BAIT. Please keep in safe place". The Ebay seller name was "rms272". I proceeded to begin ordering the product and have it shipped to me. I captured screenshots of each page of the online purchasing process.
3. On November 1, 2018, I received the product via the United States Postal Service. The outside of the packaging was photographed prior to opening the product. The information of the seller was on the shipping label. The shipper information was as follows:
  - a. Xiomara Rodriguez  
200 W 143rd St. Apt. 2D  
New York, NY 10030

The product was shipped from the state of New York into the state of Indiana. After photographing the outside of the shipping package, I opened the package to remove the product and photograph.

4. The product that was delivered was representative of what was advertised on Ebay.com. A small cardboard box containing 10 clear vials of the pesticide product. The active ingredient is listed as deltamethrin at 0.05%. The company name on the box was:
  - a. FUZHOU CONTROL TERMITE COMPANY  
Room H/7F Moon-Mansion Xianshi Buildings, 49 Wuyi  
Middle Road, Fuzhou, Fujian, P.R. China
5. After photographing the product, it was placed into a clear plastic evidence bag and sealed for transportation to the OISC formulations lab for analysis.

6. On November 2, 2018, the pesticide product was delivered to the OISC formulations lab.

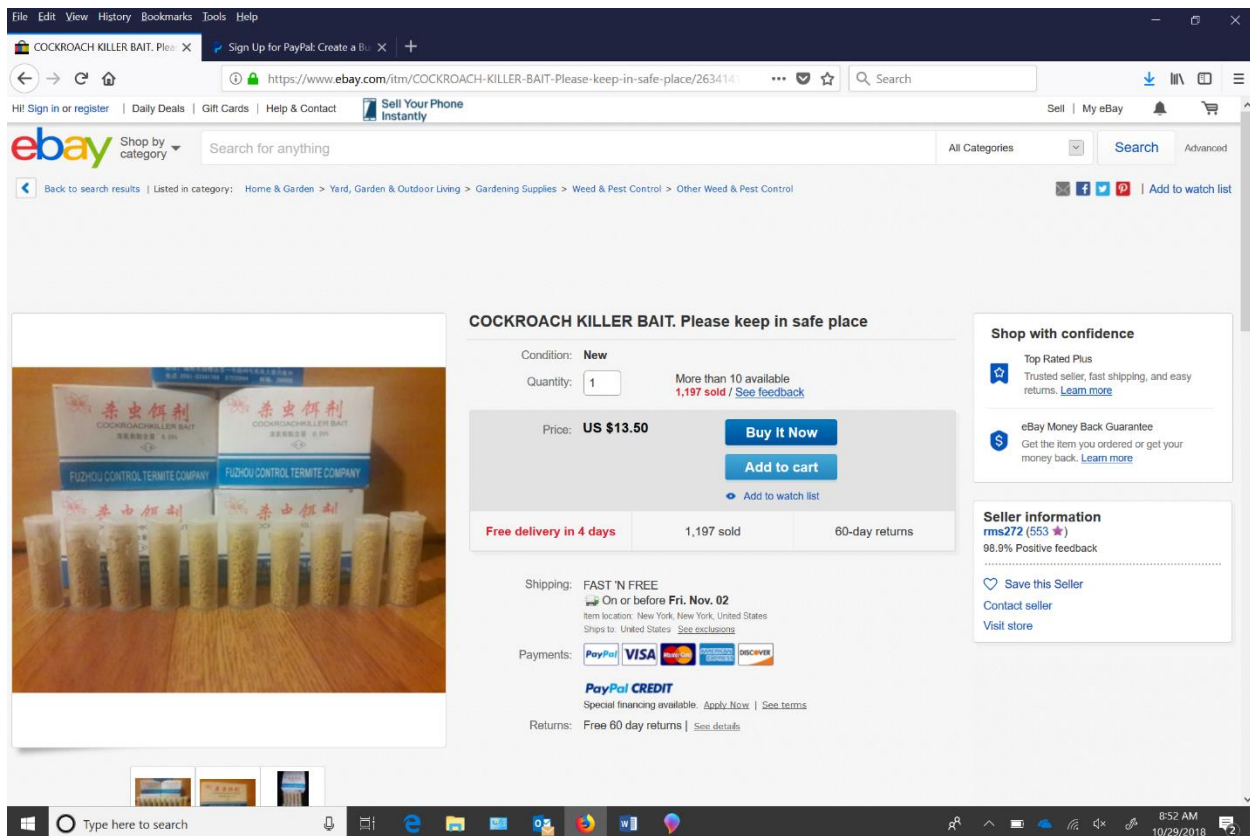


Fig. 1) Screenshot of the pesticide product for sale on Ebay.com

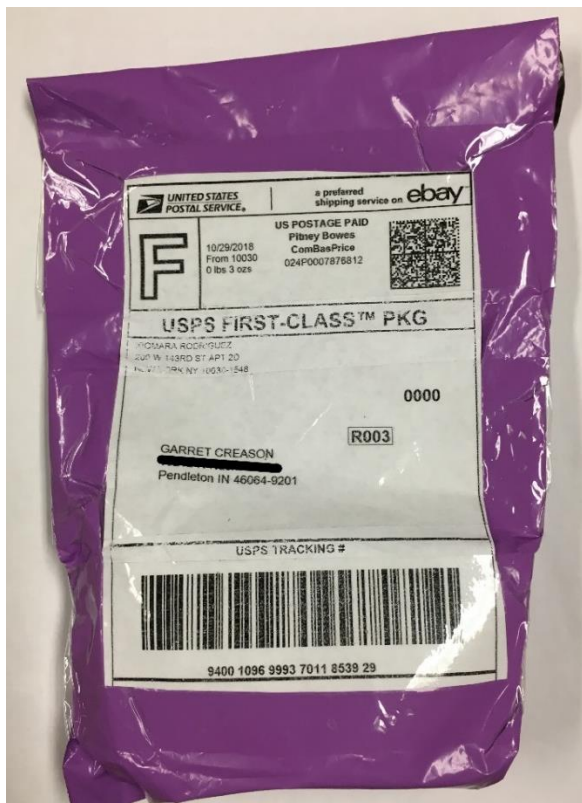



Fig.2) Unopened package as it was delivered.



Fig. 3) The pesticide product that was delivered.

## OISC Lab Report

<b>OCM Collection #</b>	54040	<b>Case #</b>	PS19-0043	<b>Investigator</b>	G. Creason
<b>Sample #</b>	<b>Product Description</b>	<b>Sample Size</b>	<b>Active Ingredient</b>		
			Claim % Fipronil	% Fipronil Found	
19-3-0002 3	Chinese bait insecticide	10 units of 2.2g each	None*		0.06%
<b>Remarks:</b>  <div style="color: red; text-align: center;"> <p>*Product bears a label claim of 0.05% Deltamethrin (in Chinese). A GC/MS general pesticide screen was performed and no Deltamethrin was detected in the sample. Instead, Fipronil was detected and quantitated.</p> </div>					
<b>Signature</b>				<b>Date</b>	01/10/2019

7. Above is the OISC formulation lab result. See remarks section for comments.

8. All supporting documents will be electronically attached to this case in the OISC case management system.



Garret A. Creason  
Investigator

Date: January 14, 2019

**Disposition:** This case was forwarded to E.P.A.'s Criminal Investigative Division for federal review.



George N. Saxton  
Compliance Officer

Final Date: May 29, 2019

Cc: Wilkinson, Bruce [wilkinson.bruce@epa.gov](mailto:wilkinson.bruce@epa.gov)

## CASE SUMMARY

Case #PS19-0044

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

**Respondent:** Ebay.com  
2025 Hamilton Avenue  
San Jose, CA 95125

**Respondent/  
Distributor:** Xiomara Rodriguez  
200 W. 143rd Street, Apt. 2D  
New York, NY 10030

1. On October 17, 2018, Edward White, Assistant Pesticide Administrator, informed me of a federally unregistered pesticide product that was being offered for sale on Ebay.com
2. On October 29, 2018, with the information that was provided to me by Mr. White I was able to locate the pesticide product on Ebay's virtual marketplace. The product was being advertised as "Cockroach, rat, pest killer. (DDVP. 100ML) please keep in safe place". The Ebay seller name was "rms272". I proceeded to begin ordering the product and have it shipped to me. I captured screenshots of each page of the online purchasing process.
3. On November 5, 2018, I received the product via the United States Postal Service. The outside of the packaging was photographed. The information of the seller was on the shipping label. The shipper information was as follows:
  - a. Xiomara Rodriguez  
200 W 143rd St. Apt. 2D  
New York, NY 10030

The product was shipped from the state of New York into the state of Indiana. After photographing the outside of the shipping package I placed it into a clear plastic evidence bag and sealed for transportation to the OISC formulations lab for analysis.

4. On November 7, 2018, the pesticide product was delivered to the OISC formulations lab. I released the product to Natalie Wilson with the OISC formulation lab. Mrs. Wilson proceeded to begin opening the package in the fume hood. While she was opening the package I was able to photograph the product.

5. The product that was delivered was representative of what was advertised on Ebay.com. A small plastic bottle with a label for Sniper. The active ingredient listed is DDVP. The company name on the container was:
- Saro Agrosiences LTD.  
Ibadan, Oyo State, Nigeria

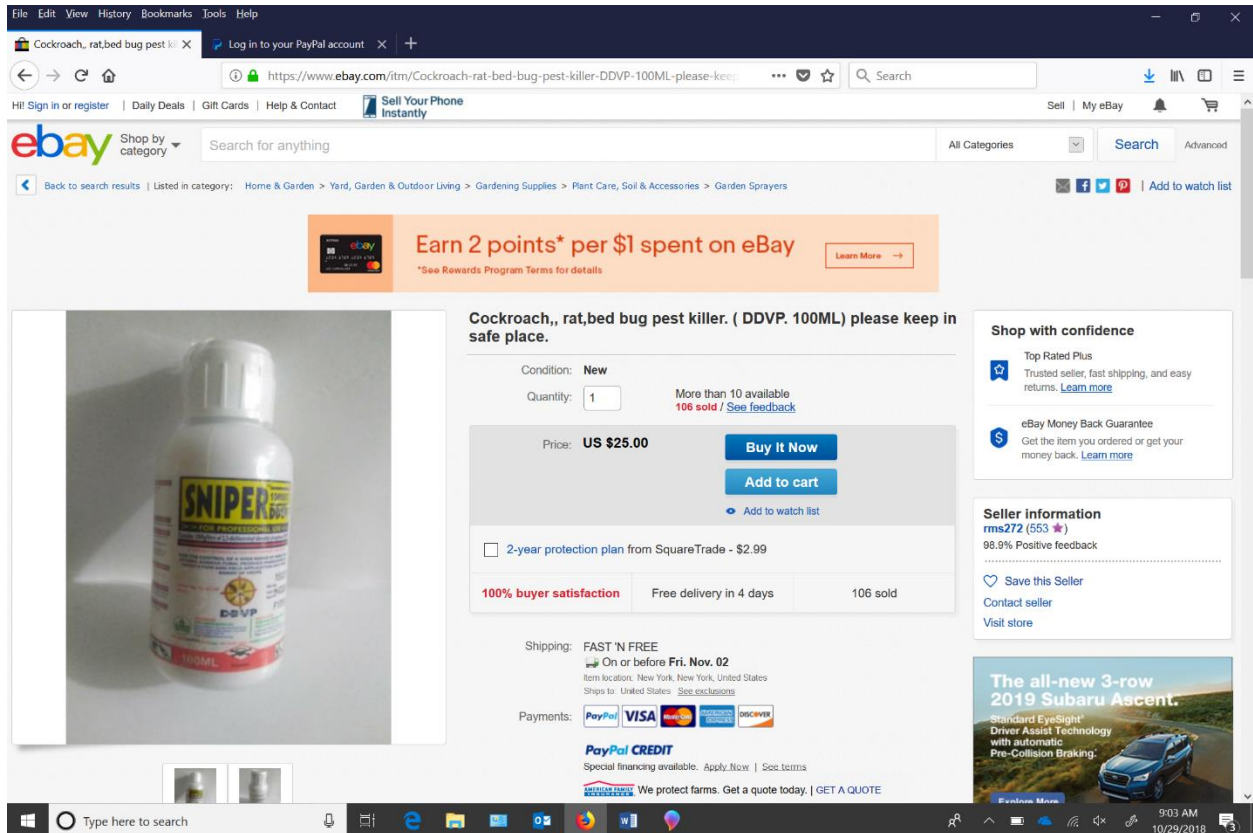


Fig. 1) Screenshot of the pesticide product for sale on Ebay.com

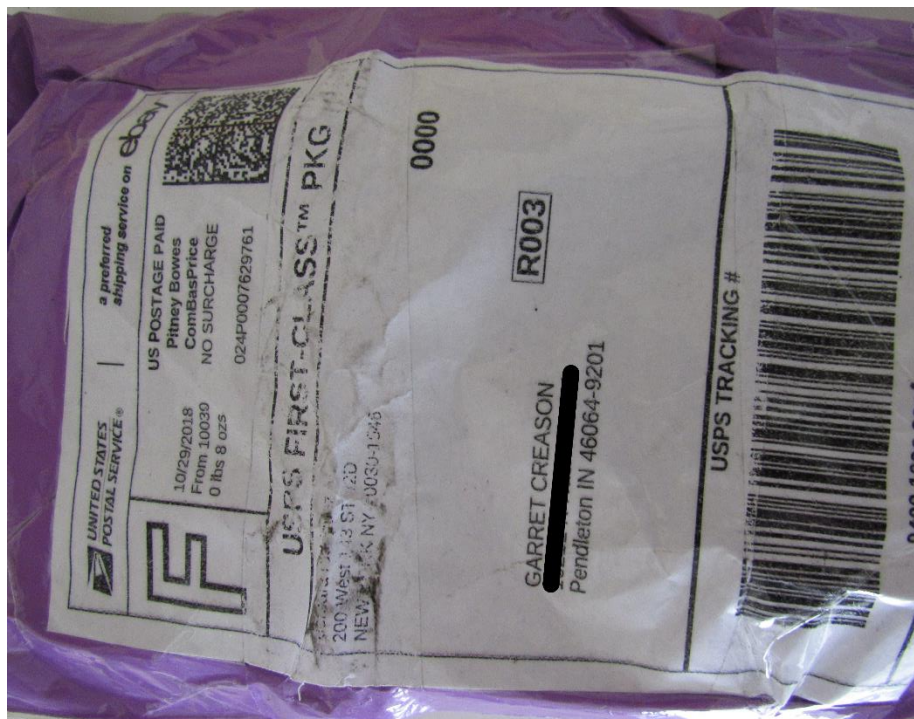



Fig.2) Unopened package as it was delivered.





Fig. 3) The pesticide product that was delivered.

### OISC Lab Report

OCM Collection #	56271	Case #	PS19-0044	Investigator	G. Creason
Sample #	Product Description	Sample Size	Active Ingredient		
			Claim % Dichlorvos	% Dichlorvos Found	
19-3-0003 4	Sniper 1000 EC DDVP	100 mL	77.5%	90.2%	
Remarks: Product bears a label claim of 1000 g/liter Dichlorvos which is equivalent to 77.5% Dichlorvos (weight by weight).					
Signature				Date	01/10/2019

6. Above is the OISC formulation lab report. The sample tested 12.7% above the label claim for Dichlorvos.

7. All supporting evidence and photographs will be electronically attached to this case file through OISC case management.



Garret A. Creason  
Investigator

Date: January 14, 2019

**Disposition:** This case was forwarded to E.P.A.'s Criminal Investigative Division for federal review.



George N. Saxton  
Compliance Officer

Final Date: May 29, 2019

Cc: Wilkinson, Bruce [wilkinson.bruce@epa.gov](mailto:wilkinson.bruce@epa.gov)



## CASE SUMMARY

Case #PS19-0114

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

**Respondent:** Dogwood Glen Golf Course  
Ernest Smiley  
753 East 900 South  
Warren, Indiana 46792  
260-375-4750

Certified Applicator

1. On March 13, 2019, the Office of Indiana State Chemist (OISC) discovered Dogwood Glen Golf Course failed to pay a civil penalty in case number 2016/1049. A license was issued to them for 2019.

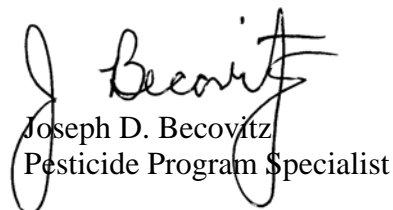


George N. Saxton  
Investigator

Date: March 14, 2019

### Disposition:

- A. Dogwood Glen Golf Course was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to follow a lawful Order of the State Chemist by refusing to pay a civil penalty. The pesticide certification issued to Ernest Smiley of Dogwood Glen Golf Course was suspended until such time as the full civil penalty is paid.
- B. On May 2, 2019, Mr. Smiley called and spoke with George Saxton and stated he sent in the \$400.00 check but it was returned. Saxton asked him about the address and he said he sent it to "Purdue University" at 175 South University "Park". Saxton corrected the address for him. He stated he would send the check to the correct address immediately.
- C. On May 6, 2019, a check for the civil penalty of \$400.00 was received from Dogwood Glen Golf Course. The collection process on Case #2016/1049 was terminated.



Joseph D. Becovitz  
Pesticide Program Specialist

Draft Date: April 25, 2019  
Final Date: May 7, 2019

## CASE SUMMARY

Case #PS19-0120

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

**Respondent:** Adam Sieber  
Geoponic Enterprises  
3101 East County Road 700 North  
Muncie, Indiana 47303  
765-741-0946

1. Pursuant to case number 2017/0957, Adam Sieber was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$100.00 was assessed for this violation.
2. As of March 27, 2019, Adam Sieber had not paid the \$100.00 civil penalty assessed. The case was forwarded to collections. In the interim, Mr. Sieber was issued a pesticide business license on November 21, 2018.

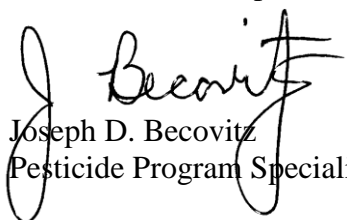
  
George N. Saxton  
Compliance Officer

Date: March 28, 2019

**Disposition:** Adam Sieber was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to follow a lawful Order of the State Chemist by refusing to pay a civil penalty. The business license of Geoponic Enterprises and pesticide license of Adam Sieber were suspended until such time as the civil penalty was paid.

As of May 14, 2019, when our letter was received, the licenses of Geoponic Enterprises and Adam Sieber were suspended.

As of June 19, 2019, Adam Sieber had not paid the civil penalty on Case #2017/0957. The licenses of Geoponic Enterprises and Adam Sieber remain suspended.

  
Joseph D. Becovitz  
Pesticide Program Specialist

Draft Date: May 14, 2019  
Case Closed: June 19, 2019


## CASE SUMMARY

Case #PS19-0121

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

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

1. Pursuant to case number 2017/1216, Co-Alliance LLP and Cory Fordice were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding cleanout and section 65(4) for operating faulty or unsafe equipment. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was their first violation of similar nature.
2. As of February 8, 2019, Co-Alliance LLP and Cory Fordice had not paid the \$250.00 civil penalty assessed. A second letter was sent as a reminder the civil penalty is still owed to OISC.
3. As of March 27, 2019, Co-Alliance LLP and Cory Fordice had not paid the \$250.00 civil penalty assessed. The case was forwarded to collections.

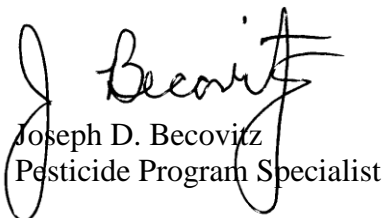


George N. Saxton  
Compliance Officer

Date: March 28, 2019

**Disposition:** Co-Alliance and Cory Fordice were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to follow a lawful Order of the state chemist by refusing to pay a civil penalty. The business license of Co-Alliance and pesticide license of Cory Fordice were suspended until the civil penalty is paid.

On May 14, 2019, a representative from Co-Alliance came into the Office of Indiana State Chemist to deliver a check to pay the \$250.00 civil penalty due on 2017/1216. The business license of Co-Alliance and pesticide license of Cory Fordice were not suspended.



Joseph D. Becovitz  
Pesticide Program Specialist

Draft Date: May 14, 2019  
Final Date: June 18, 2019

## CASE SUMMARY

Case #PS19-0122

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

**Respondent:** Raymond D. Modglin  
6100 West County Road 350 South  
Coatesville, Indiana 46121  
765-672-8276

1. Pursuant to case number 2017/0299, Raymond Modglin 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 under IC 15-16-5, in direct supervision. A civil penalty in the amount of \$100.00 was assessed for this violation.
2. As of December 18, 2018, the civil penalties had not been paid by Raymond Modglin. A second letter was sent to Ray Modglin as a reminder he still owed OISC.
3. As of March 27, 2019, Raymond Modglin had not paid the \$100.00 civil penalty assessed. The case was forwarded to collections. In the interim, Raymond Modglin was issued a Private Applicator permit on May 30, 2018.

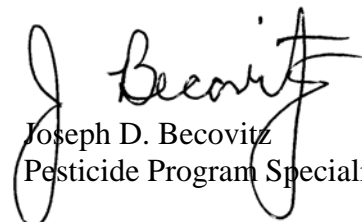
  
George N. Saxton  
Compliance Officer

Date: March 28, 2019

**Disposition:** Raymond D. Modglin was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to follow a lawful Order of the state chemist by not paying the civil penalty. His Private Applicator permit was suspended until such time as the civil penalty is paid.

On April 5, 2019, a check for the civil penalty of \$100.00 was received from Raymond Modglin. The collection process on Case #2017/0299 was terminated.

On May 8, 2019, the license suspension enforcement on this case was terminated and the case was closed.

  
Joseph D. Becovitz  
Pesticide Program Specialist

Final Date: May 8, 2019